TRIPARTISM MECHANISM IN INDUSTRIAL RELATION

Pavithra S, Tamil Nadu Dr. Ambedkar Law University

ABSTRACT

This article explores the overall network of labour relations and organizational flow in the legislation of industrial relations. It sketches one of the key features of the international labour organization is the tripartite structure which unites the government, employers, and the employee through an institution. This article draws up the effectiveness of a tripartite partnership between the government institution, labour union, and the workers which successfully maximizes the worker's welfare. This article focuses on the tripartite work in India. This article provides an outline of the tripartite idea developed by the International Labour Organization to support the post-war conservative movement, rebuild capitalism and social order, and prevent violent social revolution. Finally, by strengthening the voice and effect of union and employer organizations in policy formulation and implementation together with the government for the social welfare and the welfare of the workers, this paper advocates the contribution of tripartism in the weekend role of the trade union and the employee's association coupled with the complex economic and social developments affecting them.

Keywords: Tripartism, International Labour Organization, worker's welfare, government, employers, and the employee.

INTRODUCTION

Agnihotri V. states that "the term industrial relations explain the relationship between the employees and the management which stem directly from the union- employer relationship". Industrial relation is the relationship between an employer and the trade union that represents his workers. An industrial relations system consists of a tripartite system i.e., employers and their associations, employees and their trade union, and the government. It refers to the collective relations between the employers and the employees as a group. It underscores the importance of compromise and accommodation in place of conflict and controversy in resolving disputes between labour and management. The framework for industrial relations in India is formed by several legislations in the country that contribute to duties and obligations for both the employers and the workers. Under the Indian constitution, labour is a subject in the concurrent list, which empowers both the central and state government to enact legislation.

TRIPARTISM

According to Black's law dictionary, Tripartite is a term applied to an indenture to which there are three parties (of the first, second, and third parts), and which is executed in triplicate. Tripartism is an organizational framework of labour relations in which the government, employee trade union, and employer's association collaborate to pursue shared interests and engage in mutually beneficial decisions to create a win-win situation for all engaged. It is a vital component of the industrial relations setup in India. Tripartism has heightened the nation's economic competitiveness helped resolve labor-management conflicts, and fostered positive labour-management relations. Tripartism aims to resolve labour disputes by putting governments, businesses, and employees on a similar path. It assures that all three parties will take part in the conflict resolution procedure. Representatives of the parties involved in the process are included to guarantee this involvement. Participation of workers' representatives (trade unions), employers' representatives (business organizations), and government representatives (labour ministry, regulatory bodies, etc.) ensure that all three primary actors are represented in the dispute resolution process.

FUNDAMENTAL PRINCIPLE OF TRIPARTISM:

The proactive collaboration of the government, labour unions, and business owners as representative, equal, and autonomous social partners to find solutions that address shared

concerns and are acceptable to all parties.

PURPOSE OF TRIPARTITE BODY:

a) To those who have suffered parties together to resolve their disputes amicably, and promote cooperation and goodwill.

b) To promote uniformity in labour regulations and legislation.

c) Discuss any issues about employers and employees that are important to India.

d) To determine a plan for settlement of disputes.

e) to discourage individual members from individual contributing to meetings and to push for regular gatherings of government, labour, and employer representatives.

EVOLUTION OF TRIPARTISM

Since the early nineteenth century, trade unions in various forms have grown alongside industrialization in continental Europe, the United States, and Great Britain. Employers' organizations emerged in reaction to two connected developments: the expansion of national social and labour laws and the increasingly global demands made by workers. In 1920, following the establishment of the ILO, employers' representatives inside the new organization established their organization.

Jean-Jacques Oechslin describes the International Organization of Employers as "an unsolicited gift" for employers in his history of the organization since the employers were not involved in the planning. However, they were very interested in working together with the employees to limit overbearing government control and its engagement in labour relations. The first instance of tripartite cooperation in the ILO was presented on November 27, 1919, during the Governing Body's first meeting in Washington, DC. The appointment of the organization's first Director was the primary subject of discussion. A temporary remedy was put forward by government leaders. Leon Jouhaux insisted that a decision be made by the Governing Body immediately. Louis Guerin, representing for French employers, proposed that the meeting be adjourned for ten minutes so that participating parties were able to converse with the other participants. Though its significance had escaped most, Edward Phelan, the chief architect of

the edifice, realized right away that something significant had occurred. Jouhaux stated following the interval that both parties desired to make choices right away. During the Governing Body session, the participants representing Employers and Workers chose Andre Fontaine, a Frenchman, as Chairperson, and Albert Thomas, a worker, as Director. Guerin already had to clarify the need for group meetings to impatient government representatives during the Conference itself. "We have to reach definitive decisions among ourselves before attempting to reach a consensus with our coworkers, the labourers. Edward Phelan's hurried lobbying during the Paris negotiations produced the norm that gave governments two votes and employers and employees one apiece. He & a few other individuals had foreseen the outcomes of the first Governing Body. With the help of employers and employees, the vote was won despite the absence of several government members.

TRIPARTISM AS AN INTERNATIONAL TOOL

Germany and Austria were granted ILO membership at the 1919 Washington Conference on the IFTU's urging. The ILO made every effort to steer clear of a vindictive stance from the winners of the First World War. In the history of the IFTU and European trade unions, the German trade unions played a significant role. Carl Legien, the head of the German trade unions, attended the Governing Body's second meeting in January 1920. The ILO aided in the development and growth of trade unions outside of Europe. The Indian National Trade Union Congress came into being primarily as a result of trade unions getting together for the yearly election of the Workers' Representative. The establishment of trade union representation in Japan was made possible by a contentious discussion about workers' representation. Both countries' worker delegates fully exercised their right to free speech in opposition to repressive government regulations. The Workers' group did not have a problem with AFL connections, and the United States did not join the ILO right away. The split between the radical leftist trade unions and the Amsterdam International was also nonsensical. Up until the Soviet Union joined the ILO in 1934, the Moscow-based Red International boycotted the organization because it saw it as a tool of class collaboration. The arrival of the American and Russian trade union delegates was welcomed by the Workers' group. The only person who objected to the confirmation of the Soviet Workers' delegate's credentials was Josephus Serrarens of the International Federation of Christian Trade Unions (IFCTU), which is situated in the Netherlands. The IFTU was investigating joining Soviet trade unions in the interim, but no such ties were eventually established.

TRIPARTISM AND ILO

Since its establishment in 1919, the International Labour Organisation (ILO) has embraced and upheld the tripartite principle. At its meeting in Philadelphia in 1944, the International Labour Conference passed a resolution that extended the International Labour Organization's mandate and redefined its goals. The right to collective bargaining, labour, and management cooperation in the ongoing enhancement of productive efficiency, and employer, worker, and government collaboration in the development and implementation of social and economic policies were among the many specific goals outlined in this declaration. This proclamation formally established tripartism as the basis for the parties' negotiations and settlements over the various social policy components.

The foundation of the ILO is the tripartite principle, which advocates for collaboration and communication between companies, workers, and governments in the development of labor-related laws and regulations. The ILO is unique in the UN system since it has a tripartite structure for the creation and oversight of international labor standards. The tripartite process for standard adoption guarantees that all ILO stakeholders will broadly endorse the standards.

The three constituting organs of the ILO –International Labour Conference (ILC), Governing Body (GB), and International Labour Office are constituted under the principle of tripartism.

A representative from each of the member states attends the international labour conference. Its main function is to adopt and formulate guidelines and suggestions. The tripartite concept stipulates that any national delegation must consist of four people. The government is represented by two members, and the workers who are nominated by the organization that is most representative of employers and employees are represented by one delegate each.

The General Body, the next prominent body within the International Labour Organization, is also composed of three parts. Of its 56 members, 28 are government representatives and the remaining 14 are each made up of an employer and an employee. The International Labour Office, the ILO's third major organ, operates according to the tripartite principles.

The ILO adheres to the notion of tripartism not only in the composition of its various bodies but also in the features and content of the instruments adopting the organization.

The core principles that drive tripartism are:

1. Representation

2. Participation

3. Deliberation.

In the decision-making process that benefits them, tripartism guarantees equal involvement with equal weight for the opinions and representations of employers and workers. These two parties, who frequently disagree with one another owing to conflicts of interest, are brought together by the tripartite concept to guarantee that a democratic process of decision-making is designed to protect each party's interests without favoring one over the other.

Recognizing the value of tripartism, the ILO incorporated it into its constitution. Tripartite consultation is related to the 144th ILO convention.

According to Article 3 of the 144th convention, representatives of employers and employees will be freely selected by their representative organizations, if any, for the processes provided in this convention.

According to Article 2 of the convention, every organization that conducts consultations must have equal representation from employers and workers.

According to this agreement, every ILO member nation that is amending the convention must create policies that support tripartism in labour relations. This tripartism needs to consist of

1. **EFFECTIVE, MEANINGFUL CONSULTATION:**

   The purpose of the mandated consultation is to assist the government in making decisions about certain issues about ILO standards. While consultation does not necessitate discussions that result in an agreement, it does involve more than just dispensing facts. Ensuring that the government considers the opinions of relevant parties, such as worker and employer organizations, before making decisions is crucial.

2. **REPRESENTATIVE ORGANIZATIONS:**

Representative organizations are autonomous groups of workers and employers that are granted the opportunity to form associations. Not only should the biggest organizations be consulted, but also everyone who represents a sizable portion of the public's viewpoint on the specific topic at hand. The government must choose good faith based on predetermined, exact, and objective criteria when determining which organizations to contact. The organizations have the liberty to select their representatives for the consultations.

3. **REPRESENTED EQUALLY:**

Organizations representing employers and employees must be represented "on an equal footing." While an equal number of delegates is not necessary, it is necessary to give each side's opinions equal weight.

4. **GOVERNMENT DECISION:**

Although it's not required, the consultation process may include achieving a consensus as its goal. If a consensus cannot be established, the Government will make the final decision after considering all points of view. The organizations representing employers and workers are free to express their opinions and suggestions to the ILO without agreeing with the government's ultimate decision or stance.

APPLICATION OF TRIPARTISM IN INDIAN LAW:

In the first tripartite Labour Conference, Ambedkar said, 235 Although the idea of such a tripartite organisation was there it is doubtful if it would have taken concrete shape so quickly if the war had not made the maintenance of labour morale an urgent and immediate necessity. The war has hastened the implementation of the Tripartite Organization in another way. Under the stress of the war the Government of India was called upon in increasing degree to deal with industrial problems and problems of labour welfare […]. (Indian Labour Gazette [hereafter ILG] 1/4 1943: 77)

INDUSTRIAL DISPUTES ACT 1947:

The Industrial Dispute Act 1947, the primary legislation governing industrial relations in India, acknowledges and applies the idea of tripartism. It aims to offer such tripartite conflict

resolution procedures under its varied laws. The objective of this act is to make an investigation and settlement of industrial disputes.

In the case of Workmen **of Dimakuchi Tea Estate v. Dimakuchi Tea Estate, AIR 1958 SC 353,** the court held that "the main objective of the Industrial Dispute Act is to secure amity and good relations between the employer and workmen; to investigate and settle of industrial disputes; to prevent illegal strikes and lockouts; and to promote collective bargaining system".

In the case of **State of U.P v. Jaibir Singh, 2005 (II)LLJ 831,** the court held that "the main object of the Industrial Dispute Act is to regulate and harmonize the relationship between employers and employees for maintaining industrial peace and social harmony".

INDUSTRIAL DISPUTE

Sec. 2(k) of the act defines industrial dispute means any dispute or difference between Employers and employers; Employers and workmen; or Workmen and workmen which is connected with Employment or non-employment; or the terms of employment; or the conditions of labour of any person.

An industrial dispute may be an individual dispute or a collective dispute.

An **individual dispute** arises between an employer and one of his workmen, i.e., a dispute between the employer and an individual workman only. According to section 2-A, an individual workman cannot raise an industrial dispute.

In the case of **Central Province Transport Service v. Raghunth Gopal Patwardhan AIR (1957) SC 704,** the court held that "An individual dispute can be developed into an industrial dispute if taken up by the union or by a substantial number of workers".

COLLECTIVE DISPUTE:

A collective dispute means, "a dispute which is supported or raised by trade union or by a group of workmen on matters of collective interests like wages, allowance, bonus, gratuity, provident fund and so on". A group of employees may bring up a disagreement if there is no trade union. Only a collective dispute becomes an industrial dispute.

INDUSTRIAL DISPUTE SETTLEMENT:

The Industrial Dispute Act of 1947 provides 3 stages mechanism for dispute resolution. This includes:

(i) Conciliation

(ii) Arbitration

(iii) Adjudication

SETTLEMENT FOUND THROUGH CONCILIATION:

Conciliation is an attempt to settle disputes between the employer and the employee with the intervention of the government agency, called the conciliation officers will settle the industrial disputes.

ILO has defined, conciliation as a procedure whereby a third party assists the parties in the course of negotiations, or when negotiations have reached an impasse, to help them to reach an agreement. While these phrases are equivalent in many nations, in certain countries they are distinguished based on the level of initiative exercised by the third party.

Sec.12(3) of the Industrial Disputes Act, establishes the concept of tri-partite settlement as "if a settlement of the dispute or any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the appropriate government [or an officer authorized in this behalf by the appropriate government] together with a memorandum of the settlement signed by the parties to the dispute".

According to sec 13 of the act, the memorandum of the settlement is signed by the parties to the dispute, the conciliation officer shall send a report of the settlement together with a copy of the memorandum of settlement signed by the disputed parties to the appropriate government. It binds all the parties to the present and the future.

The conciliation machinery under the Industrial Dispute Act

1. Conciliation officer

2. Boards of conciliation

3. Court of Inquiry

CONCILIATION OFFICER

Sec.4 defines a conciliation officer, as he is one of the authorities appointed by the appropriate government for a specified area or specified industry, either permanently or temporarily.

It has been deemed that a conciliation officer is a public servant under section 21 of the Indian Penal Code. The conciliation officer's authority, powers, and other relevant matters will be published in the official gazette. Regarding industries under their respective purview, the federal and state governments designate conciliation officials.

BOARDS OF CONCILIATION

According to sec 5 of the act, the appropriate government will constitute a conciliation board with a chairman and 2 or 4 other members has the judicial capacity and enjoy more power than the conciliation officer for promoting the settlement of the industrial dispute. The appropriate government may establish a board if the need arises by publishing a notification in the official gazette. The dispute may be referred to the board by the appropriate government. The board provides information on the success or failure of its efforts, along with the actions taken and the reasons behind its inability to settle, to the appropriate governments. The appropriate government may prohibit the strike from continuing if the labour issues have been referred to a board.

COURT OF INQUIRY

Sec 6 of the act defines court of Inquiry, When the need arises, the appropriate government may establish a Court of Inquiry to look into any issue that seems connected to or relevant to an industrial dispute by notifying the parties in the Official Gazette. As a result, the Act allows the appropriate government to establish a Court of Inquiry if the need arises to investigate any topic that seems relevant to or related to an industrial dispute. It is unrelated to the resolution of an employment dispute. The Court of Inquiry is a temporary entity. It is only transitory. It is made up of one independent person or as many independent people as the appropriate

government deems acceptable. The appropriate Government receives the court's report when it has completed its investigation into the entire case.

ARBITRATION

Arbitration, also referred to as voluntary arbitration, is the process by which a disagreement is resolved using a neutral third party selected by the parties. The statute provides for voluntary arbitration in consideration of the prolonged judicial proceedings, formalities, and subsequent days required for a decision.

ADJUDICATION

Adjudication is the ultimate and final option in an industrial dispute. It can be characterized as a procedure that includes the government-appointed third party intervening in the dispute. When both sides to the labour dispute have consented to adjudication, the referral to adjudication is voluntary. When the government mentions a disagreement without getting the approval of one or both parties, adjudication is required. The Industrial Dispute Act of 1947 establishes a three-level adjudication process that consists of:

1. Labour Courts
2. Industrial Tribunals
3. National Tribunals

In the case of **M/s Coromandal Fertilisers Ltd v. St. of A.P**, the court held that"a reading of sec.7(1) and sec.7-A (1) of the act clearly provides that the appropriate government is empowered by a notification published in the official gazette to constitute one or more labour courts/ industrial tribunals for adjudication of industrial disputes and to perform such other functions as may be assigned to them under the act."

LABOUR COURTS

The Labour Court may be established by the appropriate government to settle labour disputes about any subject listed in the Second Schedule. One member of the Labour Court is chosen by the appropriate government.

INDUSTRIAL TRIBUNALS

The Industrial Tribunal may be established by the appropriate government to settle labour disputes about any subject covered by the Second or Third Schedules. Compared to the Labour Courts, the Industrial Tribunal has a broader jurisdiction. The Tribunal may be established for any restricted or specific area or purpose. There is only one Industrial Tribunal in Tamil Nadu.

NATIONAL TRIBUNALS

To settle labour disputes that, in the Central Government's view, involve issues of national significance or are of a kind that would likely be of interest to or affect industrial establishments located in one or more States, the Central Government may establish one or more National Industrial Tribunals. The Central Government will appoint a single individual to serve on the National Industrial Tribunal. It is authorized to make decisions regarding disputes that, in the central government's view: either a) deal with issues of national significance or b) be of a kind that would likely pique the interest of or have an impact on industrial establishments spread across multiple States.

The Industrial Dispute Act of 1947 incorporates tripartite features into its numerous clauses. It guarantees that each party to the dispute receives equal representation during the dispute resolution process.

Section 3 of the ID Act provides such a provision .As per the section “in the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any days in the proceeding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment, so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer.”

According to the aforementioned provision, there should be equal representation for both the employer and the employee on the Works Committee.

Similar to this, Section 5, which addresses Boards of Conciliation, states in its subsection (3) that "Any person appointed to represent a party shall be appointed on the recommendation of

that party." The Chairman of the Board shall be an independent individual, and the other members shall be persons appointed in equal numbers to represent the parties to the dispute. This section outlines a framework of a tripartite structure for the Boards of Conciliation, with equal representation for the government and all parties.

Likewise, equal representation of the employer and employees is ensured under section 9-C of the ID Act, which deals with the establishment of Grievance Redressal Machinery. The Grievance Redressal Committee will be composed of the following, per section 9-C subsection 2, both the employer's and the employees' numbers in equal measure.

In the case of **St. of Tamil Nadu v. K.Subramaniam(1987) II LLJ 106,** it has been observed that like sec 10(1) of the act and sec. 12(5) also lays down that the government is empowered to refer a case to the board, labour court, tribunal, or national tribunal if the government, after considering the failure report thinks that there is a case for reference.

APPLICATION OF TRIPARTISM IN LABOUR LAWS:

In addition to the Industrial Dispute Act of 1947, tripartism has been observed in several other facets of Indian industrial relations. The government bodies responsible for formulating worker welfare policies also attempt to include tripartism in their operations. The nation's Ministry of Labour and Employment has been working to advance amicable labour relations. The government took action to revive tripartism because it was dedicated to its ethos and culture.

When passing new legislation or amending old ones, the ministry always ensures that the opinions of all parties concerned in labour relations are considered. The Ministry's goal is to incorporate the opinions of all social partners while creating policies for the working class. As a result, during the year, the Ministry of Labour & Employment hosted multiple tripartite sessions of different Committees / Boards, including the meetings of the Executive Committee of the Employees Provident Fund held on 04.07.2011, 14.07.2011, and 22.12.2011, the Central Advisory Committee on Limestone & Dolomite Mines Labour Welfare Fund held on 27.06.2011, and the Central Board of Trustees (EPF) held on 24.06.2011, 14.07.2011, 27.07.2011, and 23.12.2011, among others the above steps taken by the Ministry of Labour and Employment presents the application of tripartism in dealing with industrial relations.

The concept of tripartism serves as the foundation for multiple additional government agencies

in addition to the Labour Ministry. Section 3 of the Contract Labour (Regulation and Abolition) Act 1970 established the Central Advisory Contract Labour Board (CACLB), one such organization by the Government of India. Advising the Central Government on such concerns arising from the administration of the act is the primary role of the CACLB. Representing the interests of the government, employers, and employees is the tripartite CACLB.

In addition to the CACLB, tripartite consultation is implemented and encouraged in India by the Standing Labour Committee, Indian Labour Conference, Central and State Labour Advisory Committees, and the Indian Labour Conference. The State and Central Advisory Committees guide the management of several welfare boards, such as the Central Advisory Committee under the Limestone and Dolomite Mines Labour Welfare Fund Act (1972), the Central Apprenticeship Council under the Apprenticeship Act (1961), and the Central Board of Trustees (Employees Provident Fund Organisation) under the Employees Provident Fund Act (1952), etc.

CONCLUSION

Tripartism helps in bringing together at the same platform two parties who have a conflict of interest with each other and makes sure that both of them contribute positively to the dispute redressal process. It also makes sure that the presence of a third party i.e., government acts as an “umpire” in the process. Although the idea of tripartism aided the government in implementing its labour welfare policy in Indian industrial relations, it also hurt the idea of collective bargaining in those ties. Offering a mandatory three-part system of conflict resolution has eliminated the possibility of an employee-employer discussion. Additionally, the government-established machinery tasked with using tripartite principles to find a solution to industrial conflicts is not very skilled at doing so and has not been able to promptly address the problems with Indian industrial relations.

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