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 ISSN: 2582-6433

INTERNATIONAL LABOUR STANDARDS AND IT'S APPLICATION IN INDIA

AUTHORED BY - TANISHA SINHA

INTRODUCTION

Set up in 1919, the International Labour Organization (ILO) is now a specialized agency of the United Nations (UN) to promote rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue on work-related issues. 186 countries are members of the ILO.[1] The International Labour Organization has a tripartite governing structure which is unique among UN agencies and consists of representatives of governments, employers, and workers. ILO has four strategic objectives, viz.[2]

1. Encourage and implement workplace norms, core values, and rights;
2. Expand avenues for both men and women to obtain respectable jobs and pay
3. Expand the scope and efficacy of social protection programs for all
4. Strengthen tripartism and social dialogue

In furtherance of its objectives, ILO has developed a system of international labor standards.[3] Conventions, which are legally obligatory, or suggestions, which are not, establish these norms. Labor standards are comprised of numerous bilateral treaties and conventions, but only eight have been recognized by the ILO as fundamental conventions, meaning they address the most fundamental rights and principles at work. These eight essential conventions consist of:

1. The 1948 Convention on the Protection of the Right to Organize and the Freedom of Association (No.87)
2. 1949 Convention on the Right to Organize and Collective Bargaining (No. 98)
3. Convention on Forced Labor, 1930 (No. 29)

[1] GOVT. OF INDIA, India & ILO, Ministry of Labour & Employment, https://labour.gov.in/lcandilasdivision/india-ilo.
[2] International Labor Organization: Missions and objectives, *available at http://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang–en/index.htm*.
[3] International Labor Organization: Introduction to International Labor standards, *available at http://www.ilo.org/global/standards/introduction-to-international-labour-standards/lang–en/index.htm*.

 ISSN: 2582-6433

4. The 1957 Convention on the Abolition of Forced Labor (No. 105)
5. Convention on the Minimum Age, 1973, No. 138
6. Convention on the Worst Forms of Child Labor, 1999 (No. 182)
7. Convention on Equal Remuneration, 1951 (No. 100)
8. The Discrimination (Employment and Occupation) Convention (No. 111) of 1958

Four main topics can be formed by grouping these eight conventions, if we simplify them: forced labor, discrimination, child labor, and freedom of association. Not all the countries have ratified all the conventions. Some of the major proponents of labor standards have not ratified most of them, for instance, the United States has not ratified six out of eight fundamental conventions.[4] India has ratified only four of them and left out four.[5]

The project aims to focus on the particular country profile of India concerning the application of the International Labour Standards by discussing firstly, India's profile as per ILO; secondly, corresponding laws in India for the conventions not ratified by it, and will try to understand and analyze the reason for non-ratification with the help of case studies. Further, the author would like to elaborate on the comparative study of India and USA. Lastly, the lacuna in the application will be elucidated.

Chapter I: India's Profile according to Labour Standards

Of the 43 conventions and 1 protocol that India has ratified, 4 are considered fundamental conventions. The four basic conventions cover forced labor (C029 and C105), equality and non-discrimination at work (C100 and C111), and other topics. Regarding the remaining agreements, India has not ratified 62 of them, including four basic treaties on freedom of association and the right to organize (C087 & C098; C138 & C182, on minimum age and child labor, respectively)[6]. For the duration of this essay, we shall solely focus on essential conventions.

India on Ratified Conventions

India has been a strong supporter of equality. Article 16 of the Indian Constitution provides equal

[4] Ratification of fundamental Conventions by Countries, *available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F*.
[5] *Id.*
[6] Up-to-date Conventions not ratified by India, *available at http://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:102691*.

 ISSN: 2582-6433

opportunity in matters of public employment as a fundamental right. Further, Article 39, which is a part of directive principles of state policy reads "*The State shall, in particular, direct its policy towards securing…. (d) that there is equal pay for equal work for both men and women…"*[7]

Indian legislatures have now and then attempted to enforce substantive equality in the workplace. Examples of such attempts could be laws regarding sexual harassment of women at the workplace, SC and ST prevention of atrocities, etc. Equal Remuneration Act, 1976[8] and Equal Remuneration Rules, 1976[9] provide for penalties in case the remuneration of men and women placed at the same level is not equal. There are many more provisions, that move towards equal remuneration as an accepted principle.

The Supreme Court of India in *M/s. Mackinnon Mackenzie & Co. Ltd. v. Audrey D'costa and another*[10] substantiated on the principle that equal remuneration has to be considered by the company and no discrimination can exist on the basis of gender.

Similarly, India has also enacted strongly on conventions accepted on bonded labor.
India has embraced several laws, including the Bonded Labor System Abolition Act of 1976, and regulations about conventions around bonded labor. Five laws that address contract labor directly have been adopted by India. The Supreme Court conducted it in the case of Neeraja Chaudhary v. State of M.P,[11] that bonded labor legislation does not only require the abolition of the activity but also the rehabilitation of the bonded laborers, and failure on the state's part to try rehabilitating them would be a violation of Article 21 and Article 23 of the Indian Constitution. A similar decision was also given in *Public Union of Civil Liberties v. State of Tamil Nadu and Ors.*[12] where the Supreme Court issued directions to all states to make proper arrangements for the rehabilitation of bonded laborers.

Therefore, it is clear that Indian lawmakers and adjudicators are acting following the ratified conventions and are implementing them without fail.

[7] Constitution of India, 1949 Article 39(d)
[8] Equal Remuneration Act, 1976, also *available at* http://pblabour.gov.in/pdf/acts_rules/equal_remuneration_act_1976.pdf.
[9] Equal Remuneration Rules, 1976 also *available at* http://pblabour.gov.in/pdf/acts_rules/equal_remuneration_punjab_rules_1976.pdf.
[10] AIR 1987 SC 1281.
[11] AIR 1984 SC 1099.
[12] (2004) 12 SCC 381.

 ISSN: 2582-6433

India on Non-Ratified Conventions

It is an accepted norm that merely because a convention is not ratified does not mean it will not be followed. In India, Courts on various occasions have relied on the International Convention to formulate law when local laws are not sufficient to meet the ends of justice.[13]

Paragraph 2 of the 'ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up' reads:[14]

"*2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and by the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:*[15]

(a) Freedom of association and the effective recognition of the right to collective bargaining;

(b) The elimination of all forms of forced or compulsory labour;

(c) The effective abolition of child labour; and

(d) The elimination of discrimination in respect of employment and occupation." (emphasis added)

India has not ratified two of the rights under the convention i.e. Freedom of Association and Abolition of Child labor. However, India does have laws, which concern the same subjects. Right to form association or union is a fundamental right guaranteed by Article 19(1)(c) of the Indian Constitution.[16] Various other statutes including Industrial Dispute Act and Trade Union Act provide for, and protect, the right to form association for the workers and employers.[17] However, this freedom has not been absolute. This would be better understood in the next section.

In India, some regulations address child labor as well. Article 24 of the Indian Constitution forbids any kid under the age of 14 from working in a hazardous occupation[18]. The Child Labor

[13] *Vishaka and Ors. v. State of Rajasthan and Ors.,* AIR 1997 SC 3011; See also *Gaurav Jain v. Union of India and Ors.*, AIR 1997 SC 3201

[14] ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up: Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010), *available at http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang–en/index.htm*.

[15] *Id.*

[16] Constitution of India, 1949 Article 19(1)

[17] India Freedom of Association, Collective Bargaining and Industrial relations, *available at http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=IND&p_classification=02&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY.*

[18] No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Provided that nothing in this sub-clause shall authorize the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or such person

 ISSN: 2582-6433

(Prohibition and Regulation) Act of 1986 establishes a schedule during which minors are not permitted to work, so enshrining this fundamental right in legislation. This begs the question, then, of why India hasn't ratified the treaties on these two matters if the country was prepared to pass laws in line with them. Only by examining the distinctions between Indian law and international conventions—of which India declined to ratify—will this become evident.

Chapter II: The Difference between International Standards and Local Laws

As India is primarily a dualist country and therefore there is a difference between the ILS and the local laws to some extent.

- **Freedom of Association:** Freedom of Association, according to black's law dictionary is the "*right to be with other people for a legal reason, cause or purpose, with no bias or interference. A government may be required to allow its citizens to join a particular organization. The bylaws of the organization may yet prohibit accepting some and excluding others*".[19]

There is no better way to understand the difference between International Standards and local laws than by actual conflicts. In cases where complaints are filed in front of the International Labor Organization for recommendation of international standards, the difference of laws could be understood. Some of these case studies are discussed in this section.

In 1994, All-India Trade Union Congress filed a complaint alleging violation of freedom of association, challenging new Rules and Recognition of Associations/ Union of Central Government Employees.[20] Following consideration of the case's merits, the committee advised the government to propose laws impacting collective bargaining or to confer with relevant groups regarding work conditions or other matters. Concerning the restriction of all public servants to membership in unions exclusive to that class of workers, the committee noted that first-level organizations of public servants may be restricted to that class of workers provided that their organizations are not additionally restricted to employees of any specific ministry, department,

is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

[19] The Law Dictionary, featuring Black's Law Dictionary free online dictionary 2nd Edition available at http://thelawdictionary.org/freedom-of-association/.

[20] Report in which the committee requests to be kept informed of development – Report No 302, March 1996: Case No 1817 (India) – Complaint date: 30-DEC-94 *available at* http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2903403.

 ISSN: 2582-6433

or service, and that the first-level organizations are free to join the federations and confederations of their choosing.[21]

However, the Government did not accept the recommendations. Government stuck to its argument that civil servants enjoy high degree of job security and their legitimate concerns like wages, security health etc. are already taken care of and therefore, they do not need protection by general labor legislation to other workers.[22] The government's desire to preserve a clear separation between civil servants and other labor is evident from this case.
The Centre of Indian Trade Unions (CITU) recently filed a complaint against the Office of Accountant General of Kerela State[23], explicitly stating the government's stance. The Central Civil Services (Recognition of Service Associations) Rules, 1964, sections 5, 6, and 8 were requested to be amended by the Committee in this complaint, and the Government was asked to take the appropriate action. The committee rejected the general argument that workers covered by the aforementioned laws should not only be granted freedom of association but also all connected rights.

In response to committee's orders, Government refused to amend the discussed provisions on the grounds that government employees have an exceptionally high degree of job security and the liberty to form and join any association. Government argued that provisions been in vogue for 50 years have withstood the test of time and is necessary for ensure conduct of service associations.[24]
In this recent response in 2012, the Government expressly specified that difference in civil services is the reason why India has refused to ratify the conventions on freedom of association. This recent case puts forth the exact difference between the Indian law on association and the International Standards. An excerpt from the report can help in understanding the argument advanced:
With respect to the ratification of Conventions Nos 87, 98 and 151, the Government reiterates that it has been its consistent view that:

[21] *Id.* at para 328.
[22] Effect given to the recommendations of the Committee and the Governing Body, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2903405.
[23] Report in which the committee requests to be kept informed of development – Report No 355, November 2009: Case No 2680 (India) – Complaint date: 25-NOV-08, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2911707.
[24] Effect given to the recommendations of the Committee and the Governing Body, *available at* http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3111954.

 ISSN: 2582-6433

- *it is not possible to ratify Conventions Nos 87 and 98 as ratification would involve granting certain rights to government employees against the statutory rules, namely the right to strike; to openly criticize government policies; freely accept financial contribution; freely join foreign organizations, etc.;*
- *this matter has been considered from time to time, the last time being in 1997, where it was decided that status quo may be maintained;*
- *the Government has already implemented the spirit behind these Conventions in an effective manner through the domestic laws and regulations;*
- *the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions has also taken a consistent stand that the government employees should not be covered under these two Conventions Nos 87 and 98, for the reason that they have an exceptionally high degree of job security as compared to industrial workers, in addition to the facility of negotiation machinery under the JCM and administrative tribunals for the redress of their grievances; and*
- *the central government employees have the right to form and join any association. The Government concludes that as such it is not possible to ratify Conventions Nos 87 and 98."*[25]

It is clear from the excerpt that Government does not have the intention of ratifying the convention. Over and over India has concentrated on the fact that India does not want to give uncontrolled freedom of association, especially to the public sector employees. Contrary to India's contention, international standards view such distinction as discrimination towards public sector employees compared with the counterparts in private sector.[26]

To argue that India is totally unaware of international standards in this area would be inaccurate as well. An illustration of this may be found in the complaint that the Trade Unions International of Public and Allied Employees (TUIPAE) filed, which challenges the TNESMA and a few other provisions of the Tamil Nadu Essential Services Maintenance Act.[27] In addition to making other recommendations, the committee noted that TNESMA should be changed to permit public employees to organize unions and go on strike, with the exception of those who use their authority

[25] *supra* note 35 at para 63.
[26] *Id.* at para 65.
[27] Report in which the committee requests to be kept informed of development – Report No 338, November 2005: Case No 2364 (India) – Complaint date: 21-MAY-04, *available at* http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:2908889.

 ISSN: 2582-6433

on behalf of the state. In response to suggestions, the government finally changed TNESMA, which prohibited public employees from protesting for their complaints. Even if the government did not heed every advice made by the committee in that complaint, they were nonetheless duly considered, and the Indian government amended local legislation as a result.

Such cases, i.e., those involving civil or government employees, comprise the majority of freedom of association matters that make it to the International Labor Organization. This is essentially the most significant distinction between international conventions and local Indian legislation. The importance accorded to collective bargaining varies, among other things. For instance, the Supreme Court noted in All India Bank Employees' Association v. National Industrial Tribunal and Ors.[28] that Article 19(1)(c) only grants the right to form an association; however, the laws governing the Union's operations are framed, and clause (4) of Article 19 does not restrict those laws. In the case of TR Rangarajan v. Government of Tamil Nadu, the court further defined this, ruling that right to strike is a legal right and not a fundamental right.

- **Child Labour:** The International Labor Organization describes child labor as a "*violation of fundamental human rights*" and something that hinders the development of the child; and something that can have adverse effects on the child both physically and psychologically.[29]

According to the Minimum Age Convention of 1973, the minimum age must be set by the local government and cannot be less than fifteen years old. Furthermore, a person's age shouldn't be lower than 18 for jobs that could endanger their health, safety, or morality. The treaty itself does, however, permit national legislation to allow the employment of individuals between the ages of 13 and 15 for light labor that is unlikely to endanger their health or interfere with their ability to attend school or participate in other forms of training.[30]

The Worst Forms of Child Labor Convention, 1999, is the second convention that is essential to child labor standards. The treaty aims to protect children from certain forms of work activities that are specifically designated as the worst kind of child labor. The term "worst form of child labor" has a broad definition. Article 3(d) lists any work that, according to the way it is done, is likely to endanger children's health, safety, or morality. The treaty clearly states that any anyone

[28] AIR 1962 SC 171.
[29] http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/child-labour/lang–en/index.htm.
[30] *Id.* at article 7

 ISSN: 2582-6433

under the age of eighteen is considered a child for the purposes of the agreement. It further stipulates that all members must contact children in need of assistance and acknowledge the significance of education in ending child labor.[31]

Thus, one may argue that the conventions represent the very minimal requirements that a country must adhere to. They clearly state that no one under the age of eighteen should be allowed to engage in the worst types of child labor that are likely to endanger their health or morals, and that anyone under the age of fifteen should only be permitted to work after completing their basic schooling. Regarding child labor, India has its own regulations. According to Article 24 of the Indian Constitution, it is a fundamental right for no kid under the age of 14 to work in a mine, factory, or other dangerous job. The Child Labor (Prohibition and Regulation) Act, 1986 (hereafter referred to as the act) is based on this fundamental right. The Indian ban on child labor is not a comprehensive ban, though, in contrast to the international treaty.

It is important to note that India only has one age—14—for hazardous employment, but the Minimum Age Convention forbids child labor that interferes with schooling and the Worst Labor Conventions put the minimum age for hazardous work at 18. Unless the activity is dangerous, Indian law does not prohibit children under the age of 14 from working. But after the 2006 revision, even dhabas and domestic helpers were added to the schedule, thereby expanding the act's application and providing children with more protection. While some states are heading in that direction, the federal legislation on child labor does not yet fit the guidelines of the international. For example, Delhi and Rajasthan have raised the age limit to 18, and any employment below that age would be considered child labor.[32]

India's ongoing endeavour to fulfil global norms is also evident in the 2009 Right of Children to Free and Compulsory Education (RTE) law. Thanks to this statute, schooling is now required until the age of 14. Additionally, the right to education is now considered a fundamental right. In this regard, India is working hard to guarantee that children receive an education and to fulfil the conventions' obligations.

India is therefore not that much below the International Standards in this regard, despite the fact

[31] *Id.* at article 7
[32] Times of India, Child Labor raised to 18 years; *available at http://timesofindia.indiatimes.com/india/Child-labour-age-limit-raised-to-18-years/articleshow/15713593.cms*.

 ISSN: 2582-6433

that it has not ratified the convention.

Chapter III: Analysis of Indian Laws

It is not disputed that India has not ratified 4 of the fundamental International Convention—nonetheless, a lot of discussion centres on whether India is correct to deviate from international norms. As was previously mentioned, there are two distinctive characteristics of India: child labor and freedom of association. We don't think India's stance on public employees, or civil officials, is wholly unwarranted. It is important to remember that public employees have a responsibility to carry out specific tasks; otherwise, there may be dire repercussions. For example, if the police go on strike, there won't be any peace and order, which could result in significant costs for the government. Even the relatively less important tasks performed by public personnel, such as providing transportation or phone support, have a significant impact.

India with nearly 27 crore people under the poverty line,[33] mostly depends on the public sector to provide basic services because the majority of people cannot afford those provided by the private sector. If public employees are permitted to strike in such a situation, the nation will incur more losses than gains. Thus, this classification is not only arbitrary; rather, it is founded on a plausible link. Therefore, even in the unlikely event that there is a difference between workers in the public and private sectors, such a difference is legitimate.

International agreements cannot be the greatest arbiter of Indian legislation since local laws in India are tailored to the demands of the nation.

India's ratification of the treaties would mean that public sector workers' freedom to form unions and go on strike would not be restricted. There is now a limit on the unions' ability to go on strike because collective bargaining is not seen as a fundamental right in India. If the right to strike is granted without restriction, there is a serious risk that it may be abused. Then, strike would stop being a means of expression and turn into a weapon.

We do not believe that India made a mistake in refusing to ratify the convention in light of these conditions. India gives international standards weight even though it hasn't ratified them. The

[33] India Today: 27 crore people live below poverty line in India, Kartikeya Sharma, New Delhi, August 29, 2013, Available at - http://indiatoday.intoday.in/story/27-crore-people-live-below-poverty-line-in-india/1/304392.html

 ISSN: 2582-6433

legislation's wording makes it clear that India has attempted to include concepts that it might have logically included without going against its own interests.

The issue of child labor comes next. India has acknowledged that a sizable portion of children work as minors. As was previously said, there is already a broad list of occupations that children are not allowed to work in under current Indian legislation. Though some still believe that children under the age of 14 should not be allowed to work in India. Despite not having ratified the convention, India appears to be close to doing so. India has been making an effort to meet global norms. It should be noted that child labor has long been an issue in India, and the rapid ratification of the convention would result in a significant transformation that the Indian government would not be able to regulate. India appears to be adopting a methodical approach. For example, the convention on minimum age permits national legislation to enable children between the ages of 13 and 15 to be employed, so long as it does not interfere with the child's education. India is attempting to accomplish the same goal as the convention when it declares the right to education as a basic right and enacts laws requiring education.[34]

Consequently, it cannot be argued that India does not plan to recognize the convention since India has not ratified the treaties. India is essentially attempting to acclimate itself to the convention by taking small steps. Because child labor is a social norm, reform will take time and be gradual. As a result, Indian lawmakers, who are the greatest arbiters of the unique circumstances facing the country, act in accordance with national needs.

Chapter IV: Comparative Analysis Of India And The U.S.

Regarding the International Labor Standards ratification process, there aren't many differences between the United States and India. Like India, the United States has not ratified the fundamental agreements, which include issues like freedom of organization and child labor, among other things. We have already seen how India deviates from global labor standards thus far. The comparison of India and the United States will be the main topic of this section of the paper.

Child Labor Comparative Analysis

Child labor is a problem prevalent throughout the world. Charles Dickens in one of his most

[34] India – Case For Ratification Of ILO Conventions 138 And 182, available at http://beta.globalmarch.org/news/ILO-Convention-182-&-138.pdf.

 ISSN: 2582-6433

popular works, *David Copperfield,* portrays the perfect picture of the plight of a child employed in a factory. His work, which has touched the hearts of many, shows how the vulnerability and dependence of a child is exploited shackling his growth as an individual.[35]

Children are employed in the dangerous and often fatal working conditions in factories, industries, mines etc. Each country has its own story of evolution of child labor legislations. Children work in mines, factories, and other businesses under hazardous and frequently fatal working circumstances. Every nation's history of enacting laws against child labor is unique. As industrialization grew, child labor conditions in the United States became more severe. As industries grew, the majority of mine owners and companies favored hiring kids over adults. The ability to recruit children for less money than adults was one of the main causes of this. Additionally, they may easily fit on top of or between the equipment. Because they were far less prone to strike, they were also chosen over adults. In order for them to live, children from low-income households were expected to labor in the industries.

In the 1800s, children performed a range of jobs, most of them were employed by factories. This was a result of their small size, which allowed them to rest on or between the equipment. Four-year-olds were even working as workers. Given that they could squeeze through tunnels that were too small for adults, children were also favored for minework. But these children suffered from physical illnesses, illnesses brought on by their toxic industrial surroundings, and many of them died as a result. This presented a brand-new, extremely harsh picture of the industries and child labor. This resulted in an outcry to restrict child labor.[36]

There were three key causes of the 19th-century movement against child labor. First, there was a rise in the quantity of minors employed as workers. Second, rather than working in agriculture or family enterprises, youngsters were employed in extremely hazardous jobs. Thirdly, the concept of "childhood" changed; instead of being viewed as tiny adults that the factory owner might take advantage of, these people were perceived as young children who needed to be shielded from the "evils" of the outside world and allowed to play and learn. The US Child Labor Law evolved as a result of this.

[35] India – Case for Ratification of ILO Conventions 138 and 182, available at http://beta.globalmarch.org/news/ILO-Convention-182-&-138.pdf.
[36] *Id.*

 ISSN: 2582-6433

The Fair Labor Standards Act is the main piece of legislation in the US that addresses child labor. These rules are designed to protect children's education while enabling them to work in non-exploitative, non-hazardous conditions. Children under the age of 12 are typically prohibited from working under this Act unless they are child actors, work for their parents, deliver newspapers, or perform in specific agricultural vocations. Children between the ages of 12 and 16 are permitted to work during designated after-school hours in safe occupations on a restricted schedule. Children sixteen to eighteen years old are allowed to work as many hours as they like in non-risky environments.

Given that children represent the most vulnerable segments of society, the Indian constitution includes measures aimed at protecting their interests. Section III of the Indian Constitution, specifically Article 21A (right to education), Article 23 (1) (ban on human trafficking and bonded labor), and Article 24 (which forbids minors under the age of 14 from working in mines, factories, or other dangerous jobs). The interests of children are protected by numerous articles in Part IV of the Constitution. According to Art. 39(e) and Art. 39(f), the State is responsible for ensuring that workers' health is protected and that they are not mistreated. It also must ensure that no one is compelled to work beyond their physical and age limits. According to the latter, the State must make sure that kids have the resources and chances they need to grow up in a healthy way, with freedom and dignity. The State must also make sure that children are safe from abuse and exploitation. Children under the age of six are entitled to early childhood care and education under Article 45 of the Constitution.

Child Labor (Prohibition and Regulation) Act, 1986 is the main piece of legislation against child labor in India. This legislation specifies when, where, and how kids can work. According to the Act, a kid is any individual younger than 14 years old. No child is allowed to work in any of the 15 professions listed in Part A of the Schedule or in a workshop where any of the 57 procedures listed in Part B of the Schedule are performed under the terms of this Act. The jobs listed in Part A include those in plastic factories, car garages, railway catering establishments, slaughterhouses and abattoirs, mines, foundries, and power or handlooms. Beedi making, carpet weaving, soap production, cement bagging, and manufacturing processes involving hazardous materials and metals including lead, mercury, manganese, chromium, cadmium, benzene, insecticides, asbestos, etc. are all covered under Part B of the Schedule.

Additionally, this act specifies how many hours a child worker must labor. Youngsters are not

 ISSN: 2582-6433

permitted to work for longer than three hours at a time. Every three hours of work, the youngster needs to be given an hour off to rest. A youngster is not allowed to labor longer than six hours in total, including their rest period. No child is permitted to labor from 7 p.m. to 8 a.m. Additionally, a youngster is not obliged to put in extra time at work or work many jobs in one day. A child is also entitled to a day off throughout the week, per the Act. The conditions of the labor that the youngsters are allowed to perform are likewise regulated by the Act. Section 14 of the Act stipulates that anyone who hires or lets any kid under the age of 14 to work faces a maximum sentence of one year (three months is the minimum) or a fine of up to Rs 20,000/- (ten thousand is the minimum), or both. Additionally, the Act mandates that the employer give the inspector information about the employment of minors. Additionally, the employer must keep a record of the minors they hire.

The Rajasthan State government has published a notification raising the age limit for child labor from 14 to 18 years old. Therefore, it will now be deemed child labor in Jaipur if someone under the age of 18 works. Rajasthan is the second state after Delhi to raise the age limit to eighteen.[37] This notification also talks about the penalties on the employer of such children. "*A fine of Rs 20,000 will be imposed on the employer of such children. The State government will also contribute Rs 5000 in the Child Welfare Fund for each child, which would be spent on his or her rehabilitation.*"[38]

When we compare the American and Indian laws regarding child labor, we find that while the American law appears to cover a larger range of age groups and different types of work, the Indian law is more complete. The Indian legal system considers and attempts to address the issue of child labor. Nothing more than general provisions make up American law. Section 212 mentions repressed child labor just once. Indian law attempts to address every element about child labor, both potential and prevalent. It creates a comprehensive framework for examining child labor. Additionally, Indian law outlines the types of jobs and workplace procedures that prohibit the employment of minors. Conversely, the American statute fails to define, characterize, or specify the kind of jobs considered "hazardous" that children are not permitted to work in. This omission might provide a great deal of leeway for interpretation and judgment.

Some people may view an activity as safe even though it could be harmful to the children doing it. On the other side, because Indian law specifies what is prohibited, it won't encounter this issue

[37] http://timesofindia.indiatimes.com/india/Child-labour-age-limit-raised-to-18-years/articleshow/15713593.cms.
[38] *Id.*

 ISSN: 2582-6433

as much. Furthermore, these details are not all-inclusive. Several jobs have been introduced later as a result of revisions. For example, the 2006 Amendment prohibited the employment of minors in dhabas, restaurants, hotels, motels, tea shops, spas, or other recreational establishments, nor in the role of domestic workers or servants. The laws in India regarding child labor also hold employers responsible for hiring and caring for children.

They are also responsible for keeping records that include information about each of their child employees. This facilitates and streamlines the process of monitoring juvenile workers. The type of job environment that should be given to children is not covered by American child labor laws. On the other hand, Indian law recognizes that children should be handled differently because they are impressionable. As a result, it stipulates that a child employee's work environment must be one of freedom, dignity, and support for the kid's personal growth.

Conclusion

It is evident by examining the eight core agreements of the International Labor Standards that India is not attempting to skirt its obligations or adhere to lesser standards. India has strongly implemented the conventions ratified by it. Even for the two non-ratified conventions, India has been moving towards adopting the basic principles that are embedded in the convention.

India's refusal to ratify the agreement stems solely from the fact that doing so would be against the interests of the country given its unique circumstances. Certain countries have been taken into consideration when preparing the worldwide standards. India's circumstances do not fit the description of one of these nations. Trying to enforce universal standards, completely ignoring subjective circumstances, is in no way just or the correct way of jurisprudence.

Comparative analysis of child labor legislation and freedom of association legislation between India and the U.S. shows that both countries try to further the same intention and motive. Also, though India is seen as a third-world country, it has grasped the grain of these issues and made legislations that are comprehensive and inclusive at the same time being open to a certain level of interpretation. This analysis shows that India is coping with these issues well given the social and economic situations of the country.