

Labour Administration and Social Dialogue - A Mapping Exercise of Kerala

A. V. Jose

Theme and structure of the paper; state and society responded to a changing environment of work with regulatory instruments and institutions protecting the rights and interest of all parties

Transition to tripartite relations with an array of pro-labour legislative enactments based on procedural rights and quasi-judicial powers

Decades of industrial strife coincided with decline of labour intensive industries; institutional safeguards such as the Industrial Relations Committees, Minimum Wage Advisory Boards, Welfare Fund Boards emerged

Changing environment necessitated redistributive transfers through social spending with impact on quality of living and human development and reserve price of labour

Focus on social actors, institutions, outcomes, best practices and lessons for strengthening labour institutions

The IRCs are institutional safeguards operating in twelve labour intensive industries of the state;; major providers of employment, prone to unrest and labour militancy

Mandate to decide in advance on wages and working conditions IRCs function in agriculture, plantations, labour intensive industries of manufacturing, construction and service sectors

members represent workers, employers and government officials in equal numbers; constituted every three years involving major national trade unions and employers organizations

The committees meet periodically, arrive at agreements on wage revision, bonus, and working conditions; the decisions though not statutorily enforceable, binding when government notifies them; facilitated dialogue on fundamentally intractable problems endemic to all labour intensive industries

Helped transcend the barriers to dispute settlement in conventional bi-partite framework; a good deal of convergence occurred in demands of trade unions in spite of the unions' affiliation to different political parties

Forums for synchronized bargaining, voluntary negotiations and pre-emptive settlement, a significant departure from the beaten track giving precedence to adjudication base on the quasi-judicial powers

Unions opted to become less confrontational; toned down militancy; precipitated an improvement of industrial relations.

Minimum Wage Advisory Board (MWAB) per provisions of Minimum Wages Act of 1948. State government establishes boards for fixing and revising minimum wages in 78 scheduled employment categories

Minimum wages meet the subsistence requirements of a worker and his household in terms of the requirements for nutrition, clothing, housing and fuel, also taking into account the need for health care, education and other amenities, not productivity linked or fair or living wages

Wages are fixed for a) minimum time rates, b) minimum piece rates, c) guaranteed time rates and d) rates payable for overtime work; they are revised at appropriate intervals not exceeding five years; MWABs do not operate in sectors where IRCs function.

An oiled machinery with new advisory board set every three years; current board was constituted in the year 2014 with 37 members of which 16 represent the national and regional unions; another 16 members are from the employer community

Sub-committees recommend the structure of wages based on evidence gathered from the constituents; provision for dearness allowance and weightage to the years of work by the worker

Minimum monthly wage of any category of worker is equated to 26 times the daily wage of the same worker in that industry

Final wages notified has a validity of three to five years; the procedure brings convergence of wages at the lower end and public awareness of wages in different sectors

Unions take wage setting seriously; aim at consensus; show mutual respect and accommodation at the negotiating table; ambience of negotiations is less adversarial

A positive change in the outlook and approach of the workers and employers; more willing than ever to work within tripartite institutions; a new generation of educated and upwardly mobile workforce influence on the content of wage bargaining; greater willingness to concede; Chambers of Commerce and Industries have long agreed to payment of bonus at 8.33 percent

Actual daily wages paid to workers at the lower end of markets in any sector tend to be higher than the minimum wages prescribed for that sector; paradoxical in a state with considerable public involvement in wage determination

Minimum wages are fixed on the assumption that workers get regular employment for 26 days of the month in any sector and that their monthly pay (daily minimum wage x 26) would meet the subsistence requirements

Tri-partite forums take cognizance of the capacity of a sector to generate durable employment as they arrive at a consensus on wage rates for that specific sector

Variations linked to the productivity per worker; lowest wages are in the once thriving commercial crops sector, notably in tea plantations where the long sunset and the decline of real earnings have led to deep discontent and unrest

Given the simmering unrest, the tripartite institutions have done a commendable job keeping the parties engaged: Secular decline of commodity prices all over the world pose formidable problems to working out long-term solutions; Case for stepping in to bear the social cost of commodity production

The Welfare Fund Boards are highly acclaimed institutions, instituted to safeguard workers at the lower end of markets, victims of transformation

1970s onwards increased public demand for state interventions; pro-labour reforms leading to establishment of 26 Welfare Fund Boards

Two categories: statutory and non-statutory; tripartite representatives representing workers, employers and government in equal numbers, from 3 to 7 members administer the statutory funds; non-statutory funds linked to ongoing statutory funds, not necessarily administered by a tripartite board

Common administrative framework set the rules governing membership, contributions and the distribution of benefits

Statutory welfare fund with a managerial board

State provides the manpower for running the secretariat of the funds through civil servants; maintain and update membership rolls, collect membership dues from the participants, organize inspections and channelize benefits to the members; Maximum expenditure for administrative expenses limited to 5 percent of the annual income

Membership of all welfare funds a total of 7.9m; largest (2.3m) under the Agricultural Workers Fund with women accounting for 70 percent;. Construction Workers Welfare Fund accounted for 1.6m members

The boards for service industries such as motor transport, tailoring, artisans and skilled workers registered comparatively higher increase from 2005 onwards

Variation in size, accretion and attrition membership; financial sources are diverse, some sound and sustainable while others are insecure and dependent on state support

Most attractive feature is benefits to the members including pensions, ex-gratia payments on death or disability, support for education and medical care, contingency payments, unemployment benefits, housing and special allowances

Variations in the content of benefits as also with the contributions raised; Secure funds have identifiable employers and stable employment relations; contributions on par with the PF schemes of India; improved retirement pensions, ex-gratia payments and access to benefits

Insecure funds lack stable employment relations; chronically dependent on state. Agricultural Workers Welfare Fund is a case in point; Shortage arises from contributions not forthcoming from employers hiring casual laborers; Similar situation in coir and cashew funds with large membership

In all insecure funds annual membership fees and not any contributions linked to wages are the only source of income; fees fixed at inordinately low levels can never generate a corpus of funds to meet all outstanding obligations

Package of benefits linked to a place of work and duration of employment; women in shops and commercial establishments are entitled to maternity benefits, if only they return to same employer

All workers who contribute to the fund for a minimum of 10 years are entitled to pension benefits at rates fixed by the government; these returns cast a shadow on the very sustainability of several funds

Annual fees aggregated not sufficient to generate annuity flows or insurance funds; strong case for restructuring the funds to make them financially viable and sustainable

Some promising developments: An ongoing integration of welfare benefits such as health care and pensions jointly implemented by the central and state government; Comprehensive health insurance scheme (CHIS) with the National Health Insurance Plan (RSBY) ensure free yearly payment of health expenses to a maximum of Rs 30000 per means-tested family

Potentially reduce the stress on welfare fund boards and help restructure their finances embracing greater responsibilities with retirement benefits

Trade unions showing greater involvement in the management of welfare funds; operational schemes provide them with opportunity to make inroads into unorganized sector; union certification enables unions to increase membership in construction, motor transport, shops & commercial establishments, domestic services, artisans and skilled workers

Unit level workers enlist members, collect dues and keep membership records updated, make claims on behalf of the workers for benefits: pensions, accident insurance, gratuity, and special payments.

Unions converging to a position that all workers should become entitlement to five benefits: i) Provident fund, ii) Health care, iii) Pensions, iv) Bonus and v) Gratuity; sets the stage for all social partners to come together and work out the modalities for providing social protection based on social assistance and social insurance

Labour administration responding to emerging challenges impressively; Ongoing plan to rationalize the cost of administering welfare funds through reorganization of offices and digitization of records

Next step is an actuarial evaluation of assets and liabilities of all funds and introduction of electronic id cards for members; Plans to combine all funds engaged in distributing identical benefits of social assistance under a common administrative umbrella

Fund membership to be linked to Labour administration records; pressing concerns such as the promotion of skill development, credit support, entrepreneurship, procurement and marketing of products by the fund members to be addressed

The Labour Regulatory Regime work through Inspectorate dealing with violation of all existing labour legislations, 21 Central Acts and 10 Kerala Acts with rules specific to the situation in Kerala

Largest numbers of labour inspections have been carried out in relation to two legislations of the state: i) The Minimum Wages Act and ii) The Shops and Commercial Establishments Act.

Number of inspections conducted, prosecutions launched and the amount of fine realized in relation to the two above mentioned acts registered significant increase; Enforcement of working hours problematic in the shops and commercial establishments especially in rural areas

A benign influence on industrial relations in the state. Available data on the incidence of industrial disputes points to an upbeat picture; Between the years 2003-04 and 2013-14, the number of disputes in Kerala steadily declined from 4555 to 2019; settled disputes came down from 4656 to 2384; voluntary actions and conciliation processes assumed prominence over adjudication procedures

Ascent of a less adversarial climate; a perceptible decline in the man-days lost on account of industrial action; days lost due to strikes came down from 3.22m to 0.22m between 2005-06 and 2013-14; lock-outs from 1.81m to 0.36m

The administration has several accomplishments: Servicing the IRCs for taking pre-emptive action; Extension of minimum wage regulations to 78 categories of employment; Coverage of 8 million unorganized sector workers under welfare funds; Comprehensive health insurance to the entire population; free health cover to low income groups; Special welfare schemes for 2.5 million inter-state migrant workers; Digitization of welfare fund records; Rationalization of expenses and benefits, Settling disputes in the health care sector; Initiating action on unaided schools

Room for improving the quality and content of services; coordinating the work of officials of the state and central governments in areas of concurrent jurisdiction through sharing of information and joint inspections; Responding to the demand for services arising through the media

Lessons from tri-partite Institutions and Engagements. Remarkable contribution shaping appropriate institutions for dialogue

Most valuable outcome of past engagements: a congenial climate for redistributive transfers through social spending brought distinct benefits in terms of living standards, reserve price of labour; regulatory institutions safeguarding the rights and entitlements; strengthened a democratic foundations built on civil liberties and an inclusive approach

Abundant room for fine-tuning the institutions so that they can take on more challenges giving social protection for all workers. To this end there are important initiatives

Enhance the reach of social insurance that all workers can build nest eggs through provident funds, pension annuities and health insurance with contributions from employers, employees and the self-employed

Greater professionalism in the organization of wage boards based on expertise and scientific collection and processing of information; ed in planning for future skills and working out pay packages with emphasis on incentives, improved health care, housing, long term needs; Facilities for capacity building and interactions.