



The National Commissions on Labour

“...to rationalise labour laws...”

What have we established?

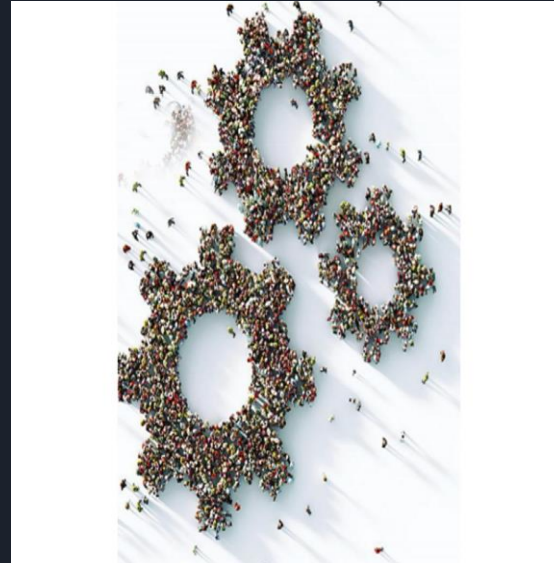
The Golden Principle Of Third
World Jurisprudence.

Schools of Interpretation

Social Justice through the
Welfare State.

Positionality of Employer
Rights

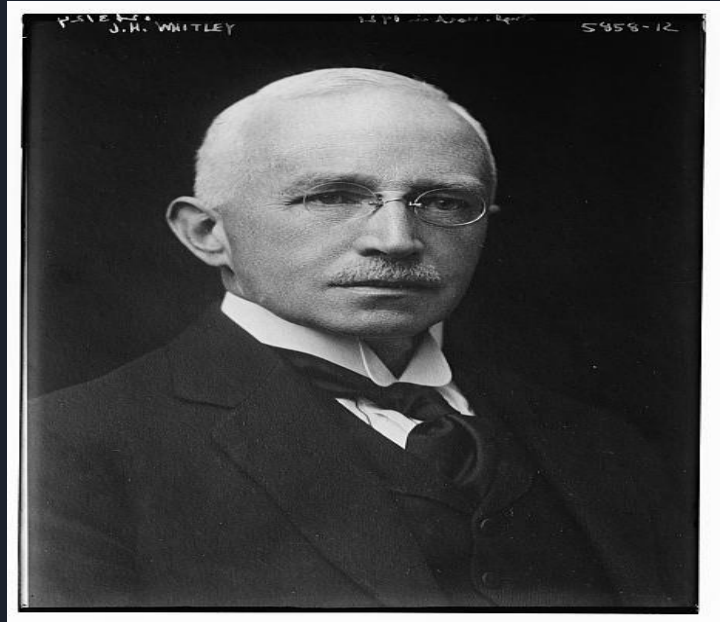
Cases



The Royal Commission on Labour 1929

Why was it set up?

What was the most important
recommendation made?





The Second National Commission (2002)

Has the Commission upheld similar views ?

How does the Commission begin?

What were the terms of reference?

What was the context?

What was the unique observation made by the Commission?

How did the Commission cope with the question on
'rationalization'?

Are Labour Laws To be Blamed for Lack of Foreign Investment?

What was the Commission's approach to this question?

What are the other factors that the Commission held to be characteristic of Indian labour 'culture'?

The Commission's take on hire and fire and impermanence of job security.

What are the 'solutions' the Commission thinks is necessary for improving industrial relations in the Country?





Deciphering the Commission's Approach

How does it visualize codification?

- . The word of caution.

What is the approach?

- . Judicious

What does the commission view on Wages?

- . wages vs. remuneration

On the Question of Retrenchment

- . What is the legislative history?
- . What is the judicial history?
- . The interpretational havoc post the N. Sundara Money judgement - The Golden Rule
- . What is the view of the Commission?





On Chapter VB of the ID Act

On prior permission for lay-off or retrenchment - Is it necessary?

- . The wider protections granted
- . What is the benchmark the Commission suggests?
- . What about Chapter VB?
 - . The debates
 - . The solution



Other Suggestions

- . English Whistleblower Law

- . Observations on the
Chinese Contractual
Employment

- . The enactment of a Law for
a separate umbrella
legislation.



My Observations

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Critical Perspectives On the Labour Codes.

The Art of Subtle Rationalization



Explicit.

- . Chapter VB
- . The Union Recognition Clause.
- . 50 percent wage rule
- . Definition of Worker
- . Shall and 'may'
- . No discrimination in cases of
'*appointments...*'



Which two laws and under Which Code?

The CLRA 1970.

- . What is the Act about?
- . What is the general scheme of the Act?
- . Jurisprudence? Is there a right of automatic absorption on abolition?
- . What is the general impact of the same?
- . Any distinction between core and non-core?**

The Factories Act 1948.

- . What is the Act on?
- . What is the general scheme of the Act?
- . Jurisprudence? Is there anything that prevents the employer from hiring a contractor to fulfil its obligations?
- . Any distinction between core and non-core?



Sham Jurisprudence.

10.1 Notification is issued and workers claim that it is a sham:

SHAM (Proved)	GENUINE (Proved that it is not a Sham)
There is no contract to begin with. Section 10 only applies to a valid contract of hiring CL.	Does IA intend on creating any relationship? What can be suggested by the IA?
If Section 10 does not apply to these group of workers, then what happens? Ans: This is an ID. What can the IA do?	What can the IA not do? According to SAIL what can at max. be done?



Sham Jurisprudence

10.1 Notification is **not** issued and the workers claim that it is a sham:

SHAM (Proved)	GENUINE (Proved)
This is an ID. What can the IA do?	Is there any question of regularization of service?
What tests to apply?	Who can issue a notification 10.1?

OSHW CODE

- . Core and Non-Core Activities***
- . What about hiring contract labour in these activities?
- . Are there exceptions in case of hiring contract labour in core activities?
- . What are the powers of the AG now?
- . How does it impact the Contract Labour?





Possible Outcomes

Whether activity is core or non-core?

Core: The Employer can't hire (albeit exceptions are easy to bypass)

Non-Core: Continue to hire.



Conclusion.