

New Labour Codes of India
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Lecture 08
ILO on Trade Union

Dear students, in this class we are going to discuss the International Labour Organization and the conventions, which deal with freedom of association and collective bargaining.

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Especially, the two conventions which we are going to look into are convention number 87. Convention number 87 talks about freedom of association and protection of the right to organize the convention, 1948. And the second convention is convention number 98 right to organize and collective bargaining convention, 1949.

And also we are going to see, three more conventions which are related to India and out of which two are party to India or ratified by India. The main allegation against India is that India has not ratified most of the conventions, including convention number 87 and 98. So, the freedom, so, we will look into the what is justification provided by the Government of India for not ratifying these international conventions. So, the freedom of trade unions or associations and also collective bargaining.

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KEYWORDS

- Trade Union
- International Labour Organisation(ILO)
- Freedom of Association

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So, if we look into these particular conventions, these conventions have a great bearing on the member countries, 187 member countries of the International Labour Organization.

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International Labour Organisation(ILO)

- The International Labour Organization was established in 1919, after the First World War, following the Treaty of Versailles.
- 187 Member states
- Only tripartite UN Body to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

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So, these conventions these two conventions, one is the right to form an Association and the right to collective bargaining is an integral part of human rights. Most countries are considered as an integral part of human rights and adopted by the International Labour Organization. So, when we look into this particular organization, International Labour Organization.

So, in the introductory class itself, we said that this is the first international tripartite organization, which formed immediately or at the end of the first World War. So, it entered into force at the end of the war, the Treaty of Versailles, which entered First World War.

And now, it is the specialized tripartite UN body to set labour standards. And also it develops policies and different programs and promotes decent work for men and women. And the labour standard conventions we will deal with separately. And today, our focus is on the two main conventions that are convention number 87 and 96.

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International Labour Organisation (ILO)

- The International Labour Office is headed by a Director-General appointed by the Governing Body.
- Albert Thomas of France was the first Director-General of the ILO.
- **Guy Ryder** was elected the tenth ILO Director-General by the ILO's Governing Body in May 2012 and took office in October that same year.
- In 2016, he was re-elected for another five-year term which started on 1 October 2017.
- The Governing Body of the International Labour Organization (ILO) has elected **Gilbert F. Houngbo** as the 11th Director General, who will take office in October 2022.

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The slide features a video inset of a man in a red shirt speaking. The background includes the ILO logo and the NPTEL logo.

So, if you look into this organization, so, this organization has a great history of developing labour standards, and it is a specialized agency of the United Nations. So, we can see that now, there is the second time the director general. And this particular organization is working for the benefit of all members. Almost all the members of this world, 187 countries out of 193 or 194 countries.

So, the present Director General is going to be retiring in October 2022. So, he is taking the second time, the second time he is holding his office and doing a fantastic job with regard to the member countries.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Date of Entry into force: 04.07.1950
157 Ratifications
0 Denounced
India has not ratified this Convention

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So, we come to this particular, code-level standard convention, there is freedom of association, and protection of the right to organize convention 87. So, it is entered into force in 1950 and one of the highest ratifications 157 ratifications on this particular convention, but unfortunately, India has not ratified this convention. And later on, we will see what is the justification of the government of India for not ratifying this particular convention.

So, the justification is nothing but the government of India says it is a fundamental right in India. The constitution envisages the right to form an Association as a fundamental right in the Constitution of India. So, there is no need to ratify the ILO convention. So, the school is asked the question for the last so many years, that if it is included as a fundamental right in your constitution, then why can you ratify this particular convention, because mainly we can see, there is a conflict, there is a conflict of interest of India, which completely bans the freedom of association in armed forces. So, we will see the different provisions of this particular convention.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

Preamble

Considering that the Preamble to the Constitution of the International Labour Organisation declares "**recognition of the principle of freedom of association**" to be a means of improving conditions of labour and of establishing peace;
"freedom of expression and of association are essential to sustained progress";

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The preamble of this particular convention very clearly declares recognition of the principle of freedom of association as a means of improving conditions of labour and establishing peace, in the labour markets and the labour sector. So, freedom of expression and association are essential to sustained progress.

Freedom of expression through associations is essential to sustained progress. This is the preamble of this convention, which says.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

PART I. FREEDOM OF ASSOCIATION

Article 2
Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3
1. Workers' and employers' organisations shall have the **right to draw up their constitutions** and rules, to **elect their representatives** in full freedom, to organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

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If you look into the provisions, the provisions clearly provide for you know, irrespective of the fact that whether it is for workers or employees, the right to establish is definitely

subjected to the rules and regulations of the organization. So, the organizations of their own choosing without previous authorization. So, the workers can form associations, employees also can form associations, subject to their own constitutions, every trade union, every association, and every federation, have their own constitutions.

So, subject to these constitutions, subject to the rules and regulations of the same organization, the workers and employees can establish organizations. So, as I already said, they can drop their own constitutions, elect their own representatives, they can elect their own administration, and office bearers, and also they can formulate their own programs.

So, the public authorities, the public authorities should refrain or cannot interfere, in any kind of interference to restrict the lawful existence of any association. So, this international labour law convention clearly provides for freedom of association, freedom to form an association, to be a member of the association to elect the representatives to elect office bearers and also formulate programs, different programs.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

PART I. FREEDOM OF ASSOCIATION

Article 4
Workers' and employers' organisations **shall not be liable** to be dissolved or suspended by administrative authority.

Article 5
Workers' and employers' organisations shall have the **right to establish and join federations and confederations** and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

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And workers or employees shall not be liable to be dissolved or suspended by the administrative authority. So, this is not an unbridled right under most domestic legislation. So, they can be very well dissolved, subject to certain conditions if they are not fulfilling the objectives.

So, Article 4 says, workers and employees organizations shall not be liable to be dissolved or suspended by administrative authorities. And also the workers and employees organizations

can write to establish and join federations and configurations. There will be thousands of trade unions in the country. So, these trade unions can affiliate with bigger unions.

They can affiliate to form confederations to join federations, to form federations and be a member of these federations and confederations and they can affiliate to national as well as international confederations of workmen, workers and employees should not be stopped or prohibited by the administrative authority.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

PART I. FREEDOM OF ASSOCIATION

Article 7
The acquisition of legal personality by workers' and employers' organisations,

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.
2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

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ILO

And other provisions, clearly says that these organizations or associations occur legal personality. So, these organizations occur legal personality, they can have their own scene, they can own property and they can have their own personal legal personality under law. And also, you can see that at the same time Article 8 provides that, when you form these kinds of associations or conventions of workers or confederations when you join these confederations, you have to respect the law of the land.

If a domestic law clearly puts certain conditions, terms and conditions for joining these International Federations of confederations, then you have to respect the law of the land. But at the same time, this particular law of the land shall not be to impair nor shall so be applied to impair the guarantees provided under this particular convention. So, it means that ILO provisions very clearly say that the members should not make any law to impair or to which is against the guarantees provisions of this particular freedom of association convention.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

PART I. FREEDOM OF ASSOCIATION

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

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And Article 9 which guarantees this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations. India has a lot of problems specifically with this particular provision.

So, India says this particular freedom even though it is a fundamental right, cannot be applicable to armed forces and police forces. Even though we say that India is a democratic country, an elected country with a lot of freedom, we have problems with this particular provision, Article 9 very clearly says that it is in accordance with shall be determined by national laws or regulations. So, we are determined not to give this particular freedom to armed forces and police forces.

So, ILO is in accordance with the other provisions, ratification of these conventions, the member shall not be deemed to be or forced to implement this particular provision, which is affecting any existing law at that point of time. But after that also, that may be one of the reasons that India has not ratified this particular convention.

So, India feels that ratification of this provision this particular provision is going to make India obliged or compelled India to change its existing provisions, especially the provisions of the armed forces in favour of forming associations. So, it is very difficult to think that India is going to become a party to this convention in the near future, especially with these particular provisions which give its application to the armed forces.

Even though it is very clearly written that is subject to national laws. But the other provision says that you cannot make any provisions which abridge or impair the provisions of this particular convention.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948
(No. 87)

PART II. PROTECTION OF THE RIGHT TO ORGANISE
Article 11

Each Member of the International Labour Organisation for which this Convention is in force **undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.**

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So, these all members so, this convention those countries those ratifying this particular convention. So, undertakes to take appropriate measures to ensure that the workers and employees may exercise freely the right to organize. So, virtually once it is ratified, it is an international obligation on the part of the countries to make this provision operational, making this provision operational in the sense that they have to implement it at the domestic level strictly.

So, if there are any provisions, if there is a conflict between international law and national law, definitely international law will prevail. So, India has to amend many of its laws.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

- ❑ To realize the principle of freedom of association and the right to collective bargaining in practice requires, among other things:
- ❑ a legal basis that guarantees that these rights are enforced;
- ❑ an enabling institutional framework, which can be tripartite or between the employers' and workers' organizations;

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So, we can see that this, to realizing this particular freedom of association principles is a continuous one, it says that the legal basis it guarantees these rights has to be enforced, there must be institutional framework there must be legal framework. So, there must be tripartite organizations to implement this particular obligation.

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C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

- ❑ the absence of discrimination against individuals who wish to exercise their rights to have their voice heard, and;
- ❑ ● acceptance by employers' and workers' organizations as partners for solving joint problems and dealing with mutual challenges.

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So, and also we can see that there must not be any discrimination against individuals who wish to exercise their rights to have their voices heard, and also to join these particular organizations. So, India is already put restrictions to join certain organizations for government service employees and other service employees. For example, we have already

seen some cases in railways, and telecommunications, there are restrictions and there should not be any discrimination against individuals who wish to join these organizations.

And I think probably freedom of association. This particular convention is a very important convention for the implementation of the freedom of association. It says it was a fundamental right of every citizen of every country.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Date of Entry into force: 18.07.1951
168 Ratifications
0 Denounced
India is one of the country which has not ratified this convention

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Next, we will see the right to organize and collective bargaining, the right to organize and collective bargaining. So, the objective of forming any union or any trade union or any association can be one of the objectives is collective bargaining. So, there are 168 ratifications of this convention, which entered into force in 1951. Again, India is not a party to this particular convention, India never ratified this convention. Because, again collective bargaining convention provisions, are against the Indian existing legislations.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 1

1. Workers shall enjoy **adequate protection against acts of anti-union discrimination** in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to--
 - (a) **make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;**
 - (b) **cause the dismissal of or otherwise prejudice a worker by reason of union membership** or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

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So, this article, the first article itself says, the workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment. So, what is this protection against acts of anti-union discrimination? If a person is joining in a union and you cannot discriminate against him only based on the reason that he is a member of that particular union.

So, here so, especially, such protections shall be applicable to make a worker's employment subject to the condition that he shall not join a union or shall relinquish trade union membership if the appointment is given. So, you cannot put such a condition in any appointment order that I am not going to be a member of any trade union in future.

And causing the dismissal of or otherwise prejudice a worker by reason of union membership or participation in union activities or participation in trade union activities during or outside of working hours. So, there are certain restrictions with regard to conditions, putting on the appointment orders.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 2

1. Workers' and employers' organisations shall enjoy **adequate protection against any acts of interference** by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to **constitute acts of interference** within the meaning of this Article.

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And we look into other provisions. We can see the provisions with regard to adequate protection against any act of interference, interference by the employees in workers, organizations, and workers in employees, organizations and vice versa. And here you can see that every act is designed to promote the establishment of workers' organizations under the domination of employees or employees organizations.

So, here we can see that some employee organizations try to influence, the employees' organizations through financial help, to appoint their own people in the employees' organizations and this will constitute or this will be deemed to constitute the act of interference within the meaning of this Article 2.

So, no interference directly or indirectly in workers' organizations not the employee's organizations as well. So, the employees cannot influence the worker's organizations or nor the worker's organizations can influence the employee's organizations. So, the indirect interferences like financial incentives to the ordinary worker's organizations will be considered as will constitute an act of interferences it will be considered as an act of interference.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 3
Machinery appropriate to national conditions shall be established, where necessary, for the purpose of **ensuring respect for the right to organise** as defined in the preceding Articles.

Article 4
Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

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So, here Article 3 says again subject to national conditions, so, ensuring respect for the right to organize, respect to organize or respect for the right to organize. So, again Article 4 says that the measures must be appropriate to national conditions and necessary to encourage and promote the full development and utilisation of the machinery of voluntary negotiations between employers and employers' organizations.

So, this collective agreement, the objective is collective agreements for the regulation conditions with related to employment. So, is always the organization can determine, according to the national conditions for the promotion and full development of the voluntary negotiations between employers and workmen.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 5

1. **The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.**

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member **shall not be deemed to affect any existing law, award, custom or agreement** in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

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Article 5 very clearly says or provides for application to armed forces and the police shall be determined by the national laws or regulations. You can see the same provision in Article number, the earlier article which we talked about, as well as 98. So, it is applicable to the armed forces but subject to national laws and regulations. So, again the question is if the national regulation prohibits the freedom of association and freedom of collective bargaining, then what you will do?

So, the same article provides that this is applicable to the armed forces but subject to national law and regulations. So, again, the Article 5 provision says that it is not going to affect the existing provisions, but the danger in this particular provision is that, once you are ratified this particular convention, it is the duty and obligation of every member country to implement the provisions of this particular convention at the domestic level through a enable legislation, if already there is a legislation which is in contrary to these existing conventions, they are forced to amend these conventions.

So, India fears that, so, if they become ratified this particular convention, then they have to amend many laws, which is relating to armed forces, relating to paramilitary forces, relating to police forces, relating to railway services, relating to civil servants. So, it is not only the central government employees, that the contract rules are applicable, for the state government employees also, the contract rules are applicable. They cannot form associations or they cannot be a part of political parties.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 6
This Convention **does not deal with the position of public servants** engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Article 7
The **formal ratifications** of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

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The slide features a speaker in a red shirt in a circular inset on the right. The footer contains the logos of KDR/RGSOIPL and NPTEL.

So, as I told you, this Article 6 very clearly says that the convention does not deal with the position of public servants engaged in the administration of the state, nor shall it be construed as prejudicing the rights or status in any way. So, it does not deal with public servants.

So, formal ratifications of the conventions are going to have legal implications for the member countries who are going to ratify both conventions. So, convention number 87 and convention number 98 have a tin, conventions that allow the freedom of association freedom of collective bargaining.

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C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

Article 8

1. This Convention shall be **binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.**
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

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So, Article 8 says, it is applicable only and binding only upon those members of the international labour organizations whose ratification has been registered with the director general. So, these once you become a member, and ratified this particular convention, then definitely you have to implement it at the domestic level.

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The slide displays the following information:

- C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)**
- Date of Entry into force: 11.05.1923
- 123 Ratifications
- 0 Denounced
- India is one of the country which has ratified this convention

The slide also features a video inset of a speaker in a red shirt and a footer with the text 'KDR/RGSOIPL/Labour Codes -2022' and logos for ILO and NPTEL.

So, the two conventions article convention number 87 and that convention number 96. So, there are a lot of implications for countries like India. So, we will see some of the conventions where India is a party and such convention is convention number 11, the right of association agriculture convention, 1921. So, this is one you can say that the beginning conventions at the beginning of ILO come out with this particular convention, 1921. Remember, there are 123 ratifications and India is a party to this particular convention.

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C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

Preamble

The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Third Session on 25 October 1921, and
Having decided upon the adoption of certain proposals with regard to the rights of **association and combination of agricultural workers**, which is included in the fourth item of the agenda of the Session, and
Having determined that these proposals shall take the form of an international Convention,

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Quickly we will see what are those provisions, that talk about this particular convention, right of association specifically in agriculture areas. So, here you can see that this is very specifically applicable to associations and combinations of agricultural workers and right of associations. And which is you can see that this particular convention which talks about the agriculture workers.

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C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes **to secure to all those engaged in agriculture** the same **rights of association and combination** as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture.

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So, this Article 1 says that all those who are secured to all those engaged in agriculture, have the same right of association and combination as industrial workers because mostly agricultural workers as considered as unorganized. Hence the ILO put these rights of associations in both the sectors in the agriculture sector as well as the industrial workers at

par. So, any existing law at that point of time, which is restricting this particular right should be repeated.

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C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

Article 3

2. It shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

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So, here we can see that this is going to be applicable. So, this particular convention is applicable to India.

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C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)

Article 6

Each Member of the International Labour Organisation which ratifies this Convention engages to **apply it to its colonies, possessions and protectorates**, in accordance with the provisions of Article 35 of the Constitution of the International Labour Organisation.

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Because India ratified this particular convention and, remember, this specifically came into existence in 1921 and came into force in 1923. So, as far as India is concerned, remember, it is mostly the colonial period, the British time. So, it is very clearly said that this convention is applicable to colonies, possessions, protectorates and other countries.

So, it means that the ILO understood the position that many of these countries are under colonialism. So, they may have made it applicable to those countries under colonialism.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Date of Entry into force: 01.07.1953
9 Ratifications
0 Denounced
India is one of the countries which has not ratified this convention

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The slide features a speaker in a red shirt in a circular inset on the right side. The background is light green with a blue and green geometric design on the right. Logos for ILO and NPTEL are visible at the bottom.

So, this other convention is the right of association nonmetropolitan territories convention, 1947 hardly, there are 9 ratifications to this particular convention. And the reason reasons are obvious and India also is not a party to this particular convention, with only 9 ratifications so far.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Preamble
The General Conference of the International Labour Organisation,
Having been convened at Geneva by the Governing Body of the
International Labour Office, and having met in its Thirtieth Session on
19 June 1947, and
Having decided upon the adoption of certain proposals concerning
the right of association and the **settlement of labour disputes in non-
metropolitan territories**, which is included in the third item on the
agenda of the Session, and
Having determined that these proposals shall take the form of an
international Convention,

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The slide features a speaker in a red shirt in a circular inset on the right side. The background is light green with a blue and green geometric design on the right. Logos for ILO and NPTEL are visible at the bottom.

So, if you look into this particular convention, this is adopting certain proposals concerning the right of association and the settlement of labour disputes in non-metropolitan territories.

So, if you take India any labour law is applicable to there is no distinction between neither metropolitan area nor non-metropolitan area or rural area it is applicable throughout the country. So, this convention which talks about the settlement of labour disputes in non-metropolitan territories.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Article 1
This Convention applies to **non-metropolitan territories**.

Article 2
The rights of employers and employed alike **to associate for all lawful purposes shall be guaranteed by appropriate measures**.

Article 3
All practicable measures shall be taken **to assure to trade unions which are representative of the workers concerned the right to conclude collective agreements with employers or employers' organisations**.

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So, non-metropolitan territory, so, it is you can see that the applied non it very clearly says it is applicable only to non-metropolitan territories at that point of time. So, again so collective agreements with employees or employees organizations with workers.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Article 4
All practicable measures shall be taken **to consult and associate the representatives of organisations of employers and workers** in the establishment and working of arrangements for the protection of workers and the application of labour legislation.

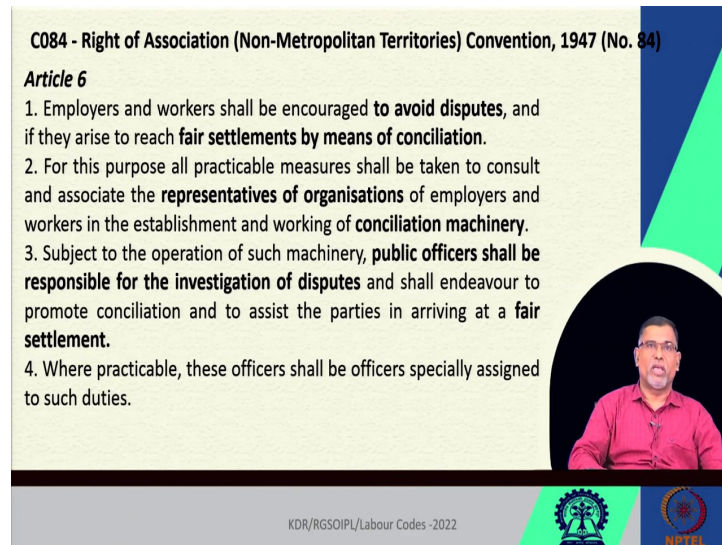
Article 5
All procedures for the **investigation of disputes between employers and workers shall be as simple and expeditious as possible**.

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And also, the measures shall be taken to consult and associate the representatives' organizations or employees and workers they establishing and working on arrangements for the protection of workers and application of labour legislations are provided with Article 4. So, the investigation of disputes, employees workers shall be as simple and expeditious as possible. So, the disputes are to be investigated quickly as possible.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Article 6

1. Employers and workers shall be encouraged **to avoid disputes**, and if they arise to reach **fair settlements by means of conciliation**.
2. For this purpose all practicable measures shall be taken to consult and associate the **representatives of organisations** of employers and workers in the establishment and working of **conciliation machinery**.
3. Subject to the operation of such machinery, **public officers shall be responsible for the investigation of disputes** and shall endeavour to promote conciliation and to assist the parties in arriving at a **fair settlement**.
4. Where practicable, these officers shall be officers specially assigned to such duties.

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So, again, fair settlements by means of conciliation. So, remember, the provisions for alternative dispute settlement provisions are included in this particular convention, 1947 itself. So, conciliation and conciliation machinery through the representative organizations. So, public offices are made responsible for the investigation of disputes and also for promoting the conciliation process and fair settlement of disputes under this particular convention.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Article 7

1. Machinery shall be created as rapidly as possible for the **settlement of disputes between employers and workers.**
2. Representatives of the employers and workers concerned, including representatives of their respective organisations, where such exist, shall be associated where practicable in the operation of the machinery, in such manner and to such extent, but in any case in equal numbers and on equal terms, as may be determined by the competent authority.

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And it says that in the settlement of disputes between employers and employees, there must be machinery should be created. So, the promotion of alternate dispute settlement provisions is provided in this particular convention.

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C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)

Article 13

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

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So, you can see that this particular provision's applicability is ratification so, India is not a party to this particular convention.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

Date of Entry into force: 24.11.1977
41 Ratifications
0 Denounced
India is one of the countries which has ratified this convention

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And another convention in which India is a party is the rural workers' organization convention. So, you can see that these particular provisions came into existence in 1977. And also, this ratification so far has 41 ratifications and very few countries are ratified, India is one such country with few ramifications.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

Article 1
This Convention applies to all types of organisations of rural workers, including organisations not restricted to but representative of rural workers.

Article 2
1. For the purposes of this Convention, the term **rural workers** means any person engaged in **agriculture, handicrafts or a related occupation** in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier.

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And here you can see these conventions mostly applicable to organizations of rural workers and representatives of rural workers. So, they say that they define rural workers as person people, who are engaged in agriculture, handicrafts or related occupation in rural areas. So, this includes the people who are self-employed as well and also tenants and sharecroppers,

small owner-occupiers, etc. So, you can see that this rural workers organization convention is mostly applicable to the unorganized sector people.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

2. This Convention applies only to those **tenants, sharecroppers or small owner-occupiers** who derive their main **income from agriculture**, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not--

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.

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So, Article 2 says, this is applicable only to those who are tenants, sharecroppers, small owner occupiers and there who derive their main income from agriculture. So, who works in the land themselves?

And also, you can see that it does not permanently employ any workers because mostly in agricultural places, they employ temporary workers, and the people, those who employ seasonal workers, and also, they have any land cultivated by sharecroppers or tenants. So, still, in some parts of the country, we can see these sharecroppers and tenants. So, it is very clearly applicable to the higher the top unorganized sector as well.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

Article 3

1. All categories of rural workers, whether they are wage earners or self-employed, shall have the **right to establish** and, subject only to the rules of the organisation concerned, **to join organisations, of their own choosing without previous authorisation**.

2. The principles of freedom of association shall be fully respected; rural workers' organisations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.

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So, rural workers are very generous. So, there are now new provisions which come up for this unorganized sector, specific provisions are there in the unorganized sector in the new codes. So, they can right to establish, so, according to the organization, they can join this particular organization and their own choosing without previous authorization of any authorities.

So, it says that the principle of freedom of association should be fully respected. So, these rural workers' organizations shall be independent and voluntary in character. So, any kind of interference, coercion or repression should not be there in these rural workers' organizations, that is why the ILO come out with a specific rural worker, the convention in 1975.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

3. The acquisition of legal personality by organisations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the provisions of the preceding paragraphs of this Article.

4. In exercising the rights provided for in this Article rural workers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

5. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Article.

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So, it is like any other organization these organizations also will be considered as a separate legal entity and separate legal personality of this particular rural workers' organizations. And these provisions will be applicable to such organizations. And also it very clearly says the domestic legislation the law of the land shall not impair shall it be so applied to impair to take away these guarantees provided under this particular convention. So, you cannot make any law at the domestic level to take away any of the rights which are provided under this particular convention.

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C141 - Rural Workers' Organisations Convention, 1975 (No. 141)

Article 8

1. This Convention shall be **binding only upon those Members** of the International Labour Organisation whose ratifications have been registered with the Director-General.

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And here, so, the convention is applicable to the members those who are registered under, this particular convention Rural Workers Organization Convention. So, definitely India is a

party to this particular convention, but you cannot find any distinction of organizations, any distinction of special organizations like rural workers organizations in any one of the codes, there is no mention of rural workers organizations in any of the codes whether it is a wage code, where it is an industrial relations code or whether it is the occupational health and safety code, there is no specific reference to rural workers organizations, but India is a party to this particular convention.

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CONCLUSIONS

- The following Conventions **have been** ratified by India dealing with Freedom to form Trade Union or Association
 - **C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)**
 - **C141 - Rural Workers' Organisations Convention, 1975 (No. 141)**
- The following Conventions have **not** been ratified by India dealing with Freedom to form Trade Union or Association
 - **C084 - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)**
 - **C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)**
 - **C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**

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So, in conclusion, we can see that other than these two conventions, India is not a party to the important conventions like article number 87, convention number 87, convention number 98 or convention number 84. So, India is the party to two conventions only that is the right of association of agriculture convention 1921 and the Rural Workers Organizations Convention, 1975.

But, if you look into, looking for the implementation of these conventions like the right of association of agriculture, specifically agricultural workers or rural workers, there is no specific mention of these workers in the new code. And still, I think India has to take some more time to implement these provisions at the domestic level through the enabling provisions in the new codes which are raised.

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REFERENCES

- **C011** - Right of Association (Agriculture) Convention, 1921 (No. 11)
- **C084** - Right of Association (Non-Metropolitan Territories) Convention, 1947 (No. 84)
- **C087** - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- **C098** - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- **C141** - Rural Workers' Organisations Convention, 1975 (No. 141)
- https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_095895.pdf

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So, we can find this about conventions developed by the labour organizations for all its members and Indian argument or India always argues that yes, we have incorporated these provisions in the Indian constitution and also we are implemented these particular provisions. So, we hope that the government is going to, actively adopt and ratify the core level standard conventions, at least convention number 87 and convention number 96 in the coming future. Thank you.