

Chapter 5:-

Minimum Labour Conditions(MLCs)

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- What are **MLCs** & why is important to provide for them?
- **MLCs-** are those legally stipulated/predetermined w/cond'ns on which contrary & less favourable agreement is not allowed.
- **MLCs** are basically needed b/c of the **market failure** to regulate emplr-emplee r/ns effectively & equitably- due to **inequality of bargaining power**.
- The PPs of **freedom of K** is insufficient to regulate labour r/ns....labour as a commodity no more.....

MLCs...

➤ **MLC** is the result of inadequacy of market forces & the state came up with w/cond'ns below which.....

Examples of MLCs:

- ✓ Employment security/stability,
- ✓ Minimum wage & wage protection,
- ✓ Limited daily/weekly w/hrs,
- ✓ Paid leaves & other social benefits,
- ✓ Safe & healthy w/cond'n & Compens'n for EIs(EI protections & benefits), and so forth.

So w/c types of **MLCs** are legally recognized under Eth employ't legisl'ns & w/r any d/ce b/n the 2 regimes...

1. Employment security(ES) & its protections:

➤ **ES** is a general & cross-cutting protect'n(MLC)

The law uses d/fnt mechanisms of ensuring ES:-

-  Rules on determination of period of employ't- indef. Vs. def. period (arts. 9&10LP);
-  Rules on term'n of EK & its limit'ns- prohib'n of unfair dismissal/requ't of valid reason for....;
-  Rules on review of the validity or otherwise of decis'ns of term'n by neutral organ(judicial or quasi.....;
-  Rules on legal conseqs of term'n esp unlawful term'n;
-  Other rules & restrictions on grounds & formalities of term'n, susp'n, reduction, etc .(23ff/18LP)

2. The Minimum Wage(MW) & wage protection:- 53ffLP&7ffCSP

- Can we say MW(basic/ordinary wage/salary) is part of MLCs under Eth. Laws? Why or why not?

Eth ffs a double approach:

- ✓ Setting MW for the civil service(120, 320, 444, 650,)
- ✓ Leaving its determ'n to the private sector under LP

🌺 Do you think Eth app is appropriate given the reality on the ground...?

So what are the remaining guarantees for wage & its protect'n? LP, ILO Protection of Wage Conv. No. 95,

- ✓ Equal pay for equal work;
- ✓ Wage to be fixed by mutual agreement, by national laws or regulations,

Min. wage...

- ✓ Types of wage: in cash or in kind;
 - ✓ Capable of being expressed in terms of money(even if paid in kind);
 - ✓ Payment directly to the worker;
 - ✓ Payment in legal tender;
 - ✓ Payment in the form of allowances in kind be fair & reasonable;
 - ✓ The extent legally permitted deductions & prohib'n of attachment/assign't;
 - ✓ Regularity of payment
 - ✓ Effect of bankruptcy of the employer & priority of claim(salary as a privileged debt);
- ✚ Discuss the current approach of the gov't to create **Wage Board** composing delegates of gov't, employer(s) & employees.....

3. Limitation of Normal/Regular W/hrs:- 61ffLP& 33ffCSP

- What does it mean by **NWHs/RWHs**? See the legal def'ns...
- **NWHrs/RWHrs**: the duration in a day/week w/in w/c the emplee renders service to his/her emplr... The time during w/c the **worker actually performs work** or **avails himself for work**.
- **Limit'n of w/hrs** had been the center of **worker's right movement/struggle**- b/c historically left to the determ'n by agreem't of the parties & abused seriously- resulting in **multiple rights violations**.

NW/hrs...

- B/c of repeated abuses & violation of workers rights, various ***states began to limit w/hrs by legisl'n & finally ILO adopted the 1st Conv'n in 1919*** limiting daily w/hrs to 8 hrs & weekly w/hrs to 48 hrs (C.No. 1).
- ***In Eth, 8 hrs/day & 48/week limit'n*** was adopted by a regulation issued **under LRP No. 210/63**.
- Hence, make a comparison b/n LP & CSP on limit'n of daily & weekly w/hrs... **a slight d/nce...**
- Modes of distribution of daily/weekly w/hrs...

NW/hrs...

The law has also set additional ways of ensuring limit'n of w/hrs like:

- ✓ The prohib'n of overtime(OT)- but with some exceptions;
- ✓ Onerous rate of payment for OT work;
- ✓ Penalizing the employer for OT work order(184(1)(a)LP)

4. Paid leaves:

- **The importance of recognizing leaves**
- ***The types of leaves under employ't laws of Eth.:*** Annual leave, Sick leave, Maternity leave, Paternity leave, Special leave, etc

4.1. Annual leave: 76-80LP & 37-41CSp, 2562CC, Reg. No. 302/64(art.5)

- ✓ Purpose of AL: Art. 37CSP
- ✓ ***Qualifying grounds/period: 77(1)+....***
 - Who are eligible to AL
 - Working Vs. Consecutive days: computation

Paid leaves...

✓ ***Duration & manner of granting AL: 77&...***

- Beginning point & max. ceiling;
- Balancing the interest of the emplr & emplee
- Making necessary payments like salary...

✓ ***Accumulation& transfer/postponment of AL: 79&...***

- Justifying grounds,
- The effect of accumulation,
- Payment in lieu of AL
- Recalling from AL;
- Term'n of KE&its effects on AL
- Sickness during AL

 Compare & contrast LP&CSP rules on AL!!

Paid leaves...

4.2. Sick leave: 85&86LP/43ffCSP/2542CC

- Another component of MLC...
- A leave paid fully, partially & none;
- Acc to Proc. No, 64/75: 6 months SL- 1 month full pay, 2 months half pay & the last 3 months with no pay(art.38). See art.86 LP&43CSP

Some issues in r/n to SL:

- Fate of ***probationary employees***- See LP&CSP;
- Sickness Vs. El leave: case of overlapping
- Sickness Vs. Maternity leave

Procedural issues: Like notific'n, presenting valid medical certificate, etc

4.3. Special leaves: 81-84LP&...

- ***Read collection of various leaves for different purposes:*** like family events(marriage, mourning, examination, etc), union leave(82), leave for special purposes to discharge ones civil duty(83), etc
 - Concept of leave w/o pay Vs. susp'n
 - Make a comparison b/n the 2 two laws

5. Public holidays & Weekly rest day: 69ffLP & 36CSP

- Why PHD&WRD form part of MLCs....??
- Tradit'nal Vs. modern views on PHDs&WRDs..
- PHDs: national, int'nal, religious or cultural... (See Proc. No. 16/75).
- Payment during PHDs&WRD...
- Case of coincidence of PHD with other PHD or WRD- how treated?

6. Safe & Healthy working Conditions

- ❖ **Occupational safety & health(OSH):** one of essential MLCs & recognized under both laws [92ffLP, 47ff/52ffCSP, 22ff of 715/2011, OSH policy(2006 E.C.),
- ❖ **Industrial activities are full of risk:** risk to life, health, bodily integrity, property or the env't in the form of death, accident, disease or pollution.
- ❖ **Traditional view of EI/OI/:** responsibility with the empee/worker himself b/c deemed to be included in the wage paid & voly assump'n of risk.
- ❖ The PP of '**let the damages rest where it falls.**'

OSH...

- ❖ **Modern view-** the **PP of transfer/passing/ of risk** to the emplr:
 - ✓ **Justifications:** **Economic**(the ability to pay & transfer costs to consumers) & **Equity** considerations(the benefit pp);
- ❖ **Two levels of oblig'n of the emplr:**
Preventive stage(imposing bilateral oblig'n) & **Remedial stage**/post-EI measures(loss distribution/ compensatory measures);
- ❖ **EI:** is harm/loss/risk/injury/etc sustained by a worker in carrying out/in connection with/ his job/performance of his work[See some decisions FSC].

OSH...

- ❖ **2 types EI:** E/Accident & E/Disease(OA/OD)-
See art. 97/98LP & 53CSP;
 - ✓ **Give examples of EA/ED-** like injury sustained during field work, tea or lunch break, during OT & rest day work time, in common transport service vehicle, etc;
- ❖ **OD:** in r/n to the type of work performed or the surrounding of work..... Art.98LP
- ❖ **An exception:** exclusion of **endemic/epidemic disease**[generally available risk pp Vs. exposure to increased risk]

6.1. Employer's liability & exemption from liability

- ❖ **Liability to EI:** Limited to employ't-related injury[place, time, nature & surrounding limit'n]- requ't of cause & effect r/p.
- ❖ **Liability irrespective of fault: *strict liability*** & additionally ***fault-based liability***;
- ❖ ***Based on degree & duration of injury/disablement:*** Temporary, Permanent(partial or total) & death;
- ❖ ***Exemption from liability/defs of the emplr:*** Intentionally inflicted EI-self-injury: how proved & what effect? See art. 96(2)LP

6.2. Extent of employer's oblig'n/liability to EI/:

- ❖ **Immediate oblig'n:** Under art. 104LP&...
- ❖ **Medical expenses & benefits:** the extent, type, etc(See art.105LP/59CSP
- ❖ **Disability benefits(DB):** See arts. 99ffLP&60ffCSP&34ff of 715/2011
- ❖ **Disablement:** Decrease or loss of capacity to work
- ❖ **The amount of DB** depends on the **degree & duration of disablement/disability.**
- ❖ **Disability:** Temporary(partial/total), permanent (partial/total), death[arts.99(2), 100&101LP]

OSH...

- ❖ **Temporary disability: Periodical payment/El leave with pay/-** art.102, 108LP&... mode of payment, duration & its limits under both laws-compare;
- ❖ **Permanent disability benefits:** Art. 109LP&...
- ✓ **Total PD: Lump sum compens'n** under LP(109(3) (a) & in the form of **incapacity pension**(47% salary) under PP (34&35 of 715/2011);
- ✓ **Partial PD: Proportionate compens'n** under LP(109(3)(b) & **incapacity gratuity** under PP(37&38 of 715/2011);
- ✓ **Death:** **Dependent's/survivor's benefits/payments** & cost of funeral- 110LP&39-44PP(715/2011);

OSH...

- ❖ Who are dependents & how determined?
- ❖ Modes of sharing/allocation/ of dependent's benefits...
- ❖ ***Permanent disability benefit*** under LP Vs. ***Pension/insurance scheme*** under CSP/PP... how applicable?

OSH....

- On matters of OSH, there are rich laws & cases both on labour law and civil service regimes.

Laws-

- ✓ Civil servants proc. No. 1064/2017,
- ✓ Labour proc.no. 1156/2019,
- ✓ Public servants pension proc.no. 714/2011 & its amendment proc.no.907/2015,
- ✓ Private organization employees pension proc.no. 715/2011 & its amendment proc. No.908/2015,
- ✓ The newly adopted Public servants proc.no.1267/2022.
- **Cases-** FSCCD has several rule setting decisions which may help to understand legal provisions. See your group assignment case lists!!