

# **Analyze the expansion of Buddhist view on conflict resolution in Industrial Disputes Act No.43 of 1950 in Sri Lanka.**

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## **Abstract**

Conflict can be considered as a friction, disagreement, or discord arising within the mind of a person or a group either resisted by or unacceptable to one or more members of another group. At this moment of conflict, they may no longer come together, and may split into coalitions. So, conflict resolution is most helpful at that period to facilitate the peaceful ending without serious harm. It can be identified in three stages in conflict such as stage of latent latency, stage of manifestation, and stage of transgression. In Buddhism, those stages are identified in relation to the activity of the mind as 'Anusaya', 'Pariyutthama', and 'Vitikkama'. Labor relations are one of the sectors in the country which most of the time conflicts have arisen. Industrial Disputes Act No.43 of 1950 is one of the legal efforts to control such conflicts. Within the legislation, there are six ways of conflict resolution mechanisms introduced such as collective agreement, conciliation, voluntary arbitration, compulsory arbitration, labor tribunal, and industrial dispute court. The research has analyzed those ways of conflict resolution mechanisms under the Buddhist perspective and how the method of Buddhism on conflict resolution has been incorporated to create Industrial Dispute Act No.43 of 1950 to resolve conflicts in the labor sector. The research used quantitative research methodology and secondary data such as books, web articles, sutras, and legislations. Finally, it could be identified that some steps of Buddhism like being flexible, avoiding senseless violence, avoiding deep-seated suspicion, and working on sense bases are incorporated into the mechanism of conflict resolution on Industrial Dispute Act No.43 of 1950, especially in conciliation, voluntary arbitration, and collective agreement.

**Key words**-conflict resolution, Buddhism, Industrial Dispute Act No.43 of 1950, conciliation

## **Introduction**

Even from the beginning of human societies, conflicts were happening. Even in period of Lord Buddha as well. Sakya - Koliya dispute was one of evidences to this. (Guruge, 2007) Not only in the society but also those conflicts can happen in family, within a person, amongst persons, in a country and internationally. According to Buddhism, it identified two underlying common causes such as failure to develop the cognitive faculties to the fullest and to see as it is the factors that cause the conflictual situation to arise; as well as the failure to comprehend its true nature. (Silva, 2009) So, conflict can be considered as a friction, disagreement, or discord arising within mind of person or a group either resisted by or unacceptable to one or more members of another group. At this moment of conflict, they may no longer come together, and may split into coalitions. So, conflict resolution is most helpful at that period to facilitate the peaceful ending without serious harm.

When studying conflict it can be considered that there are three stages in conflict such as stage of latent latency, stage of manifestation, and stage of transgression. In Buddhism those stages are identified in relation to the activity of the mind as 'Anusaya' the stage of latent latency, 'Pariyutthama' the stage of manifestation, and 'Vitikkama' The stage of transgression. (Silva, 2009) So, conflict does not arise suddenly. Before it becomes visible and harmful conflict, there is a stage of latent latency. There can be hidden conflict in mind of person or among few people that not visible to outsiders. In the Pariyuttama stage those conflict began to visible. The stage of Vitikkama can be considered as stage of wrongdoing. That stage can identified as most harmful stage. Most of them identified this stage as conflict and have to go for resolution.

Considering current situation in society, labor sector can be identified as one of important sectors in the economy of a country. Also, vast number of people in society is part of labor sector. Moreover, it is the sector most conflicts happening as well. Mainly those conflicts are happening in between employer and employee. They are the two main parties in the labor conflicts. Due to both parties have different bargaining powers usually conflicts have arisen between them. To resolve those disputes, government had involved and it has enacted Industrial Disputes Act No.43 of 1950. There, six methods have introduced to resolve the conflicts which are happening in labor sector. They are collective agreement, conciliation, voluntary arbitration, compulsory arbitration, labor tribunal and industrial dispute court. Those conflict resolution mechanisms are

really effective in now day's. In the paper it has discussed how the Buddhist view on conflict resolution has expanded in Industrial Disputes Act No.43 of 1950.

### **Industrial Dispute Act No.43 of 1950.**

As a result of intervention Sri Lanka government to conflicts which are arising in labor sector, Industrial Dispute Act No.43 of 1950 has introduced. The main objectives of the Act are, to prevent industrial disputes, investigate industrial disputes, settle industrial disputes, and to provide for other matters connected to or that arises due to industrial disputes, dispute prevention, investigation, or settlement. (INDUSTRIAL DISPUTES ACT NO. 43 OF 1950) According to the Act there should be a difference or a dispute for it to be regarded as an industrial dispute. This does not mean that there has to be a clash or a fight between the parties. Even initial stages of a difference of opinion where the parties are waiting for an opening to clash is enough for qualified as an industrial dispute under this Act. Considering it with Buddhism it has not to wait until 'Vitikkama' stage, even in 'Pariyutthama' stage those conflicts can be send for resolution under the Act.

Further Section 48 of the Act has defined industrial dispute as any dispute or difference between an employer and a workman, employers and workmen, workmen and workmen connected with the employment, non-employment, and terms of employment, conditions of labor, termination of services or re-instatement of service of any person. Only these conflicts are covered by the Industrial Dispute Act No 43 of 1950.

**Conciliation.** Section 3 (1) (b) (c) of the Act added about conciliation. Though some, writers try to give same meaning to mediation and conciliation, they are different each other. The major difference between conciliation and mediation ultimately is the power of the third party. In all cases, conciliation gives slightly more power to the third party than the mediation. (What Is the Difference Between Conciliation and Mediation?) According to the Act, commissioner of labor or an authorized officer will act as this third party. It is the duty of the third party to take all necessary steps for dispute, to come fair and amicable settlement. This third party does not intervene in the settlement of dispute, merely facilitate the settlement.

**Arbitration.** Referring an industrial dispute to an independent third party (Arbitration) for settlement is known as Arbitration. When a dispute is referred to an Arbitrator, he will make all

necessary inquiries in to the matter, hear all evidence necessary and make an award that is just and equitable. Employers and employees are bound by the award given by the arbitrator. This is different from the conciliation due to both parties have to accept though they agreed it or not. Arbitration has divided to two. They are voluntary arbitration and compulsory arbitration. **Voluntary Arbitration** can consider as an extension of the process of conciliation. When both parties agree to settle their dispute by voluntary arbitration they can proceed on that. It further added in Section 3 (1) (d) of the Act.

**Compulsory Arbitration** is different from this. Though parties agree or not they will be send for arbitration by influence. It's necessary to have arbitration. Arbitrator will be appointed by the minister. Section 4 (1) of the Act has added further. .

**Labor Tribunal** is another way of dispute settlement under the Act. Only declared matters in the Act could send application to the court. Section 31 (b) of the Act has added further

Final solution for industrial dispute is **Industrial Court** Section 4 (2) of the Act has added further. It only activates when the minister refers it. For such reference to be made, it should be accompanied by a report of the commissioner setting out the matters in dispute. Industrial courts are constituted from a panel of people selected by the president from time to time. Once a matter comes before an industrial court, it should make all the necessary inquiries and hear all evidence to make an award which appears to be just and equitable. ( though the Industrial Dispute Act provide for settlement of industrial disputes through industrial courts as above, Industrial Courts are not functioning for over two decades now.) (Industrial Dispute )

**Collective Agreement** is another mechanism. According to the Act, Section 3(1) (b)of the Act has added further agreement between any employer or employers and, any workmen or trade union or trade unions consisting of workmen or to the manner of settlement of any industrial dispute.

### **Buddhist view on conflict resolution**

According to Buddhism, it never allowed violence or justify wars as solution for conflicts. It says “Everybody likes to live in peace..”. (Guruge, 2007) So, Veludwara Suththa says that one should think of others in comparison with ones own self. Accordingly what one does not like others to

do, one would not. If what brings disunity is not to one's liking, others too would dislike it. (Guruge, 2007) So, considering with labor relations both employer and employee have to think what are the like and dislikes of the each other comparison with themselves. For a example, if employer is trying to reduce salaries of employee then employer has to think if I'm employee what may I feel when my employer reduce my salary. Then most of conflicts will not arise. KUTA DANTA Sutta Says: "A righteous ruler would distribute wealth among the poor". (Guruge, 2007) So, in labor relations employer can be consider as ruler. Then he has to distribute his wealth which he earns with the help of employee. Otherwise it helps to begin conflict between those parties. The way of treating employer and employee further added in the Singalowada Sutta as well. In the Bala-pandita Sutta mention that "Monks, the one who doesn't see his transgression as a transgression, and the one who doesn't rightfully pardon another who has confessed his transgression. These two are fools." The one who sees his transgression as a transgression and the one who rightfully pardons another who has confessed his transgression. These two are wise people." (Bhikkhu, 2002) So, it clearly declares that both parties have deep awareness regarding themselves. That helps to reduce conflicts among them. In the conciliation stage which mention in the Industrial Dispute Act No 43 of 1950 has given opportunity to be wise to both party. It means, if both parties are aware there needs then conflicts may not arise. So, each party has to get awareness about them and have to respect and hear others needs and wants. Then only conflicts can resolve.

### **Buddhism Views and Conflict Resolution in Labor Relation.**

Conflicts are not necessarily negative. As Else Hammerich put it: "Conflicts are not negative, but life's challenges to us; they are part of the challenges of life. They can lead to social progress, more wisdom, frankness and understanding among people" (Dhondup, 2005). So, it cannot deny conflicts always because, those conflicts which had arisen in labor sector, especially between employers and groups of employees or trade unions could successfully achieved many labor rights which are continuing yet in labor sector. Practically those conflicts between employees and employers are happening due to power imbalance of the both parties. Each time employer gets the more power. So, conflicts in labor sector are normal even now days.

But, if conflicts are happening with high damaging to third parties or employees or employers such conflicts may not give effective development of the labor rights sector. So, such conflicts have to have resolution.

According to Buddhism it never allowed acceptable war. Conflict often emanates from attachment to material things: pleasures, property, territory, wealth, economic dominance or political superiority. Furthermore, the Buddha says that sense-pleasures lead on to desire for greater sense-pleasures which leads on to conflict between all kinds of people, including rulers, and thus quarrelling and war. (Singh, 2014) So, in labor relation especially between employers and employee's desire for greater sense-pleasures may be reasons for begin conflict among them.

Ordinary Buddhists may feel that they are not yet capable of the totally non-violent response, particularly as they are still attached to various things which they feel may sometimes need violence to defend. Yet, if both parties are respect each other and aware themselves, regarding their needs and wants conflicts in labor sector may not arise.

The Indian emperor, Aśoka (268 - 239 BCE) is widely revered by Buddhists as a great example of Buddhist ethics, partly because of his emphasis on non-violence. While encouraging his people in this and other Buddhist moral norms, he himself abandoned his forebears' custom of violent expansion of the realm. So, that has to incorporate to labor relation as well.

As it mention in the Industrial Dispute Act No43 of 1950, in the conciliation stage, clearly could identified Buddhism views. Tolerating each other and get the awareness of each others' needs and wants. As mention in the above, ("The one who sees his transgression as a transgression and the one who rightfully pardons another who has confessed his transgression.") to become a wise it has to respect each party. Mostly in the mediation and voluntary arbitration these views are included. Without any influence in those stages they could see and get awareness about themselves. So, it's most successful stages to resolve conflicts as well than influencing on both parties. Other stages of conflict resolution is in the Act also expansion of these Buddhism views. Yet, they are influencing on parties. In the conciliation they have time to get awareness about themselves and in voluntary arbitration also they seeks to protect peace without harming each others. Not only that but also even within conflict is in a visible stage; since that stage labor commissioner could send them for dispute resolving system.

## Conclusion

Finally, considering all these things it can be say that, there are some aspects of the Buddhism continuing in the current world. Labor sector is most important sector in the country. Also usually conflicts are happening in the sector as well. Sri Lanka has faced many labor disputes since history of labor sector in Sri Lanka. Anyhow considering labor relation and industrial dispute resolving mechanism in Sri Lanka under the Act, it clearly could be identified that conciliation and voluntary arbitration stages have nourished with these Buddhism views.

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