# International Employment Laws, Standards, Recommendations & HRM

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*Compliance with regulatory needs and framing an appropriate legal system have emerged as one of the major challenges in recent times. Not only the different legal systems practiced in various parts of the world such as common law, civil code and religious law but also the employment standards and recommendations propagated by international organizations are being considered for developing countries by HR leaders. Supranational binding regulations and extra-territorial laws have become growingly significant over time to influence regulatory frameworks, policies and practices in international HR. In spite of many developments and multiple influences on international labor and employment regulations, challenges of adjustments due to commercial diplomacy have posed biggest threats to the interests of the working populations globally.*

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### Introduction

Employment laws and regulations have become the more relevant and significant components of international human resource management decision priorities. According to Geylem and Hansford (2014), all global firms are bound to be contended with different employment laws in the countries in which they conduct business. They have also observed that all these global organizations also abide by all relevant existing international labor and employment standards. Instances of labor practices related scandals in the past involving major international organizations such as Suzuki in India, Apple in China, Toyota in Australia, Nestle in India, PEPSICO in Sri Lanka, NIKE in Taiwan, South Korea and China, Amazon in Brazil and Mexico, Value Partners in Italy, US and Brazil etc. have proved that there can be considerable risks of making mistakes pursuing faulty employment and labor standards and violating national employment laws across the

globe. Several researchers have found that international standards (including labor and employment standards), international trade agreements, commercial diplomacy efforts with the governments and varying country laws and cultures all impact how multinational enterprises should operate in different parts of the world. Hall (2001)in his studies has observed that apart from national, supranational and extra-territorial laws, a number of other international human resource issues also have serious impacts on many activities of multinational enterprises and such impacts have long standing consequences in international people management policies of such organizations like expatriation of skilled workforce, cross-border employment and employee data privacy protection, termination and reduction in workforce regulations, maintaining balance between localization and foreign appointees in workforce planning, compensation decisions etc. Therefore, it has become a considerable and essential pre-condition for multi-national enterprises to comply with local employment laws and any regional or international employment standards in doing business internationally. Failure to comply with such essentialities can invite liabilities at many levels, including legal and financial liabilities, negative employee and public opinion, stockholder unrest, consumer dissatisfaction and even hostile local governments in many cases.

## International Legal Contexts

It is a well known fact that the international HR managers operate in a very complex legal environment. At least three different legal systems are active in different nations across the globe and like any other major areas of influence such as human behavior, social norms and practices, human relationship, contract between different people and groups of people or their organizations, areas such as employment practices and standards, employment related dispute resolutions and modalities are also deeply influenced by such legal systems practiced. These three systems include common law systems (developed in British legal and constitutional system and widely practiced in all erstwhile British colonies including USA), civil code legal systems, also known as Nepoleonic Code (developed in French legal and constitutional system and widely practiced in many erstwhile French colonies across Asia and Africa) and religious legal system (like Islamic or Sharia law, practiced widely in many parts of Asia and Africa). These systems not only apply to firms and their managers in their operational and management decisions, but also to employees and their families in their everyday lives. Most of the international organizations have now the standard practice of briefing the expatriates or would be expatriate employees and in many cases their families about the particular set of laws, police authorities, and courts operations etc. of overseas locations. Even, on the other side, international managers having the responsibilities of formulating people policies and employment standards for overseas locations need to be familiar with

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those laws, regulations and enforcement mechanisms. A study conducted by Rickson and Herbart (2010) on the practices of regulatory compliance by major multinationals across the globe has concluded that majority of them are heavily dependent on the expertise of local legal consultants in different countries on most of the people related matters.

In addition to these general legal systems, many international institutions are also involved with establishing labor standards that apply to most of the countries and no organization doing business internationally can avoid that. Gradually, these institutions have been able to develop a certain level of consensus on basic employment rights. For example, as per International Labor Organization (ILO) core labor standards (2006) and Organization for Economic Cooperation and Development (OECD) guidelines for multinational enterprises (2000) have recommended the establishment of certain fundamental employment standards such as freedom of association (i.e., the right to organize unions and to bargain collectively), equal employment opportunity and non-discrimination, prohibitions against child labor and forced labor, basic principles concerning occupational safety and health, consultation with workers' groups prior to carrying out substantial changes such as workforce reduction and plant closures, grievance and dispute resolution procedures, use of monitors (internal or external) to audit employment practices etc. All these rights have now been accepted by various international groups, regional political affiliations and national legislatures, which are gradually incorporating them into local law and jurisprudence. Apart from ILO and OECD, organizations like the World Bank, International Monetary Fund (IMF), United Nations, World Trade Organization (WTO), European Union (EU), North American Free Trade Agreement (NAFTA), Latin American and Asian Trade Agreements (LAATA) etc. have also promoted certain practices leading to labor standards that impact employees and labor standards within multinational organizations. Both World Bank and IMF have taken extensive research on the trade policy reform and labor markets with the key objective of protecting 'social safety nets' in phasing and sequencing of these programs (Alice & Rader, 2008). According to Stephen and Marconi (2010) WTO remains mostly directionless regarding ways to be involved in labor related issues. According to them, many industrialized nations and labor advocates have consistently and collectively pressurized for using WTO platform to enforce trade sanctions on the countries violating labor rights, whereas the developing countries have been collectively opposing the same. Of particular interest to international human resource management is what is referred to within the EU as the social dimension. The Social charter of the EU, first adopted in 1989 and implemented in 1992,

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have set out 12 principles of fundamental rights of workers and gradually translated them into practice through directives, to be observed by each member country.Such directives were further endorsed under different treaties (Maastricht Treaty, 1991; Treaty of Amsterdam, 1998; Lisbon Treaty, 2009) (Routledge & Frizeman, 2010). Under NAFTA, separate agreements were signed between member countries, which committed to respect and enforce labor laws to design minimum labor standards.Latin American and Asian Trade agreements/pacts such as Arden Pact, 1969; Mercosur/ Mercosul (Common market agreement), 1991; The Association of South East Asian Nations (ASEAN) and Asia-Pacific Economic Cooperation (APEC) are still working on setting labor and employment standards on a consensus basis. Many of these standards are voluntary while few are technically binding on member states of the international body. Table 1 provides a short description of the international bodies and the initiatives towards labor standards, they promulgated.

**Table 1 International Bodies' MajorInitiatives towards Labor Standards**

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|---|---|
| United Nations (UN) | United Nations Conference on Trade and Development (UNCTAD), United Nations Global Compact Principles |
| International Labor Organizations (ILO) | ILO Declaration of Fundamental Principles (2000) |
| The Organization of Economic Cooperation and Development (OECD) | Directorate for Employment, Labor and Social Affairs (1960), Global framework for responsible business conduct (under the umbrella of a 'chapeau' agreement, 2000). |
| World Bank and International Monetary Fund (IMF) | Social Safety Nets in the process of implementation of structural reforms. |
| European Union (EU) | The Social Charter of the European Union (1992); The Maastricht Treaty (1991); Treaty of Amsterdam (1998); The European Social Fund, Lisbon Treaty (2009). |
| North American Free Trade Agreement (NAFTA) | North American Agreement on Labour Cooperation-NAALC (1993); Bilateral trade agreements between USA with Jordan, Chile and Singapore (2000). |

## Other Regulatory Contexts

A recent study on international HR professionals has shown that many of them enjoy relative autonomy to develop international HR policy. According to the study, the international HR managers develop such a policy based on compliance with the laws of the countries in which their organizations function, the international standards and supranational binding regulations and extra-territorial laws of their headquarters' country, requiring knowledge of extra-territorial laws (Peter & Stephen, 2010). Compliance with the laws of the countries indicates abiding the local employment related regulations of the host countries. However, the same study has found that most of the foreign multinationals are highly depen-

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dent on local generalists, HR country/local managers as their corporate level HR regulators are still focused on their home country regulatory priorities and cannot sense the local issues. The same study has also observed that the supranational laws are mainly based on policy recommendations, ideal employment standards and labor regulations by international organizations such as UN, ILO, OECD, WTO, World Bank, IMF, EU etc. Some of them have binding powers such as ILO conventions with ratified countries, countries under World Bank and IMF conditions, EU member countries, trade agreement related compulsions under different trade blocs etc., whereas organizations such as OECD etc. have only recommendatory powers. Extra-territorial laws are those labor and employment related laws, which have extra-territorial intents within to ensure some of the basic human rights of the workforces employed in home country organizations in host country locations across the globe. Table 2 presents the general areas of employment related regulatory implications under international standards, supranational binding regulations and extra-territorial laws.

**Table 2 Employment Related Regulatory Implications under International Standards, Supranational Binding Regulations & Extra-territorial Laws**

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|---|---|
| National laws and regulations | Host country laws and regulations on immigration/visa, localization of workforce provisions, recruitment, compensation, social security, employee benefits, employee separation laws, industrial disputes prevention and regulations, collective bargaining. |
| Supranational laws | Employment standards, guidelines and labor regulations (both binding and voluntary) promulgated by international organizations like ILO, UN, OECD, EU, NAAFTA etc. For example, rights of workers, rights of workers at the situation of transfer of undertakings, terms and conditions of employment, information and consultation, working time, protection of individuals with regard to the processing of personal data and free movement of such data, provisions of parental leave, social security recommen dations, fair treatment and non-discrimination etc. |
| Extra-territorial laws | Some of the US employment related laws with extra-territorial intent such as Foreign Corrupt Practices Act (FCPA), the Sarbanes-Oxley Act (SOX), Americans with Disabilities Act (Amended, 1991), Civil Rights Act of 1964 (Amended, 1991) etc. |

## Conclusion

Regulatory aspects of international human resource management are therefore found to be quite complicated but essential preconditions of international business. All the regulatory and policy influences, as mentioned earlier, are therefore required to be carefully chosen, assimilated and applied by global organizations appropriately. However, there have been several instances, when