Amendment to Labour Laws: An Embryonic Threat to Indian Social-Security

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Abstract

With privatisation in India, labour reforms are due as the conditions changed drastically. The laws that were framed were to cater to manufacturing sectors which did not address the problems of service sectors which today account nearly 55% of the nation's GDP. Lack of flexibility in the labour legislation seriously hampers employment generating capacity of the organised sector in the age of globalisation which forces youths to join informal economy and thereby rendering earning stands abysmal.

The present market economy is however challenging and forces companies to innovate, redesign, and upgrade products technically on a regular basis to keep consumer choices lively by continuous restructuring. Chapter V-B of the Industrial Disputes Act, 1947 enacted during emergency puts all these processes under the Government's purview which has promoted industrial sickness. Due to these serious policy flaws, India is losing investments to its neighbouring countries.

The 'brand new' NDA Government is very fast in amending the present legislation as notifications proposed in cases of the Minimum Wages Act, 1948, Apprentices Act, 1961, Labour Laws (Exemption from furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 and Child Labour (Prohibition & Regulation) Act 1986.[1]

It is realized that the labour laws development in India has requested work law reforms for quite a whileand focused to bind together different labour laws, and the multiplicity and irregularity in different arrangements in different labour laws, and overhaul labour law models. The rehashed recommendations with respect to "reform" in India's work laws were arranged so as to make them less "restrictive" on organizations and private business people and to disassemble the few staying political and institutional devices that exist for labourers to compose and oppose exploitation.The present paper will outline some of the current agendas that the government pursued with certain suggestive proposals that would enhance the reform.

KEYWORDS: Labour, Labour Laws, Privatization, Market Economy, Globalisation.

Introduction

[1]SurendraPratap, *"Proposed Labour Law Reforms: Should we sacrifice democracy and well-being of people for FDI and high growth rate?"*, (Sanhati, July 27, 2014), available at http://sanhati.com/excerpted/10936/#sthash.qj7yjdDF.dpuf (Last visited on August 15, 2015)

Industrial harmony senses a concept of cooperation between 3-groups viz. employer and employer, employer and employees, and employees and employees. Whereas, in case of conflicting interests between any of them may raise misunderstandings in achieving common goals, such as production and prosperity. Trade unions in India have a long historic past since its inception in the first organised labour union – the Madras Labour Union on 1918. At present the numbers of trade unions are countless with a registered number of 84,642 trade unions and many more unregistered scattered across the territory of the nation which is likely to have a working population of more than 64% by 2021. Generally, trade unions were a result to achieve and improve bargaining power in India with respect to betterment in case of wages for the wage-earners. One of the earliest unions was the Printer's Union formed in Calcutta in 1905 and the Bombay Postal Union formed in 1907. The movement the systematically spread all over the nation to almost all of the industrial centres and became a huge integral part of the industrial system in India. Various trade unions emerged, apart from the Madras Labour Union, the All India Trade Union Congress (AITUC) was formed in 1920, the Bengal Trade Union Federation in 1922 and the All Indian Railwaymen's Federation in 1922. However, the-then General Secretary of AITUC, Mr N M Joshi recommended through a resolution that the Government should introduce legislation for the protection and registration of trade unions in India on 1921 of which Trade Unions Act, 1926 was a result of it. At present the leftist parties affiliated trade union groups viz. AITUC, CITU, UTUC, TUCC, ICCTU, UTUC (LS) form the largest trade unions in India along with INTUC, BMS, etc.[2]

From the time when these laws were framed in the last years of the British Empire, Indian labour laws have clearly been aimed at breaking the ability of labour to build unions and organise against exploitation. This has not been done through repression alone. Instead, the central assumption underlying all labour laws in India is that it is the state that must be given the overarching power to "harmonise" relations between workers and employers. Rather than creating spaces where workers can build their own organisations, the law tries to replace workers' organisations with state protection.

The NDA government is quick in advancing towards amendment of labour legislation. Notifications have been issued and comments are invited on the amendments proposed by the government on Minimum Wages Act 1948, Factories Act 1948, Apprentices Act, 1961, Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 and Child Labour (Prohibition & Regulation) act 1986. In the interim period, the BJP-ruled Rajasthan Government has already taken a progressive move towards labour law reforms.[3]

Classified System of Labour Legislation

The State Government enforces the law and supposedly "protects" both employers and workers through inspection, granting punishment, issuing regulations, resolving disputes etc. For example, under the Contract Labour (Regulation and Abolition) Act

[2] *India: Trade Unions and Collective Bargaining*, 3, NDA (March, 2015); available at http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research%20Papers/India-Trade-Unions-and-Collective-Bargaining.pdf (Last visited on September 04, 2015)

[3] SurendraPratap, *"Proposed Labour Law Reforms: Should we sacrifice democracy and well-being of people for FDI and high growth rate?"*, Sanhati, July 27, 2014, available at http://sanhati.com/excerpted/10936/#sthash.qj7yjdDF.dpuf (Last visited on September 04, 2015)

and the Inter-State Migrant Workers Act, inspectors are authorised to check whether employers are complying with the law, and employers are required to register with the Labour Commissioners. Strikes, lockouts, protests or other organised actions are tightly restricted in order to preserve "harmony." Violating these rules is a criminal offence. Under the Industrial Disputes Act, for instance, once "conciliation proceedings" through a government conciliation officer have begun, it is illegal to go on strike. Moreover, in most laws, workers cannot enforce their own rights, only the government inspectors can do so (E.g., no cases can be registered against an employer under the Contract Labour Act except with the permission of the inspector).

Most of the protections in the law only apply to big enterprises that are easier to regulate. Workers who work for small employers, those in the "unorganised sector" receive effectively no legal protection. For instance, many of the protections in the Factories Act and the Industrial Disputes Act apply only to establishments above twenty or fifty workers.The result has been that workers who attempt to organise within the legal framework are trapped in an endless system of labour courts, labour officers, conciliation boards, etc. that are essentially meant to prevent them from going on strike or from other forms of direct struggle. Moreover, workers who fight within the legal machinery find themselves divided on the basis of the type of establishment they work at. Overall, this means there is a strong tendency for most unions to drift into representing only the "formal" sector of the workforce (about 7% to 9% of all workers) and focusing much of their energy on court battles and negotiations. Meanwhile, since the implementation of the law is entirely in the hands of the government, employers can escape with violating the law all the time while the smallest violation by workers (such as unauthorised strikes) are heavily penalised.

This system of labour law is a part of many larger processes that act to break apart workers and dissolve class unity. Given this background, clear changes in these laws should be a central demand of labour struggles; no struggle can be made on the basis of defending these laws alone. But these changes are not what it mean when the current ruling elite refers to "labour law reform." Instead, what they are demanding is, change in the law that will tilt the balance even further in the direction of capital.

Circumstantial Outlines

It is no doubt that we are living in an Asian Age or Asian Century as the Asian Model has created a miraculous development since transformation of economic model or policies globally. The super 'mixed economy' model based on 4 major trends of transformation-marketization, privatisation, liberalisation and flexibility in the state sector, corporate sector, finance sector, labour sector, and foreign sector served in attaining globalisation vis-à-vis economic reform and to bring a sustainability in the-then arose serious economic, social and ecological problems. However, the growth attained in the hands of some Asian giants; India adopted market economy but turned towards western rather adopting 'Look-East' policies which lowered the pace of its economic growth and development for a while and also prevented it from being an Asian model. The largest democracy stands as the world's 4th largest economy which is highly solicited and facilitated through its Asian collaborations in the recent years.
The Soviet-boy during the pre-globalisation entered into a good boy list of capitalist US at the outcome of globalisation to get bye-passed of the Asian crisis;, however, clarifying with the westerners, India got a relief but its sustainability collapsed in the

Asian race where nations like China, Japan, Korea, and Vietnam grasped the Asian market and attained high growth-rate meeting the Asian demands, instead.

Economic growth in the past decade has resulted in growing income inequality which may act as a constraint to higher growth. While conflict, corruption and high fiscal deficits may not have constrained growth in the past, their persistence may become binding in the future. When East Asians sustained 7-10% growth-rates, India's export-orientation, workers' skill levels, infrastructure, technology and ease of doing business were substantially less advanced and it does not match with therequired employment growth. During the period, 2000 to 2009, the Indian economy grew at an average rate of 8% but employment growth wasrather sluggish as the following table demonstrates:

Year	Annual Growth Rate (GDP) (%)	Employment Growth Rate (%)	Unemployment Rate (%)
1999-00	8.00	1.25	7.31
2004-05	7.05	2.62	8.28
2009-10	8.59	0.92	6.53

Table: 1 [Source at: www.ficci.com][4]

This is for a variety of reasons but most important is India's obsession with anarchic labour policy that is keeping investors away, hindering employmentgrowth and making Indian enterprises uncompetitive. To circumvent the rigorouslabour policies, companies are either shifting their manufacturing bases to foreigncountries or turning capital intensive, reducing their manpower needs. Besidesswelling unemployment, these measures are also pushing people to the informal sector. India is a labour surplus country with 47 million unemployed below the age of 24years and 12-13 million youths joining the labour market every year. To avoid thegrowing unemployment, India strongly needs labour intensive and labour friendlyindustries which are still in questions. Since LPG, labour reforms are due as the conditions changed drastically. The laws that were framed were to cater manufacturing sectors which did not address the problems of service sectors that today accounts nearly 55% of GDP in the nation and at present it has hugely differentiated organised and unorganised sectors in India. It is a very serious concept that 43 crores of Indian unorganised labours constituting about 93% of the total labours contribute nearly INR 90 lakh crores/- of the annual GDP but the burning issues of social-security measures constituting health, safety and welfare of these unorganised labours is highly unsettled in the recent times.[5]

Most of the labour laws were enacted 40-70 years back, to address contemporary needs toregulate the manufacturing sector. Today, service sector has taken thelead

[4]ShantayananDevarajan&IjazNabi, *Economic Growth in South Asia: Promising, Un-equalizing,…Sustainable?*, World Bank (June, 2006); available at http://siteresources.worldbank.org/SOUTHASIAEXT/Resources/South_Asia_growth_June_2006.pdf (Last visited on September 04, 2015)

[5] Prashant K. Nanda &AsitRanjan Mishra, Cabinet approves changes in labour laws, LIVEMINT, July 31, 2014; available at http://www.livemint.com/Politics/NjxZFO80kcDVB39t6BRC1H/Cabinet-approves-changes-in-labour-laws.html (Last visited on September 04, 2015)

with 55% share in the GDP. Labour Laws need to be reoriented to addressthe emerging needs of the service sector and the new technology intensive manufacturing sector. Besides, in a dynamic economic context, laws need to be reviewed from time totime to bring them in tune with the changing needs of the economy, such ashigher levels of productivity, competitiveness and investment promotion. Lack of flexibility in the legislation seriously hampers employment generation capacity of the organised sector which forces youths to join an informal economy and whereby earning stands abysmal.[6]

'Modi-fied' Labour Law Reforms: A Critical Analysis

Right to Organise and Collective Bargaining[7]: India democracy is culminated within a semi-socialist and semi-capital pattern where the basic aspect of economic development moulds though"right to organise" and "collective bargaining" processes and contingent upon the wealth produced by its own social labour. Moreover, now-a-days, India is on the way to adopt a capitalistic pattern of democracy and economy through disintegration of public sectors, FDIs, steady privatisation of government sectors, reducing organised labour system and by increasing contract labours instead. In such situations, the only well-being depends upon collective bargaining at different levels in an industry which may be considered as the extent of freedom in order to measure how democratic a society is. The workers at large are to exercise their powers of collective bargaining in a mixed economy to ensure mechanisms for distribution and redistribution of wealth to further improvement in their living standards and working conditions like proper wages, working hours, job security, social security, occupational health and safety.

Article 19(1) (c) of the Constitution of India, 1950 which envisages fundamental right to freedom of speech and expression also guarantees the country's citizens the right "to form associations or unions" including trade unions. The Supreme Court has held that the right guaranteed in Article 19(1) (c) also includes the right to join an association or union. Regarding collective bargaining, Article 23 of the UDHR recognizes the ability to join trade unions as a human right. Item 2(a) of the International Labour Organization's Declaration also identifies the same. The ILO Conventions and the Constitution of India which the people of India have given to themselves amply recognise the rights of employees to form Unions to espouse their cause. The Trade Unions Act, 1926 is one of the earliest labour legislations in India to recognise the valuable and significant rights of labour. Besides, the act also registers trade unions which seeks recognition and provides a broad legislative parameter within which the trade unions have to function. In the UK, the Industrial Relations Act, 1971 establishes a presumption in favour of the collective agreements and in the US under the National Labour Relations Act, 1935 collective bargaining by employers with chosen representatives of employees is compulsory. The Terms and Conditions of Employment Act, 1959 sanctions collective bargaining in Sweden and is also present on statutory basis in Canada, Australia and other nations.

Profit Accumulation: In the period of globalisation, the international division of labour shaped by the global value chains, the major parts of the industries in terms of profit-making are locked in the lower levels and thus, the lower level workers are

[6]Id.
[7] Supra 3 at 2

ruthlessly exploited days after days. In case, the foreign investors who have developed large number of corporate sectors in India, a very minimum amount of the total generated profit remains within the nation and the rest is transferred to developed economies. Moreover, it is also a doubt that in the WTO regime of free capital mobility, there is no certainty that FDI coming in the nation will stay for a longer period as the MNCs could find a possible and better opportunity they can easily shift to such other nations in seeking profit creating mass closure of factories and thereby mass unemployment as hundreds of factories were closed down in Mexico and those were re-established in China and nearby Philippines due to greater impacts thereby. The same thing happened in India when Nokia left for China showing certain hampers in profit-earning measures at India. The government specified that 500,000 employees lost their jobs in India at export-oriented sectors alone during the last three months of 2008 pertaining to international financial crisis though such figures which were highly misjudged. The Financial Express reported that the unemployment estimates for the first quarter of the financial year in 2009 was 1.71 lakh job-losses and withdrawal requests from the Employees' Provident Fund Organization between April and June touched a record 31.51 lakh, indicating large-scale layoffs as well as a severe cash crunch among workers.

It is no doubt that globalisation is lagging with uncertainties in the South Asian region where India probes itself to be a giant as compared to other neighbouring countries. In case of sustainability, South Asia is the least integrated region in the world and India is demographically one of them which can benefit itself from regional cooperation in trade, water and energy, among other things rather singing in the tunes of globalisation. While the policy agenda appears daunting, the dynamism and openness that characterizes today makes us optimistic that some, if not all, of these challenges can be met and the 'sleeping giant' will be substantially free of poverty in a few decades.

At the same time, sustainability of development and jobs creation thus, job-security at places are uncertain as the FDIs depend upon profit accumulation rather employment orientation and social-security, instead. The government is very casual in such uncertainties and some other important uncertain factors comprising low-rate income in agriculture, traditional occupations, domestic industries, indigenous sectors and the extinction of some of them which is a great disaster to the Indian economy in the coming years. The increasing number of environmental disasters, drastic increase in occupational health and safety problems, increasing epidemics caused by new diseases and crime and accidents do not mark this globalisation a green economy or a green business or a sustainable growth in terms of climate change. Where agriculture stands on the brink of FDI, food security comes to be highly questionable which emerges as a grim economic development vs. sustainability of it. The LPG process is thereby consciously and unconsciously creating uncertainty in every scope of Indian economic development ensuring capitalisation of profit and promoting vulnerabilities thereby.

Destructive Development: The pro-capitalistic and pro-industry policies predictably will boost foreign investment, accelerate growth and generate more employment and thus, working class is told to make short-term sacrifices for a better future. Media often call this a 'bitter medicine' which working class should be forced to swallow for the 'good of the nation' as the two-decades of neo-liberal policies have brought

ironies to the workers. Capitalisation and exploitation go parallel when the overall collective bargaining power reduces and scattered industrial workforce gets helpless in terms of their income. States are coming out from its welfare policies towards industries and are abolishing subsidy which is compelling the working class to shift and depend upon the global capitalist village. Now, the entire system is controlled by the market and so when it remains flourished the economy grows and vice versa.

The number of hazardous industries increased and the number of workers employed in increased from 324437 to 1949977 between 2006 and 2009, only in 3 years. ILO estimates, around 403,000 people in India die every year due to work-related problems, i.e. more than 1,000 workers every day or 46 every hour die due to occupational health and safety problems; 40,133 fatal accidents occur in India; 2,61,891 fatal work related diseases; 924,700 to 19,02,300 incidences of occupational diseases per year and 1,21,000 deaths caused by occupational diseases per year.

The present momentum of aggregated occupational diseases in India is assessed to be at around 18 million cases. Then again, offices pertained to labour section are totally deadened by method for cutting back the measure of the staff. There are just 2,642 Safety Officers, 604 Inspectors against an endorsed quality of 938 and 35 guaranteeing specialists against an authorized quality of 94 separately in the nation. India's mentality towards word related wellbeing and security in enterprises is likewise reflected in its budgetary designations as just 3% of GDP is spent on medicinal services and very nearly 75% of it goes to the corrective wellbeing. To the extent word related wellbeing and security is concerned, the administration's consumption is verging unimportant.

Open-economy and Jobless Growth: An average economic growth rate of 8% was sustained during 2000-01 to 2009-10 but employment growth wasrather sluggish as against 2.02% in the preceding ten year period. The employment growth became abysmally low at an average 0.92%per annum during 2005-06 to 2009-10, while GDP growth rate of about 5% during 1985-86 to 1989-90 rose to about 6.3% during 1990-91 to 1994-95and averaged between 7-8% during 1995-96 to 2004-05, which again accelerated to the highest of almost 9% so far during the period 2005-06 to 2009-10, but employment virtually stagnated at this time. The labour productivity grew by more than 34% in between 2006-10 whereas, during 1995-96 to 1999-00 about 1.1 million workers were thrown out of job.

The total employment in the economy increased from 397 million to 458 million 2000-01 to 2004-05whereas, the organized sector countersigned an employment increase by 8.5 million only during this period totalling from 54.1 million to 62.6 million, and moreover, such increase of employment in formal sector was generally kind of informal pattern, pertained to contract labours in precarious working conditions with low wages. The share of agriculture in GDP has decreased drastically in the current days since modernisation of nation, but the share of agriculture in employment still remains about 56% which inturn is very promising that the economic growth is not enough employment-friendly in its origin so that to create enough employmentin the labour-oriented sectors and that makes workers to remain tied up in unprofitable unorganised agricultural sector.

Poverty: A total 7-8% of the workers are coming within the purview of organised labours and thereby the schemes of social security pertaining health, safety and welfare measures. The huge rest of the workforce remains outside social security benefits. It corresponds 836 million or 77% of the Indian population living below INR 20/- day. This poor and vulnerable section comprises 88% of SCs and STs, 80% of the OBCs, 84% of the Muslims and about 79% of the unorganised labours hold a great portion of it. An approximate 73 million out of 173 million wage earners throughout the nation do not receive statutory minimum wages. In the post-liberalisation period, the share of profit in the total national income has been increased but the share of wages declined which reflects a drastic decline in collective bargaining.

Dreadful Situations: The SEZs are declared as public utility services zones where strikes or similar agitations are virtually prohibited, so trade unions are meaningless. Besides, various amendments have been proposed including Trade Union Act and exemptions to various labour standards. The same has been taken outside the purview of State Governments and is virtually transferred to the SEZ Development Authorities where exercising of powers from labour unions could easily be shattered in the hands of the private developers. However, creating a great attraction to the foreign investors for FDIs and relaxation in case of social security in labour laws itself certifies oppressive measures taken against labours and violation of labour legislation norms through prohibiting officers' inspections and repressing workers brutally from exercising their rights. Here lies the irony that establishing numerous huge NIMZ along with Delhi-Calcutta and Delhi-Mumbai corridor will require huge amount of agricultural land whereby land acquisition has become a dream for Modi Government to create land-banks due to huge opposition and thereby non-passing of Land Acquisition Bill in this monsoon session at Parliament. The NIMZs pertains similar character to SEZs as these too will be declared as public utility services on permanent basis and will be exempted from labour laws. Later, the proposed final draft undergone certain alterations in favour of workers but the same is not clarified yet.

The On-going Reforms: 'Pro-worker' Remarks

The Contract Labour (Regulation and Abolition) Act, 1970[8]: A contract labour is one who is hired by a contractor in an unorganised basis to perform service for an establishment. The 1970 Act provides for registration of employers using more than 20 contract workers[9], a list of rights of such workers to minimum wages, basic facilities, etc., and inspections to make sure the legal provisions are being complied with. The law also provides that State government can abolish contract labour in certain activities, for instance, some States have "abolished" contract labour in canteens, cleaning services, etc., after which using contract labour in those activities is illegal. Progressive court rulings in the 1990s expanded this to say that generally contract labour should not be used in core activities of an enterprise and such workers should be made regular employees. But in usual, this law is almost never implemented and again, protections for contract workers have been under increasing

[8] *Policy Briefing Note: Labour Law "Reforms": Implications for Unions and Mass Organisations*, Academia; available at http://www.academia.edu/251552/Briefing_Note_on_Labour_Law_Reforms (Last Visited on September 04, 2015)

[9] Specifically, the Act applies to any employer who employs more than 20 contract workers on any day of the previous year.

threat in the recent years. The judicial intervention on 1996 in the famous *Air India Case*[10], the Supreme Court held that in sectors where the government had issued a notification for abolition of contract labour, the contract workers of any employer in that sector were entitled to regularisation and become direct and permanent workers of that employer thereby. In practice of course this never happened unless the workers were able to approach the concerned High Courts themselves, where they could cite this judgment and receive an order in their favour. Given the lack of implementation of the CLRA otherwise, this was in some ways the only effective use of the Act. However, even this limited space was closed as part of the Court's anti-labour shift after 2000 as in the 2001*SAIL Case*[11], the apex courtreversed the Air India ruling interpreting that there was no need to absorb contract workers in sectors where contract labour has been abolished, as the Act did not explicitly say so. This was then compounded by the judgment in the *Uma Devi Case*[12]in 2006, where the High Court upended a series of previous judgments where the rights of daily wage workers to regularisation had been maintained and ruled that no one had any right to regularisation, however long they have workedin the same establishment. This resultedin one of the most frequently used avenues for contract workers that the ability to escape contract status through courts has been closed by reactionary court rulings making it necessary to demand clarifications in the law itself.

Since 1991, an amendment was insisted repeatedly with 2 major proposals: the first that corporate have sought to remove the provisions allowing State Governments to abolish contract labour and instead, it should just "regulate" wage payments, and allow contract labour in all activities as it is "essential" for "flexible" work. Secondly, efforts have been made to try to remove any implication that contract workers are entitled to "regularisation". In 2002, the NDA Cabinet considered the matter whereas, the UPA Labour Ministry circulated a "Discussion Paper" in 2005 which included these proposals, and in the Economic Survey released in 2009 by the Finance Ministry, the same proposals were repeated. These ideas underwent discussions by a Task Force on several meetings after the 42ndIndian Labour Conference on February 20-21, 2009. However, decades have passed, huge water-volumes flowed and the government is washed up to find a way out in the interests of contract labours. Thus, on 2nd of this month, India witnessed a nationwide mass protest and strike against the Central Government's anti-working class, pro-corporate economic and labour policies organised by the Left Parties' Trade Unions.

The Industrial Disputes Act, 1947[13]: However, the 1947 Act is applicable to all enterprises for the settlement of industrial disputes but protective clauses of Chapter VA and Chapter VB regarding layoffs, retrenchments and closures have limited applicability. Chapter VB is not in application in reference to any establishment employing less than 100 workers, and whereas, Chapter VA excludesits purview over any establishment employing less than 50 workers and such consequently appears as the product of either intellectual bankruptcy or anexceptionally sharp outline to gapand endeavour the vulnerabilities of labour and keep up strength of capital over

[10]*Air India Statutory Corporation v. United Labour Union and Ors.,* 1997-I-LLJ-1113 (SC)

[11] *Steel Authority of India Limited and Anr. v. National Union of Waterfront Workers and Ors.,* 2001 (7) SCC 1

[12] *Secretary, State of Karnataka &Ors. v. Uma Devi & Ors.,* (2006) II CLR 261

[13] Supra 10 at 11

labour.[14]Chapter VB also confuses about the kind of "protection" it provides as no establishment that employs more than 100 workers other than seasonal or "intermittent" establishments on average can retrench a worker who has been working for a year or more, or temporarily lays them off, without the permission of the appropriate government authority, but such kind of protection for workers' jobs contexts an overall active discouragement as it makes their jobs dependent on the stand of the government officials concerned. This naturally may lead to corruption, which in turn makes it easy to argue that this protection introduces unnecessary "harassment" and "rigidity." Thus, this provision, which in principle is relatively less important than the more explicit protections for workers' rights, has been the main target of efforts at "reforming" the law. This in itself should tell us about how ineffective the statute has been in protecting rights.

The Factories Act, 1948[15]: The Factories Act, 1948 being the social security providing statute to the labours through safety, health and welfare measures that must be present in manufacturing industries employing twenty or more workers where machineries are controlled without the aid of power and in case where the same is done with the aid of power then ten or more are required. The Act, again, is to be enforced by inspectors, and also prescribes the weekly hours that an adult worker shall be required or allowed to work in a factory and extra work beyond "full time" as specified, after which he should be entitled to overtime payments and cannot be compelled to work.The full time is 48 hours a week, with a maximum of 9 hours in any day which is under severe attack as "restrictive" though it is rarely enforced in the present days, leading to proposals, repeated in this year's Economic Survey, to change the limits by numerical 60 and 12 respectively.

The SEZ Act, 2005 and SEZs[16]: The most important debatable issue at present labour law reforms would really like to be the Special Economic Zones. During the passageway of SEZ Act, 2005, the Central Government assented to withdraw application of any laws coming under the purview of labour legislation, entirely in these zones, whereby high oppositions made by the Left Parties stopped Central Government withdrawing it. However, notwithstanding these provisions, a series of steps have been taken to greatly reduce the operation of labour laws in SEZs.

The SEZ Rules, 2006 contain two grounds behind weakening labour laws: the first that urges State Governments to declare SEZs as "public utility services" under the Industrial Disputes Act, therefore the authority will enjoy a better state of affairs to ban all legal strikes in the zones, except, if prior notice is provided that is again limited by a "conciliation". Secondly, the State Governments shall delegate the powers of labour officials under labour laws, particularly the Industrial Disputes Act and Factories Act, to SEZ Development Authorities headed by the Development Commissioner. This government official mandates promotion of SEZs through schemes that attract investors and also assures non-enforcement of social-security putting parallel conflict with the interests of workers.
Many State Governments have supplemented the Central Statute withdrawing labour laws; for instance, the Gujarat SEZ Act, 2004 withdraws the application of the Contract Labour Act entirely in SEZs and the Punjab SEZ Policy, 2005 withdraws all

[14] Id.
[15] Supra at 12
[16] Id.

inspections and reporting requirements under the labour laws, and says that a simple 'self-certification' by the companies in the SEZ will be enough. Lastly, all SEZ policies and laws will undergo "simplify" process and allow employers to "self-certify" that they are following the labour laws with the help of the 2005 Bill pending before the Rajya Sabha.[17] Many of these changes are illegal and unconstitutional and those existing SEZs, including such undergoes widespread and brutal repression of unions. The areas with SEZs, it may be useful to include labour issues in the anti-SEZ struggles and attempt to demand changes in state policies on labour in SEZs.

A 'Long-March' to Conclusion

In response to such a contradiction, we can neither defend the existing labour laws nor allow them to be destroyed as the present regime is basically a double-edged sword. On one hand, they are designed to deflect and distract workers from struggles dragging them into lengthy, expensive and difficult legal and official proceedings, essentially taking the initiative away from workers and transferring it to officials, lawyers and courts.But labour laws have not only been a weapon against workers; they provide a codified list of workers' rights, and also institutional and political spaces as tools to carry on movement regarding demands and bargaining in different industrial units at the same time. The existence of the laws and these institutions also make it difficult for the government to always use force against workers' struggles. It is the only thing why "reformers" and neoliberals want to dilute and weaken these laws in order to remove workers' struggles and supporting machineries behind it and remove obstacles thereby. Of course, the Government will not be able to destroy the movement,but this would narrow the spaces for struggles that are available to workers and forces them into a position of having to confront force in all circumstances.

Each new law and each new amendment expanded the complexities further, instead of determining it which is entirely exacerbating the measures of labour law frameworks in India. There are around four labour laws enacted by the Central Government and several labour laws established by different State Governments yet a significant number of the arrangements are conflicting to the arrangements of other work laws.[18]Appropriateness of different arrangements gives number breaking points so distinctive to each other and with no stable rationale that makes the circumstance more mind-overwhelming rather to comprehend and resolve them attractively. Case in point, the Minimum Wages Act applies to all foundations and all labourers; however the Payment of Wages Act applies just to those foundations with no less than 10 or more workers, furthermore just to those labourers getting compensation not as much as INR 18,000/- month.

The Trade Unions welcome the eagerness and activity of the Government towards amending or modifying the labour laws; be that as it may, they emphatically contradict the piecemeal changes focused to minimization labour law norms. They request an incorporated methodology in labour law changes, focused on towards acquiring consistency work laws, expanding all-inclusive pertinence and towards general change in labour law guidelines. The perspectives and requests of the

[17] The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment and Miscellaneous Provisions Bill (2005)
[18]Supra 6 at 6

exchange unions on this issue, as recorded in the report of working gathering of Planning Commission on labour law reforms, are as follows:[19]

1. There should be a universal application of labour laws without any categorization amongst a specific class of employees.
2. Instead of having an excessive number of labour laws, these ought to be defended in 4 specific groups as recommended by FICCI so as to disentangle the age-old laws and anticipate exhibit in this way.[20]
3. Definitions in labour laws ought to be one and connected consistently to every last bit of it rather than various implications for various laws and the meaning of 'labours', as provided in the Industrial Disputes Act, 1947 ought to be appropriate to all labour laws.
4. There is no Act for ensuring the collective bargaining process by labours and/or workers and strikes have been proclaimed illicit by the Courts to certain extents. Sometimes, conciliation seems to be not the best possible approach to review the grievances, and "right to strike" ought to become consolidated in labourlaws; however it might be the final resort. There ought to be an arrangement that if 2/3rd or 3/4thor any such number of workers as might be chosen or assented through the reform chooses to go on strike, it cannot be pronounced unlawful.
5. Chapter VB of the Industrial Disputes Act notices about number of representatives ought to be 100 yet the current period of science and innovation gives a larger number of machineries instead of operation through man-power which lessens the quantity of workers per unit in any industry so that the law ought to be pertinent to all without limitation of numbers.
6. Migrant labours ought to go under the insurance of labour legislation protection as they are not givenwith least wages where standardised savings stands far away from them.
7. The Government Departments in India should be free from the evils of contract labour and the same shall stand abolished.
8. The Indian judicial system being overburdened and exhaustive, a tribunal or a board for labour related issues must be created in order to get expeditious justice instead of handing over power to Labour Department.A separate government department or commission may be introduced in order to maintain check and balance to labour related issues which could also act as a watchdog to the concerned matters at the same time and the Labour Laws ought to be codified.
9. A National Level Minimum Wage according to a normal family planning should be fixed for avoidance of disputes and to make the whole process simpler in the coming days.
10. Suggestion of paying wages through cheques is quite important, provided each labour has a bank account and is familiar with the systems included thereof.
11. The enforceability through enforcement machinery is lacking for executing labour laws.Planning Commission ought to build up a tripartite instrument constituting of government, labour divisions and exchange unions as the delegates of representatives and that might remain along these lines through which they can examine the issues of reforms and labour laws amendments. The implementationmachinery for labour laws being the Labour Department ought to

[19]Supra 4 at 4
[20]Supra 6 at 6-7

be given more teeth and it must have strict corrective forces for rebelliousness of labour laws.

12. Contract labours might not to be utilized wherever the occupation is permanent.

13. The idea of self-accreditation by employers or by its representatives, if any, is not satisfactory.

14. There ought to be change in the Payment of Bonus Act, 1965 to drive out the 'ceiling'.

No doubt, we need a pro-worker labour law reform, whether we seek to use the existing labour laws or fight for changes in them, the strategy can be to build on spaces for workers to organise. We can oppose labour law reforms not because these laws are good but because the "reforms" would close our political options. We demand changes in the labour laws not because we expect them to protect us but because we want to use them to build our organisations. With these two principles, it may be possible to intervene in the on-going struggle over changes in labour laws.

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