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Analysing the Adequacy of the Indian Labour Law Regime

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India as a nation depends heavily on laborers for assistance with everything from daily household tasks to manual labor in factories to assist with building roads and homes. Since India is not a technologically advanced country, they perform most of the jobs. Therefore, it would be accurate to claim that laborers are the cornerstone of Indian society and economy. We can all relate to the difficulty of surviving without a worker, even for a day, when our housekeeper is off for a day. The fact is that they are essential to every aspect of Indian society. The actual query is, while we are aware of their importance to us, do we give them enough credit? Do they receive anything in return for the time they spend serving the wealthy and middle-class individuals throughout their lives? Whether the current legal framework adequately compensates them for their sacrifices on our behalf. Do the Indian labor laws treat them fairly?

Keywords: *labour, law, compensation.*

INTRODUCTION

With a population of 501 million workers, India is the world's 2nd largest country following China.¹ It is not a technologically advanced country; rather, agriculture employs more of the

¹'Labor force, total - India' (World Bank Open Data, 8 February 2022)

<<https://data.worldbank.org/indicator/SL.TLF.TOTL.IN?locations=IN>> accessed 23 June 2022

Indian workforce.² The agriculture style in India is still not tech-friendly; only the wealthiest farmers use machines and tractors, while the vast majority of workers still rely on manual labour. Similarly, the industrial sector employs the most people since, because India is a poor country, few advanced machines can execute the work of many human labourers in a brief period. As a result, the majority of manual labour is performed by workers or human capital. Workers' rights and rules are vitally important because the Indian economy is reliant on them, which is why labour laws are on the concurrent list, which signifies both the national and state governments have the authority to enact legislation on the issue. Even though this is an important topic and workers play such an important part in our economy, the legislation controlling their protection and safety is inadequate.

EXISTING LABOUR LAWS IN INDIA

Labour law is a system of laws that protects labourers, workers, and employees by advising them of their rights and obligations and setting a standard for work practices in the workplace. Among the most notable labour laws in India are the Worker's Compensation Act of 1923, the Trade Unions Act, and others. However, the covid-19 outbreak brought home to India the hard reality that, while having 40+ acts and laws on the subject, it lacks adequate labour legislation. As a result, the labour laws have undergone significant changes as a result of Covid. In India, there has been a recent reform in labour regulations, which is a great step forward for employees' rights. During the recent monsoon session of India's Parliament, four labour regulations were passed–

1. **The Industrial Relations Code, 2020** - Its purpose is to harmonize and improve the legislation governing industrial organizations and firms' working conditions. Companies with less than 300 people, rather than 100, no longer need to seek prior government approval before laying off workers or liquidating a company or factory,

² 'India- Distribution of the workforce across economic sectors 2019' (*Statista*, 16 February 2022) <www.statista.com/statistics/271320/distribution-of-the-workforce-across-economic-sectors-inindia/#:text=In%202019,%2042.6%20percent%,the%20main%20sector%20of%20employment> accessed 23 June 2022

according to this code.³ According to the study, Section 62(a)⁴ of IR mandates that workers at industrial sites provide 60 days' notice before striking.

2. **The Code on Social Security Code, 2020 ["SS Code"]** – Its mission is to increase Social Security payments for all employees in all areas, whether they are unionized or not. Workers in the country's booming unorganized sector were provided social security benefits for the first time under this code, including maternity benefits,⁵ disability benefits,⁶ gratuities, medical insurance,⁷ and old age protection.⁸
3. **The Occupational Safety Code, 2020** – The security, healthcare, and work environment of persons who work in institutions are all governed by this law. Interstate migrants, sales promotion employees, and audio-visual workers will be included in the code's scope of application.⁹ It also suggested that women be allowed to work at night after receiving their consent.¹⁰
4. **The Code on Wages, 2019** - This code is intended to regulate remuneration and incentive payments in all occupations (industry, business, trade, and manufacture).¹¹ The concept of floor wages¹² is established by this code, in which the central government sets the rates based on the workers' minimum living standards.

Since the issue of labour laws is covered under the Constitution's Concurrent List, there are hundreds of provincial and national labour laws. A profusion of labour standards used to be scattered around the country, making it difficult to keep track of them all. The codes were developed by the government in an attempt to simplify and consolidate the country's present and clashing labour laws.

³ Shreeja Singh, 'Explained: The four labour codes and what they mean for India's workforce' (*Moneycontrol*, 24 November 2020) <www.moneycontrol.com/news/business/economy/explained-the-four-labour-codes-and-what-they-mean-for-indias-workforce-6151571.html> accessed 9 June 2022.

⁴ Industrial Relations Code, 2020, s 62(a)

⁵ Social Security Code, 2020, Ch. 4

⁶ Social Security Code, 2020, s 142

⁷ *Ibid*

⁸ Social Security Code, 2020, s 109

⁹ Occupational Safety Code, 2020

¹⁰ Occupational Safety Code, 2020, Ch. 10

¹¹ Code on Wages Act, 2019

¹² Code on Wages Act, 2019, s 9

These four codes merged 44 previously existing statutes, making them significantly more understandable for people like you and me. The Industrial Relations Code will replace the Trade Union Act of 1962 and the other two acts, while the Code on Social Security, 2020, would include nine previous social security laws and regulations. The Occupational Safety, Health, and Working Conditions Code brings together thirteen labour laws dealing with safety, health, and workplace conditions, whereas the Wage Code brings together four wages and bonus legislation. Although combining so many laws and acts into four codes is advantageous and makes them easier to execute without ambiguity, these labour laws are still insufficient to fully aid workers.

WHAT IS THE PROBLEM WITH THE EXISTING LAWS ON WORKERS?

Without a doubt, the contemporary labour rules are far more organized than the previous laws, yet they still fail to recognize that these laws are for the benefit of the workers. The reform, according to the administration, was implemented to provide more statutory protection to workers, particularly those in the informal sector. Ironically, during the writing of the codes, neither workers' representatives nor the state government was consulted. As a result, these codes are produced by people who have little understanding of the challenges that workers encounter in their daily lives, and consequently fail to address the needs and real problems that workers face. In reality, the legislation falls short of providing any type of social security to the vast majority of unorganized sector, including migrant workers, self-employed workers, home-based workers, and other disadvantaged groups.

Let's talk about domestic employees or people who work from home. Domestic workers are not subject to any special rules or regulations. Domestic workers aren't even referred to as workers because they consider working from home isn't truly work. One of the problems with present legislation is that domestic workers have little or no protection under the law. There are around 4 million domestic employees in India at the moment.¹³ The rise in the number of domestic servants employed in India coincided with women breaking through the public-

¹³ Yashvi Ganeriwal, 'Domestic Workers In India Have No Laws Protecting Their Rights' (*Feminism In India*, 4 July 2018) <<https://feminisminindia.com/2018/07/04/domestic-workers-india-law-policy/>> accessed 9 June 2022

private divide and entering the business arena. Everyone in India, from low-income households to the rich elite, employs domestic staff. These figures have been climbing since 1999, and after liberalization, they have climbed by nearly 120 percent.¹⁴ The fact that domestic assistants account for such a huge percentage of the workforce but are not covered by any legislation is alarming.

Another unorganized informal sector facing rising disparity is migrant labourers. We witnessed a horrifying scene during the lockdown, in which thousands of migrant workers walked and cycled thousands of miles from cities to their hometowns owing to a lack of income and employment. There is no safety and stability for their employees, and even if they are laid off due to the unavoidable circumstances of covid, the government offers no assistance to help them live. These migrant labourers leave their hometowns in search of a better life in metropolitan areas; they work hard for example, as construction workers, who work in extreme heat and cold and are frequently underpaid. Providing them with basic aid and wages is a basic act of humanity. The labour codes have been called anti-worker and pro-employer by several experts and labour union organizations across the country.¹⁵ For example, one of the most important features of the labour regulations is that they apply to industrial companies based on their size.¹⁶ As a result, the Codes exempt thousands of industrial units that employ a lower number of workers.

WHAT FURTHER CHANGES SHOULD BE THERE TO WORKER LAWS?

First and foremost, there should be particular legislation in place for domestic and migratory workers. These workers are exploited, and they are typically underpaid, exposed to harsh working conditions, and pushed to labour excessive hours. Exploitation that is more aggressive, such as brutality, molestation, and forced migration, is also widespread. And these inequities will only be addressed when appropriate rules and regulations are enacted. Only when they are aware of their rights will they be able to fight for them. As a result, awareness is

¹⁴ Meenakshi Tewari, 'Why is the condition of domestic workers seldom discussed in India?' (*Business Standard*, 8 June 2018) <www.business-standard.com/article/current-affairs/why-is-the-condition-of-domestic-workers-seldom-discussed-in-india-118060800193_1.html> accessed 23 June 2022

¹⁵ Shreeja Singh (n 3)

¹⁶ Industrial Relations Code, 2020, s 77

a vital component in addition to enacting laws. The government should conduct effective awareness efforts from time to time so that regional workers who do not comprehend mainstream languages and advanced phrases can understand and be aware of their rights.

No matter how many laws the government enacts, they will not be effective unless they are efficiently implemented and the people for whom these laws were enacted may enjoy and use them without difficulty. India has long struggled to effectively implement its laws. As a result, I believe that separate from labour laws, proper legislation should be enacted that focus solely on the implementation of these laws by the law enforcement personnel who are responsible for enforcing them. Furthermore, the government should establish local support centres in every industry, town, city, and hamlet where workers may file concerns and seek relief. A law is needed to protect the jobs of these workers who work in both the unorganized and organized sectors. It is necessary to end the practice of firing employees based on their employer's preferences.

CONCLUSION

Though labourers are not considered agents of India's economy because they do not directly impact the economy because they work in low-wage occupations and not in large multinational corporations (MNCs) like educated employers, it is a fact. But they are extremely important to India's economy. These labourers are the most basic members of our society. There will be a halt in our life and the economy if these workers cease working. As a result, it is critical to ensure that they are aware of their rights. The government's implementation of labour rules is a step in the right direction for workers' safety and protection. However, these labour regulations are insufficient for workers because they do not cover all workers' rights. Yes, more legislation on the protection of labour and employees working in businesses should be enacted. More legislation should be enacted since many people, particularly workers, are suffering major challenges relating to their employment during this pandemic.