

# Labour Law Reform in India

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**Abstract:** This paper represents an overview of Labour law reform in India.

**Keywords:** India, Labour Law Reform, Trade Union.

## 1. Introduction

Employees represent the human side of an organization and Trade Unions serve to give them a collective voice to protect and further their interests. Of late, there has been a decline in the proportion of unionized workplaces and in the collective representation of employees on many issues predominantly due to a reassertion of managerial power in the workplace and government support to management in the face of globalization. The economic reform process initiated by Rajiv Gandhi and later strengthened in 1991, adopted the Liberalisation, Privatization and Globalization popularly referred to as the LPG model of development. In other words, the country accepted the market-based strategy to accelerate development with least amount of state intervention this had an impact on the Trade Unions. The arm of the state started strengthening the capitalist class and they were considered as the chief instrument to promote development. Globalization added strength to the Indian capitalist class. Thus, capital Indian as well as foreign argued for labour reform. A new meaning was given to the term 'labour reform' which implied the power to 'hire and fire' workers, freedom to determine wages according to the market demand and supply. Although the state did not undertake 'labour reforms' by introducing a new legislation to legitimize the demand of the capitalist class, it silently worked to reduce state intervention. Regular workers were replaced by contract workers to reduce wage costs, so that business firms could compete in the market. This started the process of weakening the Trade Unions. Lockouts were used by the employers to retrench workers and prolonged lockouts were used as the instruments of pressurizing labour to accept humiliating conditions of work before lifting lockouts. This further weakened the Trade Unions. Further, experts in Human Resource Management developed the concepts of Just-in-Time, Outsourcing, Golden handshake, Various schemes of Voluntary Retirement. All these strategies became effective in marginalizing Trade Unions and unionized workers, although labour has been fiercely opposed to the new economic policy and responded to the Governmental efforts including those for privatization with a series of strikes.

The above-mentioned managerial practices were followed without much resistance from Trade Unions. The executive and the judiciary started following the ideology of liberalisation and globalization. The executive and judiciary either retreated from the path of collective bargaining or had taken an implicitly or explicitly anti-worker stance. There are instances of repression by the state of the working class have further weakened the Trade Unions. The Government of Haryana unleashed ruthless violence by the State Police against striking workers in Honda Motorcycles. In this respect, the Left Government of West Bengal also used both the police and CPM cadres to repress people in Singur so that the Tata Motors can establish their small car factory. The government promised compensation to displaced farmers, but provided pretty little compensation to displaced tenants whose livelihood was destroyed. The UP Government used ESMA (Essential Services Maintenance Act) and the National Security Act (NSA) in the UP Electricity Board's strike in January 2000. The Tamil Nadu Government enacted Tamil Nadu ESMA in September 2002 to suppress the State Government employees strike. It also armed itself with radical powers to deal with another strike by its employees and teachers in 2003.

At the sametime "flexible" labour practices have adversely affected unions and there has been a general decline in the strength of unions, although there has been increase in the number of unions at the level of firms, but there has been a decline or erosion of strength of federated or central Trade Unions which lost much of their bargaining power. Such development have weakened the collective bargaining machinery, unions have been impelled to accept relocation down-sizing, productivity-linked wages, freezes in allowance and benefits, voluntary suspension of Trade Union rights for a specific period and concomitant to modernization.

Simultaneously, fall of the public sector undertakings from "commanding heights", resulted into further decline of Trade Unionism. Public sector had been a benevolent sector from labour's point of view. Public sector had generated employment, provided various social benefits such as housing, school, health's recreation and the like and done much to live upto the image of a model employer and became the prime base of many central Trade Union activities. Thus, in absence of progress of the public sector, there is decline in Trade Unions. The New Economic Policy is treated as reassertion of capitalism. The overall trends are: declining workforce,

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increased unemployment, unfavourable public sentiment and managerial and governmental pressure of trade Unions. In fact, there are three sets of forces working against Trade Unions:

1. Structural changes in the workforce;
2. Managerial and Governmental resistance to expansion of Trade Unionism
3. Change in attitude within the working class itself.

It may be mentioned here that selfish individual bargaining, massive computerization, moral degradation have also affected Trade Unions. Collectivist ideas are no longer treated as progressive ideas. Wage-fixation is done by way of individual bargaining, massive computerization has created a situation whereby only few people are in personal contact each other at workplace. Moral degradation has given rise to a situation where everything can be sold and purchased.

It is also to be mentioned that instead of getting affiliated to unions supported by political parties, the employees are organizing independent industry-wise unions, for example, the United Forum of Bank Employees, the National Co-ordination Committee of Electricity Employees and Engineers (NCCOEE), unions formed in banks, insurance companies and financial institutions. The rise of independent unions has also weakened the role of politically affiliated unions. In the recent era the major unions are politically affiliated and change their nature of work with the change of politics. For instance, INTUC cooperated with the Congress Government during the Emergency and reversed its attitude towards the government when Janata Party came to power. Similarly, the CITU, an affiliate of the CPI-M, does not force the West Bangal Government to check the rampant phenomenon of lockouts, but is very vocal in other States as a defender of labour rights. The Left unions play a different role in States ruled by the Congress or BJP, but convince with the governments in Left-ruled States. Moreover, attempts of merger along major politically affiliated unions have not succeeded. The CITU and AITUC, while that believe in “workers of all lands unite” as suggested by Marx, have failed to come together. The Left unions treat the BMS, the biggest Trade Union, as an untouchable and would not cooperate with it in any struggle. There are occasions when unions have come together “for some struggle” but parted ways as soon as the struggle came to an end.

These shows the tendencies of the absence of unity among Trade Unions which are politically affiliated. This is exploited by both the government and the employers. The liberalization, privatization and globalization model has generated an anti-labour economic environment in the the post-reform period as against the pro-labour environment in th pre reform period. The collective bargaining power of the unions has been weakened. As against it, employer militancy has increased in the form of lockouts, retrenchments and clousures which lead to unemployment in the organized sector. It is to be mentioned that the unorganized sector is still not covered by the Trade Unions and very little efforts have been made to organize the informal workers by the all India Trade Unions.

On the other hand, over the years, a greater tendency is developing in union leaders to personalize union activities as well as to become just pleaders of workmen’s cases of

grievances and victimization before various administrative and quasi-judicial forum. Majority of unions are controlled by outside leaders or federations, who offer their service to the union in need of advice or representation. There are a good number of distinguished Trade Union leaders in India who have played a salutary role in labour amelioration. But, the typical trade Union leader today is merely performing the role of a pleader, maintaining office to provide as outsider, representation service to workers at various levels of industrial conflict processing thus playing the role of traditional elites in the growth of brief-case trade unionism.

The leaders are more associate with the Trade Union-wings of the political party in power. The biggest danger of brief-case Trade Unionism is the possibility of commission of unfair labour practices at pre-conciliation, conciliation, tribunal as well as award implementation levels. The incidence of these practices is much higher in small and medium-scale industries. But, sometimes, state-supported repression by managements through collusion with brief-case leaders can have horrifying effect on industrial justice even in some large-scale organizations. Undoubtedly, the long innings played by the existing framework has created vested interest-groups including labour lawyers and union leaders so as to resist any agenda on labour-law reform. These interest groups are in fact the key forces to stall such reforms which appear on legislative agenda only to disappear after some time.

## **2. Need for Labour Law Reforms**

India being a democratic developing country has still remained incomplete towards the growth of the employment. The history of Indian Labour Laws is naturally concerned with the history of the British Colonialism. Therefore, the industrial or Labour legislations enacted by the British were framed in the light of the Industrial Development in the United Kingdom, which mainly concerned with the protection of the interest of the British employers and industrialist. Such laws made in pursuance of the welfare of the British Political Economy. Even after the demise of the British Colonialism there was a huge demand of the clear and unambiguous partnership of the Labour and Capital since the day of Independence, which was agreed on a tripartite agreement in December, 1947 in furtherance of the fair wages and fair working conditions to the Labour, which may help to the capital to maximize the profits. Even the globalization and liberalization process which was begun in India in year 1991 had impacted in Labour market only in a limited manner. Indian Government has tried to bring a significant and sporadic change in Labour laws, from last twenty-four years. Therefore, Indian Labour market is spoiled because of having strictness in the archaic Labour laws, hence, the Labour market liberalization is urgent need of the day with having flexibility in the Indian Labour Laws.

There are numerous labour laws in India passed by the Central Government as well as by the State Governments. At present, there are 44 labour laws under the purview of the Central Government and more than 160 labour laws in the various State Governments. But, unfortunately these laws protect only a few workers in the organized sector while the

unorganized sector remained untouched. The laws are related to Conditions of Employment, Industrial Relations, Industrial Safety and Health, Social Security, Labour Welfare, Employment and Training, wages and such other related fields. There are several provisions in the Indian Constitution in Part III and Part IV to deal with the working section. Apart from this labour is the subject of the Concurrent List of the Constitution where the Central and State Governments both are empowered to enact legislations.

Though, there are number of laws relating to labour welfare and protection there are some challenges for which the existing labour laws need to be reformed. It is therefore, one of the biggest threats to the Central Government as well as the State Governments which are continuously challenged by the workers and their unions. The circumstances arose for the reforms because such the existing laws are continuously violated by the employers while they mainly preferred the contract basis labour in less amount compared to the permanent workers. Though, laws are existed but as per the change of the scenario of the society or in the era of globalization there shall be some reform in the laws which are existed before the independence of our country. There shall be reforms in respect of the child labour and the women labour because in our country even the child labour below the age of 14 years is violation of the fundamental rights of the children under Article 24 of the Constitution. It can be said that there are specific reforms which are needed in the present era of liberalization of the market or in the era of globalization such as

- There should be some restriction imposed on the contract labour.
- There should be collective bargaining by the Trade Unions.
- There should be uniform definitions and consolidation of the laws.
- There should be an effective enforcement of the existing Labour Laws.
- There should be a payment through Cheques or Bank Accounts.
- There should be changes in the Contract Labour Act.
- There should be proper indexing of the benefits and penalties by the Government.
- There should be reformation of the unorganized

sectors into the organized sectors which would increase the GDP of our Country.

- There should be an All India Service for the labour administration to provide professional experts in the field of the labor administration.
- There should be grievance redressal process more effective and simultaneous

### 3. Conclusion

It can be said that there is an urgency of the reforms in the labour laws in India otherwise the present labour laws of our country would lead to great economic and social loss. In view of this urgency and as per recommendations of the Second National Commission on Labour, the Government of India has enacted four Codes such as the Code on Industrial Relations, Code on Social Security and Welfare, Code on Occupational Safety Health and Working Conditions and the Code on Wages 2020. However, the Acts have not yet come into force.

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