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EFFECT OF PANDEMIC ON LABOUR LAWS IN INDIA: A COMPREHENSIVE STUDY

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“All Labour that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.”

~ Martin Luther King Jr

Abstract: The exigencies caused by the nationwide lockdown imposed by the government of India in the wake of the global pandemic, several states in India have come out with ordinances and notification diluting the labour laws to provide more flexibility to businesses to mitigate the impact of the pandemic on the economy. This will help industries which have suffered heavily from the blow of the pandemic and create more employment opportunities. However, these relaxations provided in the labour laws, if given the assent of the President, infringe the rights of the workers. In this research article, we will put insight into the changes brought by different states in labour laws and the rationale behind such dilution. Then we will cover the impact of the labour law reforms. At last, we would put our concluding thoughts with some suggestions.

Index Terms - Covid-19, Labour laws, Suspension, Government, Economy, Workers, Labour.

I. INTRODUCTION

The COVID-19, which is caused by Novel Coronavirus, is the greatest humanitarian crisis the world has seen since World War II. The virus originated from the city of Wuhan in Hubei province of China. The Wuhan virus has already spread worldwide, and the number of cases is rising at an alarming rate. The situation in our country is no different. India too is struggling to contain the spread of the lethal virus. Currently, there are no treatments or vaccines available for this infection, so prevention becomes extremely crucial. The Government of India imposed nationwide lockdown limiting the movement of over a billion population as a preventive measure on 24th march 2020 and subsequently increased the lockdown in phases. The experts and various International entities have stated that lockdown in India has slowed the growth rate of the pandemic; however, the economic impact of the lockdown has been disruptive and pushing the Indian economy to the brink. While the Government of India has announced various measures and an economic package to boost its sputtering economy, which has seen its worst growth in a decade, several states in India have promulgated ordinances and executive orders containing exemptions from the compliance with specific labour laws. These pervasive dilutions of labour laws have been sought to provide greater flexibility to businesses to help them curb the impact of the pandemic oriented lockdown. Labour Law establishes a tripartite relationship between employees, employers and the sovereign. Labour laws protect and safeguard the interest of the workers. The Labour Laws fall under the purview of the concurrent list which is mentioned in the seventh schedule of the Constitution of India, in which states can frame their law but with the approval of the Central Government. These measures although may help in reviving the Indian economy by reducing the compliances of labour laws and by also becoming an attractive destination for international businesses seeking to move its production out of China but has jeopardized the interests of the workers. The suspension of the labour law has raised some concerns regarding the protection and safety of the labourers which will be covered along with the positive impact of the dilution of labour laws.

II. SUSPENSION OF LABOUR LAWS AMIDST COVID-19: WHAT WAS THE RATIONALE BEHIND?

In this time of the Covid-19 crises to ease the burden of industries, various State Governments have taken this initiative to dilute the existing labour laws. They have come out with ordinances and notification weakening the labour laws to provide more flexibility to the Indian labour force to mitigate the impact of the pandemic. The Government of Rajasthan, by an order issued, temporarily increased the daily working period in manufacturing units from 8 to 12 hours for three months to ensure full supply of essential commodities and to limit the movement of workers in production and distribution facilities. During a meeting of the Chief Ministers, Prime Minister Modi even lauded the decision taken by the Chief Minister of Rajasthan and urged other states to follow the same pursuit.¹

The Government of Uttar Pradesh came out with an ordinance temporarily suspending almost all the primary Labour Laws for three years except Building and Other Construction Workers Act, 1996, Workmen Compensation Act, 1923, the Bonded Labour Act, 1976 and also Section 5 of the Payment of Wages Act, 1936 which talks about the right to receive timely wages. Also, it issued a notification temporarily increasing the working hour limit from 8 to 12 hours. In Uttar Pradesh, the suspension of laws is subject to fulfilment of some conditions which are necessary and essential for the safety of the workers, such as the workers shall not be paid less than wage as prescribed by the Government of Uttar Pradesh and the provisions of the Factories Act, 1948, relating to safety and security of workers shall remain applicable.² Assailing the notification issued by the government of Uttar Pradesh, a PIL has been filed by UP Worker's Front stating the same is against the Constitutional values. The High Court of Allahabad thereby issued notice to the government and posted the matter for consideration. However, the impugned notification was withdrawn.³ Even the Rajasthan government has withdrawn the notification increasing the working hours from 8 to 12 hours.⁴ The Government of Madhya Pradesh made public a notification amending the Industrial Dispute Act, 1947, exempting new industries from the provisions of lay-off and retrenchment. The exemption is made for 1000 days. Further, it also exempts factories from the all the regulations of the Factories, Act 1948 except section 6, 7, 8, and section 21 to 41H under Chapter 4 about safety, section 59, 65, 67, 79, 88 and 112 and rules made thereunder for three months from the date of publication of the notification. The Employers are permitted to increase working hours in factories from 8 to 12 hours, and also overtime is allowed up to 72 hours a week subject to the will of employees. The registration of a factory can now be done in a day instead of 30 days. And, the license can be renewed after ten years instead of 1 year. The contractors employing less than 50 workers will be able to work without registration under the Contract Labour (Regulation and Abolition) Act, 1970.⁵ Similarly, The Government of Gujarat issued a notification, to exempt all the factories established under the Factories Act, 1948 from various provision relating to daily hours, weekly hours and interval of rest etc. subject to the fulfilment of following conditions such as the workers shall not be allowed/required to perform jobs in a factory for more than twelve hours a day and seventy-two hours in a week and shall get at least a half-hour rest at every six hours of work each day and ages shall be paid in the proportion of the existing wages. Also, no female worker shall be allowed to work in such establishments between 7:00 PM to 6:00 AM.⁶

The Government of Haryana, through its notification, announced the relaxations from the provisions of factories act regarding the working hours from sections prescribing weekly hours, daily hours and spread over. The working hours stand increased at 12 hours, and overtime wages are to be paid as provided as per section 59 of The Factories Act, 1948.⁷ Also, the states of Himachal Pradesh, Uttarakhand, Assam Government asseverated notification made some minor changes providing flexibilities to industries.

Rationale behind the dilution: It is evident from the changes brought by the State governments that the governments have taken a profound set of politically contentious economic reforms and have frozen almost all the major labour laws except the basic ones, in the hope of recouping the industries which have suffered heavily from the blow of the pandemic and create more employment opportunities. India has a slew of archaic laws and regulations which form the labour market which regulates the terms and conditions of work. Complying with standards, and procedures under such an array of laws are seen as a daunting task which in turn makes Indian labour expensive. The businesses to maximise profit try to avoid the cost of compliance under Labour law, adopt capital intensive techniques in the process of production or contract out using intermediaries to supply labourers without a formal contract. In the advent of the nationwide lockdown imposed to contain the spread of COVID-19, there was a considerable burden on the states as thousands of migrant workers have headed back to their home, creating a surplus labour force in some places during shortage on the others. The dilution of labour laws gives markets much flexibility to regulate labour supply and demand and improve productivity and size. With the increased working hours, the problem of shortage of labour could be addressed through which optimum utilisation of labour could be done. The norms of social distancing can be followed by fewer workers. Also as per the survey carried out by the National Sample Survey Organisation, about 90% of the labour force in India are employed under the unorganised sector and will not be affected by these changes as they did not enjoy protection under the labour laws in the first place. The Labour laws apply only to those workers who work in organised and registered firms.⁸ The restrictions which have been removed under labour laws will improve India's rank in the "ease of doing business" index,

¹ Somesh Jha, *Rajasthan govt withdraws order increasing daily working limit to 12 hours*, Business Standard (May 26, 2020, 12.12 AM), https://www.business-standard.com/article/economy-policy/rajasthan-govt-withdraws-order-increasing-daily-working-limit-to-12-hours-120052500446_1.html.

² The Uttar Pradesh Temporary Exemption From Certain Labour Laws Ordinance, 2020.

³ UP Workers's Front v. Union of India, PIL 579/2020, High Court of Uttar Pradesh, (May 19, 2020).

⁴ Jha, *Supra* note 2.

⁵ *Government of Madhya Pradesh, Department of Labour*, PRS Legislative Research (May 5, 2020), https://prsindia.org/files/covid19/notifications/4989.MP_exemptions%20under%20labour%20laws_May05.pdf.

⁶ *Government of Gujarat, Labour and Employment Department*, PRS Legislative Research (April 17, 2020), https://prsindia.org/files/covid19/notifications/3373.GJ_Lockdown_Relaxations_Factories_Apr%2017.pdf.

⁷ Anya Bharat Ram, *Relaxation of labour laws across states*, PRS Legislative Research (May 12, 2020), <https://www.prsindia.org/theprsblog/relaxation-labour-laws-across-states>.

⁸ Zia Haq, *Some states put freeze on labour laws to get business going*, Hindustan Times (May 9, 2020, 02.48 AM), <https://www.hindustantimes.com/india-news/some-states-freeze-labour-laws/story-6JMELEPdlugsHt8YjQT5vN.html>.

thereby attracting higher investments in the states. The exemption from Labour laws would also create jobs for migrant workers who have returned home and also enable India to take benefit from the disrupted global supply chains without jeopardising rights of the workers who are employed under the organised sector as basic laws have been kept intact. The basis of every rationale is increasing state GDP by increasing the economic activities as well as an employment opportunity.

III. EVALUATION OF THE IMPACT BROUGHT BY THE DILUTION OF LABOUR LAWS

The relaxation provided under labour laws will make businesses survive the wave of the pandemic, and besides, it is an opportunity for the economy to flourish. The government of various states aim at this reform as they foresee it to have a positive impact on the economy. The employment opportunities will increase for the labourers who have migrated back. Earlier, the stringent labour laws were a deterrent for an influx of Foreign Direct Investments (FDI) and Foreign Portfolio Investments (FPI) in the Indian economy. There will be an increase in domestic investments as well as foreign investments because of the dilution of labour laws. The Industrial establishments will be freed from filling the statute created tick boxes and will concentrate on increasing production, which would ultimately lead to their growth. Due to increase in the working hours of industries, there will be a significant increase in the production of the outputs also the removal of the working hours' restriction will help in better utilisation of the labour workforce of the nation. There will also be an increase in the competitiveness among industrial units with an increased supply of labour. The impact on employers is multidimensional and is capable of having various possible consequences on them. The overall effect on the economy is the result of a positive impact on businesses due to the dilution of labour laws. The employers will be able to re-skill the workers, map the workers who have been displaced and re-employ them as per the requirement of the industrial units. They will also be able to improve their workforce by inducting new workers and firing those workers who lack efficiency and responsibility in their job. With the reduction in the expenditure on compliance cost of the labour, there will be more resources available with businesses which in turn would be utilised in development and the other growth-related aspects. With the changes brought by the State Governments, there are not any statutory obligations to pay anything more than the basic pay and to meet the social security norms. There will be more flexibility as the workers will not be able to interfere with the decisions of management through trade unions, thus leading to faster decision making. The removal of the inspection process for the industry will provide relief from unnecessary bureaucratic intervention. Ease of doing business will improve. Moreover, the less amount of paperwork required to obtain a license will attract investors and will make the entry an easy task. There would be an easy exit for those units which are not able to reach above the break-even point, even for those working with a good number of employees and hence there will be less legal obstruction. The dilution of labour laws has been justified by stating that it is the need of the hour to provide concessions to existing and new industrial establishments, businesses and factories. However, this move by the government was criticised on the basis that the relaxations provided in the essential labour laws infringe the rights of the workers.

India being a signatory to the International Labour Organisation (ILO) conventions on issues where labour laws have been amended, violates the conventions and infringes upon the fundamental rights of workers enshrined under Part III of the Constitution of India. The suspension of the Minimum Wages Act, the Equal Remuneration Act and the Contract Labour Act infringe the Fundamental Rights under the Constitution of India.⁹ Also, as the Minimum Wages Act has become defunct, the problems of the workers will only aggravate as employers are no more mandated to provide the minimum wages as per the act.¹⁰ Satisfactory working condition is a Fundamental Right under Article 21, i.e. Right to life and Personal Liberty.¹¹ The provisions relating to occupational safety, healthcare and welfare measures have also been suspended, making the policy of the government susceptible to exploitation, therefore, encouraging investments at the cost of rights of the workers. In India, the bargaining power of workers is less, and that of employers is more. This makes workers vulnerable to exploitation. The weakening of labour protection laws will only make them suffer more.¹² The exploitation of workers becomes inevitable as there remains no labour court to get their grievances redressed. With the trade unions being subdued, the collective bargaining power of workers has been dissolved. It is in violation of Right to form Association or union which is a fundamental right under Article 19 (1)(c), and it includes the Right to its continued function¹³. The provisions which declare a strike legal are also ineffective; hence there will not be payment of wages for genuine representation. There are social security benefits that were available to labourers which have been waived off for the said period while the labour law remains suspended, which affects the Indian labour workforce's rights.¹⁴ Working hours restrictions prevented the harm to health of labourers and also ensured them payment for overtime work. But, with the limits, relaxed employers will have the legal right to extract the most out of labourers. The Lockdown Imposed due to COVID-19 by the Government of India has already made millions of labour suffer. They have already lost their jobs. Firing workers has been made much more straightforward as the 'Hire and Fire' restrictions have been done away with. The productivity of workers will reduce with the removal of provisions safeguarding their interests which provided job security to them. Suspension of labour laws will make the most of the employment informal, creating a monstrous unorganised sector, which would ultimately leave the majority of the workers outside the application of Indian labour laws with no rights and unregulated.

⁹ Bandhua Mukti Morcha v. UOI (1997) 10 S.C.C. 549 (India).

¹⁰ P.U.D.R v UOI, (1983) 1 S.C.R. 456 (India).

¹¹ Consumer Education and Research Centre v UOI, (1995) 3 S.C.C. 42 (India).

¹² Suresh Seshadari, *Are India's labour laws too restrictive?*, The Hindu, (May 15, 2020, 01:02 PM), <https://www.thehindu.com/opinion/op-ed/are-indias-labour-laws-too-restrictive/article31585617.ece>.

¹³ Damyanti Naranga v UOI, A.I.R. 1971 S.C. 966 (India).

¹⁴ Nayakara Veerasha, *Diluting Labour Laws: Expansion of Neo-liberal Governance Regime*, Mainstream Weekly (May 30, 2020), <http://www.mainstreamweekly.net/article9436.html>.

IV. CONCLUSION

India has been lagging in simplification of its labour laws for nearly 70 years, and labour reforms have been a demand of industries for a very long time; its overregulation of the labour market has created a burdensome business regulatory environment. The stringent labour market has created barriers among the entrepreneurs to expand the extent of hiring more workforce in their businesses. As per a report by the World Bank, with fewer restrictions in labour laws, India could approximately create 2.8 million formal sector jobs annually. To improve the employment opportunities and to promote the Make in India project, it is quintessential to critically examine the current labour policy of the government and bring significant reforms to the Indian labour market. Following the age-old wisdom given by Niccolò Machiavelli about not letting a crisis go waste, India should have converted the challenges of a distressed economy caused by the pandemic into opportunities by balancing the need for business to grow along with maintaining labour safety standards. The need of the hour was to introduce significant labour law reforms to provide flexibility to the businesses without jeopardising the interest of the workers and to reduce the compliance cost so that companies are not discouraged in employing labourers in the organised sector. In the advent of the pandemic and the hardships caused by the nationwide lockdown imposed by the government of India, several states have suspended major labour laws to cope up with the turbulent environment and to promote ease of doing business. This move by the government infringes the rights of the workers because it encourages investments at the cost of rights of the workers. India being a welfare state is under the obligation of providing humane conditions of work and promoting the welfare of the labourers, cannot allow the suspension of these laws as they are fundamental to the social security structure. However, considering the exigencies caused by the pandemic, the decision of the governments to temporarily dilute labour laws to revive the economy to increase the employment opportunities was made to achieve the greater good, and as stated by Jeremy Bentham, “an action which results in the greatest pleasure for the utility of the society is the best action.”

