

UNVEILING THE SUFFERING OF UNORGANISED LABOURERS

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ABSTRACT

The trepidation of their worst nightmare coming true has always made the labourers work and work and work. Most of the time it is hunger, poverty, homelessness and so on depending on the individual circumstances. Talking about the sufferings, most of the time it is faced or forced to be faced by the unorganised labourers. In India, the unorganised sector employs more than 94 percent of the labour force. This article is a conduit to deliver the sufferings of labourers and laws relating to labourers for their amelioration. How will one feel if someone else is scheduling your life and the way you need to live your life. That's something which happens to daily wagers or unorganised workers or simply workers. There is also a fact which most people bring to justify that they are made to do the work for which they are employed but just because they are getting paid doesn't give one the authority to design the labourers' whole life.

Keywords: Working conditions, Laws relating to Working conditions, Welfare of the workers, Women and working conditions, International Laws in relation to Labourers.

INTRODUCTION

Working time (hours of labour, rest times, and work schedules), compensation, as well as the physical circumstances and mental demands that exist in the workplace, are only a few of the subjects and concerns included by the term "working conditions". A number of researchers have finished a comparison research across Indian states with various employment laws. They contrasted states in India that have made their labour rules even more restrictive and challenging to follow with others that have changed their regulations to provide companies greater freedom. According to these findings, states with flexible labour rules have seen much quicker growth in their economies. States with flexible labour rules have been able to benefit from export prospects, and the per capita family income has increased far more quickly in these states.

In India, licenced organisations that are registered and pay GST are referred to as the organised sector or formal sector in local parlance. The incorporated or officially registered entities, corporations, factories, shopping centres, hotels, and large businesses are among these.¹In the evaluation of labour research on emerging nations, Djankov and Ramalho included India. According to their findings, which are in line with the aforementioned complaints, nations with strict employment regulations have bigger unorganised industries and greater unemployment rates, particularly for young employees. Further, they claim that a low per capita income is closely tied to tight, unforgiving work rules.

LAWS RELATING TO WORKING CONDITIONS OF LABOURS

Sections 51, 54 to 56 & 59 of the Factories Act of 1948 include information on working hours, spread over, and overtime. In accordance with Section 59, a worker who works in a factory for more than 9 hours in a single day or more than 48 hours in a single week is entitled to overtime pay that is double their regular rate of pay. The Mines Act of 1952 pronounces that no individual employed in a mine is authorised or permitted to work in a mine for more than 10 hours on any given day, including overtime, in accordance with Sections 28 to 30 of the Act. In accordance with Section 33 of the Minimum wages act of 1948, overtime compensation must be provided at a rate that is double the employee's regular hourly rate. This specifies that on any one day, the employer may need up to 9 hours of real labour throughout a 12-hour shift.

For each hour or portion of an hour of actual work that exceeds nine hours or more than 48 hours in any given week, he must pay double the rates.

In the case of stores and other commercial enterprises, this would be subject to the restrictions in the State-specific S&E Acts, and in the case of manufacturing establishments, the Factories Act. Employees cannot often be asked to work more than nine hours per day or 48 hours per week without being compensated for overtime. In pandemic situations, certain States have increased the maximum number of hours that can be worked by employees, but only under specified circumstances and limitations.

The complaint process in conference to the ISEO Act mandates that workers develop grievance redressal methods to handle specific worker issues. Additionally, when there are 20 or more workers, a grievance committee must be formed in accordance with the guidelines. In any event, as a general rule, most firms do have an internal complaint structure that outlines the procedures workers must take, in case of any workplace-related difficulties. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("SHW Act"), which stipulates a thorough complaint mechanism for instances of sexual harassment, must be followed by all Indian establishments.ⁱⁱ

In *Corporation v. R.K. Swamy* (1993) it was discussed that an advertising firm might be contacted by anybody with a product. The advertising firm will create a marketing campaign for him with the assistance of the professionals it hires for this purpose. It earns payment after selling the customer on the campaign. The campaign's nature will likely affect the pricing, but it won't really change much. Without using too many words, an advertising agency efficiently provides its expert services to a client so that the customer may start a successful campaign for its goods. The location of an advertising agency can be referred to as a shop.ⁱⁱⁱ

WOMEN AND WORKING CONDITIONS

Women are leaving the labour force in India as household earnings grow simply because they can. Many people are no longer required to perform taxing physical labour or backbreaking duties in agriculture. According to A.L. Sharada, a sociologist, demographer, and director of Population and a social welfare organisation with offices in Mumbai, "As the economy grows, women retreat from work, in part because women's work is seen as a standby or emergency

measure." They anticipate that the woman will leave the workforce once the family is financially secure. Naikodi says, "With food costs rising, we're finding it difficult to pay the kids' school tuition. We are now unable to live off just one income."^{iv}

In accordance with the provisions of the Maternity Act, for the time of her actual absence, a female employee is entitled to the average daily wage. If the nature of the work is such that the employee may work from home, the employer may extend this comfort to female employees on the basis of the mutual agreement between the employer and the employee. Therefore, female employees are also entitled to a medical bonus in case of prenatal or postnatal benefits that are not provided by the employer. The Maternity Act bars the employer from (i) discharging or firing a female employee, or (ii) changing the terms of employment to her disadvantage during the maternity leave period.

Workers have the right to two nursing breaks per day after returning to work, in addition to the rest periods granted by their employer during their daily workday. Employees receive this benefit until the baby turns 15 months old. Apart from this benefit, all businesses with 50 or more employees are required to have child care facilities, either separately or in conjunction with common facilities, with prescribed distancing. The employer allows the employee to visit her daycare four times a day, including breaks. Each of these agencies must provide written notice of the employer's benefits and facilities at the time the female worker is first hired.^v

LABOUR WELFARE RELATED CASES AND JUDGEMENTS

Workmen of M/S Firestone Tyre and Rubber Co. of India v. Management (1973)^{vi}, In this case, workers at the Firestone Tire and Rubber Company filed a dispute with their employer because the employer fired them based on a domestic investigation. In 1971, while the case was pending, the Labor Court Act was amended to include Section 11A, giving the Labor Court powers of appeal for national investigation of disputes arising. The court ruled in favour of the employer and denied the retroactive effect of Section 11A. Angered by the court's decision, workers sued their employers in the Supreme Court. The Supreme Court question concerned the interpretation of Section 11A of the Labor Disputes Act 1947. Because this clause was inserted by amendment during the pending litigation, the issue is whether the clause applies to litigation filed prior to its insertion.

The Supreme Court has found the Labor Disputes Act (1947) to be a useful law enacted by Congress to improve workers. The court found the law to be a welfare regulation and decided to apply the beneficial rule of law. Furthermore, it is noted that in the event of a dispute between the parties, leniency is applied as to which opinion is in the workers' best interest. However, because this lawsuit was filed before the Amendment, this provision does not apply in few cases. This applies only to actions brought under the Labor Disputes Act 1947.

In *Bandhua Mukti Morcha v. Union of India* (1984)^{vii}, The petitioner in this case, an association, sent a letter to Justice P.N. Bhagwati about the deplorable living conditions of the many reinforced employees employed in the stone quarries in a particular area of Faridabad, Haryana. In addition to outlining the several sections of the Indian Constitution that were not being implemented with regard to these labourers, the group outlined the harsh and intolerable working conditions of the labourers. The petitioner mentioned the names of the stone quarries and the area where the employees wanted to be petitioned in the letter since various social welfare laws allow for the same.

In this instance in the case of *Excel wear v. Union of India* (1979)^{viii} The petitioner Excel Wear is a clothing manufacturing company with 400 employees. The workers turned out to be highly militant and confrontational, which hurt the employer-employee relationship. The Excel Wear management was the appellant. The company's employees began staging illegal strikes. The petitioner requested the undertaking's completion from the government-respondent. The Government forbade the undertaker's closure. The appellant filed a petition with the Supreme Court of India after feeling offended by the government's/respondent's decision. The supreme court ruled that because two things cannot coexist, the right to own a company and the right to operate one cannot be equal. The court also ruled that the right to shut down a firm is not unrestricted and can be limited and controlled by the law. After careful consideration, the court ruled that Section 25(o) of the Industrial Disputes Act, 1947 is unconstitutional. The government was not required by the aforementioned provision to give any justifications for shutting down the company. However, in this instance, it was not safer for the employer to carry on with business as usual because the employees had turned aggressive.

INTERNATIONAL LAWS AND REGULATIONS RELATING TO WORKING HOURS

In British India, the 60 hour week principle will be adopted for all workers in branches of industrial, mining and railway works designated for the purpose of competent authorities currently subject to the Factory Act administered by the Government of India. It is supposed to be. Any modification of this limit by a competent authority shall be subject to the provisions of Articles 6 and 7 of this Convention. Otherwise, the provisions of this Convention will not apply to India, although other provisions limiting working hours in India will be discussed at a future General Assembly. In the case of the following industrial undertakings in the application of this Convention to Greece: carbon-disulphide works, acid works, tanneries, paper mills, printing works, sawmills, warehouses for the handling and preparation of tobacco, surface mining, foundries, lime works, dye works, glassworks and gas works.

WORKING TIME AND VIOLATION OF WORKING TIME

Working time is the amount of time that a worker gets paid to do work. Adequate working time is a critical component of working conditions that has a significant influence on workers' income, well-being, and living situations. While more people working longer hours might assist boost corporate production, productivity which actually is a fall for the employee. Excessive working hours can also generate problems for the company, such as accidents and poor job quality due to weariness. Working long hours can have detrimental psychological, physical, and social consequences. It can cause issues for employees, such as the inability to have a personal life, pursue academic or professional growth, or access services such as medical care during normal business hours.

The proportion of people working long hours is increasing, with negative effects for employees' health. In proportional terms, the share of the population working at least 55 hours per week grew by 9% between 2000 and 2016. Long working hours resulted in 745,000 stroke and ischemic heart disease fatalities in 2016, a 29% rise since 2000. Excessive working hours, independent of the number of typical hours of sleep, have also been reported to enhance injury risk.^{ix}

CONCLUSION

To help and regulate the working conditions of labourers, the primary focus is on developing capacity and social discourse, as well as identifying practical solutions that can bring about long-term and constructive change in the sector. Driving sector-wide, long-term improvements in adherence to national labour laws and basic labour standards improves the lives of millions of employees and their families while also improving corporate competitiveness in key garment-producing nations.

ENDNOTES

ⁱ Planning Commission of India (2007). "Labour Laws and Other Labour Regulations"
https://web.archive.org/web/20140826171253/http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_rplabr.pdf

ⁱⁱ <https://leglobal.law/countries/india/employment-law/employment-law-overview-india/03-working-conditions/#:~:text=Minimum%20Working%20Conditions,-Requirements%20in%20this&text=The%20S%26E%20Acts%20have%20stipulations,at%20shops%20and%20commercial%20establishments.>

ⁱⁱⁱ <https://indiankanoon.org/doc/1872192/>

^{iv} <https://www.npr.org/sections/goatsandsoda/2023/01/04/1146953384/why-women-in-india-are-dropping-out-the-workforce-even-as-the-economy-grows#:~:text=Not%20only%20is%20the%20proportion,for%20which%20statistics%20are%20available.>

^v <https://www.livemint.com/politics/policy/the-curious-case-of-indian-working-women-11646677021016.html>

^{vi} <https://indiankanoon.org/doc/1333489/>

^{vii} <https://indiankanoon.org/doc/595099/>

^{viii} <https://indiankanoon.org/doc/947038/>

^{ix} <https://bhr-navigator.unglobalcompact.org/issues/working-time/>