



# **A COMPARATIVE STUDY BETWEEN THE STANDARD STRUCTURE AND THE ACTUAL IMPLEMENTATION OF LABOUR LAW. (A CASE STUDY)**

**\*Dr. Sonal Jauhari<sup>2</sup> Assistant Professor- Management, JIMS Noida**

## **Introduction**

Industrial Revolution begun in 1750 in United Kingdom, spread through our western Europe, America, Japan and then rest of the world. During this period of 1750-1850 there were various changes taking place in agriculture, mining, manufacturing, transportation and technology which had a significant effect on social, culture and economic conditions of that time. This gave rise to various industries which provide employment opportunities to various people. Which resulted in emergence of new working class. This new working class or the labour class with new opportunities faced various challenges. With industrial growth capitalistic economy grew. The working conditions in these factories were awful long working hours, dangerous working conditions and extremely low wages. Young children and women also became part of all this. As women and children were paid even less than men. In order to get children to work they you to chain young children with machines so that they don't run away.

Slowly Various steps were taken by different managers to improve working condition. And behavioural scientist started their research to study various ways to improve productivity. All this led to recognition basic needs of labour and changes were made in factories to some extent. By this time social reforms and struggle for rights started at international level.

All this struggle led to development Labour Laws.

The Parliament of United Kingdom passed an act in year 1802 which is now known as British Factories Act. The Act regulated the work in factories by restricting the working hours 12 per day. Later all these leads to establishment of International Labour Organisation.

History of labour legislation can be tracked back to the history of British colonisation. And Bombay became the pioneer of legislation formation because of number of industries where in Bombay. All labour legislations in India under the Government of India Act, 1919 were enacted by the central legislature. In India there were number of labour laws which were applicable in different sectors and also there existed many trade unions.

Struggle for labour rights and freedom struggled was going on hand in hand. On 15 August 1947 India got its independence and that same year Industrial Disputes Act, 1947 was passed and implemented. From there on various laws have been passed and implemented. The Indian Constitution empowers both state and central governments to legislate regarding labour, by including within the list of concurrent powers trade unions, industrial and labour disputes, social security and social insurance, employment and unemployment, and welfare of labour. It covers conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits (Constitution of India 1949 ss 22–24). With over 100 state-specific labour acts and in excess of 50 centrally-legislated labour laws, India's labour laws are among the more restrictive in the world. With all these laws in practice there should be no exploitation of labour and their lives should be easy. But the actual picture is different from what is there on papers. Laws are there but implementation is something which is missing.

## Literature Review

The various source of literature was reviewed by researcher from where the work has been drafted and the sources which shaped the understanding during writing this paper.

- **Indian Labour Laws Reforms Needed in Manufacturing Sector-** This article discusses the labour reforms needed in manufacturing sectors. As Rigidities in existing Indian Labour Market is mainly resulting from outdated labour regulations. They make labour adjustment by firms in response to demand and technology shocks, very difficult.
- **Labour law, enforcement and the rise of temporary contract workers: empirical evidence from India's organised manufacturing sector** – This article uses the state level amendments to Industrial Dispute Act of 1947, and the average size of total number of labour inspectors for each state, as independent variables to capture the variation in labour regulations and enforcement intensity across thirty-one Indian states for the period 2000–2007. It helps us understand that firms prefer to employ excessive number of contract workers to avoid overall compliance costs of regular workers as stipulated by the Indian labour laws.
- **Off-Shored Services Workers: Labour Law and Practice in India** – This article explains the condition of labour issues relating to the off-shored BPO/ITeS sector in particular, and the globalisation of work more generally. Labour in the BPO/ITeS sector in India is subject to a high level of formal legal protection, yet enforcement is lacking. Workers often move to a new employment rather than trying to enforce rights, as a result of corruption, exemptions, and delay. Trade unions are protected, and rights to membership are guaranteed, yet trade unions are often not recognised by employers, and union members continue to suffer victimisation.
- **Labour Market Regulations and In-formalisation of Migrant Worker: Evidence from Indian Manufacturing Sector** – Paper indicates that informal migrant labour is used to evade the social security provisions laid down under the Industrial Disputes Act, 1947 among other legislation. Since informal workers fall outside most of the pro-worker labour laws, the in-formalisation has led to serious repercussions on the welfare of migrant workers. Which shows

there is an urgent need for implementation machinery of Labour law and job security regulations should be extended to migrants.

- **Labour standards in global value chains in India: the case of hand knotted carpet manufacturing cluster** – This paper present the actual working conditions of labour in carpet manufacturing industry. Most of the employers and employees are not aware about labour laws or labour code implemented by State of India. How these factories escape the labour laws is quite revealing. As they never revealed the number of weavers working in any of the factories, and do not keep any register bearing the profiles of the weavers nor they take attendance of the weavers in any day. Factory worker's work range from 12- 14 hours a day and they can be fire and fire anytime without retrenchment benefits. Workers are also forced to work as they are forced to take a loan from employer against their will and force to sign unfair contracts.
- **Labour Regulation And Employment Dynamics At The State-** This article talks about to which extend different states have gone to make new labour laws and implement them. Yet employers have found ways to counter this by using capital intensive means of production, switching to less protected category of labour, keeping plant size below the thresholds at which key laws become applicable.
- **Tainted Carpets: Slavery and Child Labour in India's Hand- Made Carpet Sector-** This research paper shows the alarming facts about child labour in India. It provides evidence of bonded labour, human trafficking and slavery at some incidences. It is safe to be stated that the working conditions faced by children in the carpet sector and among the worst faced by any of the workers.

Apart from these journal articles the researcher had taken support of various newspaper articles and websites to support the claims made by the researcher during the course of this paper and for the holistic development of the arguments presented by the paper.

## Problem Statement

In the research paper, the purpose of study is to identify the gap and loopholes between labour laws documented on paper records and the difference between the implementation of the same along with various causes for these differences.

## Objectives

- To understand legal compliances and labour laws in India.
- To identify mostly violated labour laws.
- To identify the gap between the stated laws and legal compliances and actual implementation.
- Analysing and highlighting the loopholes and suggesting ways to overcome them.

## Methodology

For research purpose secondary data has been collected from government reports, municipal corporation books and publications, previous research studies, and information available on internet. Qualitative technique has been used by researcher. This include exhausting all the sources available, gathering data from them, compiling the relevant document so as to analyse and arrive at a complete understanding of evolution of labour laws, how the laws stated is different from the laws that are actually in practice.

Area of study: Following are the acts which are study area of this paper.

- Child labour (Prohibition and regulation) Act 1986.
- The Industrial Employment (Standing Orders) Act 1946
- Minimum Wages Act 1948

These Act helps in providing a holistic view about the working conditions and lives of labour class in India.

## Results and Findings

- There are 40 central labour laws under ministry of labour and employment.
- Different states have brought about different kinds of amendments to centrally enacted labour laws.
- The degree of enforcement varies across states.
- Evidences has been found of child labour, bounded labour and human trafficking.
- No proper checking mechanism and corrupt officers has made the easy escape route for employers.
- 3,215 cases of forced labour under Indian law; est. 45% prevalence in carpet manufacturing industry.
- Average work day is 10 to 12 hours, six to seven days a week.
- Women and children are paid 12% to 32% less than an adult male.
- From Thousands of crores raised by Delhi state government of welfare of urban labourers through construction cess paid by home buyers Rs. 27,000 crores collected remain unspent.
- Under the Child labour (Prohibition and Regulation) Act 1986, the hazardous employments included 18 occupations and 66 processes listed in the schedule. But the process of determining hazardous for children needs to be scientific and evidence-based.
- Lack has knowledge about laws and rights in unorganised sector.
- Poverty and lack of education has also played an important role in vicious cycle of bounded labour.

## Limitations

- Being an academic research study, it is limited in terms of cost, knowledge and findings.
- This study is confined only on secondary data, and therefore it may not be generalized.

## Conclusion

India is one of the fastest developing economics in the world currently because of its manufacturing and service sector. India's large population also plays a very large role in this and most of that population is working. To

protect the interest of its working or labour class there are various pro-labour laws which have been implemented. But most of the laws are very old and needs to be changed keeping in mind the need of the hour. Various laws are overlapping and can be misinterpreted by the employers to find an easy escape plan. With all the government initiated still little change can be found in living and working conditions of people in some parts of our country. Corruption at various level and different organizations add to this problem. Ineffective or lack of checking mechanism for proper implementation of these laws are very essentials.

What kind of future India dreams about if it is still not able to overcome the sad realities of child labour, bonded labour, untold stories of human trafficking and vicious cycle of poverty. There is serious question that we need to answer as what we are guiding our future generations into a dark cycle of exploitation and misery or bright future full of opportunities.

## References

- Dougherty, S. (2008), "Labour Regulation and Employment Dynamics at the State Level in India", OECD Economics Department Working Papers, No. 624, OECD publishing, © OECD.
- Kumar,R. Kumari,R. “ Management of labour Laws: A Myth and Truth”, Excessed on Dec 27, 2018.
- Gosh,A. (2017), “Political Federalism and Innovation: Are de jure Labour Regulations Absolute?”, Asian journal of law and economics.
- Josh,A.V. (2015), “Labour Employment and economic growth in India”, Indian Journal of Agricultural Economics; Oct-Dec 2015; 70, 4; ABI/INFORM Global pg. 505
- Sofi.I.A, Khan,M.I, Kurnoo,M.H, Khachoo, A.Q.(2016), “Labour Market Regulations and In-formalisation of Migrant Worker: Evidence from Indian Manufacturing Sector”, Asian journal of Law and Economics, 2016; 7(2): 169–195.
- Giri,A.K, Singh,S.P.(2016), “Labour standards in global value chains in India: the case of handknotted carpet manufacturing cluster”, Asian J Bus Ethics (2016) 5:37–52.
- Alam,A , Shabnam,S.(2015), “Indian Labour Laws Reforms Needed in Manufacturing Sector”, Anusandhanika / Vol. VII / No. II / July 2015 / pp 93-98
- Penfold.C. “ Off-Shored Services Workers: Labour Law and Practice in India”, The Economic and Labour Relations Review Vol. 19 No. 2, pp. 91–106
- Sankalp,R.S.(2015), “Labour law, enforcement and the rise of temporary contract workers: empirical evidence from India’s organised manufacturing sector”, Eur J Law Econ, 42:157–182.
- Choudhray,Amit.A. (2015,8,22), “SC ticks off states for 'misuse' of labour welfare cess”, Times Of India,  
[http://timesofindia.indiatimes.com/articleshow/48602798.cms?&utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/48602798.cms?&utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

- Mehra, P.(2016,11,26), “ No country for child”, The Hindu BusinessLine, <https://www.thehindubusinessline.com/specials/india-file/no-country-for-a-child/article21697358.ece1>
- Bahree,M.(2014,2,5), “Your Beautiful Indian Rug Was Probably Made By Child Labor”,Forbes,<https://www.forbes.com/sites/meghabahree/2014/02/05/your-beautiful-indian-rug-was-probably-made-by-child-labor/#7c76bf4e74a0>
- Kara, S.(2014), “Tainted Carpets Slavery and child labor in India’s Hand-made carpet Sector”,<https://cdn2.sph.harvard.edu/wp-content/uploads/sites/5/2014/01/Tainted-Carpets-Released-01-28-14.pdf>

