INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 6 AND ISSUE 8 OF 2026

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

"BREAD AND ROSES": PROTECTION OR PHANTOM OF JUDICIARY

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BEST CITATION – MADHURIMA DE & RUPREKHA CHATTERJEE, "BREAD AND ROSES": PROTECTION OR PHANTOM OF JUDICIARY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (8) OF 2026, PG. 154-163, APIS – 3920 – 0001 & ISSN - 2583-2344. DOI - https://doi.org/10.65393/IJLRV6I816

Abstract

"The power of the working class is the hope of the nation" —Van Jones.

Work enriches mind, will and emotions & leads to the ripeness of society. Without the right to work our vaunted political liberty becomes mockery. It is rightfully said by Danis Waitley that work is not just about making a living, it is about making a life. One who makes the life of a nation by their responsive work are need to be protected by the nation itself not for them but for the amelioration of mankind. It is the bit part of judiciary to palisade the workers. Indian Judiciary has made essay to shield them by implementing a set of laws to ensure fair wages, equitable condition of work, sickness benefits, disease or accidental compensations etc. The passing of laws like Employees Compensation Act 1923, Payment of Wages Act 1936, Factories Act 1948, Industrial Dispute Act 1947 have imparted redolent revamping because the informalization of work is the thrust of ongoing process of globalization. Guaranteeing an entitlement to work represents societal concern towards workers. The Judiciary has the authority to execute the requirements of the act and make sure the industry honour their commitments in securing worker's rights as there is a category of persons in whom the right inheres and the other is of persons against whom rights be enforced and thus the relationship that enchains those entitled to the right to those obliged to enforce it is rarely absolute. This study highlights the rights that are strongly protected by the judiciary then attempts has been made to develop people's understanding in what is right to work & how to exercise it. This study tries to unravel the paucities that are there in Indian system & how far the judiciary is booming to protect working sector in India. This study aims to establish a nexus between judiciary's the success & failure.

Keywords: Worker's rights, Industrial dispute, Wage, Globalization, Employees Compensation.

1. Introduction

> *"It is a denial of justice not to stretch out a helping hand to the fallen; that is the common right of humanity."*
> - Seneca the Elder[135]

It is your toil silent, relentless, largely unrecognised that underwrites the grand edifice of civilisation. The nation, the state, a collective or even an individual stands nowhere without the cumulative sweat of many brows. When Karl Marx, the most acclaimed critic of capitalism, observed that the job makes the person, he was not merely advancing an economic thesis; he was articulating a profound philosophical truth: that purposeful, constructive labour is the very crucible of human dignity and self-realisation. A man's working experience shapes his attitudes,

[135] *Justice Quotes*, Jesuit Resource, *available at*: https://www.xavier.edu/jesuitresource/online-resources/quote-archive1/justice-quotes (last visited May 14, 2024).

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his sense of worth, his place in the world. To deny a worker fair wages, safe conditions, compensation for sickness or accident is not merely a contractual default it is a moral catastrophe. It refuses human dignity and deprives society of its most foundational resource. Even at the barest subsistence level, civilisation cannot endure without its working force. The imperative, therefore, falls upon the judiciary and upon the law itself to protect those upon whose backs the republic is built.

1.1 Historical Background

Labour law governs the legal rights and duties of workers, unions, and employers, covering areas like industrial relations, workplace safety, and employment standards such as working hours and minimum wage. It has two main branches: collective labour law, concerning unions and employer relationships, and individual labour law, focusing on employee rights and contracts. The labour movement has significantly shaped these laws since the industrial revolution. The International Labour Organization (ILO) was founded after World War I as part of the League of Nations to address labour issues. Post-war efforts, including the Whitley Commission[136] and the British Labour Party, emphasised the protection of labour unions and international cooperation on labour rights. At the end of World War I, two main labour visions emerged: the International Federation of Trade Unions (IFTU) pushed for socialism, while the American Federation of Labor (AFL) focused on President Wilson's Fourteen Points. The Berne Conference recommended an international body to protect workers. The British wanted mandatory international labour laws, but the Americans preferred non-binding recommendations. The American approach was adopted, and the ILO's principles were included in the Treaty of Versailles in 1919. The first International Labour Conference (ILC) in October 1919 in Washington, DC, set conventions on work hours, unemployment, and more. Albert Thomas was the first ILO Director-General. The ILO joined the UN in 1946.

In India, labour law began under British rule with acts like the Factories Act of 1883[137], which introduced measures like the eight-hour workday. The Trade Dispute Act of 1929[138] regulated employer-worker relations. Post-independence, India's labour laws promoted cooperation between labour and capital, resulting in the Industrial Disputes Act of 1947, a key law still in effect.

1.2 Who is a Worker? Defining the Subject of Protection

It is of essential importance to understand the concept of worker. Considering the legal definition, a, worker according to the Industrial Disputes Act, 1947

> any person (except an apprentice as defined under clause (aa) of section 2 of the Apprentices Act, 1961) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied.[139]

The Minimum Wages Act, 1948[140] defines an employee under Section 2(i) as a person employed for hire or reward to do skilled or unskilled, manual or clerical work for wages.[141] This definition resembles the ID Act definition, yet a critical distinction prevails: under the Minimum Wages Act, protection extends only to scheduled employments,[142] whereas the Industrial Disputes Act covers all industries without such limitation. Workers' rights, broadly understood, encompass the right to work of one's choice, right against discrimination, prohibition of child labour, just and humane conditions of work, social security,

[136] *Whitley Commission and Fixation of Wage Period*, Studocu, *available at*: https://www. studocu. com/in/ document /osmania-university/semester-34/whitely-commission-and-fixation-of-wage-period/12414538 (last visited May 14, 2024).
[137] The Factories Act of 1883.
[138] Trade Dispute Act of 1929
[139] The Industrial Disputes Act, 1947 (Act 14 of 1947).
[140] The Minimum Wages Act,1984 (Act 11 of 1984).
[141] *Ibid.*
[142] *Ibid.*

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protection of wages, redress of grievances, right to organise and form trade unions, collective bargaining and participation in management. These rights are not charitable endowments from the state they are the lifeblood of a functional democracy and a just economy.

2. Constitutional Provisions with Regard to Labour Laws

The Indian Constitution is not merely[143] a political charter; it is a social document of soaring ambition. It envisions a republic in which the dignity of labour is inviolable and the exploitation of workers is constitutionally prohibited. The framers of the Constitution were acutely aware that political independence meant little if the millions who toiled in factories, mines, and plantations continued to labour without rights, dignity, or recourse.

The constitutional architecture protecting labour rights operates on two planes the enforceable Fundamental Rights enshrined in Part III[144], and the non-justiciable but constitutionally imperative Directive Principles of State Policy in Part IV[145]. Together, they create a framework that the Supreme Court has increasingly treated as a unified constitutional ethos rather than two disconnected compartments. Article 14[146] guarantees equality before law and equal protection of the laws a provision that courts have invoked to strike down arbitrary dismissals and discriminatory wage structures. Article 16[147] ensures equality of opportunity in matters of public employment. Articles 19(1)(c) and 19(1)(g)[148] guarantee the freedoms of association (from which the right to form trade unions flows) and to practise any profession or carry on any occupation, trade or business. The abolition of forced labour under Article 23 and prohibition of child labour in hazardous employment under Article 24 constitute negative rights of immense consequence walls erected by the Constitution against the most egregious forms of worker exploitation.

The Directive Principles in Articles 39 through 43A[149] speak directly to the social and economic condition of the working class. Article 39(a) directs the state to ensure that all citizens have the right to an adequate means of livelihood. Article 39(d) mandates equal pay for equal work. Article 39(e) protects workers men, women, and children from forced by economic necessity to enter occupations unsuited to their age or strength. Article 41 recognises the right to work, to education and to public assistance. Articles 42 and 43 direct the state to secure just and humane conditions of work and a living wage. Article 43A, introduced by the 42nd Amendment, directs the state to take steps to secure participation of workers in the management of industries. Labour under the Concurrent List under Schedule VII of the Constitution, allowing both Parliament and state legislatures to legislate on the subject.[150] This dual legislative competence has resulted in a rich, if sometimes contradictory, body of labour law. The central government has enacted most significant legislation, while states have supplemented with local regulations addressing regional economic realities.

The constitutional vision of labour rights was crystallised by the Supreme Court in Unni Krishnan J.P. *v.* State of Andhra Pradesh[151] when the Court declared that the right to life under Article 21 must be read expansively to include the right to livelihood. This jurisprudential development transformed labour rights from policy aspirations to constitutional entitlements, breathing enforceable content into what might otherwise have remained exhortatory provisions.

[143] The Constitution of India, 1950.
[144] *Id* at Part III.
[145] *Id* at Part IV.
[146] *Id* at art. 14.
[147] *Id* at art. 16.
[148] *Id* at art.19.
[149] *Id* at art.39 & 43A.
[150] *Supra* note 11.
[151] 1993 AIR 2178, 1993 SCR(1) 594.

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3. Legislative Framework: The Architecture of Worker Protection

The legislative protection of workers in India is spread across a broad and layered statutory framework. Over several decades, Parliament has enacted laws covering every significant dimension of the employment relationship from the manner of hiring and wages, to safety at the workplace, to the terms of separation. Taken together, these statutes represent the Indian state's commitment imperfect but sincere to the ideal enshrined in the title of this paper: that workers deserve not merely bread, but roses too; not merely survival, but dignity.

3.1 Industrial Relations Legislation

The Trade Unions Act, 1926[152] was the first systematic legislative recognition of the workers' right to organise. It conferred legal status upon registered trade unions, immunised their activities from tortious liability, and created a framework within which collective bargaining could take root. The Industrial Employment (Standing Orders) Act, 1946[153] compelled employers in industrial establishments to define and publish the conditions of employment, thereby reducing the scope for arbitrary and opaque managerial discretion. The Industrial Disputes Act, 1947[154], remains the cornerstone of Indian collective labour law. It created institutional machinery Works Committees, Conciliation Officers, Labour Courts, Industrial Tribunals and the National Industrial Tribunal for the prevention and settlement of industrial disputes. The Act's provisions on lay-off, retrenchment, and closure have been particularly significant in protecting workers from the vicissitudes of economic cycles. Recent legislative interventions have consolidated several of these into the Industrial Relations Code, 2020,[155] though its implementation continues to evolve.

3.2 Wage Protection Laws

The Payment of Wages Act, 1936[156] was enacted to ensure that wages reach workers on time and without unauthorised deductions a seemingly basic guarantee that was routinely violated in the pre-independence era and, indeed, for decades thereafter. The Minimum Wages Act, 1948[157] took a further step by prescribing minimum rates of wages for scheduled employments, recognising that freedom of contract is a fiction when one party to the contract is desperate and the other is powerful. The Payment of Bonus Act, 1965[158] introduced a statutory right to bonus, transforming what had previously been a gratuitous managerial largesse into a legally enforceable entitlement. The Code on Wages, 2019[159] has since amalgamated these instruments into a single statute, extending minimum wage protections to all workers across all sectors a significant step toward universality of coverage.

3.3 Working Conditions and Safety

The Factories Act, 1948[160] imposed comprehensive obligations on factory occupiers with respect to health, safety, and welfare of workers. Its provisions on adequate lighting, ventilation, sanitation, fire safety, and hours of work reflect an understanding that the workplace is where human life is most vulnerably exposed to industrial hazard. The Plantation Labour Act, 1951[161] extended analogous protections to an historically marginalised workforce. The Mines Act, 1952[162] addressed the particular dangers of underground labour. These statutes have not merely created paper obligations. Courts have consistently interpreted them purposively to extend their protective reach. In cases involving hazardous processes,

[152] The Trade Unions Act, 1926 (Act 16 of 1926).
[153] Industrial Employment (Standing Orders) Act, 1946 (Act 20 of 1946).
[154] *Supra* note 7.
[155] The Industrial Relations Code, 2020 (Act 35 of 2020).
[156] The Payment of Wages Act, 1936 (Act 4 of 1936).
[157] *Supra* note 8.
[158] The Payment of Bonus Act, 1965 (Act 21 of 1965).
[159] The Code on Wages, 2019 (Act 29 of 2019)
[160] The Factories Act, 1948 (Act 63 of 1948).
[161] The Plantation Labour Act, 1951 (Act 69 of 1951).
[162] The Mines Act, 1952 (Act 35 of 1952).

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the Supreme Court has gone so far as to read the right to a safe workplace as a component of the fundamental right to life under Article 21, thereby elevating occupational safety from regulatory compliance to constitutional imperative.

3.4 Equality, Maternity and Social Security

The Maternity Benefit Act, 1961[163] and the Equal Remuneration Act, 1976 represent the law's engagement with gender justice in the workplace. The former grants women workers paid leave before and after childbirth and prohibits dismissal on grounds of pregnancy a recognition that reproductive rights and labour rights are inseparable. The latter mandates equal remuneration for men and women performing the same or similar work. The social security framework comprising the Workmen's Compensation Act, 1923 (now the Employees' Compensation Act), the Employees' State Insurance Act, 1948,[164] and the Employees' Provident Fund & Miscellaneous Provisions Act, 1952[165] creates a safety net against the catastrophic risks of work-related injury, illness, and old age. These laws recognise that the worker who has given their labour to the economy should not be abandoned when that labour is no longer possible.

The Bonded Labour System (Abolition) Act, 1976,[166] the Child Labour (Prohibition and Regulation) Act, 1986,[167] and the Children (Pledging of Labour) Act, 1933[168] address the darkest corners of labour exploitation practices that reduce human beings to property and strip children of their childhoods. These statutes are supplemented by constitutional prohibitions and their enforcement has been considerably shaped by judicial activism.

4. Impact of Judiciary

The judiciary is one of the three important pillars of Indian democracy. The power of judicial review is a powerful instrument by which arbitrary power can be curtailed. Indian Judiciary spreads the wings of justice throughout the country. The Constitution guarantees social, economic and political justice in its preamble. While social justice removes social imbalances, it provides power to raise the voice against injustice and in favour of one's rights, claims and needs. Economic justice guarantees the banishment of poverty through equal distribution of national resources and socio-economic harmonisation. Indian labour has made a significant contribution towards the overall development of the country, and it has been the duty of the judiciary to ensure that this contribution is not made at the cost of dignity, safety, or fair recompense.

4.1 Landmark Judicial Pronouncements

The Indian judiciary has delivered numerous seminal judgements that have shaped the content and scope of workers' rights in India. An attempt is made here to survey the most significant of these across the full spectrum of labour law.

In Consumer Education and Research Centre and Others *v.* Union of India and Others,[169] the Supreme Court enunciated one of its most expansive readings of the right to health as a fundamental right of workers. The Court ruled that a worker's health and vitality should not be sacrificed in order to fulfil a compelling need to work in an economic sector that poses health risks to the worker and their dependants. The right to health and medical care, whether during employment or after retirement, was held to be a fundamental right under Article 21 read with Articles 39(e), 41, 43, and 48-A, giving the worker's life meaning and purpose with dignity.

In S. Palanivel *v.* Deputy Commissioner of Labour,[170] the Madras High Court addressed the interface between the Employees' State Insurance Act, 1948 and the Employees' Compensation Act, 1923, ruling that employees

[163] The Maternity Benefit Act, 1961 (Act 53 of 1961).
[164] The Employees' State Insurance Act, 1948 (Act 34 of 1948).
[165] The Employees' Provident Fund & Miscellaneous Provisions Act, 1952 (Act 19 of 1952).
[166] The Bonded Labour System (Abolition) Act, 1976 (Act 19 of 1976).
[167] The Child Labour (Prohibition and Regulation) Act, 1986 (Act 61 of 1986)
[168] The Children (Pledging of Labour) Act, 1933 (Act 2 of 1933).
[169] 1995 AIR 922, 1995 SCC (3) 42.
[170] C.M.A Nos. 204 of 2020 and 2523 of 2017.

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whose salaries exceed the ceiling limit under the ESI Act are not excluded from all compensation they remain entitled to remedy under the Employees' Compensation Act. This decision ensured that no worker falls into a legislative gap between two protective statutes.

The High Court of Jammu and Kashmir in National Insurance Company *v.* Dheeraj Singh & Ors.[171] addressed the scope of disablement compensation, holding that an employee may be entitled to compensation under section 4(1)(b) of the Employees' Compensation Act, 1923 even where the injury causing disablement met the criteria for total disablement, notwithstanding that it was not a scheduled injury. This expansive interpretation prevented the narrow construction of the Act from defeating its compensatory purpose.

In Nusrat Jahan *v.* The Managing Director,[172] the Karnataka High Court reinforced the integrity of the compensation scheme under the Employees' Compensation Act by holding that any payment made outside of Sections 8, 28, and 29 of the Act cannot be deducted from the statutory compensation due. The Court relied on several precedents including the Himachal Pradesh High Court's decision in State of Himachal Pradesh v. Guddi Devi.

The nuances of total disablement and the lived realities of physical labour were sensitively addressed in Indra Bai *v.* Oriental Insurance Company Ltd. & Anr.[173] A labourer engaged in loading and unloading was certified by the Medical Board as unable to work following a complete loss of grasp in her left hand. The key issue before the Supreme Court was whether she could be considered fit for duty with only one functional hand. The Court held that loading and unloading is ordinarily a two-handed occupation and that there was no material on record to suggest she could perform her duties single-handedly or had any specialised skill enabling her to do so with one hand. The High Court had erred by reducing the assessed disability from 100% to 40%. The Supreme Court restored the Commissioner's order in full, holding that such mechanical reduction of assessed disability without adequate reasoning amounted to an error of law. This ruling is a powerful affirmation of the principle that courts must not permit technical legal reasoning to obscure the human reality of industrial injury.

4.2 Rights to Safety and Dignity at the Workplace

The right to a safe workplace has been elevated to constitutional status through a long line of judicial decisions. Section 41-H of the Factories Act, 1948,[174] which confers upon workers the right to warn against imminent danger in hazardous processes, found its resonance in the judgement of Finch *v.* Telegraph Construction and Maintenance Co. Ltd.,[175] where the court recognised that the worker's right to refuse dangerous work is not insubordination but a legitimate exercise of the right to life.

Women workers' rights to dignity and protection from discrimination were affirmed in B.N. Gamadia *v.* Emperor,[176] an early but enduring precedent that reinforced the principle that gender-based workplace discrimination is legally untenable. The regulation of night work for women a vexed question at the intersection of protective legislation and equality was addressed in Triveni K.S. and Others *v.* Union of India and Ors[177] and Omana Oomen and Others *v.* F.A.C.T. Ltd.,[178] where the courts grappled with balancing the autonomy of women workers with the state's protective obligations.

4.3 Child Labour and Vulnerable Groups

The prohibition of child labour is perhaps the most morally unambiguous commitment of Indian labour law. In the celebrated case of M.C. Mehta *v.* State of Tamil Nadu,[179] the Supreme

[171] AIRONLINE 2020 J AND K 396.
[172] MFA 200839/2017 (WC).
[173] AIRONLINE 2023 SC 549.
[174] *Supra* note 28.
[175] (1949) 1 All ER 452 (CA).
[176] AIR 1941 Bom 288.
[177] (2003) 7 SCC 363.
[178] 1991 (1) LLJ 26 (Ker).
[179] (1996) 6 SCC 756

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Court held emphatically that children below the age of fourteen years cannot be employed in any hazardous industry, mine, or other work. The Court went further and issued a series of directions for the rehabilitation of rescued child labourers, the creation of Child Labour Rehabilitation-cum-Welfare Funds, and the prosecution of employers who violated the prohibition. This judgement transformed the law from a paper prohibition into a living enforcement regime.

The protection of bonded labourers those entrapped in conditions of debt bondage that amount, in substance, to modern slavery has also been the subject of active judicial intervention. The Supreme Court, reading the Bonded Labour System (Abolition) Act, 1976[180] alongside Article 23 of the Constitution, has repeatedly directed state governments to conduct surveys, secure releases, and provide rehabilitation to bonded labourers, recognising that formal legal abolition is meaningless without effective implementation.[181]

4.4 Welfare Provisions and Leave Entitlements

Even seemingly mundane welfare provisions have received judicial attention. In The State *v.* Alisaheb Kashim Tamboli,[182] it was held that the failure to mark a water pot in a factory as 'drinking water' in any language constituted a contravention of Section 18(2) of the Factories Act, 1948.[183] The decision may appear minor in isolation, but it articulates an important principle: that health and welfare provisions in labour legislation are not directory but mandatory, and their violation however technical it may appear is an offence. The weekly day of rest guaranteed under Section 52 of the Factories Act[184] received authoritative interpretation in John *v.* State of West Bengal,[185] where the Supreme Court held that the section's opening words constitute a prohibition not merely a guideline against requiring or permitting an adult worker to work in a factory on the first day of the week. The right to rest is not a concession to idleness; it is a recognition that a worker is a human being, not a machine. The right to leave with wages one of the most fundamental protections against the compulsion of continuous toil was addressed in B.Y. Kshatriya (P) Ltd. *v.* Union of India,[186] where the Supreme Court observed that the right to leave with wages under Section 79 of the Factories Act accrues in favour of the worker or deemed worker as a statutory entitlement, not a managerial favour. The right to be absent from work without economic penalty is inseparable from the right to the fullness of life that labour law strives to secure.

5. Failures, Lacunae and the Pending Challenge

From the cases surveyed above, it is evident that the judiciary has made valiant and wide-ranging efforts to protect workers across an impressively diverse range of contexts from compensation for industrial accidents to the right to drinking water, from child labour to women's equality, from the right to rest to the right to a safe workplace. And yet, to offer an honest account of judicial protection for workers in India, one must also reckon candidly with its failures, its limitations, and the structural conditions that circumscribe its effectiveness.

5.1 The Burden of Backlog

India is witnessing a staggering accumulation of unresolved labour disputes. As of the data published in 2020, some 8,008 cases and 2,257 applications were pending with the 22 Central Government Industrial Tribunals-cum-Labour Courts established under the Industrial Disputes Act, 1947. The Ahmedabad Tribunal-cum-Court had the highest pendency with 950 cases, followed by Jabalpur with 774. These numbers represent not merely statistical abstractions but human lives suspended in procedural limbo workers who raised a legal claim and then waited, and waited, and waited.

[180] The Bonded Labour S.ystem (Abolition) Act, 1976 (Act 19 of 1976).
[181] *Ibid.*
[182] 1995 Cri LJ 2187 (Bom).
[183] *Supra* note 42.
[184] *Ibid.*
[185] AIR 1966 Cal 493.
[186] AIR 1963 SC 1591.

Justice delayed, as the aphorism rightly warns, is justice denied.[187] The problem of judicial delay in labour cases is compounded by the limited number of Labour Courts and Industrial Tribunals in relation to the size of the workforce and the volume of disputes. Many states have failed to fill vacancies in these specialised adjudicatory bodies in a timely manner. The consequence is that workers particularly from the unorganised sector, who lack the institutional support of trade unions and the financial resources to sustain prolonged litigation are effectively excluded from the very judicial protection that the law promises them.

5.2 The Informalisation Problem

The most profound structural challenge facing labour law in contemporary India is the sheer scale of informal employment. An overwhelming proportion of India's working population estimated at over 90% is employed in the informal or unorganised sector, where the writ of labour legislation runs weakly if at all. Contract workers, home-based workers, platform economy workers, migrant labourers, and domestic workers inhabit a legal twilight where minimum wage guarantees, safety regulations, and social security entitlements exist on paper but not in practice. The informalisation of work has been accelerated by globalisation and the attendant pressure on enterprises to reduce labour costs. In this environment, employers have incentives to restructure employment relationships in ways that formal workers become contract workers, contract workers become self-employed, and the self-employed become invisible to the law. Courts can adjudicate disputes when they are brought before them, but they cannot, on their own, compel the informalisation of labour to reverse course.

5.3 Decline of Trade Unions and Collective Voice

A consistent theme in academic and empirical research on labour law enforcement in India is that vulnerable workers often do not trust the government and do not come forward to report labour law violations. The reasons are multiple and deeply entrenched: fear of employer retaliation, absence of legal awareness, geographical remoteness from adjudicatory bodies, inability to bear the cost and time of litigation, and a pervasive fatalism born of historical exclusion from formal legal institutions. This problem of access is compounded by the institutional asymmetry between employers and workers. Employers, particularly large enterprises, have legal departments, retainers, and the ability to exhaust litigation. An individual worker, or even a trade union, rarely possesses equivalent resources. The resulting asymmetry means that even when workers prevail in law, they may not prevail in practice: interim orders are ignored, appeals are filed to delay enforcement, and compliance is partial or conditional. Labour law has historically relied upon the countervailing power of trade unions to complement legal regulation. A robust union movement can negotiate directly with employers, mobilise workers to assert their rights, and represent workers before adjudicatory bodies. However, trade union density in India has declined sharply over the past three decades, particularly in the private sector. Contractualisation of the workforce, fragmentation of workplaces, and legislative changes that make union recognition and collective bargaining more difficult have all contributed to this decline. The weakening of collective labour power has a direct impact on the efficacy of judicial protection. Courts can vindicate rights once disputes reach them, but courts cannot substitute for the proactive, preventive, and organisational functions of a strong trade union movement. When workers are atomised and unorganised, the gap between legal entitlement and practical enjoyment of rights widens into a chasm.

[187] "8000 Cases Pending for Over 5 Years in Labour Courts, Tribunals," *The Hindu*, *available at*: https :// www.the hindu.com/news/national/8000-cases-pending-for-over-5-years-in-labour-courts-tribunals/article32661996.ece (last visited May 14, 2024).

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5.5 The Inspection Deficit and Strategic Enforcement

Labour law enforcement in India has long suffered from an inspection deficit—an insufficient number of labour inspectors relative to the number of establishments that require inspection, compounded by problems of corruption, political interference, and inadequate training. The result is that many employers operate for years without any meaningful inspection, during which violations of minimum wage, working hours, safety, and welfare provisions accumulate unchecked. While increasing the size of the labour inspectorate is necessary, it is not sufficient. Scholars and practitioners have increasingly argued for a shift toward strategic enforcement: identifying the sectors, enterprises, and practices that account for the greatest share of violations, targeting enforcement resources accordingly, and combining punitive action with employer incentives for voluntary compliance. The article's argument is that while increasing the size of the labour inspectorate and engaging in strategic enforcement are necessary, they are not sufficient on their own. Structural reforms in the law, in the economy, and in social relations are equally required.

6. The Road Ahead: Towards a More Efficacious Regime

The failures and lacunae identified above are not counsel for despair; they are a diagnosis that points toward a coherent reform agenda. The following proposals, drawing on the analysis in this paper, are offered as directions rather than blueprints the precise mechanisms of reform must be determined through democratic deliberation and careful legal crafting. First, raising the minimum wage to a level that genuinely reflects the cost of living a living wage rather than a bare subsistence wage would address one of the most fundamental forms of worker exploitation. The current minimum wage regime, fragmented as it is across states and sectors, creates race-to-the-bottom incentives and excludes millions of informal workers entirely. A universal floor wage, as recommended by several expert committees, would be a significant step forward. Second, updating health and safety standards to address the realities of the modern economy including the psychosocial hazards of precarious work, the ergonomic risks of digital labour, and the environmental hazards of the growing waste recycling sector would extend the protective ambit of the law to forms of harm that current statutes do not adequately address. Third, ending the exclusions that deny workers coverage under protective statutes particularly the exclusion of workers in establishments below a specified size would bring millions of currently unprotected workers within the ambit of the law. There is no principled reason why a worker in an establishment of nine persons should have fewer rights than one in an establishment of ten. Fourth, strengthening the right of workers to organise through trade union recognition legislation, mandatory collective bargaining in sectors above a specified size, and protections against anti-union discrimination would restore the institutional infrastructure that labour law presupposes but cannot itself provide. Without collective voice, individual legal rights remain formal entitlements rather than practical realities. Fifth, investment in specialised fast-track labour courts with adequate human and material resources, combined with legal aid schemes that bring representation within the reach of individual workers, would address the access to justice deficit that presently renders judicial protection illusory for the most vulnerable. Sixth, the regulation of platform economy, a rapidly growing sector that operates in a legal grey zone, treating workers as independent contractors while exercising extensive control over their labour requires urgent legislative attention. Courts in several jurisdictions have begun to address this issue through creative interpretation of existing statutes, but comprehensive legislative solutions are needed.

7. Conclusion

The enforcement of labour regulations in the modern workplace is an ever-evolving challenge in light of changing workplace realities. The increasing complexity of the regulatory framework, as a result of the growth of the informal sector, the weakening of the employment relationship, the weakening of trade unions and the addition of new workplace hazards, has meant that the law has played an important role in the enforcement of workers' rights under labour law. The absence of labour and employment standards has allowed firms to engage in cost reduction strategies, so these need to be addressed. Raising the minimum wage, improving health and safety regulations, removing exemptions that are not covered by regulations and enhancing workers' right to associate through labour law reform are necessary reforms that will improve compliance and the competitiveness of compliant companies. However, low-status workers don't trust the government to respond to labour violations. What the article suggests is that while expanding the labour inspectorate and undertaking strategic enforcement is important, it's not enough.

The title of this paper 'Bread and Roses' is derived from the slogan used by the women workers in the Lawrence textile strike in 1912 in Massachusetts, who were not merely fighting for bread but for roses too. One hundred years later, in a half continent, in a much more complex economy, they want the same. Indian workers want bread: a livelihood, a safe workplace, health care for illnesses and accidents, pensions. But they also want roses: dignity, respect, power, acknowledgement that work is not a commodity but part of the workers' lives. Indian courts have heard this cry, responded to it in remarkable ways and created a jurisprudence that makes worker protection constitutional. But courts cannot transform social and economic relations of exploitation. They are, as the paper's title also suggests, protective but the protection of the powerful is not justice for the oppressed. India's labour law will be realised not when the courts protect rights after they are attacked, but when workplaces change so as to avoid attacks.