[Text of the Inaugural Address
by R.C.Lahoti, Former CJI
at the workshop on
"New Challenges and Responsibilities of Management and Trade Unions; Impact of Recent Judicial Pronouncements"
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I deem it a matter of pleasure and honour for me to be associated with the inauguration of this workshop on "New Challenges and Responsibilities of Management and Trade Unions; Impact of Recent Judicial Pronouncements" organized by the National Labour Law Association.

Some eminent economists have given labour the status of 'human capital', no less significant than the material capital. This human capital is an essential means of production into which additional investments yield additional output. The skills and dexterity (physical, intellectual and psychological etc.) of labour are the quality traits which have earned it the recognition of being human capital.

It is expected of the enlightened section of the society to remain always conscious of the emerging issues and problems so as to analyse the same and find solutions within the rule of law. Any legal system, including the administration of labour laws and functioning of industrial system, has its own complexities and many parts, many players and many facets. How the system and the players react to each other and to the rules which sometimes they create and which govern them provide the charm and activity in life. In a liberal democracy, the organized forces taking advantage of the flexibility of the system, try to pull- and at times also twist- the rope of system to their own advantage. The legislature and the judiciary are undoubtedly guided by the considerations of propriety, expediency and public policy; yet, the fact remains that the legislature takes its own time in thinking and acting, often reluctant to act, in spite of justification for consideration of having popularity with one section of society which suits to the rulers. On the other hand, the judges do not fail to avail any opportunity of making new law in guise of interpreting a statute or adjudicating upon the questions of constitutional validity because they feel that they must act before it becomes too late. All these factors make the human decision making process highly complex.

The Industrial Dispute Act, 1947 in particular, and several Central and State legislature in general, have been enacted from time to time aiming at reaching the coveted goal of industrial peace. Industrial disputes are sought to be resolved informally and at the earliest. The trend of laws and judicial decisions has been generally to treat the workers as weaker section of society and protect them against exploitation and victimization at the hands of employers. While discussing the industrial jurisprudence as a subject often the employer and the employees or labour are designated as two forces fighting with each other. But that is not necessarily so. There is urgent need for thinking on positive lines and fortunately that has already commenced. It cannot be denied that the employer and the employee are both an integral part of the productive system of the society which brings prosperity and the two forces taken together are the most formidable

chunk/constituent of the society. There is need of understanding the two as complementary to each other.

The emergence of globalization, liberalization and privatization has given rise to new challenges in the field of industrial management and adjudication. Pressure has mounted to reform labour laws. In the year 2002, the Second National Commission on Labour was set up by the Government of India which has made recommendations of far reaching consequences. The most important of them is that all matters calling for adjudication and referable to individual workers, of whatever nature they may be, should be determined by having recourse to the Grievance Redressal Committee or through conciliation, mediation and arbitration before judicial adjudication. However, any positive steps in the direction of giving legislative shape to the recommendations of the Commission is yet to be taken. Though it cannot be lost sight of that in the year 2001 the Trade Union Act, 1926 has undergone major amendments w.e.f. 2001; the Central rules framed under the Industrial Employment (Standing Orders) Act, 1946 have incorporated several new provisions of great significance.

Recent decisions of the Supreme Court clearly show a change in the approach of the court in the area of industrial relations. Having departed from the preceding clear cut pro-worker leaning in the interpretation of laws, while exercising their judicial review jurisdiction, the courts are now adopting a more balanced approach, discarding a leaning either way, in the interest developing such industrial jurisprudence as will give impetus to the new economic regime. The judicial trend is to take equal care of all segments including workers, employers and the society generally. This is reflected in several land mark decisions of the Supreme Court and the High Courts in the area of discipline and disciplinary procedure, voluntary and compulsory retirement, service contract and standing orders, compliance with principles of natural justice, contract labour, retrenchment and retirement and, in particular, the judicial opinion coming down heavily on uncalled for *bandhs*, demonstrations and strikes which have the effect of paralyzing societal life and causing serious inroads on safety and convenience of people at large, apart from raising several law and order issues. This change has been criticized by some as unwelcome and negative. The fact remains that in a country governed by rule of law all actions must confirm to rule of law and nobody should be allowed to break with impunity the discipline and smooth flow of civic life.

Industrial *strife* leaves its scars upon the employer–employee relationship and often leads to generation of feelings of distrust and antagonism which continue to persist. *Strife* in the basic industries and utilities jeopardizes the rights of public. The cutting of essential supplies like water, electricity and gas, and services like transportation and health are serious matters. Howsoever needed the industrial peace may be yet in our democratic way of life, we cannot afford to purchase peace at the cost of rights and values. Industrial peace must be achieved only by democratic means and by identifying the causes which lead to industrial unrest. There is difference between *keeping* industrial peace and *building* industrial peace. Most of the governments are happy with ‘keeping’ and pay less attention to ‘building’. Such an approach is destructive of the very purpose sought to be achieved.

The industrial law underscores that worker-employer relations are governed by the basic principles of rights and obligations. Industrial peace can neither be kept nor built except

by respect for these principles and unless the Government and the society believe in creating an atmosphere where the management and the workers- each do their bit and best for establishing peace and harmony in industry. For the courts, the issue of paramount significance is how the industrial disputes are addressed and resolved. The investor is not afraid of the issues but certainly makes evaluation of the available settlement mechanism before he decided upon making investment.

Labour adjudications consume a substantial part of judicial time and energy. There are certain issues which have grown age old such as the definition of industry, workmen, industrial dispute and a few relating to settlement procedures. Statutory amendments have not been able to solve the problem and judicial pronouncements are galore, also conflicting, adding complexity to the quantum of the issues.

It is common experience to find the legislature having defined the same expression differently in different legislations. There is an urgent need to codify the labour laws so that the relevant definitions are one and uniform, applicable under all the allied laws. The legislature while making the laws and the judiciary while interpreting the laws, both ought to adopt a balanced approach to protect the interest of the two sides, that is, the management and the labour, more importantly the interest of the society which is paramount. The enactment and interpretation of labour laws, both must be consistent with distributive economic justice and aim at enhancing productivity through industrial peace.

In this background, the present workshop is a welcome event. The workshop aims at examining the implications of such new employment related liabilities and responsibilities as have been indicated a little before. The employers ought not to resist compliance with laws and judicial pronouncements; rather they should volunteer to make compliance and set models or standards for others to emulate. The workers and trade unions ought to realize their role in building a modern developed India, of course without sacrificing their essential rights and interests. This workshop provides a forum to critically discuss and learn as to what and how the judicial pronouncements are going to be instrumental in facing the new challenges and responsibilities.

With these few words I have the pleasure of declaring this workshop inaugurated.
