

## GLOBALISATION : ITS IMPACT ON LABOUR LAWS

By

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### *Introduction*

The concept of new international economic order based on the free trade policies has globalised the state in its functioning by allowing foreign corporations, without ensuring proper legal controls for their deeds and misdeeds. The new economic policies that emerged in the wake of liberalized markets have driven the states away from its constitutional mandate of welfare and social justice. Social justice has become the first casualty of globalization. In the present economic and political context, the impact of the policies of globalization and liberalization has made strong dent in the lives of the people, in particular, the labour class in the third world. The policy of liberalization and globalization has worsened the situation in that labour has been reduced to a cheap commodity to be bought and sold in the market. The position of workers in both the organized and the unorganized sector remains the same. Globalization has intensified the marginalization of the labour who have been the poor victims of capitalism.<sup>1</sup>

### *Globalization and the State of labour*

The agenda of WTO and TRIPS makes it clear that the multilateral agreements concerning global trade under the cover of liberalization, globalization and privatization have relegated the labour laws, environmental standards, vital services like health and education *etc.*, to secondary position, thus depriving millions of people in the developing world their genuine human rights. Today the State is no more the prime actor in the macro-economic policies.

Globalization has been institutionalized with the establishment of the WTO, which

prohibits the countries to make any protective policy for the local industry and capital. It is deplorable to note that, with a view to attract foreign investment and under pressure from the multinational corporations and international institutions such as the World Bank and WTO, the Government has been initiating measures willing to amend the laws relating to labour welfare in favour of the employers.

In fact labour legislation in India provides for sufficient safeguards to protect the interests of the working class. The Industrial Disputes Act, which mainly aims at providing machinery for investigating and settlement of industrial disputes with the object to promote industrial harmony, contains various provisions which aim at strengthening the rights and interests of the workers. For instance, in the cases of lay-offs, retrenchments and closure of industrial establishments employing hundred and more workmen, and closure of an undertaking, adequate safeguards are being provided in the Act, like issue of prior notice, conducting of an enquiry into the facts and circumstances of each such case and exercise the discretion in deciding whether such closure or retrenchment *etc.*, shall be permissible or not, keeping in view the larger interest of the public. Of late induced by the globalization and liberalisation Agenda, the state is initiating measures to amend these laws, in order to protecting the interest of the employer rather than the workers, which is contrary to the constitutional spirit of social security and labour welfare.

### *Rights of Labour : The Human Rights Dimensions*

The international human rights instruments have long recognized and have well acknowledged the basic human rights of labour as a class, to ensure their welfare and well being as an important component of

1. *Shalu Nigam*, "Worker's Rights in Changing Economy : An Overview", Legal News and Views, May 2000, p.2.

the economy. Some of these rights need a special mention:

1. The Universal Declaration of Human Rights 1948 stipulates that every one has right to equal pay for equal work without any discrimination.

2. Article 7 of the International Covenant on Economic and Cultural Rights of 1966 further ensures the right of everyone to the enjoyment of just and favorable conditions of work, and in particular, equal remuneration for the work of equal value without distinction of any kind. It provides that women should be guaranteed conditions to work not inferior to those enjoyed by men, with equal pay for equal work.

3. Article 26 of the International Convention for Civil and Political Rights 1966 provides that 'all persons are equal before law and have the right to equal protection by the law without discrimination.

4. Article 10 of the Convention on Elimination of All Forms of Discrimination Against Women 1989 says that 'appropriate measures shall be taken to ensure women, married or unmarried, the same right as to men in the field of economic and social life, and notably the right to equality of remuneration with men and equality of pay for the work of equal value

5. The Conventions adopted under the auspices of the ILO proclaims in various terms the human rights of the laborers in the matter of equal pay for equal work, right to healthy conditions of work, abolition of child labour and so on.

6. The other human rights relating to the protection of labour include: Freedom from slavery and compulsory labor, right to work, right to health, right to social security, right to adequate standard of living, right to development *etc.*,

The Constitutions of all civilized states have given expression to these rights in their respective constitutional documents. The aftermath of globalization which induced free

market policies has given a set back to the human rights of millions of people in the developing world, as the new strategies and the structural adjustment programs adopted by the developing nations have been running counter to the interests of the people.

India has ratified all the major human rights instruments and thus is under an obligation to take up appropriate measures to secure these rights to the labour and protect them against exploitation.

### ***Protection of Rights of Labour : A Constitutional Obligation***

The Constitution of India has declared 'welfare State' as one of the goals of the Constitution. The Constitution of India, imposes an obligation on the State to promote the prosperity and well-being of the people. In this direction, the Directive Principles of State Policy enshrined in Part IV of the Constitution lays down certain economic and social policies to be pursued by the State. They impose certain obligations on the State to take positive actions in certain directions in order to promote the welfare of the people and achieve economic democracy. Some of the measure to be adopted by the State in this direction, make a specific reference to the protection of the interests of labour as a class to ensure that they are protected against economic exploitation. Some of these provisions include the following:

Article 39(b) - Distribution of ownership and control of the material resources of the community to the common good.

Clause (c) of the said Article further mandates the State to ensure that the economic system should not result in concentration of wealth and means of production to the common detriment.. Further, clause (e) of the said Article also requires the State to protect health and strength of workers and tender age of children and to ensure that they are not forced by economic necessity to enter avocations unsuited to their age or strength.

Article 43-A requires the State to take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments of other organizations engaged in any industry.

Article 41 directs the State to ensure the people within the limit of its economic capacity and development: (a) employment, (b) education and (c) public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want.

Article 42 directs the State to make provision for securing just and human conditions of work and for maternity relief.

Article 43 requires the State to try to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and in particular, the State shall endeavor to promote cottage industries on an individual or cooperation basis in rural areas.

Thus a close look into the prevailing state of affairs, in the post economic reforms, makes it clear that the structural adjustment programmes and other policy measures adopted by the State, like disinvestment policy, promotion of Special Economic Zones *etc.*, clearly indicate that, these measures are much against the letter and spirit of the constitutional mandates of protection of labour against economic exploitation, and in particular are not tune with the Directive Principles of State Policy

### ***Impact of Globalisation on Rights of Labour : The National Scenario***

The Post-Economic reforms era has witnessed adverse changes in the conditions of the labour as a class, working in various sectors of the economy. One of the far reaching impact of globalization driven programmes is that of the percentage of people employed in the agriculture sector has

been coming down and percentage of population employed in the service sector has been increasing. This clearly points towards the effect of 'liberal' economic policies which have resulted in the collapse of a self sufficient economy. The globalization has induced large number of labour force abandoning from their traditional profession for want of survival and to seek employment in expanding private sectors, in particular and multi national companies, which have engaged as the dominating force in labour market. Reasons for the increasing number of workers being employed by the MNCs in the developing countries, range from gaining access to the domestic markets, procuring raw material and cheap labour to avoid legal regulations and taxation in the developed countries. Women labour are yet another class who are the victims of globalization. The conditions of women laborers are worse. They are exploited for the reason that they find it difficult to raise their voices against exploitation in a male dominated society. They are paid low wages, and are compelled to work for long hours in adverse conditions, sexually harassed at work place and have to bear the double burden of work at home. The global economy denies a woman equal rights with her male counterpart.

Child labour is yet another persistent problem haunting the Indian society. Inspite of the Constitutional mandate to eradicate the child labour and enactment of several legislations prohibiting child labour, the problem still persists and millions of children, across the country are found working in various industries and other establishments. Minimum wage is still a distant dream for many workers in the unorganized sector. The labour as a class has become the worst victim in the world of market competitions. In the wake of globalization, there is an increase of casual employment. The rising trend of casual employment reflects the stagnant state of workforce and an evidence of how more number of workers are falling prey to the hire and fire policy of the employers.

Public sector undertakings do not have the freedom to retrench labour or close down

a particular unit in the company in response to changing market conditions without Government permission. The liberalized market-oriented set up of today requires industry to be flexible enough to deal with new and competitive environment to be able to downsize when needed, restructure and reorganize business through sale, acquisition and mergers. Due to globalization, trade union movement has fallen on hard times. In the recent years trade union movements show unfavorable trend in the developing countries. The emerging employer friendly policies are major impediments for strong unionization. Gradually, workers organizations are losing members and some even have doubts about their very existence and future.

### ***Protection of Labour Rights: Future Strategies***

India has adapted the path of economic reforms in the early 90s, the need for reforms in labour laws has been increasingly felt. Industry has been persistently demanding necessary changes in labour laws to face growing challenges from overseas competitors. India's labour laws deny the firms the flexibility needed to operate successfully in the highly competitive markets.

The imperative therefore is the promotion of the system of collective bargaining, concerted action and effective leadership among workers to fight against the retrograde policies and measures pursued by the state in the aftermath of globalisation. It would be far more beneficial to have one labour code instead of many pieces of legislations. Effective implementation of labour legislations is an urgent action which deserves immediate attention. The objective should be that the laws should be used in the interest of protection and promotion of worker's rights and law should not be allowed to operate for the benefits of the employers. The need

is to bridge the gap between new economic policies and the legislative framework of labour policy, since labour reform in our country has failed to keep pace with the changing economic and social scenario.

The Government, workers and trade unions should join in securing social justice to the largest section of the work force. The social clause on labour standard should be properly looked into and appropriate strategy needs to be drafted in the context of phenomenon of globalisation, structural adjustments and economic liberalization.

It has been aptly remarked that, globalization is a form of economic and social colonization rather than a political or administrative invasion. To protect the labour from the clutches of globalization, privatization and liberalization, a three pronged approach needs to be developed. Firstly, reforming labour laws with the changing economic and social scenario is the most urgent task. There also exists a dire need to frame a comprehensive labour code which should be framed taking into account the lacunae of the existing legal framework. Secondly, implementing the existing laws with true spirit is the crying need of the hour. The implementing machinery should be strengthened to enforce laws with the objective of protecting the interest of labour and not that of the employer. Thirdly, advocacy for the labour rights is the crucial demand of the time.

There is a need to recognize that labour rights are human rights and there is a strong need to preserve the dignity of labour. It is for this very reason that the trade unions, the employers associations, the Government, the policy framers, the law implementers, and other groups interested in the cause of labour, should come forward to ensure the dignity of labour in the changing social, economic and political scenario.