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Labour Welfare in India: Indian Constitution and Protection of the Labour Rights

Mubarak Khan

Asst. Professor, IFIM Law School, Bangalore

Abdul Ashik Mubarak Rawoother

Asst. Professor, Al-Ameen College of Law, Bangalore

“No work is insignificant. All labour that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.”

—Dr. Martin Luther King Jr

Introduction

To be called civilised, a society has to concede to its working class the right to live with dignity and security as human beings. This thinking finds expression in the Universal Declaration of Human Rights, the preambles of League of Nations and United Nations Organisation. The aspiration of the working class finds expressions, at national level, in the Constitution of the nation. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Over the years, labour laws have undergone change with regard to their object and scope. Early labour legislations were enacted to safeguard the interest of employers. They were governed by the doctrine of *laissez-faire*. Modern labour legislations, on the other hand, aims to protect workers against exploitation by employers. The advent of the doctrine of the welfare state is based on the notion of progressive social philosophy which has rendered the old doctrine of *laissez-faire*

obsolete. The theory of 'hire and fire' as well as the theory of 'supply and demand' which found free scope under the old doctrine of *laissez-faire* no longer hold good. ²

During the 20th century a new branch of jurisprudence known as Industrial Jurisprudence has developed in our country. Industrial jurisprudence is a development of mainly the post-independence period although its birth may be traced back to the industrial revolution. Before independence it existed in a rudimentary form in our country. The growth of industrial jurisprudence can significantly be noticed not only from increase in labour and industrial legislation but also from a large number of industrial law matters decided by Supreme Court and High Courts. It directly affects a considerable population of our country consisting of industrialists, workmen and their families. Those who are affected indirectly constitute a still larger bulk of the country's population.

In order to protect the labour class and for their welfare, the government, with good intentions, has tried to meet most of the workers' demands over the years by preparing and drafting numerous labour laws, but their minimal implementation remains a source of concern on the ground. The new labour codes attempted to cover most aspects, but challenges remain. Also to be seen is their implementation, as the Centre and the states must collaborate in framing rules in accordance with the codes and implementing them in their true spirit.

New concepts have emerged in this new era, such as the gig economy, platform workers, freelancers, and so on. In such cases, there is no contract with the employer, and the traditional employer-employee relationship is bypassed, making it impossible for workers to seek redress against the employer in the event of a dispute or exploitation.⁴

In this research paper, the authors have tried to analyse the concept of labour welfare and the protection given to the labour class under the Constitution of India. Despite having such comprehensive and good laws, why are we not so successful in ensuring complete labour welfare in India? The authors have also tried to elaborate on this issue through this research paper.

Constitutional Background

After India became independent, it adopted a Constitution on 26 April 1949. The Indian Constitution is a unique basic national document. Besides providing basic principles for governance, it presents the aspirations of the Weaker Section of Society, especially the working classes. It has conferred innumerable rights on the protection of labour. It is also a strange phenomenon of history that national freedom-struggle and struggle of working-class emancipation coincided and our leaders fought for both- the betterment of worker's lots and India's freedom. During this period, they made some promises and pledges to the working classes, which were to be redeemed after independence. The redemption of all those promises and pledges get expression in our Constitution.

The Constitution is the supreme law of a nation and all legislations draw their inspiration from it. The Constitution is a document of social revolution casting an obligation on every instrumentality including the judiciary to transform the status quo ante into a new human order in which justice, social, economic and political will inform all institutions of national life and there should be equality of status and opportunity to all. The trinity of Indian Constitution, the Preamble, the Fundamental Rights and the Directive Principles of State Policy, embody the fundamental principles, which provide guidance to all legislations, including the labour legislations. This constitutional trinity assures its citizens to provide “Socialistic Pattern of Society” and create “Welfare State” and all legislations, especially the Labour legislations, are deeply influenced by them.

The Concept of Labour Welfare

The concept of labour welfare is necessarily dynamic and varies from country to country, from time to time and even within the country, variation depends upon different nature of social institutions, degree of industrialization and general level of social and economic development. Thus, the concept of welfare can be approached from various outlooks. It is a relative concept, since it is related to time, place and change with the economic and scientific advancement of the country. Labour welfare generally refers to betterment of employees, and relates to taking care of the well-being of workers by employers, trade unions, and government and non-governmental agencies. According to the Royal Commission on Labour (1931) “Labour welfare is a term which must necessarily be elastic, bearing a somewhat different interpretation from one country to another, according to the different social customs, the degree for industrialization and educational level of the workers”.

The concept of labour welfare has received inspiration from the concepts of democracy and welfare state. Democracy does not simply denote a form of government; it is rather a way of life based on certain values such as equal rights and privileges for all. The operation of welfare services, in actual practice, brings to bear on its different reflections representing the broad cultural and social conditions.

Labour welfare is an extension of the term welfare and its application to labour. The term labour, labourer, workers, workman or employee are all used to refer to the wage-earning human agents in the industry.

Labour is any physical or intellectual activity applied in industrial production and one who performs it is a worker.

According to the traditional economic theory labour can be defined as, “A factor of production which consists of manual and mental exertion and receives some return by way of wages, salaries or professional fees”.⁵

“Labour is any mental or physical activity performed with an intention of earning some material benefits in cash or in kind. The human agent (man, woman

or child) who performs such labour is a worker. A worker is attached to a private or public employer and receives wages for the performance of labour”.

Labour is a fundamental factor of industrial production. It is a human agent with its own economic, cultural, social and also political aspirations. Labour is according to Ricardo and Marx, a source of all values. Everything valuable in the economic sense is a product of labour.

Welfare means faring and doing well. It is a comprehensive term and refers to the physical, mental, moral and emotional well-being of an individual.

According to Hopkins (1955) “Welfare is fundamentally an attitude of mind on the part of management, influencing the method in which management activities are undertaken. Employers concerned with introducing or extending welfare programmes now or in the future must be concerned, not only with the past and current experience, but with developing trends”.

Definitions of Labour Welfare

There could not be just one single definition to find universal acceptance. The simplest of all could be to understand labour welfare as “efforts to make life worth living for workers”.

The Oxford dictionary defines labour welfare as “efforts to make life worth living for workmen”

Chamber’s dictionary defines welfare as a state of faring or doing well, freedom from calamity, enjoyment of health, prosperity, etc. Labour welfare work is also defined as “voluntary efforts on the part of the employees to improve the existing industrial system and the conditions of employment in their own factories”.

The Encyclopedia of Social Sciences Vol. XV (1935) defines labour welfare as “voluntary efforts of the employers, to establish within the existing industrial system, working and sometimes living and cultural conditions for the employees, beyond what is required by law, the customs of the industry and the conditions of the market”.

In a Resolution in 1947, the ILO defined labour welfare as “such services, facilities and amenities as adequate canteens, rest and recreation facilities, arrangements for travel to and from work, and for the accommodation of workers employed at a distance from their houses and such other services, amenities and facilities as contribute to improve the conditions under which workers are employed.”

According to N. M. Joshi ⁶ labour welfare work covers “all the efforts that employers make for the benefit of their employees over and above the minimum standards of working conditions fixed by the Factories Act and over and above the social legislations providing against accidents, old age, unemployment and sickness”.

In the broader sense labour welfare is a convenient term to cover all those

aspects of industrial life that contribute to the well being of the workers. Labour welfare refers to any agency either statutory or voluntary, which aims at betterment of workers conditions ⁷

According to Richardson (1960) “Labour welfare work refers to the efforts on the part of employers to improve within the existing industrial system the conditions of employment in their own factories. Any arrangement of working conditions, organization of social and sports clubs and establishment of funds by the firm, which contribute to workers health and safety, comfort, efficiency, economic security, education and recreation is a labour welfare measure”.

The term labour welfare is very comprehensive and includes various types of activities undertaken for the economic, social, intellectual and moral benefit of the labour community ⁸

Labour welfare implies the setting up of minimum desirable standards and the provision of facilities like health, food, clothing, housing, medical assistance, education, insurance, job security, recreation etc. Such facilities enable a worker and his family to lead a good work life, family life and social life ⁹

The Committee on Labour Welfare (1969) formed to review the labour welfare scheme, described it as “social security measure that contributes to improving the conditions under which workers are employed in India”.

According to the Report of the First National Commission on Labour (1969) the concept of labour welfare is necessarily dynamic, having a different interpretation from country to country and from time to time and even in the same country, according to its value system, social institution, degree of industrialization and general level of social and economic development. Even within one country its content may be different from region to region.

Sometimes the concept is very wide and is more or less synonymous with conditions of work as a whole. It may include not only the minimum standard of hygiene and safety laid down in general labour legislation but also such aspects of working life as social insurance schemes, measures for protection of women and young workers, limitations of hours of work, paid vacations and so on. In other cases, the definition is much more limited and welfare in addition to general physical welfare conditions is mainly concerned with the day-to-day problems of workers and the social relationships at the place of work. The concept of labour welfare, which originated with the desire for a humanitarian approach to ameliorate the sufferings of the working class, later became a utilitarian philosophy, which worked as a motivating force for labour and for those who were interested in it ¹⁰

Important Features of Labour Welfare

On the basis of the various definitions, the basic characteristics of labour welfare work may be noted thus:

1. It is the work which is usually undertaken within the premises or in the vicinity of the undertakings for the benefit of the employees and the members of their families.
2. The work generally includes those items of welfare which are over and above what the employees expect as a result of the contract of service from the employers.
3. The purpose of providing welfare amenities is to bring about development of the whole personality of the worker -his social, psychological, economic, moral, cultural and intellectual development to make him a good worker, a good citizen and a good member of the family.
4. These facilities may be provided voluntarily by progressive and enlightened entrepreneurs at their own accord out of their realization of social responsibility towards labour, or statutory provisions may compel them to make these facilities available; or these may be undertaken by the government or trade unions, if they have the necessary funds for the purpose.
5. Labour welfare is a very broad term, covering social security and such other activities as medical aid, crèches, canteens, recreation, housing, adult education, arrangements for the transport of labour to and from the work place.
6. It may be noted that not only intra-mural but also extra-mural, statutory as well as non-statutory activities, undertaken by any of the three agencies- the employers, trade unions or the government- for the physical and mental development of the worker, both as a compensation for wear and tear that he undergoes as a part of the production process and also to enable him to sustain and improve upon the basic capacity of contribution to the processes of production, which are all the species of the longer family encompassed by the term 'labour welfare'.

Principles of Labour Welfare

Certain fundamental Principles are involved in the concept of labour welfare. The following are the more important among them:

● Principle of Social Responsibility

Industries have a social responsibility towards the society. Social responsibility means the obligations of the industry to pursue those policies, to take such decisions and to follow those lines of action that are desirable in terms of the objectives and values currently prevailing in the society. This principle is based on the social conception of industry and its role in the society, that is, the understanding that social responsibility of the State is manifested through industry. It is assumed that labour welfare is an expression of an industry's duty towards its employees. Industry

is expected to win the co-operation of the workers, provide them security of employment, fair wage and equal opportunity for personal growth and advancement, and make welfare facilities available to them.

● Principle of Democratic Values

The principle of democratic values of labour welfare concedes that workers may have certain unmet needs for no fault of their own, that industry has an obligation to render them help in gratifying those needs, and that workers have a right of determining the manner in which these needs can be met and of participation in the administration of the mechanism of need gratification. The underlying assumption to this approach is that the worker is a mature and rational individual who is capable of taking decisions for himself/herself.

● Principle of Adequacy of Wages

The next principle of labour welfare is adequacy of wages, it implies that labour welfare measures are not a substitute for wages. It would be wrong to argue that since workers are given a variety of labour welfare services, they need to be paid low wages. Right to an adequate wage is beyond dispute.

● Principle of Efficiency

This principle lays stress on the dictum that to cultivate welfare is to cultivate efficiency. Even those who deny any social responsibility for industry, do accept that an enterprise must introduce all such labour welfare measures that promote efficiency. It has been often mentioned that workers' education and training, housing, and diet are the three most important aspects of labour welfare, which always accentuate labour efficiency.

● Principle of Co-responsibility

This principle of labour welfare recognizes that the responsibility for labour welfare lies in both employers and workers and not on employers alone. Labour welfare measures are likely to be of little success unless mutuality of interest and responsibilities are accepted and understood by both the parties, in particular the quality of responsibility at the attitudinal and organizational level.

● Principle of Totality of Welfare

This principle of labour welfare says that the concept of labour welfare must permeate throughout the hierarchy of an organization and be accepted by all levels of functionaries in the enterprise.

● Principle of Re-personalization

The development of the human personality is given here as the goal of industrial welfare which according to this principle should counteract the baneful effects of the industrial system. Therefore, it is necessary to implement labour welfare facilities both inside and outside the factory, that is to provide intramural and extramural labour welfare facilities.

● Principle of Co-ordination or Integration

This Principle plays an important role in the success of welfare services. Welfare is a total concept. From this angle, a co-ordinated approach will promote healthy development of the worker in his work, home and community. This is essential for the sake of harmony and continuity in labour welfare facilities.

Scope of Labour Welfare

The scope of welfare activities calls for a comprehensive analysis that has been aptly considered by the Labour Investigation Committee (1946), Government of India. The Labour Investigation Committee has clearly mentioned the scope of such activities "For our part we prefer to include under welfare activities anything done for the intellectual, physical, moral and economic betterment of the workers, whether by employer, by government or by other agencies, over and above what is laid down by law or what is normally expected as part of contractual benefits for which the workers may have bargained". Thus, under this definition we may include housing, medical and educational facilities, nutrition (including provision of canteens), facilities for rest and recreation, co-operative societies, day nurseries and creches, provision for sanitary, accommodation, holidays with pay, social insurance measures undertaken voluntarily by employees, including sickness and maternity benefits schemes, provident funds, gratuities and pensions, and so on.

The scope of labour welfare can be interpreted in different ways, in different countries, depending upon the stages of economic development, political outlook and social philosophy. In some countries the use of welfare facilities provided is confined to the workers employed in the undertaking concerned, while in others the workers families are allowed to share in many of the benefits which are made available"¹¹

The subject of labour welfare facilities is a very broad one covering a wide field of amenities and activities. In order to obtain a clearer understanding of its scope, we may examine the ways in which labour welfare is classified. Labour welfare work can be broadly divided into two categories:

- a) statutory and non-statutory or voluntary and
- b) intra-mural and extra-mural welfare facilities.

Statutory welfare consists of those provisions of welfare work, which depends for its implementation on the coercive power of the government. The government enacts certain rules of labour welfare to enforce the minimum standards of health and safety of workers. The employers are required by law to fulfill their statutory obligations on welfare.

Non-statutory welfare measures include all those activities, which employers undertake for the welfare of their workers on a voluntary basis.

The Committee of experts on welfare facilities for industrial workers constituted by the ILO in 1963 had divided the welfare services in two groups:

- **Intra-Mural Welfare Facilities:** These welfare amenities are those provided within the premises of the establishments such as latrines and urinal, washing and bathing facilities, crèches, rest shelters and canteens, arrangements for drinking water, arrangements for prevention of fatigue, health services including occupational safety, administrative arrangements within plant to look after welfare, uniforms and protective clothing, and shift allowance.
- **Extra-Mural Welfare Facilities:** These are welfare amenities provided outside the establishment such as maternity benefit, social insurance measures, including sports, cultural activities, library and reading room, holiday homes and leave travel facilities, workers co-operatives including consumers co-operative stores, fair price shops and co-operatives including co-operative credit societies, vocational training for dependence of workers, other programmes for the welfare of women, youth and children and transport to and from the place of work.

Thus, labour welfare is very comprehensive and embraces activities provided by employers, State, trade unions and other agencies to help workers and their families in the context of their industrial life. The scope of labour welfare however cannot offer limited facilities within or near the undertaking, nor can it be so comprehensive as to embrace the whole range of social welfare or social services. It follows therefore that all extra-mural and intra-mural welfare activities, as well as statutory and non-statutory welfare measures undertaken by the employer, the government, trade unions or voluntary organizations fall within the scope of labour welfare. In this sense, even social security measures, education, cultural activities and industrial housing come within the scope of labour welfare.

The statutory welfare facilities are covered under the following Acts namely:

- Factories Act, 1948
- Employees' Compensation Act, 1923
- Maternity Benefits Act, 1961
- Employees' State Insurance Act, 1948
- Employees' Provident Fund and Miscellaneous Provisions Act, 1952

- Payment of Gratuity Act, 1972
- Employees' Pension Scheme, 1995
- Payment of Bonus Act, 1965
- Bonded Labour System Abolition Act, 1976
- Equal Remuneration Act, 1976
- Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 etc.

The non-statutory welfare facilities include housing, recreation, education/training, subsidized loans and other such facilities that are voluntary in nature.

Importance of Labour Welfare Activities

Labour welfare is a widely discussed topic even in this knowledge era where there is an illusion of reduced importance for the labour doing physical work. The Indian Factories Act 1948, made it obligatory on the part of the employers to appoint welfare officers to look after the labour welfare activities in the factories where there are 500 or more than 500 workers are employed. Thus, the appointment of labour welfare officers is a statutory requirement. His work with human resources officers to solve labour related problems. The knowledge era made every labour informed on their rights and educated them in this perspective. It is witnessed in present days that there is more awareness on the strikes and cases to sustain the labour welfare in industries as there are many violations in implementing labour welfare as per norms. However, it is surprising to understand that the labour welfare practices were present in India even during 500 B.C.

Labour welfare in India has a special significance as the constitution provides for the promotion of welfare of the labour for humane conditions of work and securing to all workers leisure, social and cultural opportunities. Labour welfare is a measure to promote the efficiency of labour. The various welfare measures provided by the employer will have immediate impact on the health, physical and mental efficiency, alertness, morale and overall efficiency of the workers and thereby contributing to the higher productivity. Moreover, the workmen require protection from certain calamities which imperil their efficiency. Social security measures provided by employers will act as a protection to the workers. Social security aims at providing collective measures to protect the members of a community against social risk as their individual resources are seldom adequate after protection against hardship. Both assistance and social insurance form integral parts of the system of social security. Labour welfare introduces an extra dimension to industrial relationships which ever a satisfactory wage alone cannot provide. Labour welfare

expresses the humane interest as an enlightened employer has in the well being and contentment of the people who work for him. Labour welfare means activities designed for the promotion of the economic, social and cultural well being of the employees. The term labour welfare includes anything done for intellectual, physical, moral and economic betterment of workers by government or by other agencies over and above what laid down by law in various contingencies like illness, unemployment, disability and death which have direct impact on the well being of the worker and the dependent. The labour welfare operates to neutralise the harmful effects of large-scale industrialization and urbanisation. Provision of welfare amenities enable the worker to live a richer and more satisfactory life and contributes to their efficiency and productivity. It helps in maintaining industrial peace.

Origin of the Concept of Labour Welfare in India

Labour welfare activities arose in colonial India in reply to the need of cheap labours when; following the abolition of slavery in 1833, British colonies started importing Indian labours. The British government passed legislation which led to the development of the concept of labour welfare in colonial India. The Apprentices Act of 1850 was passed with the objective of helping poor and orphan children to learn various trades by apprenticing them to craftsmen. The Fatal Accidents Act of 1853 aimed at providing compensation to the families of workmen who lost their lives as a result of an “actionable wrong.” It was the Factories Act of 1881 which paved the way for the foundation of a series of labour laws with the objective of bringing improvements in the working conditions of labours. The International Labour Organization (ILO) in its founding year, in 1919, recognised the importance of labour in the economic and social reconstruction of the world and suggested some changes in labour welfare schemes operating in India. The then government of the day, subsequently, enacted the Factories Act of 1922, which provided many welfare measures for the working class.

Constitutional Framework

The Constitution of India has conferred innumerable rights on the protection of labour. It not only guarantees some of the fundamental rights to its citizens but also has embodied Directive Principles of the State Policy for the attainment of a social order based on Justice, Liberty, Equality and Fraternity. Therefore the Constitution maintains a list of Fundamental Rights and Directive Principles of the State Policy which refers generally to the upliftment and promotion of the welfare of the people. Moreover, under the Constitution of India, Labour is a subject in the Concurrent List where both the Central and State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.

The Constitution protects the life and liberty of an individual, in the *Olga*

Tellis case¹², the Supreme Court held that Right to livelihood is an integral part of Right to life and hence will be protected under Article 21. Other than this, the Constitution enlists several provisions which guarantee protection of the interests of employees and safeguards them against any kinds of discrimination in matters of public employment. Some of the essential provisions in the Constitution are discussed below.

The Preamble

The importance and utility of the Preamble has been pointed out in several decisions of our Supreme Court. Though, by itself, it is not enforceable by the court of law, the preamble states the objectives which the Constitution seeks to establish and promote. The Preamble to our Constitution serves two purposes.

1. It indicates the source from which it derives its authority
2. It starts the objectives which it seeks to establish and promote.

The preamble states to secure to all its citizens:

- Justice; Social, Economic and Political
- Liberty of thought, expression, belief, faith and worship
- Equality of status and of opportunity
- Fraternity, assuring the dignity of the individual and unity and integrity of nation

These principles enshrined in the Preamble of our constitution provide the bedrock for framing all labour and social legislation and their progressive and creative interpretation in favour of working classes. These principles run through our labour legislations like invisible golden threads and provide them strength and stamina to meet the aspirations of working classes; whether it is protective legislations, social security legislations, welfare legislations or even industrial relations legislations, they all heavily lean towards working classes due to the philosophy provided in the preamble.

Fundamental Rights

The Fundamental Rights are the basic principles on which the democratic sovereign is founded and give direction to the state action in clear terms. When these principles are translated into practice, it leads to the development of a welfare state. Part III (Article 12 to 35) deals with Fundamental Rights.

Since the Fundamental Rights have been guaranteed to protect the public from repressive state actions, judicial decisions tend to expand the scope of the word 'State' as defined by Article 12 of the Constitution. A liberal interpretation

is made of the words “other authorities” so as to include any instrumentality or agency of the Government whether an individual or a corporation like Life Insurance Corporation *Som Prakash Rakhi v. Union of India*¹³ or a society like the Indian Statistical Institute registered under the Societies Registration Act, 1960, or a company like Steel Authority of India. All have to fulfil the tests laid down by the court in their dealings with their employees. *Ajay Hasia v. Khalid Mujib Sehravardi*.¹⁴

ARTICLE 14 : Right to Equality

The idea of ‘equal protection before the law’ embodied in Article 14 of our Constitution serves as the philosophical foundation for equal treatment of similarly situated workers by the employer. This principle finds resonance in the idea of ‘equal pay for equal work’ enumerated in Article 39(d) which is further enforced through the Equal Remuneration Act, 1976. This statutory intervention also holds importance from the viewpoint of gender-justice since it was a clear command against discrimination between men and women who performed a similar quantum of work.

Article 14 commands the State to treat any person equally before the law. It explains the concept of Equality before law. The concept of equality does not mean absolute equality among human beings which is physically not possible to achieve. It is a concept implying absence of any special privilege by reason of birth, creed or the like in favour of any individual, and also the equal subject of all individuals and classes to the ordinary law of the land.

Thus, the rule is that the like should be treated alike and not that unlike should be treated alike. In *Randbir Singh v. Union of India*¹⁵ the Supreme Court has held that although the principle of ‘equal pay for equal work’ is not expressly declared by our Constitution to be a fundamental right, it is certainly a constitutional goal under Articles 14, 16 and 39(d) of the Constitution. This right can, therefore, be enforced in cases of unequal scales of pay based on irrational classification. This decision has been followed in a number of cases by the Supreme Court.

In *Dhirendra Chamoli v. State of U.P.*¹⁶ it has been held that the principle of equal pay for equal work is also applicable to casual workers employed on a daily wage basis. Accordingly, it was held that persons employed in Nehru Yuva Kendra Sangathan in the country as casual workers on daily wage basis were doing the same work as done by Class IV employees appointed on regular basis and, therefore, entitled to the same salary and conditions of service. It makes no difference whether they are appointed in sanctioned posts or not. It is not open to the Government to deny such benefits to them on the ground that they accepted the employment with full knowledge that they would be paid daily wages. Such denial would amount to violation of Article 14. A welfare State committed to a socialist pattern of society cannot be permitted to take such an argument.

Fundamental Rights are subject to reasonable restrictions. Therefore, Article 14, dealing with the right to equality and equal protection of law is subject to reasonable classification as absolute equality is impossibility. In *Charanjit Lal Choudhary v. Union of India*¹⁷ it is observed “The guarantee... forbids class legislation but does not forbid classification which rests upon reasonable grounds of distinction”. Classification can be on the basis of age, sex (provisions under Factories Act, 1948, Sections 26, 27 etc. for children and women), nature of trade profession or occupation framing rules for recruitment or promotions of public servants to secure efficiency (*Gangaram v. Union of India*¹⁸, fixing of different minimum wages for different industries (*Chandra Boarding v. State of Mysore*¹⁹). To be valid, the classification must be operational and not arbitrary. In the case, *Bharatiya Dak Tar Mazdoor Manch v. Union of India*,²⁰ it was held that Classification of employees of P&T Department into regular employees and casual employees for the purpose of paying the latter less than minimum payable to regular employees is not tenable and violative of Article 14 and 16 of Constitution. It also amounts to exploitation of labour and is opposed to clause (2) of Article 38 which provides that the State in particular strives to “minimise inequality in income”.

ARTICLE 16 : Equality of Opportunity in Matters of Public Employment

Article 16 (1) and (2) of the Constitution guarantees equality of opportunity to all the citizens in matters of appointment to any office or any other employment under the State. Clauses (3), (4) & (5) lay down, by way of exceptions, reasonable classification and provisions for backwards and for religious institutions.

*Amita v. Union of India*²¹, In this case, the Supreme Court held that the expression “matters relating to employment or appointment” contained in Article 16(1) includes all matters in relation to employment both prior and subsequent to the employment which are incidental to the employment and form part of the terms and conditions of such employment.

*Badrinath v. Govt. of T.N.*²², In this case, the Court held that the right to be considered for promotion by the Departmental Promotion Committee is a fundamental right guaranteed under Article 16 provided a person is eligible and is in the zone of consideration, but the “consideration” must be “fair” and according to the established principles governing service jurisprudence.

ARTICLE 19 : The Right to Form Associations and Unions

Article 19 in its various sub clauses provides, inter alia, freedom of association; freedom to carry on trade or business and freedom of speech, which are relevant to labour legislation.

In *Damianti Naranga v. The Union of India*,²³ the Supreme Court held that “The right to form an association”, the Court said, “necessarily implies that the

person forming the association also have the right to continue to be associated with only those whom they voluntarily admit in the association. Any law by which members are introduced in the voluntary association without any option being given to the members to keep them out, or any law which takes away the membership of those who have voluntarily joined it, will be a law violating the right to form an association”.

ARTICLE 21 : Right to Livelihood Under Right to Life

Article 21 proclaims that “no person shall be deprived of his life or personal liberty except according to procedures established by law”. With passage of time, and compelling social needs, however, the courts have given a very liberal and wide interpretation of the terms “life” or “Personal Liberty”.

The sweep of the right to life, conferred by Article 21 is wide and far reaching. ‘Life’ means something more than mere animal existence. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. There is thus a close nexus between life and the means of livelihood and as such that, which alone makes it possible to live, leaving aside what makes life livable, must be deemed to be an integral component of the right of life.

Elaborating the same view, the Court in *Francis Coralie v. Union Territory of Delhi*,²⁴ said that the right to live is not restricted to mere animal existence. It means something more than just physical survival. The right to ‘live’ is not confined to the protection of any faculty or limb through which life is enjoyed or the soul communicates with the outside world but it also includes “the right to live with human dignity”, and all that goes along with it, namely, the bare necessities of life such as, adequate nutrition, clothing and shelter and facilities for reading, writing and expressing ourselves in diverse forms, freely moving about and mixing and commingling with fellow human being.

In *State of Maharashtra v. Chandrabhan Tale*,²⁵ the Court struck down a provision of Bombay Civil Service Rules, 1959, which provided for payment of only a nominal subsistence allowance of Re. 1 per month to a suspended Government Servant upon his conviction during the pendency of his appeal as unconstitutional on the ground that it was violative of Article 21 of the Constitution.

In *Olga Tellis v. Bombay Municipal Corporation*²⁶ popularly known as the

‘pavement dwellers case’ a five-judge bench of the Court has finally ruled that the word ‘life’ in Article 21 includes the ‘right to livelihood’ also. The court said: “It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of a death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is the right to livelihood because no person can live without the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest ways of depriving a person of his right to life would be to deprive him of his means of livelihood. In view of the fact that Articles 39(a) and 41 require the State to secure to the citizen an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life.”

In *Delhi Development Horticulture Employee’s Union v. Delhi Administration* ²⁷ the Supreme Court has held that daily wages workmen employed under the Jawahar Rozgar Yojna have no right of automatic regularization even though they have put in work for 240 or more days. The petitioners who were employed on daily wages in the Jawahar Rozgar Yojna filed a petition for their regular absorption as regular employees in the Development Department of the Delhi Administration. They contended that the right to life includes the right to livelihood and therefore, the right to work. The Court held that although broadly interpreted and as a necessary logical corollary, the right to life would include the right to livelihood and therefore right to work but this country has so far not found feasible to incorporate the right to livelihood as a fundamental right in the Constitution. This is because the country has so far not attained the capacity to guarantee it, and not because it considers it any the less fundamental to life. Advisedly therefore it has been placed in the chapter on Directive Principles, Article 41 of which enjoins upon the State to make effective provision for securing the same, “within the limits of its economic development”.

In *D.K. Yadav v. J.M.A. Industries*, ²⁸ the Supreme Court has held that the right to life enshrined under Article 21 includes the right to livelihood and therefore termination of the service of a worker without giving him reasonable opportunity of hearing is unjust, arbitrary and illegal. The procedure prescribed for depriving a person of livelihood must meet the challenge of Article 14 and so it must be right, just and fair and not arbitrary, fanciful or oppressive. In the instant case, the appellant was removed from service by the management of the M/s. J.M.A. Industries Ltd. on the ground that he had been willfully absent from duty continuously for more than 8 days without leave or prior permission from the management, therefore, “deemed to have left the service of the company under clause 12(2)(iv) of the Certified Standing Order. But the appellant contended that despite his reporting to duty every day he was not allowed to join duty without assigning any reason. The Labour Court upheld the termination of the appellant

from service as legal. The Supreme Court held that the right to life enshrined under Article 21 includes right to livelihood and ‘therefore’ before terminating the service of an employee or workman fair play requires that a reasonable opportunity should be given to him to explain his case. The procedure prescribed for depriving a person of livelihood must meet the requirement of Article 14, that is, it must be right, just and fair and not arbitrary, fanciful or oppressive. In short, it must be in conformity with the rules of natural justice, Article 21 clubs life with liberty, dignity of person with means of livelihood without which the glorious content of dignity of person would be reduced to animal existence. The Court set aside the Labour Court award and ordered his reinstatement.

In *Bandhua Mukti Morcha v. Union of India*²⁹, it was held that Article 21 assures a citizen the right to live with human dignity free from exploitation. The Govt. is bound to ensure observance of social welfare and labour laws enacted to secure for workmen a life compatible with human dignity. Again, in *Olga Tellis Supra*, this was affirmed.

In *State of Maharashtra v. Manubhai Pragaji Vashi*³⁰ the Court has considerably widened the scope of the right to free legal aid. The right to free legal aid and speedy trial are guaranteed fundamental rights under Art. 21. Art 39A provides “equal justice” and “free legal aid”. It means justice according to law.

ARTICLE 23 : Prohibition of Traffic in Human Beings and Forced Labour

Article 23 of the Constitution prohibits traffic in human beings and beggars and other similar forms of forced labour. The second part of this Article declares that any contravention of this provision shall be an offence punishable in accordance with law. Clause (2) however permits the State to impose compulsory services for public purposes provided that in making so it shall not make any discrimination on grounds only of religion, race, caste or class or any of them. ‘Traffic in human beings’ means selling and buying men and women like goods and includes immoral traffic in women and children for immoral or other purposes. Though slavery is not expressly mentioned in Article 23, it is included in the expression ‘traffic in human beings’. Under Article 35 of the Constitution Parliament is authorized to make laws for punishing acts prohibited by this Article. In pursuance of this Article, Parliament has passed the Suppression of Immoral Traffic in Women and Girls Act, 1956, for punishing acts which result in traffic in human beings. The Bonded Labour System Abolition Act, 1976 is also enacted in this regard.

Article 23 protects the individual not only against the State but also private citizens. It imposes a positive obligation on the State to take steps to abolish evils of “traffic in human beings” and beggars and other similar forms of forced labour wherever they are found. Article 23 prohibits the system of ‘bonded labour’ because it is a form of forced labour within the meaning of this Article. “Beggar” means involuntary work without payment. What is prohibited by this clause is the making

of a person to render service where he was lawfully entitled not to work or to receive remuneration of the services rendered by him. This clause, therefore, does not prohibit forced labour as a punishment for a criminal offence. The protection is not confined to beggars only but also to “other forms of forced labour”. It means to compel a person to work against his will.

In *People's Union for Democratic Rights v. Union of India*³¹, it was held that labour or services for a remuneration less than a minimum wage amounts to “forced labour”. In this case, a letter written to Justice Bhagwati regarding the working conditions of construction workers engaged in building structures connected with Asian Games was entertained as Writ Petition, setting aside the technicalities of *locus-standi* and other procedures. The court held that when judicial redressal is sought for legal injury suffered by a person or persons who by reason of poverty, disability or socially or economically disadvantaged position are unable to approach the court and the attention of the court is drawn to such legal injury by a member of public, even by a letter, the same will be entertained by the court as a writ petition to bring justice within the reach of the poor masses.

In *Bandhua Mukti Morcha v. Union of India*³², the Apex Court held that the Government was bound to ensure observance of social welfare and labour laws enacted to secure to workmen a life of basic human dignity. So also, *Neerja Choudhary v. State of M.P.*³³ held that wherever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labour, unless the employer or the state government proves otherwise. Similarly, the Court said that the plainest requirement of Article 21 and 23 is that bonded labour not only be identified and redressed but also suitably rehabilitated.

ARTICLE 24 : Prohibition and Regulation of Child Labour

Article 24 of the Constitution prohibits the employment of children below the age of 14 years in factories, mines or any other hazardous work. The idea is to protect the health and well being of children. However, the article does not prohibit the employment of children in easy and less strenuous work. This is also in consonance with Articles 39(e) and (f) in Part IV of the Constitution which emphasizes the need to protect the health and strength of workers, and also to protect children against exploitation. The Child Labour (Prohibition and Regulation) Act, 1986 specifically prohibits the employment of children in certain industries deemed to be hazardous and provides the scope for extending such prohibition to other sectors. *MC Mehta v. State of Tamil Nadu & Ors*³⁴ Supreme Court recognised that Sivakasi had ceased to be the only centre employing child labour; the malady was no longer confined to that place. The court also recognised that child labour was an all-pervasive national problem in India even after 50 years of independence – and despite the enactment of various legislations. Further, the

Supreme Court recognised poverty as a basic cause for child labour. The court observed that until an alternative income was assured to the family, child labour could never be effectively tackled.

ARTICLES 32-35 : Right to Constitutional Remedies

Articles 32 to 35 guarantee the right to constitutional remedies, as right without a remedy is a meaningless formality. It is the remedy which makes the right real. In view of this, the S.C. has evolved the innovative strategy by encouraging Public Interest Litigation aimed at providing easy access to justice to the poor and weaker sections of Indian Society (generally labourers) and giving a powerful tool to public spirited individuals and social action groups to combat exploitation and injustice. In the cases like *People's Union for Democratic Rights (supra)*, *Bandhua Mukti Morcha (supra)* etc., the S.C. departed from traditional principles of *locus standi* to entertain even the letter by a member of public as writ petition to give relief to poor and illiterate workmen.

Directive Principles of State Policy

An important feature of the constitution is the Directive Principles of State Policy. Although the Directive Principles are asserted to be “fundamental in the governance of the country,” they are not legally enforceable. Instead, they are guidelines for creating a social order characterized by social, economic, and political justice, liberty, equality, and fraternity as enunciated in the constitution’s preamble.

Part IV, Articles 36 to 51 of the Indian constitution outlines the directive principles that a state should remember while framing laws for the society. Directive principles call for the provision of social justice and economic welfare and ensure peace and harmony by trying to remove the prevalent social evils. They also deal with the concept of Welfare State. These principles act as a check on the government and as a yardstick to measure government performance. However, these provisions are not enforceable in any court of law; a fact that makes us question the relevance of directive principles.

Though earlier decisions of the Supreme Court paid scant attention to the Directives on the ground that they are not enforceable in law courts, later decisions, specially from *Keshavananda Bharati* case, onwards, the following propositions have come before the courts for consideration.

- 1) There is no disharmony between Directive Principles and Fundamental Rights. They supplement each other.
- 2) Even Fundamental Rights can not be ensured unless Directive Principles are implemented.
- 3) Parliament is competent to amend or abrogate any Fundamental Right to enable the state to implement Directives.

In *Minerva Mills v. Union of India* ³⁵ it was held that Directive Principles and Fundamental Rights should be harmonised without considering Directives as inferior and subservient to Fundamental Rights. Similarly, a law which is inconsistent with Directives should be regarded as unreasonable while any action taken to give effect to any of the Directives should be regarded as reasonable (*Kasturi Lal Lakshmi Reddy v. State of Jammu And Kashmir*, ³⁶ Coming to the Directive Principles of State Policy enumerated in Part IV of the Constitution, Article 38 reflects the intent of the State to work towards an egalitarian society where there is equal opportunity for all citizens and social justice prevails. In this respect Articles 39, 39-A, 41, 42, 43 and 43-A are considered to be the ‘magna carta’ of industrial jurisprudence in the Indian context. Collectively, it can be also termed as “*Magna Carta* of the working class in India”.

ARTICLE 39 : Certain principles of policy to be followed by the State

Articles 39 declares that the State shall, in particular, direct its policy towards securing —

- a) that the citizens, men and women equally, have the right to an adequate means of livelihood;
- b) that the ownership and the control of the material resources of the community are so distributed as to best subserve the common good;
- c) that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment;
- d) that there is equal pay for equal work for both men and women;
- e) the health and strength of the workers, men and women and the tender age of the children not abused and that the citizens are not forced by economic necessity to enter the avocations unsuited to their health and strength;
- f) The children are given opportunities and facilities to develop in a healthy manner and in condition of freedom and dignity and are protected against exploitation against moral and material abandonment.

ARTICLE 39A : Equal justice and free legal aid

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The Legal Services Authorities Act, 1987 aims towards this objective.

ARTICLE 41 : Right to work, to education and to public assistance in certain cases

It directs that the State shall within the limit of its economic capacity and development make effective provision for securing right to work, to education, and to public assistance in case of unemployment, old age, sickness and disablement and in other cases of undeserved want. Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), 2009 and Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005. These two are important Acts in this regard.

ARTICLE 42 : Provision for just and humane conditions of work and maternity relief

It recommends that the State shall make provision for securing just and humane conditions of work and for maternity relief and the same is done by way of the Factories Act, 1948 and Maternity Benefit Act, 1961.

ARTICLE 43 : Living wage, etc., for workers

It directs that the state shall endeavour to secure, by suitable legislation or economic organisation or in any other way to all workers, agricultural, industrial or other 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 endeavour to promote cottage industries on an individual or cooperative basis in rural areas. The Minimum Wages Act, 1948 etc. serves this purpose.

ARTICLE 43A : Participation of workers in management of industries

Article 43-A which was introduced by the 42nd Amendment in 1976, has a direct bearing on labour laws, in so far as it provides that the State shall take steps by suitable legislation or any other means to secure the participation of workers in the management of industrial establishments.

The other principles enumerated in Part IV which have a bearing on Labour Laws are Article 45 that talks about the obligation to provide free and compulsory education for the promotion of educational and economic interests of weaker sections and Article 47 that emphasizes the need for improvement in the level of the standard of living and of public health.

Certainly, these Articles envisage labour legislation as reasonable restrictions upon certain fundamental rights, especially freedom of business. Thus, an employer must pay minimum bonus even during a year of loss. (*Jalan Trading Co. (P) Ltd. v. D.M. Aney*).³⁷ This would mean that workers would no longer be hired labourers, but partners, (*Hindustan Tin Works v. Employers - SC 1979, Gujarat Steel Tubes v. Mazdoor Sabha - SC 1980*) interested in the success of the enterprise and would share in the profits.

All these are fine. But while inserting Article 51A - Fundamental Duties, no mention was made of their duty nor even moral obligation to refrain from slowing down, striking etc. without observing legal formalities.

Judicial Wisdom of the Courts and Labour Welfare

It is interesting to note the judicial wisdom displayed by Indian Courts in making a harmonious construction of Fundamental Rights and Directive Principles is simply unique. This has helped the courts to uphold legislation aimed at social justice on the ground that such legislation was in line with Directive Principles which are reasonable restrictions on certain fundamental rights. Thus, such legislation would be in the public interest. In this matter of relative importance of the Fundamental Rights and Directive Principles, there has been one important controversy between legislature and judiciary. This was regarding property as a fundamental right which appeared to clash with social justice as prescribed in Directive Principles. The controversy finally got resolved in the Constitutional amendment-(44th)³⁸ which deleted ownership of property from Fundamental Rights and made it a legal right.

Several leading cases covering various aspects of labour laws ranging from the validity of minimum wages to Public Interest Litigation, clearly show that the courts always considered the economic uplift of workers as something vital for the progress of the country. The Courts have been firm in ensuring that there is no violation of labour laws enacted for the benefit of the working classes. While deciding cases involving industrial disputes, the courts have always had in mind the Constitutional directives and have treated them as reasonable restrictions on Fundamental Rights. In fact, the concept of reasonable restrictions runs like a golden thread through the entire fabric of Constitution and amply reflected in labour legislations. Labour jurisprudence related to adjudication proceedings has been put on firm footing in the last five decades. Since the welfare of the workers is the primary concern of especially Part IV of the Constitution, industrial adjudication has always kept the needs of social justice in mind. Every department of labour jurisprudence has thus been inspired and guided by the provisions of the Constitution of India, especially those contained in Part IV.

In this respect, the decision in *People's Union for Democratic Rights v. Union of India*,³⁹ was significant in so far as it gave new dimensions to several areas pertaining to labour law. The case arose out of the denial of minimum wages to workmen engaged in various construction projects for the Asian games, the employment of children in the same and the non-enforcement of provisions of the Equal Remuneration Act, 1976, Contract Labour (Regulation and Abolition) Act, 1970 and the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. The case was admitted in the nature of a Public Interest Litigation on the basis of a letter sent to Justice P.N. Bhagwati. The dilution of the

requirement of '*locus standi*' enabled access to justice for the aggrieved workers who otherwise would have faced immense difficulties in approaching the Supreme Court. In addition to recognising the violation of Article 23 and 24, it was held that the non-observance of the above-mentioned statutes amounted to a violation of 'personal liberty' under Article 21. The reasoning advanced was that the protections conferred on the workmen by these legislations were intended to ensure the basic human dignity of the workmen. Hence, if the workmen are deprived of their rights under these welfare-oriented legislations, the same amounts to a violation of Article 21 by the respondents, which included the governmental agencies who were obtaining the services of the workmen through contractors. Another example where this approach was used was the decision in *Bandhua Mukti Morcha v. Union of India*⁴⁰ where Article 21 read with the Directive Principles enumerated in Articles 39, 41 and 42 were cited as the basis of the State's obligation to identify, release and suitably rehabilitate bonded laborers under the Bonded Labour System (Abolition) Act, 1976.

The right to just and humane conditions of work also contain provisions for medical care and the safety of the workers together with other essential physical well-being, even leisure. In many pronouncements, *Manohar Lal v. State of Punjab*,⁴¹ and many others) the courts recognise the right to appropriate leisure time through well regulated and limited hours of work, rest intervals during working hours, weekly holidays, earned leave and other leaves with wages.

To ensure and to regulate all these rights, proper labour legislations are required. It should be noted that the norms and the standards prescribed in the various enactments are the minimum. It is open to the employers and the workers to negotiate or the industrial courts to adjudicate improvements, wherever required. Whether it is bonded labour, child labour, sweated labour, contract labour or sexual harassment of female employees, courts have intervened going out of way and directed the executive and legislature to make suitable arrangements for their safety, security and welfare. In *Air India Statutory Corporation v. United Labour Union*,⁴² Courts have gone beyond legislation and recommended the absorption of contract labour with the permanent establishment. In *Vishaka v. State of Rajasthan*⁴³, has recommended steps for prevention of sexual harassment to working women and directed establishments to follow certain ground rules.

In Indian conditions, unless the right to job-security is given to the workers, the right to just and humane conditions of work would prove futile, as an unscrupulous employer may force workers to abandon certain of their rights for fear of losing their jobs. Indian laws make it impossible for an employer to terminate the service of a workman whenever he so.

Implementation of the Labour Laws

The objective of creating a conducive work environment to achieve a high rate

of economic growth with due regard to protecting and safeguarding the interests of workers is sought to be achieved through effective implementation of an array of labour legislations in India. Labour figures in the Concurrent List in the Constitution. Thus, both Centre and States can legislate and enforce labour laws. There are about 43 Central labour laws concerning different aspects of labour such as industrial relations, wages, working hours, conditions of service & employment, equality & employment of women, those relating to developed and disadvantaged sections, social security, labour welfare, employment & training etc. Though enacted by the Central Government, these laws are enforced either by (a) the Central Government or (b) the Central as well as the State Governments or (c) the State Governments. Besides, there are about 91 State labour laws enacted and enforced by the State Governments in their respective domains. In order to facilitate implementation, Rules have also been framed under various labour laws.⁴⁴

New Labour Codes

Labour laws mediate the relationship between workers, employing entities, trade unions, and the government. Labour Laws emerged when Employers tried to restrict the powers of Workers' Organisations and keep labour costs low. Employment Laws in India have traditionally been governed by contract as well as various legislations, both at the central and state level. With the objective to simplify, modernize, rationalize and consolidate the various legislations with respect to employment, wages, industrial disputes and other relevant labour/employment related matters, Ministry of Labour and Employment ("Ministry") introduced four bills in 2019 to amalgamate 29 central laws related to labour laws. These bills have been codified and enacted as:

- The Code of Wages, 2019.
- The Industrial Relation Code, 2020.
- The Occupational Safety, Health and Working Conditions Code, 2020 and
- The Code on Social Security, 2020.

The Indian Parliament passed these four labour codes in the 2019 and 2020 sessions. While the Parliament passed The Code on Wages in August 2019, the other three labour legislations, namely, The Industrial Relations Code, 2020, The Occupational Safety, Health and Working Conditions Code, 2020 and The Code on Social Security, 2020 were passed by the Parliament in September 2020. These four codes will consolidate 44 existing labour laws.

According to sources in the Ministry of Labour, the new wage code had to be implemented from October 1, 2022, extended from the prior proposed date of July 1, 2022. The government has not decided on a deadline to ensure the implementation of the codes which were formulated almost two years back. 25

states have sent their drafts on the Industrial Relations code to the Centre, while 24 states have sent drafts related to Occupational Safety to the Centre. Drafts are yet to be sent by the states to the centre in all four labour codes. The central government wants all the states to implement this code simultaneously.

Currently, many states have different codes. The majority of the states have sent the draft on the four labour codes to the Centre. But draft comments on the code are yet to come from some states. So far, a total of 31 states have sent draft rules on the new wage code. Rajasthan and Mizoram have sent drafts for each code only. So, West Bengal is the only state which has not drafted any code. Reports suggest, so far 23 states including Uttarakhand, Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Odisha, Arunachal Pradesh, Haryana, Jharkhand, Punjab, Manipur, Bihar, Himachal Pradesh and UT of Jammu and Kashmir have framed rules under new labour laws.⁴⁵

Conclusion

The Indian labour legislations are based on the principles of Welfare State and attempt to incorporate the same spirit of constitution in different enactments. As the directive principles of state policy has entrusted the responsibility of implementing the programmes and policies laid down in the constitution as announced in the Constituent Assembly a series of Labour Legislations were enacted. The legislations enacted to safeguard and promote the interest of labour covering several aspects as fair wages and regular payments, working conditions, holidays and leave, safety and health, conditions of works, labour welfare, social security, industrial relations, protection of interest of women and child labour, labour indebtedness, housing, recruitment and training. The legislation covers all workers engaged in factories, mines, plantations, railways, motor-transport, shops, etc.

The Constitution of India has given clear direction to the Centre and State Government to ensure all-round development of labour in every walk of life and they should not lag behind either in social or in political life. The labour legislations enacted after the introduction of the constitution aims at achieving this end.

It is noteworthy that to safeguard their basic rights workers' all over the world had to struggle continuously and thus bring about a new turn to judicial thinking. Today, the rights of labour are set forth in the positive laws of almost every nation, yet much is still to be done so that in practice, all workers can enjoy the fruits of their labour and live a decent and dignified life in civilised Society.

As we have seen, the Constitution of India has gone out of way to protect rights and privileges of workers, ensuring a decent and dignified life. But a lot is required to be done for the workers of unorganised sector - bonded labour, child labour, female labour, labourers of sweated industry and agricultural labour. The Constitution has the inherent potency, but its instrumentalities have not come-

up to the expectation and have failed the Constitution. Therefore, even after five decades of independence, labourers in these areas are exploited, despite the best intentions of the Constitution. Much is required to be done.

Notes

1. See Article 22 and 23 of Universal Declaration of Human Rights.
2. <https://blog.ipleaders.in/labour-laws-in-india-2/> accessed on 9th October 2023.
3. <https://www.legalserviceindia.com/legal/article-1469-industrial-revolution-of-india-and-labour-policy.html> accessed on 9th October 2023.
4. <https://www.legalserviceindia.com/legal/article-8296-21st-century-challenges-to-labour-laws-in-india.html> accessed on 15th January 2024.
5. Railkar, 1990
6. N. M. Joshi (1927)
7. Srivastava and Devi, 1974
8. Kumar, 1994
9. Sarma, 1996
10. Kohli and Sharma, 1997
11. ILO Report II – Asian Regional Conference, 1947
12. AIR 1986 SC 180
13. AIR 1981 SC 212
14. AIR 1981 SC 487
15. AIR 1982 SC 879
16. AIR 1986 SC 172
17. AIR 1951 SC 41
18. AIR 1970 SC 2178
19. AIR 1970 SC 2042
20. AIR 1988 SCC 122
21. (2005) 13 SCC 721
22. (2000) 8 SCC 395
23. 1971 SCR (3) 840
24. 1981 SCR (2) 516
25. 1983 SCR (3) 327
26. AIR 1986 SC 180
27. AIR 1992 SC 789
28. 1993 SCC (3) 259
29. 1984 SCR (2) 67
30. AIR 1996 SC 1
31. 1983 SCR (1) 456
32. 1984 SCR (2) 67
33. AIR 1984 SC 1099
34. AIR 1997 SC 699
35. AIR 1980 SC 1789
36. 1980 SCR (3) 1338

37. AIR 1979 SC 233
38. The 44 Amendment Act 1978
39. *supra* note 30
40. *supra* note 31
41. 1961 SCR (2) 343
42. 1997 LLR 305 (SC)
43. (1997) 6 SCC 241
44. *See* The Proceedings of 41st Session of the Indian Labour Conference, New Delhi held available at <https://labour.gov.in/sites/default/files/Agenda41ilc.pdf> accessed on 15th January 2024.
45. <https://www.foxmandal.in/perspective-employment-laws-in-india-challenges-changes-and-the-way-forward/> last accessed on 15th January 2024 at 10:44 a.m.