MAHARASHTRA NATIONAL LAW UNIVERSITY AURANGABAD

COMPARATIVE LAW E-NEWSLETTER

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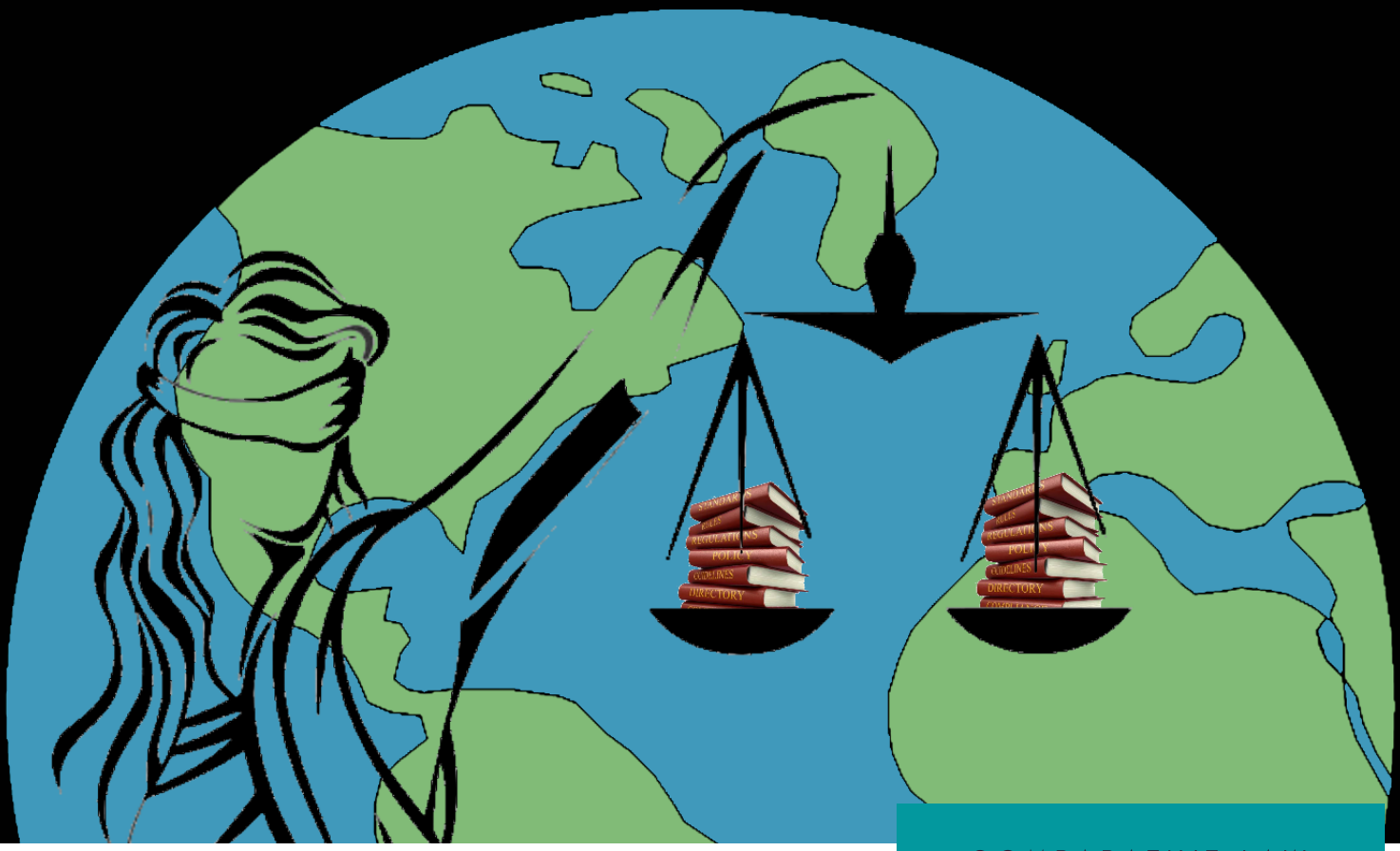
Labour and Modern Slavery: Framework on Social Security Laws



COMPARATIVE LAW E-NEWSLETTER

ABOUT THE NEWSLETTER

Devoted to the study of comparative and transnational laws and legal systems, the Comparative Law e-Newsletter (CLN) is an open access, peer-reviewed and referred newsletter published bi-monthly with six issues per year, by Maharashtra National Law University Aurangabad. It embraces analytical, theoretical, empirical and socio-legal attempts surrounding the public and private law aspects of various legal systems. It aims to encourage comparative legal studies in the transnational context of legal history, theory, philosophy, legal cultures and traditions, by tracking the developments in the field across the world. The newsletter seeks works that are dynamic and interdisciplinary in nature with specific display of comprehensive knowledge on the subject matter.

IN THIS ISSUE

TABLE OF CONTENTS

CONTENT

INTERVIEWS

SHORT-ARTICLES

NEWS JACKING

TABLE OF CONTENTS

FROM THE VICE-CHANCELLOR'S DESK

Maharashtra National Law University, Aurangabad is established by Maharashtra National Law University Act, 2014 (Act No. VI of 2014) passed by State Legislature of Maharashtra. The University commenced its operation in the year 2017 having its headquarters at Aurangabad, Maharashtra and since then has been thriving to achieve academic excellence. The University has in the past hosted national level seminars and conferences and has been visited by legal luminaries who have enhanced and furthered the objective of making this institution of national importance.

I strongly believe that it is the students, faculties and the non-teaching staff who plays a pivotal role in the over-all development and growth of an institution. It is under able guidance and constant support of judges, eminent legal practitioners and academicians that the institution is on its path of achieving excellence in the field of legal education. This newsletter is one such initiative undertaken by the faculty members and students of Maharashtra National Law University, Aurangabad. This newsletter aims to bring about various discourses related to comparative laws. It will be theme-based bi-monthly newsletter which will promote and enhance academic deliberations from the members of legal fraternity. In an era where development is rapidly taking place and law is ever-expanding and growing, the need for such inter-disciplinary approach has to be seriously undertaken.

I am glad to present this newsletter to the legal fraternity and civil society and encourage young scholars, academicians and students from various law schools in the country to contribute actively to be a part of this journey and make this effort a grand success.

I congratulate the team for their untiring efforts during this pandemic situation in bringing this newsletter to light and wish them a success in their vision and endeavour to reach a wider audience and facilitate scholarly discourse in this area.

Wishing you all the very best !

Regards,
Prof. (Dr.) K. V. S. Sarma
Vice-Chancellor,
MNLU, Aurangabad.

MESSAGE FROM THE TEAM

We are enthralled to launch the very first newsletter by Maharashtra National Law University, Aurangabad. This occasion marks release of the First Volume, Third Issue of the Comparative Law Newsletter. The newsletter is an initiative undertaken by faculty members and students of Maharashtra National Law University, Aurangabad. It is an effort to discuss and bring forward various contemporary discourses and issues related to the domain of comparative laws.

We hope you would have enjoyed reading the issues of the newsletter in the past. The theme of the First Volume, Third Issue of the newsletter is Labour and Modern Slavery: Framework on Social Security Laws. The theme was very carefully thought off and agreed upon by the team members in the light of recent and related events and developments around the world pertaining to this area. The First Volume, Third issue is based on contributions by faculty members, students and practitioners; however, we look forward and comprehend, that the upcoming volumes and issues will also be based on submissions by academicians, lawyers, young students and other esteemed members of the legal fraternity.

We imbibe upon this journey together, and hope to develop a positive outcome with this effort undertaken to develop a never-ending era of learning and growing. We would like to thank the support and encouragement received by Hon'ble Vice-Chancellor, Prof. Dr. K.V.S. Sharma, under whose able guidance this newsletter has been released. We acknowledge the untiring efforts made by the faculty in-charge and the student members who were behind the scene working for the timely release of this newsletter. We would especially take up this opportunity to take a few names, without whose efforts this newsletter would have never become a reality, our student team comprising of Ms. Soumya Thakur, Ms. Nikita Mohapatra, Ms. Aastha Chahal, Ms. Chetna Shrivastava, Ms. Aishwarya Pandey, Ms. Simranjeet Kaur, Mr. Abhishek Singh, Mr. Husain Attar, Mr. Devansh Kathuria, Mr. Anubhav Mishra, Mr. Anuj Agarwal, Mr. Sulabh Gupta, Mr. Rohan Kapoor, Mr. Pranay Bhattachayra, Mr. Ansuman Mishra, Mr. Anant Choudhary, Mr. Abhishek Jha, Mr. Sumant Jee, Mr. Narendra Singh Jadon, Mr. Abhijeet Mittal, Mr. Indronil Choudhry, Ms. Pranshi Gaur, Ms. Pranali Kadam, Ms. Shreyashi Srivastava, Mr. Siddhant Vyas, Ms. Riya Mehla, Ms. Pavitra Pottala, Ms. Kavya Singh, Mr. Soham Bhosale, Ms. Mehek Wadhawani and Ms. Jidnyasa Sakpal.

This newsletter is special and memorable for all of us considering that even during this pandemic situation and the challenges we faced in form of lack of physical communication between us, still, our resolve and dedication resulted in the timely release of the newsletter as decided. We are utterly grateful and thankful to everyone who has been a part of this initiative in any form.

Hopefully you will enjoy reading it and keep supporting and encouraging us in the near future.
Thank You.

Enjoy Reading and Keep Growing!

Ms. Neha Tripathi and Ms. Soumya Rajsingh,

Faculties In-charge, Comparative Law Newsletter

Student Team: Ms. Soumya Thakur, Ms. Nikita Mohapatra, Ms. Aastha Chahal, Ms. Chetna Shrivastava, Ms. Aishwarya Pandey, Ms. Simranjeet Kaur, Mr. Abhishek Singh, Mr. Husain Attar, Mr. Devansh Kathuria, Mr. Anubhav Mishra, Mr. Anuj Agarwal, Mr. Sulabh Gupta, Mr. Rohan Kapoor, Mr. Pranay Bhattachayra, Mr. Ansuman Mishra, Mr. Anant Choudhary, Mr. Abhishek Jha, Mr. Sumant Jee, Mr. Narendra Singh Jadon, Mr. Abhijeet Mittal, Mr. Indronil Choudhry, Ms. Pranshi Gaur, Ms. Pranali Kadam, Ms. Shreyashi Srivastava, Mr. Siddhant Vyas, Ms. Riya Mehla, Ms. Pavitra Pottala, Ms. Kavya Singh, Mr. Soham Bhosale, Ms. Mehek Wadhawani and Ms. Jidnyasa Sakpal.

INTERVIEWS

"Of course, the problem will arise but the number will not be that high. Compliance depends on how successful will the Govt and authorities implement it. So, these are some of the issues that I highlighted in this regard.."

Prof. (Dr.) S.C.Srivastava

Prof. (Dr.) S.C.Srivastava (Secretary General, National Labour Law Association, New Delhi.)

1. The Code of Social Security, 2020 (SSC 2020) has widened the coverage by including the unorganised sector, fixed term employees and gig workers, platform workers etc., in addition to contract employees. How important will it be for the establishments to assess the implications and revisit the compliance requirements under the code once it is brought into effect?

We should not mix the fixed term employment with the other three parts namely-gig workers, unorganised workers and the platform workers. The fixed term employment was added in 2018 to the then categories categories of workers in the Industrial Employment (standing order) Central Rules .Act was implemented and the rule of fixed term employment was made applicable to all industrial establishments which was previously available only to apparel manufacturers.

The question arises, why fixed term employment? The reason for fixed term employment is that the contract labour has been exploited. If you look into the recent judgement of the Supreme Court in 2019, what you find is that even in a case the order was made under Section 10 prohibiting the contract of labour, even then the workers were allowed to work. And in the recent judgment of 2019 *Director Steel Authority of India v. JantaMazdoor Union* where the SC had an occasion to delineate and they allowed the status where it continues even after the prohibition was made and it was very clearly laid down in the Constitutional Bench that No person can be allowed once the order of prohibition is made under Section 10 of the Contract Labour (Regulation and Abolition) Act. So therefore, this is a situation that contract labour starts as a contract labour and ultimately retires as a contract labour. It is said that sometimes it starts as Minimum wage and retires as a minimum wage. This is the real issue and the reason for the same was that the intermediary was there and in the name of intermediary they were being exploited. And therefore, the idea of fixed term employment came.

In fixed term employment the employer is getting benefit that on the expiration of fixed term, he can terminate the services. Even under Sec2(oobb) of the Industrial Disputes Act, there is a provision of retrenchment compensation, retrenchment is itself defined there and the provision was made for the same. It was said that they do not mean retrenchment within the meaning of Sec 2(oo). A need was felt that we should bring or incorporate what was included in 2018 Industrial Employment (standing order) Act, the same idea has been incorporated.

Under the fixed term employment the employer can hire any number of workers based on duration of a project or any temporary assignment and on the expiration of fixed term, the employee would not be entitled to any notice or retrenchment compensation. Similar provision existed to a limited extent. Under Sec2(oo)(bb) of the Industrial Disputes Act, but it was confined only with regard to notice and retrenchment compensation, as it was outside the purview of the definition of retrenchment. A need was therefore felt what was included in 2018 Industrial Employment (standing order) Central Rules Act.

The advantage which the workers will get in fixed term employment, is that he will be entitled to all the benefits including wages at par with regular employee ,increments , gratuity, provident fund etc. which any other employee is getting. Even the qualifying period will not be a hurdle, so far as the gratuity is concerned. So, this is the advantage to the fixed term worker. Thus exploitation of workers which is done under the Contract Labour system to some extent is now being taken care of. In case of fixed term employee . The Labour Code has codified the aforesaid provision and relaxed the qualify service to avail social security benefits and workers would avail such benefit on pro rata basis. Thus to certain extent it is better than those available to contact labour. Further the fixed term employee would be the employee of the employee of the employer like any other employee. under the Labour Code.

Coming to the workers of the unorganised sector, they constitute more than 90% of the labour force but till date we are having the Unorganised Workers' Social Security Act 2008, which is more on paper. This code has strived to consolidate all social security legislations including the employment exchange also.

The idea here is that we are trying to incorporate the provisions in order to meet the problems which arose in respect to the Unorganised Workers' Social Security Act 2008. Indeed there was no provision for penalty or to enforce the law etc. Thus this Act of 2008 remained only on paper. The Act covered 10 schemes under it which were meant for BPL sector. I am hesitant to call it a legislation as it did not have all the requisite elements.

However, in the Labour Code some steps have been taken even for the unorganised sector workers and have formulated a better scheme and identified the source for the funds such as corporate social responsibility and amount received from compounding of offences .So, I feel from that point of view, the scheme appears to be more viable. Quite apart from this the Labour Code has also provided some measure of grievance redressal. I don't know how far the the scheme would be helpful. We have to give a fair trial to it . However, in the Labour Code some steps have been taken even for the unorganised sector workers and have formulated a better scheme and identified the source for the funds such as corporate social responsibility and amount received from compounding of offences .So, I feel from that point of view, the scheme appears to be more viable. Quite apart from this the Labour Code has also provided some measure of grievance redressal. I don't know how far the the scheme would be helpful. We have to give a fair trial to it .

Thus keeping in view that particular idea, the concept and scheme for gig and platform workers have been incorporated in the Code. The scheme provides for a number of measures such as compliance, authorities to implement, the the scheme, and among others grievance redressal. I think this was the precise idea behind it. Moreover, building and other construction workers are getting funds from the cess levied and collected from cost of construction. Sooner or later this scheme will get its place. If you read the draft central rules of the code it has taken care of the interest of establishments by making provisions for their representation in in the Board. So far as , the penalty is concerned, if you look at Section 133 of the Code you will find that anybody who is guilty of any contravention for non-compliance with any of requirements of the code or Rules he shall be liable for the same. Thus the code has taken care of the problems posed by you. Of course, the problem may arise but whenever a new financial burden is imposed will be resolved with the march of the time. The compliance depends on how successfully Government and authorities implement it.

2. The SSC 2020 requires an aggregator falling within the specified categories to contribute towards the social security fund for gig workers and such contributions will be at a rate of 1-2% of the aggregator's annual turnover. How do you think this would affect the hiring of gig workers and the structure of their pay-outs?

There are two basic issues that need to be addressed in order to address the issue raised by you. The first one relates to an ambiguous rate of contribution fixed on the aggregator i.e., 1% or 2%. This is on the same lines as in the case of building and other construction workers. There is a need to specify whether it is one percent or two percent as the same has not been done under the rules. The second issue that must be addressed relates to the effect of this provision on the aggregator and in doing so we need to consider the capital involved to determine how the employers would be estimating the total amount payable to the workers and the structure of their pay-outs even though the percentage has been laid down in the Code as well as in the draft Rules. The general law, as is applicable in regard to social security and welfare legislation, prohibits the employer from deducting the the amount from wages of the employee for the purpose of contributing to the fund, and therefore the employee will not be affected by the provisions in regard to fixation of the the rate of contribution. The net effect would be that the employer may attempt to adjust this cost somewhere but the deduction from the wages cannot be done on a legal basis. The issue of categorizing the gig and platform workers as skilled or unskilled; the minimum wages; and assessment in case of gig workers working independently is another area that requires deliberation. The provisions which have been incorporated in the Code imposes more responsibility upon aggregators.

3. The SSC has retained the existing thresholds in case of employees' provident fund (EPF), employees' state insurance (ESI), gratuity, maternity benefit, employees' compensation for occupational injuries and diseases. How does this complicate the assessment of coverage of establishments and employees or persons? Also, considering that a large number of workers may continue to be excluded due to this, do you think that the SSC is on the correct path to reach the goalpost of universalization of social security in the near future?

This is a very important issue because for the application of each benefit the worker comes across a different qualifying period. In the Employees Provident Funds the threshold is 20 or more workers, and on the other hand, the ESI is payable where 10 or more persons are present. Similarly, there are different thresholds for the applicability of the gratuity, maternity benefit, and employees' compensation for occupational injuries and diseases. The SCC 2020 is essentially a duplication of the existing laws as the thresholds are retained without any change and in that regard uniformity has not been maintained. Therefore, when we, dwell on the question of universalization of the social security scheme we see that the Code attempts to achieve the same by universalizing in terms of the employee, employer, wages, appropriate Government and establishment . However, there is no universalization as far as the thresholds limit is concerned. I think while universalization has been attempted in the SSC 2020, the same has not been followed.

4. The SSC, 2020 allows maternity benefits only to registered factories, mines, plantations, and shops and establishments, thereby excluding unorganised sector workers, who are often found at smaller units and worksites. Do you think the SSC, 2020 instead of improving the situation has worsened the same by differentiating between formal and informal workers?

If you look into the scheme for the unorganised workers, gig and platform workers, it specifically includes the life and disability cover and also the health and maternity benefit . But the problem is how and to what extent the unorganised workers , gig or platform workers receive such benefit. Our experience under the Unorganised Workers Social Security is far from satisfactory. Under some **s**cheme provided under the said Act maternity benefit is available to women falling under BPL category. On the other hand maternity benefit is a right under under the Maternity Benefit Act,1961 or Employees' State Insurance Act,1948 . The Labour Code retains the same and has inserted similar provisions under the Code. One you can say has the statutory status, the other is yet to receive such status but certainly form part of the scheme itself. Be that as it may , I think theoretically maternity benefit has been included in both categories, namely, unorganized as well as gig and platform workers. How it will be implemented in case of unorganised workers including gig and platform workers will be the real question.

5. In your article "A CRISIS IN LEGAL PROTECTION OF INTER-STATE MIGRANT WORKERS" you have elaborately explained the Rights of inter-state migrant workers under the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. Do you think compared to the previous position, the coverage of their rights have been significantly reduced in the SSC,2020 since the same applies to establishments employing ten or more inter-state migrants?

Before I answer this question I would like to mention that my article was published in April- June ,2020 issue of JILI and written before the scheme came and in that article I had suggested that ESI Act, EPF Act, should be made applicable to them. Then I also suggested provision be made for the food subsidies, and journey allowances in advance etc.

But the Code received the assent of the President on 28 September,2020 and published on 29 September,2020at that point of time it was not notified, I am happy that most of the suggestions mentioned above in my article have been incorporated in the Labour Code. Much water has flown since the previous draft of three labour codes were circulated. So when the law was amended, firstly, we must know so far as the ISMW Act is concerned we find that it was applicable to 5 or more workers, now threshold is brought to 10. It is true that that the thresh hold limit has been raised from 5 to 10 but now the migrant workers include person who is directly appointed by the employer if he/she is coming from different state. I feel that raising the eligibility limit must be seen from the perspective of benefits received by them. So raising the limit appears to be in the conformity with the other provisions of the Code. Thus for the purposes of extending the ESI benefits, EPF benefits it was thought necessary to raise the limit. Further we have also to examine the reason why it is not been implemented. The contractor misused the provisions of the ISMW Act. If they are recruited directly or indirectly they are covered. If we look into the facilities that provided to them, they are not entitled for journey allowance that should be given in advance, the benefits of public distribution system that I have suggested in my paper, likewise, toll free helpline was provided. The fact remains that migrant workers ,who suffered during COVI-19 and Lock-down, have succeeded in receiving the benefits and facilities mentioned before. Thus they are entitled to social security benefit in terms of ESI, EPF. And if we look from that point of view, I do not think injustice is being caused to them.

6. The SSC, 2020 defines gig workers as "a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship". Do you think the definition is conclusive? Would it be prone to certain overlaps while deciding applicability of schemes?

Well, I think, the definition is a general one. The idea is anything can be brought under its scope. If we look at gig workers it means persons who perform work or participate in the work arrangement & earn from such activities. Even the homeless workers can be brought under this, if looked through from that point of view. Generally, by gig workers we mean the ones engaged by flipkart, Zomato and the likes, which provide service at door step.

If we look at the 7th schedule of the code it lays down classification of aggregates which includes ride sharing services like Ola, Uber, Food & grocery delivery services, logistic services, professional services, health care, travel and hospitality and the content media services and any other goods or services provider platforms. Therefore, gig workers will be persons who are aggregate under the meaning of 7th schedule. For that purpose, the definition has to be read along with the seventh schedule. Soothers, would fall under unorganised workers which generally includes migrant workers, contract labourers, even gig workers and platform workers. So, from that point of view there is overlapping. But that overlapping has to be read in the context, precisely, in the context of 7th schedule, and perhaps, one may have to interpret it accordingly.

Of course, time will tell us more about the gig economy, because the courts will then have more opportunity to delineate the contours of the gig workers, platform workers. Later on, not only this, they can bring many other things within the purview of gig workers. They would also have to look into the dictionary meaning. Even in the 7th schedule, the list of aggregators include ride charging services, food and grocery delivery services and the likes. These are wide terms and their application depends on how the courts will interpret it. The definition of gig workers is a wide one. I think its better to have a wide definition so that number of persons can be brought under its purview. But aggregator responsibility has to be read along with it.

India's Socialist Approach

Sayali Sawant, LL.M. Student, MNLU Aurangabad

"So long as you do not achieve social liberty, whatever freedom is provided by the law is of no avail to you"- Dr B.R. Ambedkar

The preamble expresses the indispensable features of the political and economic idea underlying the provisions of the Constitution. It declares India to be a sovereign, socialist, secular democratic republic and to secure to all its people justice, liberty, equality and fraternity.[i]The individual rights are protected under Part-III; the assertions of social good and social equality are enshrined in Part IV of the Indian Constitution. These two parts are justly perceived by Granville Austin as the primary commitment to social insurgency and the scruples of the Constitution.[ii] Fundamental Rights in the Indian Constitution identifies the importance of an individual in the matters of the state and seeks to assert every citizen the freedom to life, liberty and happiness and the state will interfere with it only subject to public health, order and morality. The framers of the Constitution were immaculate in their beliefs that Directive Principles are fundamental in the governance of the country. Articles 36 to Article 51 of the Indian constitution replicate the socio-economic principles in the governance of the country. The provisions relating to social security for labour, workers, etc. are enshrined in Indian constitution though Rrticles 14, 15, 17 and 21 of the Indian Constitution.

Dr. B. R. Ambedkar, the Chairman of the Drafting Committee, has emphatically stated that Directive Principles "are really instruments to the executive and the legislature as to how they should exercise their power"[iii].

The 'objective resolution'[iv] moved by Nehru in the Constituent Assembly was instrumental in embodying the concept of social justice in the preamble as well as the Indian constitution.

To uphold the true sense of this embodied principle, the parliament recently passed three major bills pertaining to labour law;

1 . Industrial Relations Code Bill, 2020,
2. Code on Social Security Bill, 2020 and;
3. Occupational Safety, Health and Working Conditions Code Bill, 2020..

In the Industrial Relations Code Bill, 2020, the government introduced more stringent conditions confining the rights of workers to strike. The bill encompasses gig workers and inter-state migrant workers within its sphere, it also acts a protective shell to the employers in the form that the employers can appoint and lay-off workers sans government permission. It increased the number of workers from 100 to 300 in industrial establishments with respect to the procedure related to layoffs and retrenchment. It also introduced the standing order i.e., rules of conduct for workmen employed in industrial establishments up to 300 workers. This basically means that those industrial establishments having a workforce of 300 workers will not be required to furnish a standing order. Such a rule is arbitrary and it will open doors for companies/industrial establishments to introduce capricious service conditions for workers. The Industrial Relations Code also provides for standing order which will be essential to every industrial establishment wherein 300 or more than 300 workers, are employed, or were employed on any day prior to twelve months.

An increase in the threshold for standing orders will violate the rights for workers in small establishments comprising of less than 300 workers. The Industrial Relations Code also provides for new conditions for carrying out a legal strike. The time period for arbitration proceedings will be included in the workers contract before going on a legal strike instead of conciliation proceedings.

Which means that a person employed in an industrial establishment shall not go on strike without giving a 60-day notice and/or during the pendency of proceedings before anyIndustrial Tribunal and 60 days after the conclusion of such proceedings.

This process ensures that the workers will be buried in the long process before even thinking of going on a legal strike meaning the legal strike will practically be impossible.

The Standing Committee on Labour was completely against the extension of the required notice period for strike for other services apart from public utility services like water, electricity, natural gas, telephone and other essential services. However, the current Industrial Relations code makes it impossible for a person employed in a public utility service to go on strike unless he/she gives notice for a strike within six weeks before going on strike or within fourteen days of giving such a notice. Now these terms and conditions will be applicable to all industrial establishments as per the new code.

The Social Security Code provides for a National Social Security Board which shall recommend the central government for formulating seemly schemes for different segments of unorganised workers, gig workers and platform workers.

The Occupational Safety, Health and Working Conditions Code has defined inter-state migrant workers as the worker who has migrated from one state and obtained employment in another state on his sole prerogative, and earning up to Rs. 18,000 a month. Previously this definition consisted of only workers on contractual employment.

CONCLUSION

In a country like India, where social justice is a fantasy longed, a total enfeeblement of rights of workers is a zilch rigid rule which is completely in contradiction of the egalitarian tenets that the Constitution enshrines. Labour reforms were the need of the hour. The Social Security code defines 'gig worker' as workers outside the "traditional employer-employee relationship" and Platform workers as those who are outside the "traditional employer-employee relationship" and are a part of organisations or individuals via an online platform. The Code also defines unorganised workers which includes self-employed persons. The Code provides for different schemes for all these categories of workers along with the definitions for aggregators and their role in these schemes.

However, there may be some overlap amongst these three definitions which may result in ambiguity on the applicability of social security schemes to these different categories of workers.

Hence in the words of Justice D.Y. Chandrachud, while delivering a lecture on why constitution matters, a workshop organized by Bombay Bar Association, "the constitution works even for those who do not believe in it". Here is hoping that these 3 labour codes will bring a new revolution for the labours in India.

i The words "socialist, secular" were added to the preamble only in the year 1976 by the Constitution (Forty-second Amendment) Act, 1976, S.2.

ii Glanville Austin, The Indian Constitution: Cornerstone of Nation, Oxford University Press, New Delhi, (1966), p.50. According to Glanville Austin, Indian Constitution is the first and foremost social document and says, "The core of commitment to the social revolution is in Part III & IV in the Fundamental Right and Directive Principles of State Policy. These are consciences of the Constitution".

iii Constituent Assembly Debates, Vol.II, pp.41-42.

iv The object resolution states: "It shall be guaranteed and secured to all the people of India justice—social, economic and political, equality of status of opportunity before the law, freedom of thought, expression, belief, faith, worship, vocations, associations—but all are subject to law and public morality" Nagabhooshanam, P.,Social Justice and Weaker Sections: Role of Judiciary, Sitaram Co. (2000), p.4.

Critical Analysis of Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA)

Aditya Narayan Sinha, Student- Symbiosis Law School, Nagpur
Dhruva Kalantri, Student- Symbiosis Law Schol, Nagpur

INTRODUCTION

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) was introduced in 2005 to enhance the livelihood security in rural areas by providing at least 100 days of guaranteed wage employment to every household as a matter of right. It is considered the most important and the largest public wage employment programme. It was introduced as a social measure that guarantees the “right to work”. Around 15% of the country's population is provided by a social security net by MGNREGA.

MGNREGA was first proposed by our former prime minister P.V. Narasimha Rao and it was accepted and commenced implementation in 325 districts of India and later based on experience, it was further scoped up to cover all the districts of India from 1st April 2008. “The World Bank termed MGNREGA as a "stellar example of rural development" in the World Development Report 2014.”[i]

MGNREGA provides a lawful right to the grown-up or adult members of the family to demand at least 100 days of employment in the openwork projects. Any individual applying for the work under MGNREGA must be employed within 15 days of applying and if the person isn't provided with the job within days then, the person would be entitled to recompensation and the wages must be paid according to the minimum wages specified under the Minimum Wages Act, 1948. MGNREGA follows Article 46 of the constitution of India that supports the interest of work in uplifting the economical conditions of SC's & ST's so that they can be prevented from being discriminated against or exploited. The cycle of decentralization started by the 73rd Amendment to the Constitution of India that allowed established status to the Panchayats is additionally fortified by the Mahatma Gandhi NREGA that supplied these country self-government organizations with the power to actualize the law.

ANALYSIS & SUGGESTIONS:

MGNREGA is indeed the largest work guarantee scheme programmes in the world with an objective that guarantees 100 days of employment in every financial year to any adult member of the family who is willing to do an open project unskilled manual work. MGNREGA targets empowerment of the socially disadvantaged tending to the reasons for constant destitution through a rights-based framework. “As per MGNREGA, at least one-third of legatee should be women and the wages must be paid as to the statutory of minimum wages specified in the state under the Minimum Wages Act, 1948 which should be not less than Rs. 60 per day unless informed by the government.”[ii] The most interesting thing about MGNEGRA is that it guarantees the individual that he/she will get the job within 15 days of filling the form or they will get the compensation. Due to this scheme, it demands the self-selection of workers. MGNREGA accentuation on reinforcing the cycle of decentralization by giving a critical part in Panchayati Raj Institutions (PRIs) in arranging and executing these works and instructs Gram Sabha’s to recommend the work which is taken and at least 5% of the work must be completed by the individuals. The allotment to MGNREGA still adds up to 0.47% of the GDP which is lower than the World Bank suggestions of 1.7% of GDP and because of the absence of funds, the state governments find that it's hard to fulfil the need for work under MGNREGA. The ground reality of MGNREGA is different from that written on paper. Numerous states have neglected to dispense compensation inside 15 days as commanded by MGNREGA. Likewise, individuals are not being even made up of a postponement in the instalment of wages. MGNREGA has transformed the plan into a flexibly based program, and therefore, people have started to lose interest in working under MGNREGA. Even the gram panchayats are not able to execute MGNREGA properly and successfully. It has been observed that there is a lot of delay in the allotment and as well as in compensating.

Proper inspection of the MGNREGA project is also not done and there is an issue in the quality of work provided by the workers also. And as said that there's a huge difference between paper record and ground record. There are many issues related to the existence of fake job cards or sometimes, entries are also missing or delay and many other things as well. In many places, it is even reported that the work is being given which is of less than 100 days. There are many other problems too such as ineffective grievance redressal, lack of involvement of Panchayati Raj Institutes, infrequent social audits, distortion in the labour market, and many others too.

The main aim and the fundamental point of MGNREGA is to improve the livelihood security of the rural individuals by giving 100 days of ensured work employment but it is obvious from the insights that the 100 days of ensured business are not being given by the state governments and the normal number of workdays is exceptionally less when looked at to the legal arrangement. The governments must ensure that public work under MGNREGA ought to begin in each town and the llabourers volunteering up at the worksite should be given work quickly, immediately without any delay. There should be proper allotment of funds so that there no burden on the state government. There should be proper inspection and monitoring of MGNREGA on the ground level, proper job card verification and an efficient grievance redressal mechanism. The government should also promote the participation of women under the MGNREGA scheme.

CONCLUSION

The objective of MGNREGA is really helpful for the rural people and it has benefited people's families too. But paper reality and the ground reality are different. MGNREGA has helped a lot of people in the COVID-19 pandemic when the entire nation underwent lockdown and people were unable to earn, but still there are many loopholes which need to be corrected. For this, Central and State governments have to come together and make some directives and policies so that these loopholes can be corrected and women must be promoted to join MGNREGA as it will motivate more women to work.

i. World Bank calls NREGA a stellar example of rural development, The Economic Times, (October 10, 2013, 05:57 AMIST),retrieved World Bank calls NREGA a stellar example of rural development, The Economic Times, (October 10, 2013, 05:57 AM IST),retrieved from http://articles.economictimes.indiatimes.com/2013-10-10/news/42902947_1_world-bank-world-development-report-safety-net.

ii. Mahatma Gandhi National Rural Employment Guarantee Act: Review of implementation, PRS India, 23rd September 2013, Retrieved from https://www.prsindia.org/theprsblog/mahatma-gandhi-national-rural-employment-guarantee-act-review-implementation

LABOUR AND MODERN SLAVERY: FRAMEWORK ON SOCIAL SECURITY LAWS

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INTRODUCTION

"Slavery" is a social evil which operates even to this day, ruining hundreds and thousands of innocent lives across the globe. Even in the 21st century a horrific act like slavery is not in the past; yet an estimate by The Global Slavery Index suggests that in 2016, there were around 18.3 million people involved in Modern Slavery in India alone.[i] "Modern Slavery" is the term used to refer to institutional slavery that continues to occur in present-day society; which is also a gross Human Rights Violation resulting in mental disorders such as anxiety and depression for the victims. One of the most prevalent forms of Modern Slavery practiced in India is Bonded Labour also known as debt bondage or debt enslavement. Despite this fact, it's still the least known. Bonded Labour occurs when a person is forced to work to pay off a debt.[ii]

LEGAL ANALYSIS OF THE ISSUE

Apart from the various constitutional provisions, The Bonded Labour System (Abolition) Act, 1976 is a specific legislation to prohibit Bonded Labour. STATUTORY SAFEGUARDS The Bonded Labour System (Abolition) Act, 1976 provides various safeguards against bonded labour. The safeguards provided by the act are mentioned below:

I. It is enumerated in Section 4 of the act that the main relief which is granted to the bonded labour's with the outset of the act was that the bonded labour's are released from any duty to provide bonded labour due to their debt enslavement.

II. Section 5 of the act states that even if there is any agreement whereby bonded labour had been existing, it is rendered void and inoperative.

III. Prohibition has also been emitted on institution of any suit before any civil court vis-à-vis recuperation of bonded debt.

IV. Section 7 of the act states that if there is any property of the bonded labour which is under mortgage or under bonded debt, it stands freed on commencement of the act.

V. If a person is detained in civil prison in execution of the bonded debt, they shall be freed as per the provisions of the act.

VI. Also, as per Section 8 of the act, a bonded labour who has been freed shall not be expelled from homestead.

The Criminal Law (Amendment) Act was introduced in 2013 with the advent of sections 370 and 370A being instituted in the Indian Penal Code, which criminalizes anyone who is involved in the process of trafficking someone inclusive of but not limited to recruitment, transportation and transfers, by any means. Despite the laws being in place, it is a long-established issue still persisting in the society.

Section 370 is not just applicable to people who are involved in transporting and recruitment of the victims for exploitation, but it is also applicable to anybody harboring these people, which is done by the employer.

LEGISLATIVE SOLUTION

While India has really good anti-slavery laws in fact, superior to European laws[iii]; It is still the country with the largest number of slaves. So effectively it all comes down to implementation. Implementation mechanisms should be complemented by mass media campaigns to raise awareness among public, policy-makers and the media. It is also crucial to select the right enforcement authority and mechanism. While the Bonded Labour System (Abolition) Act, 1976 provides for The District Magistrate as an implementation authority[iv] the time has come to create a new authority, which is more focused towards the cause and sufficiently trained to enforce the legislation effectively, and is more committed to its success; because as evident from the figures, the work done by the current implementation authority has not been effective.

GLOBAL PERSPECTIVE

The question of the rule of law with regard to this is issue is not merely a national, but an international issue as well. In the absence of such legislation, the opportunities for slavery and bonded labour multiply, particularly as businesses extend their operations into countries with limited rule of law and high levels of corruption. Where adequate and enforceable human rights protections do not exist in national law to hold governments accountable, then the perpetration of slavery against vulnerable individuals is all the easier.

The absence of key mechanisms and enforcement of international rule of law allows state-tolerated slavery more readily to persist; were North Korea, Saudi Arabia liable to the censure of international courts, then slavery in those countries would have much greater difficulty surviving, and as a result the standards of the rule of law in each country would be improved.[v]

CONCLUSION

If slavery is to be ended, or at least reduced, there needs to be new policymaking and a more focused approach on ending its causes. Hence, there must be much more frank discussion on policy on migration, citizenship, international aid– that is, political dialogue between nations– which should address on how to shift the international political economy away from one where individuals in a position of power are allowed to take advantage of the extremely poor by the means of forced labour and slavery.

i.Global Slavery Index (Findings/India) <https://www.globalslaveryindex.org/2018/findings/country-studies/india/>accessed 23 November 2020.

ii. What is bonded labour? <https://www.antislavery.org/slavery-today/bonded-labour/#:~:text=Puspal%2C%20former%20brick%20kiln%20worker%20in%20Punjab%2C%20India.&text=Also%20known%20as%20debt%20bondage,to%20pay%20off%20a%20debt.> accessed 23 November 2020.

iii. Swagata Yadavae, 'India's paradox: Best anti-slavery laws, but largest number of slaves' & <https://www.business-standard.com/article/current-affairs/india-s-paradox-best-anti-slavery-laws-but-largest-number-of-slaves-117040600145_1.html> accessed 23 November 2020.

iv. The Bonded Labour System (Abolition) Act, 1976, s 10.

v. McQuade, Aidan. "Modern Slavery in Global Context: Ending the Political Economy of Forced Labour and Slavery." The Modern Slavery Agenda: Policy, Politics and Practice, edited by Gary Craig et al., 1st ed., Bristol University Press, Bristol, 2019, pp. 29–46. JSTOR, <www.jstor.org/stable/j.ctvb1hsm8.6> Accessed 24 November 2020

Constitutional Safeguard and Social Security to the Women Workers in the Informal Sector in India

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Beyond any hesitancy, human civilization had remained far from modernization unless women left their peer contribution in society. But unfortunately, they have to bear the tacit social anguish and injustice. The continuity isn't exceptional in the unorganized sector too. Most of the women work in various sectors sans recognition as workers. Therefore, they often deprived by proper wages and facilities as a worker can access. Moreover, the lack of social security breaches their every possible fundamental right in working places. But, the agony of poverty has left Hobson's choice for them.

Informal sector/unorganized sector, according to the Ministry of Labour and Employment, is the sector that can't avail their common interests due to certain obstacles which the formal sector may enjoy, i.e., ignorance of employer-employee relationship, casual nature of employment etc. Usually, they are low-paid and ignored by the social security benefits like life/medical insurance, maternity benefits, pension etc.[i]

According to section 2 (l) of The Unorganized Workers' Social Security Act, 2008, the sector employs workers less than ten in number and owned by private individuals for production or supply or both of goods and services. It includes the irregular or temporary workers without social security benefits and the regular workers in informal sector sans employment. But the informal economy is the pivot for Indian economy. Above 90% of the workforce and about 50% of national product are esteemed by the informal economy[ii]. In India, above 90% of total women workers are involved in informal economy and of which 20% work in urban areas. Majority women come from backward sections and play crucial sole support for their families[iii].

Most of the cases they sacrifice the low and fixed scale payment, absent of formal relation of employment, absent of fixation of work-load, non-availability of leaves and maternity benefits, living conditions, gender biasness, work hazards, occupational safety, lack of security of employment and other social security benefits, lack of healthy and protective nature and environment of working place[iv] and most importantly lack of security from sexual harassment.

Standard living and food facilities and problem of proper allocation of migrant workers also create hostility to the workers. Indian Constitution promotes the legal framework for betterment of the work and working place conditions along with the protection and promotion of livelihoods of the worker especially women. Article 14 ensures avoiding discrimination and inequality in employment. Equality before law and equal protection of laws is the quintessence of the right guaranteed under fundamental rights which cannot be arbitrarily denied to the equals in the invalid classification[v]. Article 15 guarantees non-discrimination by the State and equality of opportunity in public employment on the grounds of sex, religions, caste etc. For informal/temporary employment, the employee possessing the requisites qualification and performing the similar works/duties shall be entitled to claim the same wages with minimum pay scale as like regular employee[vi]. The Doctrine of 'Equal pay for equal work' has been deduced by the Supreme Court form Articles 14, 16 39 (d) and preamble to the Constitution in *State of M.P. v. Pramod Bhartiya*[vii] and *Randhir Singh v. UOI* [viii] referring to Article 39 (d) the apex court aimed to establish socialism by defining the concept of social justice and economic equality by eradicating inequality of earnings, status and standard livings and to provide a worthy standard of life and security in wages to the working people irrespective of sex. In *N Krishna Devi v. Vishnu Mitra*[ix] it's interpreted that judiciary shall be liable for protection of labour rights and to enforce the socio-economic justice in different cases of unorganized sector.

Moreover, right to form associations and unions is also a Fundamental Right under Article 19(1) (C). *In Maneka Gandhi v. UOI* [x], the Court interpreted a new dimension of Article 21 that the scope of right to live and liberty to every individual comprises the right to live with dignity not confined up to physical extents. Bhagwati J has observed in *Francis Coralie v. Delhi* [xi] that the right to life includes the human dignity with all bare necessaries like adequate nutrition, clothing, shelter, reading, writing, expressing oneself, free moving etc. In *Shantisar Builders v. Narayanan Khimalal Totame* [xii] the Court observed that right to life under Article 21 covers the right to food, decent environment and reasonable accommodation. In *PUCL v. UOI* [xiii] Bhagwati J viewed that non-payment of minimal wages to the workers is a negation of right to live and directed to the states to implement policies to protect the worker rights and interests irrespective of male or female.

The legislative interferences like to enact The Unorganized Workers' Social Security Act, 2008 ensure national minimum benefits for unorganized workers by constituting National[xiv] and State Social Security Board[xv]. Moreover, the unorganized workers shall be eligible for registration to avail the social security benefits to the District Administration[xvi]. Besides this The Maternity Benefit Act, 1961 ensures the health and well-being of the women and their children and the act of pregnancy as bar to employment is unconstitutional[xvii]. Moreover, the Workmen's Compensation Act, 1923, the Payment of Gratuity Act, 1972, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 etc. confirm the female workers' right to get social justice in employment. Beside this, The Ministry of Labour and Employment finances the voluntary organizations by way of grant-in-aid for the socio-economic development of women labour. Moreover, more awareness program and institutional support is required to develop a miserable scenario and to secure the self-identity of unorganized women workers.

i. Ministry of Labour and Employment, the Unorganized Sector Workers' Social Security Bill, 2007 (Standing Committee on Labour 21, 2007) ch 3.
ii. Government of India Ministry of Labour and Employment Labour Bureau Chandigarh Employment in Informal Sector and Condition of Informal Employment (Vol. IV, 2013-14) ch 1.
iii. Dr. Geetika, Dr Tripti Singh and Anvita Gupta, 'Women Working in Informal Sector in India: A saga of Lopsided Utilization of Human Capital' (2011) 4 IPEDR <http://www.ipedr.com/vol4/106-M00051.pdf> accessed 9 Nov 2020.
iv. The Government of India, National Commission on Labour Report, Unorganized Sector Workers (NCL Report 2nd, Part A) ch VII.
v. *Virendra Krishna Mishra v Union of India* [2015] 2 SCC 712.
vi. *State of Punjab v Jagjit Singh* [2017] 1 SCC 148.
vii. [1993] 3 SCC 539.
viii. [1982] 1 SCC 618; See also, *DS Nakara v. UO*I [1983] 1 SCC 305; *Minerva Mills v UOI* [1980] 2 SCC 591.
ix. [1982] Raj 281.
x. [1978] 1 SCC 248.
xi. [1981] 1 SCC 608.
xii. [1990] 1 SCC 520
xiii. 1983] 1 SCR 456.
xiv. The Unorganized Workers' Social Security Act, 2008, s 5.
xv. The Unorganized Workers' Social Security Act, 2008, s 6
xvi. The Unorganized Workers' Social Security Act, 2008, s 10.
xvii. Air India v Nergesh Meerza [1982] 1 SCR 438; Neera Mathur v LICI [1992] 2 SCR Supl. 146.

LABOUR LAW CODE 2020: AN OVERVIEW

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Labour Laws in a general parlance referrer to the laws that mediate the relationship between workers, employing entities, trade unions and the government. In the Indian legal scenario, it is embodied in the form of over 200 state laws and close to 50 central laws ("the Indian labour laws"/ "labour laws"). As it falls under the concurrent list, both the state and the centre have the power to legislate over it.

The Indian Labour laws, infamous for being "inflexible" or "too stringent", is a major area of compliance for all firms across India. It has been a long-pending demand to bring about reforms in the existing stringent labour laws which would clear a major roadblock for the development of business-friendly atmosphere in India which also balances the right of labour class.

In this context, the consolidation of major central labour laws relating to wages, social security, industrial relations, and occupational safety and health, a welcome step that will boost the ease-of-doing business.

Therefore, for the purpose of simplifying and consolidating the labour laws of India, the Government has promulgated 4 labour codes ("Codes") which encompass 29 labour laws.

Out of the four codes, the Code on Wages, 2019 [i]was cleared by the Parliament, in 2019, the other three Bills were updated by the Standing Committee on Labour resulting in three new bills passed by the Union Legislature on September 23, 2020. It is expected that these Codes will be brought into force from the next financial year. Following are the salient features of the various codes:

CODE OF WAGES, 2019

This Code of Wages, 2019 ("the Wages code") is applicable towages and bonuses paid in all public and private enterprises belonging to the organized or unorganized sector. The term 'Wages' has been provided an inclusive definition which means salary, allowance, or any other component capable of being expressed in monetary terms. The Wages Code provides that if the total sum of the exempted components (apart from gratuity and retrenchment compensation) exceeds 50% (Fifty Percentage) (or such other percentage notified by the Central Government) of the overall remuneration, then that portion of the amount exceeding 50% (Fifty percentage) (or as prescribed the Central Government) is also to be calculated as 'wages' under the Code. .[ii]

The Wages code provides that the Central Government will determine a floor wage, considering the living standards of workers. This code also prohibits payment of a lower wage than the fixed minimum, as under also under Minimum Wages Act, 1948.This code also provides for entitlement of overtime wages which will be at least twice the normal rate of wages.

CODE ON SOCIAL SECURITY, 2020[III]

Applicable from the next financial year, the Code on Social Security, 2020 ("the security code") provides for the Employee Provident Fund (EPF)scheme which will apply to all establishments employing 10 or 20 employees. On the event of failure to pay Employees State Insurance (ESI) contributions to any employee, the ESI Commission may recover it from the employer, the value of the contribution, including the benefit amount, damages and interests as an arrear of land revenue or otherwise. In addition to maternity benefit, the security code provides for paid leaves, wherein every woman is eligible for a medical bonus of up to INR 3,500 (if pre-natal confinement and post-natal care is not provided by employer). In a welcome move, the security code has tried include within its garb, the unorganized sector who were the most affected categories of labours from exploitation.

The code will empower the Central Government to frame social security schemes for unorganized workers, gig workers (workers not falling under the conventional employer-employee relationship) and online platform workers.

INDUSTRIAL RELATIONS CODE, 2020[IV]

The definition of 'worker' under the code is similar to (but not same as) the definition of 'workman' under Industrial Disputes Act, 1947, with minor changes such as removing apprentices from scope of the definition. Industrial Relations Code ("IR Code/the code") reiterates the definition of 'retrenchment', however, termination accounting for continued ill-health is no longer considered retrenchment. A new concept of 'fixed term employment' has been introduced. It refers to workers that are hired for a fixed period but will enjoy the same benefits and entitlements as are available to permanent workers. In case no Trade Union has at least 51% of workers as members, a negotiating council will be formed consisting of representatives of Trade Unions that contain at least 20% of workers as members. Another concept has been introduced named "Worker re-skilling fund", wherein a fund will be created for employer's contribution amounting to fifteen days of wages last drawn by worker immediately preceding the retrenchment, and contributions from other sources (as prescribed by appropriate government under the code). The IR Code mandates for setting up of Industrial Tribunals comprising of an administrative member and a judicial member.

OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020[IV]

The Occupational Safety, Health and Working Conditions Code, 2020 ("the OSHW Code/the code") provides welfare provisions for workers to ensure their safety, regulate their working hours and circumstances of leaves. The OSHW code mandates the employer to ensure a hygienic workplace along with a suitable environment to work with adequate facilities for male, female and transgenders respectively.

The code also includes provisions like creche, first aid, welfare officer etc. With regards to the working hours, the code requires the employer to obtain prior consent from the employee in case of over-time and mandates overtime wage. In addition to this, the code also prohibits working female workers before 6 AM and after 7PM except in case of prior consent obtained from such female worker.

i. The Code on Wages, 2019
ii. First Proviso to Clause 2(y) of the Code on Wages, 2019
iii. the Code on Social Security, 2020
iv. the Industrial Relations Code, 2020
v. the Occupational Safety, Health and Working Conditions Code, 2020.

'INDIA CHAINED TO DOMESTIC SERVITUDE

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Slave exchange was an astoundingly merciless and beneficial undertaking between the 1400s and 1900s. It is assessed that during this period, around 28 million individuals were dealt from Africa to work at the estates in America. These individuals were exposed to brutal barbarities. They were beaten, tormented and had the most rebuffing work hours and terrible day to day environments. It is accepted that about 20% of those dealt kicked the bucket even before they arrived at their objective, bound to the boats that moved them from their homes. The slaves in America revolted and battled for their privileges and nobility. It took long stretches of the battle for them to pick up their privileges to training, work and so forth, and they have made considerable progress with America choosing its first dark President 8 years back. In any case, one can't get away from the way that despite their long stretches of battle, they experience racial brutality over the world.

The appropriation of the Slavery Convention in 1926 by the League of Nations and the Universal Declaration of Human Rights by the United Nations General Assembly in 1948 pronounced slavery unlawful. In India, too, slavery was wild. It turned out to be much more dug in when Britishers fixed elevated level of rents to be paid by labourers. During the dry spell years, most workers couldn't pay such excessive rents, compelling them to take advances at high-loan fees from the moneylenders. In the end, they lost their properties to a landowner and turned into a reinforced worker on similar terrains they had once claimed. Tragically, in India, following 70 years of freedom, ranchers take advances at high-loan costs, not to pay lease but rather for their girl's wedding or to pay for some abrupt health-related crisis. They at long last lose responsibility for the land, subsequently turning out to be reinforced work. Servitude at that point runs for ages in the family.

Slavery exists today, not lawfully, obviously, and keeps on being an exceptionally profitable industry around the globe. Cutting edge slavery is depicted as a circumstance where "an individual can't won't or leave on account of dangers, viciousness, compulsion, maltreatment of intensity or trickiness, with therapy similar to a livestock." The classifications of advanced slavery are homegrown servitude, sex dealing, fortified work, kid work and constrained marriage. We see every one of them around us, but then we have gotten invulnerable to it. Here and there in the families of our more distant family or companions, we see young men and young ladies between the age of 9 and 14 as homegrown assistance. They typically get up early morning to begin the everyday family unit tasks and will rest late in the night, after washing the last utensil post-supper. There is no idea of sending these kids to class. Besides, certain families lean toward more youthful ridiculously for far less cash. There are a few instances of youngsters working in risky conditions, for example, in mining and welding at compensation as low as Rs. 60 every week. In some cases, the youngsters are simply given their suppers without any wages being paid. In the South of Gujarat and Rajasthan, reinforced work is widespread, particularly in the block oven industry.

An individual needs to take an obligation only a single time. It doesn't make a difference whether the sum is little or enormous. This one demonstration of taking credit binds them to a long period of reinforced work. Also, that one individual, yet the whole family and in some cases, it stretches out to advanced ages. Fortified work is regularly joined by physical and sexual brutality. The International Labour Organization has assessed that about 11.7 million individuals are functioning as constrained work in the Asia Pacific. Be that as it may, many believe this number to be a lot higher in all actuality. As indicated by UNICEF, 23 million young ladies are constrained into relationships before they turn 18. For most Indians, this isn't stunning. A large number of young ladies are sold for sex work either on the grounds that their folks can at this point don't bear to keep them or on the grounds that they have been tossed out of their homes and at this point don't have a spot to live. Young ladies and ladies are guaranteed worthwhile positions in enormous urban communities; however, they are compelled to accomplish homegrown work or offered to whorehouses.

While the new law on dealing, expected to be spent in the not-so-distant future, will help those constrained into homegrown and sexual work, there is as yet far to go. Fortified and constrained work is difficult that is uncontrolled; youngster marriage that is generally constrained is a reality for too much. An unquestionably touchier criminal exploitation law will regard casualties as individuals needing help and won't think of them as lawbreakers, an important qualification that was missing up until this point. The law initially didn't separate between a dealer and a survivor of dealing. Mexicans slaves of the US, Somehow or another the US permits the Mexicans to exist in the US. They get paid considerably less than an American would be paid, and since they are undocumented, they get paid in real money. This surreptitious framework bolsters a pay for underneath the lowest pay permitted by law and keeps the Mexicans in slave-like conditions at agrarian ranches. Central East and why India doesn't utter a word. Scores of Indians travel to the Middle Eastern countries where they reside and work in deplorable conditions. Their identifications are removed. There is no desire for returning home until their agreements terminate. Frequently they are not paid and are left starving. Some are regularly mishandled and tormented. Recently several Indian specialists were safeguarded from Saudi Arabia where they were living in camps without pay and were practically starving. Almost 3 million Indians live there, and a mind lion's share of them are close to slaves. The Saudi government had for all intents and purposes chose not to see the torment that Indian labourers were exposed to up to this point when New Delhi stepped in to protect a large number of Indian nationals abandoned in the nation with no cash or consent to leave the nation.

DISPUTE REDRESSAL MECHANISM VIS-À-VIS LABOUR DISPUTE

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INTRODUCTION:

Socio-economic welfare is considered paramount from the Indian perspective. The Indian economy is highly dependent on the unorganized sector and despite that fact, the rights and protection of the labour class is still a concern. The traditional court approach in India for dispute redressal cannot be considered as an apt option. The Indian legal arena has witnessed certain reforms for easy and fair redressal mechanism in the past few decades. Unemployment and pressure exerted by trade unions have forced the state to make a suitable arrangement. The Arbitration and Conciliation Act, 1996 is silent on the point that, which matters can be arbitrated. It is on the judiciary to interpret whether labour disputes are arbitrable or not and if no why?

The High Court of Bombay has addressed this issue and held that labour disputes are not arbitrable. Going one step further, the Karnataka High Court answering affirmatively allowing the parties for the arbitration with an explanation that, Industrial Dispute Act, 1947 and Arbitration Act, 1996 are complete and independent. The labour tribunal has to monitor arbitral proceedings and the governing law would be the Industrial Dispute Act in place of Arbitration Act.

BEYOND ARBITRATION:

In broader terms industrial disputes can be classified in 3 categories, i.e. (a) collective and individual dispute; (b) interest disputes and rights dispute and (c) dispute relating to formation and recognition of trade union. To resolve such disputes, the Indian legal system has accepted various mechanisms other than Arbitration.

WORKS COMMITTEE:

The foundations of work panel were presented in 1947 under the Industrial Disputes Act, 1947 (IDA), to advance measures for making sure about great relations among businesses and workmen. It is worried about issues emerging in everyday working of the foundation what's more, to discover complaints of the laborers. The determinative choice of works board of trustees is neither arrangement nor bargain nor intervention. Further, it is neither authoritative on the gatherings nor enforceable under the Act.

CONCILIATION:

Mediation is the first form of intervention in most disputes in the private and public sectors. In India, once conciliation proceedings are instituted, the conciliation officer often may prohibit strikes during the pendency of conciliation proceedings. The problem with Conciliation is that the officers lack quality training, infrastructural support systems such as information, legal and administrative support, and time to be effective. The Boards of Conciliation seldom established by the Government nowadays. The first goal was that significant debates should be alluded to a Board and minor questions should be dealt with by the appeasement officials.

Practically speaking, in any case, it was discovered that when the gatherings to the debate couldn't go to an understanding between themselves, their agents on the Board in relationship with the autonomous director, could seldom show up at a settlement.

ADJUDICATION:

The Industrial dispute Act, 1947 address the Adjudication as mandatory mode. Such as Labour Courts, Industrial Tribunals and National Tribunal. Labour courts: The appropriate Government is authorized under the Industrial Disputes Act to set up one or more labour courts for the adjudication of industrial disputes. Industrial tribunals: The proper Government is enabled under the Industrial Disputes Act, 1947 to establish at least one mechanical courts for the mediation of modern debates, for example, (1) Wages, including the period and method of instalment; (2) Compensatory and different stipends; (3) Hours of work and rest spans; and (4) Leave with wages and occasions. National Tribunals: The Central Government is approved under the Industrial Disputes Act, 1947 to establish at least one National Industrial Tribunals for the arbitration of modern debates which, include inquiries of public significance or are of such a nature that mechanical foundations arranged in more than one states are probably going to be keen on.

CONCLUSION:

The above two precedents effectively infer that work and mechanical cases are non-arbitrable under the Arbitration and Conciliation Act, 1996, and where they can be submitted to intervention, such reference and goal must be in consistence with the methodology under the Industrial Disputes Act. Complaints and clashes are an unavoidable piece of the working relationship. The target of public strategy is to oversee strife and advance sound work relations by making a framework for the viable anticipation and settlement of work questions. Work organizations ordinarily set up work debate systems in public enactment.

FORCED LABOUR AND HUMAN TRAFFICKING IN FISHERIES

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A line of in progress reports show that constrained work and illegal exploitation in the fisheries area are an extreme issue. These reports propose that anglers, a considerable lot of them transient labourers, are defenseless against extreme types of denial of basic freedoms on board fishing trawlers. Migrant workers specifically are helpless against being bamboozled and constrained by dealers and enrollment offices and compelled to deal with board vessels under the danger of power or by methods for obligation servitude.

Casualties portray sickness, actual injury, mental and sexual maltreatment, passing of crew team, and their weakness on fishing trawlers in distant areas of the ocean for quite a long time at a time. Anglers are compelled to work for extended periods of time at low compensation, and the work is serious, unsafe and troublesome. Catch fisheries have one of the most noteworthy word related casualty rates on the planet. Ongoing patterns inside the fisheries zone[i], for example, overfishing, unlawful fishing, and a move in sourcing the labour force from big league salary to center and low-income nations imply that all the more generally minimal effort transient specialists are utilized by the fisheries area.

Absence of preparing, deficient language aptitudes, and absence of requirement of wellbeing and work principles make these anglers especially helpless against constrained work and illegal exploitation. There are likewise solid pointers that constrained work in the fisheries area is often connected to different types of transnational coordinated fisheries wrongdoing. The expression "fisheries wrongdoing" as of late showed up with regards to arising pragmatic reactions against offenses submitted inside the fisheries area. Offenses incorporate serious instances of illicit fishing, related offenses from report extortion, debasement and tax avoidance yet in addition illegal exploitation in the fisheries area. Fisheries wrongdoing undermines marine biological systems and has ramifications for fish stocks. It affects food security and economical fishing by waterfront networks the world over.

It furthermore significantly impacts human lives when it includes obliged work of dealt anglers.

THE RESPONSE OF ILO[II]

In response to the developing worry of constrained work and illegal exploitation in the fishing area, ILO is building up a long term, all encompassing, multifaceted and incorporated program "Global Action Program against constrained work and dealing of anglers at sea" The program plans to turn into a cross-cutting worldwide activity that will have local and public effects on advance and ensure fishers' human and work rights with the accompanying results:

- Improvement of supportable answers for forestall human and work rights maltreatments of fishers in enlistment and travel states;
- Improvement of limit with regards to hail states to guarantee consistence with global and public laws on board vessels flying their banner to forestall constrained work;
- Expanded breaking point of port states to convey and respond to conditions of obliged work in fishing;
- Foundation of a more educated client base of compelled work in fisheries;

CONCLUSION:

The ILO, as the UN body taking a shot at the advancement of work rights, is a significant entertainer in any reaction to address misuse and maltreatments in this area. What's more, the ILO is as of now accomplishing significant work around there on both automatic and strategy fronts in various nations. This incorporates uphold for lawful and strategy change, worker's guilds and preparing of assessors. Pushing for the confirmation and usage of the Work in Fishing Convention is only one territory where ILO is assuming a significant job. However, this isn't an issue that can be handled by one office or from one point. It is an intricate issue and requires a multi-office and multi-sectoral reaction. It requires the responsibility and commitment of governments, NGOs, worker's organizations, scientists, the private area, media and customers.

We additionally need to connect various fields of work – like enemy of dealing and the fishing area. Furthermore, we need to contemplate how every one of us dealing with illegal exploitation and work rights – in our particular associations and nations – can add to finishing abuse and dealing with the fishing business.

i. https://www.ilo.org/global/topics/forced-labour/policy-areas/fisheries/lang--en/index.htm.
ii. https://www.ilo.org/global/about-the-ilo/mission-and-objectives/features/WCMS_429031/lang--en/index.htm.

CRUISE CREW EMPLOYMENT CONTRACTS A ROAD TO EXPLOITATION

Devansh Kathuria, 4th Year, MNLU, Aurangabad

When we think about cruise ships and voyages all we can think of is a sense of adventure and a break from our problems and about the scenic beauty above the deck but what we fail to comprehend are the horrendous and dreadful sights below the deck, with the crew workers. The cruise giants stand to make Millions and Billions as per the CLIA's Cruise Industry Outlook report estimates to be producing an output of a total of a $150 Billion which is shared by the 50 major Cruise Line Companies and contribute a major chunk of share in the GDPs of their respective countries.

With such huge fortunes of their own, the conditions of the workers of the industry seems to be worsening day by day where being overworked and understaffed is just tip of the iceberg. While sexual assaults, unaccounted deaths, poor health care and illegal dumping appears to be a common practice for those on board. The only question that comes to mind is how they manage to do it. Here are certain pointers to break it down:

SLOPPY EMPLOYMENT CONTRACT

Like every other sector all the employers and employees of this sector enter into an employment contract which decides majorly the kind of legal relationship they will enter into and what rights and duties they are to be granted and assigned respectively. The point where it gets different than the other sector is the place from where the employee enter into the contract with the cruise lines. They are in no power to negotiate the terms and are forced to take up the standard form of contract they offer. The cruise lines mostly provide the employment contract which are firstly, self- contained contract, which essentially implies that all the terms of employment are laid out in the contract making it very long and detailed as followed by the cruise giant Carnival. Secondly, Collective Bargaining Agreement Contract are the type of contracts different from the former as it does not go into great detail about the rights of the employees and rather take to another document known as Collective Bargaining Agreement. These contracts usually provide more favouring terms for the employees but this does not prove to be of help as they are not informed about it while entering into the contract and are therefore unaware of their rights during the course of employment.

EMPLOYMENT REGIONS OF CREWS

This is the most unique factor in this industry as most of the employees in the sector are employed from the regions like Philippines, Eastern Europe, and the Caribbean. The interesting thing about these regions is low income generating employment opportunities and a lack for proper labor law framework which inclines the employees to work for cruise lines without enquiring much into the detail.

The employees do not have a lot of options while aboard at the ships as there is always a chance that they would get fired and not hired again.

CONCLUSION

It can be clearly understood that the crew workers are cut to the bone and yet underpaid and exploited as compared to any other sector. While these were the conditions before COVID-19, we cannot even try and comprehend the conditions during the pandemic. Though it does not mean that there is no solution to it, the crew members can be saved from such exploitation by improving their position from which they can enter into the contract and can better negotiate the terms of their contract. The same can be done by the cooperation of hosting states to ensure a grievance center and obligate these giants to certain Standard Operating Procedure and Regulations if they are to steer through the coastlines of these hosting states also the states from where the employee comes from can represent their interest for them in front of such corporations by renegotiating such standard form contracts for them. A very interesting question that begs our attention is as one of the principles of contract in common law is consent and whether such a consent coming from the workers be considered to be free in its true sense as they are not given the luxury of work they are promised and yet they are left with no option but to carry on with their exploiting jobs.

FASHION PRODUCTION: A LABOUR-INTENSIVE MODERN SLAVERY

Soumya Thakur, 4th Year , MNLU, Aurangabad

Fashion shouldn't cost our planet and it shouldn't cost lives. Yet this is what is happening today. Fashion lovers need to ponder on how their utilization has an unquestionably negative effect on both planet and individuals. The Fashion Revolution crusade started as a result of the lethargy of the style area to the consistent misfortunes that happen in the creation of garments, for example, the passing of 1,138 of clothing labourers when the Rana Plaza industrial facility fell in Dhaka, Bangladesh, on April 24, 2013. Fashion Revolution aims to bring awareness to these injustices by highlighting the hands and faces of those behind the things we wear. Fashion is one of the most labour-intensive industries, directly utilizing in any event 60 million individuals. Handicraft artisan creation is the second largest employer over the Global South. India checks around 34 million craftsmanship craftsmen. Women speak to the greater part of these artisans and the present garment workers. The Global Slavery index gauges 40 million individuals are living in modern slavery today, a considerable lot of whom are in the Global South working in the supply chains of western garments brands.

Modern slavery, though not defined in law, "covers a bunch of explicit legal ideas including constrained work or forced labour, debt bondage, forced marriage, slavery and slavery-like practices and human trafficking." It alludes to circumstances like compelled to stay at work overtime without being paid, children being compelled to pick cotton by the Uzbekistan government when they should be in school, women being undermined with violence on the off chance that they don't finish the work on time and labourers having their passports taken until they work off what it cost for their transportation to carry them to the industrial facility, their living quarters and food.

Fashion is one of five key ventures embroiled in modern slavery by advocacy organisation. G20 nations imported $US127.7 billion fashion garments identified as at-risk products of modern slavery. Canada has been distinguished as one of 12 G20 nations not making a move against present day modern slavery. The poorest individuals on earth and their modest work are abused to make style garments. These labourers are the ones who stay at work overtime without pay and get back to polluted poisonous streams from the factories. They experience the ill effects of infections brought about by living in devastatingly contaminated regions.

Female migrants are being abused by garment workers in India providing to global fashion brands, for example, Benetton, Gap Inc and levi straus, a report claims, with many exposed to conditions of modern slavery. In Bangalore, India's biggest garment producing hub, young women are supposed to be enrolled with bogus guarantees about wages and advantages. Their living conditions in hostels are poor and their freedom of movement is severely restricted.

Slavery in the fashion world can show up in variety of forms from reaping the cotton for a shirt, turning the fiber to yarn, sewing the piece of clothing and displaying the eventual outcome to fulfil the interest of shoppers in Europe, the US, and beyond. As the Guardian report in 2015 in a UNICEF sponsored article – 'Child Labour: Fixing Fashion' – mass-production fashion has "engendered a race to the bottom, pushing companies to find ever-cheaper sources of labour. That cheap labour is freely available in many of the countries where textile and garment production take place".

In countries like India, where textile and garment production occur, children's small hands are better suited for picking cotton, and sewing cheap garments for the fast fashion industry only requires a minimal amount of skill. Tackling child labour is further complicated by the fact it is just a symptom of larger problems. Where there is extreme poverty, there will be children willing to work cheaply and susceptible to being tricked into dangerous or badly paid work.

Fundamentally, our rampant consumerism continues to drive slavery. Servitude happens as a result of brands seeking to lower their production costs. Until there is a concerted attempt by governments and brands to tighten up regulations in the supply chains, modern day slavery and the exploitation of millions of cheap labourers will continue..

HUMAN TRAFFICKING: A THREAT TO ARTICLE 21

Sulabh Gupta, 4th Year , MNLU, Aurangabad

INTRODUCTION:

Human trafficking is one of the largest organized crime in the world. Most of the countries are affected by this crime. Thousands of women, men and children fall prey to the traffickers in almost every region of the world. It is like a business circuit which works globally. According to global slavery index approximately there are 45.8 million people who are involved in some type of trafficking out of which largest individual more than 18 million are estimated from India.

United Nation defines Human Trafficking in Article 3a of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Act. According to this act Human Trafficking definition is divided into three heads they are 'Act, Means and Purpose'. 'The Act' means recruitment, transportation, harboring and receipt of person, 'The means' is defined trafficking the person through the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim and 'The Purpose' means trafficking of the individual for the purpose for several types of exploitation such as sexual exploitation, forced labour, begging, organ trafficking etc.

In basic terms human trafficking is “any kind of activity related to exploitation, transportation, harboring, or receipt of persons by means of threat or use of force or a position of vulnerability”.

THREAT TO ARTICLE 21:

Right to life and liberty is protected by Constitution of India in its Article 21. Trafficking of any kind is capable of violating Article 21 because the term ‘right to life’ has been interpreted broadly several times by Indian Courts. In the case of trafficking human are sold like goods which hampers there right to life and liberty. Supreme Court in the case of *Kharak Singh v. State of Uttar Pradesh* clearly states that “life is not a mere animal existence” Therefore individuals cannot be sold as goods. Not only the victims who were sold like goods lost their dignity but also the survivors of the trafficking feel as their dignity is lost in the society, they live in. In *Francis Coralie Mullin v. Union Territory of Delhi*, it was cleared by the court that “Right to life includes right to live with human dignity. The Supreme Court in *Maneka Gandhi v. Union of India*, clearly give emphasis on various other factors related to right to life and states “life under Article 21 includes all those aspects which went to make a man’s life meaningful, complete and worth living” therefore any kind of human trafficking or forced labour which makes life difficult or not worth living or meaningless will be considered as violation of Article 21.

CONCLUSION

Despite of making several laws to prevent human trafficking we are not able to control it.

It is well established that human trafficking is happening at every possible place of this world. Human Trafficking is growing at rapid pace. It is approximately 150-billion-dollar industry. But it is coming at the expense of gross violation of individual’s rights, their fundamental rights. Human trafficking if not prevented is a definite threat to Article 21 of Constitution of India.

AN ANALYSIS OF THE RECENT LABOUR LAW REFORMS DURING THE PANDEMIC

Sumant Jee, 4th Year, MNLU, Aurangabad

IMPORTANCE

Many Indian states went on to slackening up Labour laws to overcome from the destruction caused to the economy due the pandemic. These adjustments should get from three sided counsel including the public authority, the labourers' and the businesses' affiliation and be viable with the worldwide work guidelines, including the Fundamental Principles and Rights at Work (FPRW). Such changes are carried out to produce monetary movement in the particular states. It could get improvement in implementation of labour relations act and fundamental state of affairs of employment act and furthermore can also guarantee dynamic situation of laws in the transforming work market environment in such a circumstance. Numerous Labour ordnances, has been put aside and the applicability of every laws relating to work has been suspended for the accompanying 3 years, by the Government of Uttar Pradesh, aside from the Bonded Labour System (Abolition) Act 1976, Section 5 of the Payment of Wages Act 1936 (which relates to the helpful portion of wages) and the Employees Compensation Act 1923.

Stipulations under the Factories Act and the Building and Other Construction Workers Act 1996, confirming the prosperity and safety of workers were held. Laws relating to women and children had been similarly held at this point the command doesn't demonstrate which are these Madhya Pradesh did sensibly and permitted shops to stay open from 6 am to 12 PM. On the off chance that the shops stay open longer, at that point it was the most ideal approach to hinder amassing of clients. A 12-hour move was severe, and it could be more viable for organizations to avoid costly additional time portions on an ordinary introduce and send workers in two developments. Certain significant Acts such a factories act, industrial disputes act and migrant labourers has been rolled out to exhaustive improvements and dwindled the organizational works related to association to assist these to recover the snapper of the pandemic and resume working of the associations.

11 industries had been ejected out of Madhya Pradesh Industrial Relations (MPIR) Act of 1961 by a declaration made by the Government of Madhya Pradesh on 5th May. This incorporate textile, concrete, iron and steel, electrical merchandise, power, designing and assembling of engine automobiles, among others. The Government of Madhya Pradesh had pronounced "the authenticity of permit will be for the period as applied for" under the Contract Labour (Regulation and Abolition) (Madhya Pradesh) Rules, 1973. As of now, authoritative specialists, who help associations in getting contractual worker, need to obtain various permits of different firms inside a state. The permit will be relevant for period of one year and legally binding specialists would have to pay unfailingly, according to the amount of workers used. Whereas the organizations will have the choice to take a permit for enlisting provisional worker for a more expanded length, affirmation of workers union for total dealing won't, now be possible for important mechanical sections, comprising automobiles and materials, in M.P .

The propriety of almost stipulations of the Industrial Disputes Act, 1947 has been impaired by the Madhya Pradesh for nascent gathering units which shall emerge in the accompanying 1,000 days.

The assent of the organization in order to shack workers shall never again be needed by the organization, yet will at present be needed to do for the protection and providing payment to workers, frustration will attract penal action.

The government of Gujarat heralded that it would allow newer units to not consent to work laws, beside three central acts, for 1,200 days. The chief minister of Gujarat in addition announced that they have decided to make the procedure of endorsement for starting new businesses fully on the web as well and they shall be provided with the land inside 7 days and all basic assistance inside 7 days.

CRITICAL ANALYSIS

These rectifications have to be at par to basic right ensured to work, as moreover the Directive Principles of State Policy directs to work for the benefit of workers. Such legitimate arrangements have to be tried in court and ought to satisfy set up rules to persevere through these probes. One part of the catastrophe is the work net-getting states have seen a work need, augmenting remuneration. Migrant workers have been restrained from getting back because of this. Right to move anywhere in India has been mentioned in Article 19 1 (d).

The Hon'ble Apex court held that laws ensuring temporary work and between state transient workers were required to ensure fundamental human respectability in *P.U.D.R Vs. Association of India* (1982); harming such laws will ignore the Right to life contained in Article 21. Further, it was opined "obliged work", is prohibited under Article 23, comprises actual force similar to the threat of confinement and fine. It was said by the Director of Centre for Employment studies and the institute of Human Development business won't increase, because of a couple of reasons. In any case, there is starting at now an unnecessary measure of unused cutoff. Firms shaved off pay rates near about 40% and made cut in works. Overall interest plunged. If the objective was to have people businesses, by then states should not have extended the move length from 8 hrs. to 12 hrs.

CHILD LABOUR: A DISGUISED FORM OF MODERN SLAVERY

Pranali Kadam, 3rd Year , MNLU, Aurangabad

Over the years, there have been various campaigns and legislations to curb child labour over the globe. Despite this, nearly one in ten children are in child labour and almost half of them work in hazardous conditions.[i] Child labour is any work which mentally, physically, socially or morally harms children and is dangerous for them; and/or interferes with their schooling. The 2016 Global Estimates of Modern Slavery[ii] reported about 4.3 million children below 18 years in age who were engaged in forced labour, a figure representing 18 per cent of the total forced labour victims globally.

This problem is one which cannot be solved only through legislations and requires changes the societal structure itself. With the ongoing COVID-19 pandemic many children coming from economically weaker backgrounds were not able to start school. Poverty pushed them into trafficking, prostitution and other manual labour. These children often end in illegal sectors lacking income regulations. This has led to them becoming cheap labour. A governmental report in the Philippines revealed that the pandemic led to a rise in child labour within the country. The Department of Labour and Employment has thus, launched a campaign called “Project Angel Tree” which aims at rescuing and preventing children living in poor rural families from being forced into child labour. There have been allegations of the cocoa plantations in Côte d’Ivoire and Ghana are dependent on child labour of nearly 2 million children who are forced to work in a hazardous environment. [iii] The United States Department of Labour’s 2020 report showed an increase in child labour in Ghanaian and Ivorian households from 2009 - 2019. [iv]

The US Supreme Court recently had to discuss the issue on whether the chocolate companies situated in the United States should be held responsible for child labour practices in the African farms, the place they import cocoa from.[v] child slaves who were trafficked from Mali and subsequently forced to work in the cocoa plantations in Côte d’Ivoire. They further said that Nestlé and Cargill, the defendants provided the plantations with financial as well as technical assistance to profit from inexpensive labour costs due to use of children. Nearly two decades ago, the most of the world’s leading chocolate producers pledged to eradicate any employment abuses but child labour is still present within their supply chains. The Japanese company Meiji pulled operations out of Ivory Coast over consumer pressure, while few other countries, including Australia, have been produce cocoa without exploiting children. According to the ILO, at least one million children aged five to 17 work in gold mines around the world. In Eastern Cameroon thousands of children have to spend their days at makeshift mines where they risk their health for small amounts of gold to sell for a pittance at the local black market. The Zimbabwe Environmental Law Association stated that thousands of children were driven into gold mining as families struggle to earn a livelihood in the pandemic. Even in the Central African Republic, child labour in diamond mines has increased by 50% due to closure of schools.

In India, the Haryana Government has been contemplating the enactment of a law to eradicate child begging and child labour from the state. The idea for the proposed law is being pushed by the Haryana State Council for Child Welfare (HSCCW) and is backed by Chief Minister ML Khattar. Child labour is a form of modern slavery which must be eradicated, a goal set by the Target 8.7 of the UN Sustainable Development Goals to be achieved by 2025. In August 2020, all the member countries of the UN ILO ratified Convention No. 182 which protects children from the worst forms of child labour. In July 2019, the UN General Assembly declared 2021 as the Year for the Elimination of Child Labour. With awareness and appropriate measures taken, this goal can change into reality.

i. Global estimates of child labour: Results and trends, 2012-2016, International Labour Office (ILO), Geneva, 2017.
ii. ILO and Walk Free Foundation: Global estimates of modern slavery: Forced labour and forced marriage (Geneva, International Labour Organization, 2017).
iii. UNICEF 2018, Children's Rights in the Cocoa-Growing Communities of Côte d'Ivoire, available at:https://www.unicef.org/csr/css/synthesisreport-children-rights-cocoa-communities-en.pdf.
iv. Assessing Progress in Reducing Child Labour in Cocoa Production in Cocoa Growing Areas of Côte d'Ivoire and Ghana, October 2020, available at:https://www.norc.org/Research/Projects/Pages/assessing-progress-in-reducing-child-labour-in-cocoa-growing-areas-of-c%C3%B4te-d%E2%80%99ivoire-and-ghana.aspx.
v. Nestlé USA, Inc. v Doe I, Docket No. 19-416.

ABOUT MNLU,AURANGABAD

Maharashtra National Law University, Aurangabad is established by Maharashtra National Law University Act, 2014 (Act No. VI of 2014) passed by State Legislature of Maharashtra. The University commenced its operation in the year 2017 having its headquarters at Aurangabad, Maharashtra and since then has been thriving to achieve academic excellence.