By Invitation

Indian Industrial Relations Law: Case for Reform

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Indian labor laws were conceived in the pre-independence period or shortly afterwards based on an import-substitution and statist model of economic development. They were premised on adversarial IR assumptions, social justice and industrial peace. The paradigm is shifting towards global competition, productivity, efficiency and mutual cooperation.IR is giving way to employee relations. This paper examines the way the Industrial Disputes Act 1947, the Trade Unions Act 1926, and the Industrial Employment (Standing Orders) Act 1946 have been working and to what effect. It discusses a broad framework of changes that need to be effected in them so as to be aligned with the contemporary global and Indian economic realities.

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Introduction

Aneconomic growth model that a country adopts has to have a clear notion of the basic postulates of industrial relations (IR) as a facilitator. After attaining Independence, India adopted the statist,import-substitution model of economic development. Economic planning, licensing, foreign exchange rationing and regulation, and capital market regulation policies were followed strictly so as to be aligned with the national priorities. Economic growth was juxtaposed with "social justice" as an essential societal value. Trade unions were allowed to flourish and expand as instruments of promoting countervailing power of the working class subject to the above values. Simultaneously was preached the concept of responsible unionism; as adversarial collective bargaining was seen as the "law of the jungle." Especially during the 1960s and 1970s trade unions grew in strength. But this model ceased to be effective and resulted in what came to be labeled as "the Hindu rate of growth." Eventually, the model led into a deep crisis during the late eighties. Critics reminded the planners the virtues of Thatcherism and Reagonomics, and suggested the adoption of the globalization model as a savior. The new

economic policy (NEP) adopted in July 1991 was symptomatic of a shift from the pursuit of values like socialjustice, status, and welfare state to efficiency, productivity, freedom of contract, market focus, competition and flexibility of work. The then finance minister, Dr. Manmohan Singh who later became Prime Minister during 2004-2014, promised labor law reform to facilitate the new paradigm. For addressing the systemic malaise of the earlier model, market was viewed as an instrument of delivering justice through the 'trickle down'.

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The above policies of globalization eventually got reflected in a new kind of workplace order. Employers saw trade unions to be hindering operational flexibility without which (flexibility) they found it very difficult to compete in the chaotic economic environment. State became far less sympathetic to the cause of social justice and the resultant union crisis; this was still more so in the developing countries. The institution of trade unionism and collective bargaining came under heavy pressure so as to take a comprehensive care of all employees at work (Kochan et al., 1986). Cost became a concern due to the rising intensity of competition. Collective bargaining zones were getting squeezed; and employers found it difficult to be liberal in granting wage increases.

India has about 47 major pieces of central labor legislation and more than 100 pieces of state labor legislation that were intended to carry out the Constitutional vision of building a welfare state as envisaged in the Directive Principles of the State Policy. These directives have been described as the "soul" of Indian Constitution (Dhavan, 1989). Indian labor laws can be grouped into five major categories i.e. laws relating to: working conditions, wages and monetary benefits, industrial relations, social security and miscellaneous labor laws (Saini, 2011 for a detailed discussion). Some of these laws were already in existence at the time of Independence; more were added later.

The supporters of globalization have argued that many pieces of Indian labor legislation have lost their relevance due to changes in the global and Indian economic environment and the onset of the intense competition. Research exists to testify that perceived rigidities in Indian laborlaw have been negatively impacting the development of the Indian economy (Mitchell, Mahy&Gahan, 2012: 41). International institutions like the World Bank, IMF, and foreign investors have been waiting since long about fulfillment of the government's promise to make changes in labor law, and still more so in the IR law. The top most concern of industry is the belief that too much of job security promotes inefficiency and low productivity. It also reduces labor mobility that is a necessary condition for effi-

cient working of firms in a competitive environment. The example of China is being cited to support this; as it has undertaken industrial re-structuring as per the needs of the investors and globalization. At the same time, there is plenty of literature to testify that the system is implemented such that there are severe problems in justice reaching the workers (Saini, 1997; Mitchell, Mahy&Gahan, 2012: 22).

In the above context, this paper examines the structure and working of Indian IR law and suggests areas of state action through reform. Towards this end, it discusses the framework of changes that need to be effected in them so as to be in sync with the contemporary global and Indian economic realities. It also analyses the new employee relations strategies that employers are following to stay ahead in the era of intense competition. On the basis of the analysis of the structure and working of the three main pieces of IR legislation in India, it has argued for a case of reform in many aspects of these three Acts. The paper also identifies areas of action for the trade unions, employers and the state.

The Indian IR Law: Structure & Working

Many alternative models of social and economic justice have been adopted in different parts of the world in the field of industrial relations (IR). These models range from powerful corporatism ofContinental Europe to complete voluntarism of the type where labor law has been seen as only a footnote to collective bargaining (also named as the Classical Oxford School of IR in pre-Thatcher UK) to substantial legalism and state involvement in USA to almost no labor law in some parts of the developing world (Saini, 2003).Indian model is somewhere in between,upholding the freedom to unionize and promoting industrial peace through negotiation as well as state control of the industrial action. Globalization has, however, made its indelible impact on these models. And, there is a trend towards a greater degree of cooperation in IR.

The Industrial Disputes Act 1947 (IDA) is the most important piece of IR legislation in the country.

India's IR law is enshrined in three pieces of legislation: the Industrial Disputes Act 1947 (IDA), the Trade Unions Act 1926 (TUA), and the Industrial Employment (Standing Orders) Act 1946 (IESOA). The Industrial Disputes Act 1947 (IDA) is the most important piece of IR legislation in the country. It has its roots in the Rule 81-A of Defence of India Rules that was promulgated by the British Indian Government in 1942 to control industrial unrest in the country, as the British were focusing themselves on fighting the Second World War and could not afford to have a rising curve of industrial disputes. This rule envisaged a system of compulsory adjudication of industrial disputes by government-appointed tribunals in case the disputant parties failed to resolve it bilaterally. Even after the War was over, it was found that Rule 81-A was successful in

controlling the industrial unrest. Shortly before Independence in April, 1947, this rule was converted into a full-fledged Act in the form of IDA. The Act envisages a conciliation-adjudication-arbitration model of industrial disputes resolution. It empowers the "appropriate government", in its discretion, to refer an industrial dispute for adjudication either on failure of conciliation or even without any resort to conciliation. Among others, the Act provides for a dispute prevention mechanism in the form of works committee, conciliation officers, board of conciliation, and court of inquiry. After the failure of the dispute to get resolved through the preventive mechanism, it can be referred by the appropriate government, in its discretion, for adjudication to a labor court or industrial tribunal, depending upon the nature and type of the dispute.

Initially, only disputes espoused by a trade union or substantial number of persons were treated as industrial disputes, but later on, a provision for processing individual termination (including dismissal, discharge or retrenchment) disputes was inducted in the IDA, thus treating some individual disputes as industrial disputes. The 2010 amendment to the IDA is the latest. Among others, it has provided that for individual termination disputes the parties can directly approach the labor court, and no reference is required for the same.[1] There is a provision for entering into conciliated settlement under section 12 (3), which has wider application on all present and future workers of the organization till the settlement is in operation. In addition, under section 18 (1), parties can enter into a voluntary settlement (without the intervention of the CO); but this settlement is enforceable only against the signatories. In 1971, section 11-A was inducted in the IDA at the behest of trade union leadership, which claimed rampant victimization of the workmen by the employers. This had the effect of making labor court virtually a court of appeal in termination cases. In these cases, the labor court could alter the punishment even if the workman is found guilty of misconduct. This provision is seen by the industry as contributing to inflexibility, and as an obstruction in maintaining discipline. It is argued that under this section courts have many times exonerated delinquent workers or given much less punishment to them even when they were found guilty of having committed a misconduct.

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The strike provisions of the IDA are provided in sections 22 to 25. Workers employed in a public utility service cannot go on strike without giving a notice of at least 14 days, and before the day specified in the notice. But there is no such provision that obliges workers to give strike notice in non-public utilities. They may even go on a lightning strike instantaneously, and yet the strike would

[1] Discretionary reference by the appropriate government is still a necessity for adjudication of collective interest disputes.

not be considered as illegal for not serving any notice. Also, there is no provision in the Indian law for conducting a strike ballot amongst workers. Thus, even a minority of workers can give a call for strike. Section 36 of the Act bans the presence of lawyers in conciliation proceedings. It also restricts lawyers' appearance before the adjudicatory bodies. But a lawyer can be allowed to appear before these bodies if the other party gives his consent to this effect. Section 9-A provides for a notice of 21 days to be given by the employer before making any change in service conditions of the workmen.[2] This provision is also being contested by the industry as it restricts its flexibility, and finds it difficult to adjust to the needs of the changing business environment. For, workers raise an industrial dispute once such notice is given, which further restricts the employer's flexibility.

The TUA confers on workers the freedom to register a trade union subject to the requirements of the Act. There is a provision for creation of a political fund for being used for different political purposes. This is another provision which has attracted bitter criticism. The Act also provides to unions and workers immunity against civil and criminal liability for participating in certain types of industrial action. Maximum problems faced by workers under the TUA relate to registration of a trade union. There are widespread malpractices indulged in at the office of the registrar of trade unions, and often workers are denied trade union registration on frivolous grounds. Many a time, political pressures or court intervention is sought for compelling the registrar to register the trade union.

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The main objective of the IESOA is to ensure standardization of the terms of employment and their certification by a government officer, who is known as the certifying officer. He is charged with the duty of certifying that the contents of the standing orders are just and fair. There is also provision for payment of subsistence allowance during the suspension period while the domestic inquiry is being conducted against the worker. The standing orders also contain among others, the procedure for taking disciplinary action against the workers. The standing orders when certified by the certifying officer are deemed to have become a part of the contract of employment.

Looking at the way the IR law is working, it can be said that the industrial disputes resolution systems and processes suffer from the problems of delay, formalism and inaccessibility (Baxi, 1993; Saini, 1997). The system has not been able to check the commission of unfair labor practices (ULPs)[3] both by the employers and the employees (Saini,

[2] The matters in respect of which change in service conditions cannot be done have been provided in Schedule IV of the IDA.

[3] See the Fifth Schedule of the Industrial Disputes Act 1947.

1995). The law has also not been able to protect the interest of the trade union leaders who come in the forefront to fight for their associates. A study of the actual working of the adjudication system found that especially in the context of medium and small organizations, labor tribunals, in effect, do the work of providing "legitimacy to the union-smashing exercises of the employers" (Saini, 1997).

There is a serious problem of the non-enforcement of labor laws from the workers' point of view. This is largely a result of the acts of collusion between employers, bureaucracy, labor law consultants, and even union leaders, especially in the private sector (Saini, 1995a). At the same time, comparatively progressive employers are supporters of most of these provisions, but are asking for changes in some of these provisions so as to adapt to the needs of the changed times. Especially the MNCs and conscientious employers want an IR framework with simpler laws. They want to keep themselves away from maneuverings that are known to be taking place at the behest of the labor department or 'brief-case union leaders'.

There are some good indicators for the employers. More dismissal decisions rendered by the higher judiciary are going in favor of the employer in the name of efficiency and productivity. Also, over the years, the number of strikes is declining, and so is the number of mandays lost.

A new IR strategy is discernible from the IR policies of more progressive organizations and many MNCs. They are pursuing union-substitution strategies through provision of better employee welfare, care, empowerment, employee involvement, and communication. This is called neo-unitarism—also called the IBM model of employee relations. Companies like the Tata Steel are very successfully practicing a paternalistic IR model (Saini &Budhwar, 2013). Even some manufacturing companies like Jindal Aluminium Ltd. in Bangalore are practicing IBM type of non-union policies (Patil, 1998). At the same time there are many stories of success in resisting these HR strategies which are perceived by the union to be diluting the efficacy of union strength. (Ramaswamy, 2000; 219).There are also revelations that unions are becoming more cooperative with the employers than before in the private as well as public sectors (Ramaswamy, 1994; VenkataRatnam, 2003).

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Overall, we are witnessing an era of a greater degree of cooperation even as it might be partly due to the covert pressure on the trade union leaders. But it has also to do with the workers realizing that employers can no more shell out money to meet all types of demands. Cooperation seems to be becoming the need of the employers as well as the employees.

Policy Suggestions and Recommendations

On the basis of the structure and working of these industrial relations and other laws, the following amendments to the Indian IR legislation are suggested:

1. *Renaming the IDA as the Employee Relations Act:*The term industrial relations came into vogue in the late-nineteenth century, more and gained populanity during and after the Second World War. After the War was over more and more employers entered into collective agreements with their employees. Trade unions also showed rise in their membership. The focus of IR was on the relationships between an employer and the employees and resolving industrial disputes collectively through the involvement of union.But since the 1980s and beyond, a sea change is discernible in the IR field. Large sections of the workforce are temporary, part-time, ad hoc, agency and contract workers, who may not be members of any union. They expect to be talked to individually for their motivation and commitment. There is more emphasis on forging cooperation through employee engagement interventions almost all over. Both researchers and employers are now using the term employee relations (ER) which emphasizes more on the individual than the unionized worker force. Though many use the two terms IR and ER inter-changeably, the focus in the former is more on the unionized and in the latter more on the individual employee. ER involves building relationship and organizational culture through human resource interventions for employee commitment (Saini &Budhwar, 2013). Hence a case for re-naming the IDA as the Employees Relations Act.

2. *Integration &Simplification:*India has 47 central labor statutes, and some 150 pieces of state labor legislation. There is a demand for integration and simplification of these laws so that at least trade union leaders and common managers can understand their spirit and contents. Ironically, no attempt has been made in this regard. Sometime back the National Labor Law Association prepared, what they referred to as the draft Indian Labor Code, 1994 (NLLA, 1994). This was an attempt to imbibe fundamental principles of Indian labor jurisprudence in an integrated manner. This code was also an attempt to integrate and simplify definitions of certain terms as defined in different pieces of labor legislation. Presently, we have some 13 different definitions of wages, and as many definitions of worker and other terms. This causes tremendous confusion in the mind of the worker and all others dealing with these pieces of legislation.

3. *Industrial Relations Commissions (IRCs)*:As is clear from the earlier sections, IDA has its roots in a temporary war-time ordinance. In most developed countries, labor disputes are resolved through collective bar-

gaining, and not through adjudication. India had intense debate during 1970s and 1980s about constitution of autonomous multi-member industrial relations commissions (IRCs) at the central and state levels in place of the present industrial tribunals that are presided over by one person only. This debate started after the recommendations of the first National Commission on Labor (Government of India, 1969). Later on, the NLLA's Draft Labor Code of 1994 also made similar recommendations of setting up autonomous commissions.[4] Even the second National Commission on Labor 2002 (Government of India, 2002) endorsed the recommendation to provide for IRCs at the central and state levels. They were to deal with interests as well as rights in labor matters. The functions expected to be performed by these IRCs included: certification of bargaining agents and bargaining councils; deciding the level at which collective bargaining shall be held; mediation of disputes if desired by disputant parties; and adjudication of disputes not settled by any of the above methods.Despite nearly three decades of debate, recommendations to constitute the IRCs were never put into operation. Presently, it seems to have gone into oblivion; the concerned parties have even forgotten about them. It is suggested that with a view to arrive at more acceptable solutions to IR problems there is an urgent need to put the recommendation for constituting these IRCs into operation. These IRCs would have one judicial and two non-judicial members who should be experts in matters related to labor issues and social sciences. The labor courts could continue to decide individual termination matters, as activated directly by the workman concerned directly.

4. *Re-orienting the Conciliators & Adjudicators*: IR adjudication is a unique branch of law. Many distinguished jurists and sociologists of law have opined that every person handling labor matters should have the knowledge of law and social sciences. Otto Kahn-Freund, a celebrated labor expert insisted that a lawyer could not understand law, let alone be an educated lawyer unless/he learnt the law in conjunction with other social science disciplines. Another jurist, Justice Brandeis, has gone to the extent of commenting that "a lawyer who has not studied economics and sociology is very apt to become a public enemy" (Wedderburn, 1983:30). This is true of labor law where scholars and judges often need to cross disciplin-

[4] On the basis of the recommendations of the National Commission on Labor (Government of India, 1969) and some other committees, NLLA also recommended constitution of such multi-member mediation-cum-adjudicatory bodies at the state and the central levels. The NLLA National Labor Code draft used the term NationalLabor Relations Commission (NLRCs) in place of IRCs. It also provided that NLRCs shall have powers exercisable by the Supreme Court of India under clause 2 of Article 32 of the Constitution. It also envisages the taking away of the jurisdiction of the high courts over the labor relations commissions.

ary boundaries to articulate labor justice issues. Report of the First Labor law Review Committee of the Government of Gujarat had envisaged a continuous training for a period of six months for the new recruits to labor judiciary and also a refresher course for labor court judges and labor officers at the end of every three years (Desai, 1994; Government of Gujarat, 1974). It is suggested that the Central Government establishes a special national institute exclusively to train labor judges, labor administrators and members of the proposed IRCs. It will help developing in them the acumen for the inquisitorial method of dispute processing.

5. *Sending the Conciliation File to Adjudicator*: It is a fact that the conciliation file of the industrial dispute contains some useful data that can be helpful in understanding the nuances of the case by the presiding officer of tribunal/labor court concerned. But it is never sent to them. It may be recalled that the whole purpose of the IDA was promoting inquisitorial and not adversarial investigation of the industrial dispute. The file can help understand better the issues on hand, the attitude and behavior of the parties concerned on the issues, the nature of the demands including their genuineness, the pressures on them, and the contents of the failure report by the conciliation officer including the confidential part. This will also make the COs more responsible in writing the failure report. It is therefore suggested that the entire conciliation file including the failure report of the CO should be forwarded to the labor court/industrial tribunal along with the reference order. Further, this will help dilute legalism in processing the industrial disputes.

6. *Lawyers in Conciliation &Adjudication Processes*: Section 36 of the IDA prohibits the presence of lawyers in the conciliation process, and restricts their presence in adjudication proceedings. Lawyers have been described as "traditional elites" (Abel, 1973) and "repeat players" (Munger, 1991: 604), and having endless ingenuity. Often, they tire out the other side as also the judges by indulging in endless arguments. The idea underlying section 36 of the IDA was to ensure that an industrial dispute does not become a complete lawyers' domain and subjected to legal wrangling; but must be discussed between the parties as one involving economic relations through political solutions. But the situation today is such that in labor courts and tribunals lawyers have completely taken over the industrial disputes resolution processes. This leads to a greater degree of legalization or what has been known as juridification[5] There should be complete ban on lawyers

[5] The term "juridification" does not exist in English. It has been borrowed from German. It refers to the extent to which the behavior of personnel and other managers in dealing with collective and individual employment issues is determined by reference to legal norms and procedures rather than to voluntarily agreed norms (Saini 1995).

to appear before these bodies, except only at the argument stage if necessary where articulation of legal point might be in question. This will save the ER from becoming over-legalized.

7. *The Fate of Sections 11-A*[6] 6 Section 11-A envisages that even in cases of disciplinary action taken by an employer after a properly conducted domestic inquiry, if a labor court/tribunal finds that the employer's order of dismissal or discharge is not justified, it may set aside such an order and direct re-instatement of the workman on such terms and conditions as it thinks fit or give some other relief to the workman including lesser punishment in lieu of discharge.

8. *Strike/Lockout Notice & Strike Ballots*: In the neo-liberal world, work stoppages are becoming less relevant. As mentioned before, under the IDA there is no provision for strike/lockout notice in non-public utility service operations. There is a need to make such a provision, unless strike is called under a grave and emergent situation (e.g. a lockout declared in a emergent situation of violence, etc.). Also, there is a need for provision for strike ballot before going on strike, in which not less than 50 per cent of the workers should vote in favor of the strike before a legal strike can be called.

9. *Chapter V-B of IDA*: Perhaps the most controversial issues in Indian labor legislation is Chapter V-B of the IDA, which applies to factories, plantations and mines that employ 100 or more workers. This chapter contains, among others, sections 25-M, 25-N, and 25-O. These sections provide for the prior permission of the appropriate government before any workman in such industries can be laid-off or retrenched or the undertaking is closed down respectively. It has been the experience of industries that most state governments have denied totally or unduly delayed such permission, which is often done on extraneous considerations. Interestingly, India is the only country in the world (besides Zimbabwe, which followed Indian law on this issue), which provides for such a provision. This chapter was inducted in the IDA in 1976 and the number of workers provided for the purpose of its application then was 300 or more. This number was later on reduced to 100 or more in 1982. In a highly competitive world, some organizations are bound to fail or perform low despite their best efforts. So it is important to ask, what the justification of this chapter today is. How can we ask a non-viable organization to continue to exist in its original form without making any change in the employment structure

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andthussuffer perennial losses? No law is immutable and has to change in the changed context. Such provisions are bound to adversely impact foreign direct investment (FDI) in the country as well.

How can we ask a non-viable organization to continue to exist in its original form without making any change in the employment structure and thus suffer perennial losses?

The new NDA government has the massive mandate of people; and they have from it high expectation of the economic turnaround, which is unthinkable without effecting realistic labor law reforms. Keeping this in view, this number for applicability of chapter V-B may be reduced to 1000 or more workmen in the first attempt. After some two years or so it can be scrapped altogether so that workers can remain prepared for the same.

Simultaneously, retrenchment provisions can be made more attractive. Presently, under section 25-F and 25-FFF 15 days' wage for every completed year of service is provided as retrenchment/closure compensation, which is too meager. In actuality, companies that have effected retrenchment/closure as a result of a settlement, through voluntary retirement scheme (VRS), have provided far more attractive packages. It is suggested that apart from raising the employment limit for applicability of chapter V-B to 1000 or more workers, retrenchment compensation should be such as to be perceived as an equally attractive option for the worker.Omkar Goswami Committee Report had suggested 45 days wages for every completed year of service as the retrenchment/closure compensation (Government of India, 1993). This may also motivate the employer to re-deploy and re-train the surplus employees rather than retrench them; at the same time, it will minimize the trade unions' resistance to retrenchment and promote greater flexibility.

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10. *Trade Union Multiplicity & Politics*: Especially after the globalization, one can witness steep diminution in the trade union power in general. It is almost impossible to organize a trade union in new organizations without the support and patronage of outsider union federations. For example, in the case of Honda Motorcycles and Scooters India Ltd. (HMSI) workers' victory was unthinkable without the help and support of GurudasDasgupta (Secretary of AITUC &*Rajya Sabha* MP) and the Congress President Sonia Gandhi (Saini, 2006). However, if a trade union does not want outsiders in its executive body that should remain a choice with it. It is good that through

the 2001 amendment to the Trade Unions Act, 1926, we have limited the presence of outsiders in the union executive from ½ to 1/3rd of the executive members of the trade union, subject to a maximum of five. This can be further reduced to 1/4th subject to a maximum of three or four. As the economy progresses and workers become still more mature to decide whether they want a union or not by themselves, this number can be reduced gradually.

The 2001 amendment to the Trade Union Act 1926 has also provided a minimum number of persons who must be members of the proposed trade union at the time of registration. This is 10 per cent of the total workforce or 100 whichever is lower. We should remove the number 100, and insist that any trade union that wishes to register must have at least 1/10th of the workforce as applicants, subject to a minimum of seven whichever is higher. We must keep in mind that in the developed world, there is mostly one trade union federation at the national level. In the UK, we have just one trade union federation, the Trade Union Congress (TUC). The USA had only two, the American federation of Labor (AFL) and Confederation of Industrial Organization (CIO). The workers noticed that two was a crowd and proved antithetical to their interest. So they merged, after which it is known as AFL-CIO. Also, a number of trade unions in India do not submit annual returns as per the law. It should be provided that any union that does not do so for three years or more should automatically stand de-registered. This will lead to more responsible unionism.

11. *Punishment &Fines for Labor Law Violation*: If we look at the punishments provided and fines imposable for violation of different pieces of labor legislation, it is clear that they are shockingly low in most cases. We still have Rs 10 or 50 or 100 as fines for such violations. Even imprisonment provided is just about one to six months in most cases, which almost never takes place, and the delinquent is mostly left by imposing meager fine. Similar is the situation for non-payment of minimum wages or undue deduction from wages, or delay in payment of wages. Under the IESOA, there is no imprisonment for violating the law. It is just fine. The fines are so inadequate that the employers take these provisions casually. Similar is the situation under the IDA. Section 29 envisages imprisonment for six months and or a fine or both and for continuing breach with a further fine of rupees two hundred for every day during which the breach continues. Minimum imprisonment for the employer and the workmen, contravening any provision, should not be less than two years and must be increased depending upon the severity of the particular violation. Even the Unfair Labor Practices (ULPs) are committed by the parties with impunity. There is a strong case for making these sentences and fines realistic.

Concluding Remarks

It is not quite correct to think that the Indian labor law is highly in favor of the worker.

From the foregoing discussion it is discernible that there is a clear case of reform and re-definition of the rights and responsibilities of the two sides on the lines suggested. At the same time, it is not quite correct to think that the Indian labor law is highly in favor of the worker. That is more a myth than reality in most cases (Saini, 2003; 1997). However, some parts of the framework are not in tune with the contemporary global and Indian realities. Chapter V-B of the IDA is the real villain of the peace. Most MNCs want simple, workable labor law framework. But they would have to work within the ethos of the agreed framework and the constitutional values, and not adopt strategies of exploitation of labor through low-wage strategies. In actuality, chapter V-B proves to be the only social protection to the Indian worker as there is no system of unemployment insurance for them like in the developed world. Therefore, the retrenchment/closure compensation has to be realistic. The present tokenism of just 15 days wage for every completed year of service should be changed through legislative action.

Further, for being more effective, trade unions will eventually have to form coalition federations like in national governance such as UPA and NDA so that fragmentation of the worker power can be minimized. While industrial conflict has assumed a different color and dimension today, it has not withered away nor will it in the near future. The unions have a fierce challenge ahead in order to survive and be meaningful for a realistic role. They also have to devise and explore worker-oriented meanings of concepts such as "flexibility, security and opportunity" more through cooperative and dialogue than through adversarial means (Hyman, 1999). For a greater incidence of social legitimacy trade unions have also to conduct themselves democratically and give up oligarchic functioning. The Gen Y worker has very different expectations from the employer as well as the union. The worker would stay with the union only if s/he sees any tangible gains by being in the union.

The state cannot be oblivious to the needs of the worker, as has been the case in the recent past. The worker is prepared for being violent if he is made to feel desperate. That is the message from some of the incidents of industrial violence from recent cases such as HMSI, Graziano, Maruti-Suzuki, Northbrooke Jute Mills, and many similar instances. The state ought not to feel complacent at the declining strikes and man days lost data. This is not a symbol of effectiveness of the role played in IR by the state agencies, but is largely due to declining labor power. The state's policy of indifference or being with the employer in the interest of more FDI or regional industrial development is not sustainable. It must prepare its conciliation and adjudication mechanisms for performing more professional roles as per expectations.

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