

IMPACT OF COVID19 PANDEMIC ON THE LABOUR RIGHTS AND RESPONSE OF INDIAN STATE

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ABSTRACT:

The rampant global crisis caused by the Covid pandemic in last two years have affected people living in almost each and every corner of the world is perhaps the evil of the century. The virus that was thought to be emerged and spread from China, not only brought a tremendous threat to human life led to millions of people died, but also vitiated every field of the society. Economy was pushed behind where many sectors were hit hard and vanished and are still fighting for its survival. The increasing rates of unemployment and fall of GDP have worsened the whole scenario even more miserable which every country in the world more or less have witnessed especially the developing countries of south. Industries, factories remained shut down for over a year due to worldwide lockdown and the strict regulations of the respective governments until the situation get normalized. India having over 130 crores of population had to fight this catastrophe and found it very difficult to cope up with the severity of the crisis. The government had to take a cohesive strategy for the continuity of the economy and for the needs of crores of population, sometimes came up with some unwanted decisions that overlooked rights of the working class people. A few state governments passed resolutions that suspended labour rights and favoured the employers who can decide the matters related to their concerned organisations and employees wilfully. The government shown a little interest with regards to the issues of migrant labours who were being left with uncertain future and to fend themselves. The employees who either lost their jobs or partially released during lockdown have not got adequate compensations from the government and their own organizations. Judiciary too failed and was hardly seen providing supportive measures to the labourers and protect their rights.

KEYWORDS: Pandemic, Labour, Labour Rights Violation, ILO, Government Steps, Judiciary.

METHODOLOGY:

The present study is prepared by using the descriptive and analytical method. The descriptive and analytical method helps in understanding and examining the socio, political and economic scenario during the pandemic and to what extent the rights of working class got violated. The information and data for preparing the paper has been collected from the secondary sources like articles, books, journals, websites etc.

INTRODUCTION:

Human Rights are inherent to all human beings and they are considered as most vital for overall development of a person and societal progress in general. Human Rights are rights related to life, liberty, equality and dignity of an individual. Since the right to work of one's choice is also a human right, several international organizations such as United Nations, International Labour Organizations through a number of charters, resolutions have tried to protect the interests of working class people across the world. ILO declaration includes freedom of association and effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. ILO's fundamental convention on the right to organize and collective bargaining no. 98 adopted in 1949 "workers shall be protected against act of anti-union discrimination; workers and employers organizations shall be protected against acts of interference by each other. Every employee has the right – 1] not to be unfairly dismissed 2] to be treated with dignity and respect 3] to be paid the agreed wage on the agreed date and at the agreed time 4] to be provided with appropriate resources and equipment to enable him/her to do the job 5] to have safe working conditions. According to ILO, labour is not simply a commodity, an inanimate product that can be negotiated for the highest profit or the lowest price. What we called decent work is bound in a person's self-respect, well-being and development as a human being. International labour standards ensure a path to decent work. For economic development to be meaningful, it should include the creation of jobs and conditions in which people can work in freedom, equity, safety and dignity. International labour standards are there to ensure that development should be focused on improving the well-being of all.

DISCUSSION:

The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, both of which were acceded by the constitution of India and also guarantees right to work in an employment of one's choice and the state's responsibility to safeguard this right in article 6 and 23 of the constitution. Even before the independence, responding to the demands of trade unions prevailed at that time, a number of Acts and resolutions were passed by the colonial government with an aim to improve the conditions of working class people in the country. For instances, a) Worker's Compensation Act, 1923, b) The Trade Unions Act, 1926, c) Payment of Wages Act, 1936, d) Industrial Employment (Standing Orders) Act, 1946 etc. The Constitution of India in a number of Articles having provisions regarding the rights of working class people was definitely a landmark step towards making itself a labour friendly welfare state to be strived for an egalitarian society in the years to come. 1] Article 21 of the constitution of India states that "no person shall be deprived of his life or personal liberty except according to a procedure established by law- a) right to life and b) right to personal liberty." 2] Article 39(a) of the constitution suggests that citizens shall have the right to an adequate means of livelihood. Thus, is indicative of the fact that the constitution makers were aware of such as requirement and were ready to provide citizens with basic livelihood measures. 3] Article 43-A of the constitution of India is titled, "participation of workers in the management of industries." Under this article, the state is conferred with the power to bring in suitable legislation or apply some other way so as to promote worker's participation in the management of industrial undertakings. 4] Article 41 of the constitution provides that "the state shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want". After the independence, the government of independent India time to time have formulated a number of Acts and resolutions and sometimes amended the existing ones to protect the interests of labour class in the state. Indian Industrial Disputes Act, 1947, Minimum Wages Act, 1948 , Factories Act, 1965, Maternity Benefits' Act, 1961, Payment of Bonus Act, 1965, Unorganised Worker's Social Security Act,2009, Sexual Harrasment of Women at Workplace Act,2013 etc. All such initiatives had to be taken to tackle the prevailing miserable conditions of labour class and to comply with the new issues and concerns regarding workers with time changes. However, all those government efforts to ensure a better working environment and dignified life for workers are fell short apart due to many drawbacks such as implementation errors, delaying justice of judiciary, bureaucratic lapse, government's inability and others. It was again proved during the recent pandemic period. Besides, in the era of monopoly of the global capitalist society and market economy where MNCs, TNCs are the major driving force; the role of the state and government is merely confined into rule making, law and order and facilitating the effective running of market.

Thus, the issues and interests of the labour class have become less prioritized as the owner and employers of private sectors have enacted rules and regulations of their concerned organizations in the way which favour them. Their motive has always been achieving better outcome which may sometimes conform labour interests and bypass those constitutional labour Acts and regulations. There often raise questions regarding better wages, allowances, leaves, working hours in almost every sectors resulting clash between the authority and employees and stimulate various labour unions which is nowadays a very common phenomena in a developing country like India. Although trade unions and labour organizations are there to represent issues and articulate demands of working class, it is merely limited into organized sectors as people working in unorganized sectors are still lacking authority where they launch their complaints and organize themselves and raise their voice. There are many evidences of massive violation of labour rights in India in many sectors be it organized or unorganized. Sometimes workers are deprived of basic facilities such as minimum wages, proper working condition, adequate rest hours and sometimes vulnerable sections like women, child experience sexual harassment, molestations even by their close one in the working place. Despite of having strict laws against child labours and others, these laws are violated and bypassed by various organizations and even by the elite education of society who employs children into factories and domestic household works respectively. Judiciary is also failed to stop such violations of human rights and protect these marginalised section with justifiable verdict.

Thus the Indian state has not been successful in protecting the rights of working class section and has failed to comply with their aspirations and find out remedial measures of their causes. Since our study is focused specifically upon the violation of labour rights during covid-19 pandemic in Indian context, it has been definitely tried to pinpoint the exact areas where this marginalised section of people suffered the most throughout the period of rampant global crisis caused by this virus. There is not any section left in the country which is not affected by the catastrophe of covid-19. The economy has been devastated by the two waves of covid as the sharp drop in GDP 24.4% was the largest in country's history and the national income of has declined only four times before 2020. The unemployment rate of the country in these two years has increased up to nearly 24% and India has performed relatively poorly in terms of the world average.

The pandemic has brought severe economic hardships, especially to young individuals who are over-represented in informal work. India has large share of youth in its workforce and the pandemic has put them at heightened risk of long-term unemployment. Health sector is severely affected by the pandemic and it has exposed the deficiencies of our medical sector. People were dying with lack of basic healthcare facilities; shortage of PPTs, oxygen has pushed both patients and healthcare persons to uncertainty and it was like an wake-up call about how diseases exploit vulnerabilities in our healthcare system. Students suffered both physically and psychologically as schools, colleges and universities were shut down for almost two years. The right to education was affected, because a new system of online teaching had to be developed by educational institutions but everyone could hardly afford the requirements. Half of the world's students are still affected by partial school closures. As per the report of UNICEF schools for more than 168 million children globally had been completely closed for almost a year. Research Scholars too couldn't continue their research work in time due to travel restrictions. The most vulnerable section of people affected by the unprecedented global crisis resulting from the pandemic was the labourers. The government of India has

failed to safeguard the rights of labourers mainly those who receive daily wages for their work. They became one of the most vulnerable groups due to the imposition of nationwide lockdown during the crisis. They grappled with job losses and unpaid wages. The nation too witnessed the unprecedented exodus of migrant workers. Even some of the states like Gujarat, Madhya Pradesh, Uttar Pradesh, Himachal Pradesh, Punjab extended their working hours from eight to twelve hours for factory workers. A few states went further to take steps to exempt certain factories from the application of Labour laws as the new rules and guidelines for labour management had bypassed “Factories Act of 1948” and “Contract Labour (Regulation and Abolition Act, 1970). The passage of industrial relations code, the occupational safety, health and working conditions code and the social security code by the Parliament made a further blow to labour rights in 2020. A number of industrial accidents took place on the part of the workers. In the state level also, Ordinances were passed through which the majority of the labour laws concerning workers working for a daily or weekly wage were suspended. The UP government suspended a total of 38 labour laws through an ordinance although late they withdrew this controversial decision following the intervention by the High Court. All these changes were made to increase the economic growth by post-lockdown period, however it disregarded the safety of labourers amidst the covid-19 pandemic which could put thousands of people at risk.

The migrant workers were miserably hit by this pandemic and nationwide lockdown. Factories, industries were ordered to shut down resulted migrant workers had to travel hundreds of miles on foot to their native place with no means of transportation and accommodation were available to them. Along with children and pregnant women, they had to travel from one state to another with pain and empty stomach. There were also evidences of workers dying on the street while walking on the street towards their native place. State authorities failed to cope up with such urgent matters and let migrant workers manage their own and eventually pushed their life to uncertainty. Though some state governments facilitated transportation to bring back their people workers and students to their home, but it was not enough to touch each and every corner of the country and bulk of them were being left unnoticed. This not only exposed them to the risk of contracting virus but also to the wrath of the police enforcing covid regulations. A vast majority of migrant workers lost their jobs on short notice due to nationwide lockdown. As most of the labourers were daily wage-earner, they found themselves facing adversities without sufficient resources. Instead of safeguarding the people, the government suspended many of the laws that are basically to safeguard their labour rights. According to a survey report, 90% of the migrant workers didn't receive a ration from the government and were denied payment by their employers. UP government passed an ordinance that exempts the employers from complying with the Industrial Disputes Act of 1947, which facilitated labourers being mistreated by their employers and allowed them to be dismissed at employer's will. On the 22nd march, 2020, the nationwide labour strike was held on the joint collaboration of 10 central trade unions and supported by several other trade unions. They submitted a memorandum to the Prime Minister of India via email. The petition included demands such as- 1) Give immediate relief to migrated workers so that they can reach their home safely. 2) Demand of a minimum cash of 7500 rupees a month for the next five to six months to tide over the crisis for all non-income taxpayers. 3) They should be access to ration of subsidised cereal, pulses or sugar. 4) Increase the amount of money transferred to Jan-dhan account. 5) Repeal of controversial ordinances that contradict labour rights. 6) Strengthening the Inter-state Migrant Workmen Act of 1979 to ensure adequate protective provisions for workers on wages, social security, accommodation and welfare needs. Strike took place across the country in the form of demonstrations, lunch-hour protest, hunger strikes wearing black badges. Various sectors like banks, industrial workers, mining workers were covered by the protest. Some of the protesting leaders were arrested by police in Uttar Pradesh and Delhi. Due to police restrictions, the workers had to reduce the crowd of protests. However, they decided to launch more protests to raise attention to serious labour rights violation particularly the concerns of daily wage-earners of unorganised sectors.

Women and Girls too have been disproportionately affected by the catastrophe of this pandemic. Wage inequality and no burden of unpaid care have put more women out of employment and into poverty. Women had earned one-fifth of men even before the pandemic. Like any other country, India also witnessed the severity of women losing jobs during nationwide lockdown. A recent report by the Centre for Sustainable Employment of Azim Prowly University in India shows that “during the first lockdown period 47% of women lost their jobs compared to only 7% of men who lost jobs and didn't return to work by the end of the year. In informal sector, it was even worse where 80% of rural Indian women lost jobs and livelihood and have faced it difficult to overcome the crisis. The 2021 Opportunity Index Report by LinkedIn highlights that around 40% of women had been affected by the dual workload in the midst of covid-19 pandemic as female labour force participation in India fell to 20.3% in 2020 from 30% in 1990. Both rural and urban poor women who earn their livelihood engaging themselves in occupations basically weaving, street vendors in small markets, handicraft, selling bamboo products and others had to fight relentlessly for subsistence during these two waves of covid pandemic. Media covered the news of migrant workers rallying towards home, the blaring silence over female migrant workers who work at diverse and challenging workplaces, became evident and subjected to wilful ignorance. A kind of gender gap and biasness was visible in almost every walk of life during the pandemic period.

Judiciary too was failed to take cognizance of this crisis. Answering to a petition filed by an expert in labour law at the Indian Law Institute, the government reported that almost almost 6 lakhs migrant labours were given shelters and 2.2 million were provided with food. But the Supreme Court turned a blind eye and didn't take account of other migrant labourers stranded on the streets. They even didn't take account of labour laws being suspended by the states. However, the like of Andhra and Karnataka high courts responded more appropriately to the labour issues. Karnataka high court reprimanded the state government for collecting train fares in such a crisis situation which violates the National Policy of Migrant Workers. Andhra high court gave instructions to the government to set up shelters for migrants. Patna high court too was aware of the issue of children of labourers regarding the availability of mid-day meals and took suo-moto cognizance of the plight.

CONCLUSION:

Human Rights are inherent to all the human beings living in the world irrespective of their differences. The ILO declaration on Fundamental Principles and Rights to Work adopted in 1998 makes it clear that the labour rights are universal, and that they apply to all people in all states regardless of the economic development. It particularly mentions groups with special needs, including the unemployed and migrant workers. It recognizes that economic growth alone is not enough to ensure equity and social progress. Yet our government while focusing on the economy to bring it back on the track, ignored labour plights across the country and failed to ensure and protect their basic rights. In this unprecedented global crisis, labourers were wrongly treated as commodities and their miserable conditions were being grossly neglected instead of compensating this vulnerable section of people.

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