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# The Hidden Chains: Charting Inequitable Workplace Practices in Contemporary India

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## ABSTRACT

*In today's industrial environment, conflicts among workers and their employers are not uncommon. Thus, preserving good working connections between employers and workers constitutes one of the many desired objectives. A particularly useful tool for achieving the aforementioned is collective bargaining, which is a process of negotiating favourable working conditions between companies and employees, represented by trade unions. However, after attaining independence, India created a variety of laws to control and organise the industrial sector, but none of these addressed unfair work practices.*

*The Indian Parliament decided to incorporate two categories of unfair labour practices—one relating to companies and the other to labour unions—in the Trade Unions (Amendment) Act, 1947. These, however, were not legally binding. The Code of Discipline, 1958, that was adopted by the primary organisations of both employees and employers at the 16 Indian Labour Conference, also included a list of unfair labour practices. The Maharashtra government was the first to effectively implement a specific legislative regulation that prohibited ULPs when it passed the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act in 1971.*

*However, only Maharashtra was subject to the aforementioned law, which constituted state legislation. In its initial report, the National Commission on Labour (1969) suggested that a law be passed that would recruit ULPs and provide them with appropriate penalties. Examining the moral duties of employers, trade unions, and regulatory bodies in maintaining the values of justice, fairness, and dignity in the workplace, it explores the ethical aspects of such behaviour's.*

**Keywords:** *Coercive practices, industrial democracy, workers' rights, unfair labour practices, industrial relations code 2020, workplace inequality, trade union rights, labour law reform, power imbalance, and workers' rights*

## I. INTRODUCTION

In India's industrial environment, unfair labour practices by trade unions and employers continue to be a major problem. Many employees still encounter significant barriers when

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attempting to exercise their fundamental rights at work. Their employers can dissuade them from starting or joining a union, or they might even fire them for participating in union-related activities. Employers may alter working conditions in a way that is detrimental to workers during conflicts or decline to have substantive conversations with union leaders. Confidential or sensitive information is occasionally misused in ways that have a detrimental effect on employees. In more severe situations, employers may close a company or organisation entirely without providing any prior notice or taking into account the lives of the impacted personnel. These behaviours undermine dignity, safety, and trust in the workplace in addition to going against the principles of fair labour standards.

In addition to hurting employees, unfair labour practices also hurt firms and the economy as a whole. When workers' fundamental rights—like the freedom to organise a union, fair treatment, or job security—are infringed, they often feel disempowered, discouraged and less productive. However, employers who utilise such strategies run the risk of increased costs due to strikes, significant employee turnover, legal problems, and decreased workplace morale. These disputes might lead to strained working relationships, property damage, and a decline in the company's long-term success.

## **II. STATE LABOUR LAWS REGARDING UNFAIR LABOUR PRACTICES**

Unfair means practices can have major effects on the employees such as they may lose pay benefits, demotion, might get bully, harassed at workplace. In case if the employees defend themselves, then they might threats or may face violent acts. This may lead or impact to the well-being of the employees. Due to which they may quit or disengage themselves which may result into labour shortage. But there are legal protections against such discrimination. A number of legal provisions are available to deal with the unfair practices under the law. The workers can also approach court if rights of workers are violated by the employers. Following are the examples of unfair labour practice-

1. Unfair labour practices include, for instance, firing a factory worker for forming a union.
2. If workers take part in a legitimate strike, management threatens to demote them.
3. Temporary employees are used by a corporation to replace striking employees.
4. Even though they do the same tasks as permanent employees, casual workers often kept on for years without being regularised.

After voicing concerns about inequality in the workplace, an employee gets moved.

### III. STATE-LEVEL LABOUR LAWS IN INDIA

Although the national administration of India ratifies the common of the country's labour laws, each state also has its own laws to handle regional issues and industry dynamics.

1. Employers and employees in specific industries, particularly in Maharashtra, are ruled by the Bombay Industrial Relations Act of 1946<sup>3</sup>.
2. The Madhya Pradesh Industrial Relations Act, 1960, creates dispute resolution procedures and forbids retaliation against employees who participate in legitimate trade union activity<sup>4</sup>.
3. The Maharashtra Act on the Recognition of Trade Unions and the Prevention of Unfair Labour Practices 1971: encourages collective bargaining, grants trade unions recognition, and expressly forbids unfair labour activities by unions and employers<sup>5</sup>.

India is not the only country with unfair employment practices. They are found in nations that are both wealthy and poor worldwide. Therefore, it is essential that workers everywhere understand their rights, keep up with protective legislation, and be ready to act when they are subjected to unfair treatment. Promoting dignity at work and attaining industrial harmony require raising awareness, facilitating access to justice, and enforcing labour regulations strictly.

### IV. TYPES OF INEQUITABLE WORK PRACTICES IN INDIA

In India, unfair labour practices come in many forms and disproportionately impact the most vulnerable workers, especially those in informal employment, the unorganised sector, and disadvantaged socioeconomic groups. Systemic problems continue to sustain abuse, inequalities, and rights breaches in spite of legislative protections.

1. Theft of Wages- Particularly among migrant workers and those employed in the unorganised sector, wage theft—which includes underpayment or outright non-payment of wages—is a major problem<sup>6</sup>. Employers frequently use legal ambiguity or informal agreements to get around statutory obligations including minimum wage, overtime compensation, and benefits<sup>7</sup>.

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<sup>3</sup> Bombay Industrial Relations Act 1946

<sup>4</sup> Madhya Pradesh Industrial Relations Act 1960

<sup>5</sup> Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act 1971

<sup>6</sup> Wage Theft in the Indian Garment Industry, Gangwar (2019)

<sup>7</sup> Minimum Wage Enforcement in India Ghosh and Roy (2017)

2. Discrimination- In the Indian labour market, discrimination on the basis of gender, caste, religion, ethnicity, or disability is still pervasive<sup>8</sup>. In order to maintain systemic social exclusion, marginalised groups—including women, Dalits, Adivasis, and people with disabilities—are frequently denied equitable access to chances, promotions, and respectable employment<sup>9</sup>.
3. Forced Labour- Forms of forced employment, including debt bondage, trafficking, and bonded labour, continue to exist in a number of industries despite being illegal<sup>10</sup>. Inhumane circumstances and limited freedom are commonplace for migrant migrants, agricultural labourers, and domestic helpers who are subjected to pressure by dishonest employers and middlemen<sup>11</sup>.
4. Child Labour - India continues to have one of the highest rates of child labour in the world<sup>12</sup>. Children are deprived of school, healthcare, and a respectable upbringing because they work in dangerous occupations including construction, housework, and agriculture<sup>13</sup>.
5. Workplace Abuse and Harassment- Workplace harassment, which includes everything from verbal abuse and bullying to sexual harassment, is common yet frequently goes unreported<sup>14</sup>. Because of shame, fear, and insufficient grievance procedures, victims—especially women—are discouraged from seeking remedy<sup>15</sup>.

Denying Workers' Rights- A large number of Indian workers are routinely denied the opportunity to organise unions, participate in collective bargaining, and take part in industrial activities<sup>16</sup>. Blacklisting, wrongful termination, and intimidation are common strategies used by employers to stifle unionisation attempts and so silence the collective voice of their workforce.

## **V. EFFECTS OF INJUSTICE IN LABOUR PRACTICES**

Unfair employment practices are common in India, which compromises the value of labour

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<sup>8</sup> Workplace Discrimination in India 2018

<sup>9</sup> Kaur (2020) 'Employment Discrimination in India: An Empirical Study' in *Equality and Inclusion in Indian Labour Law*

<sup>10</sup> Verick and Williams (2014) 'Forced Labour and Human Trafficking: Evidence from the ILO Special Action Programme

<sup>11</sup> Bhowmick and Saha (2019) *Bonded Labour in India*

<sup>12</sup> Kumar and Bhowmik (2017) *Child Labour in India*

<sup>13</sup> Banerjee and Mukherjee (2016) 'Child Labour and Educational Deprivation' in *International Conference on Statistics*

<sup>14</sup> Kundu and Dutta (2018) 'Sexual Harassment at Workplace: Evidence from India

<sup>15</sup> Ray and Majumdar (2019) 'Occupational Stress: A Study of Women Employees in India

<sup>16</sup> Rathore and Choudhary (2021).

and shatters workplace unity. These actions go against both international labour norms and rights guaranteed by the constitution<sup>17</sup>. From the standpoint of human rights, they deny workers their freedom, financial stability, and fair treatment. The repercussions are not limited to people. Poverty and social inequality are exacerbated by workplace injustice, marginalisation, and exploitation<sup>18</sup>. In the long run, these behaviours hinder equitable and sustainable economic growth by undermining worker-employer trust, decreasing productivity, and destabilising labour relations<sup>19</sup>.

## VI. TRADE UNIONS' FUNCTION IN INDIA

In India, TU are essential for defending workers' rights and fostering workplace unity. Trade unions are given a lawful outline for their creation, recording, and process under the TUA, 1926 . The statutory right of workers to organise and collectively express their interests is guaranteed by this statute.

Trade union rights and legal recognition- Every employee has the fundamental right to organise or not to link a union under Indian law. But not every group of workers is a trade union. For example, the Madras High Court ruled that Tahsildars, sub-magistrates, and other government officials do not form a trade union since they carry out independent duties and do not work in factories. *In All India Bank Employees' Association v. National Industrial Tribunal [(AIR 1962 SC 171)]*, these rights include:

- the freedom to gather and hold group meetings;
- the freedom to travel about in order to raise awareness;
- the freedom to express opinions and talk about issues;
- the collective right to purchase and own property.

The Court did clarify, nonetheless, that Article 19 does not ensure the achievement of all the goals for which the union is established. Legal advantages under the IDA 1947 and the TUA 1926 are only accessible to trade unions that are registered under the TUA. These rights do not apply to unions that are unregistered or whose registration has been revoked.

## VII. COLLECTIVE BARGAINING AND LABOUR RELATIONS

Trade unions are the foundation of collective bargaining, which is a crucial process for settling disagreements over terms of employment. Supreme Court definition of collective

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<sup>17</sup> Chatterjee and Banerjee (2020) Trade Union Movement in India' in *Indian Economic Development*.

<sup>18</sup> Chakraborty and Debnath (2019) 'Informal Sector and Unfair Labour Practices' .

<sup>19</sup> Kumar and Aggarwal (2018) 'Understanding Labour and Employment Laws in India' in *Business Environment*.

bargaining: *"the process by which quarrels concerning circumstances of service are determined peacefully by mutual covenant rather than coercion"*<sup>20</sup>.

Under the IDA, it is considered an ULP for an manager to decline to participate in collective bargaining with a familiar union. In, the historic ruling further upheld the right to strike as a valid method of protest in the event that talks break down. Despite their disruptive nature, strikes are a constitutional remedy for workers' complaints, the Court stressed<sup>21</sup>.

## VIII. MECHANISMS FOR DISPUTE RESOLUTION AND CONCILIATION

The conciliation procedure begins after a notice of strike. According to the IDA, the Government may designate a Conciliation Officer to mediate, look into the origin of the conflict, and assist in reaching a solution within the cooling-off period after the Conciliation Officer gets such notification. As an alternative, a Board of Conciliation with equal participation from both parties might be established. It is crucial to remember that strikes are not allowed while conciliation processes are ongoing.

One of three things happens at the end of the conciliation process<sup>22</sup>:

- agreement between the parties;
- no agreement, the case is resolved;
- referral for decision-making to an Industrial Tribunal or Labour Court.

An Industrial Tribunal with a single presiding officer may be established by the State Government under S. 7A of the IDA 1947 to decide cases pertaining to unfair labour practices, employment terms, and labour rights.

## IX. OVERVIEW OF THE 2020 INDUSTRIAL RELATIONS CODE: AN ANALYSIS OF ITS EFFECT ON ULPS AND WORKERS' RIGHT TO STRIKE

Three important laws are consolidated and amended under the Industrial Relations Code, 2020 (IRC), one of the four major labour codes that the Indian government has introduced:

1. The IDA, 1947
2. The TUA, 1926
3. The IEA (Standing Orders) , 1946

Employers and employees, along with their respective trade unions, are included under the

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<sup>20</sup> Sodhi (2013) 'Trade Unions in India: Changing Role & Perspective'

<sup>21</sup> *B.R. Singh v Union of India* AIR 1962

<sup>22</sup> *Karol Leather Karamchari Sangathan v Liberty Footwear Co* (1989)

umbrella term of Unfair Labour Practices (ULPs) as outlined in the Second Schedule of the Code, which was taken from the Industrial Disputes Act. However, a major change has taken place with regard to the fundamental component of collective bargaining, the ability to strike. There are serious worries over the ramifications of the IRC, 2020's increased definition of "illegal strikes" for workers' rights because it goes beyond what was first specified in Section 22(1) of the IDA, 1947<sup>23</sup>.

## **X. PRE-2020 LEGAL REGIME VS. INDUSTRIAL RELATIONS CODE, 2020: STRIKES AND UNFAIR LABOUR PRACTICES REVISITED**

### **A. Legal provisions**

Earlier going on incursion, employees of public efficacy facilities were expected to follow specific protocols under Section 22(1) of the IDA, including<sup>24</sup>:

- Providing advance notification,
- Awaiting a time of cooling-off,
- Avoiding strikes in the course of conciliation.

This limitation was reasonable, circumscribed, and based on the public interest, particularly to avoid interfering with important services.

### **B. Shift in accordance with the 2020 Industrial Relations Code**

Since the IRC, 2020 was passed, Section 62(1)<sup>25</sup> has expanded these procedural limitations to include all employees, whether or not they work for a public utility. This makes it harder for workers in all industries to lawfully go on strike by essentially universalising the legal specifications for all strikes.

Part II of the Second Schedule, Item 1: The Code further clarifies what ULPs are by stating that:

*"Any employee or trade association that actively encourages, counsels, or starts an unlawful strike will be found to have engaged in unfair labour practices<sup>26</sup>."*

As a result, even symbolic or nonviolent support for an illegal strike may now result in criminal penalties, such as:

- In accordance with Section 84 of the 2020 IRC,

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<sup>23</sup> Industrial Disputes Act 1947, s 22(1).

<sup>24</sup> Industrial Relations Code 2020, s 62.

<sup>25</sup> Industrial Relations Code 2020, s 62(1)

<sup>26</sup> *M Benton, International Labor Standards: History, Theory, and Policy Options 2018.*



- jail time or a fine,

Exclusion from the legal safeguards that the Code would otherwise provide.

Universal jurisdiction stands as a powerful but contentious mechanism within international law. Its core promise—to ensure that perpetrators of the gravest crimes do not enjoy impunity—has inspired landmark prosecutions and offered hope to victims when all other legal avenues have failed. From the arrest of Augusto Pinochet to the conviction of Anwar R. in Germany, universal jurisdiction has evolved into a credible and increasingly utilized tool in the global fight against atrocity crimes.

## **XI. CRITICAL ANALYSIS: ARE WORKERS' RIGHTS AFFECTED BY THE IRC, 2020?**

Although the Indian Constitution don't recognise the factual to strike as a essential right, workers nonetheless use it as a historic and useful tool for collective bargaining. In reality, employers and their unions have greater resources, political connections, and legal protections<sup>27</sup>. The threat of going on strike is sometimes the only practical tool available to workers, especially those in disadvantaged or unorganised industries, to demand improved working conditions or oppose unfair practices. By expanding the definition of unlawful strikes and comparing support or involvement in them to ULPs, the Code<sup>28</sup>:

- Reduces the negotiating power of employees,
- Over criminalizes disagreement in the workplace,
- Puts employees at greater legal danger,

Suppresses trade union activity, particularly in unorganised or smaller unions.

## **XII. UNFAIR LABOUR PRACTICES, THE INTERNATIONAL LABOUR ORGANISATION (ILO)**

In order to promote fairness in the workplace and fair employment standards, the International employment Organisation (ILO) is essential<sup>29</sup>. The ILO seeks to avoid disputes, stabilise labour markets, and provide procedures for settling labour disputes through its global labour standards. In order to ensure that they represent the triangular agreement and fairly serve all parties involved in the labour ecosystem, these standards were created in conjunction with governments, employers, and workers. The ILO has ratified a number of treaties and guidelines to address prejudice and ULPs. These guidelines push member states to take

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<sup>27</sup> J Lee and S Kim, *Labor Market and Economic Development* 2021

<sup>28</sup> J Turner and J Bachman, *The Sociology of Work and Occupations* 2018

<sup>29</sup> GM Grossman, *Globalization, Trade, and Economic Development* 2019

proactive steps to combat oppressive employer behaviour, especially where it impedes collective bargaining, freedom of association, or leads to discrimination and wrongful terminations<sup>30</sup>.

#### **A. ILO redress for injustices in labour practices<sup>31</sup>**

For workers exposed to ULPs, the ILO suggests a number of corrective actions, such as:

- Temporary relief: Keeping workers safe while conflicts are being settled.
- Bonus and wage reimbursement: compensating employees for monetary losses brought on by ULPs.
- Reinstatement- is the process of returning employees to their prior positions following an illegal firing or demotion.
- Restitution for Monetary Losses: Resolving the financial effects of retaliation by employers.
- Eliminating unfair entries from an employee's job file as a result of mistreatment is known as expunging disciplinary records.

#### **B. Enforcement mechanisms: linking legislative clauses with real-world protections**

Strong enforcement procedures are essential to converting legal rights into real safeguards for employees. In order to monitor, look into, and punish labour law transgressions, the ILO stresses the significance of institutional infrastructure, particularly labour inspectorates and compliance agencies.

#### **C. Principal purposes of enforcement systems<sup>32</sup>:**

- Labour inspectors evaluate whether regulations pertaining to pay, working hours, occupational health and safety, and other requirements are being followed.
- Resolving complaints made by workers or labour unions.
- Sanctions are punitive actions taken against companies or employers who participate in ULPs.
- Employers' and workers' duties and obligations are established by the legal framework, enabling accountability and adherence to both domestic and international norms.

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<sup>30</sup> JF Trani, Labor Markets and Employment Relationships 2019.

<sup>31</sup> B Edelman and others, Perspectives on Work, Employment, and Society 2020.

<sup>32</sup> Industrial Disputes Act 1947

#### **D. Enforcement difficulties: The Indian setting**

India confronts a number of structural obstacles in the application and enforcement of labour laws, despite having a reasonably complete legislative structure designed to control labour relations and prevent ULPs<sup>33</sup>.

The lax enforcement of current laws is one of the biggest drawbacks of India's labour law system. Even in cases with robust legal safeguards, criminals frequently escape punishment because

- Ineffective bureaucracy and regulatory sluggishness
- Corruption in inspection agencies and labour departments
- Inspectorates that are understaffed and undertrained
- Regulatory authorities have been given limited resources.

A culture of impunity is fostered by these problems, particularly for big, influential employers who may avoid compliance with little repercussion.

The informal economy, which operates beyond the purview of official regulation, employs a majority of India's workers. Unofficial labour contracts are occasionally used to get around laws governing working conditions, occupational security, and union membership' rights, making them inapplicable or ineffective.

#### **The labour regulation processes in India are severely hampered by this:**

- State and central authorities' regulatory jurisdiction is fragmented.
- Outdated labour laws, even with recent attempts to codify them.
- Low conviction rates and protracted adjudication in labour courts.

### **XIII. AMBIGUITIES IN PROVISIONS**

India has a thorough structure of labour regulations, however due to significant legal ambiguities and inadequacies, the regulatory system usually falls short in addressing unfair labour practices (ULPs). A broad and ambiguous definition of ULPs in the Industrial Disputes Act, 1947, one of the key pieces of legislation, permits a range of interpretations and unequal application (Benton, 2018). This uncertainty hinders efforts to prosecute charges involving both corporate misconduct and trade union wrongdoing. Additionally, contradictory statute phrasing, particularly in sections referring to collective bargaining rights

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<sup>33</sup> Industrial Disputes Act 1947

and dispute resolution procedures, allows for legal ambiguities and interpretation problems<sup>34</sup>. Furthermore, the consistent implementation of labour regulations across various industries and worker categories has become more difficult due to the growth of informal and contractual employment arrangements<sup>35</sup>. Legislative provisions must be clarified and amended, coverage gaps must be filled, and modern safeguards that take into account changing work arrangements must be included in order to increase the efficacy of the legal framework<sup>36</sup>.

#### **XIV. IMPLEMENTATION DIFFICULTIES**

Beyond legal shortcomings, operational and institutional issues plague India's labour law implementation, especially given the decentralised nature of labour law enforcement. Disparities at the state level: Because state governments have the majority of enforcement obligations, standards and practices differ, giving workers uneven protection in different areas (Grossman, 2019). Prolonged litigation and procedural hold-ups hinder prompt dispute resolution and deter employees from pursuing remedies (Trani, 2019). Many employees, especially those in the unorganised sector, are unaware of their legal rights and have no access to legal counsel or remedies (Edelman et al., 2020). This lack of understanding inhibits ULP reporting and encourages exploitation.

#### **XV. SUGGESTIONS**

Boost labour inspectors' capabilities and assets with performance-based accountability, digital tools, and training. Establish regular audits and unexpected inspections in all sectors of the economy. Enact legislation protecting whistle-blowers to prevent retaliation against staff members who report infractions. In order to handle emerging ULPs like algorithmic discrimination and gig economy exploitation, it is necessary to review and revise antiquated labour regulations. Clearly describe procedural rights and legal phrases. Employers, employees, and legal experts should all be included in reform initiatives to guarantee inclusive, useful results.

To speed up conflict settlement, establish fast-track courts or specialised labour tribunals. Increase the amount of money allocated to legal aid programs that assist vulnerable and low-income workers. Educate judges, attorneys, and labour officials on the latest advancements in labour law. To inform employees of their rights under both domestic and international labour law, start a national awareness campaign. Employers must come up with the economic ideas

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<sup>34</sup> Lee & Kim, 2021

<sup>35</sup> Turner & Bachman, 2018

<sup>36</sup> Industrial Disputes (Amendment) Act 1982.

for job and training skills, insurance benefits, maternity benefits, social interactions etc.

## **XVI. CONCLUSION**

The ULP have roots since the colonial era and the problem is still continued in the legislative reform. Due to such discrimination, the rights of the workers are violated leading to social inequality and economic fragility. The best examples are child labour, gender based harassment and exploitation of workers that demonstrate, how the current laws are inadequate to handle the workplace problems or dynamics. As the current laws are not promising, the workers are left out from the all the benefits under the law. However, to solve this problem of law gaps, the legislature should improve the monitoring standards in the industries and raising the standards of the workers should be the top priorities of the state and central government. So for this, the government should come up with economic expansion strategies to raise the fair labour standards, which would guarantee the development and betterment of the workers rather than just receiving benefits from the employers.

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