Chapter I

Introduction

Changing Phase of Indian Labour and Industrial Relations in the Era of Globalization
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1.1 Introduction

India was infested with mass poverty, drain of her wealth and ruin of her agriculture and industries. At that time, Pandit Jawaharlal Nehru had a vision of bringing new civilization through industrial promotion. He said that “there is no way of ending poverty the vast unemployment, the degradation and the subjection of the Indian people except through socialism it means bringing a new civilization radically different from the present capitalist order\(^1\).

In the background of such emotional commitment the streaming of the social revolution was felt, equality and liberty were vibrating the International arena and Trade Unionism was making a swift entry into the Indian Industrial sectors through the concept of mixed economy with public sector basis. Nehru evolved the first two Industrial Policy Resolutions of 1948 and 1956 to achieve such a pattern of society aiming the greater industrial productions with the equitable distribution of national wealth that led to the formation of Industrial Policy Resolutions.

During the period of Prime Ministership of Mrs. Indira Gandhi, nationalization of industries is a step ahead. One of the main dimensions of this study involves in identifying the paradigm shifts that took place in the industrial policies in India in the wake of globalization. Growing importance of the labour

\(^1\) Nehru and the people’s movement. Manak pub. New Delhi (1997)p.21
and the diminishing role of the protection to the weak and the deprived was taken into criteria. No doubt, the Industrial Policies has taken the base to bridge the gap. The present world has undergone a great transformation in recent years. The Knowledge based society has replaced the material-based society. Because of industrial revolution and subsequent changes, new forms have come into existence.

This is not to say that the Government has been very ignorant about the needs of the industry and other concerned sections in India but the response has been lukewarm.

The present thesis verifies and includes the detailed study origin and growth of industrial relations in India. Globalization and its impact on labour and industrial relations and the judicial trends. India is major player of twenty first century we are facing its socio-economic impacts. Nothing is permanent, only change is permanent. The first era of globalization (in the fullest sense) during the 19th century was the rapid growth of international trade. Even though economists have used the word “globalization” since 1981; however, its concepts did not permeate popular consciousness until the later half of the 1990s. Globalization became a business phenomenon in the 17th century when the Dutch East India Company, which is often described as the first multinational corporation, was established. Because of the high risks involved with international trade, the Dutch East India Company became the first company in the world to share risk and enable joint ownership through the issuing of shares, an important driver for globalization.
The First Era of Globalization, a period characterized by rapid growth in international trade and investment. Liberalization in the 19th century is sometimes called "The First Era of Globalization", a period characterized by rapid growth in international trade and investment. **Globalization** in a literal sense is international integration. It can be described as a process by which the people of the world are unified into a single society and functioning together.

This process is a combination of economic, technological, socio-cultural and political forces. Globalization, as a term, is very often used to refer to economic globalization that is integration of national economies into the international economy through trade, foreign direct investment, capital flows, migration, and spread of technology.

This study is critical, analytical and doctrinal in nature. This is to analyze the changing phase of the Indian industry and labour under special situations like Five Year plans and Industrial Policies and to identify the paradigm shifts that took place through the above in the light of globalization and diminishing role of labour and their importance.

### 1.2 Significance of the present research topic

According to famous Hudson Maxim, “All progress is born of inquiry. Doubt is often better than overconfidence for it leads to enquiry which leads to invention.” According to a wide spread criticism that legal research is lagging behind and the present research topic would be an earnest Endeavour to face the criticism, would be a drop of water added to a pond.
The researcher feels that the choice of the present topic is significant in this particular decade. This is a maiden attempt to analyze global trends on industrial relations and the labour. The thesis is first of its kind to introspecting by making a contemporaneous relevant study with the latest legislative and judicial response and tries to address some important matters that surfaced on the present day with regards to labour and industrial relations in the wake of globalization.

The emergence of industrial capitalism, as an offshoot of capitalists as against labour, leading to exploitation, socio-economic inequalities and concentration of economic wealth in the hands of few at the cost of deprived millions is really leading to the need of the shaping of the labour laws to promote the worker and his phase in the industry. In this connection, the Industrial Policies ranks the first and the foremost in the list, the Industrial Policies Resolutions of 1948, 1956 and 1977 were adopted to give effect to the present scenario.

The biggest metamorphosis in our economic and industrial climate came in 1991 in the form of New Industrial Policy, after which the whole edifice of industrial structure was uprooted. Delicensing, deregulation and denationalization of industries in the light of privatization, globalization were started and the legislations were amended or repealed to the effect. Judicial attitudes fluctuated and enormous changes were brought in the globalized era.

The importance of this research is to measure the real meaning and trend of globalization and to check its influences on the industrial relations in the angles of Government, Employers and workers, the judicial trends in the present context and the significance in the labour legislations, the protection that is given to the workmen, the controversial decisions given by the courts and the high-headed
manner that the employer adopts in the service matters of the worker relating to the retrenchments and lay-offs.

After all the labour are constantly seeking their livelihood in getting into the industrial employment having strong faith in the labour legislations and the Indian Constitution. Unfortunately, the insecurity with regard to their employment is chasing them in the present globalization-era. Very less importance is given to the area of study of the welfare of the industrial worker. The employment position of the worker is dependent at the mercy of the employer. On the other hand, the present industry has to face the challenges of the present global market economy. It is clear from the present picture that there is vast change in the trend of protecting the labour.

Thus this research is necessary not only for collecting the information on the labour and the industrial relations in the present global era, which is the actual social and economic structure, but also to understand the changes occurring in the present world. More specifically, it is concerned with analyzing the position of the normal individual worker in the industry.

The latest trend in the era of globalization is the establishment of Special Economic Zones. The Bill was passed by the Lok Sabha on 9th May 2005 and by the Rajya Sabha on 11th May, 2005 and came into force on 23rd June, 2005 as the Special Economic Zones Act, 2005. International competitive environment for exports being initiated by establishment of these Special Economic Zones that are making goods and services free of taxes and duties supported by integrated infrastructure for export production, expeditious and single window approval
mechanism and scheme of incentives to attract the foreign and the domestic for promoting the exports.

The study reveals that, by the establishment of Special Economic zones, the effects of labour legislation and the agony of the worker, his social security, employment security and other aspects are not viewed through the actual mirror but with a diminishing mirror. The present study is a kind of guanine attempt to focus this point of view also.

All the above thought provoking issues impelled the researcher to take up this study and make it relevant for the present day scenario. However, this research, which is nothing but search for the knowledge or a systematic search for the information on this particular topic or issue, frankly speaking is not a masterpiece of its own but an attempt and with this attempt, the researcher is experiencing the real intellectual satisfaction of knowing things for the sake of gaining the knowledge.

In this systematized effort to gain knowledge, the researcher feels that, is an enquiry in the first phase, which is nothing but a kind of intellectual effort and a kind of legal academic experiment in the process of examining the truth.

1.3 Statement of Research Problem and Limitations

Under this section, the researcher briefs the present research problem along with its limitations and counters the present thesis on Changing phase of Indian labour and industrial relations In the era of globalization, is a kind of brief and comprehensive study of labour legislature especially the Indian industrial
relations in the era of globalization with the manifestations of the Industrial Policies in India and the judicial trends.

The researcher confines the present study to the labour and the industrial relations in nutshell analysis. The study is limited to the present labour legislations that are shielding the worker in the industry in the micro level analysis including the analysis of Industrial Policies. The researcher in his endeavor to provide the historical perspective to the pre independence period and post independence period scenario with the sole reference to the industrial relations in India. Focus is made on the judicial responses and tried to identify the pulse of the judiciary towards the worker and his welfare. With the few limitations the researcher has taken proper care and sense to stick on to the present topic “Changing phase of Indian labour and industrial relations in the era of globalization”.

1.4 Review of the Literature

The thesis is a doctrinaire study of research, the researcher felt that going through the standard books and literary exercises of eminent scholars is very important. The existing literature on Labour laws, Industrial relations, legal economics, in addition to General books. First hand, information is received from Government of India Publications, reports; survey reports and the secondary source of information from the available trust worthy material are the real foundation for this research work.
Standard commentaries by experts and well-read articles by scholars and their critical views on the present topic. Short span of visits were made to various University libraries in the State and other important places to the present pursuit.

The editorials in vernacular Newspapers like Times of India, The Hindu and journals like Economic and Political Weekly, were referred to touch the pulse of the present study of thesis. Every thing that is referred is duly acknowledged. Preference was given to articles of the specific area by renowned jurists like Upendra Baxi.

Referring All India Reporter for the landmark judicial pronouncement of judgments, made the research successful. However, at certain junctures the researcher found a kind of vacume where the full details of the references were not mentioned which led to a process of slow down nature of the progress of the work. Books referred on Industrial Polices are a major help in completing this thesis, are acknowledged. Speeches of Pandit Jawaharlal Nehru in the Indian Parliament gave a new polish to the work.

To know the recent developments at the national and international levels, important and famous web sites are browsed and for the appropriate guidance, famous books on legal research methodology are constantly followed. Dictionaries and encyclopedia helped a lot in the shaping of the work.
1.5 Objectives of the present study

A.
To examine the origin and growth of Industrial relations in India, both in pre-independence era and post-independence era.

B.
To operate and analyze the theme of social justice and Industrial Jurisprudence, which is, believed to be the actual foundation of the good industrial relations from the beginning to the present globalization era.

C.
To trace the affects of Globalization and its influences on the labour and industrial relations in India.

D.
To trace out the parameters in the Industrial Policy Resolutions and the paradigm shifts.

E.
To interact with the latest developments in the labour and industrial relations by new policies like Sez –establishments in the country and the exemptions given by such.
F
To examine the judicial trends with the labour and industrial relations in the era of globalization and to know the attitude of the judiciary towards the worker in the industry.

G
To derive and conclude the theme of metamorphosis of the phase of labour and industrial relations in the era of globalization.

1.6 Hypothesis

The hypothesis formulated for this research work is that in this era of globalization, the primary and fundamental observations of the Law relating to the Industrial Relations, which is basically embodied in the Industrial Disputes Act, 1947 appears to be for the protection of the worker-community. In fact it is not so.

The decisions given by the Supreme Court in the very recent past makes it clear that adequate protection to the worker is not given against the arbitrary actions of the employer. A total diversification can be traced out from the judgments of the Supreme Court and High courts, especially with regard to the law relating to Retrenchments and Lay-offs. The employers are playing a new role which is not known to the concept of the Labour legislation, at one stage, the judiciary appears to be totally transformed to the extent of giving aid to the employers and ignoring the welfare and protection of the worker.
Over burden on the worker, sexual abuses on women in the night shifts, which sometimes leading to rape and murder, is the out come of the rosy picture of the so called Globalization with its cover pages as international competitive environment and free trade & open markets by the establishments of Special Economic Zones and this is virtually not synonymous to any of the industrial or labour legislations of the international community. More prominently, this philosophy is deliberately attacking the fundamental foundation of the Indian Constitution. Thus in this direct observation there is a clear jeopardy of the social justice and social security of the Indian Constitution.

The main issues relating the hypothesis are-

- Effects of Globalization over the labour and industrial relations in different phases

- The various changes in the industrial world phase wise

- The paradigm shift in industrial policies in, before and after 1990 and the changes.

- Judicial and legislative response of the present and the past industrial work force and of the labour.

- Attitude of the judiciary, past and present towards the worker in the industry.
1.7 Methodology

This is a kind of systematic search for the information on this issue. In this systematized effort to gain knowledge by formulating suggested solutions organizing and evaluating data, mainly the secondary data.

The present research is mainly based on qualitative phenomenon or more specifically a kind of descriptive one in which the aspects relating to or involving quality or kind. The important ingredient of qualitative research is traced out to be the research by motivation, which investigates in to the reasons for its happening and mostly aim at the discovering the truth with the support of secondary data sources like International Publications, Official Publications of Central and State Government, Semi-Government Official Publications, Publications of research Institutions, Official Publications of various Commercial and Financial Institutions, Reports of various committee and Commissions appointed by the Government, Important Journals and Newspapers.

For the present purpose of research the researcher proposes to take-up the Analytical method which really serves the purpose as the research is basically the observation of the changes that takes place from time to time especially to the present globalization period upon the industrial relations with the drastic changes adopted by the State, the employers towards the employees and the judiciary.

Analytical method is resorted in the entire work to analyze the situation of the industrial relations in the globalized world, the position of the worker. The real attempt is by analyzing the present study of legislation, the decided cases, the security of the industrial worker and his position. Critical evaluation in the
exclusive premises of this Doctrinal study and Policy analysis, in depth study of various industrial policies

In this search for knowledge, the researcher aims to find out the truth, which is hidden, and not widely focused. The researcher is trying to accurately portray the characteristics, effects and defects of the globalized era, which is really affecting the present industrial relations.

The researcher is also trying to analyze the frequency of the present tendency of the employer’s mind and the judicial approach and trying to reach the casual relations and dominations of the employer and employee ties.

Thus, this research is an original addition to the available knowledge, which would contribute to its further advancement. However it, is a genuine attempt to pursue the truth through some important methods of study, some observations by some comparisons.

1.8 Brief plan of the study

The entire research work is planned and simplified in the following six chapters. The division of these six chapters was made in a plan of its convenience. A brief description of contents of these chapters is as follows.
Chapter - I

This chapter deals with the brief introduction to the present study. This chapter is to be treated as the head of this research work, because this is introducing the actual plan of study of the research work, presented herein representing its design, covering the significance of the study of the research topic along with its scope and area of research, the statement of research problem, the objectives of the present study, the hypothesis formulated, the methodology adopted and the preview of the literature reviewed in this connection.

Chapter - II

This Chapter is considered the life of the research work because the industrial jurisprudence is the life giving blood, which gives real life to any industrial establishment to run that, in a smooth and perfect manner and justify the workers in it. For this reason, the thought of the study of industrial jurisprudence connected to this research work is discussed here in this chapter.

The significance of the industrial jurisprudence is an important tool in the process of moulding and shaping the industrial relations either in the present or in the past. The ideology behind it is social security and social justice. The present chapter deals with the industrial jurisprudence, which is the foundation for the actual structure of industrial relations, by critically analyzing the roots of it, the roots, are nothing but Social Justice and Industrial justice. The scope of social justice -the international justice, social security measures and globalization are some other typical observations. Critical analytical study is made by observing the
social security measures, social justice and its concept and its historical roots, its objects. Reference is made to the Five Year Planning, the judiciary, Indian Constitution and the position of the worker in the industry.

Chapter – III

This chapter is considered to be the skeleton or body of the research work. This chapter aims to find out the Origin and growth of labour and Industrial Relations in India. The labour legislations and their origin in India and their general systematic categorization according to the protection and specific purpose and plan. Attempt is made to find out the situations of the industrial relations before the Independence and after Independence periods. The Indian Government-Five Year Plans with special reference to the labour and Industrial Policies were also referred in order to have a binding order of the work. Mention is made about the Industrial sickness and Indian Constitutional provisions relating to the labour administration.

Chapter – IV

This Chapter is the backbone of this research work, deals with the details of Globalization and its effects on Industrial Relations. Attempt is made to locate the parameters of globalization. To move further, attempt is also made to study the actual meaning of globalization and its concept. Globalization of the world economy is achieved quite obviously by globalizing the national economies. That is why, a brief analysis of the historical phases of origins of globalization in Europe is studied and identified under five phases starting from the year 1400 to
the year 1992, thus tracing out the paradigm shift from the cold war period to the age of globalization. Research is made to trace out the picture of India in the globalization era, the effects of the globalization on the Indian industry, WTO and its effects over the Indian industry, the virtual impact of the globalization on the employment situation of the Indian industry. Research is also continued to extend to the area of economic planning which really achieved by the New Industrial Policies. Further, the researcher dealt with the traditional large-scale industries of India, in order to trace out the effects of the globalization.

The Chapter deals with the Special Economic Zones limiting to the important relevant fields concerning this research work, as this is a new dimension in the era of globalization, its emergence, purpose and aim and the facilities that are provided to such Zones are discussed in brief. Mainly the real effect of the establishment of these Special Economic Zones over the industrial worker, the reflections over the various labour legislations influencing and interconnected to the real existence of the worker in the industrial field.

Chapter-V

This chapter is considered to be the heart of this research work dealing with the study of Globalization and the judicial Trends in the industrial relations. Brief discussion is made about the emerging dynamics of the new actors, the industrial policies and the judicial responses, the role of collective bargaining and the position of the casual labour, the virtual insecurity of the labour in the era of this globalization period, the legislative provisions relating to the strikes and lockouts, lay off and retrenchments are discussed.
Research study is made to locate the judicial interpretations relating to strikes and finally relocating the judicial metamorphosis in the last two decades arriving at the judicial trends in the industrial relations in the era of globalization.

Chapter - VI

This chapter is the remarks of conclusions and provides with some important findings and some suggestions of the researcher. This chapter is considered to be the brain of the research work carried out by the researcher.

By boiling and filtering all the matter discussed in the previous chapters of this research work, the researcher is positively basing on the conclusions stated in this chapter to the final destiny. It is observed that India became an industrial developed country in the eyes of the world. In India, the industrial laws have moved in the direction to extend help to the employers than to give adequate security to the worker.

The laws and the judgments had created a kind of equilibrium between the rights of the industrial worker and the employer. But unfortunately, the striking balance is not proper. In this chapter, the researcher arrived at the conclusion that in the era of globalization, viewing the new industrial policies vis-à-vis the constitutional values, it is feared that the new industrial policies seems to be posing a great danger to lease out the Constitutional commitments and the India’s Constitutional philosophy.

The researcher after going through the Second NLC felt that there should be some modification, which will certainly be beneficial to the worker in the Industry.
The conclusions revealed that the right to work and right at work has been curtailed in India in the recent past. On perusal of the judicial response, there is a clear cut changing phases in the industrial relations from the yester years to the present globalization era, a shift in the judicial opinion.