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Labour is the backbone of a Nation. Any work, whether manual or mental, undertaken for a monetary consideration is termed as 'Labour'.

It is an illusion and myth that labour law exists in books. To be sure, books describe it. But it exists, realistically, not in books but in factories, in mines, on roads, in rails, in stores, in plantation and in offices where people labour. In books we find not the law of labour itself but merely pictures of that law.

History bears testimony that there has always been a wide gap between rich and poor, and labour class has always been exploited by the elite class holding the reins of employment in their hands. Profit-making has been the guiding motive of economic enterprise. This was accentuated by the Industrial Revolution which widened considerably the opportunities and scope for profit-making. Subsistence wage, long working hours, women and child labour, were some of the devices adopted by entrepreneurs to derive maximum profit. Governments of the day did not interfere as they were guided by and wedded to the economic policy of *laissez faire*. Industrial relations were ordered by the concept of master and servant and the rule of employment was one of hire and fire. A few voices were raised in protest; but for a long time they were merely a cry in the wilderness. Those who controlled industry had a feeling of complacency until it was shattered by political and social upheavals in the beginning of 20th century. The Governments, one by one, abandoned the doctrine of *laissez faire* and started intervening in the economic and social order. Public opinion came to be mobilized and Government policies came to be guided more and more by social objectives.
So long as the rights to private property exist in a society, some people will continue to own the means of production and distribution on the one hand and large number of persons will continue to seek work and remain at the mercy of their employers on the other. Such situation paves the way to exploitation of the workers by the employers. Since the State is pledged to the welfare of its citizens, it cannot remain a silent spectator.

In India, the working class has a deplorable plight—low wages and weaker bargaining power. They are poorly organized. Without the protection of the State they may be subjected to victimization. The economic development and national progress depend upon the Industrial peace. The State intervention on behalf of workers tends to reduce friction and develop the desired type of psychological climate for workers, wherein they feel that they are being looked after and their worth is recognized. Since industrial workers are more exposed to risks and hazards, the attention of the Government they get is more than that to other sections of the community.

In order to protect the interests of workers, the Government of India has from time to time enacted suitable legislations.

Prior to enforcement of the Indian Constitution various legislations, like the Minimum Wages Act, 1948, The Payment of Wages Act, 1936, Employees' State Insurance Act, 1948, Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946, The Workmen's Compensation Act, 1923, The Factories Act, 1948 etc., were in operation for welfare of the workers and to manage the relations between the employer and Employees. But the framers of the Constitution felt that, regarding the labour welfare and protection of workers from exploitation, these legislations are not sufficient, because they did not have any 'National Goal' to the coming progressive
Indian Society. Keeping in view they incorporated many provisions i.e. provisions relating to distribution of power, job security and the commitment to social evolution lies in Part-III (Fundamental Rights) and Part-IV (Directive Principles of State Policy). As a result new juristic philosophy expounded by the court to solve the grass root problems and hardship of industrial workers with the objective to secure 'greatest good to the greatest number'.

The Preamble of the Indian Constitution states that the people of India have solemnly resolved- 'to secure to all its citizens: Justice-social, Economic and Political-Equality of status and of opportunity'. Thus the concept of socio-economic justice which is enshrined in the Preamble reflects the aspirations of the people of India.

The Indian Constitution through its preamble emphatically declares that the socialist Democratic Republic of India shall be a welfare State committed to the ideal of socio-economic justice. This message of socio-economic justice has been translated into several Articles dealing with its different facets.

The Preamble shows the general purpose behind the several provisions of the Constitution but, nevertheless, it is never regarded as a source of any substantive power or limitation 1.

But some confusion has been created by the observation of Kesavananda's case 2, a majority of the Full Bench that (unlike the Preamble in ordinary Statute) the Preamble to our Constitution should be interpreted as a part of the Constitution.

Various decisions of the Supreme Court show that the court is now inclined to take a larger cognizance of the Preamble as setting forth the goal of our political society, so that it may be invoked to determine the ambit of Fundamental Rights and the Directives, because it is the ideals of socialism, secularism and democracy which are elaborated by the enacting provisions. In short, in the matter of interpretation of the provisions of the Constitution as well as of a statute, the court is relying on the objects enshrined in the Preamble to the Constitution, wherever the language of the enacting provision permits.

As under the Government of India Act, 1935, there was a three fold division of legislative powers between the Union and States. Under the present Constitution of India, there are three legislative lists in the 7th Schedule of the Constitution:

List I or the Union List includes 97 subjects over which the Union shall have exclusive powers of legislation.

List II or the State List comprises 66 items or entries over which the state legislature shall have exclusive power of legislation.

List III gives concurrent powers to the Union and State Legislatures over 47 items including welfare of labour. The framers of the Constitution added this list to the Constitution with a view to secure uniformity in the main principles of law throughout the country. They, having regard to the nature of the subject matter and different conditions prevailing in the various provinces thought it fit to provide a system whereby labour welfare legislation could provide adequate safeguards as against the strong capitalist groups.

They in their wisdom, decided that labour matters should be placed in the concurrent list so that both the centre and province could play their respective role successfully.

Further labour being placed in the concurrent list provides a mechanism to deal with Centre-State action or over reaction, as both are given the power to play an effective role within their own sphere.

In case of repugnancy between a law of a State and a law of the Union in the concurrent sphere, the latter will prevail. The State legislature may, however, prevail notwithstanding such repugnancy, if the state law was reserved for the President and has received his assent.

The Directive Principles of State Policy lay down certain social, economic and political principles, suitable to peculiar conditions prevailing in India. Articles 39, 41, 42, 43 and 43-A of the Constitution deal with the social and economic welfare of workers engaged in all sorts of labour - agricultural, industrial, or otherwise.

In a developing country like India, where majority of the workers live below poverty line, a planned economy wedded to ushering in a welfare state which aims at providing social justice to the poor workers, preservance of industrial peace and contentment is of vital importance for an unhindered and accelerated growth of national economy. Wages play an important role in the whole labour-management relations, which can be maintained only if the labour is provided just share in the fruits of economic development.

The importance of the wage aspect is clear from the provision laid down in the Indian Constitution. The most important Article enshrined in the Constitution of India is Article 43 which provides:
"The state shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ---"

The concept of living wage has thus been incorporated in the Constitution itself. Article 43 in a sense can be said to be the 'Magna Carta' of all workers and this Constitutional goal directly or indirectly emphasises the need to improve the wages and the conditions of the workers through legislative and other state actions or measures.

Part III of the Constitution embodies the Fundamental Rights. The aim of having a declaration of Fundamental Rights is that certain elementary rights, such, as right to equality, right to life, liberty, freedom of speech, freedom of faith and so on, should be regarded as inviolable under all conditions and that the shifting majority in legislature of the country should not have a free hand in interfering with these fundamental rights. These rights are ensured as effective guarantees against the state action.

Debate on merits and demerits of equality and inequality is endless. It is a tussle between haves and have-nots and each side has its ablest advocates.

The Indian Constitution establishes equality before law and equal protection of the laws, prohibits discrimination by the State on ground of religion, race, caste, sex or place of birth; and provides equality of opportunity in matters of employment.

It is now settled that Article 14 is applicable to employment under the State so as to invalidate discriminatory rules and orders. A rule or order will be discriminatory if the classification made by it is not reasonable. It is also applicable on the arbitrary use of power.
The framers of the Constitution of India had reason to fear, therefore, inspite of the prohibition in Article 14, discrimination on the basis of religion race, caste, sex or place of birth might be legitimised by the courts on the basis of reasonable classification. It was with a view to forestalling such an eventuality that the Constitution in clause (1) of Article 15 expressly provides that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them".

Clause (2) of Article 15 is a specific application of the general prohibition contained in Article 15(1). clause (2) prohibits both the State and private individuals from making any discrimination. The object of Article 15(2) is to eradicate the abuse of the Hindu social system. Clauses (3) and (4) of Article 15 are exceptions to the rules provided in clauses (1) and (2).

Clause (3) says that nothing in Article 15 shall prevent the state from making any special provision for women and children. They require special treatment on account of their nature.

Clause (4) of Article 15 was added by the Constitution (1st Amendment) Act, 1951, as a result of the decision in State of Madras Vs. Champakam Dorairajan. Under this clause the State is empowered to make special provisions for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes.

4. Article 15 (2): 'No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
(a) access to shops, public restaurants, hotels, and place of public entertainment, or
(b) the use of wells, tanks, bathing ghats, roads and place of public resort maintained wholly or partly out of state funds or dedicated to the use of the general public.
Article 16 guarantees equality of opportunity to all citizens in the matter of appointment to any office or any other employment under the state. The principle underlying Article 14 has accordingly been applied to the interpretation of Article 16(1), namely that the equality of opportunity guaranteed by it means "equality as between members of the same class of employees, and not equality between members of separate, independent classes.

The equality of opportunity 'in matters relating to employment or appointment' is wide enough to include all matters in relation to employment, both prior and subsequent such as initial appointment, pay, conditions of service, confirmation, seniority, promotion, termination, abolition of post, compulsory retirement, reversion, superannuation, pension, transfer, reservation for back-ward classes, periodical increments, terms of leave, gratuity etc.

Article 19 of the Constitution guarantees to the citizens of India the six fundamental freedom which are exerciseable by them throughout and in all parts of the territory of India. These are- freedom of speech and expression; freedom of movement, freedom of residence and settlement; freedom of profession, occupation, trade or business; freedom to assemble; freedom to form associations.

The rights of freedom of speech, freedom of assembly, and freedom of association protect some of the vital interests of the workers, strengthening their hands in forming trade unions, in staging demonstrations and in carrying on collective bargaining. The freedom of trade and occupation may, presumably, be of help principally to the employers.
The provisions relating to services under the Union and States are laid down in Part XIV of the Constitution. The most important provisions are those laid down in Articles 309, 310 and 311.

With the independence of our country, the responsibilities of the services have become onerous. A country without an efficient civil service cannot progress. Whatever democratic institutions exist, experience has shown, that it is essential to protect the public services as far as possible from political or personal influence. For this purpose the said provisions are incorporated in our Constitution.

This thesis is concerned with the Constitutional rights, directives and remedies of workers against their exploitation. It proposes to examine the extent of constitutional protections and adequacy of laws derived from such Constitutional provisions with a view to suggest measures that should be incorporated for a fuller protection of workers.

It seeks to examine, therefore, the Constitutional guarantees and directives as well as such other legislations which buttress the Constitutional measures. In examining such Constitutional provisions and legislations, cases decided by courts for giving effect to such provisions is also critically examined. This thesis also examines the Constitutional provisions pertaining to remedies against employer's action.

The present work is conveniently divided into seven chapters. Chapter I deals with the Preamble of the Constitution, economic and social justice, and equality of opportunity.

Chapter II examines the implications of "Labour" being on the "Concurrent List" of the Constitution. It deals with the respective powers of
Centre and States in enacting legislations, affecting 'labour', the effect of inconsistent legislations and the method for reconciliation of inconsistent Acts made by the Centre and the State legislatures.

Chapter III deals with Directive Principles of State Policy with special reference to living wage and the approach of the Courts to living wage. This chapter also deals with the directive concerning full employment and the constraints thereof in translating the ideal into reality.

Chapter IV examines the Fundamental Rights concerning equality as they affect the workers. It further examines legislations such as Equal Remuneration Act, and cases decided thereunder.

Chapter V deals with rights of speech, and expression, and association as they affect the rights of workers to picket, to form unions of their own choice to collective bargaining and to strike the restrictions on these rights by various enactments are also examined.

Chapter VI examines the protections given by the Constitution for job security to workers and civil servants, and disciplinary action and judicial review thereof. Procedure for enquiry, natural justice, disciplinary proceedings and punishments are also examined.

Chapter VII deals with recapitulation of the subject and suggestions.

Note: Present study deals with case law till November, 1997.