



E-ISSN: 2789-8830
P-ISSN: 2789-8822
IJCLLR 2021; 1(2): 17-20
Received: 12-07-2021
Accepted: 18-08-2021

Bablu Kumar Sharma
School of law and Governance,
Central University of Punjab,
Punjab, India

Critical analysis on the economic liberalisation in the light of labour laws in India

Bablu Kumar Sharma

Abstract

Economic liberalisation was started with the sole purpose of speeding up the rate of poverty eradication and boosting India's economic growth. Since India's independence in 1947, there has been a downward trend in workers' rights, which is said to be due to the expansion of informal employment sectors, which have begun to dominate the labour force. Since the late 1970s, the condition of worker rights has deteriorated further, with attacks on labour unions by companies who were aided by government policy. These attacks appeared to peak in the late 1990s and early 2000s, following the implementation of the Indian economy's globalisation from 1991 onwards, but then began to diminish. As a result, globalisation cannot be blamed alone for the deterioration of workers' rights. We must also evaluate the fact that neoliberal policies appear to have some impact on labour rights and social welfare, and there has been an increase in reservations about their effectiveness in combatting such transgressions. Economic liberalisation is a continuous process aimed at developing our economy by increasing our GDP and eradicating poverty in India. Statistics reveal that with the advent of globalisation and liberalisation, the working class has been disproportionately affected. These "economic changes" appear to have also posed a threat to India's trade unions. In light of Indian labour regulations, this research attempts to analyse the consequences of economic liberalisation on the working class and trade unions.

Keywords: Worker's rights, economic liberalisation, informal sector, globalisation, and industrial relations

Introduction

Since it declared independence, the country has adopted a mixed economic framework that combines the benefits of both a market and a planned economic system. The first phase of unionism, which lasted from the 1940s to the early 1960s, was characterised by state-driven industrialization, which most likely necessitated the government's guidance or some form of governmental control over the labour movement. The labour-employee relationship during this time was more paternalistic as if the state knew more about the needs of the workers than they did. Internal labour markets had developed a sense of social harmony and belonging in the public sector and services. It is clear from the many legislation and laws controlling general job conditions and employee-employer interactions that the then government endeavoured to implement the idea of a national minimum wage. Only a few strategic ideas were available to trade unions and employees during this time. During this period, the union's voice effects were also greater than the monopoly's, as both unionisation and employment in the organised sector increased significantly ^[1].

The second phase began in the mid-1960s and continued until 1979. "The second phase witnesses, that it reflected the objective of the crisis of accumulation in the industries under the jurisdiction of the state-led industrialisation regime, and also a subjective crisis of legitimacy of the pluralism of the state, model which was existing in the system of industrial relations. During this phase, the national emergency was also imposed. The regimes of the emergency also represented the failed attempt by a government to impose a Latin American type of corporatism in case of labour and management issues ^[2]." After the second phase, there was dissension. By the end of it, it was also evident that the public sector had a problematic union monopoly effect. "The government employees and the workers in the public sector had some considerable benefits, but on the other hand, the unions of the private sector had to a hard bargain for such benefits.

Finally, fractured union voices searched for a collective mode of expression as this second phase of unionism witnessed more industrial strife than the other three phases both in terms of the number of disputes and the number of workers involved ^[3]."

Correspondence
Bablu Kumar Sharma
School of law and Governance,
Central University of Punjab,
Punjab, India

The third phase of union occurred in the 1980s and lasted until 1991, with the fourth phase occurring from 1992 to 2000. These two phases witnessed the growth of steady economic transformation, as well as economic liberalisations and globalisation's consequences.

In the early 1980s^[4], during the early 1990s, India began to experience a sluggish but defined economic transformation, which was expedited by the increased pressure brought on by the external crises. However, as time passed, the economic policies implemented in 1991 led to the construction of a whole new set of laws and other rules, the primary purpose of which was to regulate and control the growing economy, rather than to obstruct the growing economic process and progress^[5]. "During the period in the early 1990s, there was a series of various range of economic reforms that were introduced whose aim was directed towards bringing the economy of India into the mainstream international economy, which was anticipated to bring a spark of cultural competition and private business initiation and business growth. Most importantly, the implementation of the new model of liberalization, privatization and globalization (hereafter referred as LPG)^[6] had seemed to have opened far-reaching possibilities for the labourers, their unions and also the employers and the management as well." India was in the midst of a serious balance-of-payments crisis, and this provided the impetus for a significant acceleration in the speed and character of economic changes. "In particular, the major steps taken were further trade liberalization, in the form of reductions in tariffs and conversion of quantitative restrictions to tariffs, and a sweeping away of a large segment of restrictions on domestic industrial investment. The economic liberalizations have posed various questions and doubts for the trade unions and have a huge impact on the working class."

Judicial response dealt with the conflict between economic reforms and individual rights

The Olga Tellis case^[7], decided before the Supreme Court in 1985, was a watershed moment in the history of the judiciary in terms of economic liberalisation. "Case decided before the Supreme Court in 1985. In this case, the pavement and the slum residents in Bombay have filed a suit against the local and state Government stating that they plan to remove them. It was alleged that, firstly, the government by removing the pavement and slum residents, violate their right to life enshrined to them by article 21 of the Indian constitution, by restricting access to be able to earn a livelihood. Secondly, they claimed that this clearance of the pavement and the slum residents violate a property claim, that is the right to occupy the public land^[8]." Regarding the first allegation, the Supreme Court ruled in favour of the pavement and slum dwellers. "The court put forth a certain set of rules that are to be followed by the authorities, for the removal of slums, which are sympathetic to the slum residents and also including that slums which had been in existence for 20 or more years and such slums have been 'improved and developed' would not be removed unless," the land that they dwell or the appurtenant land was acquired for public purposes in which case, alternate sites or accommodation would be provided^[9]. And concerning the right to public property claim, "the court did not decide in favour of the pavement and the slum resident, instead, they held that no person has the right to encroach... on footpaths, pavements or any other person reserved or earmarked for a

public purpose^[10]." Even though the Olga Tellis case established ground-breaking verdicts for pavement and slum dwellers, it also supplies us with much more. "The three narrative threads which are, (1) the historical and economic circumstances of their marginalization, (2) their intent to reside where they do, and (3) their contributions to urban life^[11]; in the Olga Tellis case provide us the court's recognition of the ways by which how certain part of the population are left out from the benefits of development while bearing the brunt of shifts in the economy as it moves towards privatized industrialization and service."

In the case of Shivashakti Sugars Ltd v. Shree Renuka Sugar Ltd^[12], the court while dealing with economic theory and system and social welfare, it stated that "...there is the role of economics in important aspects of the law such as the labour, tax, corporate laws etc. nowadays the court has also become deceptive to consider the economic aspects while taking their stands...there comes a burden of duty of the court to have economic analysis and economic impact of its decisions. The court also directed that, when two opinions are in place, the court must lean on to that opinion which is in the interest of this economy and if the opinion is that is to have opted can have an adverse effect on the employment, growth of infrastructure or economy or the revenue of the state, then the court must certainly avoid such stance. And when there is a conflict between the rights of an individual and the economic interest, the must necessarily strike a balance between the two conflicting aspects and have a balanced approach toward the case." Even though there were certain technical infractions, the Supreme Court chose to apply its authority under Article 142 of the Indian Constitution in this case.

Effects on labour and trade union

When India gained independence in 1947, the country's industrial system was in shambles, necessitating a need on the part of the government to embark on massive industrialization initiatives. "However, by the dawn of the 1960s, the phenomenal industrial growth that appeared to have had the great and necessary impact that the newly independent Indian economy required began to lose its allure, and the IMF saw the need for export-oriented growth and recommended it. Between 1985 and 1991, solid foundations were laid, as well as a critical atmosphere for the newly expanding worldwide division of labour. The assurance of a cheap and efficient labour force, technological advancements, the development of effective telecommunication systems, global capital mobilisation, and the formation and growth of multilateral institutions are all important features of the new international division of labour. The growing technological world has made it quite evident that the informal sector will benefit. However, some studies claim that a twofold increase in the cost of production has resulted in a decline in employment since the technology boom began after the deregulation in 1991." All of these causes, as well as others such as the loss of job security and workers being forced to take voluntary retirement for the sake of economic progress, significantly lowered the cost of labour in India^[13].

Following the reform, wages in the organised industries fell sharply, and an increasing number of these positions were relocated to the informal sector. Liberalization also resulted in the feminization of the production process^[14]. "We must not misunderstand this resultant as a one for reducing the

discriminatory gender gaps in society, but quite the contrary. Post-1991, economic reforms resulted in further widening the gender pay gap, the difference widened mostly among the regular wage or salary oriented jobs and in urban workers ^[15]. This effect was the direct result of the assurance of cheap labour provided by the female workforce, since they often lack unionisation and they are also ready to work in difficult conditions asked, due to lack of awareness.” Women were paid less than men for the same employer before and during liberalisation, but the disparity grew significantly following the 1991 reforms. Aside from salary-based work and the wages of urban workers, the wage gap between men and women has narrowed significantly. Keeping the gender component constant, we can see that following the 1991 reforms, casual workers' pay contributed a bigger share than regular workers' wages ^[16].

In terms of the consequences on rural women, they were classified as workers according to their normal status, and following liberalisation, they made up a smaller proportion of the population than before the reforms. “When enumerated in their ordinary state, the women under regular pay and salary-oriented job in them lost completely ^[17]. Those fewer women who were employed and predominantly on wages basis was not even able to buy their usual basket of goods, they would have been able to buy before the liberalisation in 1991. The regular workers among the rural workers were at 4.9 percentage during 19887 and 1988 and declined to 3.4 percentage from 1993 to 1994 ^[18].”

One of the ways that management acquired influence over labour during the era of economic reform was by subcontracting a portion of their production. “This feature not only made the manufacturing process more competitive, but it also served as a tool for management to break a strike. Take the Bombay Textile strike, for example. The management broke the strike by subcontracting their part of the manufacturing to power looms, which is illegal under labour rules. The privatisation or disinvestment of the public sector, as well as the transfer of industry, had a significant negative impact on trade union activities in the 1990s. Since labour reforms ensured and enhanced technological growth in production, labour-saving machinery, and consumerist profits from youthful workers, compensation structures with corporations have become distorted. Following the reforms of the 1990s, a technician in Air India was paid significantly more than a contract worker for the same job. Since the reforms, trade unions have only recently begun to organise the informal workforce,” they are unable to provide much assistance to these burgeoning new informal sectors.

It is also vital to analyse the figurative assaults on labour laws, which did not necessarily follow the globalisation or liberalisation trajectory. Since the country's independence, little has changed in terms of the informal sector, which lacks basic labour rights. “The majority of legislation enacted appears to have been designed to ignore the country's informal labour population.

The legislation defined “the workers as either those small scale unregistered, the unorganised sector or workers who have an irregular relation with employment, this came in handy for a wide variety of employers to exploit the gap in the law, by splitting their institutions into smaller units and show it has independent from each other, thus creating intentional breaks, so the worker will never get a permanent employment status, which leads to the employment of the

large number of contract workers, who will not be put in the payroll of the company or just subcontract part of their production to smaller working space ^[19].” Although the informal employees were technically given the freedom to organise, the absence of legal recognition made it hard to do so without being fired from their jobs. Due to increased subcontracting in the manufacturing process, the climate worsened after the 1991 reform.

The beginning of “liberalisation saw not only very significant economic growth but also a steady drop in the rate of employment generation in India. In 1960, employment generation in India was around 2%, while between 1990 and 2000, it fell by 1%. The informal sector grew dramatically during this period, according to mainstream economists and policymakers, owing to institutionalised constraints that support the formal sector. According to Besley and Burgess, the development of jobless conditions and a parallel labour market is owing to strict labour legislation that could not keep up with the changes brought about by liberalisation ^[20]. The scholars suggested that trade unions' prominent role in preventing economic liberalisation, particularly about the privatisation of the public sector, and that the absolute and enriched presence of these trade unions in the formal sector had largely contributed to the prevention of labour and industrial reforms. However, the projection of trade unions preventing labour reforms has no bearing on the macro developments that can occur in the labour market; the effects of trade unions and related regulation only apply to a small proportion of the population; trade unions account for only 10% of India's total workforce ^[21].” The emaciation of the formal and organised sectors appears to be a result of post-liberalization events. The noticeably dropping wage share and growing currency of contractual workers post-liberalisation are two evidence of trade unions' diminishing fortunes ^[22].

According to the Government of India's yearly survey of industries on salary as a percentage of net value added in India, there has been a considerable fall in the wage share in the formal and organised sectors. “The decline in employment opportunities is associated with the increase in the contractual jobs after 1991. The share of the contractual workers had increased from 15 in 1995 to 35 per cent in 2011. This trend suggests that the labour is finding it hard to conserve their privileges and seem to have lost their bargaining power as one of the effects of liberalisation. To sum up, the movements put forth by the trade unions have shown a contradictory reflection of weakness and strength, where the institutional and structural dynamics provide larger power to the organised sector, but at the same time, was not adequate to protect the other economic interests of the workers.”

Conclusion

Economic liberalisation must take into account and be concerned about employees, who cannot be ignored or placed under the control of commercial interests. The goal of the 1991 economic liberalisation initiative was to achieve faster economic development, provide more job possibilities, and, most importantly, reduce poverty, but the practical focus turned to wealth acquisition. Economic changes did provide a variety of unorthodox employment alternatives, but they also led to the expansion of the informal workforce, which did not have legal legitimacy at

the time and was simply exploited by those in urgent need of work. However, it is obvious that liberalisation succeeded in bringing the globe closer together, resulting in the advancement of science and technology, but simultaneously causing substantial discomfort to India's workforce.

References

1. “Debashish Bhattacharjee, Organized Labour And Economic Liberalization India: Past, Present And Future 8 (Institute of labour studies 1999)”
2. Id. at 11
3. Id. at 11
4. “Katrin Uba, Labour Union Resistance to Economic Liberalization in India: What Can National and State Level Patterns of Protests against Privatization Tell Us?, 48 UC PRESS 860, 861 2008
5. Biswajit Ghosh. Economic Reforms and Trade Unionism in India-A Macro View, 43 Indian J. Ind Relat 355, 355 2008”
6. Ibid. at 356
7. “Olga Tellis v. Bombay Mun. Corp.”, (1985) 3 SCC 545
8. Ibid.
9. “The original protection for property was found in two articles in the Constitution, Article 19(1) (f) and Article 31. INDIA CONST. art. 19(1)(f)”
10. Ibid.
11. “Priya s. Gupta, Judicial Constructions: modernity, economic liberalisation, and the urban poor in India, 42 FORDHAM Urb. L.J. 25, 58 2014.”
12. (2017)7 SCC 729
13. “Ernesto Noronha, liberalisation and industrial relation, 8 EPW L14, L20 1996”
14. Ibid.
15. “Sudha Deshpande and Lalit Deshpande, Impact of liberalisation on labour market in India : What do facts from NSSO's 50th round show?, 33 EPW L31, L39 1998”
16. Ibid.
17. Ibid.
18. Ibid.
19. “Jagdish Bhagwati, In Defense of Globalisation (Oxford university press 2004)”
20. “Besley, Timothy & Robin Burgess, Can Labor Regulation Hinder Economic Performance? Evidence from India, 119 Q J Econ 91, 2004”
21. “Suresh Tendulkar, Organised Labour Market In India: Pre And Post Reform, conference on anti-poverty and social policy in India, alwar, Rajasthan” 2004.
22. Ibid.