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Analysis of Constitutional Law in Respect to Labour Welfare

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ABSTRACT

The constitution maker's key goal while drafting the Constitution of India was to ensure that the Indian legal system strived towards the welfare of the citizens and towards the improvement in standards of living. It was also laid down for the purpose of holding the authority responsible for the safety of its citizens. It is a fact that the people who get majorly affected are the ones who lack financial stability, especially the labour class can be said to be severely pressed. Thus, in order to safeguard the labourers and their rights special provisions had also been laid down when the need for same was felt by the Indian Legislature, the concept of labour upliftment not being new to India.

I. INTRODUCTION

India is a third world country which is still considered to be in its developing phase. The country is a place of diversity which is enriched by the variety in its culture and beliefs. India attained its independence on 15 August 1947. The constitution maker's key goal while drafting the Constitution of India was to ensure that the Indian legal system strived towards the welfare of the citizens and towards the improvement in standards of living. It was also laid down for the purpose of holding the authority responsible for the safety of its citizens.

India is currently ranked 44th in the health care system with a score of 65.83 Health care Index³.

Health care. Despite the decent ranking held by India in the medical field there are many external factors such as environment and wages to name a few which may cause mental or physical strain which may affect the citizens making them more prone to diseases, physical damage or other ailments. In an article by the prestigious NDTV it was stated the suicide rate in the country has increased at an alarming rate of 3.4 between the year of 2018 to 2019⁴.

Financial stability of the individual also plays a crucial role in one's capability to avail the health care system. Despite the same one of the most prominent issues that arises in the country is that of its citizen's economical power. India's

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³ Health Care Index by Country 2021 Mid-Year available at:

https://www.numbeo.com/health-care/rankings_by_country.jsp (Last Modified July 29, 2021).

⁴ Average 381 Suicides Daily In India In 2019: Data available at: <https://www.ndtv.com/india-news/average-381-suicides-daily-in-india-in-2019-data-2288951> (Last Modified July 27, 2021).

employment is derived from agriculture which comprise of 42.4% and 49.3% as labour as has been reported by the United Nations Development Programme under the Human Development Reports⁵. In a world ranking based on the average earning wages per month India was placed at the 72nd place out of 106 countries that were measured for the ranking⁶.

II. CONSTITUTION OF INDIA

The Constitution of India is the law of the land, one which lays down the key principle which must be abided by both the state and its citizens. The Part III of the Constitution enshrines the fundamental rights and Part IV lays down the Directive Principles of State Policy. The fundamental rights of the citizen are meant to be the essential rights one which state shall ensure every citizen may have and in some cases non-citizens as well.

The objective of improvement of health has been made the one of the priority while drafting the fundamental right. The citizens of India are having the right to life which states one may not be deprived of their life unless it is prescribed by the law. The right also grants the individual right to medical assistance by private and public facilities (*Parmanand katara v Union of India AIR 1989 SC 2039*). The right however does not

include the right to die making it an offence under Section 309 of the IPC as has been held in the case of *Gian Kaur v State of Punjab (1996) 2 SCC 648*. In the year 2018 there were 1,34,516 suicides with 22.4% being daily wage labour⁷.

Workers have the right to be protected against the exploitations by the employers. While the citizens are permitted the right to carry out business or profession freely there has been restrictions imposed on the article to maintain the reasonable restrictions for the benefit of the general public. While the same provides the opportunity to provide laws for maintenance of wages, India is still far from attaining the standards of wages as other prominent countries. India in the year 2019 had a minimum wage of Rs 176 per day USA in comparison has an hourly minimum wage of 7.25 Dollars⁸. The higher the minimum wage standards the more individuals will avail the medical facilities on their own personal account. However, the Indian legislature has laid down laws to facilitate compensation to individuals if they face any harm caused in the workplace. While professing a business or any other activities the employer has a legal duty to ensure the maintenance of a safe environment for the employees and to ensure that the employee is having a friendly environment where they aren't required to

⁵ Human Development Indicators available at: <http://hdr.undp.org/en/countries/profiles/IND> (Last Modified July 30, 2021).

⁶ India placed 72nd on global list with average monthly wage of Rs 32,800: Report available at: <https://economictimes.indiatimes.com/news/economy/indicators/india-placed-72nd-on-global-list-with-average-monthly-wage-of-rs-32800-report/articleshow/77806437.cms?from=mdr> (Last Modified July 30, 2021).

⁷Percentage of suicides by daily-wage laborers have nearly doubled between 2014 and 2018 available at: <https://theprint.in/india/daily-wage-earners-poorest-housewives-account-for-most-suicides-in-2018/348511/> (Last Modified July 30, 2021).

⁸Global Wage Report 2020–21. Wages and minimum wages in the time of COVID-19 available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_762534.pdf (Last Modified July 29, 2021).

overwork, provided suitable amount of time and facilities.

The constitution realises the hazardous nature of the Industry and states that the children under the age of fourteen are prohibited from working in factories to prevent injuries to them and to ensure the proper development of the children. The availability of a health care system is not sufficient to ensure the safety of the workers and citizen. The Indian constitution after the 44th amendment aimed at educating individuals between the age of 6 to 14. The mindfulness and knowledge plays a major role to bring awareness to the citizens on how to avail the appropriate help when needed. The part IV of the constitution lays down the duty of the state to improve the living standards of its citizens provide laws for the instructions towards maintenance of living wages and participation in management of the worker and provide assistance to public to the best of its economical abilities.

III. INTERNATIONAL COMPARISON

With the current advancements in globalisation the national and transnational healthcare systems are expeditiously evolving. The quality of health care in India is stunted and inept. However, this challenge of poor quality in the health care sector is not exclusive for India. Studies for both, developed and developing countries have demonstrated majorly prevalent problems with providers who make miniscule amounts of efforts to ensure that the patients receive high-quality care, geographic dissimilarities in the

standard of health care services, and noticeably soaring levels of medical errors.

The main focus of the efforts being put in for the improvement of the quality of the health care services regardless of the low resource set ups for countries like India, Bangladesh etc has been on the structural impediments. A low level of knowledge of the providers, regardless of it being in the private or public sector, has been documented in the latest studies that were made. The evidence of extensive gaps between the knowledge of the provider and the care that is provided were also stated in it.

India and the United States of America are the two of the largest democracies. In this period of the 21st century they have come forth as appreciable examples for the other nations to follow. However, it cannot be stated likewise for their delivery of healthcare. The first ever ranking of health systems⁹ by the World Health Organisation was provided in the year 2000 where the US ranked 37th while India ranked 112th out of the total count of 191 countries. As mentioned in various reports and studies, the US has been spending approximately eighteen percent of its GDP on their healthcare system and facilities while India spends less than even four percent of its GDP. Just like the difference in these numbers, the difference in the essence of the health care support provided is also enormous. The World Health Organization's ranking of the world's health systems.

⁹ The World Health Organization's ranking of the world's health systems, available at :

<https://photius.com/rankings/healthranks.html> (last visited on August 2, 2021).

India scored 41.2 points, in the year 2016, in the healthcare access and quality index¹⁰ (HAQ) which was created by the “Global Burden of Disease study published in the medical journal, ‘The Lancet’, on May 23, 2018”. Even after a boost of 16.5 points in the last 26 years India’s score is fairly beneath the global average which is 54.4. In defiance of the furtherance in the HAQ, India trails way behind the other countries like Russia, Brazil, South Africa and China in BRICS. Kerala and Goa have been the best performers within India since they have scored more than 60 points in the healthcare access and quality index in the year 2016. Whereas, the worst performers within India have been Assam And Uttar Pradesh by scoring even below 40.

IV. LABOUR LAW

The minimum wages act¹¹ has been introduced for the purpose of ensuring a standard of wage entitled to every individual. The setting of a minimum standards of wages allows for an income which is determined to be sustainable based on the time of formation of the standards. The act guides the employer to formulate laws based on the duration of work and the overtime. A steady source of income ensures that no individual is extremely exploited by the employers. The act provides of laws that pertain to the maintenance of a register holding the employer accountable. The income allows the employee to avail sustain their living ensure they have enough money to maintain basic nutritional

value ensuring improvement in the immunity of the workers to illness and other outside factors.

The Employees' State Insurance Scheme is a unified measure of Social Insurance that has been incorporated in the “Employees State Insurance Act¹²”. It has been embodied with the motive of protecting the ‘employees’ as stated in the act against the effect of incidences like sickness, disablement, maternity or death owing to any sort of employment injury. On occurrence of any such incident the employer is bound to provide medical care to the insured person and their family. This act applies to establishments like Road Transport, Restaurants, Newspaper, Shops, Hotels, Educational institutes etc wherein there have to be 10 or more people employed. Employees in the above-mentioned categories of establishments who draw upto Rs. 15000 wage a month are eligible to social security cover under the “Employees State Insurance Act”. Healthcare Access and Quality Index in 195 countries and territories

Certain ‘health measures’ have been laid down in the Factories Act¹³ as well in order to standardise the safety provisions and health measures. The factors of health and safety are very important for the workers and seeing the significant increase in the number of industries it is obligatory that the health and safety of the workers is taken care of.

¹⁰Healthcare Access and Quality Index in 195 countries and territories, *available at* :

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5528124/> (last visited on August 1, 2021)

¹¹ The Minimum Wages Act, 1948

¹² Employees State Insurance Act, 1948.

¹³ The Factories Act, 1948

The following are few sections that as per the Factories Act focus on the health measure and safety provisions;

- Section 11: Cleanliness in every factory
- Section 12: Disposal of effluents and wastes
- Section 13: Ventilation and Temperature
- Section 14: Dust and Fume
- Section 15 : Artificial Humidification
- Section 16: Overcrowding
- Section 17: Lighting
- Section 18: Drinking Water

V. CONCLUSION

The concept of labour upliftment isn't a new concept. The major event showing the oppression of labourers was witnessed during the French revolution. The Indian legislature understood the demand for the same which is evident with the objective of improvement of health has been made one of the priorities while drafting the fundamental rights. Different standards have been laid down for the furtherance of the condition of the health care system in our nation. The government over time has made numerous amendments in acts like, 'The minimum wages act', 'Employees State Insurance Act', 'Factories Act' etc, in-order to improve the situation of health equity but still the condition of our nation in this aspect is not what we take aim at. However, the quality of healthcare in India can be called a little stunted and inept. However, this challenge of poor quality in the health care sector is not exclusive to India. Studies for both, the

developed and developing nations show the majorly prevalent problems in this sector. It can also be seen that people who get majorly affected are the ones who lack financial stability, especially the labour class can be said to be severely pressed.

Nevertheless, with time the authorities are trying to make the condition better by taking the situation seriously and trying to implement the laws made with efficiency.
