



ISSN : 2582-8169

A Review on Labour Laws in Odisha

¹Sambhu Panigrahi, ²Dr Renuka Poddar

¹Research Scholar, ²HOD

¹Department of Political Science

¹RKDF University, Ranchi, Jharkhand, India

Received : 08th July, 2022 ;

Revised : 05th November, 2022

; Accepted : 15th November, 2022

Abstract- Odisha is an underdeveloped State compared to other States of India. There are a large number of people living below the poverty line. Most of the people living below the poverty line are labourers. Whether migrated or within the State, the labour force in the State faces a large number of economic problems and unable to live a certain standard of life. To look after the socio-economic wellbeing of the labourers is the duty of the government. Hence a large number of labour laws have been framed and revised from time to time to meet the needs of the labour force in the State. It is necessary to review these laws from time to time to find out whether they are able to reach the desired goals and fetch the results. This paper examines a few of them with the latest laws applied in Odisha after the Covid 19 pandemic.

Key words: Labourer, migrant, laws, economic government, welfare, pandemic.

I. INTRODUCTION

India is a developing country. While some of the States achieved development, some other States are still in the process of development. Odisha is one such State which is still struggling to develop. There are many hurdles in the process like illiteracy, backwardness, poverty etc.

*Corresponding author : Sambhu Panigrahi

E-mail: sambhupanigrahi23@gmail.com

According to a new Niti Aayog report over 30 percent of Odisha's population is poor and it is the second bigger State in BPL rank. Due to this, the position of Orissa is very low among the Indian States when it comes to the question of per capita income and the State is counted as one of the poorest States of the country.

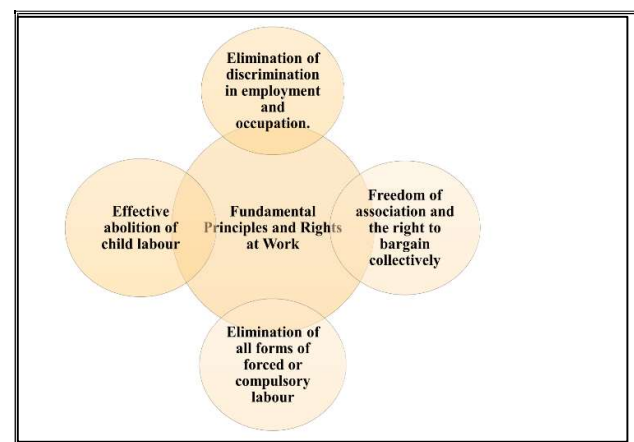
However, the recent analysis done by the Economic Survey of Odisha gives a slightly promising figure. As per this report, the Economy of the State which was at 7.1 per cent per annum during 2012-13 has grown by (-)

4.92 percent in 2020-21. This decline is attributed to the Covid Pandemic situation. But while comparing it with national figures it is found that Odisha's economy grew at an average annual rate of 7.1 per cent, a rate faster than the national average of 6.6 per cent and 13 other States of the country. The contraction in Odisha's real GSDP growth in 2020-21 at -4.92 per cent is lower than the contraction of the national economy (-7.7 per cent). There is a considerable growth in the Per Capita Income as it rose to INR 104566 in 2020-21 registering a growth of 115.60 percent. The figures however do not mean that the problem of poverty has vanished from Odisha. Still a large number of the population as stated above lives below poverty line. Most of this population belongs to the landless labour class. This class totally depend on labour mainly on daily wages or period labour such as construction work etc. to lead their life. As these belong to an unorganised sector there are not many rules framed for the welfare of the labourers. Since independence Government of India has been trying to develop the condition of these labourers with a large number of welfare activities. At the same time laws have been framed to uplift the condition of the labourers and there have been many revisions to these laws. In this paper an attempt has been made to analyse some of the labour laws in force in the State of Odisha and their effectiveness in developing the condition of labourers.

Tushar Dakua (2019) in his article analyses

recent trends in the labour migration of workers/labourers of Cooch Behar district in West Bengal which is an agriculture-based economy. Adsul, et.al. (2011) tried to study about the socio-demographic profile and morbidity pattern of construction workers in China, Japan, India and Europe. Hanson (2009) has selectively discussed that the recent empirical work on the consequences of global labour mobility. A report published by the ILO (2014) is based on the survey conducted in three States of India Maharashtra, Tamil Nadu and Odisha. This study gives an empirical analysis of the understanding of labour legislation in Odisha. Another report published by the Economic Survey 2021-22, discusses the economic condition and poverty levels of Odisha. Apart from these all the laws and notifications passed by the central and State governments form a huge source of literature.

II.A Survey of Labour Laws:



The Government of India and all the State governments in India have passed some labour laws and the laws related to the workers. Prior to this the ILO in its Fundamental Principles

and Rights at Work covered four areas as displayed in figure 1. This declaration makes it clear that these principles and rights are universal and apply to all human beings in all countries—regardless of nationality or residence or migrant status, and regardless of countries' level of economic development. The Constitution of India upholds all the fundamental principles envisaged in the seven core international labour standards. Out of the seven core labour conventions, India has ratified three, they are: (a) forced labour No. 29, (b) equal remuneration No. 100. and (c) discrimination No. 111. The government of India has ratified some conventions such as hours of work industry convention 1919, night work (women) convention 1919, minimum age convention 1919, Right to Association (Agricultural workers), workmen's compensation, 1925, Equal Remuneration convention, 1951. However, freedom of association and right to collective bargaining (Convention No. 87 and 98) both conventions are not ratified by India due to technical difficulties involving trade union rights for civil servants. Freedom of Association is guaranteed as a fundamental right in the Indian constitution, Trade Union Act 1926 meets with part of the objectives of the convention. Figure 2 showcases various acts implemented to safeguard the rights of labour class. According to the Directive Principles of State Policy of the Indian Constitution, (GOI 1991) the State is required to secure for the citizens, “both

men and women to right to an adequate means of livelihood, equal pay for equal work for both men and women, protection against abuse and exploitation of workers, economic necessity, protection of their health and strength, to secure for children opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and protect children and a youth against exploitation and moral and material abandonment”. The State is also required to secure equal justice and free legal aid, to make effective provisions for right to work, to education and to public assistance in cases of undeserved want, to ensure just and human conditions of work and maternity relief, to secure work, a living wage and a decent standard of life to participation of workers in the management of industries.

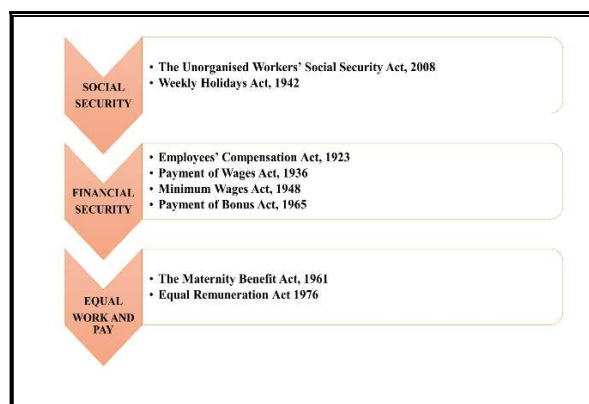


figure 2: Labor laws in India and their purposes served

Employees' Compensation Act, 1923:

The employees' compensation Act is another important piece of legislation that provides protection to all kinds of workers (including migrant workers). With the increasing use of machinery, the need for manpower is going down. This leads to comparative poverty of the

workmen. Thus, workmen are prone to accidents even at the risk of losing their lives. Therefore, in order to protect migrant workers from such hardships, this legislation was enacted. The aim of the Act is to provide quick and cheaper disposal of disputes relating to the compensation which is not possible in comparison in case of proceedings of civil law. The Act also helps the dependants to get relieved from the hardship, rising from accident. This act is applicable to Mines, Factories, Plantations, Transport Establishments, Construction Works, Railways, Ships, and Circuses.

Payment of Wages Act, 1936:

The Payment of Wages Act 1936, ensures the regular and prompt payment of wages. Untimely payment of remuneration is a type of exploitation and in order to prevent this, legislation came into force. The imposition of Arbitrary fines on migrant workers is also prevented.

Weekly Holidays Act, 1942:

This is an Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres. Whereas, it is expedient to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres etc.

The important provisions of this act are:

- Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice

permanently exhibited in a conspicuous place in the shop. The day so specified shall not be altered by the shop-keeper more often than once in three months.

- Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day.
- The State Government may, by notification in the Official Gazette, require in respect of shops or any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day.
- No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed.

The Maternity Benefit Act, 1961:

This Act is intended to achieve social justice for women workers (including migrant workers). The has provisions under it that is for the wellbeing of the women migrant workers pre and post their pregnancy.

The maximum period for which a woman can get maternity benefit is twelve weeks. Of this, six weeks must be taken prior to the date of delivery of the child and six weeks immediately following that date. To be entitled to maternity leave, however, a

woman must have actually worked for not less than 80 days in the twelve months immediately preceding the day of her expected delivery. Only working days are taken into account when calculating these 80 days. Weekly holidays and all leave - paid or unpaid - are not included. To avail of the six weeks' leave before expected delivery, a notice must be given in writing stating the date of absence from work also a certificate of pregnancy. The employer has to pay the maternity benefit in advance for this period to the concerned employee or any person nominated for this purpose.

Equal Remuneration Act 1976:

The chief motive of the Equal Remuneration Act 1976 is to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment. The employer should not discriminate the wages, whether payable in cash or in any kind, of the male and female on the basis of gender for the same type of work.

The important provision of the act is:

- No discrimination should be made with male and female while recruiting or giving the same kind work.
- While employees are recruited for work which is the same or of similar nature no discrimination shall be directed towards women unless any law prohibits the same.

This provision is also extended to activities after recruitment i.e., promotion, training or transfer. The reservations made towards Scheduled Castes or Scheduled Tribes, ex-servicemen, retrenched employees or any other class or category of persons will not be affected by this provision.

- An advisory committee shall be formed which shall consist of 10 members half of which shall be women and the committee shall focus on providing its advice for increasing the employment opportunities for women, hours of work, nature of work and such other matters.
- Every employer is required to maintain registers and other documents in relation to the workers employed by him.

The Unorganised Workers' Social Security Act, 2008

The aim of this legislation is to provide social security to the workers of the unorganized sector. The collective term, 'unorganized sector' is exhaustively defined under the Unorganised Workers' Social Security Act, 2008. Recruitment services rendered by a public employment service should be free of charge. Employers or private agencies involved in recruitment should be subject to prior authorization by the relevant governmental body. The authorization of private employment agencies is limited to specified categories of workers or specified types of services. Private employment

agencies may only charge fees in relation to recruitment from workers under strict conditions. They should not charge directly or indirectly, in full or in part, any fees or costs to workers. Any deduction from wages as a direct or indirect payment for the purpose of securing employment (made by a worker, his or her employer, a labour contractor, or a recruiter) is prohibited.

Odisha Labour Card

The Government of Odisha launches various kinds of schemes in order to provide various benefits to the labourers of Odisha. Recently the Government of Odisha has launched the Odisha Labour Card List. The names that appear in the labour card list Odisha will be provided the following kinds of benefits by the government.

- Assistance in case of an accident
- Death Benefit
- Pension
- Medical Expenses for Treatment
- Maternity Benefit
- Loans and advances for construction of the house
- Financial Assistance for skill up-gradation
- Education Assistance
- The assistance of the purchase of working tools
- The assistance of marriage of two dependant girl children of the beneficiary
- Assistance for funeral expenses

The Labour Department of Odisha provides the necessary care of all the leaders who are working under them and

provide them with different opportunities and assets.

The important Objectives of the Scheme are as follows.

- Labour Government assistance and Organization of Work Laws.
- Inspection of Security proportions of Manufacturing plants and Boilers and Organization of Processing plants and Boilers Acts and Rules.
- Social Security Plans for Modern Laborers, as E.S.I.
- Employment and Professional Direction to the Adolescent.
- Adjudication of Mechanical Issues.
- Child Work Government assistance.

The eligibility criteria are very simple as the applicant must be a citizen of Odisha between the ages 18-60 and must be a construction worker. Table 1 gives the details of number of beneficiaries in Odisha district-wise.

Table 1: District-wise beneficiaries in Odisha

District name	Number of Beneficiaries
ANGUL	1300
BALASORE	1360
BARAGARH	1161
BHADRAK	3651
BOLANGIR	314
BOUDH	680
CUTTACK	11034
DEOGARH	734
DHENKANAL	1870
GAJAPATI	560
GANJAM	7433
JAGATSINGHPUR	3801

JAJPUR	4063
JHARSUGUDA	1048
KALAHANDI	1504
KANDHAMAL	2204
KENDRAPARA	571
KEONJHAR	543
KHURDA	2307
KORAPUT	2556
MALKANAGIRI	1036
MAYURBHANJ	1086
NAWARANGPUR	1679
NAYAGARH	3736
NUAPADA	1018
PURI	885
RAYAGADA	1358
SAMBALPUR	3406
SONEPUR	860
SUNDARGARH	992
TALCHER	316
CHATRAPUR	7085

I. Key Changes in Labour rules after the Covid 19 lockdown in Odisha

As labour falls in the concurrent list of the Constitution, both Parliament and Legislatures may make laws for regulating labour. States pass their own laws or amend the existing ones to regulate labour. However, when there is the question of compatibility arises, Central Law prevails. Only on one condition when the law gets the assent of the President the State law prevails. It is a well-known fact that the Central Government has imposed lockdown to curtail the cases of covid 19 in India. During this period all other activities other than essential were stopped. This has resulted in the loss of

income for many individuals who are not associated with essential commodities. To allow the economic activities to resume again and to attract new investments, relaxations have been provided from the existing labour laws and regulations. Odisha also took some such steps to ease the labour laws for better work ability. Odisha issued a notification to increase the maximum daily work hours for workers in the State to 12 hours. Assam, Goa, Gujarat Haryana, Himachal Pradesh, Madhya Pradesh, Punjab, Rajasthan and Uttar Pradesh are the other States which took such steps.

The Factories Act 1948 allows State governments to exempt factories from its provisions under certain conditions. States have used two different provisions of the Factories Act, 1948 to change work hours. These provisions are: (i) three-month exemption in case of a public emergency (Section 5), and (ii) exemption to allow factories to deal with an exceptional amount of work (Section 65). (8) Odisha used the 'public emergency' exemption to increase work hours. Gujarat, Himachal Pradesh, Madhya Pradesh, and Uttarakhand are the other States which used this provision. It should be noted that according to the Hours of Work (Industry) Convention, 1919 adopted by the General Conference of the International Labour Organisation. the maximum work hours should not exceed nine hours in a day and 48 hours in a week for industrial undertakings.

The above survey of laws gives the following implications:

- ILO is the chief organization which looks into the welfare of the labour force all over the world. The ILO from time to time conducts surveys and research programs to estimate the condition of labourers all over the world. This organizations also directs the countries to evolve a proper labour law code to benefit the larger interest of the labourers. Each country picks up some of the guidelines promulgated by the ILO to form its own labour code.
- The constitution of India also implemented the three out of seven labour conventions of the ILO. Through this the hours of the work, the night work for women and the rights related to association etc. are guaranteed to the labourers.
- The Directive Principles of State Policy also guaranteed many welfare measures such as adequate means of livelihood, equal pay for equal work for both men and women etc. are guaranteed.
- Apart from these, laws have been framed for important individual issues like working hours, weekly holidays, maternity benefits etc. so that labourers are given minimum guarantee of social security.
- The Unorganised Sector Social Security Act is another new addition of these Acts. This act also aims to help the workers. Here some rules for private employers have been

provided. In Odisha the latest introduction of labour card has proved much useful to the labourers. This guarantees a large number of benefits to the labourers. Procuring the card has been made very easy with minimum requirements and hassle free.

- Post-lockdown revisions also helped the workers as the working hours have been increased and this provided the workers a scope to earn more money as they have been out of work for many days and economically ruined. The extra work extracted is counted as over time there by helping the labourers economically. This flexibility helped both employer and employee to regain their economic sustainability.

II. Conclusion

In a country like India where a large number of people live below poverty line labour legislations are very important. Proper labour legislation would help the workers to gain economic and social security. Those who depend on unorganised sector and in construction sector need proper legislation and also revisions from time to time to suit their needs with changing times. Government of India as well as the State Legislature should be watchful and help the labourers by framing and revising the rules from time. The lockdown period of the Pandemic clearly proved that the country does not have any full-proof labour legislation. The whole country is a silent spectator to the plight of the

labourers, particularly migrant labourers. The help provided by the States and voluntary organizations reached them either late or inadequate. Hence, it is high time to check all the loopholes and correct the legislations so that the labourers will not go through such hardships in future.

References

- Raut, Hemant Kumar (2021). "30 percent of Odisha population is poor: Niti Aayog Report, November 27, The New Indian Express.
- District Level Poverty Estimation of Odisha by using Small Area Estimation Technique. <http://www.desorissa.nic.in/pdf/small-area-estimation-technique.pdf>
- Dakua Tushar (2019). "Labour Migration", International Journal of Research in Geography (IJRG) Volume 5, Issue, pp. 9-26.
- Adsul, B.B., P.S. Laad, V.P. Howal, and Chaturvedi R.M. (2011) "Health problems among migrant construction workers: A unique public-private partnership project", pp. 29-32.
- Gordon H. Hanson (2009). "The Economic Consequences of the International Migration of Labour" First published online as a Review in Advance on June 4.
- Kannan K. P. (2014). "Labour Laws and Growth and Micro and Small Enterprises", ILO, India, country Report, Norad, ILO/ multi-bilateral programmed.
- Odisha Economic Survey 2020-21, Planning and Convergence Department, Government of Odisha.
- Salve, W.N. "Labour Rights and Labour Standards for Migrant Labour in India", <https://www.ilo.org/legacy/english/protection/travail/pdf/rdwpaper22a.pdf>
- Rai Diva, (2020). Rights of Migrant workers in India, <https://blog.ipleaders.in/rights-of-migrant-workers-in-india/>
- Employees Compensation Act, 1923- India Code, [http://www.Indiacode.nic.in](http://www.indiacode.nic.in).
- The Payment of Wages Act, 1936, https://wb.gov.in/acts/act_labour_wages_act.pdf
- Labour Laws, Weekly Holidays Act, 1942, Current Publishers, 2021.
- Maternity Benefit Act, 1961
- Maternity Benefit Act, 1961, India code, <https://www.indiacode.nic.in>.
- Equal Remuneration Act 1976, Ministry of Labour, <https://labour.gov.in>.
- Unorganised Workers' Social Security Act, 2008
- The unorganised workers' social security act, 2008 <https://legislative.gov.in/sites/default/files/A2008-33.pdf> Pmmodiyojana.in/odisha-labour-card/Ibid. Article 254, Constitution of India. Hours of Work (Industry) Convention 1919, International Labour Organization.