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Disputed Equilibrium: Unraveling the Complexities of India's Labour Justice

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Abstract
This paper examines the tension between social justice objectives and administrative discretion in India's labour dispute resolution framework, centered on Section 10(1) of the Industrial Disputes Act, 1947. It traces the origin of the government's power to refer industrial disputes for adjudication back to wartime emergency measures, arguing that this discretionary authority — originally intended to ensure speedy resolution — has instead produced chronic delays, unaccountable decision-making, and vulnerability to political interference. Drawing on case examples, the paper illustrates how this discretion has been exploited by state governments acting as interested parties, exposed workers to favouritism and corruption in conciliation proceedings, and undermined the constitutional promise of social and economic justice embedded in the Directive Principles of State Policy. Situating industrial conflict within a broader account of labour-capital tension under capitalism, the paper argues that meaningful reform requires insulating conciliators and tribunals from state control. It closes by evaluating the Industrial Relations Code, 2020 as a partial corrective, contending that residual government discretion — particularly over exemptions from standing orders and the definition of "industry" — must be further curtailed to prevent arbitrary exclusion of workers from statutory protection, especially as digitisation, the pandemic, and the gig economy reshape the labour landscape.

The aftermath of two centuries of repressive subjugation, economic exploitation, and world wars that left the nation in wreckage, led India's history to see the emergence of a quest for restoration. Picking up the pieces of these ruins demanded the revival of economy which could not have been achieved without the complete cooperation between labour and management in a stable setup.[1]
Labour legislation, a key pillar of India's social architecture, has played a pivotal role in this effort, given that it was created primarily to address social issues and safeguard the rights of the underprivileged segments of society.[2] Three of the four major principles of labour law include social justice, social welfare and national economy.[3] Further, one of the Directive Principles of State Policy[4] lays that it is the duty of the state to promote the welfare of people through social and economic justice. This is in line with the objectives[5] iterated in the Industrial Disputes Act, 1947.

[1] P.R.N. SINHA, INDU BALA SINHA, INDUSTRIAL RELATIONS, TRADE UNIONS AND LABOUR LEGISLATION 215 (3rd ed. 2020)
[2] P.R.N. SINHA, INDU BALA SINHA, INDUSTRIAL RELATIONS, TRADE UNIONS AND LABOUR LEGISLATION 364-65 (3rd ed. 2020)
[3] P.R.N. SINHA, INDU BALA SINHA, INDUSTRIAL RELATIONS, TRADE UNIONS AND LABOUR LEGISLATION 372 (3rd ed. 2020)
[4] Article 38(1): Though not enforceable by courts, these principles have a bearing on social and labour legislations.
[5] Industrial peace and economic justice

One of the most significant facets of every state's social justice responsibility is to provide its citizens with the ability to work and the means to get labor justice. These factors take on much more weight in a third-world nation like India, where a sizeable portion of the population living below the poverty line is subjected to 'unfair labour practices' by employers.[6]

The syntax of the Indian labor law system suggests that these laws will serve as crucial tools for empowering the weak and vulnerable in order to realise the treasured constitutional objectives. However, the Indian system exhibits a centrifugal approach to labor and justice. This is evidenced by the retention of a great deal of discretion in the administration of labor legislation.[7] The government is granted substantial discretionary power under Section 10(1) of the Industrial Disputes Act, 1947, to refer or decline to refer an industrial dispute for resolution, implying that the government must subjectively determine whether an industrial dispute exists or is apprehended.[8] While determining the need to refer the issue, the government needs to establish whether the merits of the issue exists prima facie.[9] Moreover, the exercise of this power is such that the court cannot challenge the propriety or the sufficiency of the reasons provided by the government for such decision.[10]

The government did not always have the authority to refer labor issues for resolution. Under Rule 81-A of the Defence of India Rules, the central government was granted this authority as a wartime measure during the Second World War. Its goal was to prevent unnecessary industrial discontent and ensure uninterrupted industrial production during the war.[11] Nevertheless, the ruling Congress Party viewed the IDA to be a helpful tool for limiting and repressing strife. Up until recently, the IDA operated for over half a century and fostered state paternalism, making unions fragile and open to influence and bureaucratic tardiness.[12]

The primary motivation behind the development of this special procedure is the efficient and affordable resolution of industrial disputes. The government was given the authority to make references, as iterated in the *KP Krishnan* case[13], was to ensure a speedy resolution. Ironically, it takes the labor department an average of nine months to refer a case after receiving the conciliation officer's failure report. Whilst the labor department may take months or even years to refer a case, there are other instances in which the government chooses not to do so, leaving aggrieved workers to continue scrounging around in the dark in search of the inaccessible social justice that the Industrial Disputes Act was supposed to provide.[14] In this respect, it is important to note that some conflicts referred to the court for resolution may be resolved within a nine-month time frame, compared to the average adjudication time of eighteen months.[15] The use of this reference-making authority is, therefore, a time-consuming, burdensome, and ultimately pointless

[6] Debi S. Saini, *Labour Legislation and Social Justice: Rhetoric and Reality*, 3 Economic & Political WEEKLY L32, 1999, https://www.jstor.org/stable/4408454
[7] Ibid.
[8] State of Bombay v. K.P. Krishnan, AIR 1960 SC 1223
[9] Bombay Union of Journalists v. State of Bombay, AIR 1964 SC 1617
[10] State of Madras v. C.P. Sarathy, AIR 1953 SC 53
[11] Sanlokh Ram, *A Note on Government's Discretion to Refer Industrial Disputes for Adjudication*, 22 Journal of the Indian Law Institute 568, 1980, https://www.jstor.org/stable/43952990
[12] Debi S. Saini, *Labour Legislation and Social Justice: Rhetoric and Reality*, 3 Economic & Political WEEKLY L32, 1999, https://www.jstor.org/stable/4408454
[13] SC observed that the object of this Act is providing with an expeditious and cheap resolution machinery to prevent conflicts arising out of frequent strikes and lockouts.
[14] Sanlokh Ram, *A Note on Government's Discretion to Refer Industrial Disputes for Adjudication*, 22 Journal of the Indian Law Institute 568, 1980, https://www.jstor.org/stable/43952990
[15] Information based on study of cases adjudicated by the labour courts and industrial tribunals in Jammu & Kashmir, extracted from the aforementioned source

activity. This goes against the core principles of protecting a worker, particularly one who is marginalised and weak and who expects that the tribunal should resolve issues expeditiously and without delay. After all, high delays effectively negate the benefits of tribunal decisions.[16]

India has embraced the idea of a mixed economy and social welfare to advance both the nation's economy and its citizens' social standing. Given that the government controls and manages the majority of development and public undertakings, it is inevitable that the state will be a significant employer in such a system. As a result, the majority of labor disputes between state agencies and their employees will likely involve them and be decided by labor courts and tribunals. In these situations, it is unreasonable to expect the government to act impartially and fairly when using its discretion to decide whether to refer the matter for resolution or not.[17] The implementation of the central Payments of Bonus Act, 1965 to the State of J&K is one incident that substantiates the idea that, in a pinch, the government would not hesitate to abuse this discretionary power. A bonus has been demanded by employees of state public undertakings for the past few years due to the execution of this Act. Being an interested party, the state government purposefully delayed action and obstructed the distribution of bonuses to workers of these undertakings under various pretexts. The State Central Labor Union, which represents the majority of the employees at these companies and is affiliated with the state's ruling political party, has not been able to influence the reference, let alone convince the government to accede to this demand.[18]

This is a segue into the murky bureaucracy, political bias, and propensity of this reference power to foster corruption and favouritism. Although these accusations may appear to be stale and mendacious, they cannot be completely discounted as inaccurate in the real world.[19] Multiple cases were iterated to uphold this claim. In one case where the majority of workers wanted better working conditions, the outcome was significantly influenced by the alliance of a minority union with the political party in power. The Conciliation Officer's ruling rewarded the politically connected minority against the majority's demands, demonstrating how political influence may skew labor decisions to the detriment of the workforce. Another illuminating instance involved a state chief minister's active participation in labor issues, which led to a harsh crackdown on a workers' union, police violence, and terrible worker fatalities. This terrifying incident highlights the risks of political meddling in labor relations. Lastly, an instance demonstrated how a Conciliation Officer's dishonest behaviour benefited management at the expense of employees. This not only hampered the labor movement but also sparked a bloody struggle that caused mayhem and destruction, thereby highlighting how corruption and favouritism can thwart the right of workers to collective bargaining and basic freedoms.[20] Moreover, periodic changes in governance happen constantly in a democratic polity like ours. It is especially true in the case of a nation like India, where the democratic system is still in its infancy and the fortunes of various political parties are subject to rapid fluctuations. Given the situation, it would be highly detrimental and unjustifiable to leave this potent tool of dispute resolution in the hands of the governments established by various political parties at various points in time,

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[16] Debi S. Saini, *Labour Legislation and Social Justice: Rhetoric and Reality*, 3 Economic & Political WEEKLY L32, 1999, https://www.jstor.org/stable/4408454
[17] Sanlokh Ram, *A Note on Government's Discretion to Refer Industrial Disputes for Adjudication*, 22 Journal of the Indian Law Institute 568, 1980, https://www.jstor.org/stable/43952990
[18] Based on the aforementioned J&K Study
[19] Sanlokh Ram, *A Note on Government's Discretion to Refer Industrial Disputes for Adjudication*, 22 Journal of the Indian Law Institute 568, 1980, https://www.jstor.org/stable/43952990
[20] Debi S. Saini, *Labour Legislation and Social Justice: Rhetoric and Reality*, 3 Economic & Political WEEKLY L32, 1999, https://www.jstor.org/stable/4408454

governments that stop at nothing to take advantage of the gullible and sensitive group of people, such as those in the labor force, to advance their political goals.[21]

Economic growth juxtaposed with "social justice" as a core societal value sees its reflections in industrial conflicts as a manifestation of a capitalist society.[22] Industrial conflict is an embodiment of the underlying human conflict that underlies capitalism societies, which are basically motivated by the pursuit of self-interest in the economic sphere, both at the individual and group levels. Conflict inevitably becomes an integral part of this order in an economic and social structure where the idea of allowing each person to be the judge of their own self-interest and pursue it freely is preserved. In a capitalist society, the struggle between labor and capital, industrial conflict, is just one example of this pervasive unrest. The goals of capital owners motivated by the maximisation of profits collide with the aspirations of workers seeking the best pay and higher living standards to create this conflict. The basis of industrial conflict within the capitalist economic realm is this fundamental dichotomy. Notably, since the output or profits of an enterprise—the results of the collaborative efforts between labor and capital—are restricted in time, allocating more to labor in the form of higher wages and better living conditions inevitably leaves less for investors in terms of profit.[23]

This circles back to the iteration of India's status as developing nation, with the goals of a stronger economy and the vulnerability of the working class. Such a situation demands reforms that can only come when the autonomy of conciliators and tribunals is ensured from the state apparatus.[24]

The Industrial Relations Code, 2020 has emerged as the beacon of hope in the context of the elimination of such unfettered discretion.[25] The Industrial Disputes Act had flaws of its own, particularly with reference to foreign direct investment, which is crucial to India's economic growth. The socialist nature of India makes it essential to achieve a balance between defending workers' rights and assisting employers. The new Industrial Relations Code strives to establish a more structured framework, with the purpose of removing ambiguities and advancing economic growth, job creation, and employee welfare. Nonetheless, the new act has potential for improvement. To avert corruption and lobbying, which can compromise the fundamental rights of workers, the central government's discretionary authority to exclude businesses from standing orders should be scrapped. The ability of the government to exclude specific activities from the meaning of "industry" should also be constrained. To prevent any activity or organisation from being excluded arbitrarily, the definition of "industry" has to be changed.[26]

Recognising that labor rights are an aspect of human rights is crucial, and the code should fill up any gaps that can possibly violate workers' rights while also maintaining advantages for employers. Positive

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[21] Sanlokh Ram, *A Note on Government's Discretion to Refer Industrial Disputes for Adjudication*, 22 Journal of the Indian Law Institute 568, 1980, https://www.jstor.org/stable/43952990

[22] Debi S. Saini, *Indian Industrial Relations Law: Case for Reform*, 50 SRC for IR & HR 118, 2014, https://www.jstor.org/stable/24547026

[23] P.R.N. SINHA, INDU BALA SINHA, INDUSTRIAL RELATIONS, TRADE UNIONS AND LABOUR LEGISLATION 218 (3rd ed. 2020)

[24] Debi S. Saini, *Labour Legislation and Social Justice: Rhetoric and Reality*, 3 Economic & Political WEEKLY L32, 1999, https://www.jstor.org/stable/4408454

[25] S.S. Visweswaraiah, *Discretionary Referrals: Compulsory Adjudication and the Industrial Disputes Act 1947*, 32 Journal of the Indian Law Institute 1, 1990, https://www.jstor.org/stable/43951298

[26] King Stubb, Kasiva, *Analyses of Industrial Relations Code 2020*, KSK ADVOCATES & ATTORNEYS (Apr. 17, 2023), https://ksandk.com/litigation/analyses-of-industrial-relations-code-2020/#:~:text=However%2C%20the%20central%20government's%20discretionary,the%20basic%20rights%20of%20labourers.

changes to labor laws are to be commended, and continual modifications are necessary to respond to evolving conditions. The labor landscape has changed as a result of factors like digitisation, the effects of the pandemic, and the emergence of the gig economy, underscoring the importance of revising legislation whenever there are significant changes to the workplace. In India's development toward a socialist state, finding the right equilibrium between social justice and economic growth remains to be imperative.[27]

[27] Ibid