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**“Dharma is to protect the Needy”**

**Article on**

**LEGAL PROTECTION TO TACKLE EMPLOYMENT  
DEFICIENCIES IN INDIAN GOVERNMENT SECTOR DURING  
COVID-19**

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## **ABSTRACT:**

The COVID-19 pandemic has pushed the world into an extra-ordinary hardship and uncertainty, calling to accelerate the implementation of the Centenary Declaration. It called upon constituents to pursue 'with implacable capability its ILO constitutional mandate for social justice by further developing its human centred approach to the future of work'. It called for putting workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies. The International community and ILO's constituents have engaged in a collective effort to tackle the devastating human impact of the pandemic, but more is needed.

## **I. INTRODUCTION**

The Indian economy is in the midst of a financial, economic and employment crisis for the past few years and now in a crisis due to the ongoing COVID-19 pandemic. The pandemic has mainly led to the loss of jobs among the blue-collar class. It is a topic that has been widely discussed across the nation. In 2018, the statistics from the National Sample Survey stated that the national unemployment was rising at the rate of 6% and then the urban employment rate was 7.85% with the rural employment rate being 5.3%.

## **II. FACTORS AFFECTING INDIAN EMPLOYMENT**

Following are the factors that are affecting the Indian employment:

- (a) The millennials are ready to work only for well-paid jobs & are not willing to join the workforce, settling for lower remuneration, therefore being over-skilled for the jobs that are readily available in the country.
- (b) There has been a sharp downfall in the number of jobs that are created by the government in 2018.
- (c) The various employment sectors slowed down the process of their working after a deep impact because of demonetization, and have resulted in the slowing down

the process of employment and even a higher reduction in the employment opportunities.

(d) A sudden change in the consumption pattern of people, especially in a continuously changing economy like India, has resulted in unemployment & lack of job opportunities. E.g. the shift of consumption from cars and automobile purchasing to an increase in the usage of Ola or Uber.

India has a deficiency of accurate education, where the majority of Indians are not able to integrate advanced skills because of the lack of training programs. The programs must be aimed at higher-paying jobs & perpetually attract the young demographic of the population towards attractive services. The above stated reasons emphasize that India is facing a considerable job crisis in the government as well as the private sector.

### **III. DOES INDIA HAVE ENOUGH GOVERNMENT JOBS TO MEET THE NEEDS OF UNEMPLOYED?**

Though India is the fastest developing economy, its connection between the economy & employment weakens a little. The employment growth rate has decreased by 7% to 1%. Higher growth rate has raised aspirations of the aspiring youth but have failed to create those jobs which would match those aspirations.

The Indian Government has started various job schemes to overcome unemployment in the country. It would be challenging for the Indian Economy to rise, if the government's focus is not shifted to job creation. India has a high demand for jobs, but the government has insufficient jobs, nor does India have robust job data or sufficient tools to measure job creation. There is a lack of applications that are sent to the Indian Railways, where only a few thousand get selected due to the presence of only limited jobs. The government needs to look for datasets, encourage deep analysis & determine specific ways to measure job creation. India has necessity for better policy decisions for both central & state segments.

#### **IV. FEATURES OF MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT (MGNREGA), 2005**

This stated act enacted in 2005, emphasizes the social security measures & labour law based in India that aims to assure the legal right to work. The main features of the Act are as follows:

- (a) This Act provides legal promise to the people of the rural areas to continue the unskilled manual functionalities with minimal wages.
- (b) This Act provides for a contract of hundred days in a financial year. Wage's employment are permitted to the applicant from the initial days of the work has been demanded or within two weeks after the proceeding of the application.
- (c) This Act ensures that if the applicant has not accessed any employment after 15 days of application, then he/she has the legal right to access the unemployment allowances.
- (d) The applicants are guaranteed the payment of their employment wages within two weeks of the application process.

#### **V. IMPLEMENTED ACTIONS BY GRAM PANCHAYATS UNDER MGNREGA**

In order to combat the job crisis, the Gram Panchayat can integrate various actions by focusing on the social and economic empowerment of women. Through this action, environment-friendly & decent work have been offered by keeping in mind the environmental factors.

Section 17 of MGNREGA has made social audit for all the works mandatory. Social audit is the assessment of the scheme with the active involvement of people & understanding the functions of the ground reality. The scheme protects farmers from the risks of climate change & focuses on the conservation of natural resources. The wage earners can create their demands & raise their voice for any inconvenience before the Gram Sabha & the Sabha resolves them on a priority basis.

The Gram Sabha approves the works under the scheme, where most of the works under the scheme are agriculture & allied activities besides rural sanitation projects. Their works have been categorized as irrigation, watershed, flood management,

agriculture, livestock, fisheries, sanitation etc. In recent times, soak pits, the creation of toilet rooms, liquid & solid waste management have been added under this scheme.

Construction of Anganwadi centres has also become a part of the scheme recently. The MGNREGA has also indicated signs of slowing down in 2019-20. It has been showing the lowest trend since 2015-16.

## **VI. WHETHER RESERVATIONS FOR ECONOMICALLY WEAKER SECTIONS HELPFUL OR NOT?**

The 10% reservation for Economically Weaker Sections or EWS category is an application to persons, who are not the beneficiary of any other sort of reservations for Scheduled Class, Scheduled Tribe and any Other Backward classes. The Constitution (One Hundred and Third Amendment) Act 2019, passed by the Indian Parliament gives the authority to both the State and Central Government to provide reservations to the EWS from the general caste of the society for appointment in state jobs or state government institutions.



The fact that the percentage of reservations has increased to more than 50%, does not mean that the government has enough jobs. The motive of the reservation is to provide opportunities to a specific group of people that are legally authorized to avail of the benefit. In order to be precise, this means that when a 10% reservation has increased, out of the remaining candidates that are not provided with any reservation, 10% will no longer be considered for the appointment, where, without reservation, they might have been considered for the position. The fact that a group of economically weaker sections are given reservation does not essentially mean that the government has increased the number of jobs. The adjustment is made with the limited availability of the jobs.

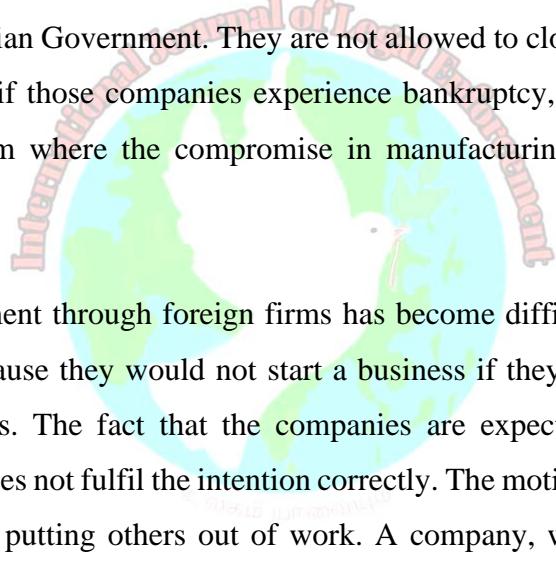
Thus, the reservations technically have not been proved to be of any essential help in the scenario of a job crisis. The area where it did help was that those who could not afford to get into institutions or sitting for interviews were given relaxation through the Act.

## **VII. WHETHER LABOUR LAWS TOO RESTRICTIVE OR NOT?**

The above demonstrated laws are the integral portion of the concurrent list that entails that it is under the jurisdiction of both the central and the state government. There are 40 central laws and 160 state laws, which have done the government act in a manner, where it overlaps jurisdiction.

### **(a) INDUSTRIAL DISPUTES ACT,1947**

Through this Act, every organization recruits above 100 employees. The authority has not terminated each of the employees without acquiring permission from the Indian Government. They are not allowed to close down the factory or the plant. Even if those companies experience bankruptcy, they still have to pay the workers from where the compromise in manufacturing and quality comes into picture.



Investment through foreign firms has become difficult keeping this criterion in mind because they would not start a business if they cannot get out of it even during losses. The fact that the companies are expected to keep the labourers employed does not fulfil the intention correctly. The motive is not just creating jobs, but also not putting others out of work. A company, where the employer is not allowed to end the business even after being bankrupt, is technically unemployed, resulting in the slowdown of the organization.

### **(b) THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970**

This Act controls the contract labour's employment in specific establishments within the organization, that demonstrates its aim to prohibit contract labour utilization, and offers a better work environment. Since contract labour gives flexibility to companies, they have started with the contract labour force.

The problem experienced is that these contractual labourers are paid minimally than the regular employees, which defeats the purpose of labour laws to provide efficient wages.

There is a need for radical change in the existing labour laws, that should help the country urbanize, keeping the interests of the labourers in mind and also changes that are beneficial to the companies making use of labourers.

### **VIII. EMPLOYMENT SCHEMES DEPLOYED BY THE GOVERNMENT**

Following are the schemes, that are initiated by the Indian Government to combat job crisis:

**(a) MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT (MGNREGA)**

The UPA government, led by Congress, purposefully developed this scheme in 2006 for activating the employment factors in the households of the rural areas. This scheme extensively supports the adults of every family by offering a 100 days of assured wage payments in the individual year, who are willing to continue the unskilled manual functionalities. There were two billion person-days generated under the scheme in the year 2019-20.

**(b) SAMPOORNA ROJGAR YOJANA**

The scheme establishes by focusing on the enhancement of the skill levels in the urban and rural cities by offering skilled employment actions to the people. The main focus is on providing employment to the unemployed youth looking for jobs, who are willing to continue manual and skilled work throughout the village or the locality. Depending on their efficacy in performance, the individual accesses benefits or fixed salaries.

**(c) PRIME MINISTER'S EMPLOYMENT GENERATION PROGRAMME (PMEGP)**

On 15<sup>th</sup> August, 2008, this scheme was launched for generating diversified employment opportunities that are sustainable in the Indian urban and rural segments.

#### **(d) GARIB KALYAN ROJGAR ABHIYAN**

The Prime Minister announced this above demonstrated scheme on 20<sup>th</sup> June, 2020 for 125 days covering the entire 116 districts of such State, including Odisha, Rajasthan, Madhya Pradesh, Bihar, Jharkhand, and Uttar Pradesh. These states obtained an excessive number of migrant workers, where the scheme ensures that each worker gets the opportunity to work under the program and will also help them for the development and expansion of their livelihoods for an extended period.

### **IX. WAYS HOW COVID-19 CHANGED THE THEME OF INDIAN LABOUR LAWS**

COVID-19 pandemic has triggered public health and crisis in the economy. Some of the State Governments in the last week decided to make changes in the labour laws. These changes are being created to increase economic activity in those states. The changes are applied to both the new businesses and existing ones. The authority enhances the working schedules from 8 to 12 hours in the plants and factories and permits the overtime of 72 hours in the individual week. The activity of the factory registration would proceed in a day and the factory license actions would be renewed after the interval of 10 years. Further, a penalty would be activated upon the administrations, if the deadline would not comply.

The states have begun to relax the laws to encourage industrial development and employ those employees who came back to their own localities. Further, the motive has been to increase revenue in the States and smoothen the economic actions and business activities that had depreciated due to the nationwide lockdown.

### **X. NECESSITIES OF JOB PROTECTION SCHEMES IN INDIA**

One of the major tastes done by the US Government is preceding loans for small businesses during the lockdown. Since, India is a developing country, there are many other incentives that they can take, for instance, if not waiving a bank loan but lending cheap bank loans or tax incentives.

**(a) FAIR LABOUR STANDARDS ACT**

It is an act of the US, which ensures that their workers get a minimum wage with special protection for minors, that limits the working hours for children.

**(b) MINIMUM WAGES ACT, 1984**

It is an Indian Act, which ensures the same, except protection for minors. Around 40% of the wage earners in the country get wages below the National Minimum Wage floor-rate.

The US has employment benefits or an unemployment insurance agency that manages wages for the unemployed, but the reasons for such unemployment must be out of their control. This ensures that Americans have a few months of security when they are unemployed. This could be instilled in the economy but through higher propaganda of self-employment, schemes run by the government. The Indian government cannot afford such an investment to the unemployed. Still, it can take the initiative by getting certain pending work done while giving the unemployed enough time to hunt for a more stable job.

**(c) PROVISION OF WHISTLEBLOWER PROTECTION**

A very unique aspect that the American law has in its provision is the Whistleblower Protection, where a person fears losing his/her job if they speak up. They can report their employers for violating the law and can file a complaint when they have felt that they have suffered punishment for reporting the company's violation. The button line is that the American employees enjoy benefits and protection of jobs that are backed by legal protection among other safeguards. This is what can be adopted by the Indian government to focus on other problems apart from the limited ones that get the maximum attention.

**XI. IMPORTANT PROVISIONS OF THE EMPLOYMENT RIGHTS ACT, 1996**

This specific Act in its first portion sheds light on the employment contract, which should be in the written description that has to be offered to the employees within 240 days of his/her joining in the organization. It provides legal backing to the contract and implements the expectations included within a person's employment, and the evidential basis of work.

The second and the third part of the act elaborate on the wages and payments of the workers.

The fourth and the fifth part of the Act elucidates the disclosures and detriment that includes protections granted to the employee. The employee rights for paid time off from

their work is mentioned in parts IV, VI, VII of the act and further goes on to demonstrate the dismissal that is related to the employees' health and safety and flexible working hours.

Accordingly, part VIII entails child care and part IX emphasizes dismissal notice and exact causes for the same.

The unfair dismissal of an employee is stated in part X, where part XI says Redundancy.

Similarly, part XII discusses the employees' rights if the company turns out to be insolvent at any point of time.

## **XII. CRITICAL ANALYSIS TO TACKLE JOB CRISIS**

In order to specifically combat the current occurrences of the employment crisis, the country has to collect accurate data. It is only after a while the government will be able to create jobs for the unemployed. They need to dive deep into the search for jobs. The data that the government comes up with is sketchy and contradictory to what the reality is. The government needs to fill the vacancies in the government sector, as it is only through such efforts, that the youth of India will get employed.

Further Covid-19 occurred, while India's unemployment deepens, and after this, the youth will get more attractive to a government job, as the prospects of private companies to flourish in such a time are bleak. The government cannot ignore the fact of the heart and has to start working on this front, leaving the political dilemmas aside.

## **XIII. RECOMMENDATIONS**

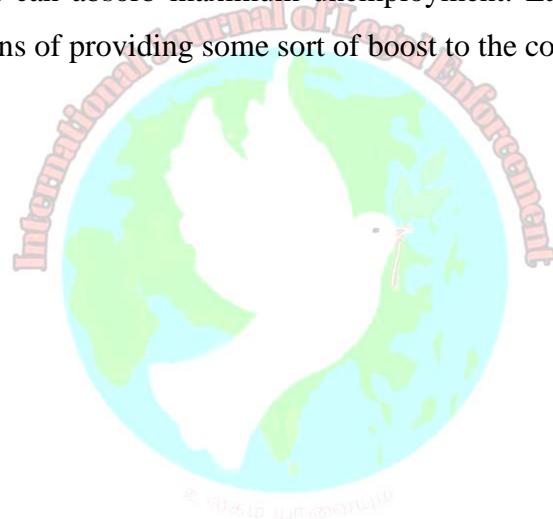
Following are the recommendations to tackle employment hardship in India:

- (a) There can be a change in the investment pattern that takes place in the country. Enormous consumer goods industries' and their upliftment at this point would generate more employment to absorb the unemployed.
- (b) Small enterprises can flourish better, if more significant investment is granted to those enterprises instead of the large ones. It can lead to the enlargement of both employment and output.
- (c) During the rapid growth of the labour force, it is recommended to switch to better technology choices, consistent with the objective of employment. The establishment of small industrial complexes can further generate employment and prove to be an efficient and successful effort to provide flexibility to the economy.

(d) Lastly, the country requires a reorientation of the educational system to get more excellent employment opportunities.

#### **XIV. CONCLUSION**

The job crisis in India is a hot topic and is widely discussed. The country can walk its glory with the right policies and stronger public-private cooperation with their efforts inclined towards building a better and a skilled workforce that feeds the purpose of the future. The optimism that will get this country through the crisis is that the economy has already hit the bottom and is expected to lift itself at a slow pace. The government focuses on putting efforts into the problem that is currently being faced, and is primarily focusing on the construction sector that can absorb maximum unemployment. Lastly, the 2020 budget has given people expectations of providing some sort of boost to the country.



## REFERENCES

1. Dixit, S., Pandey, A.K. Mandal, S.N., & Bansal, S. (2017). A study of enabling factors affecting construction productivity: Indian scenario, *International Journal Of Civil Engineering & Technology*, 8(6), 741-758. [https://www.researchgate.net/profile/Saurav-Dixit/publicatin/construction\\_productivity\\_Indian\\_Scenario-factors-affecting-construction-productivity-Indian-scenario.pdf](https://www.researchgate.net/profile/Saurav-Dixit/publicatin/construction_productivity_Indian_Scenario-factors-affecting-construction-productivity-Indian-scenario.pdf).
2. Khobragade, J.W.,& Maurya, D.A., (2020). Critical analysis of the COVID-19 Pandemic on Labour Legislations in India. [https://dmejl.dme.ac.in/wp-content/upload/sites/5/2021/02/DMEJL\\_Vol\\_1.1\\_2020\\_Jagdishkhobragade.pdf](https://dmejl.dme.ac.in/wp-content/upload/sites/5/2021/02/DMEJL_Vol_1.1_2020_Jagdishkhobragade.pdf).
3. Nag, A., Kumar Jha, S., Mohammad, A., Maiti, S., Gupta, J., Gosain, D.K.,...& Mohanty, T.K.,(2018). Predictive factors affecting Indian rural farm youths' decisions to stay in or leave agricultural sector. *Journal of Agricultural Science & Technology*, 20(2), 221-234. [https://jas.modares.ac.ir/files/jast/user\\_files\\_749497/arindam-A-23-14644-1-6adf953.pdf](https://jas.modares.ac.ir/files/jast/user_files_749497/arindam-A-23-14644-1-6adf953.pdf).
4. Nepram, D.,Singh, S.P., & Jaman,S.,(2021). The Effect Of Government Expenditure On Unemployment in India: A State Level Analysis. *The Journal of Asian Finance, Economics and Business*, 8(3), 763-769. <https://www.koreascience.or.kr/article/JAKO202106438543541.pdf>
5. Orlu, L., Isukul, A.C., & Odiche, W., (2021). Can Whistle-Blowing policy promote the Nigerian Economy? A Review. *Asian Research Journal of Current Science*, 6-10. <https://www.globalpresshub.com/index.php/ARJCS/article/download/969/889>.
6. Pandey, P., Singh, S.,& Pathak, P.,(2019). Factors affecting turnover intentions in the Indian retail industry. *International Journal of Human Resources Development & Management*, 19(2), 166-182. <https://www.researchgate.net/profile/Pallavi-Pandey-14438543541>

[4/publication/330331956 Factors affecting turnover intentions in the Indian retail industry/turnover-intentions-in-the Indian-retail-industry.pdf.](https://www.researchgate.net/publication/330331956_Factors_affecting_turnover_intentions_in_the_Indian_retail_industry/turnover-intentions-in-the-Indian-retail-industry.pdf)

7. Sapkal, R.S., & Sundar, K.S., (2017). Determinants of precarious employment in India: An empirical analysis. In *Precarious work*. Emerald Publishing Limited. <https://www.researchgate.net/profile/Rahul-Sapkal-2/publication/333097553Indiaarious-Work-Globalization-and-Informalization-of-Workforce-Empirical-Evidence-from-India.pdf>.
8. Singh, B.P., (2020). Impact of COVID-19 on rural economy in India. Available at SSRN 3609973. [https://mpra.ub.uni-muenchen.de/100530/1/MPRA\\_paper\\_100526.pdf](https://mpra.ub.uni-muenchen.de/100530/1/MPRA_paper_100526.pdf).
9. Singh, J., Das, D.K., Kukrejs, P., & Abhishek, K., (2017). Law, skills & the creation of jobs as 'contract' work in India: exploring survey data to make inferences for labour law reform. *The Indian Journal Of Labour Economics*, 60(4), 549-570. [https://www.econstor.eu/bitstream/10419/176357/1/Working\\_Paper\\_330.pdf](https://www.econstor.eu/bitstream/10419/176357/1/Working_Paper_330.pdf).
10. Singh, R., (2018). The Cause Of Unemployment In Current Market Scenario. *Vivechan International Journal Of Research*, 9(1). [http://ijrimsec.com/assoc\\_art/volume9\\_1/Ch\\_8.pdf](http://ijrimsec.com/assoc_art/volume9_1/Ch_8.pdf).