Covid-19 & Workers' Rights

What is the issue?

- Due to the Covid-19 crisis, the workers have been abandoned by their employers and by the state tragically.
- Labour laws are civilisational goals and cannot be trumped on the excuse of a pandemic.

How the worker's rights were curbed?

- The workers' right to go home was curbed using the Disaster Management Act, 2005.
- No provisions were made for their food, shelter, or medical relief.
- Wage payments were not ensured, and the state's cash and food relief did not cover most workers.
- Several workers started walking back home and many died on the way.
- More than a month later, the Centre issued orders permitting their return to their home States.
- Immediately employer organisations lobbied to prevent the workers from leaving.
- Governments responded by delaying travel facilities for the workers to ensure uninterrupted supply of labour for employers.

What do employers need now?

- Employers now want labour laws to be relaxed.
- Several States have exempted industries from complying with various provisions of laws.
- The Confederation of Indian Industry (CII) has suggested **12-hour** work shifts.
- It also wants the governments to issue directions to make workers join duty failing which the workers would face **penal actions**.
- This will take away the protection conferred on organised labour by Parliament.

What is the similarity with the colonial exploitation?

- The move is reminiscent of the system of **indentured labour** introduced through the Bengal Regulations VII, 1819 for the British planters in Assam

tea estates.
- Workers had to work under a five-year contract and desertion was made punishable.
- **Factory workers** too faced severe exploitation and were made to work 16-hour days for a pittance.
- Their protests led to the Factories Act of 1911, which introduced 12-hour work shifts.
- Yet, the low wages, arbitrary wage cuts and other harsh conditions forced workers into 'debt slavery'.

How did the Indian labour laws emerge?

- The labour laws in India have emerged out of workers' struggles, which were part of freedom movement against colonial industrialists.
- Our political leaders supported the demands of the workers.
- Britain was forced to appoint the Royal Commission on Labour, which gave a report in 1935.
- The Government of India Act, 1935 enabled greater representation of Indians in law making.
- This resulted in reforms, which are forerunners to the present labour enactments.
- The indentured plantation labour saw relief in the form of the Plantations Labour Act, 1951.

How was dignity achieved through democracy?

- By a democratic process, Parliament stepped in to protect labour.
- **Factories Act, 1948** lays down 8-hour work shifts, with overtime wages, weekly offs, leave with wages and measures for health, hygiene and safety.
- **Industrial Disputes Act, 1947** provides for workers participation to resolve disputes through negotiations so that strikes/lockouts, unjust retrenchments and dismissals are avoided.
- **Minimum Wages Act, 1948** ensures wages below which it is not possible to subsist.
- These enactments further the Directive Principles of State Policy.
- They also protect the right to life and the right against exploitation under Articles 21 and 23.
- **Trade unions** have played critical roles in transforming the life of a worker from that of servitude to one of dignity.
- In the scheme of socio-economic justice, the labour unions cannot be dispensed with.
- Any move to undo these laws will push the workers a century backwards.

What are some exemptions?

- Section 5 of Factories Act empowers the State governments to exempt only in case of a "public emergency".
- Public emergency is a grave emergency whereby the security of India or any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.
- There is no such threat to the security of India now.
- Hours of work or holidays can't be exempted even for public institutions.
- Section 36B of the Industrial Disputes Act enables exemption for a government industry only if provisions exist for investigations and settlements.

Can a State government nullify Central enactments?

- Labour is a **concurrent subject** in the Constitution and most pieces of labour legislation are Central enactments.
- The U.P. government has said that labour laws will not apply for the next three years.
- Even laws to protect basic human rights have been suspended.
- The Constitution does **not envisage approval by the President** of a State Ordinance.
- This makes parliamentary laws inoperable in the absence of corresponding legislations on the same subject.
- Almost all labour contracts are now governed by statutes, settlements or adjudicated awards arrived through democratic processes.
- These processes accord the labour with procedural equality, which ensures progress of a nation.
- **LIC vs D.J. Bahadur & Ors (1980)** - The Supreme Court said that any changes in the conditions of service can be only through a democratic process of negotiations or legislation.
- It rejected the Central government's attempt to unilaterally deny bonus.

What is the conclusion?

- The orders and ordinances issued by the State governments are undemocratic and unconstitutional.
- The existing conditions of labour will have to be continued.
- In the unequal bargaining power between capital and labour, regulatory laws provide a countervailing balance and ensure the dignity of labour.
- Governments have a constitutional duty to ensure just, humane conditions of work and maternity benefits.
- The health and strength of the workers cannot be abused by force of

economic necessity.

- Labour laws are thus civilisational goals and cannot be trumped on the excuse of a pandemic.

Source: The Hindu

