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Emerging Trends in Employment Relations in India

K.R. Shyam Sundar

State regulation characterized management of both product market and the industrial relations system (IRS) in the post-Independent India. The logic of industrial peace determined the institutional framework of the IRS in the era of regulation. Over the years, the failures of "state regulation model" concerning both the product market in the industrial sector and the IRS were pointed out and there have been calls for liberalizing both. The process of economic liberalization began since the mid-1980s and accelerated since 1991. Meanwhile, some important developments were taking place in the industrial relations system as well. The State, the employers and the trade unions responded to these forces in different ways. These taken together affected the employment relations in significant ways. The paper seeks to identify these important changes in employment relations in the post-reform period.

Introduction

Drawing from the colonial model of governance, the policy makers in the free India designed 'state intervention' model to manage the industrial relations system (IRS) and the labour market primarily because of the compulsions arising out of economic planning strategy. The 'rules' of the IRS were determined by the institutions of the state such as compulsory adjudication, conciliation, standing orders, labour laws and case laws and so on. It also meant regulating the actions of labour and capital and providing judicial and administrative solutions to labour-management conflicts and disputes. Collective bargaining model was shelved for the future. However, state intervention did not mean suppression of workers' rights. The federal-democratic-pluralistic model of polity adopted in India assured fundamental right to form unions and freedom of industrial actions subject to legal regulation. The dominant objective of the government during the regulation era was to maintain industrial peace. There existed an implicit 'social pact' between unions, employers and the state whereby unions promised industrial peace for organizational and job securities in return and both em-

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employers and unions accepted state regulation (Shyam Sundar 2009 c).

The failure of state regulation in the product market and IRS became evident by then and the demands for deregulation of both became louder (Ramawamy 1988, Shyam Sundar 2009c). The new economic policy announced in 1991 signalled a decisive shift in economic policies of the government from regulation to liberalisation. The product market reform measures have increased the bargaining power of capital vis-à-vis labour. Capital has become more mobile and least regulated, while labour is less mobile. Greater ease of mobility gives greater bargaining power to capital (Bardhan 2001:470). The dominant objective of the government shifted from 'the logic of industrial peace' to 'the logic of competitiveness of firm and the economy'. Given the interface between product market and labour market, pro-reformers demanded liberalization of IRS and labour market. The employers' demands for labour reforms included weaken union power, outlaw strikes, individualize labour relations, privatize public enterprises, rationalize and simplify labour laws, freedom to hire and fire and close undertakings, freedom to hire contract labour, liberalize labour inspection system, freedom to introduce technological changes, repeal of legal provisions relating to bonus and so on. These demands necessitate a radical shift from the state intervention model in IRS followed in the regulation era. The interplay of economic, political and institutional forces in the new economic en-

vironment, new issues, dilemmas, concerns and strategies were thrown up and the employment relations have become complex. We seek to provide a broad brush review of the emerging trends in employment relations in the post-reform period.

Labour Reforms: Explicit or Implicit?

Radical labour reforms invite the wrath of the working class and have political costs.

The state in the regulation era had a definite agenda, i.e. to use all of its institutions and mechanisms to intervene in the rule making process in the IRS. Its intervention often worked in favour of labour as far as the economic constraints would allow. The market logic demands that the state's policies should aid in enhancing competitiveness of firms and attract and retain capital (which uses the threat of re-location). While it is certain that policies need to change, how and in which direction it will change depends on political economy considerations. While product market and capital market reforms go unnoticed by large number of people concerned, labour reforms belong to 'mass politics' (Varshney 1999). Radical labour reforms invite the wrath of the working class and have political costs. Further, the state is under pressure to not effect labour reforms concerning the organised sector and at the same time design policies to ensure welfare of millions of workers in the

informal economy, though fiscal prudence considerations restrain radical welfare schemes. The strategy of the state is thus shaped by such complex forces.

The government has shied away from introducing “hard” labour reforms, i.e. making any change in the formal framework concerning employment security or full scale privatization save a few. However, the central government resorted to ‘soft’ reforms such as amending trade union law, disinvesting instead of privatizing, reducing provident fund interest rates, liberalizing labour inspection system, special concessions to units in special economic zones (SEZs) and so on (Shyam Sundar & Venkata Ratnam 2007).

Unable to take a firm stance on ‘hard’ labour reform measures, the central government has then cleverly shifted the onus of labour reforms on to the state governments. There are reasons to use “federal politics” on the issue of labour reforms. The state governments are in a position to make its own labour laws on certain matters and make amendments to central laws (owing to distribution of powers under the Constitution of India) and are important agencies of labour law enforcement use these powers to offer incentives such as flexibilities in the labour sphere to attract and retain capital. Further, labour reforms at the state level would “localize” labour protests unlike the reforms at the national level (Shyam Sundar & Venkata Ratnam 2007).

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Various state governments have sought to introduce changes in the labour regulatory system to attract investment into their regions. The reform measures include relaxing labour inspection system (reducing the frequency of inspections either by administrative directives or by introducing self certification system, different inspection authorities for units in SEZs, introducing prior authorization for inspections and so on), amending labour laws to provide exemptions for emerging sectors like shopping malls, units in SEZ, information technology and bio-technology industries, simplifying procedures in regard to annual returns, maintenance of registers, forms and so on, declaring units in SEZ as “public utility services” (to make strikes more difficult) or as doing seasonal or intermittent work (so as to remove them from the purview of the Contract Labour (Regulation and Abolition) Act and so on (Shyam Sundar 2008 a, 2010 b).

Neo-Liberal Judicial Trends

The general and acceptable perception was that during the regulation era the working class could count on the judiciary as one of their allies, though there have also been judgements that sought to curb labour indiscipline and establish order in the shop floor. But some significant judgements delivered during the 1990s and later relating to contract labour, privatization, right to strike, *bandhs* and

so on did not support the contentions and interests of workers and trade unions. The Supreme Court has (a) affirmed the policy independence of the executive (i.e. the government) in the case of privatization, (b) made critical remarks in general against the right to strike and prohibited the right to strike of public employees, (c) imposed restraints on public protests like *bandhs* and so on, (d) endorsed or asked the government to impose the Essential Service Maintenance Act (ESMA), (e) reversed its own order providing for automatic absorption of contract labour upon abolition and argued that automatic absorption was not provided for in the relevant law thus, it rewrote the positions held by the apex Court on issues like contract labour and the right to strike (Venkata Ratnam 2006). The position and action of the judiciary relating to workers' actions such as strikes is an interesting instance of change in its stance. It admitted public interest litigations questioning the acts and deeds of the trade unions, the strikes by public employees, the bonus payment to municipal employees in Mumbai, and so on and passed restraining orders on unions' actions. The central and the state governments have been to willing to invoke ESMA on strikes and the judiciary often endorses, even encourages it (Shyam Sundar 2009 c).

Politics-Trade Unions Nexus

The rise of enterprise unionism in important metros like Madras, Bangalore, Bombay and even Calcutta (Davala 1994; Ramswamy 1988) was mainly due to frustrations with and failure of the "political unionism model". The main defect of it

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is that political interests often ruled over labour organizational interests and generated splits in the union movement and hence weakened union power. Secondly, conflicts between the ruling political parties and their labour wings have flourished during the reform period e.g. the spat between the BJP and the BMS (Thengadi's scathing comments against Yashwant Sinha's infamous inclusion of labour reform proposals in the Budget in 2001), the growing disconnect between the CPI (M) and the CITU in West Bengal (Bhattacharjee 2001, Shyam Sundar 2009 c), the murmurs of protest from INTUC on some of the reform matters such as provident fund interest rates and reform of employment security laws and so on. Thirdly, the political parties irrespective of their ideological orientation strongly sought to pursue labour reform measures and these angered trade unions including the labour wings of the political parties concerned. It is another matter that the political parties opposed labour reform measures when in opposition, though they sought to implement them when in power either at the centre or state level! Finally, trade union federations have realized the futility of subordinating union organizational politics to party politics (Shyam Sundar 2008 b). These have important implications for trade union actions and strategies in the post-reform period.

Fragmentation Politics to Politics of Cooperation

The reform policies and programmes have brought together the trade unions on an issue-based common front (Shyam Sundar 2009 c). More than a dozen nation-wide strikes and many other forms of demonstrations and struggles have been conducted since 1992 in protest against the so-called neo-liberal policies of the government and many of them have been under one common banner or the other. However, there has not been absolute unity among the CTUOs, which are so much used to divisive politics. The INTUC or BMS withdrew suiting their political comfort levels from the common front which has been largely banding together of left of the centre trade unions. Though the left-based trade unions came together, each maintained its organizational and ideological identity (e.g. CITU's comments cited in Shyam Sundar 2009 c). While world over, mergers and organizational consolidations of central organizations have been taking place, the CTUOs in India have been resisting fiercely such moves, though AITUC and HMS attempted their merger in vain (Shyam Sundar 2010 c).

Towards a More Inclusive Union Movement

The mainstream trade unions have neglected the informal economy for several reasons. The ease of organizing formal sector workers (in terms of economies of scale in organizing, high pay offs and so on) and the high costs of organizing workers in the informal sector and

the perception or expectation that over time informal sector will be absorbed into the formal sector were two important reasons for their historical neglect. But two important reasons, viz. the hugeness of informal sector and trade unions' dwindling numbers in the formal sector caused a change in their perception and strategy regarding informal economy workers (Shyam Sundar 2008 a, 2010 b). The mainstream unions revived their organizational efforts concerning the informal economy in the last decade or so. The membership count of the CTUOs rose in 2002 (as compared to their following in 1989) primarily because of the tremendous rise in unionization of agricultural and rural workers. Verified membership increased from 12.27 million in 1989 to 24.88 million in 2002 and the membership of agricultural and rural workers rose from a mere 1.75 million to 7.65 million during the same period (John 2000).

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New Forms of Informal Economy Organizations

The stiff upper lip attitude of mainstream trade unions towards the informal economy spurred the rise of several new forms labour and union types of organizations among the informal economy workers. The Self Employed Women Association (SEWA) is the most notable amongst them. Though it was

registered as a trade union it has combined the functions of a trade union, a cooperative and a pressure group and so on. Its significant role has not been limited to organizing the informal economy workers. It participated actively in the creation of international networks like WIEGO and played an important role in the adoption by ILO of the Home Workers Convention. It was instrumental in creation of organizations and networks like the StreetNet, the National Centre for Labour (NCL) and the like. The National Alliance of Street Vendors of India (NASVI), initiated by SEWA, is another organization of note. The Government of India formulated the National Policy for Street Vendors recently mainly due to the pressure exerted by organizations of informal economy workers and the powerful lobbying work of NASVI and SEWA (Shyam Sundar 2009 b). However, the interface between the conventional trade unions (the CTUOs) and the new forms of labour organizations has not been cordial (Shyam Sundar 2009 c).

Managerial Strategies

Though the formal system has not changed, sufficient signals have been provided for the employers to implement the changes they desire. This has been dubbed as "labour reforms by stealth" (Bardhan 2002). The employers grabbed these opportunities with full hands and devised several managerial strategies to achieve labour flexibility, control over work processes and weaken labour power. Illegal closures, prolonged lockouts (often closures in disguise), reduction in

regular workers (*via* voluntary retirement scheme (VRS), labour re-allocation, transfers, multi-tasking, freeze on employment, idleness pay, etc.) increased use of contract labour, outsourcing, sub-contracting, job freeze are some of the measures employers in both private and public sectors have employed to circumvent the law and trade unions (Bardhan 2002, Shrouti & Nand Kumar 1995, Shyam Sundar 2008 a).

As a result of deliberate managerial strategies, the employment of non-regular workers, especially the contract workers, has increased considerably in the last decade or so. Primary surveys of industries in the organized manufactured sector in Maharashtra (Deshpande et al 1998) and in India (Dehspande et al 2004) showed that those employers who increased employment did so by increasing the share of non-regular workers. Shrouti and Nandkumar (1995) have documented a variety of managerial strategies (mentioned above) that employers have adopted to get around the labour institutions (laws or trade unions). Further, the share of contract workers in total workers in the organized manufacturing industry in India has increased from 14.6 per cent in 1995-96 to 26.4 per cent in 2004-05 (Goldar 2009) and its share is high in some states like Andhra Pradesh (62 per cent), Gujarat (32 per cent), Uttar Pradesh (25 per cent) (Pages & Roy 2006). The objectives of these are not only to achieve labour flexibility and reduction in labour cost but also to gain control over production process and weaken collective labour institutions. These strategies have

provoked not only controversies but also bloody industrial conflicts.

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New Trends in Collective Bargaining

Collective bargaining coverage in India is as low as 3 per cent (Venkata Ratnam 2003). However, this low figure masks some interesting ground realities. Collective bargaining has been one of the important methods of rule making in IRS in many industries in India. Some major observations regarding the developments in collective bargaining can be made here. One, there have been strong decentralizing tendencies in private sector where the enterprise level bargaining has become the dominant level of bargaining even in industries like cotton, silk, plantations in regions like Coimbatore, Mumbai, where industry-wide bargaining has been the historical practice. Two, the character of collective bargaining in the public sector has changed: the government prefers a long term settlement (ten years); it has sought to link pay with performance of both workers and the public enterprise; it has withdrawn budgetary support for expenditure arising out of collective agreements and so on (Shyam Sundar 2010 c). Three, the dominant managerial objectives in collective bargaining in recent years owing to heightened competition have been to reduce labour

costs, increase production or productivity, flexibility in work organization (multi-skilling /multi- functioning, changes in worker grades etc.), increase in work time, reduction in regular staff strength via VRS, stress on quality and so on (Krishna Murthy 2006, Venkata Ratnam 2003). Four, trade unions have shown cooperation where necessary (crisis situations caused by external factors and not by mismanagement) and when it is sought from them by the management. Several agreements now talk of introducing new work measurement systems, changes in work practices, giving production incentives, having flexi working, etc. There are several instances where the trade unions have understood the financial position of the company and have offered their cooperation in various ways. Five, trade unions have been able to mobilize marginalized sections of the workforce like contract workers and negotiate significant benefits for them like employment security, regular collective contracts and so on (Shyam Sundar 2009 a, 2010 a).

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Rise in Labour-Management Conflicts

The economic reforms were expected to tone down industrial conflicts owing to the shift in relative bargaining power in favour of capital which has

many weapons to employ and thus may use industrial conflicts as a last resort (Shyam Sundar 2009 c). However, the tensions arising out of the measures, policies and strategies of the employers and the government have resulted in increase in the incidence of labour management conflicts (table1). While the number of work stoppages have decreased, workers' participation in and volume lost due to work stoppages have risen since the late 1990s.

Table 1: Indicators of Work Stoppages in India, 1991-2005

Period	WS/N	WI/N	WDL/N
1991-93	6.07	43.82	963.21
1994-96	4.14	33.50	694.25
1997-99	3.94	42.37	778.72
2000-02	2.44	38.40	953.72
2003-05	1.86	85.13	1048.64

Note: Work stoppages include both strikes and lockouts

WS/N- Number of work stoppages per lakh employees in the organized sector

WI/N- Number of workers involved per thousand employees

WDL/N- Number of work days lost due to work stoppages per thousand employees

Source: Indian Labour Statistics, Indian Labour Year Book, (various issues) Labour Bureau, Shimla.

Two features of workers' protests need mention here. One, worker mobilization in strikes (measured by WI/N and the average size of strike) has increased impressively during the post-reform period - the average size of strikes rose from 722 in 1991-93 to 4497 in 2003-06

(Shyam Sundar 2010 b). The rather frequent incidence of All-India strikes (more than a dozen since mid-1990s), increasing work stoppage incidence in public sector, lockouts by larger establishments and the 'agitational connect' that the issues that emanated from reforms and restructuring processes are some of the reasons that could explain the rise in mobilization of workers in the work stoppages.

Two, some significant workers' protests have revolved around issues like union existence and recognition that were thought to have been settled long ago. They have re-appeared on the radar of employment relations as employers are emboldened in the new economic regime to snuff out unionism. The organizational efforts of workers in Honda Motorcycles in Haryana in 2005 and the bloody struggles that followed are well known (Saini 2005). In 2008, the Hyundai Motor India Limited (HMIL) refused to recognize the free and independent union, viz. the HMIEU, victimized the union leaders and sought to reach a collective agreement with the workers' council (management nominated body); these provoked workers' protests during the year. Similarly, the Madras Rubber Factory preferred a "company union" to a free and independent union formed by majority of the workers in its plant in Arokkonam in Tamil Nadu and conflict in the form of strikes, lockout, and litigation ensued (Shyam Sundar 2010 c). The flexibility and control strategies of the management even resulted in the murder of managerial personnel in the Italian Graziono Trasmissioni India Private Limited in New Delhi (<http://www.timeson>

line.co.uk/tol/news/world/asia/article4810644.ece, accessed 10 October 2009) and Pricol Limited in Coimbatore in Tamil Nadu (http://www.dnaindia.com/india/report_12-arrested-for-murder-of-pricol-v-p-near-coimbatore_1292572, accessed 10 October 2009). Thus, the conflicts have been bloody and are probably owing to over drive of managerial and state aggression.

The conflicts have been bloody and are probably owing to over drive of managerial and state aggression.

Employers have also been aggressive in initiating lockouts in the post-reform period (table 2), though it is a continuation of their earlier managerial policies.

Table 2: Share of Lockouts in Totals of Work Stoppages, Workers Involved and Work Days Lost, 1991-2005

Period	% Share in Totals of All Work Stoppages		
	Count	WI	WDL
Memo: 1985-90	22.3	15.3	58.4
1991-93	34.86	34.84	57.46
1994-96	32.92	30.91	64.97
1997-99	39.98	29.14	60.09
2000-02	46.00	23.62	65.64
2003-06	49.82	14.67	76.80

A Few More Words

The globalisation and the new economic forces have wrought in significant changes in the labour market and IRS.

The ‘actors’ of the IRS have responded to them in varying ways. The agencies of labour and capital looked to the state for concrete action favouring their respective interests and have exerted pressure on it to introduce wide ranging labour reforms. The state responded in ways that would protect its dominant political interests and adopted strategies that sought to placate capital without hurting the fundamental interests of labour like employment security. However, the government did not lose sight of its economic goal of attracting investments and intervened or refused to intervene in labour relations suiting the interests of capital. It also redirected its attention to the hitherto neglected masses of unorganized sector workers. Thus, the state’s role is ‘complex’ and cannot be fitted neatly as favouring either capital or labour. However, the conducive environment encouraged the employers to devise both ‘hard’ (lockouts, closures, anti-union measures, etc.) and ‘soft’ (idleness pay, VRS) ways to achieve flexibility and weaken union power. Most trade unions on some occasions banded together and fought united battles in the policy arena and resisted changes at the national level. At the micro level, they responded to the market logic and extended cooperation to employers when consulted on issues of labour flexibility, wage restructuring, work load and so on and fought tenacious battles when not consulted and sought to be sidelined. They started paying more attention to the hitherto neglected workers in the informal sector and to create a “more inclusive” union movement.

The conducive environment encouraged the employers to devise both 'hard' (lockouts, closures, anti-union measures, etc.) and 'soft' (idleness pay, VRS) ways to achieve flexibility and weaken union power.

The conflicts between divergent interests of the 'actors' seem to have resulted in a peculiar constellation of dynamic forces in India and thus we have a mosaic of varieties of responses soft labour reforms, passive state in one context and active in another, new managerial strategies, new forms of labour organizations, empowerment of non-regular workers and so on. While the formal or legal framework of the IRS and the labour market has remained virtually the same, some significant changes have taken place, which seek to redefine the parameters of the framework.

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