

LAW AND SOCIAL JUSTICE

CONTENTS

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|------------------------------|---------------------------------------|
| ◆ Introduction | ◆ What is a Worker's Worth |
| ◆ Enforcement of Safety Laws | ◆ New Laws to Protect the Environment |
| ◆ Conclusion | |

▶ INTRODUCTION

1. Markets everywhere tend to be exploitative of people – whether as workers, consumers or producers. To protect people from such exploitation, the government makes certain laws. These laws try to ensure that the unfair practices are kept at a minimum in the markets.
2. Let us take a common market situation where the law is very important. This is the issue of workers' wages. Private companies, contractors, businesspersons normally want to make as much profit as they can. In the drive for profits, they might deny workers their rights and not pay them wages, for example. In the eyes of the law it is illegal or wrong to deny workers their wages. Similarly to ensure that workers are not underpaid, or are paid fairly, there is a law on minimum wages. A worker has to be paid not less than the minimum wage by the employer. The minimum wages are revised upwards every few years.
3. As with the law on minimum wages, which is meant to protect workers, there are also laws that protect the interests of producers and consumers in the market. These help ensure that the relations between these three parties – the worker, consumer and producer - are governed in a manner that is not exploitative.
4. But merely making laws is not enough. The government has to ensure that these laws are implemented. This means that the law must be enforced. Enforcement becomes even more important when the law seeks to protect the weak from the strong. For instance, to ensure that every worker gets fair wages, the government has to regularly inspect work sites and punish those who violate the law.
5. When workers are poor or powerless, the fear of losing future earnings or facing reprisals often forces them to accept low wages. Employers know this well and use their power to pay workers less than the fair wage. In such cases, it is crucial that laws are enforced.
6. Through making, enforcing and upholding these laws, the government can control the activities of individuals or private companies so as to ensure social justice.
7. Many of these laws have their basis in the Fundamental Rights guaranteed by the Indian Constitution. For instance, the Right against Exploitation says that no one can be forced to work for low wages or under bondage. Similarly, the Constitution lays down “no child below the age of 14 shall be employed to work in any factory or mines or any other hazardous employment.”

➤ WHAT IS A WORKER'S WORTH ?

1. One reason why foreign companies come to India is for cheap labour. Wages that the companies pay to workers, say in the U.S.A., are far higher than what they have to pay to workers in poorer countries like India. For lower pay, companies can get longer hours of work. Additional expenses such as for housing facilities for workers are also fewer. Thus, companies can save costs and earn higher profits.
2. Cost cutting can also be done by other more dangerous means. Lower working conditions including lower safety measures are used as ways of cutting costs.
3. Why are there such sharp differences in safety standards across countries? And even after the disaster happened, why was the compensation to the victims so low?
4. One part of the answer lies in what is perceived as the worth of an Indian worker. One worker can easily replace another. Since there is so much unemployment, there are many workers who are willing to work in unsafe conditions in return for a wage. Making use of the workers' vulnerability, employers ignore safety in workplaces. Thus, even so many years after the Bhopal gas tragedy, there are regular reports of accidents in construction sites, mines or factories due to the callous attitude of the employers.

➤ ENFORCEMENT OF SAFETY LAWS

1. As the lawmaker and enforcer, the government is supposed to ensure that safety laws are implemented. It is also the duty of the government to ensure that the Right to Life guaranteed under Article 21 of the Constitution is not violated.
Why are there such blatant violation of safety standards in the MNC plant ?
2. First, the safety laws are lax in India.
3. Second, even these weak safety laws were not enforced.
4. In the case of Bhopal Gas tragedy , Government officials refused to recognise the plant as hazardous and allowed it to come up in a populated locality.
5. It was unthinkable, according to them, to ask Union Carbide to shift to cleaner technology or safer procedures. Government inspectors continued to approve the procedures in the plant, even when repeated incidents of leaks from the plant made it obvious to everybody that things were seriously wrong.
6. This is contrary to what the role of a lawmaking and enforcement agency should be. Instead of protecting the interests of the people, their safety was being disregarded both by the government and by private companies.
7. This is obviously not at all desirable. With more industries being set up both by local and foreign businesses in India, there is a great need for stronger laws protecting workers' rights and better enforcement of these laws.

➤ NEW LAWS TO PROTECT THE ENVIRONMENT

1. In 1984, there were very few laws protecting the environment in India, and there was hardly any enforcement of these laws. The environment was treated as a 'free' entity and any industry could pollute the air and water without any restrictions. Whether it was our rivers, air, groundwater - the environment was being polluted and the health of people disregarded.
2. Thus, not only was UC a beneficiary of lower safety standards, it didn't have to spend any money to clean up the pollution. In the U.S.A., this is a necessary part of the production process.
3. The Bhopal disaster brought the issue of environment to the forefront. Several thousands of persons who were not associated with the factory in any way were greatly affected because of the poisonous gases leaked from the plant. This made people realise that the existing laws, though weak, only covered the individual worker and not persons who might be injured due to industrial accidents.
4. In response to this pressure from environmental activists and others, in the years following the Bhopal gas tragedy, the Indian government introduced new laws on the environment. Henceforth, the polluter was to be held accountable for the damage done to environment. The environment is something that people over generations will share, and it could not be destroyed merely for industrial development.
5. The courts also gave a number of judgments upholding the right to a healthy environment as intrinsic to the Fundamental Right to Life. In *Subhash Kumar vs. State of Bihar (1991)*, the Supreme Court held that the Right to Life is a Fundamental Right under Article 21 of the Constitution and it includes the right to the enjoyment of pollution-free water and air for full enjoyment of life. The government is responsible for setting up laws and procedures that can check pollution, clean rivers and introduce heavy fines for those who pollute.

➤ CONCLUSION

1. Laws are necessary in many situations, whether this be the market, office or factory so as to protect people from unfair practices. Private companies, contractors, business persons, in order to make higher profits, resort to unfair practices such as paying workers low wages, employing children for work, ignoring the conditions of work, ignoring the damage to the environment (and hence to the people in the neighbourhood) etc.
2. A major role of the government, therefore, is to control the activities of private companies by making, enforcing and upholding laws so as to prevent unfair practices and ensure social justice. This means that the government has to make 'appropriate laws' and also has to enforce the laws. Laws that are weak and poorly enforced can cause serious harm, as the Bhopal gas tragedy showed.
3. While the government has a leading role in this respect, people can exert pressure so that both private companies and the government act in the interests of society. Environment, as we saw, is one example where people have pushed a public cause and the courts have upheld the right to healthy environment as intrinsic to the Right to Life.
4. People now must demand that this facility of healthy environment be extended to all. Likewise, workers' rights (right to work, right to a fair wage and decent work conditions) is an area where the situation is still very unfair. People must demand stronger laws protecting workers' interests so that the Right to Life is achieved for all.

GLOSSARY

- Consumer:** An individual who buys goods for personal use and not for resale.
- Producer:** A person or organisation that produces goods for sale in the market. At times, the producer keeps a part of the produce for his own use, like a farmer.
- Investment:** Money spent to purchase new machinery or buildings or training so as to be able to increase/modernise production in the future.
- Workers' unions :** An association of workers. Workers' unions are common in factories and offices, but might be also found among other types of workers, say domestic workers' unions. The leaders of the union bargain and negotiate with the employer on behalf of its members. The issues include wages, work rules, rules governing hiring, firing and promotion of workers, benefits and workplace safety.