Labour Legislation and Social Justice: Rhetoric and Reality

Article *in* Economic and Political Weekly · January 1999

CITATIONS
15

READS
363

1 author:

Debi S. Saini
Formerly Professor of HRM Management Development Institute
297 PUBLICATIONS **1,414** CITATIONS

SEE PROFILE

Labour Legislation and Social Justice

Rhetoric and Reality

Debi S Saini

This paper attempts to articulate and understand the working of the labour relations law framework related to labour organisation and labour dispute processing as it stands structured in the Indian political economy: what does the working of the legal system actually reveal; what institutional processes and what forces exacerbate neutralisation of labour empowerment; who eventually benefits in the exercise; and what concrete manifestations of labour disempowerment processes are visible. The paper is an exercise in sociology of labour law. It is based on data related to sociological reconstruction of some labour organisation cases taken from the actual field setting.

I
Introduction

PROVISION of opportunity to work for its people and providing for dispensation of labour justice to them are important aspects of social justice responsibility of any state. In third world countries – and especially in a country like India – these aspects get added significance where a large percentage of people live below the poverty line[1] and suffer from problems of unemployment and underemployment and commission of unfair labour practices (ULPs) by employers against them. A mere 8.3 per cent of the Indian labour force is organised, the majority of which mainly belongs to the public sector. It is estimated that not more than 2 to 3 per cent of the labour force in India has access to assertion of labour rights through collective bargaining process. Working people in all societies – and more so in developing societies such as India – are highly vulnerable to exploitation at the hands of the inherently more powerful employers. As Otto Kahn-Freund rightly puts it:

> Typically the worker as individual has to accept the condition which the employer offers. On the labour side, power is collective power ...the relation between an employer and an isolated employee or worker is typically a relation between a bearer of power and one who is not a bearer of power. In its inception it is an act of submission, in its operation it is a condition of subordination, however much concealed by that indispensable figment of the legal mind known as the contract of employment [Kahn-Freund 1977, 17].

The individual contract of employment cannot challenge the unilateral rationality of managerial prerogatives. This gives rise to the need to allow labour to unite, form collectives, and thus struggle to alleviate its poverty on its own. Unionisation and collective bargaining lie at the root of most labour relations issues. Interestingly, Article 23 of the Universal Declaration of Human Rights adopted by the United Nations as a common standard of achievement for all people in all nations recognises the legitimacy of union rights. It provides, among others, for everyone "the right to form and to join trade unions, for the protection of his interests".

Democratic states consider the organisation of labour struggle as an important human right and a basic condition to building an enlightened society. In regard to uplifting the conditions of the poorer sections of society, the Indian Constitution commands law in the model not of "politics of production" but of "production of politics" [Burawoy 1985] and a programme of action for empowering these sections, including labour. Ironically, however, studies of social justice and "poverty studies" are still a "nascent enterprise" in India [Baxi 1988: x]. The Indian labour law system projects the rhetoric that these laws will work as important instrument for empowering the powerless and the downtrodden so as to realise the cherished goals of the Constitution. All branches of the state are enjoined to facilitate the realisation of these goals. A large number of labour laws were enacted in independent India to operationalise the constitutional vision, and the labour bureaucracy was entrusted the role of ensuring compliance of these laws. In the developed world, especially the UK, voluntarist labour law frameworks have been nurtured, particularly till the beginning of Thatcherism. The Indian system, however, reflects a centrifugal labour-justice model. The state has also reserved for itself tremendous discretionary powers in certain aspects of labour-justice dispensation, especially in the area of labour relations law. The Indian judiciary has, undoubtedly, played a salutary role in progressive articulation and interpretation of the scope of these laws.

In any discussion on labour relations law as a tool for poverty alleviation, it is important to ask how far this law has actually worked towards realisation of its projected goals of uplifting the powerless in securing for themselves labour and social justice. Ironically, most labour law research in India is doctrinal; hardly any empirical accounts of labour law in action are available. Even law and society research in general has not made any advances [Baxi 1988; Dhavan 1989]. Also, most labour law scholars have used hortatory and instrumentalist arguments, often failing to distinguish between symptoms and causal roots. In order to make law an effective tool of poverty alleviation, it is necessary that lawyers study law in conjunction with social sciences. Justice Brandies has gone to the extent of saying that a lawyer who has not studied economics and sociology is very apt to become a public enemy [Clark and Wedderburn 1983:30]. The working of the legal system is often presumed by law scholars, without demonstrating it. We need to understand the dynamics of the concrete processes through which conspiracies are engineered by vested interest groups to allow labour to remain impoverished. This necessitates a socio-legal explanation of legal concepts, institutions and mechanisms. Very few studies in India have focused on labour law sociology [Saini 1999; Ramaswamy 1984]. No understanding of legal working is possible "without a consideration of where power lies" [Kjonstad and Wilson 1997: iii] and without appreciating that implementation of law is a process in which dominant political values are subtly imbibed. Sociologists of law have emphasised that most disputes in societies and organisations "arise out of power differential" [Edelman et al 1993]. It is intriguing to note that often the societal interests which ask for passage of certain social and labour laws collude to neutralise the realisation of these very goals [Saini 1995a]. Baxi (1995 and 1994) charges the Indian state of being a saboteur of labour laws. Technically though, the unorganised labour can use the protective framework, but the

legal system so works that it does not command enough political power to do so. It is not suggested that effective legal action has no limits; but the important question is, can these limits be moderated to enhance the political power of labour – especially unorganised and semi-organised.

This paper attempts to understand the working of labour relations law framework related to labour organisation and labour dispute processing as it stands structured in the Indian political economy. It answers questions, among others: what does the working of the labour relations law actually reveal; what institutional processes and what forces exacerbate the neutralisation of labour empowerment; what role does the state and its agencies play in securing or denial of labour justice; who eventually benefits in the exercise; what concrete manifestations of labour-disempowerment processes are visible. It suggests, how the labour disempowerment process can be stopped to operationalise the constitutional projections. Many answers to these questions are based on findings in a larger research [Saini 1999], which involved reconstruction of 33 collective labour disputes (listed in Table 1)[2] belonging to private sector. Of these four cases were live conciliation cases (Nos 30 to 33) in which the author had participated. Most of these related to smaller- and medium-sized establishments where workers were organised or semi-organised. This research represents the first comprehensive analysis of the working of the Indian labour adjudication model.

II
Legal Framework of Social Justice

The Constitution of India – the super-ordinate law of the land – guides all legislative, executive and judicial actions in the country. In its preamble, the Constitution seeks to secure to the people, among others, "justice, social, economic and political... and liberty of thought, expression..." Article 19 (1) (c) of this *grund norm* guarantees to all citizens a fundamental freedom "to form associations and unions". Part IV of the Constitution is titled 'Directive Principles of State Policy', which are directions to the state to operationalise a scheme of social justice and upliftment of the downtrodden guided by the basic postulates of welfare state.

Article 38 (1) directs the state to strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political, shall inform all institutions of the national life. Article 39 ordains that "the state shall, in particular, direct its policy towards securing – (a) that citizens... have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as to subserve the common good...; (d) that there is equal pay for equal work... ." This chapter of the Constitution also obliges the state to provide for: right to work (Article 41); just and humane conditions of work and for maternity relief (Article 42); a living wage, and conditions of work ensuring a decent standard of life (Article 43); and participation (through legislation or otherwise) of workers in the management of industrial organisations and establishments (Article 43A). The directive principles are considered so important that they have been described as the "soul of the Constitution" [Dhavan 1989:xxii].

Premised in the framework of the directive principles, the four main branches of labour laws in the country provide a large number of central (federal) labour statutes. These laws can be classified into: labour relations; wages; social security; and conditions of work. Labour being a subject in the concurrent list of the Indian Constitution, the 25 states and seven union territories of India have in some cases enacted their own labour laws over and above the central laws to suit local situations and power realities. Central and state labour enactments in the country add up to more than 200. In fact, India is being viewed as a society where labour is over-protected through law. Despite that, the cases of labour law violation are many; so much so that often when one sees the working conditions of the unorganised labourers, it appears as if no labour law exists for them [Saini 1998; 1999: Patel and Desai 1995].

The most crucial aspect of labour laws in any country is the labour relations law. This branch of law enables labour to organise and struggle to secure social justice by striving for a just sharing of organisational gains. In this regard, the Trade Unions Act 1926 (TUA) and the Industrial Disputes Act 1947 (IDA) are the key labour relations laws in India enacted by the central legislature. These are over and above the guarantee provided by Article 19 (1) (c) of the Constitution, which envisages provision of union rights in general. The TUA is an important legal document, which provides for union formation in industries. Its provisions relate to conferring corporate status on unions, registration of unions, and their rights and obligations. Strangely, however, provision for union recognition was made in the TUA by way of amendment in 1947, but this has not been enforced till date. Today, recognition can be gained by a union only through show of its strength.

The IDA, like the TUA, applies to the whole country. It provides a model of conciliation, arbitration and adjudication of both rights (individual as well as collective) and interest disputes. This is a colonial law, which was enacted in April 1947. The IDA envisages compulsory adjudication of industrial disputes when parties fail to agree and the government so decides. The genesis of compulsory adjudication in India lies in Rule 81-A of the Defence of India Rules (DIR), which were promulgated by the British Indian government during the second world war in 1942. Through this rule, the government provided for maintaining industrial peace by restricting strikes and lockouts and through compulsory adjudication of industrial disputes. Even though compulsory adjudication was initially intended to be only a war measure, the government, however, formalised it in a more comprehensive form later, by enacting the IDA. Leaders like V V Giri (later president of India) wanted the IDA to be replaced by a law that would promote bipartism and strengthen unions. The ruling Congress Party, however, found the IDA a useful instrument of containing or suppressing conflict. The IDA has now worked for more than half a century and has promoted state paternalism leaving unions weak and susceptible to bureaucratic inertia and manipulations.

The IDA envisages a dispute prevention and resolution machinery, which mainly consists of joint committees of labour and management (works committee); conciliation officers who are government officers (without any autonomy from the government framework); and labour courts and tribunals, which are adjudicatory bodies. Unlike most labour courts and labour tribunals in western countries which are manned by many persons,[3] adjudicatory bodies under the IDA are manned by one judicial person only. These bodies are not bound by the civil procedure law and the evidence law in their process of investigation and settlement of industrial disputes. Nor are they bound to wear any formal dress like judges in normal courts are. In reality, however, they follow court-like procedures, thus indulging in adversarial and not inquisitorial investigation and settlement of industrial disputes [Saini 1994]. Labour courts mainly adjudicate rights questions like dismissal whereas tribunals adjudicate mainly interest questions such as wages and allowances.

The disputant parties cannot activate jurisdiction of the adjudicatory bodies at will; the appropriate government – central (federal) and state governments in their respective jurisdictions – has the discretion of referring or not referring industrial disputes to these bodies. They cannot resort to strikes/lockouts when a dispute is pending before an adjudicatory body or during the period in which awards of these bodies are in operation. In fact, there are hardly situations when parties have the freedom to strike/lockout. It is rightly commented that the law of industrial disputes in India is so framed that a legal strike is nearly impossible [Ramaswamy 1984], especially if the state so desires. The government in its discretion also has the power to prohibit strikes/lockouts that are in existence when disputes related to these have been referred for adjudication. The enforcement of the awards of the adjudicatory bodies as well as settlements, if not implemented by the party concerned, is the duty of the labour department created by the central as well as state governments in their respective jurisdictions.

The IDA prohibits the representation of parties at conciliation through practising lawyers; however, lawyers are allowed to appear before the adjudicatory bodies with the consent of the parties and the leave of the labour court/tribunal. In actuality, a large number of labour lawyers, union leaders and management consultants represent parties before adjudicatory forums. This culture has promoted "legalism, consultationism, and government unions" [Bhattacherjee 1988: 212]. Due to widespread presence of the IDA in the dispute process, a large number of trade union leaders are running consultancy services for workers by representing them before these bodies; in actuality, they have become brief-case union leaders [Saini 1995b], and hardly involve themselves in the labour organisation process.

In case a settlement of the dispute is arrived at during the course of conciliation proceedings, the conciliation officer (CO) is obliged to register it if he considers it 'fair' and 'amicable' under section 12 (3) of the IDA. Such settlements are popularly known as 12 (3) settlements. These settlements have wide-ranging application and even bind those employees who are not parties to them – and also those who join the organisation later, during the period such settlement is in force. But a voluntary settlement under section 18 (1) of the IDA binds only the signatories to such a settlement. Hence both parties desire to go in for conciliated settlements – management for their undisputed applicability, and workers thinking that 12 (3) settlements are more proper and legal. If conciliation exercise results in failure, the CO writes a failure report, and sends it to the appropriate government, in which he states his own assessment of the dispute. The CO is also supposed to write a confidential report suggesting whether in his opinion the demands of workers or part of them should be referred for adjudication. The government often bases its reference[4] decision on the recommendation of the CO, though it is not bound to do so. Thus, the conciliation system is intimately intertwined with the adjudication system.

The powers of the COs appear small as they cannot impose their own views on the disputant parties. But the working of the IDA shows that these powers have been abundantly misused for corrupt or ulterior motives, many times guided by personal pecuniary interest of the CO or at the instance of the political executives under whose overall direction they work [Saini 1999]. The COs also act as labour officers with duties to enforce awards and settlements under the IDA and the employers' obligations under other labour laws. This, of course, happens in other non-western situations as well [Hanami 1980]. Even though COs can intervene in any dispute only if they desire to do so; but in actual practice, they routinely conciliate in all individual and collective (rights as well as interest) disputes. The IDA provides that the parties are free to choose voluntary arbitration of their industrial dispute – both rights and interests – but they can do so before the dispute is referred by the government for adjudication. Collective bargaining as well as arbitration of industrial disputes take place in the dense shadows of the adjudication system. The IDA provides certain protection for union members against dismissal and change in their service conditions during the pendency of disputes before any of the authorities, but this protection is grossly violated by employers. The 1982 amendment to the IDA imposed time limits within which adjudicatory bodies must make their decisions. While referring a dispute for adjudication the government specifies the period during which a dispute is to be decided by an adjudicatory body; in case of individual dispute this period shall not exceed three months. These provisions have loopholes which lead to delay. In actuality, adjudication of collective demand cases have taken on an average 37 to 49 months, which causes tremendous disappointment to workers [Saini 1992; Upadhyay 1995].

III
Conciliators, Bureaucracy and Disempowerment

As we noted, conciliation and adjudication are the two key sub-systems provided in Indian labour relations law. These are deeply intertwined. The former is the invisible stage of the latter, because the government's decision on which labour cases are to be referred for adjudication has its genesis usually in the outcome of the conciliation proceedings. Saini's (1999) study, however, locates alternative structures operating at the covert level, which explain the actual working of the conciliation system. The key assumption in a conciliation process is that a conciliator is a neutral third party to ensure 'fair' and 'amicable' settlement. However, Saini (ibid) finds that this power is variously exercised: merely symbolically (Case No 30, FIL); or fraudulently (Case No 32, KGK and Case No 22, HPL); or even involving tyranny on labour (Case No 33, PSL). All these cases involved weak unions, some wanting to remain in power with collusion with the employer and others wanting to represent the genuine voice of the hapless, semi-organised worker. Those in the former category mostly had the patronage of the ruling political party. In KGK (32), the case involved two unions, the recognised one having tacit understanding with the management. The rival union's support rose to 90 per cent of the workforce. It sought recognition by asking for negotiation of its demand charter. But the CO used his 12(3) power to see that the settlement was signed with the minority union. The CO neither investigated the dispute nor ensured the 'fairness' of the settlement. His decision allowed the corrupt union to continue with support of barely 10 per cent workers. The daring and the cavalier way in which the CO signed the 12(3) settlement with the knowledge of his entire staff demonstrates the impunity and frequency with which such frauds can be practised. The CO did administrative manoeuvring to project a facade of legal form. The majority union could have challenged the settlement in the high court, but they did not do so due to several factors including: the union's vulnerability, police and bureaucratic repression, and workers' acceptance of the outcome of the case as their nemesis. The CO had been bribed and was favouring an illegitimate workgroup. But more important than that was the fact that the recognised minority union was an ally of the political party in power. In the case of smaller- and medium-sized unions, COs are often found

favouring unions affiliated to ruling parties.

In PSL (33), the CO concerned was acting on behalf of the state chief minister. This case file corroborated horrendous tales of the repression of the union by the state. The employer used the weapon of the sack on 40 activist workers of the majority union, which had a mass support and had demanded recognition. The conciliation and labour administration power in this case were exercised tyrannically, which shifted the union agenda from recognition to protecting the dismissed workers. This happens in most situations of nascent labour struggle. This also happened in HPL (22), which led to disastrous consequences for labour movement in the whole region (i e, Faridabad Industrial Complex in Haryana). In this case the CO committed a KGK (32) type of fraud on a majority union which created a bloody situation, ultimately resulting in police firing, in which eight workers died. The workers of HPL (22) have not yet recovered from the trauma. They had seen a demonstration of repression by state power. Even though HPL employs 800 workers, it does not now have a union.

A strange kind of fraud was noticeable in SEW (28), where the CO showed a false 12(3) settlement in the records. He used this as a base for a recommendation in the CO's confidential report that "in view of the settlement which is in operation, the case may not be referred for adjudication, but be filed". Interestingly, in this case the activist-workers of this small establishment wanted to derive power through reference and not bargaining.

A reading of the confidential files also showed that the CO had recommended reference of cases on extraneous considerations in many cases. Since these recommendations are confidential, they have remained an untapped source to labour researchers. In fact, it is felt that it is impossible to gather hard evidence on the abuse of the adjudication system [Ramaswamy 1984: 166]. Nearly in a quarter of the 38 cases, COs admittedly rejected reference for corrupt motives (as admitted by managements).

It is noticeable that the conciliators have not done their duty well to ensure that parties enter into 'fair' settlements. Rather, they have allowed themselves to be used to disguise a corrupt alliance between vested interest groups. Labour, therefore, cannot hope for fairness in settlements from just the favourable attitudes of the COs. The alliance is too internalised to be disturbed. Whenever spontaneous protests emerge against injustice, the alliance works to silence them through the institutionalised channels covertly designed as a part of the IDA (peace) model, which instead of administering social justice helps the alliance carry out its vested interests. This also shows, as observed by Dhavan (1989), that over the years the Indian state has been directly or indirectly privatised for the use of some sectors of the political economy and to the exclusion – or partial exclusion – of the other sectors. It thus becomes doubtful whether a bureaucratic model like the IDA can change the future of Indian labouring masses.

As Dhavan has pointed out, bureaucracy has contributed to corrupting the institutions to a point where they could not deliver substantive justice in the Indian political economy. This has lead to the emergence of privatised interest groups in various parts of the political economy, which the economists describe as rent-seekers.

It is not just in developing countries but also in the advanced systems that bureaucratic models suffer from serious lack of potential as instruments of social justice dispensation. Bureaucratic systems are known to suffer from the following:

> Overdevotion of officials to precedent, remoteness from the rest of the community, inaccessibility, arrogance in dealing with the general public, ineffective organisation, waste of manpower, procrastination, an excessive sense of self-importance, indifference to the feelings of inconvenience of citizens, an obsession with the binding authority of departmental decision, inflexibility, abuse of power, and a reluctance to admit error [*Encyclopaedia Britannica* 1987:342].

Bureaucratic power in labour relations is used in several ways: ensuring enforcement of awards of tribunals and settlements; recommending reference; prohibition of strikes under section 10(3) of the IDA; use of police force in containing workers' protests against unfair exercise of this power. A review of the reference decisions reveals that in nearly 90 per cent of the cases the reference decisions favoured the unions affiliated to the ruling party federations [Saini 1999]. This is, of course, not to deny the merits of these cases. But the same did not happen in the case of labour wings of the opposition parties. Biased exercise of discretionary power was also noticeable in case of use of strike prohibition power under section 10(3) of the IDA. In six out of the 30 disputes that involved reference, the 10(3)-power was exercised. Strangely, in all the six cases, 10(3) was used where unions involved were union wings of the opposition parties. In many similar cases where ruling party unions were involved this power was not exercised, even though worse circumstances prevailed.

Some scholars have observed that state is pro-management in matters of determination of capacity to pay, but is pro-worker in matters relating to termination [Ramaswamy 1984]. Saini's (1999) study, however, shows that it is not really so. It is noticeable from Table 2 that in 18 cases out of these which involved termination, the workers concerned were not taken back; and this happened even in some of those cases where the workers concerned won at the Supreme Court level. In many cases, unions involved were allies of the party in power itself; but they could not secure reinstatement. For example, in HPL (22) police firing left eight of the nearly 5,000 workers, protesting against state repression, dead. The case eventually ended in a settlement after nearly one year of the firing incident. Under the settlement 355 striking workers were treated as terminated and only 80 strikers were taken back by the management on getting humiliating assurances from them that they would not strike again. After all, we all try to minimise our frustrating experiences [Ietswaart 1980-81]. That was why the striking workers signed that settlement, which in fact was entered into in the presence of the district administrator, the state labour commissioner, and the conciliation officer. Interestingly, the ruling party in the state at that time was Congress; and the union involved was also its ally. Still, they could not secure the help of the ruling party, and protect the interest of the labourers.

Thus, as Saini's (1999) study shows, state and management alliance is stronger than that between state and ruling party affiliated unions. This study showed that wherever a union tried to show its independent status, it had to undergo the wrath of the management. The state has endorsed disciplining process of managements with phenomenal lawless methods, both by remaining a mute witness and even by active abetment. It never enforced even the symbolic protection available to unions by way of prosecution of managements for unfair labour practices (ULPs). Not a single case of such prosecution was noticeable, whether or not unions involved were allies of the party in power.

Another important area for action by labour bureaucracy is in ensuring reinstatement of dismissed workers as per court directions. Most such cases in small and medium organisation are settled for money; despite awards in workers' favour, not even in 1 per cent of reinstatement awards is the worker concerned actually taken

back. In AMT(5), reinstatement not come even after the Supreme Court's judgment in the workers' favour. When asked the reason for it, Dharam Pal, a clerk in the state labour department, revealed that in such cases the labour inspector concerned becomes a consultant to the employer on how not to implement the award. It is noticeable that the labour bureaucracy plays a significant role in perpetration of ULPs by employers and in eventually smashing the unions. Those who indulge in unionism must know through the narration of these cases what it means to undertake union activities.

One may argue that those employers who have no political clout too suffer in the process. There is no controversy over the issue, and it is admitted that they do. Such employers too have to resort to questionable practices in the process of bringing peace through nefarious means including bribing, and are compelled to do so. But they have the softer option of colluding with the labour bureaucracy and/or the political executive. Small employers too lament the presence of corruption in the labour adjudication system. But eventually, it is they who benefit by preventing union sustenance. Ample evidence to this effect is available in regard to a large number of cases which are abandoned by workers at the tribunal level [Saini 1999].

IV
Juridification and Disempowerment

Since labour relations are continuing relations, the literature underscores a mutual desire on the part of parties concerned to sustain this relationship, which often is described as analogous to familial relations. Labour scholars often caution against giving a dominating role to law or lawyers in it. Such legalism restricts the rule-creating potential of the actors involved in the exercise. The IDA's restrictions on professional lawyers in representing the disputant parties at the conciliation and tribunal levels reflect this apprehension. Juridification implies a process by which legal intervention produces a tendency to distinguish between lawful and unlawful, and attempts to categorise all actions into these two possibilities [Clark and Wedderburn 1983:188; Saini 1991].

The working of the Indian labour relations model produces tangible manifestations of these very apprehensions coming true. Despite experiencing disappointment, workers and even managements believe in the inevitability of the IDA; and the possibility of developing alternative structures is ignored. Juridification conditions parties' behaviour when workplace issues are debated and negotiated. Employers may not disapprove of this happening as it proves to their advantage. It helps them prevent the powerless from uniting for struggle. And when they feel that labour is not prepared to become an immediate victim of it, which would be reflected in its greater alienation and thus inefficiency, juridification again helps the employers, as they indulge in bilateral bargaining under its shadows. With the sword of adjudication hanging over labour, prompting it to acquiesce settlement on management's terms, workers are prone to give in.

The large scale presence of consultationism through lawyers and briefcase union leaders in the Indian labour relations context further reinforces juridification. Saini's (1999) study reveals that 90 per cent disputes at the conciliation stage and 86 per cent at the tribunal stage involved representation of workers by outside leaders. And, 45 per cent of management representatives at the conciliation stage and 97 per cent at the tribunal stage were outside management consultants or practising labour lawyers. It is axiomatic that the working of the IDA model cannot be thought of without a tremendous incidence of lawyering; for, the propriety of parties' action is determined through adversarial procedures. Given the fact that "the ingenuity of lawyers is endless" [Wedderburn 1971: 8], it influences the attitudes of employers and unions produce towards labour law and law administering institutions, and eventually workplace labour relations. The system thus radiates impressions, through the professionals, that justice can be administered exclusively through state created formal bodies. This projection is not just on account of the fact that these bodies proclaim authoritative determination, but also because professionals' personal pecuniary interests are promoted by this approach, even as this leads to the marginalisation of labour power.

Lawyers are "traditional elites" [Abel 1973] and "repeat players" [Munger 1990:604], having own interests and stakes in dispute outcomes. They exert significant influence on shaping the transformation of disputes. In the labour relations context, their interests are often antithetical to those of the disputant parties, especially the weaker ones. It is simply for this reason that practising union leaders enter into alliances with employers and the state to serve their interest. Saini's (1999) disputes' reconstruction demonstrates ample evidence of their dubious role in the union smashing or weakening exercises of managements. This has led to union avoidance. These manipulations of professionals have become accepted business practices in the never-ending labour juridification process. The above study also reveals that in a small industrial town, the INTUC (Indian National Trade Union Congress) union federation, has 11 factions where each of these leaders is running labour law practice in the name of INTUC. Many of these leaders are not even on talking terms due to the exigencies of competitive business. One such leader remarked: "Our role as pleaders is so absorbing that there is no time for organisational work." The juridified atmosphere has its impact on the efficacy of the personnel managers too. Those personnel managers who do not have knowledge of law are believed to be unsuccessful. Interestingly, despite appointing legally qualified managers when a case goes for adjudication the management's tendency to engage a professional labour lawyer is still very strong, for the jugglery which lawyers can produce in courts is beyond the imagination of these legally qualified managers.

The weakening of unions by the juridification process is further reinforced when to it are added high incidence of unfair labour practices (ULPs) by the employers, and terminations by them for trade union activities, and the inability of the labour relations system to see them reinstated (Table 2). The processing of industrial conflict through legal channels has directed the labour power in India into thousands of individual cases and questions. Presently, 4,47,195 labour cases are pending before various labour courts and tribunals in the country,[5] most of which are individual termination cases, including those for participating in union activities. Feeling marginalised due to the union-disempowerment process, one of Saini's respondents (a union leader) remarked:

> It is difficult to fight management power. I think strike is bad. It destroys the worker. We do not believe in militancy. Even if we get less than what is just, we accept that without fighting violently for the just.

Instead of empowering unions, the peace model thus empowers the dominant employers to intimidate labour and keep them away from the political process of realising industrial justice. Nader, a legal anthropologist, referring to such a use of law, rightly remarks:

> In industrialised nation states, the wealthier members of a society override and superimpose their views on the poorer, less powerful sectors by means of the law. In the developing nations, law will play a

great part in this determination because the law is fashioned to legitimate the status quo.

The working of the labour relations law and the juridification produced by it reinforce such perspectives. Therefore, any discourse on the use of law to combat poverty and powerlessness has to begin from this starting point, otherwise it is likely to be hortatory and platitudinous.

V
Tribunals and Labour Marginalisation

When the IDA was enacted, it was expected to provide a forum for promoting peaceful labour relations and minimising industrial conflict. It was also thought that awards delivered by them would enable unions to derive countervailing power, which is more necessary in political disputes such as interest questions in labour relations.

It was expected of these quasi-judicial bodies to provide: greater accessibility to the weaker side; more informal atmosphere than that created by the civil court culture; the use of specialist's skills of the labour adjudicators; and expeditious dispute resolution by minimising delay. These objectives become more relevant especially in interest dispute resolution; they have been accepted even in the UK in relation to tribunal adjudication there, which mainly adjudicate rights questions [Olney 1997]. If the tribunal framework can promote these objectives, that would surely aid the powerless unions in securing a more equitable sharing of organisational gains. Ironically, however, even the British experience has been reported to be not-too-encouraging in this regard [Dickens et al 1985]. The Indian scenario is much worse, being close to total denial of any of these.

Accessibility of labour tribunals is surely perceived by the actors, but perhaps it is because of their narrow definition of this term. So as to be labelled as accessible, adjudicatory bodies must demonstrate and promote the following expectations: the knowledge that a forum exists where dispute processing could be sought; perception that there are reasonable chances of success by activating that forum; bearable costs in processing of the dispute in terms of time and money; closer geographical location of the forum; availability of competent representatives to plead the case of the party concerned; perception that the weaker party (mostly the workers) will not be victimised for espousing a dispute; and in the Indian context of the IDA, getting a successful reference of the dispute.

Since getting nominated to labour tribunals is low on the priority of judges, a large number of vacancies always remain in almost all the states in India, which reduces accessibility. As shown by Table 2, the system does not ensure union leaders espousing the disputes that they will not be victimised for doing so. It shows that in only three of the 21 cases the dismissal action was withdrawn by the management. Interestingly, in two of the 18 cases, the workers could not be reinstated even after the Supreme Court of India found their dismissal wrongful and gave its decision in the workers' favour. The employers concerned in these cases indulged in ULPs to see that the decrees of reinstatement remained unimplemented.

Accessibility is further impaired when the tribunal output results in a high incidence of disputes abandonment by the powerless workers. In Saini's (1999) study such cases were 40 per cent of the total. Even though the dispute statistics shows that peace has been recorded in these cases, it tells nothing about the circumstances which led to such a finale. In fact, these cases involved complete smashing of unions, and the tribunal put its seal of approval on their demise when nobody responded to the call of the tribunal to appear before it on the appointed date, and the tribunal gave a 'no-dispute' award. In this study, 35 per cent cases resulted in settlement leading to 'settlement awards' by the tribunal. A large number of such cases also tell the story of the vulnerability of the downtrodden in the labour relations process where labour submited itself to the wishes of the powerful after it felt humiliated by the commission of ULPs by the employers and the inability of the tribunal to protect it. Can we then say that the tribunals have demonstrated accessibility?

The IDA confers freedom on the tribunals to innovate their own procedures in dispute processing. It is provided that they are not guided by the civil procedure and the normal evidence law. Thus, they were expected to minimise the use of jargon and promote inquisitorial and not adversarial style of dispute investigation. They also do not have to wear a judge's dress which too promotes formalism. In order that tribunal proceedings become extended collective negotiations, tribunals need to promote relaxed hearings which

TABLE 1: LIST OF RECONSTRUCTED DISPUTES

Case	Abbreviated Name of the Dispute	Name of the Organisation**	No of Workers
1	HSL*	Highclass Sheets Ltd	1400
2	GRIL	Giant Rubber India Ltd	1600
3	ECL*	Essac Cotton Mills Ltd	700
4	AML	Aman Meters Ltd	210
5	AMT*	Ardit Machine Tools	150
6	JSF*	Jazz Steel Fastners Pvt Ltd	150
7	TCC	Technique Consultation	140
8	PML	Print Machines Ltd	45
9	APL*	Avis Production Pvt Ltd	52
10	ASL*	Ashok Synthetics Pvt Ltd	420
11	BIL	Bask India Ltd	1250
12	BCM	Bhushan Carbon Mfg. Co Ltd	530
13	HVG*	Himalaya Vikas Glass Pvt.Ltd	695
14	EL*	Equipments Ltd	450
15	PHL	Partap House Ltd	155
16	UMM	Union Machinery Mills Ltd	75
17	SEC	Swastik Engineering Co Ltd	220
18	RVL*	Robin Vikas Ltd	125
19	OEW*	Om Engineering Works	110
20	SKW*	Swan Knitting Works	250
21	UAL	Uma Automobile Ltd	70
22	HPL*	Hammer Private Ltd	800
23	UCB*	Unique Conveyer Belts	140
24	ARL	Asish Rubber Ltd	80
25	CEW*	Cast Engineering Works	45
26	OS*	Oshima Steel	350
27	FRF*	Frontal Rubber Factory Pvt Ltd	90
28	SEW*	Sidhu Engineering Works	45
29	FAP*	Ferguson and Allied Products	30
30	SL*	Sahnis Ltd	110
31	FIL	Fenning India Ltd	480
32	KGK*	Kanwar G Khemka Ltd	950
33	PSL*	Parikshit Steels Mills Ltd	700

Notes: * Cases in which services of union leaders were terminated in relation to the labour dispute.
** The real names of the employers have been changed and pseudonyms are being used, to conceal their identity, as promised.
Source: Saini (1999).

must also be so perceived by the disputants. Surely, compared to civil courts they have promoted informalism; but because of their training as judges, they are more or less following the civil procedures and the evidence law. This is exacerbated by the fact that all tribunals suffer from work overload. More importantly, however, interest dispute processing is a matter of political decision-making; formalism becomes a hindrance in this process. Though the IDA provided that the tribunals could make use of two experts for comprehending a dispute, evidently to promote expert investigation and minimise legalistic interpretations, such expert assessors have rarely been sought or appointed.

From the workers' point of view, especially the downtrodden and powerless, probably the most important expectation from the tribunal is expeditious handling of disputes without delay. As noted earlier, the period of delay is so high as to virtually deny the benefit of tribunal adjudication. Delay is caused by the juridifying atmosphere in the ambience of which the tribunal functions. Despite fleeting manifestations of governments' concern, no one has taken concrete steps to restructure this labour relations model. This indifference is becoming more prominent in the new era of globalisation, which has relegated social justice agenda to the background. Baxi (1988, 1994) looks at this problem as a wider crisis in the Indian legal system. He charges that justice dispensation is a low national priority on the state agenda. Consequently, it has led to situations where the labour adjudication system is used by the powerful actors to see that their adversaries watch their doom in conciliation proceedings and adjudication procedures. Surely, the delay question impoverishes labour struggle. Union leaders who become victims of the management's power of sack cannot wait for years together for justice, that too to see that the tribunal confirms the dismissal order on a technical interpretation or delivers an award which the labour bureaucracy cannot implement.

TABLE 2: CASES INVOLVING TERMINATION OF WORKERS DUE TO PURSUIT OF UNION ACTIVITIES

Name and Case No	No of Workers Dismissed/ Suspended	Whether Union is Ally of Party in Power	Reasons for Termination (Real)	Whether Taken Back	Remarks
HSL(I)	2 union activists dismissed	Yes	Violence during strike	No	Lost at tribunal
HCL (3)	6 union activists dismissed	Yes	Inciting strike	No	In a settlement were treated retrenched without getting any notice pay
AMT (5)	47 union activists dismissed	Yes	Inciting strike	No	In a settlement treated retrenched without notice pay
JSF (6)	8 union activists dismissed	Yes	Without enquiry – for espousing the dispute	No	Were paid money to leave the concern
APL (9)	1worker and 2 union activists dismissed	No	Union activities – under the false pretext of closing a section where they worked	No	One settled and left.Two fought up to the Supreme Court and won. But were made to resign after receiving compensation.
ASL (10)	8 union activists dismissed	Yes	Union activities, on frivolous charges of beating a worker one km outside the factory	No	Managing director initially assured to take them back, but later on backed out. Case referred for tribunal adjudication. Was lost due to no proof of proper espousal.
HVG (13)	6 union office-bearers suspended	No	Inciting go-slow	Yes	Taken back as per a settlement.
EL (14)	2 union office-bearers suspended	Yes	Espousing demands	No	Referred to tribunal. They settled and left.
RVL (18)	3 union office-bearers suspended	No	Inciting workers to participate in bandh against IR Bill, 1978	No	Two settled and left. One went up to tribunal and lost there.
OEW (19)	5 union activists suspended after reference, later dismissed	No	Espousing dispute	No	Settled their account and made to leave.
SKW(20)	17 union activists suspended	No	Inciting strike	Yes	After the dispute was referred and strike prohibited, workers came back to work, and in the package suspended workers were taken back.
HPL (22)	46 activists dismissed	No	Union activities	No	After nearly one year of strike, were treated retrenched without notice pay + 330 more strikes treated similar.
UCB (23)	8 union leaders dismissed	No	Union activities	No	Settled their dues and left.
CEW (25)	4 union activists	No	Union activities	No	Settled their dues, and were made to leave.
OS (26)	2 union leaders dismissed	No	Union activities	No	All workers resorted to 103 days strike. Strike prohibited, cased referred. Lost at tribunal.
ERF (27)	3 union leaders dismissed	Yes	Union activities – but charges of theft levelled	No	Made to leave and take dues.
FAP (29)	6 union leaders told to leave	Yes	Union activities	No	Management paid Rs 2,000 to each to leave.
KGK (32)	80 HMS activists suspended 23 dismissed	No	Union activites	Yes	Suspension of 80 MW revoked. 5 had left; 18 who were contesting at tribunal taken back on condition that they will support the INTUC union.
SL (30)	6 workers suspended	Yes	Union activities	No	As a package deal made to leave and settle dues.
PSL (33)	40 workmen suspended	No	Union activities	No	4 settled and left, 36 contested at tribunal.

Source: Saini (1999).

Even as the tribunals have failed to live up to their projected goals, their legitimating role is substantial, and thus is their role as a source of power. Saini's (1999) disputes reconstruction have shown that major gains through the tribunal rarely come to the workers. It was only in one case (PML, 8) that it happened. But here too the employer appealed in the Supreme Court and as the workers were getting worn out, the management managed to extract a settlement from them on terms less beneficial to the workers than awarded by the tribunal. Due to these experiences, the worker in general avoids the tribunal. In most cases where new unions are involved the managements collude with outside union representatives at some stage of the dispute processing, which also results in the dismissal of the internal union activists. Sometimes, the latter are also taken into the alliance. The union is thus wiped out or becomes very weak, and the will to revive the labour struggle gets dampened or even extinguished. Most of the cases of dispute abandonment at the tribunal or their settlement at some stage of the tribunal proceedings experience this conscious labour disempowerment exercise.

Despite its severely debilitating impact on collective bargaining and, consequently, on labour, the adjudication system is fully entrenched in the Indian labour relations, and has integrated trade unions into the state apparatus. The responsible trade unionism preached through the IDA, thus results in their getting wiped out or crippled. A large number of those who use the tribunal system are the first timers who see their doom in this model and decide not to use it again. Thus, the grist in the tribunal mill is a new union, which has yet to see in adjudication its nemesis. Strangely, however, even militant national union federations like the Centre for Indian Trade Unions (CITU), which is the trade union wing of the Communist Party of India-Marxist (CPI-M), have become so accustomed to the system in which they worked so long that they have not put forward any major challenge to its existence. It is rightly remarked that "a bird born in the cage cries for the cage" [Sengupta 1989]. In fact, the National Commission on Labour (NCL) 1969 had recommended conferring autonomy on the labour dispute processing forums (industrial relations commissions) from the state apparatus. It also wanted these forums to be multi-member bodies with experts supporting the judicial members. However, a meeting of the state labour ministers called by the central government to debate the NCL's recommendations vehemently opposed any autonomy to these bodies, as it considered labour relations to be matters of law and order. Thus, this put a seal of approval on the status quo.

VI
Concluding Remarks

When labour relations get legalised, they are beneficial to those who can develop institutional skills to use them to their advantage. Legalised framework promotes bureaucratisation, and thus enables the government to prevent labour to unite and struggle for industrial equity and democracy. Government's first concern is production and peace at whatever social cost. Consultationism, inherent in the IDA in the Indian context, produces management consultants and briefcase union leaders. They help strengthen opportunistic alliances between various power centres. And thus, they help in making the legal labyrinth more tortuous. The individualisation of labour relations exacerbated by them further disempowers labour.

The Dunlop Commission on Labour Relations, which was appointed to examine the state of industrial relations in the US in the post-Reaganomics era, also reveals a rise in the above tendencies in the US. The commission has estimated that 70 per cent of US employers used outside consultants, and 40 per cent of the workplaces are not able to secure a collective bargaining agreement after winning certification [US Department of Labour 1994]. Personalisation of labour relations also promotes conversion of industrial realities into legal questions. Especially, small and medium organisations show greater tendency for commission of ULPs. Thus, it becomes an instrument of preservation of the status quo rather than bringing any change in the condition of the powerless. Such an institutionalisation of legalism prevents dispensation of substantive justice to the poor; the law is prone to becoming merely a symbolic protection.

Redistribution of power cannot come without struggle and conflict. The IDA model in India has enabled employers to effectively use their political power through the structural contradiction of the IDA framework, as a resource for their own dominance. They used it as a legitimator of the practice of authoritarianism, fraud, and even tyranny on workers seeking redefinition of labour relations. It also enabled them to forge alliances for legitimation of structures and processes of power dispensation.

Nonet and Selznick (1978) divide legal development into three stages. In the first stage, the law is described as repressive and is passively and opportunistically in the service of the predominant social and political forces as an instrumentality of coercion. In the second stage of its development, the legal system attains 'formal rationality', which they describe as autonomous law. In this stage, they claim that the law seeks to establish and preserve institutional integrity. In furtherance of this goal, the law "insulates itself, narrows its responsibilities, and accepts a blind formalism as the price of integrity." In the third stage, law again responds to the exigencies of the social environment as it had done in the repressive stage, but this time geared to meet societal needs. Going by the analysis above, the working of the Indian labour relations law shows that it is in the first stage of Nonet and Selznick's legal development. Therefore, it is imperative that any discourse on the use of law as an instrument for combating poverty has to take note of such a role which law plays as a rhetoric and in reality.

The most important instrument of labour empowerment is strong unions, which can organise themselves to match the managerial rationality in organising private industrial governments; juridification and its consequent fallouts counter such a possibility. It creates a labyrinth which empowers labour at one moment only to disempower it at the other. Kjonstad and Wilson (1997: vii) note seven prerequisites for achieving the goal of breaking the vicious circle that links poverty and powerlessness. These are: (1) conducive national constitution; (2) opportunity of struggle provided by tribunals; (3) treating human rights as also the discourse on poverty; (4) possibility of mobilising the poor; (5) perception of danger by power wielders if they deny rights to the poor; (6) mobilising altruism by the powerful; and (7) encouraging non-poor to participate in struggle against poverty. So far as labour struggle in India is concerned, only the conditions laid down by prerequisites (1), (6), and (7) are fulfilled. Others are fulfilled partially or not at all.

In the given situation, can we identify concrete issues in alleviating poverty in the context of Indian labour. The following could be an agenda [Saini 1998] for reforms.

(a) Comparatively, labour standards in India are low. The IDA and the consequent legalism produced has made labour-power weak in its fight for their enforcement. A large part of Indian labour does not get minimum wage. The Bhopal gas disaster tells us of the safety conditions in which they work. The first step that should be

taken is the enforcement of laws relating to these. We need a programme of social action for requisite sensitisation of all concerned in this regard. Intellectuals, NGOs and international trade union movement can play a useful role in this regard.

(b) Any programme of action for enhancing labour power needs to evolve a better enforcement mechanism. Labour needs to be given representation in carving out such an enforcement mechanism.

(c) There is a need for constant monitoring of the implementation mechanism by rights groups at national and international levels.

(d) There is a need for simplification of labour laws, and internalisation of such simplicity as a social value. In India, the National Labour Law Association (NLLA) has come out with such a code. This can be a good starting point for tringing a complete labour law framework to the poor to facilitate their understanding of it. This code also has the agenda for partial de-juridification of labour relations. The Indian government must be made to seriously consider reforms on the pattern of this code.

(e) It is absolutely necessary to ensure autonomy of tribunals and conciliators from the state apparatus. This is perhaps the most difficult task in the Indian context as the analysis in this paper reveals.

(f) There is a need for greater degree of public interest litigation for enforcing minimum labour standards and developing some basic postulates of sound labour relations. It can be a very useful instrument especially in the Indian context. But we need to involve those people who are genuinely interested in poverty alleviation.

(g) In the globalisation euphoria, unionism and collective bargaining as values as also the values of welfare state and welfare economics themselves, are in a deep crisis. Researches in the UK reveal that pluralism has survived there, despite Thatcherism and the fall in the unionisation rate [Storey 1992]. We need wider popularisation of the perspective that unions are not fundamentally antithetical to globalisation philosophy.

Notes

[An earlier version of this paper was presented at a workshop on 'Law and Poverty III: Law as a Tool for Combating Poverty', organised by the Comparative Research on Poverty (CROP) programme of the International Social Science Council held at the International Institute for the Sociology of Law, Onati, Spain from May 19 to 21, 1999. I thank CROP for inviting me to the workshop, and Else Oyen, Lucy Williams, Asbjorn Konstad, Paul Spicker, and Camilo Perez-Bustillo for helpful comments. The usual disclaimers apply.]

1 As per *Economic Survey* 1998-99 of the government of India, the Planning Commission's estimate of population below poverty line (for the year 1993-94, which is the latest available) is 320 million, which is 36 per cent of the total population of the country. These percentages for some other developing countries are: China 22.2; Philippines 35.7; Indonesia 11.4; Malaysia 17.4; and Thailand, 8.1.

2 In four of these 33 disputes, the author participated in conciliation proceedings. The remaining 29 were sampled from the total of 195 interest disputes handled by the industrial tribunal in a five-year period. The disputes were reconstructed on the basis of records of the COS and the industrial tribunal and interviews of the disputant parties. The sample of 29 adjudicated disputes consisted of: (i) 10 disputes which involved full-blown adjudication; (ii) 12 disputes which were compromised and resulted in 'settlement awards' by the tribunal; and (iii) seven disputes which were abandoned at the tribunal by the workers and thus ended in the employers' favour.

3 See, for example, Olney (1997) for details on constitution and structure of labour adjudicatory bodies in European countries.

4 The term 'reference' denotes the act of the appropriate government to send a dispute to tribunal/labour court for adjudication. A party cannot approach these bodies directly. Government has the discretion to refer or not to refer a dispute for adjudication (Section 10, IDA).

5 As on March 31, 1997. This number also includes cases under section 33, 33A and 33C of the IDA. This figure was obtained from the unpublished records of the ministry of labour, government of India, New Delhi.

References

Abel, Richard (1973): 'A Comparative Theory of Dispute Institutions in Society', *Law and Society Review*, Vol 8, p 298.

Baxi, Upendra (ed) (1988): *Law and Poverty: Critical Essays*, N M Tripathi, Bombay.

– (1994): 'Industrial Justice Dispensation: The Dynamics of Delay' in Saini (ed).

– (1995): 'Unorganised Labour? Unorganised Law?'in Debi S Saini (ed), *Labour Law, Work and Development*, Westwill, New Delhi.

Bhattacherjee, D (1988): 'Unions, State and Capital in Western India: Structural Determinants of the 1982 Bombay Textile Strike' in Roger Southall (ed) *Labour and Unions in Asia and Africa: Contemporary Issues*, Macmillan, London.

Burawoy, Michael (1985): *The Politics of Production*, Verso, London.

Clark, J and K W Wedderburn (1983): 'Modern Labour Law: Problems, Functions and Politics' in K W Wedderburn et al (ed), *Labour Law and Industrial Relations: Building on Kahn-Freund*, Clarendon Press, Oxford.

Dickens, L et al (1985): *Dismissed: A Study of Unfair Dismissal and the Industrial Tribunal System*, Basil Blackwell, Oxford.

Dhavan, Rajiv (1989): 'Introduction' in Galanter (ed) (1989).

Edelman, Lauren B, Howard S Erlanger and John Lande (1993): 'Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace', *Law and Society Review*, 27 (3), pp 497.

Encyclopaedia Britannica (1987): Vol 26, University of Chicago, Chicago.

Galanter, Marc (ed) (1989): *Law and Society in Modern India*, Oxford University Press, Delhi.

Hanami, Tadashi (1980): 'The Settlement of Labour Disputes in Worldwide Perspective', *International Social Science Journal*, Vol XXXII, pp 490.

Ietswaart, Heleen P (1980-81): 'Labour Relations Litigation: Chile, 1971-72', *Law and Society Review*, Vol 16, p 625.

ILO (ed) (1997): *Labour Adjudication in India*, ILO-SAAT, New Delhi.

Kahn-Freund, O (1977): *Labour and the Law*, Stevens, London.

Kjonstad, Asbjorn and John H Veit Wilson (1997): *Law, Power and Poverty*, CROP, Bergen.

Munger, Frank (1990): 'Trial Courts and Social Change: The Evolution of a Field Study', *Law and Society Review*, Vol 24, p 217.

Olney, Shauna (1997): 'European Labour Court Experiences' in ILO (ed) op cit.

Nonet, P and P Selznick (1978): *Law and Society in Transition*, Harper Colophon Books, New York.

Patel, A and K Desai (1995): 'Rural Migrant Labour and Labour Laws' in Saini (ed), op cit.

Ramaswamy, E A (1984): *Power and Justice*, Oxford University Press, Delhi.

Saini, Debi S (1992): 'Delay in Industrial Adjudication: Crisis of the Tribunal System', *Cochin University Law Review*, Vol XXI, p 209.

– (ed) (1994): *Labour Judiciary, Adjudication and Industrial Justice*, Oxford and IBH, New Delhi.

– (1995a): 'Compulsory Adjudication Syndrome: Some Implications for Workplace Relations in India', in Debi S Saini (ed), *Labour Law, Work and Development*, Westwill, New Delhi.

– (1995b): 'Leaders or Pleaders: Dynamics of Briefcase Trade Unionism under the Existing Legal Framework', *Journal of Indian Law Institute*, Vol 37, p 73.

– (1997): 'Labour Court Administration in India' in ILO (ed) op cit.

– (1998): 'Liberalisation, Human Face and the Labour Justice System' in Paramanand Singh (ed) *Legal Dimensions of Market Economy*, Faculty of Law, University of Delhi and Universal Book Traders, New Delhi.

– (1999): *Industrial Relations in India: Law in Action* (forthcoming).

Sengupta, A K (1989): 'New Generations of Organised Workforce in India: Implications for Management and Trade Unions', paper presented at the National Seminar on Industrial Relations: Coming Decade, Shri Ram Centre for Industrial Relations, New Delhi, August 10-12.

Storey, J (1992): *Developments in the Management of Human Resources*, Blackwell, Oxford.

US Department of Labour (1994): *Fact-Finding Report: Commission on the Future of Worker-Management Relations*, (also called John T Dunlop Commission Report), Washington, DC.

Upadhyay, Sanjay (1995): 'Delay in Industrial Adjudication: A Case Study of Central Government Industrial Tribunal', (mimeo), V V Giri National Labour Institute, Noida (India).

Wedderburn, K W (1971): *The Worker and the Law*, 2nd ed, Penguin, Harmondsworths.