SPIRIT OF INTERNATIONAL LABOUR LAWS DISTORTED OR RESTORED DURING THE PANDEMIC: AN ANALYSIS OF INDIAN LABOUR CODES, ORDINANCES VIS A VIS INTERNATIONAL LABOUR LAWS

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ABSTRACT

In the present paper, the authors have attempted to analyse one of the steps taken by the state governments of India pertaining to labour laws for alleviating the repercussions of pandemic. The state governments had issued ordinance for the purpose of attracting business investments by dilution of various labour laws. The authors critically observe as to how the ordinances promulgated by the state governments were in conflict with the globally accepted international treaties and conventions. Wherein, some of them have been ratified by the Indian government as well and thus how spirit of international labour laws and its standards were clearly twisted during the covid-19 pandemic. The authors have also tried to explore the generally accepted international standards with respect to labour laws and have compared the same with the newly drafted labour codes of India. The authors have also put forth the opinions of the international committee experts, wherein they have highlighted several internationally non–consistent existing legal provisions and shortcomings of the newly drafted Indian labour codes. It has also been pin pointed by the authors that the steps taken by the government during the pandemic were not in parallel with the measures taken by the other governments globally, therefore, leaving India far behind when comparative study is conducted.

Keywords: Labour Laws, COVID-19 pandemic

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INTRODUCTION

The pandemic is known to have affected the marginalised groups disproportionately including the migrant workers. In order to alleviate the issues faced by the marginalised groups, several initiatives and schemes were formulated by various countries. However, in India, the government had merely issued various orders restricting the termination and pay cuts of the employees. The orders of the government were successfully challenged by employers through various petitions before the apex court and the court stayed such orders of the government. The labourers or workers who basically survive in the daily wage setup suffered the heat of pandemic in the worst possible manner. However, instead of strengthening the position of the labourers, several state governments attempted to dilute various labour laws through ordinances for the purpose of attracting more business. The attempt of the state governments has been considered and highlighted by the International Labour Organisation (ILO), to be contrary to the international standards and international commitments. The ordinances promulgated by the various state governments were considered to be in direct conflict with the treaties ratified by the Indian government and the globally accepted and recognised standards for labour laws. The ordinances were further considered to be contrary to the legislative and constitutional spirit of India. Moreover, the Indian government with intent to attract more business and to strengthen its position in ease of doing business index introduced the labour codes. The labour codes introduced by the government had been considered to be in violation and to be non-compliant with the international framework. The international committee of experts in their reports highlighted various non-compliant provisions and various shortcomings of the existing codes. Moreover, the ILO had issued statements with respect of dilution of labour laws and requested the Indian governments and states to comply with the international standards. The present paper endeavours to explore the generally accepted international standards with respect to labour laws and compares the same with the Indian position. The paper further attempts to explore the steps taken by various states through labour law amendment ordinances and compares the same with the treaties and conventions which were ratified by the government of the Union of India. The paper further endeavours to explore the steps taken and policies formulated by various countries for alleviating the labour law crises and analyses the Indian position in that regard as well.

ATTEMPT TO DILUTE LABOUR LAWS DURING THE PANDEMIC

A. Aftermath of Lockdown

The initial lockdown measures initiated by the Government of India are considered to be the strictest in the entire world. The fact that such strong measures were taken when only few hundred cases were report in the entire nation was beyond comprehension of many people. However, India's COVID toll started running parallel with the rest of the world as in the later part of the month of July 2020, India stood third in the COVID statistics.[1] Also, the lockdown measures affected the economy of India in the worst possible manner ever. The Micro Small and Medium Enterprises (MSME) and small businesses who were already hit by measures such as demonetisation and GST were also affected drastically.[2] The report prepared by the ILO on the effect of pandemic on MSMEs stated that when the survey of 14,444 MSMEs was conducted nearly 7222 of them reported that there was impact of around 25-40% on their earnings. Also, industries such as tourism, jewellery, textiles and electronics were severely hit. ILO report further stated that in the month of October 2020, 19 and 16% of MSMEs in the Indian states of Maharashtra and Uttar Pradesh respectively were temporarily closed due to the economic hardships faced during the lockdown. However, 5% of MSMEs were permanently closed across the states of Maharashtra, Uttar Pradesh and Tamil Nadu. Further, in the mentioned states around 45% of MSMEs had to either lay-off or retrench their workers.[3]

Furthermore, due to the pandemic, around 78% of MSMEs in the state of Tamil Nadu had to temporarily shut down their business as suggested by the report of IIT Madras.[4] It was also reported in the IIT Madras study that around 31% of MSMEs were financially dependent upon the loan and loans to MSMEs are usually given against the collateral of property. However, the value of property fell down drastically thereby MSMEs could not get the required loans for their operations. The preceding paragraphs make it clear that unorganised sectors including the largest employer MSMEs were severely affected by the pandemic. The income and business opportunities were badly affected which led to increased unemployment levels and pushed the workers to worse poverty levels.

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[1]Kaushik Kashyap, "India at No. 3 in Covid Rankings: How Did We Get Here?"*the quint*, July 7th, 2020, available at https://fit.thequint.com/coronavirus/india-covid-ranking-number-3-how-did-we-get-here (last visited on April 6, 2022).

[2] Reserve Bank of India, India, available at https://www.rbi.org.in/Scripts/MSM_Mintstreetmemos13.aspx (last visited on April 6, 2022).

[3] International Labour Organization, "*Situation Analysis on the Covid -19 Pandemic 's impact on Enterprises and workers in the formal and informal economy in India",* ISBN: 9789220347331, (June 3, 2021).

[4] Ibid.

B. Diluting Labour Laws

Moreover, instead of strengthening the rights and welfare of the workers, several states such as Uttar Pradesh, Madhya Pradesh, Kerala, Punjab, Haryana, Himachal Pradesh, Uttarakhand, Gujarat, Goa and Assam came up with the ordinances which diluted the mandate of existing labour laws.[5] The other Indian states provided vide relaxation through the Rules notified by them. The states derived their powers within the ambit of Article 246 of the Indian Constitution, wherein the authority and subjects to make laws is divided between the centre and the states. On the basis of the Article 246 Indian Constitution has three lists, wherein, under the subjects falling in List I the central government exclusively will have authority to formulate laws, for List II the state government will have exclusive authority to formulate laws and under List III both centre and state will have authority to make laws. The subject of labour comes under the List III, i.e., concurrent list wherein both centre and state government will have authority to make laws. Therefore, some states in a bid to introduce pro-business reforms amended and relaxed the labour legislations. It was argued by these states that chopping off the supposedly harsh labour laws will attract investments and will once again restart the dormant economic activities of the state. It was further conveyed by the states that the business enterprises without the constraints of the strict labour laws will roar back to health and achieve their latent potential. The maximum number of working hours allowed for the workers to work has been increased to 12 hours through a notification in states such as Punjab, Rajasthan, Haryana, Goa, Assam, Gujarat, Himachal Pradesh, Uttar Pradesh and Madhya Pradesh. Moreover, states such as Karnataka had increased the maximum working hours to 10 and Uttarakhand increased the same to 11. However, some states such as Rajasthan, Karnataka and Uttarakhand later took back their notifications.[6] The Uttar Pradesh government also had to revoke its notification regarding the working hours, rest intervals and overtime payments due to the order passed by the High Court in the state of UP in the case of*U.P. Worker Front v. Union of India*.[7]

In order to increase the maximum number of working hours, the states relied upon the exemptions provided under the provisions of Factories Act 1948 (hereinafter referred to as 'FA

[5]NayakaraVeeresha, "Diluting Labour Laws: Depriving workers of rights", *Deccan Herald*, Jul 10, 2020 https://www.deccanherald.com/opinion/main-article/diluting-labour-laws-depriving-workers-of-rights-859196.html#:~:text=These%20measures%20will%20take%20away,workers'%20rights%20and%20entitlements.%E2%80%9D., (last visited on April 05, 2022).

[6]Anya Bharat Ram, "Relaxation of Labour Laws across States", *PRS Legislative Research,* May 12, 2022, *https://prsindia.org/theprsblog/relaxation-of-labour-laws-across-states?page=15&per-page=*. (last visited on April 05, 2022).

[7]*U.P Worker Front v. UOI* (2020) SCC OnLine All 804.

1948'). The exemptions provided under section 5 of FA 1948, clearly states that the state government would be able to exempt from the provisions of the FA 1948 only during the 'public emergency'. Moreover, it is clearly stated that 'public emergency' shall mean the instances wherein the security of India is at stake, in the instances of internal disturbance, war or external aggression. However, it can clearly be understood that COVID pandemic is in no way covered by the term public emergency. The Supreme Court in another case[8] observed that certainly the impact of the COVID pandemic has been grave but the same is not of such magnitude so as to cause internal disturbance, therefore it does not qualify to be a public emergency under the provisions of FA 1948. Supreme Court further observed that the provisions of the ordinance clearly go against the concept of welfare state which is entitled to promote and achieve social justice. The Supreme Court further observed that "…*financial losses are not meant to be offset on the shoulders of the labourers, who are considered to be an important factor as they constitute the backbone of the economy*."The above stated paragraphs make it amply clear that the ordinances were in clear violation of the constitution and the provisions of labour laws. The Supreme Court further made clear observations that the excuse of the pandemic cannot be the ground to dilute the provisions of labour law. The Supreme Court further observed that the exceptions provided under the provisions of FA for public emergency does not extend to cover the pandemic.

C. Analysing the International Institutions Commitments

India is the one of the founding members of the ILO and in the year 1922 it has been considered as the permanent member. India has been involved in ratifying six out of eight core ILO conventions. India is under the obligation to respect and to abide by those standards. However, the steps taken by the state governments have clearly violated the standards followed across the globe and the same have been mentioned in the paragraphs herein below.

(i) C001- Hours of Works (Industry) Convention of 1919- the attempt to dilute the provisions of labour laws clearly violated the Hours of Works (Industry) Convention1919 (No. 1) (hereinafter referred to as '1919 Convention') which is ratified by India as well. The 1919 Convention is considered to be an integral part of the international labour standard which India is bound to comply as it has ratified the same. As per the mechanism of ILO, hours of work form an important aspect as far as payment of wages are considered and considers the 1919 Convention to be important for achieving social justice. The 1919 Convention came into force

[8]*Gujrat Mazdoor Sabha v. State of Gujarat*, (2020) SCC OnLine SC 798.

in the year 1921 and the 1919 Convention was a response to fulfil the goal set by the Versailles Treaty. The Versailles Treaty in its Part XIII Section 1 clearly stated that in order to achieve social justice, the maximum threshold was required to be formulated and codified for the hours of work carried on per day and per week also. At that point of time, for the first time due to the 1919 Convention the working hours for workers had come below 70 hours. The 1919 Convention was considered to be the greatest achievement of ILO in regulating the working hours of the workers.[9]The 1919 Convention clearly states that persons working either in public or in private industrial undertaking is entitled to work for only 8 hours out of 24 hours and thus only 48 hours in 7 days i.e. a week.[10] The above-mentioned mandate is applicable only on workers and not on the employees working in managerial or supervisory capacity.[11]The ratification of 1919 convention by various countries clearly demonstrates that it is a standard which is accepted globally. However, the subsequent provision of the 1919 Convention provides for exceptions from the number of hours mentioned hereinabove.[12]It is stated that the limit of number of hours can be exceeded in situations where there has been an accident, there is likely to be an accident, there is an urgency with respect to work to be done and in the event of '*force majeure*'.[13]However, the term *force majeure* has not been defined in the 1919 Convention, also the particulars of *force majeure* events has also not been categorically mentioned in the 1919 Convention. Therefore, in event of the above-mentioned ambiguities, it cannot be specifically stated that the covid pandemic is covered under the interpretation of the exception for *force majeure*. Therefore, the members who have ratified the 1919 Convention can take the benefit of this ambiguity and increase the hours of work mentioned in Article 2. However, the Article 10 of the 1919 Convention state that for 'British India' the working hours for workers would be 60 hours per week. Nevertheless, it can be clearly observed there is a need to update the same, and to make it more relevant to the contemporary world or to repeal the Article 10 altogether.

Moreover, the ILO in its statement clearly stated that the amendments to dilute the labour laws should have been done after having a tripartite consultation which would have involved the government, the workers, and the employers. It meant that the amendment by various states

[9]Magnus Bergli Rasmussen, "Organisation Works: Hours of Work and the International Labour Organisation", *Research Gate*, May 2018 https://www.researchgate.net/publication/325343002_Organization_WorksHours_of_Work_and_the_International_Labor_Organization (last visited April 05, 2022).
[10]International Labour Organization, Hours of Works (Industry) Convention, 1919, art. 2.
[11]International Labour Organization, Hours of Works (Industry) Convention, 1919 art 2(a).
[12]International Labour Organization, Hours of Works (Industry) Convention, 1919 art 3.
[13]*Ibid.*

clearly violated the Tripartite Consultation (International Labour Standards) Convention of 1976 (1976 Convention). The preamble provided for the 1976 Convention clearly states that there needs to be an establishment of tripartite machinery in the member states in order to implement the international labour standards. The 1976 Convention clearly states the workers and employers both shall be given an equal stand in order to undertake consultations. It is further provided that by way of tripartite consultations, a greater cooperation among the social partners i.e., employers and workers can be ensured. It is also provided that tripartite consultation would lead to better governance and the culture of having a better social dialogue on various social and economic issues would be promoted. Therefore, as per the above-mentioned paragraphs, the unilateral decision to promulgate ordinance to dilute the labour laws affecting the workers are in clear violation of the tripartite agreement.[14]

Further, the state of Madhya Pradesh also exempted certain establishments from the requirement to recognise the trade unions and from provisions with respect to industrial dispute resolution. The exemptions are specifically meant for the new factories which would not be entitled to adhere and comply with the provisions with respect to trade unions, industrial dispute resolution, strikes, lockouts and collective bargaining. The exemption provided by the state of Madhya Pradesh clearly goes against the 1998 Declaration on Fundamental Principles and Rights at Work (1998 Declaration). The provisions of 1998 Declaration clearly mentions that all the members of ILO including even those who have not ratified the Declaration of 1998 are bound by the fundamental principles and fundamental rights provided under the ILO constitution. The 1998 Declaration clearly states one of the most vital principles of ILO, i.e., freedom of association and recognition of the right to collective bargaining.[15]

Moreover, the state of Madhya Pradesh has also clearly violated the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (1948 Convention). The 1948 Convention is considered to be a fundamental convention which provides for the rights provided to the workers and employers to establish by itself and join organisation on their own will without any taking into consideration any prior authorisation.[16] Thereby, the workers' and employers' of the organisation in particular are protected from getting dissolved from the

[14] A. Verma, S Singh, "Reckless Suspension Of Labour Laws Adds To Plight Of Indian Workers", *Human Rights Pulse,* August 5, 2020, available at https://www.humanrightspulse.com/mastercontentblog/reckless-suspension-of-labour-laws-adds-to-plight-of-indian-workers. (last visited at Apr 5, 2022).

[15]International Labour Organization, Declaration on Fundamental Principles and Rights at Work, 1998 art 2.

[16]International Labour Organization, Freedom of Association and Protection of the Right to Organise Convention, 1948 art 2.

administrative authority and are empowered to freely organise the same.[17] The workers' and employers' organisation are also appreciated to get affiliated with the international organisation of workers and employers.[18]

The state of Madhya Pradesh has also violated the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (1949 Convention). The 1949 Convention clearly mentions that there shall be no discrimination in terms of employment of those workers who have joined a trade union.[19] The 1949 Convention provides that workers are authorized to enjoy protection against the anti-union discrimination and protection from requirements such as asking a particular worker to give up the membership of union for getting employment or dismissal of a worker just because he was active in the trade union activities. The 1949 Convention also provides for collective bargaining which was also repealed in the State of Madhya through the ordinance. The after effects of curbing the rights provided under the 1949 Convention would be that workers and employers would not be able to associate in order to negotiate the particulars with respect to work relations, the employers and workers would not have asame voice as far as negotiations are concerned and thereby the outcome would not be considered to be fair and equitable. In the absence of collective bargaining the employers and the workers would not be able to negotiate a relationship of fair employment and would not be able to avoid costly litigations.

Furthermore, it is peculiar to note that India has not ratified the Creation of jobs in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189) (1998 Recommendation). The country such as India whose backbone is the MSME sector has not ratified such relevant and important convention is surprising to note. The MSME sector which accounts for 95% of the industrial units in India and also accounts for around 50% of exports is also amongst the largest employers in India[20].

It is further reported that due to the gross violations of several fundamental principles and ratified ILO conventions, many central trade unions in India considered lodging complaint in the ILO. The unions also stated that such ordinances were promulgated without consulting them about the same. The unions which supported the central ruling party also expressed its

[17]International Labour Organization, Freedom of Association and Protection of the Right to Organise Convention, 1948 art 4.

[18]International Labour Organization, Freedom of Association and Protection of the Right to Organise Convention, 1948 art 5

[19]International Labour Organization, Right to Organise and Collective Bargaining Convention, 1949, art 1.

[20]Amit Manohar, *Growth Imperative for the MSME Sector*, June 08 2021, available at https://www.investindia.gov.in/team-india-blogs/growth-imperative-msme-sector, *Invest India* (last visited Dec. 02 2021).

resentment against the promulgation of such ordinances. The unions stated clearly that itconsiders the ordinances as violation of labour standards and thus it was the misdeed of the government. Further, in a joint statement the unions stated that the move to dilute the labour laws was an attempt at formulating anti-worker policies and considered it as inhumane crime[21]. Therefore, the above-mentioned paragraphs make it clear that the provisions of the promulgated ordinances are in contravention to the international labour standards and are also in contravention to the conventions ratified by the Indian government. It can also be observed that the state governments of India had the chance to alleviate the sufferings of the biggest employer, i.e., MSME, but failed to take the appropriate measures. The labour unions whose powers and rights were drastically affected were clearly unhappy with the ordinances and also sought to highlight the issue before the ILO[22].

ANALYSING THE APPLICATION OF INTERNATIONAL LABOUR STANDARDS ON INDIAN LEGISLATIONS

The Experts Committee established with respect to the Application of Conventions and Recommendations (Committee), has reviewed the Indian labour legislations and has provided various recommendations on the same in their 2020 report. The Committee reviewed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 (POSH Act) and stated that it was basically concerned with the practical application of the Act. It was also provided that the Committee was also concerned with the redressal system for women agricultural workers and organisations where less than 10 employees are employed. The POSH Act states that in organisations where there are less than 10 employees, the sexual harassment complaints shall be filed before the District Local Complaints Committee. The Committee sought data on the all the no. of cases filed and also wanted to ensure about the particulars of the outcome of such cases. The Committee further highlighted the concerns raised by the UN Committee on the Elimination of Discrimination against Women (CEDAW) which stated the sexual harassment against women has been ongoing and due to the participation of women in labour market has also reduced. Another peculiar point which was highlighted by the Committee was that, in the POSH Act only sexual harassment against women are covered and men are not included in the same. The expert Committee further

[21]Editorial, "Trade unions may move ILO against labour law changes", The Hindu, May 21, 2020.
[22]International Trade Union Confederation, *Labour Law deregulation in India*, https://www.ituc-csi.org/IMG/pdf/labour_law_deregulation_in_india-en.pdf (last visited Nov. 29, 2021).

recommended that even men should be covered under the sexual harassment provisions, and men should also be covered under the protection of the POSH Act. The Committee has directed the Indian Government to reconsider the Section 14 of the POSH Act wherein a person making malicious complaint is punished, the Committee was of the opinion that such provisions might result in deterring the victims.

Moreover, the Committee further noted that India has ratified the Labour Inspection Convention, 1947(1947 Convention) in the year 1949 and the standards of the same will be applicable to India as well. The Committee suggested that effective labour inspection shall be ensured at all workplaces which should include informal sectors and special economic zones. The Committee further directed the labour codes which was recently drafted in India and make it mandatory for them to adhere comply with the 1947 Conventions and all of its provisions. It was further stated that in the provisions of labour codes it shall be ensured that labour inspectors should have required powers to make routine and unannounced visits. It needs to be noted that Article 12 and 17 of the 1947 Convention provides it clearly that the labour inspectors are entitled to enter the workplace without providing any notice in advance and the labour inspectors would have freedom to initiate the legal proceedings in case of any violation without any prior warning. The Committee is of the opinion that the provision with respect to labour cum facilitator in the labour codes is not in line with the above-mentioned Articles of 1947 Convention. The provisions of Code on Wages require that the inspectors cum facilitators shall give an opportunity to the employers before initiating any proceedings[23]. Moreover, the provisions of Occupational Safety, Health and Working Conditions Code require inspector cum facilitator to give prior notice to the employer before checking the records of the employer and also a three-day notice in case the inspector cum facilitator decides to conduct inspections in mines[24]. The Committee suggested that government should take required measures in order to ensure that the inspectors cum facilitators are capable to carry out the proceedings unannounced and unconditionally. Therefore, it has been requested by the Committee to the government that it must comply with the provisions specified under the 1947 Convention and make suitable amendments to the provisions with respect to inspector cum facilitators[25]. Therefore, it can be safely concluded that the provisions of various acts failed to comply with the international standards and the same was highlighted by expert committee. The Indian government were

[23] The Code on Wages 2019, (No. 29 of 2019) s. 54(3)

[24]The Occupational Safety, Health and Working Conditions Code 2020 (No. 122 of 2020) s. 41.

[25]International Labour Organisation, *Application of InternationalLabour Standards 2020*, International Labour Conference 109th Session, available at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_736204.pdf. (last visited Dec. 02 2021).

directed by the Expert's Committee to adhere and comply with the international standards and in order to amend the legislative setup to address highlighted concerns.

SCHEMES OF VARIOUS COUNTRIES TO ALLEVIATE LABOUR AND EMPLOYMENT ISSUES

Many countries including the OECD countries actively took various steps in order to alleviate the challenges brought by the covid crises. The schemes such as job retention were adopted in various countries such as France, US, Italy, Japan and Germany. In France, the employers were not required to take the burden of paying compensation to the workers, and the government used to actively reimburse such amount in order to alleviate the conditions of affected firms. Similar steps were also taken in Germany, wherein even the apprentice and contractual workers were also covered by these social security schemes of the government. The Italian scheme was more liberal wherein all the firms who were affected by the pandemic in any manner were eligible to apply for such reimbursement scheme without any necessity of proving the ill effects of pandemic on those firms. The Japanese scheme covered all the MSME employers and even those MSME employers who did not apply for such reimbursement schemes. The Japanese scheme covered 80%of the wages of the employees to be paid by the government under the purview of their reimbursement scheme. Further, in the US the pending loans taken by the employers were waived off by the government if the employers maintained and paid the remuneration to the employees on time. Moreover, schemes such as Short Time Work (STW) schemes were introduced or modified in various countries wherein the government provided subsidies to the firms in order to cover hours of work and protect the workers in instances wherein they suffer pay cuts and unemployment. Even the OECD (Organisation for Economic Cooperation and Development) countries which already had STW schemes in place for the large sectors, extended the scope of those schemes to cover the MSMEs and other small scales industries suffering from the after effects of the pandemic[26].

Moreover, other countries such as Australia and New Zealand adopted the lump-sum subsidy wherein a minimum salary was guaranteed to all employees. Also, in Poland the employers were mandated to pay for at least 50% of usual wages and such wages was also partially reimbursed by the government. However, contrary to the position in other countries, in India

[26]International Labour Organisation, *Country policy responses*, Dec. 03, 2021, available at https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang--en/index.htm (last visited Apr 05 2022).

the employers either private or public were mandated by the orders of Ministry of Home Affairs to make payment with respect to the entire wages of the workers. Further, the employers were required to also not terminate the employees and in case of non-compliance, the employers were made liable within the legal provisions specified under the Indian Penal Code and Epidemic Diseases Act. It has been reported by the OECD that, the use of the job retention schemes did help in alleviating the unemployment, layoffs and social crises caused due to covid pandemic. The risks associated with the job retention schemes of the governments across the world including the OECD countries seemed to be clearly outweighing the benefits associated with it. The schemes have supported the firms and the employees who were gravely affected by the ill effects of the pandemic. However, the Indian welfare schemes of providing certain quantities of food grains to the poor did not reach the targeted beneficiaries. Indian government did not take solid steps to guarantee wages to affected workers and failed to adopt best practices of reimbursing the employers who paid the workers on timely basis. The above-mentioned paragraphs make it clear that the best practices which were adopted by several countries were not adopted by India thereby it is obvious that enough safeguards were not adopted to strengthen the constitutionally envisioned social justice principle[27].

[27]Organisation for Economic Co-operation and Development, "Job Retention Schemes during the Covid-19 lockdown and beyond", Dec. 03, 2021 available at https://www.oecd.org/coronavirus/policy-responses/job-retention-schemes-during-the-covid-19-lockdown-and-beyond-0853ba1d/. (last visited Apr 05 2021).

CONCLUSION

The above-mentioned paragraphs make it amply clear that the spirit of international labour laws and standards were clearly distorted during the pandemic. The ordinance promulgated during the pandemic were also in violation of the internationally accepted principles and conventions. The measures of the government have not been in consonance with the measures taken by several governments across the globe and the position of India has been far behind when comparative study is conducted. The existing labour law framework was also highlighted to have several loopholes by international committee report. Indian government has ratified various conventions for safeguarding the welfare of the workers but the same has not been adhered with, before and during the pandemic. India has surprisingly not ratified various conventions with respect to MSMEs and unorganised workers. The generally and globally accepted principles and conventions has also not been ratified by the Indian government, the same has worsened the position of marginal sections of the society. In India, the constitution of which has envisioned to strengthen the social justice principle, the step to promulgate such ordinance which dilute the labour law provisions is clearly in contravention to the soul and spirit of the constitution. The government which are involved thus has missed the opportunity to frame the policy at par with the globally accepted job retention and wage reimbursement policies. The measures adopted by the Indian government were proved to be insufficient and inadequate as it did not reach to the targeted beneficiaries on time. Moreover, during the pandemic the steps taken by the Indian state governments *inter-alia* the labour ordinance is found to be inconsistent with the internationally accepted labour standards. The ordinances are further inconsistent with the steps and efforts of other countries during the pandemic.