OF WORKERS AND WAGES: EXAMINING THE LABOUR FLEXIBILITY THESIS FOR INDIA'S FORMAL INDUSTRIAL SECTOR, 1981-2009

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MASTER OF PHILOSOPHY

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DECLARATION

I declare that this dissertation with the title **"Of Workers and Wages: Examining the Labour Flexibility Thesis for India's Formal Industrial Sector, 1981-2009"** submitted by me in the partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this or any other university.

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CERTIFICATE

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Contents

Chapter 1

INTRODUCTION

In the post-Liberalisation literature on economic growth, 'labour market inflexibility' has come to acquire an importance that is second only to 'globalisation', and quite naturally so. Since in neo-liberal philosophy it is free-market outcomes that alone are Pareto efficient, it follows that labour laws, like all other regulation of the market by the state, must be an obstacle to both optimal utilisation of resources (efficiency) as well as equity (where rewards are based on marginal contribution). The natural flexibility of the free labour market is stiffened when its free play is regulated by state-enforced labour laws and/or by the diktat of trade unions. We have reformed a lot and achieved a lot, as the argument goes, but we have not been able to achieve what we could have, because we shrink from the most consequential of reforms, the labour-market ones:

> Beginning with policy adjustments to stave off a foreign exchange and fiscal crisis in mid-1991, the Indian government has gone on to attempt major economic reforms during the last decade. While significant changes have been effected in several sectors ..., one area which has resisted reform is that of labour markets and labour legislation. This is a matter of some concern since it is arguable that, in the long run, reforms in this area will matter more than those in many other sectors.[1]

A number of arguments relating to the labour market have had a significant presence in economic thought from early on. It has been pointed out, for instance, that the idea of an inverse relationship between wages and employment was a key component of 'the

[1] Basu 2005: 4-5.

dominant economic discourse from the marginalist revolution of the 1870s onwards', which went dormant when challenged with an alternative paradigm by John Maynard Keynes in the 1930s, and then saw a revival as Keynesian economics went into retreat (following the end of the 'golden age' of capitalism in early 1970s).[2]Though the importance of the labour market was thus recognised from the outset, it was in the 1980s that the concept of labour flexibility came into its own[3]. It lost no time in arriving on the Indian scene, becoming a key theme in the groundwork preparatory to the 1991 liberalization. In current literature, it is the 1991 essay by Peter Fallon and Robert EB Lucas that is usually cited as an early major demonstration of an inflexible labour market in India; sometimes, interest in the issue is thought to have been 'triggered in the recent times by the Jobs Study (OECD 1994), which revived the orthodox classical argument while explaining the high unemployment rates witnessed in Europe since the 1980s'[4]. The arguments, in the form of either logical postulates or definite conclusions, were in fact being developed earlier than that, dating back to mid-1980s. For the World Bank, Lucas did 'An Overview of the Labour Market in India' in 1986, and in the same series of the Bank the next year Fallon published a piece entitled 'The Effects of Labour Regulation upon Industrial Employment in India'. In 1987 again, Ian Little, Vijay Joshi and John Page of the Bank underlined the adverse implications of the restrictive regulations, pointing out how the regulation reserving a number of products/industries for small-scale enterprises was preventing productivity growth through exploitation of economies of scale and technological improvement.[5]In 1988, Lucas undertook a detailed analysis of the Indian data between 1960 and 1980, and arrived at the 'clear' conclusion that 'the comparative power of unions in pressing for wage settlements has grown substantially'. For the same period, sluggish employment growth was explained by both high wages (due to union power) and job security legislation: '... rising industrial wage has been a

[2] Ghosh, Jayati 2004: 17.
[3] Rodgers 2006: 2.
[4] Guha 2009: 46. The 1994 study of OECD was however a landmark event in the development of labour flexibility theory (see Rodgers 2006: 2).
[5]Little, Joshi, and Page, *Small Manufacturing Enterprises. A Comparative Analysis of India and Other Economies*, 1987, World Bank, Oxford University Press: New York, cited in Little and Joshi 1994: 37-38, 364n17; also in Zagha 1998: 412.

significant factor in the observed move towards more capital intensive techniques .... Since the scope and coverage of these job security laws has increased through time, it again seems likely that that they have contributed to the trend towards reliance on more capital-intensive techniques within many manufacturing industries'.[6] It was against this backdrop that their joint paper, announcing an almost sensational discovery that employment in India had gone down by more than 17% due to labour legislation (in particular the amendment of 1976 that was incorporated as Chapter V-B in the Industrial Disputes Act) and union power, became a trend-setter. In 1992 Isher Judge Ahluwalia published an enormously influential study (*Productivity and Growth in Indian Manufacturing*), where a singularly inflexible labour market emerges as the principal reason behind the poor employment record of Indian industry. By 1993, the idea of India's inflexible labour market blocking her progress and crying out for drastic reform had become official. As the 'Discussion Paper' on economic reforms by Government of India put it in 1993:

> ... we must review and reform the current legislations for employment and industrial disputes to ensure that excessive rigidities are removed and long-term growth facilitated. The operation of the current Industrial Disputes Act (in particular, the requirement for prior approval by government for closure of sick units and retrenchment of labour) needs to be reviewed as it affects incentive for investment and (*sic*!) as well as increased employment....Rigid rules limiting the flexibility with which labour can be hired and retrenched have the effect of pushing entrepreneurs into more capital-intensive technology and reduce the number of workers they have to deal with.[7]

In its appeal to 'review' the IDA, the Discussion Paper in fact represented moderate opinion within government circles. Others, as for example, the Inter-Ministerial Working

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[6] Lucas, 'India's Industrial Policy' in Robert E B Lucas and Gustav F Papanek (eds), *The Indian Economy: Recent Development and Future Prospects*, 1988, pp. 189, 189-90, cited in Nagaraj 1994: 177.
[7] GOI 1993: 34, cited in Nagaraj 1994: 184n3.

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Group on Industrial Restructuring in 1992 and the Committee on Industrial Sickness in 1993, recommended outright repeal of Chapter V-B and restoration of the pre-1976 position.[8]

It was thus that the labour flexibility theory acquired the status of what was aptly dubbed (by R. Nagaraj in 1994) the 'orthodox' view.[9]It has since moved from strength to strength, as even critics admit that it remains the 'dominant' view in the discipline, not just in India.[10] With heavy backing from the collective opinion of institutions such as the World Bank, International Monetary Fund (IMF), and Organisation of Economic Co-operation and Development (OECD),[11] it routinely finds unqualified support in the official publications of the Government of India.

However, even as it was becoming orthodoxy, informed sceptical voices could be heard, and the claims about the rising wage rates and union strength, as well as the connection between wage rate, capital-labour ratio and employment, were contested with critiques and alternative interpretations of the data as early as 1994.

The labour flexibility controversy that was born has been continuing till date, as arguments and evidence have been marshalled in an unceasing flow of research reported in innumerable lectures, seminars, essays in newspapers and research

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[8]Cited in Planning Commission 2001: 156.

[9]Nagaraj 1994: 177, 184.

[10] Jha and Golder 2008: 1; Jha and Golder 2011: 1 ('Dominant mainstream economic discourses on labour markets have been characterised by very strong advocacy for flexibility, and in the era of neoliberal reforms (for roughly the last three decades) this has acquired an almost a deity-like-aura for its presumed effectiveness in addressing a whole range of economic problems ....').

[11]For instance, OECD's first-ever economic survey of India in 2007 devoted one chapter to 'Improving the Performance of the Labour Market', which lauds the reforms for having 'taken some of the bite out the core labour laws' and calls for 'more comprehensive reforms' for correcting the remaining 'distortions' in the labour market (OECD 2007: chapter 4).Gerry Rodgers reports a near consensus on the issue among these institutions, though 'other views can also be found in World Bank publications' (Rodgers 2006: 2).

journals, etc. 'Controversy' rather than 'debate' is perhaps the more precise word for describing the current state of the issue. Two *alternative* sets of views, each thickly backed with argument and evidence, have developed over the past two decades without, for the most part, the orthodox side responding to the manifold objections to its outlook. A debate in the proper sense has not been generated.

Encouraging signs of recognition on the dominant side, that the points raised by the critics do call for serious rethinking, have recently appeared in the pages of the most recent *Economic Survey* of the Ministry of Finance, Government of India, for the year 2012-13. In 2006, as Aditya Bhattacharjea noted in his critical review of the labour flexibility thesis, the *Economic Survey* routinely endorsed the neoliberal viewpoint, without so much as specifying any of the 'studies' it referred to:

> Various studies indicate that Indian labour laws are highly protective of labour, and labour markets are relatively inflexible. These laws apply only to the organised sector. Consequently, these laws have restricted labour mobility, have led to capital-intensive methods in the organised sector and adversely affected the sector's long-run demand for labour. Labour being a subject in the concurrent list, State-level labour regulations are also an important determinant of industrial performance. Evidence suggests that States, which have enacted more pro-worker regulations, have lost out on industrial production in general.(Ministry of Finance, 2006, p.209.)[12]

In contrast, the *Economic Survey* for the year 2012-13, though it continues to endorse and affirm the same thinking, does recognise that 'some economists ... dispute the evidence that establishes the importance of labour regulations in determining the

[12]Cited in Bhattacharjea 2006: 1.

cultivation. Public works, such as building reservoirs and expanding irrigation, were also undertaken; if such activities were not directly undertaken by the state, it provided subsidies to those who did.

All of this evidence leads us to understand that the concept of a cash transfer programme itself is by no means new, and certainly not so in India. Neither is the idea of attaching conditions to a cash transfer.

THE INDIAN EXPERIENCE

Numerous social transfer programmes have been implemented by the Central and State governments in India. It is also important to note that some of these existing programmes, particularly those related to maternity benefits and survival and education of the girl child are already essentially conditional cash transfer programmes.

To reiterate this point, it may help to take a look at the various national-level schemes which demonstrate such features. One such scheme is 'Dhanalakshmi', introduced in March 2008 by the Ministry of Women and Child Development. Cash transfers are provided to the family of a girl child if the conditions of her birth registration, immunisation, enrolment and retention in school are fulfilled. Additionally, if she remains unmarried till the age of 18 years, she is entitled to an insurance cover of Rs.1,00,000. Another is 'Janani Suraksha Yojana'/ JSY. In 2005, JSY replaced the National Maternity Benefit Scheme, which had been introduced under the National Social Assistance Programme in 1995. The Ministry of Health and Family Welfare provides Rs.500 for every live birth for targeted poor households; an additional amount of Rs.100 in rural areas and Rs. 200 in urban areas as well as travel assistance are given for an institutional delivery. 'Balika Samridhi Yojana' was initiated in 1997 by the Ministry of Women and Child Development. It provides a post-delivery grant of Rs.500 for a surviving girl child and thereafter, annual scholarships are given up to Grade X for unmarried girls who regularly attend school. The last feature is especially reminiscent of the much-applauded Latin American model of CCTs. This was also a feature of some state-level programmes even earlier. The same is true of the National Programme for Education of Girls at Elementary-Level (2003), a component of the Sarva Shiksha economic outcomes' and, more important, is constrained to admit that the issue remains an open one, not a decided one:

> *If indeed labour laws constrain firms*, they would respond in predictable ways ....
>
> *Regardless of what one believes about causes*, the fact is that India is not creating enough productive jobs.
>
> *If indeed rigid labour laws are determined to be the key constraining factor in the creation of productive jobs*, win-win reforms are easily available.[13]

The *Economic Survey, 2012-13* thus reflects a decline in the self-assuredness of the orthodox point of view. It is also clear, however, that this decline is not the product of an even-handed assessment of the controversy. Its discussion of the critics' points remains patchy, all-too-brief, and dismissive.[14] In fact, a tinge of exasperated impatience is evident from the way the *Survey* rejects the importance of thinking in its espousal of practical reforms, saying in effect that success in job growth will come from 'best practices' without aid of theory:

> As best practices evolve, success in job growth will resolve theoretical debates more easily than a thousand papers.[15]

The shift appears to have much more to do with the fact that government's desire to take account of the thinking of the World Bank, which no longer remains exactly the same on the issue. The Bank's 2013 publication (*Doing Business: Measuring Business Regulations*) states: 'A careful review of the actual effects of labour policies in developing countries yields a mixed picture. Most studies find that impacts are

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[13] Ministry of Finance, GOI 2012-13: 43, 48, 48-49 (emphases added).
[14] Ibid: 43.
[15] Ibid: 48.

modest— certainly more modest than the intensity of the debate would suggest.'[16] Till the other year as it were (2010), the Bank believed very strongly, at least for India, in the very opposite of this, to wit, that her excessively restrictive labour laws prevented employers from 'creating jobs', thus 'helping workers'. Holding the IDA as the main culprit, the Bank's Report approvingly cited an estimate of about three million jobs in formal manufacturing that would have been created but for the IDA.[17]

In view of the foregoing, taking stock of the controversy should perhaps be the starting point for further work in the area. We have had scores of *analyses* in the form of a large volume of research output that remain dispersed. The various strands of it need to be *synthesized* into a coherent whole, which alone will assign new empirical work its proper significance.

In this dissertation I make a modest and necessarily preliminary attempt at such a synthesis, on the basis of what I think is a representative selection of the material. It is in the course of the presentation of my understanding of the issue that I have inserted at relevant points the results of my own empirical work.

This empirical work makes use of three databases in the main – CSO's Annual Survey of Industries (ASI), Indian Labour Year Book (ILYB), and Indian Labour Statistics (ILS) – for the periods beginning from 1981 till the year for which information was available. My own data, which is naturally but not invariably in agreement with the already existing work, pertains to the following:

1. Earning Profiles of workers.

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[16]Cited in ibid: 43.

[17] World Bank, *India's Employment Challenge:Creating Jobs, Helping Workers* (Oxford University Press: New Delhi), 2010, cited in Goldar 2011: 22, 23.

2. Labour shares, labour productivity, and wage rate.
3. Share of contract workers in formal manufacturing.
4. Trade unions: trends in number and membership.
5. Industrial disputes (aggregate trends): incidence, person days lost, average duration, and number of workers involved.
6. Industrial disputes by types of work stoppage: strikes versus lockouts.
7. Industrial disputes by location of work stoppage: public versus private sector.

We begin with an outline of the broad issues that inform the labour flexibility controversy as it has developed in India in the second chapter, setting forth the terms on which the debate needs to be conducted. These issues relate to theoretical perspectives as well as the specific points on which the Indian labour market is alleged to be rigid and the types of objections that have been raised to these allegations.

The third chapter addresses the empirical demonstrations of the connection between India's regulatory framework and the performance of her formal manufacturing sector, and the questioning of the connection as well as the alternative interpretation of the dynamics of formal industrial performance in terms of output and employment.

In the fourth chapter we try to assess exactly how the trade unions in formal manufacturing can be seen, or not seen, to be affecting labour market outcomes, such as wages, employment, and restructuring.

In conclusion, we see the extent to which ideological motivation can be said to bear on the labour flexibility debate in India.

Chapter 2

THE LABOUR FLEXIBILITY THESIS IN INDIA: PROPONENTS AND OPPONENTS

The Regulatory Framework: Labour Law Regime in India

Unlike what the *Economic Survey* of the Ministry of Finance, Govt. of India, stated in 2006 in the passage cited in the previous chapter, and contrary to what is often believed among economists and others,[18] it is not altogether true that 'Indian labour laws ... apply only to the organised sector'.[19]The Minimum Wages Act of 1948, seeking to protect labour in any form from sub-human exploitation, fixes minimum wages, the scope of which has expanded from agricultural labour and 12 non-agricultural occupations to cover presently as many as 40 occupations under central government and 79 occupations in Orissa government.[20](Since labour is part of the Concurrent List of the Indian Constitution, the States can exercise legislative authority in these matters, and has in fact freely done so, amending some of the Central legislation and showing 'considerable variation' in their implementation, as a result of which 'there is substantial variation in labour regulations at the state level'.[21]) Then there is the Payment of Wages Act 1936 that seeks to protect workers from unauthorised deductions by the employers, the scope of which has been extended to cover unorganised sectors such as shops and commercial establishments as well.[22]

[18] E.g. the opening paragraph in OECD's 2007 *Economic Survey* of India states flatly (OECD 2007: 119): 'It is only India's organised sector that is subject to labour market regulations.'
[19]Ministry of Finance, *Economic Survey*2006, p.209, cited in Bhattacharjea 2006: 1.
[20]Zagha 1998: 411; Mitchell et al 2012: 31.
[21]Ahsan and Pagés 2008:4.
[22]Mitchell et al 2012: 31-32.

Yet it is true that almost all the rest of the labour laws pertain to the organised (also called formal or registered) sector. The formal/organized/registered sector comprises firms with 10 or more workers with power, and 20 or more workers without power. The smaller firms constitute the informal/unregistered/unorganized sector. We shall employ the terms 'formal' and 'informal'. The formal sector has a much smaller share in economic activity, 92% of which takes place in the informal one.[23] The share of manufacturing, including both the formal and informal sectors, has been stagnating at 17% of the GDP, 'since 1990–91'.[24] In 1980-81, about 20% of manufacturing employment (with estimates of total employment in manufacturing ranging from 25 to 35 million) was in the formal sector.[25]

There is such a bewildering variety of labour-related legislation that it has tripped the very best in the field. Roberto Zagha thinks that 'there are 45 labour laws in operation today, enforced both by the central and state governments', a figure that others accept.[26]Ahsan and Pagés state, more correctly, that 'In India, there are 45 pieces of central legislation covering many aspects of employment as well as a large number of state laws'[27], but even they aren't correct enough! In fact, there are many more, dispersed in such a fashion as to make getting exact numbers a rather onerous task. These set conditions of employment including hiring and firing, and procedures for resolution of disputes, and conditions of closure, and go on to provide for minimum wages, procedures for periodic enhancement of wages, conditions of work, workers' welfare, health and safety provisions, etc. In all, there are rather more than 150 separate laws enacted by the Centre and the States: exact numbers vary with different estimates, with the Indian Labour Bureau's count in 2003 of a total of 236 'important

[23]Ahsan and Pagés 2008: 2.
[24]Panagariya 2008: xxvi. Ahsan and Pagés 2008(2008: 2) put it at 15%.
[25]Joshi and Little 1994: 26, 364n2.
[26]Zagha 1998: 406; Panagariya 2008: 289.
[27]Ahsan and Pagés 2008: 2.

labour related statutes in India' (76 Centre-level and 160 State-level enactments)[28]; in 2008, Jha and Golder counted '*close to* 50 central and *around* 175 state laws which have something to do directly with labour' (emphases added).[29]

Of all these laws, it is the Industrial Disputes Act 1947 with the double amendment of1976 and 1982 that stands out as the single most important indicator of India's inflexible labour market, seen as 'emblematic of all the ills of the industrial labour market'.[30]

The 1976 amendment, which forms chapter Vb of IDA, made it mandatory for firms employing 300 or more workers to obtain 'prior permission' from the government for any 'layoff, retrenchment and closure' (GOI, *Indian Labour Statistics*, 1978, p. 303). The 1982 amendment (that became an Act in 1984, so that it is often referred to as the 1984 Act, though we adhere to the practice of naming an Act after the year in which it was submitted as a bill) brought down the ceiling to include within the ambit of the Act firms with 100 or more workers; West Bengal had already in 1980 through an amendment lowered the ceiling to incorporate firms with 50 or more workers, and other states too amended chapter Vb. According to the 1976 Act, the written prior permission for both closure and retrenchment was normally to be obtained from state governments. The Act was applicable only to permanent workers, not to casual ones (i.e. those paid for less than 240 days per year), and only in firms where work was done through the year (and not seasonally in intermittent fashion); and it did allow retrenchment on account of

[28] Mitchell et al 2012: 3, 18 and fn.86.
[29] Jha and Golder 2008: 38.
[30] Nagaraj 2006: 23.

power shortages or natural disaster. Violation of the Act invited both imprisonment and fine for the employer.[31]

The IDA also lays down detailed regulations governing resolution of labour disputes, which form another sore point by allegedly increasing costs:

> The IDA also sets conciliation, arbitration and adjudication procedures to be followed in the case of an industrial dispute. It empowers national or state governments to constitute Labour Courts, Tribunals, National Tribunals, Courts of Inquiry, and Boards of Conciliation. The government has the monopoly in the submission of industrial disputes to Conciliation Boards, Courts, Tribunals or National Tribunals. Yet, the employer and the employee can, if they agree, refer the dispute to arbitration. After a dispute has been referred to arbitration, the government may also prohibit the continuation of any strike or lock-out. In industrial disputes originated by the discharge or dismissal of a worker, the court or tribunals can reinstate the worker in the conditions they see fit if they deem such discharge unjustified. If the employer decides to pursue the matter in a higher court, the employer is liable to pay the foregone wages during the period of proceedings.[32]

Most recently, through a change introduced in 2010, firms with 20 or more employees are required to set up an in-house institutional procedure for the resolution of individual employment grievances.[33]

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[31] Fallon and Lucas 1993: 395, 398-399; Zagha 1998: 408; Ahsan and Pagés 2008: 5&n3, 7. We should note the specific IDA meanings of 'layoff' and 'retrenchment' as noted by Bhattacharjea: A *layoff* "means the failure, refusal or inability of an employer on account of shortage of coal, power, or raw materials or the accumulation of stocks or the breakdown of machinery or natural calamity or any other connected reason to give employment to a workman whose name is borne on the muster rolls of his establishment" (IDA Section 2(kkk)). Layoffs are limited to 45 days on half pay. *Retrenchment* means the permanent termination of a worker's service, other than on account of punishment, retirement, ending of a contractual period, or continued ill-health (IDA, section 2(oo)). (Bhattacharjea 2009: 1 fn1.)

[32] Ahsan and Pagés 2008: 5.

[33] Mitchell et al 2012: 43 and n226.

Other laws lay down procedures of wage enhancement, and provide for health-care service, pension, provident fund, accident insurance, etc. (under Entry No. 24, 'welfare of labour', of the Concurrent List of the Constitution).[34]

Then there are laws that make restructuring, including technological upgrading and redeployment of labour at different locations and with varying work schedule, an arduous task. This is mainly done through the provision of government-specified 'service rules', relating mainly to job specifications. Dividing jobs into categories such as 'manual unskilled', 'manual skilled', 'managerial', and the like, these rules describe the nature of jobs, each of which is assumed to require a specific degree and type of skill, and also take into account the location specific to the jobs. Any change in these job specifications – i.e. shift from one type and location of job to another – is deemed a change in service conditions, prior permission for which has to be obtained and the affected workers have to be duly informed in advance (IDA specifies a minimum of 21 days' notice, amended to 42 days in West Bengal). These rules are generally mandatory for firms with more than 100 employees, but legislation by various states extends them, in some cases, to all firms, or to firms with 50 or more employees in other cases.[35]

Within the formal manufacturing sector, not all the labour laws apply equally to all, and size is again a disadvantage from the employer's point of view, an advantage from the employee's:

> For example, reporting requirements are waived for firms with less than 20employees (10 if using power). The requirement to establish a pension fund is waived for firms with less than 20 employees. Mandatory health insurance (under the ESI, Employees State Insurance Act, 1948) is waived for firms with less than 50 employees. Requirements for physical amenities (availability of crèches, rest rooms, subsidized canteens, medical

[34]Ghosh 2004: 26; Jha and Golder 2008: 39-40; Mitchell et al 2012: 12-13, 32.
[35]Zagha 1998: 409.

dispensaries and availability of medical and paramedical staff) increase with a firm's size.[36]

Contract Labour Law, and 'Exit' Policy

Thus far we have described the features of Employee Protection Legislation/Job Security Legislation (EPL/JSL) that pertain to permanent workers, i.e. those work for more than 240 days in a year. The formal sector, however, may and does employ other kinds of workers too, on a contract or a casual basis; these contract and casual workers are 'not considered *workmen* under the IDA and are exempted from the application of severance pay, mandatory notice or retrenchment authorization'[37]. But firms are not free to employ these non-permanent workers as they may like, and are governed in this matter by the Contract Labour (Regulation and Abolition) Act, 1970. Besides providing for protection against delayed wage payment as well as certain welfare measures for them, the Act empowers the government to disallow the employment of contract labour in any work of a 'perennial' nature or one that is performed by permanent employees in those or other similar firms (of 20 or more workers), thus compelling them to appoint regular workers for the jobs. The Fifth Schedule of the 1982 amendment of IDA props up the provision further by declaring that to employ workers on a contract or casual basis 'with the object of depriving them of the status and privileges of permanent workmen' was to indulge in 'unfair labour practices'.[38]

The many restrictive provisions of the regulatory framework have come under attack for having stifled growth by effectively disallowing exit of firms within reasonable time and at reasonable cost, thus keeping out a number of firms that would otherwise have set up manufacturing units. These provisions include of course the already mentioned law about getting government approval for closure (that is allegedly seldom granted), but

[36] Zagha 1998: 407.
[37] Ahsan and Pagés 2008: 5.
[38] Ahsan and Pagés 2008: 5-6; Mitchell et al 2012: 16-17 and n80.

also the provisions for dealing with unviable, 'sick' firms ('sickness' is determined according to precise legal criteria[39], the concept itself being 'almost unique to India'[40]). By 1988 the phenomenon of sick firms had assumed alarming proportions

> At the end of December 1988, financial institutions had identified over 240,000 industrial units on their borrower lists as sick and weak. A major proportion of these units were in the small scale sector. But even in the medium and large category, about 1800 private and 50 central public sector units were considered non-viable for revival and, therefore, fit for closure. These enterprises employed about 900,000 workers.[41]

In order to deal with the colossal loss of productive resources due to the sick companies, a law was enacted in 1985 (Sick Industrial Companies Act) under which a Board for Industrial and Financial Reconstruction (BIFR) was set up. Yet the problem persisted, not only because the BIFR schemes take no less time than the earlier liquidation procedures,[42]but also because 'the pronounced policy of the government is to have closures or retrenchments only as the last resort'[43]. A National Renewal Fund was set up in 1992, as part of the 1991 reforms, for rehabilitating the workers displaced by restructuring, but its success too has been rather modest: by 1995 it is reported to have carried through the retrenchment of only 78,000 out of its total target of an estimated 2 million redundant people in public enterprises.[44]

[39]Zagha 1998: 409.
[40]Joshi and Little 1996: 211.
[41]Papola 1994: 134.According to another calculation, 'in 1990, sick firms were reckoned to number over 2,000 large and medium scale, and over 200,000 in total' (cited in Joshi and Little 1996: 211n239).
[42]Joshi and Little 1996: 212-215.
[43]Papola 1994: 134.
[44]Zagha 1998: 410.Zagha gives these figures for the period up to July 1995, without mentioning his source. Joshi and Little, citing Government of India, *Economic Survey 1994 –95,* 10, paragraph 22, refer to the removal of 75,000 workers, mostly in the textile sector ... by March 1994' (Joshi and Little 1996: 194).

Trade Unions and Labour Market Rigidity

The 'main reason' why the government has not been able to do much about sickness and labour redundancy is seen to be the alleged strength of the trade unions and their intransigence, the militancy of which is routinely taken to be the reason behind overstaffing of the formal sector, public enterprises in particular.[45] Their militant presence is reckoned to have successfully prevented the labour market from responding to economic forces, irrespective of the legislation: even before the 1976 amendment of IDA, strong unions 'provided greater security ... and were better placed to resist declines in employment resulting from it'[46].

Perpetuating labour redundancies is only the first of many other ways in which the unions have kept, so the argument goes, the Indian labour market among the most inflexible ones in this world. Thus they would not allow any reform of the existing labour laws:

> Most of the political parties have their affiliate labour unions. Because these unions serve as virtually guaranteed vote banks, no government has been able to place labour reform on its agenda. The Vajpayee government came closest to it when Finance Minister Yashwant Sinha announced his intention to reform two key labour laws in his 2001–02 budget. But in the end, it could not build consensus within the party to bring the matter to the Parliament floor. The current UPA government has explicitly ruled out this labour reform.[47]

Third and fourth, union militancy is supposed to have kept the wages artificially high with all its unintended adverse consequences for general well-being, and output growth low through loss of work days in strikes. For example, the most important reason why

[45] E.g. Zagha 1998: 410, 411, 412.
[46] Zagha 1998: 413.
[47] Panagariya 2008: xxiii. Part of the blame went of course to the UPA's reliance on Left Front support for survival (ibid: 97-98).

when compared to their counterparts residing in relatively lesser fragile ecosystems (Agarwal, 1985). It can also be argued that there are variations within such societies in terms of amount of socioeconomic returns.[7] Though the poor are often seen as the greatest threat to fragile ecosystems, they are more importantly the first victims of ecosystem degradation. This is because excessive exploitation can undermine the resource availability but at the same time, due to prevailing poverty, there is an urgent need of supplementary or alternative livelihoods and income generation. The contradiction between livelihoods and preservation remains as a function of market dynamics in the existing context of skewed distribution of assets and extreme pauperization[8]. Though some environmentally progressive change is possible within that configuration, assuming significant alteration of political dynamics, substantial progress would require quite fundamental rethinking of the relative values of growth per se, social justice, and political democracy in the context of environmental crisis (Herring, 1991). As important, human lives are short in terms of the evolution of ecosystems; it is difficult to imagine a fit between short-term interests and intergenerational "rationality," or justice, being generated by the market (Nadkarni, 1987: 360-61 et passim). Put in simple terms there is "market failure" when it comes to allocation of resources in an equitable way in ecologically fragile regions which are more often than not also referred to as "Commons".[9]

Coming to the question of "Commons" one must bear in mind that there is a clear demarcation between "Commons" situated in the Developed Nations and those in the Developing and Underdeveloped Ones. This demarcation can be straightaway brought out by the fact that the "Tragedy of Commons" has been more or less completely averted in the former whereas the tragedy seems to have been brought under some notion of control in the last two decades or so in the

[7] Whilst the poorer members of a community rely more heavily on forest resources, the richer households often have the main share of resource use (DFID, 2002). In a community in the Brazilian Amazon, the three richest households were responsible for 24% of the total palm fruit harvest (Coomes *et al.*, 2004). The households receiving most income from bush meat hunting in Gabon are from the richer part of the community (Coad, 2007).

[8] See Herring, 1991.

[9] It does not mean that all fragile ecosystems are "Commons". However all "Commons" are in one sense fragile ecosystems with the probable exception of pastoral lands.

industrial wages are higher than agricultural ones was, according to Fallon and Lucas, 'the dramatic rise in union membership and militancy':

> Union membership increased by more than 150 percent between 1966 and 1979, and twice as many work days were lost in strikes in the 1980s as in the second half of the 1960s.[48]

We lag behind others in wealth because we stop work more often than they do, and here again our laws may be responsible, at least in part: 'compared to other countries, India loses a greater proportion of person-days and output due to strikes and lockouts, a situation, which is often associated with ineffective dispute resolution laws'.[49]

Elements of Labour-Market Rigidity: Solow's Definition and Its Implications

It is with reference to the labour laws and trade union activity as outlined in the preceding sections that widely divergent and mutually opposed views have been taken on the nature of labour markets in formal manufacturing in India. Before we proceed to describe and discuss those views, however, we need to keep in mind the overall context of the general concept of labour flexibility.

Seeking to provide a comprehensive definition of a rigid labour market, Robert M Solow stated: 'A labour market is inflexible if the level of unemployment-insurance benefits is too high or their duration is too long, or if there are many restrictions on the freedom of employers to fire and to hire, or if the permissible hours of work are too tightly regulated, or if excessive generous compensation for overtime work is mandated, or if trade unions have too much power to protect incumbent workers against competition

[48]Fallon and Lucas 191: 397.
[49]Ahsan and Pagés 2008: 3.

and to control the follow of work at the site of production, or perhaps if statutory health and safety regulations are too stringent.'[50]

In order to grasp the full significance of this definition, it may be broken down into the following elements:

1. A 'too high' level of unemployment-insurance benefits.
2. A 'too long' duration of these benefits.
3. Restrictions on the freedom of employers to fire and to hire.
4. 'Too tightly regulated' permissible hours of work.
5. Excessive generous compensation for overtime work.
6. Too powerful trade unions.
7. 'Too stringent' health and safety regulations (not invariably).

Excessive generous compensation for retrenchment should perhaps be listed as an additional factor (it is apparently subsumed in the restrictions 'to fire and to hire' in Solow's definition).

Enumerating the features of a rigid labour market based on Solow's definition is important for retaining clarity about the issue of labour flexibility, which tends to get blurred in specific contexts (such as Indian) when, and perhaps because, the focus is on this or that dimension of the concept: Solow's criteria ought to make us 'wary of

[50] Solow 1998.

simplified arguments about the role of labour market institutions'[51]. In India, the focus of discussion has been on nos. 3 (restrictions on hiring and firing) and 6 (too powerful unions). Focus on the twin issues, to the neglect of other components in the concept of labour flexibility, has tended to result in prescriptions for reform that suggest removal of labour inflexibility in one form by re-introducing it in another form! Thus Montek S. Ahluwalia, currently Deputy Chairman of India's Planning Commission and a pivotal figure in directing the liberalisation programme, suggested the following piece of labour market reform: 'The lack of any system of unemployment insurance makes it difficult to push for major changes in labour flexibility *unless a suitable contributory system* that is financially viable can be put in place' (emphasis added).[52] Most recently, the same plea has been repeated by Pranab Bardhan:

On job security, there is ultimately no alternative to a package deal: allowing more flexibility in hiring and firing has to be combined with a reasonable scheme of unemployment compensation or adjustment assistance, from an earmarked fund to which employers as well as employees should contribute.[53]

It is not being realised that to push for any form of unemployment insurance is to bring inflexibility (the first item of Solow) back in through another door, nor of course anticipated that doing so would unleash the same train of protests that are currently mounted on the present labour-market 'rigidities'. Given the complete absence of unemployment insurance in India, no scheme for it is likely to be regarded as 'reasonable': insertion of any such scheme will be denounced as the proverbial last straw on the back of the camel that is India's labour market. Indeed, the 'excessive' clause in Solow's definition ('too high', 'too long', etcetera) remains relative and

[51] Rodgers 2006: 2.
[52] Ahluwalia 2002: 76.
[53] Bardhan 2010: 33.

ambiguous. The flexibility thesis, *in principle*, cannot accommodate *any* curb on the free play of the labour market.

Similarly, when Peter Fallon in 1987 advised the Govt. of India not only to relax the 'exit' rules for firms and employers but also to make the separation cost costlier for them, he was in effect substituting one form of rigidity by another[54] ; for it is also part of the theory, we need to remember, that 'separation benefits accruing to workers become potential hiring costs for the employers', thereby creating a source of rigidity that 'affects the ability and the willingness of firms to create jobs'[55]. The same would have been the result of the intended amendment to the IDA that sought to 'raise the level of employment above which firms have to seek permission for retrenchment from 100 workers at present to 1000, while simultaneously increasing the scale of retrenchment compensation'[56]. This suggestion, conceived around the turn of the present millennium, has found virtual consensus among all pro-reform economists, but remains quite far removed from the ideal of a properly flexible labour market, and has therefore impelled, most recently, Bibek Debroy to urge dumping it – the higher ceiling, compensation and all –in favour of a return to the pre-1976 situation (implying 'a complete repeal of Chapter V-B'), when a truly no-holds-barred situation (in this respect) prevailed.[57]

The same kind of slip-up may be seen in two major cross-country studies: the first, involving 85 countries, undertaken by Juan C. Botero, Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes and Andrei Schleifer, sought to discover the economic outcome of a variety of labour laws (e.g. employment laws, industrial and collective bargaining laws and social security laws); the second, covering 76 countries using panel

[54] Peter Fallon, 'The Effects of Labour Regulation upon Industrial Employment in India', Background Working Paper for India : An Industrialising Economy in Transition, The World Bank, Washington', cited in Papola 1994: 136.
[55] Shyam Sundar 2005: 2274.
[56] Cited in Ahluwalia 2002: 76.
[57] Debroy 2012: 81.

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[57] Debroy 2012: 81.

data for three decades (1970-2000), was done by Calderon Cesar and Alberto Chong. We quote one each of the major results they reached, as reported in an ILO study by Praveen Jha and Sakti Golder[58]:

> [The First Study]: The richer countries regulate labour less than poorer countries; instead they provide a more generous social security system.
>
> [The Second Study]: Among developing countries, minimum wages and trade unions are the major routes of transmission through which higher labour regulations impact adversely on growth.

It needs to be kept in mind that the social security system of the first study would bear on the flexibility thesis as much as would the minimum wages floor of the other. Keeping the social security system out and minimum wages in cannot but make for a flawed theory of labour flexibility.

Social security provisions, especially unemployment insurance, have figured regularly in discussions of labour flexibility in Europe, though their significance for the labour-flexibility debate in India is generally not noted. The *Jobs Study* (1994) of OECD included 'reforming unemployment and related benefit system' as one of the four key issues in labour-market reforms. The *World Development Report* (1990) of the World Bank observed: 'labour market policies – minimum wages, job security regulations *and social security* – are usually intended to raise welfare or reduce exploitation. But they actually work to raise the cost of labour in the formal sector and reduce labour demand ...' (emphasis added). In 2003 the *IMF World Economic Outlook* stated: 'A wide range of analysts and international ... have argued that the cause of high unemployment can be found in labour market institutions. Accordingly, countries with high unemployment have been repeatedly urged to undertake comprehensive structural reforms to reduce

[58] Jha and Golder2008: 8-9.

"labour market rigidities" such as *generous unemployment insurance schemes*, high employment protection, such as high firing costs, high minimum wages, non-competitive wage-setting mechanisms and severe tax distortion' (emphasis added).[59]

It is important to remember the absence in India and most developing countries of this factor that allegedly makes Western labour markets rigid, and to ask if this point is factored in the tables of ranking nations on the basis of their labour-market flexibility where India and other such countries are placed at the bottom.

Following Solow's criteria (with due modifications and amplifications) in fact may lead to a confirmation of what observers like Gerry Rodgers feel about the labour flexibility theory, that its rigorous pursuit would lead only to a blind alley:

> Flexibility tends to become a metaphor for unfettered markets. Yet there is no such thing, for markets, whether for labour or for anything else, function effectively only because they are surrounded by a set of institutions which generate common rules, reflect the interests of participants and guide behaviour. This is all the more so in the market for labour, which is in reality a social institution, not only supporting work and production, but also impacting on representation, social integration and the personal goals of its participants. So one must start by being wary of simplified arguments about the role of labour market institutions.[60]

Clash of Perspectives

Behind the clash of opinion about the possible, probable, and actual significance of the existing regulatory framework for the labour market in India, there lies a clash of perspectives. In one perspective, the many restrictions lead to 'distortions' in the labour

[59] All the three citations figure in Guha (2009: 46), who cites them to make other points than the one being discussed here.
[60] Rodgers 2006: 2.

market. In another, the rules and regulations form parts of an institutional arrangement that is essential to development, by ensuring, among other things, a floor of rights for the workers: after Freeman (1993), these may thus be designated 'distortionist' and 'institutionalist' perspectives, corresponding to those who subscribe to the neoliberal theory and those who do not. For instance, in provocative contrast to the neoliberal thesis that regulation eats into employment, economists on the other side speak of 'regulating labour markets for more employment'[61].

As against the 'distortionist' outlook, a number of economists argue from the 'institutionalist' standpoint for a properly conceived framework of labour laws not only to ensure a decent life for the workers involved, but also for healthier economic development that looks for markets as much at home among these workers (from a Keynesian perspective) as for export markets.[62]Alakh N. Sharma has likewise called attention to the ways in which both macroeconomic as well as microeconomic logic in economic theory has been invoked to argue for the retention of a labour protective regime: if competing firms decide to reduce unit costs by depressing wages, they would in effect be taking to the 'low road to growth' in place of the more desirable 'high road to growth' that is achieved not by wage reduction but by stepping up productivity through advances in mechanisation and/or management.[63]

[61] This is the title of an essay by CP Chandrasekhar and Jayati Ghosh 2002.

[62] Jha and Golder 2011: 2. In making these points, Jha and Golder cite an impressive array of works, the more important of which include the following: (i). The works of Dean Baker and his associates, including their Unemployment and Labour Market Institutions: *The Failure of the Empirical Case for Deregulation*, November, ILO Working Paper No. 43. (ii) Guy Standing and Victor Tokman, eds., *Towards Social Adjustment*. (iii) The works of Richard B. Freeman including his 2005 essay 'Labour Market Institutions without Blinders: The Debate over Flexibility and Labour Market Performance'. (iv) Sengenberger, Werner and Duncan Campbell (1994), *Creating Opportunities: Role of Labour Standards in Industrial Restructuring*.

[63] Sharma 2006: 2078.

relatively quickly, while the emergence of a matching political culture is deemed more problematic. It is generally argued that the institutional, formal prerequisites for democracy have generally been fulfilled in the ten CEECs under consideration, the former communist countries now part of the European Union, it is more difficult to assess in such a clear manner the level of consolidation of democratic behaviour, or of the fledgling democratic political culture, that has been attained. A 'genuine democratic political culture' according to democratization theorists, 'embodies high levels of interpersonal trust, a readiness to deal with political conflict through compromise rather than compulsion or violence, and acceptance of the legitimacy of democratic institutions. The conception of political culture in the study of democratization in Central and Eastern Europe draws principally on the classical understanding of 'civic culture' or political culture as it emerged from the classical work of Almond and Verba, and those that have been working in this vein. A democratic regime is consolidated when a strong majority of public opinion holds the belief that democratic procedures and institutions are the most appropriate way to govern collective life in a society such as theirs and when the support for anti-system alternatives is quite small or more or less isolated from the pro-democratic forces.

The outcome of democratic consolidation is a system that should meet certain procedural requirements, such as the provision of regular elections and institutional mechanisms that check executive power, as well as the guarantee of human rights and evolution towards a remaking of political culture that is supportive of democratic political life.[2]

To verify the claim that a variety of democratic discourses is indeed possible, and likely to be of importance for the new democracies in Central and Eastern Europe, briefly reviewing various such understandings of the relation between politics and culture as they have emerged in the debate on democracy in political theory will be useful. The review will not only bring forth a diversity of possible understandings of democracy but will also further give emphasis to the points made above regarding the necessary suitable nature of democracy, its grounding in a dual rather than a singular imaginary, and the always existing potential for innovation and change.[3]

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[2] Geoffery Pridham and Vanhanen, *Democratization in Eastern Europe*, domestic and international perspectives,(London: Rutledge 1994), p.120

[3] Paul Blokker, 'Multiple democracies: political cultures and democratic variety in post-enlargement Europe', *Contemporary Politics*, 14(2) (2008), pp. 161-178.

That a fundamental clash of perspectives is involved seems undeniable. 'Decent work' is a major guideline of the International Labour Organisation[64]; it figures nowhere in the Washington Consensus, for which 'reservation wages', a euphemism for subsistence wages in developing countries with little or no social security, is the bottom line. That 44% of the labour force in India in 1999-2000 was illiterate and that a mere 5% possessed the vocational skills to participate in productive sectors was a source of great worry for the Second National Labour Commission (2002), and for like-minded economists[65]. By contrast, lack of literacy and skills is India's 'comparative advantage' to economists like Arvind Panagariya, for whom the panacea for India's economic ills lies in perpetuating this unskilled labour force: he prescribes development, not of skill, but of 'unskilled labour-intensive industries', a phrase that runs like a refrain in his treatise (*India: the Emerging Giant*); it may be noted, by way of contrast, that 'decent work' figures equally regularly as a major concern in a work of Jayati Ghosh (*Macroeconomic Reforms and a Labour Policy Framework for India*, ILO, Geneva). It was therefore in order that ILO's *Jobs Report (1996-97)* remained sceptical of the claims about the rigidities: 'jobless rates appear to have risen independently of levels of labour market regulations'[66].

In neoliberal calculation, this labour law may be more irksome and damaging than that, but the basic trouble is with the very act of labour legislation itself. Legislation in any form adds to labour cost, so runs the argument, neatly summed up by Papola: 'Any piece of labour legislation involves a cost to the employer in terms of enhancement of wages, maintenance of certain minimum conditions of work, contribution towards social

[64] 'The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. Decent work is the converging focus of all of the ILO's four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue.' ILO 1999, Report on Decent Work, cited in Ghosh 2004: 3. The details are available at http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm.

[65] E.g. Rodgers 2006.

[66] Cited in Guha 2009: 46.

security and welfare, retrenchment and lay-off compensation, and transaction costs in following legal process in the settlement of industrial disputes, or, then, payment of consideration money to officials for ignoring non-compliance.'[67]

On the other hand, it has aptly been observed that for others labour is more than a mere 'resource for growth': 'the concern for employment as the means of livelihood has been an equally important consideration in determining policies and programmes'[68]. From the early twentieth century onwards, a common concern behind protective labour legislation has been based on the recognition that in a poor labour-surplus economy like India's, workers by themselves would be in no position to bargain with the employers, and so needed to be ensured a basic level of wages and working conditions through state intervention.[69] And this does not necessarily make government pro-worker and against capitalists; very often, these concerns come along with political demobilisation of the working class.

Employment and Labour Flexibility

The proponents argue that a flexible labour market, by maximizing output growth, will generate employment.

In traditional growth theory within the paradigm of a capitalist economy, employment growth is perceived as a simple function of output growth: the relationship between the two, as Prabhat Patnaik has noted, is 'fairly straightforward':

> If we assume fixed coefficients which change over time through technological progress, and no deficiency of aggregate demand (with capacity rather than labour availability

[67] Papola 1994: 131.
[68] Papola 1994: 117.
[69] Papola 1994: 117-119.

Hence, the sample is not representative of the profile of sex workers in the brothels of GB road nor is it used in the study to make generalizations. Rather the field experience is used to provide a description and analysis of the processes involved in the constitution and working of the market for sex work especially with respect to the provision of sexual services and the implications for the providers i.e., sex workers. The major limitation of the study is that the sample is small and not representative because of the lack of access to all the brothels and sex workers. Also, since the research is based on responses, it is possible that they are influenced by the presence of pimps/ madams. In many cases conversation would be cut short with someone whispering something to the ears of the worker.

1.9 Organization of the thesis

The thesis is organized in three core chapters following this introductory chapter. The second chapter of the thesis looks at the social and legal contexts within which the provision of sex work on the market is located, and how the unionization of sex workers around their identity and rights may alter the market for sex work. We elaborate on the analytical framework for the market focusing on the supply of sexual services through the brothels in this chapter. In the third chapter, we provide an overview of the market for sex work in GB Road with a focus on the transactions costs it involves and elaborate on the supply of sex work through a system of brothels. We examine several aspects of the trade in GB Road, provide a socio-demographic profile of sex workers and document the power structures within the brothels. In the fourth chapter, we make use of interviews with sex workers to understand the implications of the organizational form of the brothels for perceptions of sex workers and for practices. The concluding observations are presented in the fifth chapter.

being the constraining factor for output), then the rate of growth of employment is determined as the difference between the rate of growth of output (which depends upon the savings and capital-output ratios) and the rate of growth of labour productivity (which depends on the pace of technical progress). Here, a rise in the rate of growth, unless accompanied by a still greater rise in the rate of growth of labour productivity, will necessarily raise the rate of growth of employment.[70]

It is in terms of reasoning such as this that one may understand the confident hopes, in the early years of Liberalisation, of Planning Commission advisers such as TS Papola that 'an acceleration in the rate of growth of the Indian economy in the coming years ... is expected to have a positive impact on employment growth'[71]. Estimates of the Planning Commission (e.g. that, as against the 3 million of 1991-92, growth of employment opportunities would be 6.4 million during 1992-93 and 5.6 million during 1993-94) drew essentially on the same logic, as did the estimate of S. Mundle that GDP growth rates of 3.9% and 2.8% would make for employment growth rates of 4 million and 2 million per annum respectively.[72]

The reality, however, has been anything but that simple, as was in fact realized quite early in development economics. As Mazumdar and Sarkar have recently noted, 'the problem of low employment elasticity in manufacturing – that is, the feeling that employment growth has been lagging seriously behind output growth – has been a serious issue in development economics since the 1960s when concerns about the employment problem in third-world countries began to be discussed (see, for example, Morawetz 1974).'[73]

[70] Patnaik 2011: 172-173.
[71] Papola 1994: 138.
[72] Cited in Papola 1994: 137-38.
[73] Mazumdar and Sarkar 2009: 40, citing Moravetz's article in *Economic Journal*, 84(335), 1974, pp. 491-542.

Jobs failed to grow with the economy, above all in formal manufacturing, in the 1980s and beyond, a phenomenon that has often been called 'jobless growth'. This has been seen as 'evidence' for the negative effect of the job security legislation and high wages. If there is unemployment, it has to be due to the growing rigidities of the labour market due to the increasingly more stringent labour laws. If the wages rise, the 'blame' must again be placed at the doorstep of an inflexible labour market thanks to all-powerful unions.

A restrictive labour regime has allegedly been counterproductive and self-defeating. It discourages investment and growth, and consequently the employment that would have thus been generated. And it not only preserves but worsens the gulf between the protected and the unprotected segments of the workforce:

> Further, when such protection is available to a few workers in one segment and not to others who, in fact, constitute the majority, as is the case in India, employment mostly takes place in the unprotected segment and thus proportion of protected workers declines. In the process, the very objective of providing social protection to large majority, if not all, gets defeated.[74]

Rising unemployment has figured for some time as among the most serious problems of the Indian economy; its seriousness threatens to set at naught the hopes of gaining from India's emerging demographic dividend and underlines the critical importance of a dispassionate assessment of the claims and counter-claims about labour-market reforms.

[74] Papola 1994: 119.

Thus, the market for sex work has certain specific features, which make way for a range of intermediary actors.

The sex worker's primary activity is selling sexual services in exchange of money. Importantly, from the client's point of view, this transaction is non-reproductive (Edlund and Korn 2002). The client is the purchaser of sex from the sex worker. Both the sex worker and the client may be either male or female. However, the market for sex work, the world over has mostly female sex workers providing for male clients. This is also the case in the Indian context and in the case of our empirical setting - GB Road, New Delhi.

This chapter seeks to lay out the processes – legal-political, social and economic – that shape the market for sex work in India. By doing so it tries to build a framework for analysis of the market for sex work. First we discuss aspects of the social context with respect to property relations within patriarchy and implications for sex work. Then we turn to the legal framework within which sex work operates in India, and try to understand how it shapes the market for sex work. Our next section is on the economic process underlying the market for sex work. In the last section, we examine aspects of the political context or the organization of sex workers in India on the basis of their identity as workers. There we look at the possibilities of unionization of sex work and how unionization affects the market.

2.2 The social context

Institutionalized sex work is undertaken mostly by women and caters largely to male clients. In fact one of the grounds on which feminist scholars have argued for abolition of sex work is that it is a mode of exploitation of women, shaped by patriarchal social circumstances. This is a more general point with respect to the shaping of sex work as an occupation. It is not to suggest that it is the more liberal (or less patriarchal) societies that have abolished sex work. On the contrary, sex work is prohibited in some of the most patriarchal societies such as in the

In 1997, the total number of the unemployed is estimated to have been more than the number of the employed in the organised sector. While the proportion of self-employed came down from 59 per cent in 1977-78 to 53 per cent in 1999-2000, the proportion of casual workers shot up from 27% to more than 33%, organised sector employment decelerated, where, significantly, almost all growth occurred in the number of female workers, the number of male workers remaining virtually stagnant. The fall in public sector employment meant all growth in employment occurred in the formal private sector. Further, 'the growth of organised employment in manufacturing was pitifully slow over this period, amounting to an average annual rate of only 0.87 per cent between 1993 and 2000. This is compared to a growth rate of employment of 2.95 per cent in the unorganised sector. This in turn meant that the share of the organised sector in total manufacturing employment decreased even over these seven years, from 18.3 per cent to 16.5 per cent.'[75]

The crux of the critic's complaint is the requirement of government permission for retrenchment; the law in India is easy on the employers in other respects, for instance, in the period of the notice to be served on the employees for separation (i.e. dismissal) and the amount of compensation to be paid them.

Accordingly, advocates of reform have come out with several prescriptions for remedying the situation. The neoliberal prescriptions for 'liberalizing lay-offs (or retrenchment) related labour laws' cautiously and piecemeal ('in small steps') include this:

> To begin with, for example, the firms that have been unprofitable for a certain number of consecutive years can be given the right to exit, and lay off labour (with appropriate severance pay); or while the existing workers can be grandfathered, the firms can be

[75]The Report of the Second National Labour Commission, cited in Chandrasekhar and Ghosh 2002.

given the right to fire newly hired workers. Allowing the firms flexibility in conditions under which workers can be reassigned to other tasks; or allowing for provisions for the speedy resolution of worker-management disputes might also be easier to carry out. [Gupta and Kumar 2010: 18-19.]

These prescriptions sum up the views of a number of economists: Poonam Gupta and Utsav Kumar, Arvind Panagariya (2008), and Bibek Debroy (2010), as well as those of the Second National Commission on Labour (2002).

Given the intransigence of the unions and the electoral compulsions of the political parties, the excessively regulatory framework cannot even be suitably modified, far less dismantled, through legislative means. So it must rendered inoperative in crucial matters through other means, argue reform-minded economists, with which the government, in its various acts of omission and commission, may be seen to be in agreement.

Thus in Panagariya's prescription, a practicable way out, is the 'creation of a flexible labour market regime in the special economic zones [SEZs]', even though the 'the urgent need for a variety of labour market reforms' in industry and services in general is suitably stressed (p. xxvii). The overriding scope of the SEZ Act of 2005, which provides the legal framework for the SEZs,[76] does not however extend to workers' employment conditions or organisation:

> The SEZ Act has the status of a special rather than a general act. This means that in case of an inconsistency between this Act and any other, provisions of this Act apply. This special act status does not apply, however, with respect to laws relating to trade unions,

[76] Panagariya 2008: 271.

> industrial or labour disputes, labour welfare, provident funds, and workmen's compensation, pensions, and maternity benefits.[77]

The economists suggest two ways in which the government can get around this problem:

> [1.] A *potentially important* feature of the SEZs is that the central government appoints a development commissioner to each SEZ who is in charge overall. He is also authorized to exercise any powers that the central and state governments may delegate to him. The SEZ rules advise the state government having jurisdiction over an SEZ to delegate the powers under the Industrial Disputes Act of 1947 and similar acts in relation to the units in the SEZ as well as to workers employed by the developer, to the development commissioner at the same time the government recommends the SEZ to the central government. If properly executed, this authority can go a long way toward depoliticizing labour disputes. Being a central government employee, the development commissioner may be able to exercise effective power to allow the units in the SEZ to reduce the number of workers, which is otherwise virtually impossible in the organized sector in India ....
>
> [2.] Under a related provision, the state governments *can* declare the SEZ a public utility. The public utility status prohibits worker strikes without due notice. While the right to strike is an important right conferred by democratic societies on workers, this right has been subject to undue abuse in India and has discouraged firms from entering large-scale production of labour-intensive products.[78] (Emphases added.)

However, not all the arguments for these adverse effects of the labour laws on the formal manufacturing sector are mutually compatible. For instance, it has been said that the relatively stagnant contribution of the organized sector to the country's economy is

[77] Panagariya 2008: 272. It is therefore not altogether correct to say, as is sometimes believed obviously as in consequence of the charged atmosphere, that a different law regime exists for the SEZs: 'Changes in labour laws were introduced [after 1991] which permitted 'hire and fire', particularly in the FDI controlled units and in SEZ units' (Sen and Dasgupta 2009: 158).
[78] Panagariya 2008: 272-73.

Table 2.1: Sources of Data on Groundwater Irrigation and Depletion

Source Of Data	***Organisation***	***Relevant Variables***	***Temporal Availability***	***Spatial Availability***
Land Use Statistics	Directorate of Economics and Statistics	• NIA, • GIA, • NIA by sources of irrigation, • GIA by sources of irrigation, • Irrigated area by crops	1960s to Present	All India, State, District
Agriculture Census	Department of Agriculture & Cooperation	• Net Irrigated Area • NIA by sources of irrigation • Use of Wells and tubewells	1970-71, 1976-77, 1980-81, 1985-86, 1990-91, 1995-96, 2000-01 and 2005-06	All India, State, District, Operational land size class and categories
NSSO 54th, 59th Rounds, Landholding survey Rounds	National Sample Survey Organisation	• Whether plot is irrigated • Primary Source of Irrigation for plot • Ownership of well and tubewell by hh • Whether hh reports drying of well • Ownership of elec/diesel pump • Area and crop by irrigation source (Kh and Rb)	Rounds 26th (1971-72), 37th (1982), 48th (1992) 54th (1997-98) 59th (2002-03)	All India, State, NSS Region, Household
Minor Irrigation Census	Minor Irrigation Division of the Ministry of Water Resources (MoWR)	• number of schemes • ownership • distribution by land size categories • potential created and utilised • irrigated area by cropping season • Irrigation by schemes as a supplementary source of irrigation • use of pumps • Reasons for non-	1986-87 1993-94 2000-2001	All India, State, District, Block, Village

explicable in terms of the JSL, along of course with other factors.[79] This, however, is not entirely compatible with the other criticism that the JSL has been responsible for a *reduction* of output and employment within the formal sector itself: on this count, the relative share has been declining, not just stagnating. These are big rival claims that need to be tested through rigorous empirical procedure.

Further, the most important of these arguments have been shown to suffer from inadequate rigour of analysis. Thus Dutta Roy did not find evidence for any relationship between employment adjustment costs and the 1982 amendment, while earlier analyses by Fallon and Lucas of the impact of the earlier 1976 amendment concluded that the job security legislation led to a decline of formal employment in the manufacturing sector for a given level of output by as much as 17.5%.[80]

Informalisation: Contract, Casualisation, Feminisation

The effect of labour legislation on output and employment in the formal sector may also be seen in the corresponding data on the informal sector. The situation again seems to be rather more complex than the proponents of the flexibility thesis would have us believe.

The informalisation of the workforce, comprising 'informal work in informal enterprises as well as informal work in the formal sector', has been seen as an integral part of the ongoing globalisation over the last two decades, not just in India, but globally 'in both developed and developing countries', and not just in the manufacturing sector.[81] Thus

[79]'In this view [of the critic], restrictive labour laws along with infrastructure constraints largely explain why the manufacturing sector – accounting only for 15 percent of the GDP-- remains so small' (Ahsan and Pagés 2008: 2).
[80]Dutta Roy2004; Fallon and Lucas, 1991.
[81]Dewan 2009: 31. Calling informal jobs by the name of 'non-standard employment relationships', Gerry Rodgers confirms it as a phenomenon of rising importance over the last two decades (Rodgers 2006: 4).

in India between 1999-2000 and 2004-05, there occurred a 4 percentage point increase in the workforce in the informal sector; moreover, 'employment in the formal sector grew from 54 million to 63 million during the same time period, those with social security benefits remained constant at 34 million, the implication obviously being that the entire increase in formal employment has been through informalisation'.[82]

Unni and Rani have demonstrated the spurt in the informalisation of the garment industry since the mid-1990s: till then, the formal sector of the industry registered high output growth along with employment growth, only to slow down thereafter when both employment and output (along with capital) began to rise in its informal counterpart. This was clearly an instance of a high level of labour flexibility in the garment industry, with large firms subcontracting to small firms.[83]

The trends in wage growth in the informal and formal sectors put paid to the idea of the labour-flexibility theorists that explains high wages in the formal sector solely in terms of union strength and labour laws. While wage earnings in the unorganised sector grew at an average of 12% per annum, those in the organised sector grew at the pitifully low rate of 1%. Clearly, 'the benefits of growth in the unorganised sector have been transferred to the workers'. Equally clearly, 'The opposite holds true for the organised manufacturing, with workers not benefiting from high growth of either employment or wage earnings even in the industries which witnessed rapid growth of value added and labour productivity.'[84] The unions, for all their strength and support in the laws, clearly remained out of consideration.

[82]Dewan 2009: 31-32.
[83] Unni and Rani 2008, cited in Dewan 2009: 32.
[84]Dewan 2009: 32.

The feminisation of the workforce as outlined above is to be distinguished from the positive connotations of the term, for it amounts to perpetuation rather than narrowing of the gender gap. Female workers are brought in not as equals of male ones, but precisely because they are not equals and so will work for less wages and in less acceptable working conditions, and will likely offer less resistance to the management's highhanded flouting and skirting of rules. It cannot be denied that feminisation in the positive sense has been at work too, to which but to which alone the champions of liberalisation draw attention. It is seriously misleading to put the feminisation process in these positive terms alone: 'Women's participation in labour force has increased. The wage differential between females and males has improved from 47.6 and 48.9 in 1983-84 in the rural and urban areas, respectively, to 56.8 and 60 in 1995-96, respectively.'[85] Much of the feminisation of the work, it has to be pointed out to complete the picture, seeks to exploit and perpetuate, and not reduce, the wage differential.

What feminisation of the workforce (or its reverse) amounts to can therefore hardly be inferred from theoretical reasoning and/or comparative evidence. It must of necessity be found out for each specific case.

Labour Laws, and Investment (including FDI)

The 'stringent' labour laws of India have also been held accountable, together with other factors, for discouraging foreign investment in India. In a widely influential discussion of the issue, the argument is thus summed up by Nirupam Bajpai and Jeffrey D. Sachs:

> Large firms in India are not allowed to retrench or layoff any workers, or close down the unit without the permission of the state government. While the law was enacted with a view to monitor unfair retrenchment and layoff, in effect it has turned out to be a provision for job security in privately owned large firms. This is very much in line with

[85] Ahluwalia and Hussain 2004: 4015.

> the job security provided to public sector employees. Most importantly, the continuing barrier to the dismissal of unwanted workers in Indian establishments with 100 or more employees paralyzes firms in hiring new workers. With regard to labour regulations and hiring and firing practices, India is ranked 55th and 56th respectively in the GCR [Global Competitiveness Report] 1999. Labour-intensive manufacturing exports require competitive and flexible enterprises that can vary their employment according to changes in market demand and changes in technology, so India remains an unattractive base for such production in part because of the continuing obstacles to flexible management of the labour force.

Labour Legislation and India's Comparative Advantage

East Asian and Southeast Asian models of economic growth (especially those of China, our arch rival) have been the recurrent inspirations for Indian economists and policy makers, so that whenever our economy begins to slow down or is seen to lag behind otherwise, we look east. One of the many reasons behind the move toward the reforms in the 1980s in India has been identified as the 'opening up' of China's economy under Deng Xiaoping after 1978;[86] China's success story has routinely been the regular reference point for the post-1991 'structural adjustments'. The same happened with the slowdown of the Indian economy from 1996 onwards. 'It can be argued', said Montek S. Ahluwalia, 'that the initial relaxation of controls led to an investment boom, but this could have been sustained only if industrial investment had been oriented to tapping export markets, as was the case in east Asia.'[87] The key to further growth, in other words, lay in labour-intensive manufactures and exports. This did not happen in the first instance because the overwhelming majority of these industries were reserved for the small-scale enterprises; this is not happening even after we have done away with most of these reservations, because the existing labour laws and strong unions continue to

[86] As, for instance, 'China's rejection of Mao Zedong Thought under Deng Xiaoping its embrace of "Socialism with Chinese Characteristics" had also been closely followed in India. The emulative effects of steps taken in China towards economic liberalisation as well as the success of the East Asian Tigers provided the context for policy discussions in the early 1980s' (Maluste 2011: 183).
[87] Ahluwalia 2002: 76.

make the labour market too rigid for investment in these manufactures by large firms. In its 2001 'Report of the Task Force on Employment Opportunities', the Planning Commission identified the inflexibility of the Indian labour market as a 'major factor' that, by cutting into our productivity, marginalised us in the export market.[88] A central theme with which critics of the Commission like Nagaraj had accordingly to engage with was labour market flexibility: 'Lack of adaptable labour market is said to have become a binding constrained on expansion of labour-intensive manufacturings [sic!] and their export, holding back India's ability to effectively compete with east Asia in general, and China in particular.'[89]

While the debate raged, Indian economy however started on a phase of impressive industrial growth once again, with the labour laws remaining intact. And as it began to falter again with the crisis of 2008, the argument was resurrected once again by protagonists of reform like Arvind Panagariya.

Manufacturing in the formal sector, with its extensive multiplier effects, has traditionally been the leading hope for the regeneration of the Indian economy.[90] Building on this received wisdom and animated by neoliberal reformist zeal, Arvind Panagariya has powerfully argued the case for industrial growth as potentially the most important engine for India's economic growth, so that 'the slow transformation of the economy to date is to be attributed to the slow growth of industry, especially manufacturing', as 'the share of manufacturing in the total output in India has remained stagnant at 17 percent since 1990–91'.[91] The way out and the desideratum, in his opinion, is the strongest possible stimulus to labour-intensive industries:

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[88]Cited in Ahluwalia 2002: 76.
[89] Nagaraj 2004: 3387.
[90]Mazumdar and Sarkar 2009: 40.
[91] Panagariya 2008: xxvi.

> This stagnation is in turn to be attributed to the slow growth of the unskilled labour-intensive sectors, such as apparel, footwear, and toys, in which India has a comparative advantage. In the organized sector, goods and services that have grown rapidly in India are either capital- or skilled-labour-intensive. The former include steel, petroleum, auto parts, and automobiles, and the latter include software and pharmaceuticals. I argue that if the transformation is to be speeded up, India must remove the barriers to the growth of the sectors in which it has comparative advantage.[92]

The absence of the required labour reforms accordingly becomes the principal bottleneck to the economy's growth:

> Until recently, the reservation of the vast majority of the labour-intensive products for small-scale enterprises kept large firms from entering their production despite the removal of licensing. This restriction has been relaxed since the late 1990s through a gradual trimming of the small scale-industries reservation list and entry by large-scale firms into products still on the reservation list, provided they export the bulk of their output. Nevertheless, labour market inflexibilities, including the absence of rights to hire and fire workers, remain a major disincentive for the entry of large-scale firms into sectors such as apparel, toys, footwear, sports goods, and other light manufactures that China exports in large volumes.[93]

The rather superior record of the services sector, which has also been linked to the absence of labour regulations, has been invoked *in extenso* as an instructive contrast. Unhindered by labour laws, the services sector provides a model of labour flexibility that our formal manufacturing sector would do well to imitate:

> Services, on the other hand, are not subject to the labour market inflexibilities. The bulk of the labour laws were enacted to protect the rights of labour working in factories and

[92] Panagariya 2008: xxvi-xxvii.
[93] Panagariya 2008:12.

> do not apply to service sector workers with any force. Moreover, services either employ white-collar skilled workers or operate in the informal sector. In either case, restrictions imposed by labour laws are limited. Specifically, employers keep the right to hire and fire. This has allowed the services sector firms to operate relatively more efficiently and respond flexibly to the reforms in other areas. The expansion of telecommunications and information technology industries has been clearly facilitated by this factor.
>
> Additionally, industrial expansion at the higher rate ... generated higher incomes that have in turn led to increased demand for tourism, construction, household work, wholesale and retail trade, and repair services. For example, as automobile ownership expands, the demand for drivers and auto mechanics rises. Likewise, as more individuals own TVs, refrigerators, and cell phones, the demand for retail and repair shops rises. The wages in the services sector being entirely flexible, it is able to respond to demand shifts with much greater ease than industry can.[94]

In other standard ways too, the inflexible labour market is widely alleged to be frustrating the replication of China's success story with its export-oriented labour-intensive industrial production. Legislation and unions make labour costlier, damaging to that extent our 'comparative advantage' deriving from cheap labour, and worsen it by turning investment away from labour-intensive industries to capital-intensive ones.[95]

Debating the Connection between Law and Economics

A law may have an effect without recourse being taken to it: it may deter, it may encourage. By studying what happens after a law has been promulgated, it is possible to see it as an outcome of what has been legislated. If employment growth rate suffers a setback after job-security/employment-protection legislation (JSL/EPL) has come into being, there is a likelihood that the setback is a product of the deterrent effect of the

[94] Panagariya 2008: 12-13.

[95] Nagaraj 2006: 23 ('Reportedly, the growing bargaining power of the organised labour has increased labour cost, resulting in a substitution of capital for labour, hurting the prospects of labour-intensive industries and their exports.').

JSL: employers would rather get the work done through contract labour than by employing more persons on a permanent basis.

'Legal formality', experts remind us, 'may not always fully express or capture the kinds of compromises which inevitably exist in relations between capital and labour, and in the regulation of labour markets.'[96]

Fallon and Lucas also recognized that enhancement of job security could be expected to 'make employers less able to make rapid adjustments to changing market conditions', yet a search for the expectation yielded negative results that they, in true scientific spirit, pointed out: 'Almost no evidence is found to suggest that the new regulations actually retarded employment adjustments under changing market condition.'[97]

While they argued that the data show a loss in employment in the formal manufacturing sector by as much as 17.5% on account of the 1976 legislation, they left the possible impact of the 1982 legislation on observed employment declines in the 1980s an open question for want of the required information at the time:

In India, coverage of the job security provisions was extended in the 1980s, and unusually high industrial growth has been accompanied by employment declines in the covered sector. To what extent this more recent drop may be attributed to the job security regulations must remain a matter for speculation and future analysis, because sufficient recent data are not available for adequate investigation.[98]

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[96] Mitchell et al 2012: 23.
[97] Fallon and Lucas: 396, 412.
[98] Fallon and Lucas 1991: 412.

Establishing the Significance of Law through Inference or through Evidence: Simplification and rationalisation of the bewildering myriad of labour laws that at best promote litigation rather than resolution of disputes was recommended even by those economists who do not buy the labour inflexibility thesis[99] (quite logically, for such laws could hardly be expected to be effective enough to affect the actual course of economic development, stagnation, or retardation).

Enforceability of law, and the *de facto* as distinct from the *de jure* situation however remain of overriding importance. The distance between the enactment and the execution of law can only be assessed with empirical research and not with theoretical reasoning.

That attempts to enforce unseemly laws are routinely sought to be met by attempts at their evasion may be regarded as a universal phenomenon. Feminisation of workforce, in the sense of *replacement* of male workers by female ones, has been shown to be significantly related to the strength and scope of the regulatory framework. In a survey of 85 countries, Juan C Botero and his associates found that 'more protective employment, collective relations and social security laws produce lower male participation in the labour force'[100]: the lower employment of males here likely represents the established way of getting around the law through feminisation.

The same would hold for the impact of labour legislation, as well of the reforms in general. For reforms it has been noted:

> Moreover, in comparative experience, there is little evidence to suggest an unambiguous positive association between the scope (and speed) of reforms and

[99] Sharma 2006.
[100] Cited in Jha and Golder 2008: 3.

> economic outcomes. If one can cite cases from Asian economies as successful examples of following the orthodoxy, there are equally compelling cases from Latin America with adverse outcomes.[101]

Blaming it all on lack of adequate reforms, or ascribing every positive development to the guiding hand of the reforms (via the hidden hand of the market), turns out on closer inspection to be nothing more than a substitute for thinking. As Nagaraj has astutely observed: 'Moreover, the view that "reforms have not gone far enough" resembles the arguments in earlier times when repeated failure of the five-year plans to meet targets was attributed to "not enough planning" or "lack of political will", despite the growing evidence of the economy's structural weaknesses, or the heavy hand of bureaucracy. Therefore, such arguments in favour of more reforms do not seem to be based on an application of economic reasoning and examination of the evidence.'[102]

[101] Nagaraj 2003a: 3712.
[102] Nagaraj 2003a: 3712.

Chapter 3

LABOUR FLEXIBILITY AND THE REGULAORY FRAMEWORK IN INDIA: HYPOTHESES AND EVIDENCE

We begin this chapter with a discussion of the pioneering attempts to measure the extent of the rigidity of the Indian labour market as a whole in terms of the impact of the two amendments (1976 and 1982) to IDA. This is followed by a broad survey of the issues that emerge from state-level analyses of the impact of labour legislation on employment, productivity, and output in formal industrial sector. This brings us to the issue of labour legislation in the post-1991 period, and its relationship to economic performance in formal manufacturing in the overall context of Liberalisation. The major themes are shifts in employment profile, labour productivity, and labour shares. Here we try to complement the already available information on the various trends with information obtained by us.

Employment Protection Legislation and Employment

The question whether the IDA laws affected employment was investigated by Fallon and Lucas (1991, 1993) with reference to the 1976 amendment. They used the ASI data on formal manufacturing for the period 1959-1981. ASI data have two major division: the 'census' sector comprises factories (with power) employing 50 or more workers as well as those (without power) employing 100 or more workers; and the 'sample' sector employing the remaining factories with power that employed 10 or more, and those without power employing 20 or more.[103] Fallon and Lucas examined 35 out the 36

[103] The definitions and thus the coverage of these two categories (census and sample) have varied from time to time. For example, in 1987-88 the definition of the census sector was changed to the units employing 100 or more workers irrespective of their operation with or without power. For a complete

industries of the sample sector (one industry did not have the relevant information), which included their target group of factories with 300 or more workers to which the 1976 law applied. They checked their results further with cross-evidence from the sample sector: 'Thus no evidence is found to suggest that job loss in the census sector as a result of the 1976 amendment produced job gains in parallel sample sector factories through transfer of workers across establishments, through sub-contracting, through putting out of work, or through major adjustments in establishment size.'[104]

Fallon and Lucas did not see any shift in the employment adjustment rate. However, they did see a reduction in labour demand after 1976 that is significant at 5% in 11 of 35 industries. The data further show, according to them, that the new law had a negative effect on labour demand in 25 out of 35 sectors using a 25% level of significance.[105] The conclusion is that, but for the 1976 amendment, employment would have been 17.5% higher in India in the formal sector.[106]

The figure of 17.5%, however, was reached by them on the basis of the questionable method of averaging across insignificant coefficients.[107]Second, their negative estimate for labour demand was significant at a very high level (25%) of significance. 'Clearly, they are drawing about the negative impact on employment of labour regulations that their estimates do not portray.'[108] The conclusion drawn was thus noted to be rather seriously overdrawn.

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discussion, see Manual on Annual Survey of industries: 11. Accessed at http://mospi.nic.in/mospi_new/upload/asi_manual-22.09.08.pdf.

[104]Fallon and Lucas 1991: 407; Fallon and Luca 1993: 264-265.

[105] Fallon and Lucas 1993: 263.

[106] Fallon and Lucas 1991: 412.

[107]Bhalora 1998: 7n3.

[108] D'Souza 2009: 270.

Fallon and Lucas, however, were perfectly aware that their estimation of dynamic labour demand for 35 industries in India showing a drop in employment does not hold for a majority of them, with the required confidence level of 90% being obtained only for 14 industries. One of their major conclusions, stated more than once, is also that 'the consequences of job security regulations ... vary considerably from one industry to another'.[109]

This outcome, that not all industries could be said to have suffered employment loss, was explained by them in terms of the following observations: the 1976 law applied only to factories with 300 or more employees; some of these big factories have strong union presence that will cushion the impact of the law; and a number of these factories are public sector enterprises with over-staffing and strong unions, and 'hence effectively immune to such changes in labour laws'.[110]

It is here that one may locate perhaps the most vulnerable points in their exercise (apart from the job adjustment rigidity point to be discussed presently), comprising a number of unverified, question-begging assumptions and statements. First, the overall decline in employment, calculated at the weighted average of 17.5%, is *assumed* to have been the effect of the 1976 legislation alone, although their data included an uncalculated number of firms that employed less than 300 workers, and could not have felt any impact of the law in question. The second assumption is that the projected loss of employment in the big firms (with 300 plus employees) percolated down to and characterised the smaller firms too, including those in the sample sector. This is begging the question. Why would the smaller firms allow themselves to be affected by a law that did not apply to them, and not take advantage of that fact instead?

[109] Fallon and Lucas 1993: 242. This is repeated on p. 269 ('there is a good deal of variation in estimated impact across industries').
[110] Fallon and Lucas 1993: 269.

The explanation for the observed variations of the negative coefficients among firms is similarly based on a series of unverified assumptions: that those less or little affected were either public sector enterprises (a special case with labour hoarding and all), or private firms with powerful unions, while those most affected were neither public sector enterprises nor private firms with powerful unions, nor – one may add in furtherance of their suppositions – firms with less than 300 employees. Fallon and Lucas state: 'In India, it is in the private sector, in plants employing more than 300 workers, and where union membership is low, that the greatest drop in employment is *observed*' (emphasis added). [111] This observation remains probably unsubstantiated, and is actually contradicted by the very specific employment data in formal sector for the period 1977-78 to 1988-89, which shows positive growth in employment in factories with less than 1000 workers, that is to say, in factories being covered by the twin IDA amendments.[112]

In 2004 Dutta Roy published her study on the impact of JSL on employment. She cast a much wider net, extending the period up to 1994 (1960-1994), thus studying the impact of both 1976 and 1982 legislation, and covering industry groups that formed more than 77% of total employment, and more than 84% of the value added, of the formal manufacturing sector.

Like Bhalotra had done previously on the basis of an industry-region panel for the 1980s, Dutta Roy established high employment adjustment rigidities in the Indian labour market. According to Bhalotra, 90% of the optimal-level adjustment in employment takes 5.8 years in the formal manufacturing sector.[113]Dutta Roy showed, for 1960-1994,

[111] Fallon and Lucas 1993: 269.
[112] Nagaraj 1994: 180.
[113]Bhalotra 1998: 18.

that of the 16 industries, employment in 10[114] showed an insignificant response to a disequilibrium in the industry's own market in the preceding period; the average of four industries[115] showed a less than 40% correction of the disequilibrium; and only two – cement and non-ferrous basic metals – displayed approximately 90% correction of the disequilibrium in any period. On an average across all these industries, she concluded, it takes from five to six years for the completion of most of the employment adjustment.

The first implication that these results have for the studies of Fallon and Lucas is that their data terminating at 1980-81 are too premature to reflect employment adjustments due to the 1976 law.

How may then the observed rigidities in the industrial labour market be explained, and how significant are the two labour laws in this respect? Looking at her data across 1976 and across 1984 (when the 1982 amendment came into effect) and looking for a change in the adjustment coefficients, Dutta Roy discovered results that were rather too complex for any simple-minded explanation based on labour laws and that suggested that the answers will have to be mostly sought in industry-specific characteristics. She did separate estimation exercises for workers and for supervisors. In view of their immense bearing on our concerns, the results for the workers may be quoted in full:

> 1. Of the 16 industries in the sample, 10 reveal rigidities in adjustment even in the pre-JSR (job security regulation) period. Of these, the impact of JSR is statistically insignificant in the case of seven industries, probably indicating that the observed rigidities are attributable to their inherent characteristics. The impact of JSR is statistically significant for three industries, for two of which the net impact of IDA 1976 and IDA 1982 is ambiguous.

[114] These include chemicals and chemical products, structural clay products, miscellaneous food products, sugar, paper and paper products, non-electrical machinery, electrical machinery, railroad equipment, and motor vehicles.
[115] These include iron and steel, rubber and rubber products, textile products, and tobacco.

2. The estimated coefficients for six industries indicate flexibility in the pre-JSR period, with an average coefficient of -0.72. Of these, three do not reveal any significant impact of the IDA 1976 or IDA 1982. Only in the sole case of cement is flexibility found to have been impaired significantly as a result of labour market regulations. In the case of the remaining two industries, the impact of JSR on flexibility is found to be favourable.[116]

State-Level Laws and their Effect on Economic Performance

We have seen (chapter 2) that labour is a Concurrent subject, and States of the Indian Union have passed a large number of labour-related laws that add to and/or amend the Union legislation, thus superseding them. Permission for closure as per IDA was normally to be obtained from the State concerned. Since, therefore, it is the state-level legislation and decision-making that really matter at ground level, a number of studies have focussed on labour laws as they operate at state levels, and their impact on the economies of the various states.

Besley and Burgess worked out a scheme, in which, depending on the differences in state-level amendments to IDA, the states were slotted as pro-worker, pro-employer, or neutral, and accordingly assigned scores of +1, -1, and zero. These scores were assigned for every year, depending on the net result of the existing laws. As the law(s) enacted by a state for any year could naturally not be expected to be necessarily in line with the overall nature of its laws till then, Besley and Burgess evolved an index for the state for that year by cumulating its annual scores up to that year, calling it a 'regulatory measure'. This index in turn became a regressor, together with some control variables, for explaining state-level outcomes, including employment, output, investment, and productivity in formal industrial sector of the state.

[116] Dutta Roy 2004: 245.

Following this method for investigating the pattern of manufacturing development in the 16 states for the period 1958-1992, Besley and Burgess identified four (Gujarat, Maharashtra, Orissa, and West Bengal) as 'pro-worker' or 'control' states, six as 'pro-employer' (Andhra Pradesh, Karnataka, Kerala, Madhya Pradesh, Rajasthan and Tamil Nadu); and six as neutral (Assam, Bihar, Haryana, Jammu and Kashmir, Punjab and Uttar Pradesh)[117]. The conclusion they reached was that the impact of the respective labour regime had been decisive:

> Pro-worker states on average had high per capita registered manufacturing output in 1960 relative to control states and pro-employer states. However by 1990, there is no statistically significant difference between pro-worker and pro-employer states. Moreover, registered manufacturing output in the pro-employer states has overtaken that in the control states.[118]

Further:

> The evidence amassed in the paper points to the direction of labour regulation as a key factor in the pattern of manufacturing development in India. Regulating in a pro-worker direction was associated with lower levels of investment, employment, productivity and output in registered manufacturing. It also increased informal sector activity.[119]

The index of Besley and Burgess, called after them the BB index, became the basis, with changes here and there and with some updating, of a number of studies in state-level correlations of labour regime and economic performance. The BB index went up to 1992. It was updated through 1997 in Aghion et al, through 2002 in Purfield, and through 2005 in Dougherty, while Ahsan and Pages did a full re-scoring of the index. All the studies buttressed the conclusions of BB, except one by Purfield, who 'did not find

[117] Besley and Burgess 2004: 7.
[118] Ibid.
[119] Besley and Burgess 2004: 21.

significant detrimental effects of more pro-employer labour institutions on state-level growth'[120].

For instance, Philippe Aghion and his associates give the following scores to the various states for the period 1980-1997:

> There is heterogeneity in both the level and change of labour regulation across our 1980–1997 sample period. The most extreme pro-worker state, West Bengal, has labour regulation values that rise from 12 to 14 over the 1980–1997 period. Three other states (Gujarat, Maharashtra, and Orissa) are also recorded as beginning the period as pro-worker or amending in this direction. The most extreme pro-employer state, Andhra Pradesh, has a score that varies from 22 to 23 across our period. Four other states (Kerala, Rajasthan, Tamil Nadu, and Karnataka) begin the period as pro-employer or amend in that direction. There are six neutral states (Assam, Bihar, Haryana, Jammu and Kashmir, Punjab, and Uttar Pradesh) that begin the period at zero and do not amend in either direction. Finally, Madhya Pradesh is neutral in all years except for a pro-employer change in 1982, which is reversed by a 1983 pro-worker amendment.[121]

Then they proceed to study whether and how the progress of liberalisation in the various states corresponds to these scores. Their focus is on the impact of the delicensing dimension of the liberalisation: in 1985, around 1/3rd of all three-digit industries were delicensed, and in 1991 all industrial licensing was practically done away with, with the exception of a small number due to strategic, safety, and such other concerns.[122] Their conclusion is as emphatic as that of Besley and Burgess:

> The actual delicense-labour regulation interaction is significant at the 5 percent level in 98 of the 100 regressions, whereas the placebo delicense-labour regulation interaction

[120]Cited in Dougherty 2008: 15.

[121]Aghion et al 2008: 1400.

[122]Aghion et al: 1398-1399. The 1985 delicensing allowed the automatic entry into about 25 broad categories of industries (Gupta and Kumar 2010: 13.

is significant at the 5 percent level in only 7 of the regressions. The results of both falsification exercises serve as compelling evidence that the actual timing of when industries are delicensed is central to our main empirical result.[123]

The methods and the results of these (and other such) analyses can and have indeed been comprehensively questioned. Technically, for instance, the analysis of Besley and Burgess remains defective,[124] so that 'once the time trend is introduced, labour regulation is no longer a significant variable in explaining manufacturing output and employment' and 'instead now development expenditure which is state spending on social and economic services (health, education, infrastructure, and administration) is the driving variable that explains output growth amongst states'.[125]

The problems with the slotting of states into the three categories are equally serious. For instance, calling Gujarat 'pro-worker' on the basis of a solitary amendment in 1973, whereby a penalty of Rs 50 a day was imposed on employers for not nominating representatives to firm-level joint management councils, is rightly criticised as 'strange'[126]. It has also been noted that application of more sensible criteria results in altogether different rankings:

> BB classify Gujarat and Maharashtra as pro-worker; they also designate Kerala as pro-employer. Drawing attention to a World Bank report on the investment climate in various states that provides evidence of actual implementation of labour legislation as indicated by the degree of over-manning and the frequency of inspections, Hasan et al reverse the classification of these three states for their own econometric analysis. ... Madhya Pradesh, which BB had classified as pro-employer, is classified by Hasan et al as

[123] Aghion et al 2009: 1409.
[124] D'Souza 2008: 6.
[125] D'Souza 2008: 7.
[126] Bhattacharjea 2006: 10.

having inflexible labour markets, because pro-employer amendments in 1982 were offset by a pro-worker amendment the following year.[127]

There are other problems too with identifying Gujarat and Maharashtra as pro-worker and Kerala as pro-employer. For instance, it has been found in a study that factory inspectors visit small and medium enterprises in 'pro-employer' Kerala twice as many times as they do in 'pro-worker' Mahrashtra and Gujarat.[128] Further, 'states such as Andhra Pradesh, Rajasthan, and Tamil Nadu, which had been classified as pro-employer, have had declining secondary sector employment elasticities in the recent reforms period (1994-2000) compared to the 1984-94 period, whereas pro-employee states such as Maharashtra, Gujarat, and Orissa have witnessed an acceleration in secondary employment during this period (their employment elasticities have increased).'[129]

The indices also suffer from a failure to incorporate consideration of court judgments in the slotting.[130]

Although they note that Bhattacharjea's criticisms of Besley and Burgess 'could invalidate' their results, Ahsan and Pagés nevertheless follow their method. For example, on the basis of an amendment to IDA by Andhra Pradesh government in 1987 that put certain restrictions on parties in an industrial dispute, they encode it as 'minus one'.[131]

[127] Bhattacharjea 2006: 19.
[128] Cited in D'Souza 2008: 5.
[129] Ibid.
[130] Bhattacharjea 2009.
[131] Ahsan and Pagés 2008: 7, 9.

In 2007 OECD came out with an altogether original scheme of indices to chart state-level economic performance in the light of their labour regimes.[132] Having notably contributed to the development of this different set of indices for state-level analyses , Sean Dougherty identified the regulatory framework, as operating at state level, as the common and the lone culprit for a series of economic ills: why employment has expanded everywhere except in the formal industrial sector; why the job dynamics are so uneven and so costly, and; how capital intensity in investment and informalisation in employment have grown because of the high labour costs of permanent employment.[133]

The results from all these state-level analyses, however, suffer from a common, and most damaging, problem, which is the fact of enormous changes in the economy while the indices remained by and large the same, displaying very little change, if at all: 'although there had been little change in the BB index [this would apply to other indices too] in the late 1980s and none in the 1990s, there had been a substantial change in the industrial relations scenario during this period'[134].

Unfortunately, the full significance of this point remains generally lost, even on those who made it. Having made it, for instance, Bhattacharjea remains, to use his own expression, 'agnostic' about the connection between the labour regime and industrial performance in India, 'maintaining that there are sound theoretical arguments on both sides of the debate, but the evidence is inconclusive and the quality of academic research leaves much to be desired'[135]. His own findings – assuming that Bhattacharjea is not unsatisfied with their quality – are sufficient to put paid to all talk about the critical adverse impact of labour laws and union strength on economic outcomes. If 'all

[132] OECD 2007: 130-132.
[133] Dougherty 2008.
[134] Bhattacharjea 2009: 4.
[135] Bhattacharjea 2009: 4-5.

these effect' – 'sharp fall in incidence of strikes and lockouts, stagnant or declining wages, a decline in the share of value-added, a trend towards pro-employer judicial verdicts, ... widespread reduction in employment by ... firms ..., along with substantial increases in employment in states that were classified as "pro-worker" according to the BB index' – 'occurred despite little or no formal change in labour laws',[136] where is the room for any doubt, any 'agnosticism', about the untenability of the neoliberal arguments of the advocates of labour-market reforms?

For developing this line of reasoning, it is necessary first to outline the legal scene in the Liberalization era. Before that, however, we may further see the validity of this reasoning in the recent debate between Bishwanath Goldar and Rayaprolu Nagaraj over the connection between labour reforms and employment at state level in India.

Arguing for and against Dougherty by Proxy: the Goldar-Nagaraj Debate in India

The years 2003-04 to 2008-09 saw a spurt in employment growth rate at an impressive average of 7.5% per annum, in sharp contrast to its dismal record for the preceding years from 1980 onwards. Goldar asked if this phenomenon was to be explained by the structural changes in favour of labour-intensive industries, but found that the answer was 'in the negative'.[137] Turning then to the state-level labour reforms as indexed by Sean Dougherty under the aegis of OECD, he found an overall correspondence between the numbers assigned to the various states and 'interstate differences in the rate of growth in organised manufacturing employment'[138]. The spurt in employment was thus linked to greater labour flexibility.

[136] Bhattacharjea 2009: 4.
[137] Goldar 2011: 20.
[138] Ibid: 22.

Contradicting Goldar, Nagaraj took the view that the high employment figures represent no such turnaround but could simply be a matter of 'a recovery of the employment lost over the previous nine years', and amount to 'a mere 12% rise in employment in 13 years, over the previous peak in 1995-96'.[139]Further, the connection between the employment increase and labour reforms remains unproven, as the correlation coefficient between employment elasticity of output from 2003-04 to 2008-09 and the labour-reforms index across 20 states actually works out at the statistically insignificant result of 0.35 and Goldar was able to obtain statistically significant result by dropping Andhra Pradesh.[140]

In response to this critique, Goldar did not address the point about the lack of statistically significant connection between elasticity and labour reforms, but suggested another mathematical model that *might* be useful.[141]Without thus defending the attack on his basic proposition, Goldar answers by questioning the recovery explanation of Nagaraj. 'Arguably,' he noted, 'if the recent employment boom is primarily a recovery of employment lost in previous years, then the growth rate in manufacturing employment during 2003-08 should be relatively higher for those states which had experienced a sharper fall in employment in previous years'. This he tested by preparing a table of state-wise growth rate in employment in formal manufacturing for the periods1998-99 to 2003-04 and 2003-04 to2008-09, choosing the 1988-89 as the starting point for consistency as it was from that year that ASI's coverage of formal manufacturing was markedly brought down. The results contradict the recovery hypothesis:

> Table 1 shows the growth rates in organised manufacturing employment in various states in the periods1998-99 to 2003-04 and 2003-04 to2008-09. The correlation coefficient is0.15 (0.28 for states accounting for more than 1% of the organised manufacturing employment). Correlation is positive, whereas we would expect a

[139] Nagaraj 2011: 83.
[140] Ibid: 83-84.
[141] Goldar 2011a: 80.

negative correlation if 'recovery of lost employment' is the prime explanation for the recent employment boom.[142]

Goldar also seeks to show that the employment increase was of a higher order than Nagaraj thought, but without taking on all the figures that the latter based his case on. There is thus not much of a debate in this regard. The factor of time lag as shown for other periods by Bhalotra and Dutta Roy would also need to be factored in.

For us, the more important issue is the validity of the OECD index that both the scholars work with. And for us, the more important thing is that this index was prepared and tested for a certain time and place (2000 to 2004)[143]: in its very nature, the index must vary with different periods. Goldar and Nagaraj, however, work with the same index for an altogether different period, i.e. 2003-04 to 2008-09.

The Legal Scene in the Liberalization Era

In estimating the effect of the labour legislation on the performance of the economy after 1991, it is only proper to look at the legal picture and see what kind of changes, if at all, have taken place.

The first point is that most labour Acts had been enacted by the end of the 1980s. The two decades of 1970-1989 were particularly feverish, when 'a number of central and state amendments increased the variability of the laws across states'.[144]It is said of these that 'in most cases, such amendments increased employment protection'[145], but it

[142] Goldar 2011a: 79.
[143] Dougherty 2008: 18; OECD 2007: 132.
[144] Ahsan and Pagés 2008: 6.
[145] Ibid.

may also be noted that the law itself provided for much flexibility in critical respects. For instance, 'Section 10 of the Contract Labour (Regulation and Abolition) Act (1970) gives wide discretion to state governments in permitting firms to employ contract labour, which may be used to escape the obligations of the IDA'.[146] As Bhattacharjea has pointed out, even the 1982 Act was easy on the employers in this critical respect:

> Further ... the 1984 [1982, enacted in 1984] amendment also changed the definition of 'retrenchment' in Section 2(oo) so as to exclude from its purview any termination of service resulting from the non-renewal of a contract or under a stipulation contained in the contract. This would be conducive to *greater* flexibility, because retrenchment requires notice and payment of compensation for establishments covered by Chapter V-A (those employing at least 50 workers), plus official permission for those covered by Chapter V-B.[147]

We may note in passing that these little-noticed provisions for flexibility in contract law seem to take good care of the need for which Kaushik Basu has been arguing over the years: 'what I am arguing for [Basu says] is not for firms to be given the freedom to hire and fire as they wish, but for firms and workers to have greater freedom to sign contracts concerning layoffs, retrenchment and closure, without these being overruled by exogenously determined conditions as wantonly as they currently are'[148]. Contrary to Basu's expectations, however, experience shows that it is not the legal provision for a combination of higher wages with insecure jobs that will help the workers, but only the legal floor of minimum wages will. For instance, a field survey in Karnataka shows that contract workers work at lower wages than the regular ones,[149] so that flexibility has resulted in a combination of job insecurity with lower emoluments, eluding Basu's hopes.

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[146] Bhattacharjea 2006: 14.
[147] Bhattacharjea 2006: 8.
[148] Basu 2005: 7. See also Basu 1996: 9, 10,28; Basu and Maertens 2007: 163.
[149] Cited in Ahsan, Pages, Roy 2008: 262.

An idea of what the absence of state intervention and organized working-class strength (unions) will do to the workers may be had from the studies of the informal sector in the reform period. This makes up anything up to, in fact more than 90% of India's workforce,[150] governed by and large by just one elegant piece of legislation, i.e. the law of minimum wages, easily enforceable with a minimum of will and without much legal complication, hence legal cost. As a colonial legacy, breach of contract in India is no pure civil matter but one of criminal offence as well, by enforcing which the colonial masters were able to secure an uninterrupted supply of labour in various enterprises, such as the tea plantations of Assam, and by invoking which any 'denial of the minimum wage can result in an application to the designated authority for back wages, and a possible prosecution of the employer by the inspector with the prior sanction of the government'.[151] That this minimum-wage law is honoured more in the breach than in implementation is something we would all be well-advised to keep in mind.

Coming back to the legal scene in the post-1991 period, the authoritative study by P.L. Malik, *Industrial Law: A Manual of Central Labour and Industrial Laws incorporating State* (2006), counts no more than eight amendments to IDA for all Indian states; further, these amendments pertain to only three states (Tamil Nadu, Madhya Pradesh, and Gujarat), and none of these amendments barring one really matters for our concerns. The exception is the 2004 amendment in Gujarat, which introduced a range of exemptions from Chapter Vb of IDA for Special Economic Zones (SEZs).[152]

In general, it may thus be concluded, in the words of Ahsan and Pagés that 'in the nineties the legislative activity came to a halt, with no new amendments in the IDA or

[150] 90% is in fact the lowest estimate. According to the Second National Labour Commission, the unorganised sector accounts for 92-93% of the total workforce, the organised sector a mere 7-8% (cited in Chandrasekhar and Ghosh 2002).

[151] Sankaran 2007: 1-2.

[152] Cited in Dougherty 2008: 15 and fn13.

Contract Labour Acts', ignoring the flat assertion about 'no new amendments'.[153] The pressure for legislative reforms has seen no let-up till date, with the Second National Law Commission recommending a thorough overhaul of the system as early as 2002, but the fact remains that on the whole, we still make do with the laws as they had come in force by 1989: 'It is obvious that little *de jure* liberalization in the regulatory framework has been allowed to happen since the reforms began despite demand from industry, economists and media.'[154]

The dispute, it is important to remember, is not over the issue of reform itself.[155] All parties complain against the present confusing mass of labour legislation that serves nobody's purpose; the differences are over the precise nature of required reforms.

However, it is contended by pro-reform experts that although the laws have remained the same, they do not operate the same way now. In a detailed examination of the 'law enforcement', Ahsan, Pagés, and Roy highlight the numerous ways in which there has been a real increase in labour flexibility despite the static legal framework, though unevenly across the states.[156]Numerically, 'a large decline' the number of factories inspected as a proportion of the total number of registered factories has been reported[157]. More to the point: 'Overall the results indicate that labour inspectors do little to enforce labour laws. If anything, the evidence points to the opposite, that is, to a

[153]Ahsan and Pagés 2008: 6.

[154] Ahsan, Pagés, Roy 2008: 247.

[155] As Mitchell et al (2012: 24-25) sum it up: 'Indeed the complaints about the quality and effects of Indian labour law are extensive to say the least. There are said to be too many laws. The law is said to lack uniformity, to be overly detailed, to be inconsistent, ambiguous, and poorly co-ordinated in policy terms. The whole system is said to be overregulated, and at the same time to be largely ineffective.130 Attempts to integrate and consolidate Indian labour law into a single Labour Code, such as that initiated by the National Labour Law Association in 1994, have been unsuccessful.' See also Nagaraj 2004: 3389

[156]Ahsan, Pagés, Roy 2008: 251-262.

[157] Ibid: 254.

coalition between employers and inspectors to evade the law.'[158] Next, recourse to contract labour has become greater and more regular, and this has been helped by favourable judicial decisions.[159]

This kind of evasion of the laws in the post-1991 period has been noted by other commentators too, and has been termed 'reform by stealth' by Bardhan, Nagaraj, and others, after R. S. Jenkins's *Democratic Politics and Economic Reform in India* (2000).'Indeed, India still has some of the most pro-worker labour laws in the world. Implementation is another matter.'[160]

However, the reform protagonists, in arguing for the adverse impact of the regulatory framework on economic performance, have erred on two counts. First, it is not recognized that recognition of the evasion of the laws amounts to accepting the existence of labour flexibility, so that the task should be find out the implications of the actually existing labour flexibility, more than of a supposedly rigid labour market based on stringent labour laws. Second, they overlook the fact that such circumvention of labour laws existed for the pre-1991 period too, as the critics have never failed to point out, at least since 1998 when Bhalotra drew attention to this fact and the extensive literature on it as a major criticism of the theory of Fallon and Lucas[161]. Ahsan et al draw attention to the importance of Voluntary Retirement Scheme (VRS) as a major loophole of EPL, but do not realise that their reference to the 1991 essay of Fallon and Lucas in support points to the importance of the practice for the pre-1991 period.[162]

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[158] Ibid: 260.
[159] Ibid: 248, 261-266.
[160] See e.g. Nagaraj 2004; Bardhan 2010: 31, 136; Jenkins 2000: 192.
[161] Bhalotra 1998: 7-8.
[162] See Ahsan, Pagés, Roy 2008: 262.

Labour Flexibility in Practice, Employment Trends, and Output Growth

Labour laws have had no visible effect on any of the most severe reductions in workforce at India's largest plants. Technological upgrading and a new timetable of longer hours required large-scale retrenchment at the steel plant at Jamshedpur and the motor plant at Pune of the Tatas, as they did at the Bajaj two-wheeler factory at Pune. Accordingly, at Jamshedpur steel plant while 85000 workers were employed in 1991 to produce one million tonnes of steel, more than half of them had been removed by 2005 when a mere 44000 workers were producing five million tonnes of it. 'Similarly, Tata Motors in Pune reduced the number of workers from 35,000 to 21,000 but increased the production of vehicles from 1,29,000 to 3,11,500 between 1999 and 2004'. At the Bajaj factory, introduction of computers and robotics rendered redundant more than half of the 24000 workforce (in mid-1990s), a mere 10500 were turning out by 2004 close to two and a half as many two-wheelers as they had been a decade or so ago.[163] Given the pervasive shenanigans among the economists, it would be instructive to see what the unions and laws were doing at these crucial hours.

Even for the earlier decades, a number of studies have conclusively established the real flexibility of the labour market in organised manufacturing, in response to the demands of rationalisation, technological change and viability. Adjustments to the market would of course be complex processes, anything but smooth, as different parties will seek to maximise their own interests, with varying degrees of skill, organised strength, outside support, etc. The processes and the outcomes, however, show up the naiveté of the assumption that all such adjustments have been routinely blocked by the law, the unions, and the state (ruled by political parties, to whom the unions are affiliated as indispensable vote-banks).

[163] Data cited in Bhaduri 2008: 11.

The 1990 study by BB Patel, (*Workers of Closed Textile Mills: A Study in Ahmedabad*) documents how about 36,000 workers in Ahmedabad's textile mills lost their jobs through retrenchment or closure over two years (1983 and 1984). At the same place and in textile mills again, about 15% of the workforce, numbering 15000, exited through 'voluntary resignations' during 1963-1968. For a variety of reasons, matters turned ugly for a time in Kanpur when attempts at rationalization were made, but 'the process caught up in Kanpur as well during the 1970s and 1980s and retrenchments and closures resulted in the reduction in the workforce in the organised private sector industry by about 44 percent involving over 40,000 workers in a short period of five years during 1983-88'. On the whole, 'in the entire organised cotton textile industry in the private sector, employment declined by 2,42,000 during the period 1980-87, a major part of which is attributable due to closures and technological change.'[164]

In a word, as TS Papola put it sometime ago, 'the process of industrial restructuring requiring adjustments in workforce at the enterprise level has been a continuous process in the past decades [and not something required only after the Liberalisation]', and 'the past experience of restructuring and rationalisation in Indian industry casts serious doubts on the proposition advanced by industry that "exit" and labour adjustments are virtually impossible'.[165]

Thus a more direct and realistic approach to measuring labour flexibility is by analysing the shifting composition of the employment of workers, both in the aggregate as well in the typology of workers (e.g. permanent vs. casual/contract workers).

[164] Data for this paragraph cited in Papola 1994: 133-134.
[165] Papola 1994: 136.

For various reasons, there may be a time gap between economic growth and its effect on employment. Thus output grew at a faster pace in the 1950s than in the 1960s, but employment grew faster later (over 2%) than earlier (less than 1%):

> ... the economic growth during the early years, say 1950s, focussed on large investments in infrastructure industries with little potential for direct employment generation and relatively long gestation periods. So employment growth was very low even in relation to the relatively low growth of GDP. In the 1960s, employment grew faster even with low GDP growth as a result of secondary effects of heavy investments made earlier.[166]

The employment elasticity of output growth began to decline significantly in the 1970s and 1980s due to advances in productivity:

> GDP growth picked up in the middle of 1970s and accelerated during 1980s. But employment growth did not accelerate correspondingly, as the major part of growth was derived from productivity growth; and, the lines of production which grew faster were not employment intensive. As a result, employment elasticity of GDP growth declined continuously during 1970s and 1980s .... Employment elasticity was 0.61 during 1973-1978, it declined to 0.55 during 1978-1983 and further to 0.38 during 1983-88. During the period 1988-1992, it is estimated to have risen slightly to around 0.41. The declining trend in employment elasticity has been observed in all the major sectors of economic activity, except in construction. But the decline has been the sharpest in manufacturing and agriculture, the two major sectors of the economy.[167]

Employment in Manufacturing: The employment scenario in organised manufacturing differed from the overall trends as noted above, when the decline in employment elasticity began in the 1970s. In organised manufacturing, as Bhalotra has calculated, the dip dates from the end of the 1970s: in sharp contrast to the period between 1965

[166] Papola 1994: 120.
[167] Papola 1994: 120-121.

and 1979 value added grew at an annual rate of 5% and employment at 3.5%, during the following decade (1979-1987) while value added in organised manufacturing accelerated to an average annual rate of 6.3% the growth rate of employment declined to a negative -0.3 per cent per annum. Overall, 'between 1980-81 and 1989-90, employment growth in organised manufacturing was positive but negligible'[168].

That the aggregate figures for deceleration in employment growth represent a fairly widespread phenomenon in organised manufacturing (and not the special case of a particular segment of it) was shown by Nagaraj, who brought out the deceleration for most two-digit industries.[169]

Faster Employment Growth in Unorganised Manufacturing than in the Formal Sector: During 1972-73 to 1987-88, 'employment in the organised manufacturing grew at an average annual rate of 1.44 per cent, and in the unorganised manufacturing at 4.57 per cent':

> [The growing gap in employment growth between the organised and the unorganised sector was not confined to manufacturing alone, but is seen in the other sectors.] Similarly, employment in the unorganised segment of the construction sector registered an increase of almost 10 per cent per annum, the rate of employment growth in the organised part of this sector was only 0.37 per cent. The growth rates of employment in the organised and unorganised segments in the transport and communication sector were 1.7 and 10.2 per cent respectively. Similar differences in employment growth between organised and unorganised parts are observed in all other non-agricultural sectors of the economy. As a result, the share of the unorganised employment has increased in these sectors over the past two decades; in manufacturing, it increased

[168] Goldar 2000: 1191. An earlier calculation gave a similar but slightly different figure: 'In the organised industry as a whole ... employment had a negative growth of around 0.5 per cent, against an over 9 percent growth in value added per worker during 1980-81 to 1987-88' (Papola 1994: 132).
[169] Nagaraj 1994.

recruits and reporting their activities to the madam. Often, there are older women who are in charge of cleaning and looking after children.

Financial dealings vary greatly among brothels and even among women within the same brothel, depending upon their position in the hierarchy or the nature of their affiliation to the brothel. Not all women have direct access to their earnings. At the bottom of the pyramid are the new recruits into the brothel, who are not paid directly, instead their food and other needs are met by management. At the time of entry, the women often live the life of bonded labourers until the time the cost incurred on their recruitment, which is treated as a debt they owe to the brothel is paid for. These debts may include the money paid to the families of the women as well as to agents involved in recruiting her in to the trade, her transport to GB Road, cost of bribing the police, costs of clothes and make up when she is in the brothel and the cost of her maintenance (including food). Once the debt is paid up through the sexual service she is made to provide, the sex worker may have crossed her peak. The shift may be forced on the women, when they are pushed out to make way for younger sex workers who are also more remunerative. The sex worker may also choose on her own accord to move to another brothel if she has been able to build rapport with pimps and owners of other brothels. There are tradeoffs involved in the move. In the higher end brothels, more business goes with less freedom of movement for women. After the debt is paid off, the women become relatively freer and have more access to their earnings. When they receive their earning directly from the clients they begin to pay an amount to the brothel for food and other expenses borne. The cooking is usually done by a man who collectively cooks for all the women. There are often lots of traders selling food, clothes, makeup etc. in the higher end brothels. This is accentuated by the limited access that women in the brothels enjoy to the outside world and results in salesmen hiking up prices.

3.32 Lower-end Brothels

It was our impression that the larger number of the brothels on G.B. road belong to the 'lower end' category. Seven of the brothels we observed had from 67 per cent to 76 per cent, in construction from 78 per cent to 86 per cent and in transport from 24 per cent to 51 per cent.[170]

Over the same twin decades, a related phenomenon has been a significant decline in the proportion of the self-employed and rise in that of the casual workers:

> The proportion of those working as self-employed has been declining, and that of casual workers has been rising .... Self-employed accounted for 61 per cent and casual workers for 23 per cent of total workers in 1972-73, their respective proportions have changed to 56 and 30 per cent in 1987-88.[171]

As for the incidence of contract labour in formal manufacturing, there were indications from the very inception of the reforms that it was growing in both relative and absolute importance. These have been quantified, on the basis of ASI data, for the period from 1985 to 2002 by Ahsan and Pages, both in the aggregate and in terms of state-level distribution. Overall, there was a rise of more than 10 percentage points in the share of contract labour, with wide state-level variations.[172] The variations seem to be too complex for the BB or other such indices, despite the assertion of Ahsan et al to the contrary. For instance, the share of contract labour has been the highest in Gujarat, Orissa, and Andhra Pradesh, which however have been put in different slots by Besley and Burgess, Aghion et al, and others.

Reversal of the process of jobless growth: In a dramatic reversal since 2003-04, employment in organised manufacturing grew at the rapid rate of 7.5% per annum

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[170] Papola 1994: 124.
[171] Papola 1994: 125.
[172] Ahsan and Pages 2008: 6 and 38, Table 1.; Ahsan, Pages, and Roy 2008: 261 and Table 11.6. There is a bit of discrepancy in figures between the two essays, which will be discussed below.

between 2003-04 and 2008-09, as revealed by the results of ASI.[173] The reversal seems to have begun a bit earlier. Goldar states that before this, 'in the preceding eight years, 1995-96 to 2003-04, employment in the organised manufacturing had fallen at the rate of about 1.5% per annum'[174]. If adding the first three-four years of the 21st century to the latter half of the 1990s puts the growth rate at 1.5% (as Goldar states), and if it was 1.01% for the 1990s as a whole in contrast to the 1.55% of the 1980s (as the second Labour Commission noted), the growth apparently began to pick up from the turn of the third millennium, gathering momentum from 2003-2004.

The reversal obviously corresponds to the recovery of output production after a recession dating to 1996-97.

Employment trends –both of permanent workers and informalisation in various forms – thus establish the flexibility of labour market in formal manufacturing in India, despite the law. It should also be clear from the foregoing that broad-brush contrasts covering large time-spans hide more than they reveal. It has been observed, for instance, for the period from 1980 to 2007-08 that the share of the formal sector in total manufacturing value-added has been increasing, and accounts for 70% of the total manufacturing value added, but that it accounts for a mere 20% in terms of employment.[175] These figures, important though they are, help little to unravel the complexities of output-employment interaction across the formal and informal sectors.

The figures in the preceding paragraph are not without value however. With 70% share of value added and a mere 20% share of employment, it is evident that

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[173] Goldar 2011: 20.
[174] Goldar 2011: 20.
[175] Gupta and Kumar 2010: 11.

productivity in the formal sector has been spectacularly high as compared to its informal counterpart. This in turn raises the all-important question as to how much of the gains from the increased productivity have accrued to the workers. Did the workers in the formal sector already enjoy higher wages – thanks to the labour laws and union power –than their marginal contribution to output? If so, have they been able to maintain their disproportionate share over the period? Or is it a different story altogether?

We return to these and other questions in the end, trying to see for ourselves what our data have to say in this regard. Before that, however, we would like to briefly make the point that the growth and stagnation story of Indian economy can and has been told in terms other than its legal framework and the by-now all-too-familiar framework of reforms.

To begin with, the acceleration of output has been dated from 1980, i.e. well before the onset of reforms, and the importance of a similar period of accelerated growth before 1965 has been underlined. The formal industrial sector saw an output growth from 1980 to that was 'distinctly higher than that in the previous 15 year-period (1965-80) of "relative stagnation"'; further, this growth rate had a striking precedence in a previous period, i.e. during 1959-66.[176]

[176] Nagaraj 2006a: 20. These conclusions, initially reached on the basis of NAS (*National Accounts Statistics*) data on GDP, were reinforced by the ASI data for 1980-81 to 1987-88 (ibid: 20-21). This important finding, that the 1980s saw a rise in growth rate that contrasted with the previous 15 years of industrial performance but was of the same order as recorded for the seven years before that (1959-66), is somewhat misrepresented by the author a few pages later: 'Indian economic performance in the 1980s was significant in many ways. It was an improvement over its record of the *past three decades*' (ibid: 21, italics added). It is perhaps more important to emphasize the comparability of growth than precise differences in figures, especially if we keep in mind the path-breaking nature of the institutional

The acceleration of industrial production in the 1980s, against the sluggish background of the previous 15 years, has been explained in terms of the following:

1. Rise in fixed investment/GDP ratio from about 1975.
2. Greater investment in industry and infrastructure followed by a marked rise in output.
3. 'A steady rise in public sector's share in investment could have contributed to the industrial upturn.'
4. Onset of relaxation of supply constraints due to domestic deregulation have also been seen as a possible contributing factor.
5. It is again possible that the move towards tariffs from quotas in the 1980s had a bearing on stimulating industrial production.[177]

Another widely-held, and much-hyped, expert opinion about the non-performance of the public sector in India with all its ill-effects on the economy has failed to stand a re-examination of the evidence. The reconsideration of the performance of the central public sector enterprises (PSEs) is based on sounder statistical analysis: 'Usually the balance sheet data of the central PSEs, or public finance data, are analysed to show its meagre contribution to the government revenue. Both these data sources, and the widely used statistical ratios, seem to have their limitation, as they fail to adequately

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transformation of the early 1950s that, as Deepak Nayyar has argued, was probably more significant than the structural break of the early 1990s (Nayyar 2006). Nayyar does not, as Panagariya (2008: 14) alleges in a somewhat sweeping fashion, 'celebrate it as a triumph of socialism': the word 'socialism' in fact does not occur even once in Nayyar's essay, the thrust of which is actually the same as Panagariya's own view of the important shift that this period marks in India's economic history ('the introduction of a coherent development strategy that included institution building by the government was central to this shift', Panagariya 2008: xvii).

[177] Nagaraj 2006: 21.

capture the performance of PSEs.' A fuller picture is provided by the public sector transactions as recorded in the NAS. This data base tells a novel story. According to it, 'non-financial public sector enterprises' performance gradually improved since the late 1970s (albeit from a low base)', even after excluding the special case of the petroleum firms, and based in part on a long overdue rise in public sector prices so that the public sector began now to compete successfully in the market without the crutches of government subsidy.[178] Equally to their credit, the PSEs have been able to sustain during the 1990s, despite the policy reversals, 'the improvement in their performance'.[179]

Further, contrary to the common and assiduously propagated impression, the PSEs share but a rather small part of the blame for the fiscal deficit. It has been shown that in the 1980s 'the PSE deficits, were a steadily declining share of the total', so that it was the government administration's expenditure policies [that] were mainly responsible for the growing fiscal deficit, not the financial losses of the PSEs'.

In the final analysis, however, it is equally, perhaps more, important to keep in mind the crucial dimensions of industrialisation (formal and informal alike) and issues related to it that get completely left out in the liberalisation discourse: the above arguments are exercises in correction *within* the dominant discourse. The neoliberal criticisms of government policy, in focussing almost exclusively on the supply-side constraints of the system and on the importance of export market by developing labour-intensive industries worked by unskilled labour force, have kept out of purview the virtually limitless potential of India's home market of her teeming millions; not without reason, it would seem, for any attention to this home market will lead on to issues for which the neoliberals do not have much taste. The economic policies of liberalisation, as

[178] Nagaraj 2006: 21. Significantly, Sandesara's critical review of Nagaraj's work seeks to counter this major reinterpretation of the PSEs by ignoring all these considerations of method and data, amounting, *ex silentio*, to their acceptance (Sandesara 2006).
[179] Nagaraj 2006: 22.

Prabhat Patnaik pointed out some time ago, are indeed rooted in 'the policy of institutionalising massive rural under-consumption'[180]. It is the 'large-scale and growing rural under-consumption'[181] that has kept 'the large potential rural market untapped for industry'[182]. It is this that explains best not only the limitations of the current growth scenario but also its recurrent crises:

> The domestic market remains confined largely to the urban consumers, who, no matter what their absolute numbers are, constitute a small segment of the population. This form of industrialisation has a narrow social base, becomes plagued fairly soon with balance of payments difficulties, has little impact upon unemployment and the sectoral distribution of the work-force and is altogether of a fragile character.[183]

Thus while it is important to engage the neoliberal theses in their specific forms, the ultimate aim should be 'to change the problematic itself':

> What is questionable about the position of the proponents of 'liberalisation' is not just the thesis that a 'liberal' regime entailing the freer play of market forces can bring about rapid economic advance, but the basic premise that it is the nature of the economic regime alone that matters as far as the prospects for economic advance are concerned, not property-relations, not class correlations, not economic structures, not the nature of the state. Clearly for countries the size of India, industrialisation can be only of one kind, namely agriculture led, or, more accurately, agriculture-sustained. A removal of fetters upon agricultural advance constitutes a pre-condition for the economic advance of our society. It the prospects for capitalist industrialisation in economies like ours appears limited, the basic reason for it lies in the inability of the bourgeoisie to remove these fetters upon the release of productive forces in agriculture.[184]

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[180] Patnaik 1988: 9.
[181] Ibid: 10.
[182] Ibid: 13.
[183] Ibid: 13-14.
[184] Ibid: 14-15.

Labour Productivity, Labour Share, and Contract Labour: An Update

In arguing for the existence of actual flexibility of the labour market in India, the examples that we gave for the post-1991 period have also enabled economists to establish the fact of great leaps in labour productivity.

Some of the examples cited above for actual labour flexibility also establish *for those cases* a corresponding increase in labour productivity. Thus when we see 44,000 workers in Jamshedpur producing five million tonnes of steel in 2005, and compare it with the fact that in 1991 it used to take 85,000 workers to produce one million tonne, we know that labour productivity had increased by a factor of 10.[185] In a similar fashion labour productivity is known to have increased by a factor of four at Tata Motors in Pune between 1999 and 2004, and by a factor of 'nearly six' at Bajaj motorcycle factory at Pune between the 'mid-1990s' and 2004. There are other examples too: 'One could multiply such examples, but this is broadly the name of the game everywhere in the private corporate sector.'[186]

The next question is of labour share: whether the workers have gained from output and productivity growth. Have the wages been rising, or lagging behind? 'Rather far behind' was the answer that Professor Amit Bhaduri found in 2008, though admittedly on the basis of somewhat inadequate information. 'Direct information' was lacking, he noted, yet a common element in a number of micro-studies and surveys was the rising incidence of 'longer hours of work without higher pay':

> Subcontracting to the unorganised sector along with casualisation of labour on a large scale become convenient devices to ensure longer hours of work without higher pay. Self-employed workers, totalling 260 million, expanded fastest during the high growth regime, providing an invisible source of labour productivity growth (the data in

[185] Bhaduri 2008: 11.
[186] Bhaduri 2008: 11.

Rangarajan et al 2007 ['Revisiting Employment and Growth'] could be interpreted this way). Ruthless self-exploitation by many of these workers in a desperate attempt to survive by doing long hours of work with very little extra earning adds both to productivity growth, often augmenting corporate profit, and human misery.[187]

Our attempt in what follows to find a firmer basis with updated information corroborates all these insightful conclusions.

We may recapitulate here, as noted in the first chapter, that the following empirical work makes use of three databases in the main – CSO's Annual Survey of Industries (ASI), Indian Labour Year Book (ILYB), and Indian Labour Statistics (ILS) – for the periods beginning from 1981 till the year for which information was available. The consumer price index for industrial workers (index series for different base years spliced and rebased to 193-94) and wholesale price index for machinery and equipment with 1993-94 as base year have been obtained from The Handbook of Statistics on the Indian Economy published by the Reserve Bank of India. The two series have been used as wage deflator and deflator for operating surplus in this analysis to convert nominal figures into real terms. The tables have been numbered and put together in the Appendix.

We begin with workers' share of earnings (wages and total emoluments) in net value added. We have defined all the three variables as per ASI norms, as given below:

Wages: Wages (also called wages and salaries) are defined to include all remuneration in monetary terms and also payable more or less regularly in each pay period to workers as compensation for work done during the accounting year. It includes (a) direct wages

[187] Bhaduri 2008: 11.

and salary (i.e., basic wages/salaries, payment of overtime, dearness, compensatory, house rent and other allowances) (b) remuneration for the period not worked (i.e., basic wages, salaries and allowances payable for leave period, paid holiday, lay- off payments and compensation for unemployment, if not paid from sources other than employers) (c) bonus and ex-gratia payment paid both at regular and less frequent intervals (i.e., incentive bonuses, productive bonuses, profit sharing bonuses, festival or year-end bonuses etc.) It excludes lay off payments which are made from trust or other special funds set up exclusively for this purpose i.e., payments not made by the employer. It also excludes imputed value of benefits in kind, employer's contribution to old age benefits and other social security charges, direct expenditure on maternity benefits crèches and other group benefits. Travelling and other expenditure incurred for business purposes and reimbursed by the employer are excluded. The wages are expressed in terms of gross value i.e., before deduction for fines, damages, taxes, provident fund, employee's state insurance contribution etc.

Total Emoluments: is defined as the sum of wages and salaries, employers' contribution to provident fund and other funds and workmen and staff welfare expenses. Employers' contribution to provident fund and other funds include old age benefits like provident fund pension, gratuity etc and employers' contribution towards other social security charges such as employees' state insurance, compensation for work injuries and occupational diseases, provident fund- linked insurance, retrenchment and lay off benefits. Workmen and staff welfare expenses include group benefits like direct expenditure on maternity, crèches, canteen facilities, educational, cultural recreational facilities, and grants to trade unions, co-operative stores etc. meant for employees.

Net Value Added: This is the increment to the value of goods and services that is contributed by the factory and is obtained by deducting the value of total inputs and depreciation from gross value of output.

masculine spectators and male fetish (Gledhill 1991).[71] In a later work, Jackie Stacey noted that despite emerging studies on stardom and the star-fan relationship, the discourse was conspicuously missing a comprehensive analysis of female spectators (Stacey 1991/1994). Her ethnographic work presents a fascinating account that covers responses of women and their memories of female stars like Rita Hayworth, Bette Davis etc. Stacey's work brings into the fold reception of a female star that rests on admiration or awe for their professional achievements or even private lives as women related to them. Stacey's work, along with that of others like Jane Gaines, Miriam Hansen and Andrea Weiss, presents an early moment that attempted to complicate and diversify the image of the spectator.[72]

While the discourse on stardom comments upon foundational ideas like star bodies—the nature of the gaze and the public-private division in the way a star is consumed—as scholars of Indian cinema have discovered, it becomes necessary to develop the foundational work that was done largely in the context of Hollywood in a way that doesn't merely apply the same principles to the Indian context, but rather, marks how the context changes essential aspects of the discourse itself. As a rhetorical system that is in conversation with the social-

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[71] Gledhill is referring here primarily to the work of Laura Mulvey, in particular her essay 'Visual Pleasure and Narrative Cinema' (1975) wherein she suggests that the gaze or the point of view in classical Hollywood cinema is essentially male. According to Mulvey, this replicates gender relations as they exist in society wherein the woman is presented as the object of sexual desire.

[72] See Jane Gaines and Charlotte Cornelia's 'Puffed sleeves before tea-time': Joan Crawford, Adrian and women audiences'; Miriam Hansen's Pleasure, Ambivalence, Identification: Valentino and female spectatorship; and Andrea Weiss's 'A queer feeling when I look at you: Hollywood stars and lesbian spectatorship in the 1930s in Christine Gledhill (ed) *Stardom: Industry of Desire* (1991).

FIGURE 1: Share of Earnings (Wages and Total Emoluments) in Net Value Added

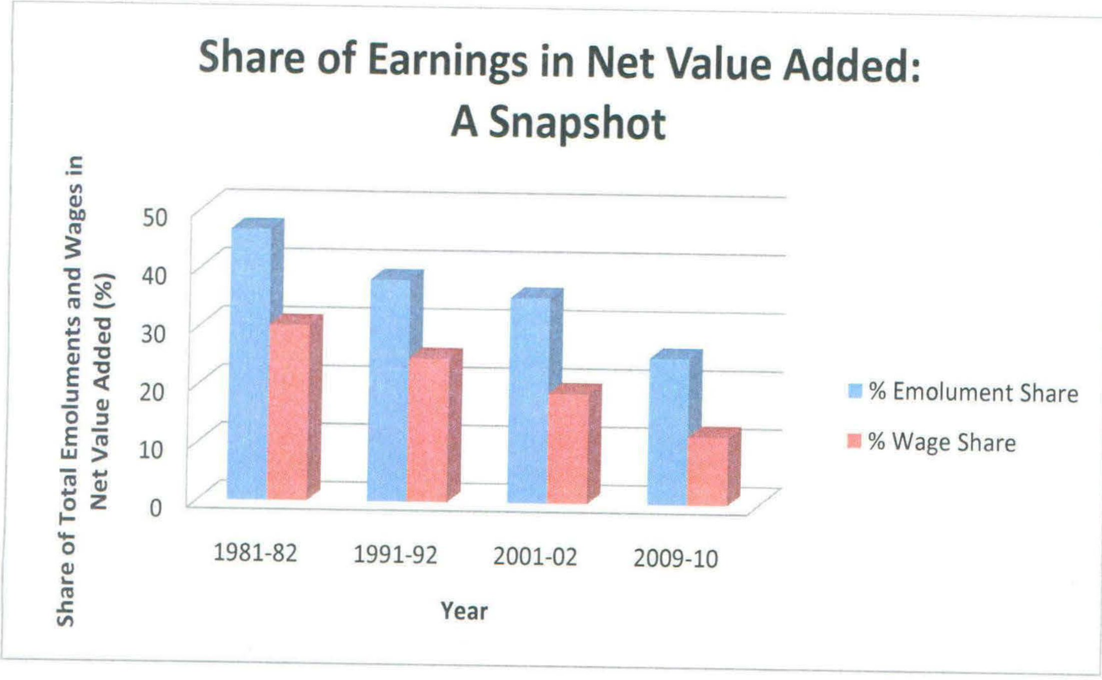
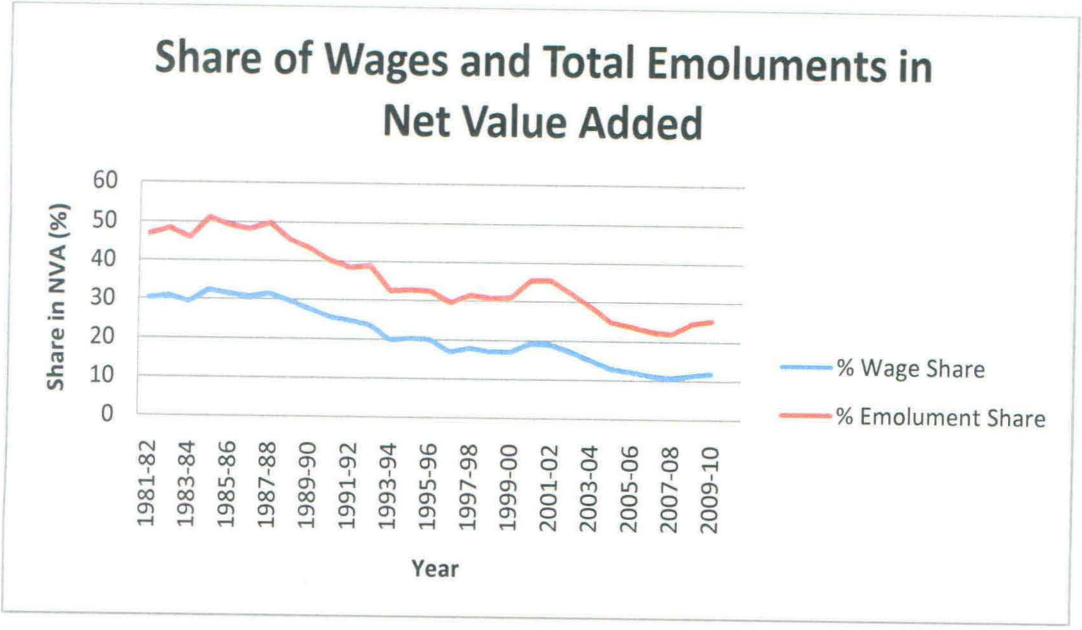


FIGURE 2: Share of Earnings (Wages and Total Emoluments) in Net Value Added

(Annual Trend)



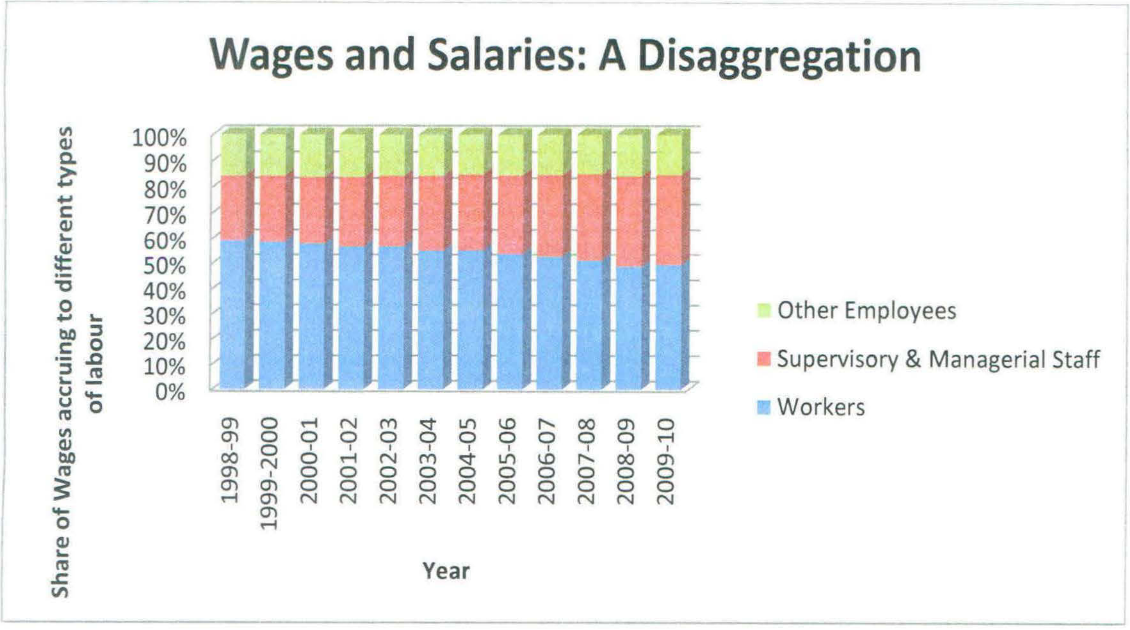
Figures 1 and 2 based on Table 2 (Appendix) show the progressive reduction of both wage share as well as total emolument share from 1981 through 2009.While the percentage share of wages in total output (NVA) shrank from 30.28 in 1981-82 to a paltry 11.85 in 2009-10, that of emoluments fell from 46.70 to 25.26 over the same period. Two points emerge. First, it would further appear from the table that the fall really began just *before* the onset of the 1991 policy shift: till 1988-89 the respective figures remained almost unchanged (29.72 in wages and 45.41 in emoluments). The decline began only from the next year, the precise reasons were probably connected with a decline in the workers' bargaining power.

Second, workers experienced a relatively greater reduction than the rest: wage shares in 1981-82 were 2.55 times as large as those in 2009-10 (30.28 divided by 11.85), while total emoluments were just 1.85 times as large as those in 2009-10 (46.70 divided by 25.26).

This second result is consistent with the disaggregated figures for wages and salaries for the period from 1988 to 2009 (i.e. exactly from the time when the shares begin to fall) for the different categories of employees as seen in table 3, and represented in Figure 3 and 4.

FIGURE 3: Wages and Salaries: Aggregate Trends for Different Categories of Employees

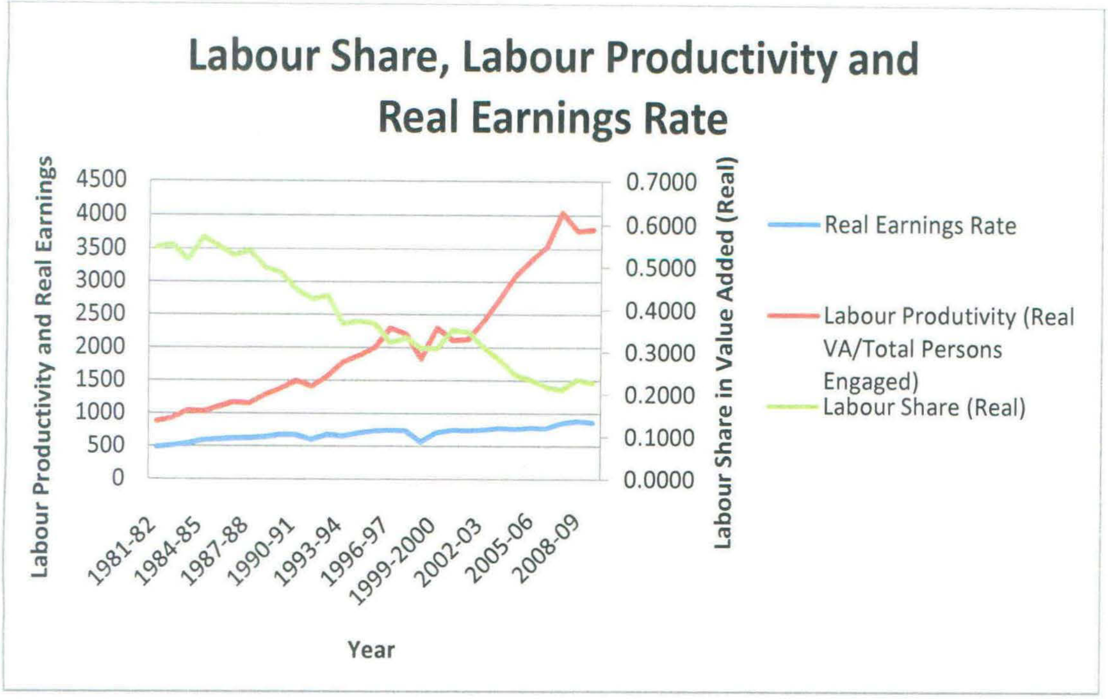
FIGURE 4: Relative Percentage Shares of Wages and Salaries Accruing to Different Categories of Employees



Figures 3 and 4 show wages and salaries as divided, following the standard ASI schema, between three categories of employees: workers; supervisory & managerial staff, and; other employees. Figure 3 shows the absolute increase (in Rupees) for all the three categories. Figure 4 shows the relative percentage share of the three categories. It is seen that while the relative share of the third category of 'other employees' remained unchanged at 15% of the total, that of the workers declined from around 60% to around 50% as that of the supervisory and managerial staff increased from around 25% to around 35%.

All this while, labour productivity (calculated as ratio of real value added and total persons engaged) was rising, and well above and faster than the real earnings rate. All these trends in their interactive mode are seen in Figure 5 based on Table 6 (Appendix). It should also be noted that in this exercise earnings denote total emoluments (and not just total wages).

FIGURE 5: Labour Share, Labour Productivity, and Earning Rate (in Real Terms)



In 1981-82, labour share (i.e. wage share) stood at 54.83% (in real terms, hence different from the one shown above), and then began its steady fall over the following two decades to stand at 22.69% in 2009-10.

Over the same period, labour productivity has remained much higher and increased at a faster rate than the real earnings rate all through.

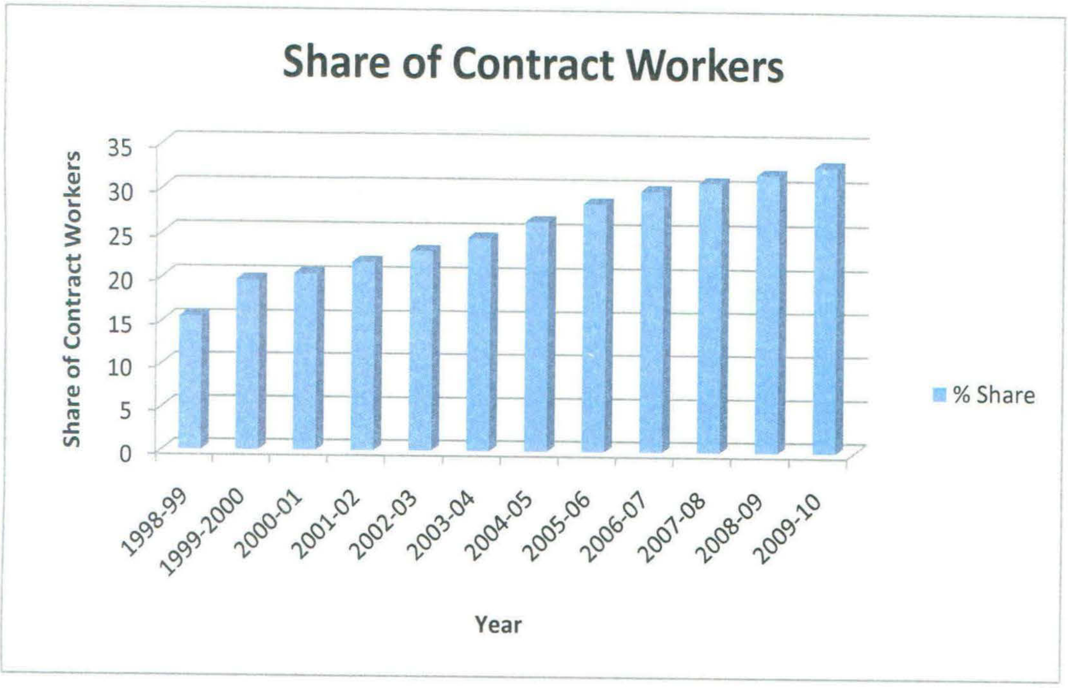
It means, first, that at the outset, workers received less than their marginal contribution; and second, that the gap between the two, i.e. their earnings and their contribution has widened over the almost three decades.

These findings dispose of the labour-flexibility theories that the workers in organized sector, under protection from the labour laws and fully backed by trade unions, have received much more than their due, which in turn has had a number of undesirable consequences for the economy. It shows, on the contrary, that they have failed to retain their relative position vis-à-vis the capitalist class. This is all the remarkable for a period of overall growth and prosperity, and calls for a reconsideration of their bargaining power as represented by their unions. This we do in the next chapter.

Before that, however, we locate another likely explanation for the observed trends in the falling proportion of permanent workers in relation to the contract ones. Contract workers are defined (as per ASI) as all persons who are not employed directly by an employer but through a third agency, i.e. contractor. These workers may be employed with or without the knowledge of the principal employer.

FIGURE 6: Relative Percentage Share of Contract Workers

FIGURE 7: Percentage Share of Contract Workers



The two figures, based on Table 1 (Appendix), underline the *unprecedented* rise of the incidence of contract workers in formal manufacturing. The rising incidence of contract workers has been frequently commented upon, but the phenomenal scale of the rise has escaped notice and needs to be underlined. Table 1 is based on ASI data for entire formal manufacturing for 1998-99 to 2009-10. There has been a steady rise in the share of contract workers from 15.51% to 32.8% over this decade: the share, in other words, has more than doubled. The rise has been *unprecedented:* for the first seventeen years after the first delicensing in 1985, the share of contract workers hadn't quite managed to double itself (it grew from 12.1% in 1985 to 23.22% in 2002), registering a percentage rise of about 11 percentage points; whereas over the last eleven years, i.e., from 1998 to 2009, the rise has been more than double, the increase in percentage point more than 16.[188]

[188] Ahsan, Pages and Roy 2008: 261, Table 11.6. It may be noted here that their figures in the table are not always exact.

of the previous NDA regime about changing the labour laws was the wave of massive protests by the unions displaying an unprecedented unity.[190]

The question is: does this capture the actual relative strength of the unions? In other words, does the de jure continuity of the regulatory framework constitute a proper measure of the strength of the unions as understood in the flexibility thesis? In this chapter, we present evidence that uses alternative ways of measuring the leverage of the unions, to answers these questions in the negative.

Trade unions are a distinguishing feature of the formal industrial sector. Outside the formal sector, unionisation is exceptional, one important exception being the agricultural trade unions in Kerala.[191] Even within the formal sector, however, although the law permits any group of seven workers to form a union, it normally takes a much larger concentration of workers to make unionisation worth their while: 'Reportedly, factories employing up to 100 workers usually do not have significant presence of durable trade unions, given their poor bargaining power vis-à-vis their employers. Considering the poor record of enforcement of labour laws, both by administration and the courts, and given surplus labour situation, workers have very little protection against non-compliance of contracts or labour laws. There are, however, exceptions in states like West Bengal and Kerala and in some industrial cities.'[192] Paradoxically, this provision of seven worker's union has been frequently utilized by employers to break up the unity of big powerful unions.[193]

[190]Hensman 2011: 153. The unprecedented unity was however entirely due to the unprecedented liberalisation and globalisation. 'It is unlikely', it has been rightly remarked, 'that this unity would have materialised if not for the feeling of extreme insecurity among members of all unions and the pressure they exerted on their own leaderships' (ibid).

[191]Joshi and Little 1994: 28-29; Nagaraj 2002: 6, 7.

[192]Nagaraj 2002: 6-7.

[193]Nagaraj 2002: 8fn8.

It was this line of reasoning that became – and has remained so, despite its thorough subsequent repudiation – the basis for the negative role of trade unions in the labour flexibility theory in India.

When Nagaraj himself took a closer look in 1994, he was constrained to abandon his 1984 impression as the results were dramatically reversed: 'A variety of measures widely used in labour economics suggest a decline in the strength of the organised labour since around the mid-1970s.'[199] The figures did not really show any increasing militancy. First, an index of the growing power of unions is the increasing frequency and intensity of strikes computed on the basis of persondays lost. However, it was now noted that 'the absolute number of mandays [i.e. persondays] lost in industrial disputes has little meaning when the number of mandays worked has also grown'[200]. Precision in this matter calls for adjusting the increased number of persondays *lost* against the increase in the number of persondays *worked* over the same period. Second, it was misleading to take the evidence for work stoppages as evidence for workers' strikes as work stoppages also included lockouts by employers, the very opposite of strikes. Finally, it was also discovered that the data did not pertain to the manufacturing sector alone, but covered other activities as well.

The weakening of trade unions' power in manufacturing is dated from the late 1980s, when lockouts began to account for greater loss of persondays lost than strikes did.[201]

A recalculation using other, more reliable measures brought out not the growing power, but a relative decline in the power of the trade unions from about the mid-1970s, and

[199]Nagaraj 2006: 23.
[200]Nagaraj 1994: 180.
[201]Nagaraj 2002: 9 (citing Nagaraj 1994).

Others have computed the figures to reach the same conclusions based on similar trends. Thus for the period 1978-1997, Dutt's second and third phases, it has been calculated that 'the ratio of strikes to lockouts (in terms of total man days lost as a result of industrial disputes) fell from 54:46 to 19:81.', and for the post-1991 period, 'the number of person-days lost because of strikes decreased almost by half, from 12.43 million in 1991 to 6.6 million in 1994, the number lost due to management lockouts actually increased over the same period'.[205]

The study of the lockouts has also brought to the fore the strong support that the employers have come to enjoy from the government. Lockouts can equally be legal or illegal (by simply locking the factory gates 'as elected state governments looked the other way'). One standard legal mode is to stop paying water and electricity bills.[206]

Apart from the passive abetment to the employers' flouting of laws, politicians have actively aided the employers in more ways than one. First, they have resorted to various means for dividing the unions. Rob Jenkins has described the lengths to which Sharad Pawar, Chief Minister of Maharashtra, went during the early years of Liberalisation to break up the powerful trade unions:

> Pawar's role was most significant in the textile industry. In late 1993, he played a major role in the exit of five senior members from the Maharashtra General Kamgar Union, controlled by independent trade unionist Datta Samant, as well as the earlier departure of T. S. Bhokade, once Samant's trusted lieutenant. ... Pawar was also known to have backed the ascendancy of crime-syndicate bosses to leadership positions in the main Maharashtra textile union, in the hope that they could intimidate rank-and-file

[205] Jenkins 2000: 141.
[206] Jenkins 2000: 140-141.

attitude – without of course any let-up in pressure for further reform. Thus Ahluwalia states: 'The increased competition in the goods market has made labour more willing to take reasonable positions, because lack of flexibility only leads to firms losing market share. However, the legal provisions clearly remain much more onerous than in other countries. This is an important area of reform that has yet to be addressed.'[211]

These trends, in combination with others some of which we have noted in the preceding chapters, would show not only the flexibility of the unions but also a certain measure of their capitulation, going down before the employers' onslaught.

And yet caution has again been urged in all these matters by Shyam Sundar. In his empirically rich and theoretically sensitive investigation of 'Lockouts in India, 1961-2001', he has come out with arguments that 'weaken the argument of employer militancy', and that ask us not to take the thesis of weakening worker militancy for granted:

> We have shown elsewhere that the decade of the 1990s was by no means an industrially peaceful period; apart from the rise in incidence of lockouts, strikes also flourished. The remarkable feature of industrial conflicts in this decade is the impressive level of mobilisation of workers and mounting of several nationwide and regionwide work stoppages on policy issues ...[212]

It is against this backdrop in particular and the neoliberal assumptions in general that we would like to place our own findings.

[211] Ahluwalia 2002: 76.
[212] Shyam Sundar 2004: 4384.

FIGURE 1: Growth and Membership of Trade Unions

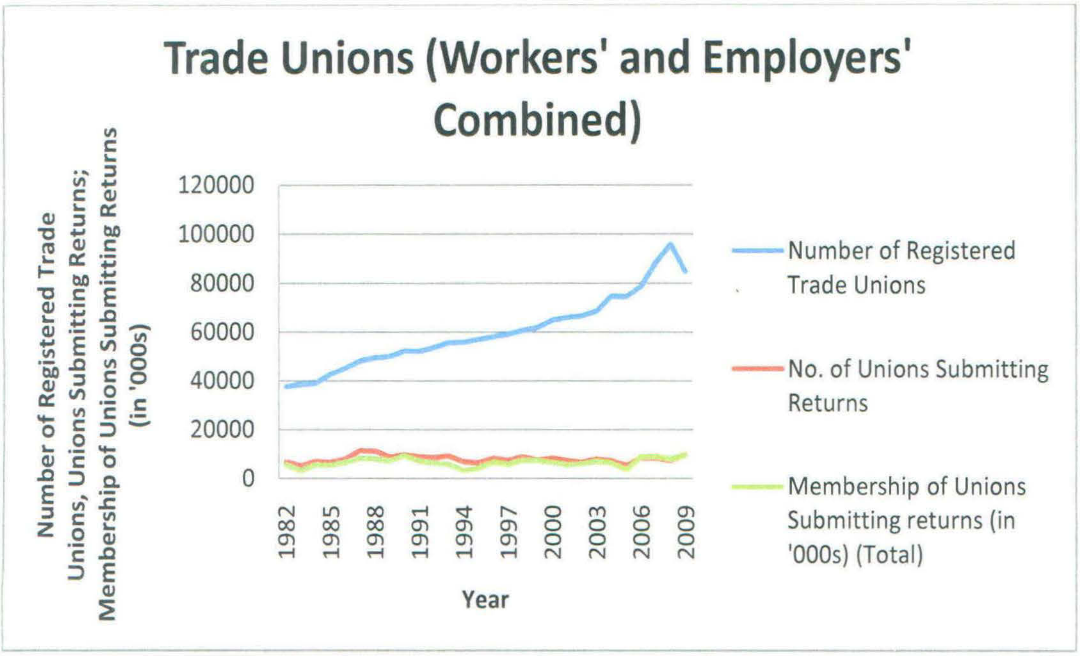


Figure 2 (based on Table 4 in Appendix) charts the progressive decline in the incidence of industrial disputes /work-stoppages. Both types of work stoppages – strikes and lockouts – share the declining trend together. However, as Figure 2 shows, the number of strikes goes down at a much faster rate than that of lockouts, so that the relative percentage share of the latter registers a marked increase. Hence the data reveals that lockouts have become more frequent. Moreover, once initiated, lockouts always tended to last for longer duration than strikes, a fact displayed in Figure 5. Average duration is calculated by taking a ratio of persondays lost and workers involved. It is measured in number of days.

Similar trends are reported for persondays lost due to disputes (see Figure 5). The number of persondays lost due to work stoppages has registered a declining trend in the sample period. Moreover, the number of persondays lost on account of lockouts has exceeded the loss in persondays due to strikes for the entire period after 1987, except the year 2007.

However, Figure 3 below makes the point that the percentage share of workers in strikes remained rather higher than that in lockouts.

FIGURE 2: Number of Work Stoppages by Type (Strikes versus Lockouts)

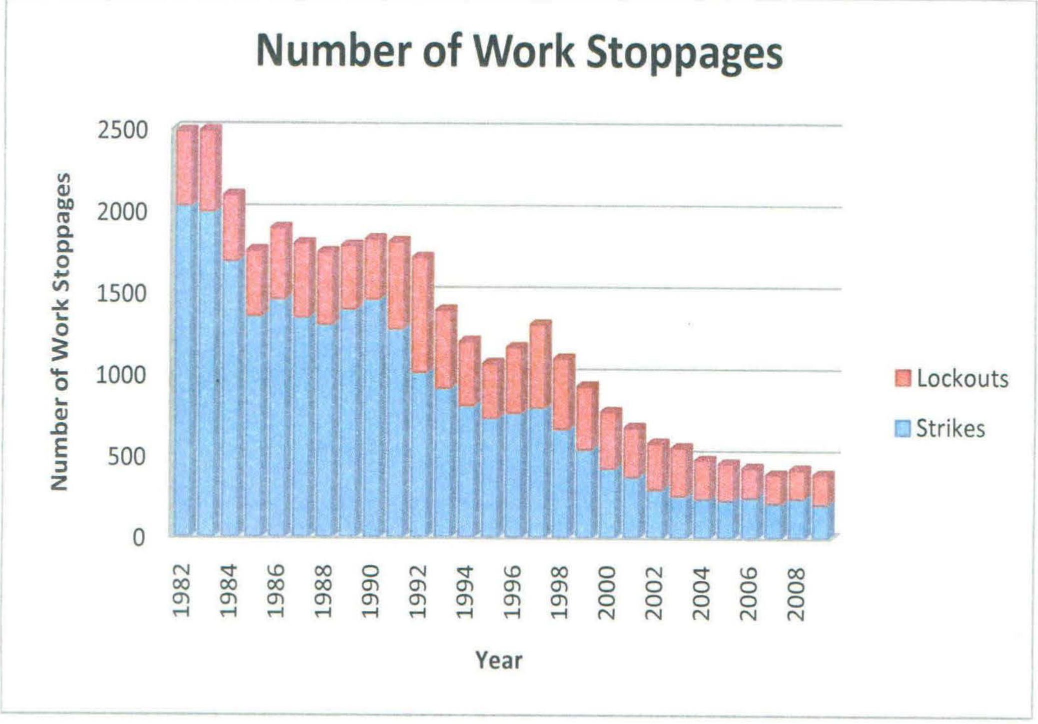


FIGURE 3: Relative Percentage Share of Strikes and Lockouts in Total Work Stoppages

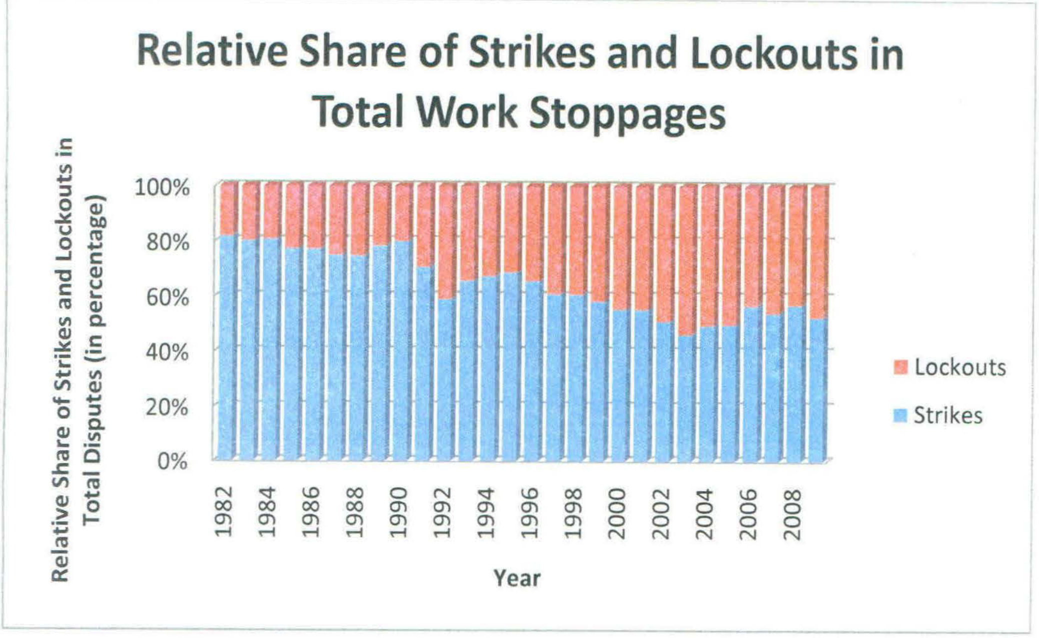


FIGURE 4: Percentage Share of Workers Involved in Strikes and in Lockouts

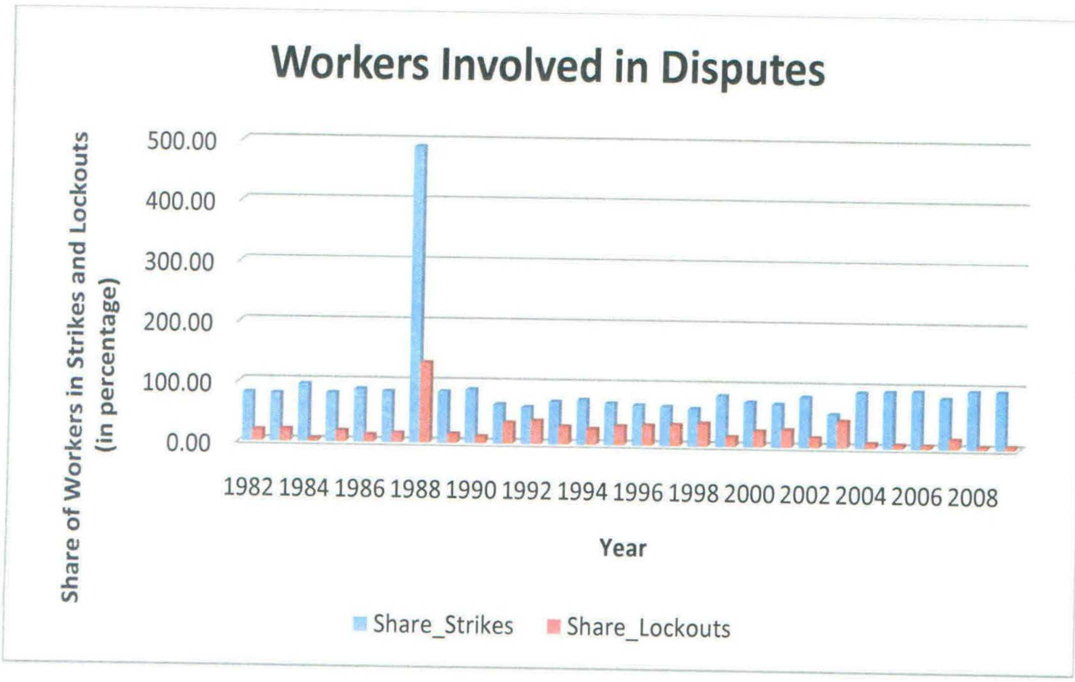


FIGURE 5: Persondays Lost in Industrial Disputes by Type (Strikes versus Lockouts)

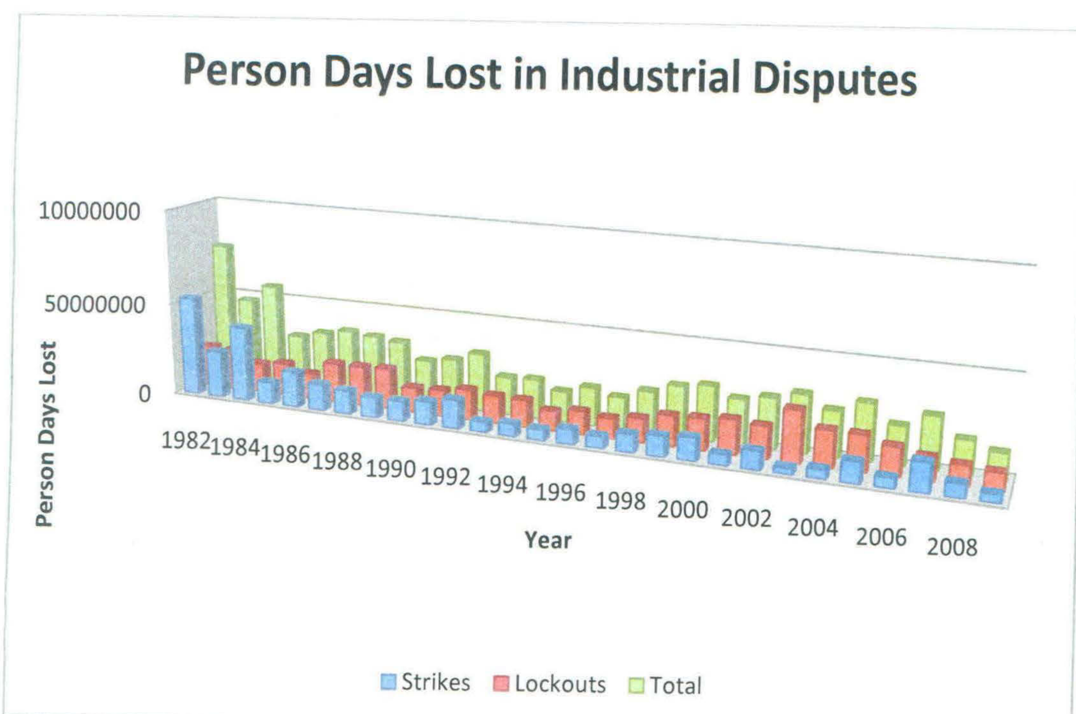
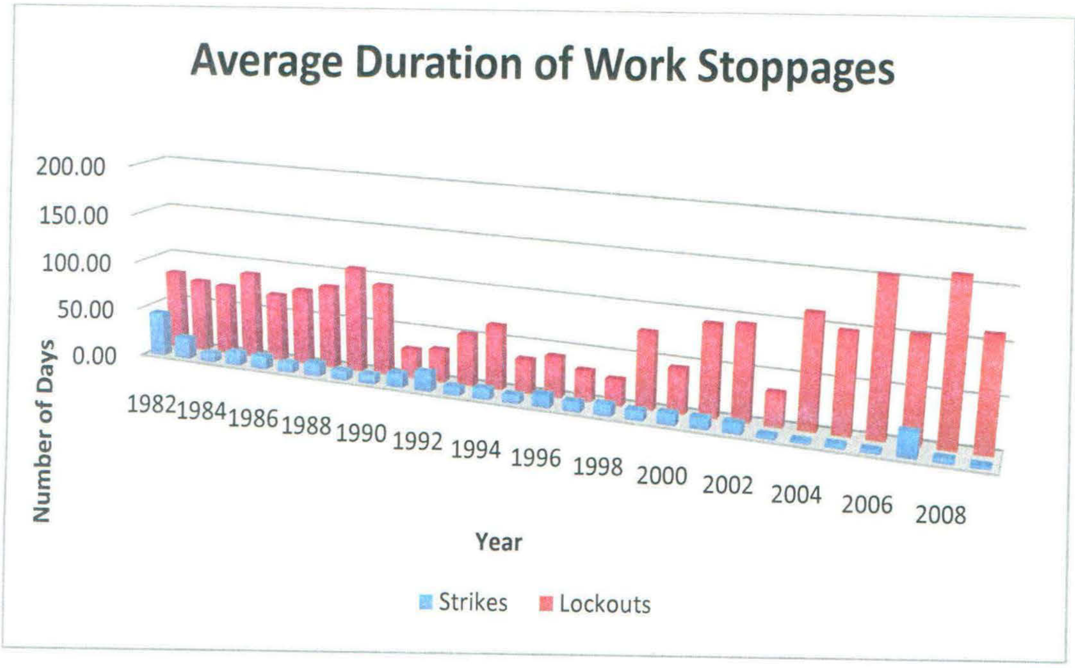


FIGURE 6: Average Duration (in number of days) of Work Stoppages by Type

(Strikes versus Lockouts)



Next we trace the ways in which the phenomena of industrial disputes decompose over the public-private sector division. Since the trends in the aggregate will remain the same as in the preceding discussion, we note only the significance of the public-private decomposition. We begin with the data presented in Figure 6 which show that, contrary to widespread perception, disputes were from the beginning far less common in the public sector, and have become progressively less so, so that over the previous few years up to 2009, the relative share of public sector has become almost negligible.

FIGURE 7: Number of Work Stoppages by Location (Public versus Private)

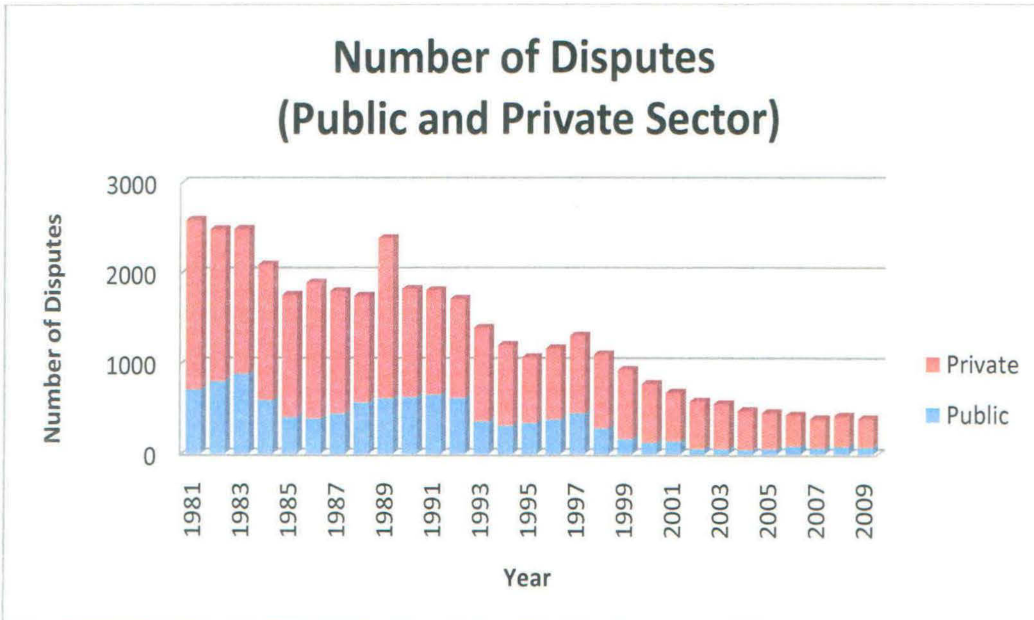


Figure 7 shows, however, that workers have been party to far less number of disputes in the private sector.

FIGURE 8: Number of Workers Involved in Work Stoppages by Location (Public versus Private)

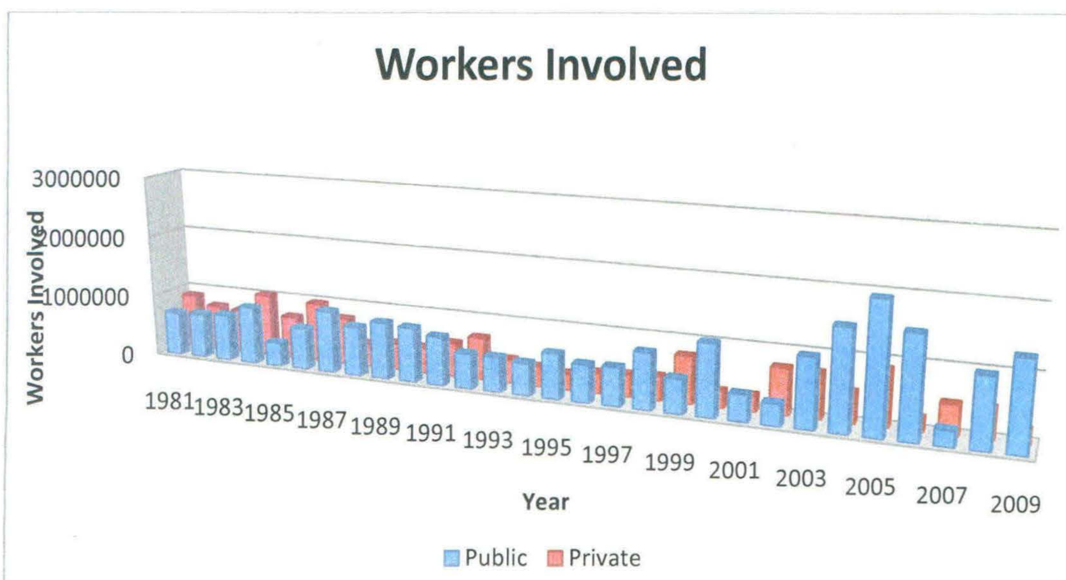
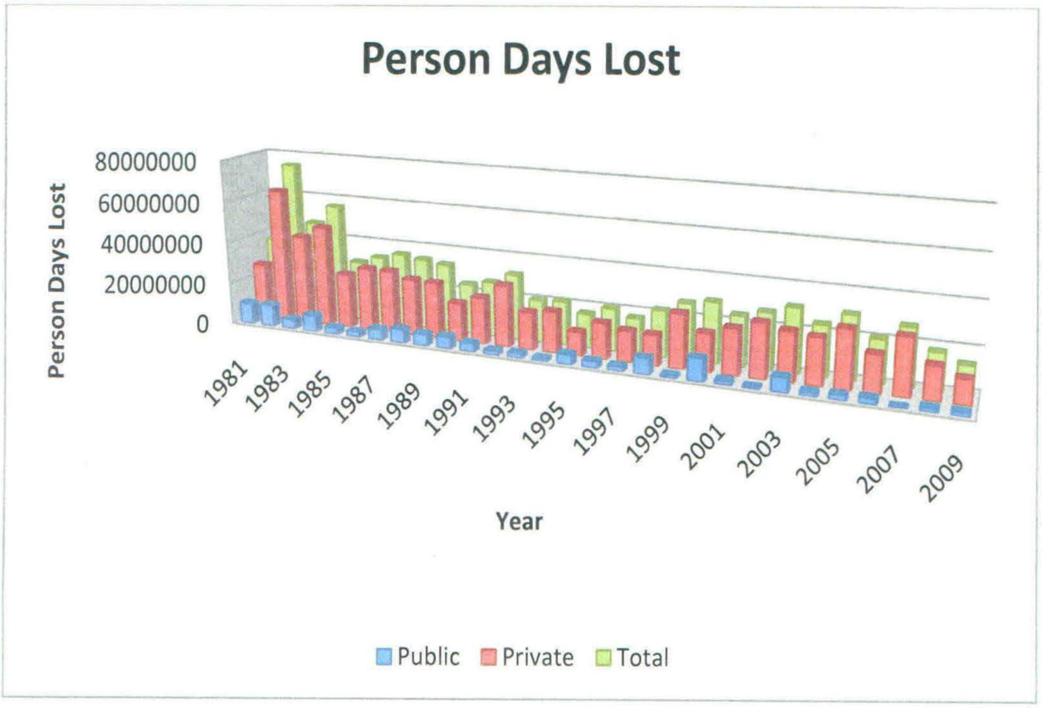


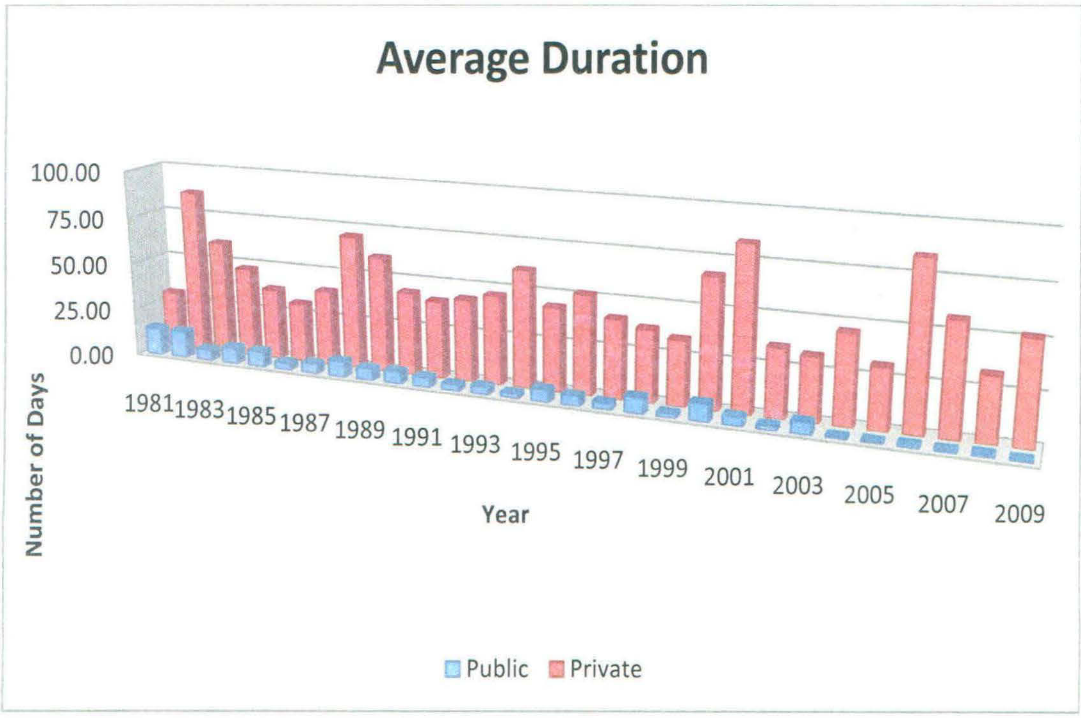
FIGURE 9: Persondays Lost in Industrial Disputes by Location (Public versus Private)



Again contrary to popular view, the number of persondays lost due to disputes has been overwhelmingly high in the private sector all through the period under review. This is seen in the persondays lost chart (Figure 9), and is strikingly brought home by the data for the average duration of work stoppages: in the private sector it runs in weeks and months, in the public sector it is counted in days. The result for average duration is represented in Figure 10.

FIGURE 10: Average Duration (in number of days) of Work Stoppages by Location

(Public versus Private)



Conclusion

The implications of the respective figures for strikes and lockouts, and for work stoppages in public and private sectors, in terms of the alleged nuisance value of trade unions are something of an eye-opener. If the economy has suffered real production losses, it has been, increasingly over the recent years, far more due to the employers' offensive than to the workers' struggle, and far more due to the ineptness of management in the private corporate domain than in the much-maligned PSEs.

In the end, the unions must do much more than recover the lost ground. Early in 1994, Sarath Davala urged them to drop their blinkers and evolve a broader outlook, the first step of which was to organise the vast informal sector, and the second, now that the multinationals were here, to forge solidarity with the international labour movement.[213] This powerful advocacy – there have been other advocates too – for the need to go beyond economism has lost none of its relevance till date.

[213] Davala 1994.

Chapter 5

CONCLUSION: IDEOLOGY IN THE MAKING OF ECONOMICS

Over the long course of their development in India, neoliberal claims about the labour-market rigidities have been successfully repudiated at every step. In 1994, Nagaraj (among others) countered the first onrush of the theses that blamed labour-market rigidities for the many ills of the Indian economy, and, in a move 'towards an alternative explanation'[214], showed that the observed outcomes were to be understood very differently. He pointed out, for example, that it was 'mainly in response to the macro-economic compulsions of the 70s and the discovery of appropriate natural resources ...[that] the composition of output changed in favour of less labour intensive industries'.[215]The neoliberal arguments, which continued to be made regardless of such negations, were rebutted again by Zagha in 1998, who concluded:'Labour market policies ...have not had a significant effect on employment and wage outcomes' as 'the latter are mostly influenced by growth and the conditions under which product markets operate'.[216] The evidence and arguments that have been marshalled since then (including my own) to explain the prior and subsequent developments continue to rule out any major influence of the alleged labour-market rigidities: the many twists and turns of the Indian economy can hardly be understood in terms of the laws that have remained unchanged on the whole since 1991, or in terms of the pressure tactics of a trade union movement that has in fact been going down before a buoyant bourgeoisie with undisguised backing of the state. It may thus be concluded, in the words of Jayati Ghosh, that 'in the ultimate analysis, labour laws, significant as they are, are perhaps far

[214]Nagaraj 1994: 182-184 (section IV).
[215]Ibid: 184.
[216]Zagha 1998: 419.

less significant as factors in affecting private investment, than more standard macroeconomic variables and profitability indicators.'[217]

It is important to note that the critics do take into account the potential importance of labour-market rigidities of various types as a variable, as the caveat in the last quote – 'significant as they are'– suggests. One should similarly appreciate the detailed consideration that Nagaraj gave to the factor of labour inflexibility as follows:

> ... a statistically significant negative correlation exists ... between the size class of factories and employment growth between 1979-80 and 1988-89 ... the average wage rate is lower in smaller sized factories and the likelihood of power of unions is also lower ...
>
> *Arguably, these changes reflect the response of firms to the labour market rigidities.* While there could be some validity in such a view, it would perhaps be incorrect to attribute the structural changes mainly or entirely to the behaviour of the labour market, as there could be a number of other reasons.[218] (Emphasis added.)

Likewise, in reaching his above-mentioned conclusion, Zagha did not overlook that 'wage policies and unions ... have had an influence on wages in public enterprises — there is ample evidence that real wages paid in public enterprises are well above the marginal productivity of labour',[219] or that 'there is evidence suggesting that ... they ['labour market policies'] have made the resolution of industrial disputes more difficult and more costly'.[220] In the same vein, Chandrasekhar and Ghosh have noted that too high wages in the public sector were mainly the result of the Pay Commission recommendations, and that they did have a considerable negative impact on

[217] Ghosh 2004: 29.
[218] Nagaraj 1994: 180.
[219] Zagha 1998: 418.
[220] Ibid: 418-419.

employment, restricting additional employment in the public sector and accounting for the substantial decline in employment elasticity of output growth in manufacturing.[221]

In sharp, virtually diametric, contrast to the critical engagement of the already-mentioned group of scholars, much of the pro-reform side has displayed little interest in all that is being said about *their own* arguments and evidence. What little response there has been is symptomatic of the overall attitude of the proponents of the labour-market thesis, which in turn brings out the extra-economic side of the story within the labour-flexibility discourses in the discipline of economics. Scholars had in the past noted off and on the influence of ideology in the labour-flexibility debate. Thus Kannan and Raveendran: 'It is quite possible that the contestation [over the labour laws] is more ideological than a practical hindrance to investment and increasing employment.'[222] Following their lead, we have tried in this concluding chapter to make a modest beginning in this direction.

Initially scholars such as Fallon and Lucas did keep in the forefront the empirical distance between law and reality.Having described the laws in India, they ask: 'These then are the legal provisions. But how do they operate in practice?'[223]In accordance with this precept, they argued for the adverse impact of the regulatory regime only for the 1976 law and only after undertaking a painstaking empirical exercise. They left the question open for the possible impact of the 1982 law because they did explore the relevant evidence.

[221]Chandrasekhar and Ghosh 2002.
[222]Kannan and Raveendran 2009: 89.
[223]Fallon and Lucas 1993: 244.

Unmindful of this elementary consideration, and heedless of all the work that highlights the complex relationship between the labour laws and economic outcomes (e.g. employment), the negative effect of these laws has tended to become almost axiomatic with the advocates of labour-market reforms, so that any sign of growing unemployment is in itself *evidence* that restrictive laws are at play. The dogma has been such that all questions of employment – less employment and more self-employment for example –have to be explained in terms of the single variable of labour-market rigidity. As Swaminathan S. Anklesaria Aiyar, an economist by training who has been over the decades a leading advocate of liberalisation through his column in *The Times of India*, has put it most recently under the heading 'Bad Regulation is Our Biggest Public Scam': 'Our labour regulations make hiring so daunting that, according to the latest employment data, employers have created hardly any new jobs in the last seven years, so increasingly workers are pushed into self-employment'.[224]

The empirical conclusion of Fallon and Lucas, based on scientific procedure, has thus tended to become a dogma, ideological in its very nature, as an economist becomes an ideologue.

Selecting one's references to suit one's argument may be identified as another significant mode of perpetuating a plea. Panagariya thus developed his contrast of the flexible labour market of China to the Indian inflexible one at great length and with impressive scholarship, but also by blotting out studies that would have diluted the contrast. These include a survey of over 1000 leading international companies by A. T. Kearney in 2001, as well as interviews with prominent businessmen (as reported by Jairus Banaji), which completely discredit the conventional view about India's restrictive regulatory framework being the principal bottleneck to FDI inflows. These two sets of

[224]Anklesaria Aiyar 2013.

L'incipit du roman présente au lecteur le personnage de Bernard Montcorbeil. Il assiste à une soirée organisée par le directeur du département où se trouvent plusieurs autres fonctionnaires. Sa manière de percevoir ces fonctionnaires dévoile la hiérarchisation rigide du système administratif que critique le romancier. Ce ne sont pas des êtres humains qu'il perçoit, mais des cadres administratifs représentés par leurs désignations dans cette hiérarchie administrative :

> « Bernard en est glacé : à cinq mètres à peine, un premier groupe de cadres fait semblant de discuter ; à deux mètres de plus, s'ennuient des directions et sous-directions – parmi lesquelles un DQSQ, un DBPP, un DRASPP ! »[184]

Qu'est-ce qu'il pense, ce Monsieur Montcorbeil, venu très récemment de la France pour administrer un grand projet pour la « réorganisation de l'adduction d'eau de toute la région Ouest »[185] Sa tête projette avoir une promotion au niveau de directeur, mais son corps désire c'est faire l'amour avec la femme séduisante de son supérieur. Il est déchiré entre ces deux objectifs qui sont évidemment opposés l'un de l'autre. Si son supérieur, le directeur, découvre la liaison amoureuse qu'il veut entreprendre avec Virginie, sa femme, il risque de menacer sa promotion. Mais, négliger les avances de cette femme fatale est hors de sa capacité :

> « Car elle le rend malade, Virginie Pasquamet ! Ce désir fou qu'elle a fait lever en lui [...] Si elle n'était la femme du patron ! La seule qu'il ne puisse toucher sans risquer de perdre, si près du but – à son chapeau plus beau ruban, à son cocotier plus belle palme, à son firmament suprême étoile – son ultime promotion, son bâton de maréchal : une Direction Régionale de l'Administration des Eaux... »[186]

L'auteur dévoile aussi l'aspect de discrimination entre les cadres métropolitains et les cadres locaux. On peut reconnaitre cette distinction considérant la langue que les deux groupes utilisent : tandis que le cadre du bas rang parle en créole, les cadres supérieurs causent en français. Ainsi, dans la soirée

[184] GAUVIN, Axel, *Train Fou*, *Op.cit.*, p.12.
[185] *Ibid*, p.13.
[186] *Ibid*, p.17.

evidence show, first, that the Indian market at its top end remains a very attractive destination on account of its enormous size and an attractive job market of a sizeable class of educated and skilled English-speaking workers willing to be employed at very competitive wages. If there was a real problem, it was India's top-heavy bureaucracy: the survey had no use for any of the supposed labour-market rigidities, which remain, to use the cliché, rather conspicuous by their absence! Interviews with the leading business executives, as reported by Jairus Banaji, confirm these conclusions.[225] It remains true that China's consumer market is seen to be incomparably larger than India's, sometimes as large as ten times. But this reflects not the difference in the labour law regime between the two countries, but in the purchasing power of their masses; possibly, it has been suggested, 'far from attracting foreign direct investment, low wage levels make India *less* attractive as an investment destination for both foreign and Indian investors, who might prefer a larger consumer market'.[226]

Mis-ascription and misrepresentation of the side opposed to the labour-market theorists are the other ways in which criticism has been handled by the latter.Thus Ahsan, Pages and Roy include the works of Dutta Roy as well as of T.C.A. Anant, K. Sundaram, and S.D. Tendulkar, ('Employment and labour in south Asia', processed, ILO, Geneva, 1999) among the 'many studies [that] show that the effects of job security on growth of employment in large enterprises have been adverse'[227], which they of course know is not the case as these scholars have firmly rejected the idea of the alleged adverse effects; T. C. A. Anant and Sudipta Dutta-Roy have been among the most important critics of the flexibility theorists. However, even when they note the critical nature of these works, serious misrepresentation of their work continues. For instance, it is said of Dutta Roy:

[225]Cited in Hensman 2011: 180.
[226]Hensman 2011: 180.
[227]Ahsan, Pages, and Roy 2008: 247.

> Dutta Roy (2004) examined the effects of a 1982 central amendment to the IDA, which extended the prohibition to retrench workers to firms that employ hundred or more workers and found evidence of substantial adjustment costs in employment but no evidence that such costs were driven or altered by the IDA legislative amendment.[228]

This is an almost verbatim repetition from their earlier work:

> Dutta Roy (2004) examined the effects of the 1982 central amendment to the IDA, which extended the prohibition to retrench workers without government authorization to firms that employed hundred or more workers. The author found evidence of substantial adjustment costs in employment but no evidence that such costs are driven or altered by the IDA legislative amendment.[229]

Dutta Roy did not just examine the effect of the 1982 law, but of both the 1976 and the 1982 laws; she measured employment adjustment rigidity in terms of the time it takes, and did not calculate its costs, and; she claimed not just to have found no evidence for the effect of IDA on these employment rigidities, but to have found evidence that definitely *ruled out* any effect of IDA.

Aditya Bhattacharjea has similarly complained that he has been cited in favour of a conclusion ('the overall result that rigid labour regulation results in net job losses remains ') that he did not support.[230]

Finally, we may cite the 2010 paper of Poonam Gupta and Utsav Kumar to bring out the insertion of extra-scientific considerations in economic research. To insist on the truth of

[228]Ahsan, Pages, and Roy 2008: 267.
[229]Ahsan and Pages 2007: 9.
[230]Bhattacharjea 2009: 5 fn4.

something that one knows has not been demonstrated, instead of leaving it open as it stands, and to *make it the basis of policy*, has been quite symptomatic of the advocates of labour-market reforms. This is also true of the work under question:

> This paper ... argues that there are many factors that have inhibited the growth of industrial sector in India. One major factor is the rigid and strict labour laws which have affected the industrial performance in a number of ways, by[1] keeping the size of the establishments small, by [2] not encouraging the production of labour intensive goods, by [3] pushing activities to the unorganized sector, and by [4] keeping the Indian industry uncompetitive.[231]

They know, however, that a good part of this – three out of the four in fact – remains unproven:

> Labour market regulations *can* affect the performance of the manufacturing sector through a variety of channels such as deterring entry, especially into the labour intensive sectors; encouraging firms to keep their size small, or worse still keeping their size so small that they operate in the informal sector; but *none of the papers [including their own] have managed to show these effects empirically.*[232](Emphases added.)

Characteristically, either critics are referred to but their criticisms downplayed, or, both the critics and their critiques are simply ignored. Thus Gupta and Kumar first refer to the works of Nagaraj, Alakh N. Sharma, and others to illustrate the point that 'not all analysts agree that India's labour laws have made for a rigid labour market'. It is suggested, however, their disagreement is a mere point of 'view', whereas 'ultimately, whether India's labour laws have created significant rigidities in labour markets or not is an empirical issue', and 'the evidence overwhelmingly supports the view that the labour

[231]Gupta and Kumar 2010: 1.
[232]Gupta and Kumar 2010: 3.

market regulations have inhibited industrial growth in India'.[233] Thus Gupta and Kumar, in their anxiousness to uphold the flexibility theory at any cost, refer to a significant body of writings critical of the theory, but suggest, quite incorrectly, that these are devoid of any empirical content.

And for 'the evidence [that] overwhelmingly supports ... [their own] view', Gupta and Kumar cite the works of Besley and Burgess, and of Aghion et al, and take no notice of any of the numerous criticisms of these works.

Most interestingly, in their espousal of the theory Gupta and Kumar go so far as to hold out a seriously distorted impression of their own work that they had done the previous year, with Rana Hasan as the third author (Gupta, Hasan, and Kumar 2009). 'One of their most powerful results', they say of that work here, 'is the one which shows that the states with relatively inflexible labour regulations have experienced slower growth of labour-intensive industries and slower employment growth.'

This 2009 essay of Gupta, Hasan, and Kumar, where pushing the flexibility theory at any cost is not the agenda, is revealing in its multiple contrasts with the 2010 essay of Gupta and Kumar. In the first essay, which is a serious exercise in empirical investigation, due recognition is taken of the points of critics like Bhattacharjea, who raised serious doubts about the accuracy of the coding of Besley and Burgess, and Nagaraj, who pointed out how 'the rigidity inducing regulations have been either ignored ... or circumvented through the increased usage of temporary or contract labour'. In the 2010 essay, the work of Besley and Burgess and of Aghion et al is said to have offered 'overwhelming'

[233]Gupta and Kumar 2010: 17.

evidence establishing the adverse effect of the labour laws. In the 2009 essay, the veracity of their conclusions remains open to serious doubts:

> While, in principle, the approach of Besley and Burgess has considerable merit, it is not without controversy. Bhattacharjea (2006), in particular, has argued that deciding whether an individual amendment to the IDA is pro-employer or pro-worker in an objective manner is quite difficult. Even if individual amendments can be so coded, the actual workings of the regulations can hinge on judicial interpretations of the amendments. Moreover, if noncompliance with the regulations is widespread, then even an accurate coding of amendments which takes into account the appropriate judicial interpretation loses its meaning.[234]

It was only after an implicit rejection of the work of Besley and Burgess and of Aghion et al that Gupta, Hasan and Kumar propose to 'take ... [a different] approach' in their paper. Applying their new approach to the ASI data for 42 three-digit manufacturing industries for the period 1980-2004 for 15 major states of India, their one-line conclusion has no room for the labour flexibility thesis: 'Certain states – with higher per capita income and higher initial share of industry – have done better than the rest.' The labour-market bit, in the form quoted in the 2010 essay, does figure importantly in their detailed conclusions, but along with a number of other factors, so that, for instance, in Panel A they 'see that the industrial performance is similar across states with different labour market regulations':

> ... we note below that the performance has been uneven across states and industries. ...there has been a divergence in the performance of the labour intensive and capital intensive industries in India. The labour intensive industries have grown relatively slowly post-delicensing. Different panels below depict the industrial sector growth across different industries and across states characterized by different regulatory framework, and different infrastructural developments. First, in Panel A, we see that the industrial performance is similar across states with different labour market regulations; in Panel B

[234]Gupta, Hasan, and Kumar 2009: 19.

> we see that industrial output grew faster in states with competitive product market regulations post delicensing. Industrial performance is also seen to be better in states with more developed infrastructure or more developed financial sector in the next two panels. As can be seen in Panel E below the growth seems to be broadly similar in labour intensive and capital intensive industries before the liberalization, but has accelerated in the capital intensive industries, post-delicensing. Finally the last two panels show that the performance of labour intensive industries is in particular better in the states with labour regulations that are considered to be flexible (pro employer).

The 2010 essay of Gupta and Kumar is instructive in showing how economists are able to propound a viewpoint despite themselves.

Elementary technical lapses by masters of the discipline may yet possibly be another indicator of the manner in which an ideology, neoliberal in this case, can influence scientific procedures. Thus an index of the growing power of unions is the increasing frequency and intensity of strikes computed on the basis of persondays lost. When Lucas showed an absolute increase in the number of persondays lost due to industrial disputes and ascribed it to growing union power, he could do so only by ignoring such basic considerations as adjusting the increased number of persondays *lost* against the increase in the number of persondays *worked* over the same period; the distinction between strikes and lockouts, so that the persondays lost in lockouts are assimilated to those lost in strikes, and; using the data for the organized sector as a whole for a subset of it, namely registered manufacturing sector that is his concern. In fact, when an economist of distinction such as Lucas says this, other economists not unnaturally get confused if he actually could be doing this. Thus Shyam Sundar thinks that western economists like Lucas do not really distinguish a strike from a lockout, while Nagaraj thinks this Lucas 'evidently recognises'.

In the end we note indications that suggest the way economists' ideology has come to influence the employers' viewpoint. It has been said that 'neo-liberal' arguments against labour-market institutions ... mirror employers' perception'[235], and that 'employers have been noisy advocates for labour market flexibility in most countries, India included.'[236] However, in India, at least, there seems to have been a time when employers had little use for labour flexibility. In 1998, Zagha referred to a 'recent' business survey of private firms in the various states of India, asking employers to tick which of a given list of twenty variables (that included labour relations) were more important in their opinion for a good business climate. The employers did not seem to think that labour relations mattered much.[237]

Things have changed since. In 2008, Ahsan et al reported that the Indian employers not only saw the job security legislation (JSL) as preventing them from a fuller exploitation of business opportunities but also knew that it was the absence of similar laws elsewhere that was responsible for India's slower growth rate: 'Firm-level surveys reveal that Indian employers find labour laws to be more restrictive for their growth than in other countries'[238]. More than speaking from experience, it would seem to be a case of imbibing economists' opinion, the result of persistent dissemination of one type of economic knowledge.That employers should blame, after the economists, labour laws for their worries and India's economic ills, reflects not their accurate grasp of reality but an ideological illusion, whether cleverly propagated or sincerely believed.

That more than innocence is involved on employers' part is seen on many counts, but above all in the bogey of worker indiscipline and litigiousness that they raise for justifying their lockouts and demands for repeal of 'stringent' labour laws respectively.

[235] Shyam Sundar 2005b.
[236] Shyam Sundar 2005b: 2274.
[237]Zagha 1998: 416.
[238] Ahsan and Pagés 2008: 2.

In supplying the data on lockouts to the Ministry of Labour, employers customarily cite 'indiscipline' as the major cause. All economists know, however, that this explanation is 'highly unreliable'[239]; indeed in 1985 a government labour report regularly distinguished indiscipline as the 'alleged' cause of lockouts from their 'real' causes, such as 'the management's intention ... to reduce business and manning'.[240] Similarly, there is little reason to trust the claims of employers and their associations that unionised workers, protected by labour laws, regularly resort to litigation to press their demands, increasing labour costs for management. The claim has in fact been debunked in a brilliant study of unions in Maharashtra by Vidu Badigannavar and John Kelly (2012). They report in the survey 'a total of about1341 individual disputes and 2235 collective disputes with employers in the public services, private manufacturing and private services establishments' over the past two years. Of the disputes in private manufacturing (our concern), a mere 14% are said to have been resolved bilaterally between the union and the management. Of the remaining 86% of the disputes, only 3% of the cases were taken to court by the unions; it was the management side that, in an apparent bid to show the workers their place, referred 83% of the disputes for adjudication. It was the management in private manufacturing that proved the most litigious of all, though for other sectors also the figures are not too dissimilar.[241]In briefly tracing the various ways in which ideological factors have shaped the development of the labour flexibility controversy, we may thus conclude with authors: 'Hence claims by employer associations like the CII [Chambers of Commerce and Industry] that the labour law framework in India results in litigious behaviour on part of workers and trade unions seems unsubstantiated. Our findings suggest that, if at all anything, it is the employers who are more likely to resort to litigations rather than the unions.'[242]

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[239]Dutt 2001: 278.

[240]Cited in Shyam Sundar 2004: 4383. See also, for the same report, Badigannavar and Kelly 2012: 461, citing Shyam Sundar, *Industrial Conflict in India: Is the Sleeping Giant Waking Up?* (New Delhi: Bookwell), 2010, p. 82.

[241]Badigannavar and Kelly 2012: 459.

[242]Ibid.

Abbreviations

EPW: Economic and Political Weekly.

ASI: Annual Survey of Industries.

CSO: Central Statistical Organisation, Govt. of India.

GOI: Government of India.

ILO: International Labour Organisation.

IDA: The Industrial Disputes Act, 1947.

ILYB: Indian Labour Year Book.

ILS: Indian Labour Statistics.

MPRA: Munich Personal RePEc Archive.

NAS: National Accounts Statistics.

NCEUS: National Commission for Enterprises in the Unorganised Sector

OECD: Organisation for Economic Cooperation and Development

PRUS: Poverty Research Unit at Sussex

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cultural, religious and regional diversity, they tried to change its heterogeneous character into homogeneous one. Prithivi Narayan Shah, the first Shah King of the modern Nepal, was an exception. To change its heterogeneous character into homogeneous one, Shah and Rana rulers applied the assimilation approach of nation building and to make their assimilation project successful, they concentrated the power in their own hands; distributed the public land to their kiths and kins; classified the people of Nepal in different caste and ethnic groups; declared Nepal as a Hindu kingdom; adopted the one language, one dress, one caste group, and one religion policy in the name of national unity; applied the electoral system (open voting system and indirect voting system) favourable to them (ruler); ignored the human rights and democratic political system; developed the local government as the working agencies of the central government.

The representation of Women, Dalits and Janajatis also was hindered due to the centralization of power. Although, Nepal has been adopting the policy of decentralization and local self governance since 1950, these policies were never implemented till 60 years later. The concept of decentralization, balanced regional development, and people's participation has become only the buzz words. The objective set in the decentralization project was largely confined to paperwork during the past regime. Not only during Shah and Rana authoritarian regime, even in democratic era after 1990s whole powers and resources of the state were controlled and used by the central government. The elites appointed or co-opted by the centre government were given the responsibility of local governance throughout Shah and Rana regime. Although some changes happened after 1990, the policy and centralized character of the Nepali state never changed even after the implementation of LSGA 1999.

Electoral system has an important role for the political participation and representation of the general people or diverse social groups in the state representative organs. A country's electoral system stipulates how representatives are elected. From the very beginning Nepal had adopted electoral system which was not favourable for the representaion of cosmopolitian national character of Nepal. Nepal is a multi-ethnic, multi-cultural, multi-lingual and multi-religious country that is why its population structure as well as settlement is very complex. Ignoring this complexity, Nepal had adopted the first past the post electoral system in its whole history till 2008. Adoption of this wrong electoral system in the history also hindered the proper representation of Nepalese Women, Dalits and Janajatis.

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APPENDIX

Table 1: Share of Contract Workers in Formal Manufacturing

Year	Total Workers	Contract Workers	Directly Employed	Share of Contract Workers (%)
1998-99	6364464	987272	5377193	15.51
1999-00	6280659	1239320	5041339	19.73
2000-01	6135238	1253095	4882143	20.42
2001-02	5957848	1297351	4660496	21.78
2002-03	6161493	1422155	4739339	23.08
2003-04	6086908	1495671	4591237	24.57
2004-05	6599298	1748065	4851233	26.49
2005-06	7136097	2036347	5099750	28.54
2006-07	7880536	2363832	5516703	30.00
2007-08	8198110	2538360	5659750	30.96
2008-09	8776745	2799417	5977328	31.90
2009-10	9157802	3004079	6153723	32.80

Source: Annual Survey of Industries.

Table 2: Net Value Added, Wages to Workers, Total Emoluments and Shares of Wages & Emoluments in Net Value Added

Year	Wages to Workers	Total Emoluments	Net Value Added	Wage Share	Emolument Share	% Wage Share	% Emolument Share
1981-82	439417	677753	1451257	0.3028	0.4670	30.28	46.70
1982-83	514828	804609	1667368	0.3088	0.4826	30.88	48.26
1983-84	592078	921825	2013718	0.2940	0.4578	29.40	45.78
1984-85	675730	1066021	2088716	0.3235	0.5104	32.35	51.04
1985-86	709209	1108113	2256813	0.3143	0.4910	31.43	49.10
1986-87	785043	1229918	2555224	0.3072	0.4813	30.72	48.13
1987-88	893370	1408105	2833360	0.3153	0.4970	31.53	49.70
1988-89	1029223	1572832	3463480	0.2972	0.4541	29.72	45.41
1989-90	1179567	1840888	4266281	0.2765	0.4315	27.65	43.15
1990-91	1319205	2058633	5151459	0.2561	0.3996	25.61	39.96
1991-92	1358263	2097048	5482702	0.2477	0.3825	24.77	38.25
1992-93	1683112	2756026	7124819	0.2362	0.3868	23.62	38.68
1993-94	1759741	2863967	8843399	0.1990	0.3239	19.90	32.39
1994-95	2201946	3534151	10851699	0.2029	0.3257	20.29	32.57
1995-96	2797035	4511605	13939719	0.2007	0.3237	20.07	32.37
1996-97	2655459	4640358	15735887	0.1688	0.2949	16.88	29.49
1997-98	2978167	5237112	16644124	0.1789	0.3147	17.89	31.47
1998-99	2482648	4462585	14546105	0.1707	0.3068	17.07	30.68
1999-00	2630427	4784351	15497442	0.1697	0.3087	16.97	30.87
2000-01	2767074	5071873	14362141	0.1927	0.3531	19.27	35.31
2001-02	2743824	5105957	14430212	0.1901	0.3538	19.01	35.38
2002-03	2968905	5515801	17234004	0.1723	0.3201	17.23	32.01
2003-04	3047777	5833675	20295377	0.1502	0.2874	15.02	28.74
2004-05	3363505	6440594	25990686	0.1294	0.2478	12.94	24.78
2005-06	3766366	7400820	31186419	0.1208	0.2373	12.08	23.73
2006-07	4429135	8875099	39572526	0.1119	0.2243	11.19	22.43
2007-08	5103023	10544284	48159268	0.1060	0.2189	10.60	21.89
2008-09	5977184	12944123	52776558	0.1133	0.2453	11.33	24.53
2009-10	6894099	14701404	58202428	0.1185	0.2526	11.85	25.26

Source: Annual Survey of Industries.

Table 3: Wages and Salaries

A. Aggregate Trends

Year	Wages & Salaries
1998-99	4198550
1999-00	4496227
2000-01	4795075
2001-02	4840392
2002-03	5234100
2003-04	5535699
2004-05	6104796
2005-06	7014908
2006-07	8417994
2007-08	9984395
2008-09	12262100
2009-10	13945686
2010-11	1356684

Source: Annual Survey of Industries.

B. Disaggregation: Wages and Salaries Accruing to Different Types of Labour

Year	Wages and Salaries (Rs Lakh)		
	Workers	Supervisory & Managerial Staff	Other Employees
1998-99	2482648	1055186	660716
1999-00	2630427	1153372	712428
2000-01	2767074	1250005	777996
2001-02	2743824	1309237	787331
2002-03	2968905	1438136	827059
2003-04	3047777	1617871	870051
2004-05	3363505	1810322	930969
2005-06	3766366	2154163	1094379
2006-07	4429135	2693550	1295309
2007-08	5103023	3375002	1506370
2008-09	5977184	4344878	1940038
2009-10	6894071	4915138	2136477

Source: Annual Survey of Industries.

Table 4: Industrial Disputes/Work Stoppages

A. By Type: Strikes versus Lockouts

B. By Location: Public versus Private Sector

Year	Number			Workers Involved (WI)					Person Days Lost (PDL) (in '000s)			Average Duration (PDL/WI)		
	Strikes	Lockouts	Total	Strikes	Lockouts	Total	Share_Strikes	Share_Lockouts	Strikes	Lockouts	Total	Strikes	Lockouts	Total
1982	2029	454	2483	1190554	278475	1469029	81.04	18.96	53113	22502	75615	44.61	80.80	51.47
1983	1993	495	2488	1166502	293963	1460465	79.87	20.13	24921	21937	46858	21.36	74.63	32.08
1984	1689	405	2094	4726330	222699	4949029	95.50	4.50	39957	16068	56025	8.45	72.15	11.32
1985	1355	400	1755	877945	200856	1078801	81.38	18.62	11487	17753	29240	13.08	88.39	27.10
1986	1458	434	1892	1444397	200485	1644882	87.81	12.19	18824	13925	32749	13.03	69.46	19.91
1987	1348	451	1799	1494589	275288	1769877	84.45	15.55	14026	21332	35358	9.38	77.49	19.98
1988	1304	441	1745	937291	253742	191033	490.64	132.83	12530	21417	33947	13.37	84.40	177.70
1989	1397	389	1786	1158107	206147	1364254	84.89	15.11	10695	21968	32663	9.23	106.57	23.94
1990	1459	366	1825	1162303	145560	1307863	88.87	11.13	10640	13446	24086	9.15	92.38	18.42
1991	1278	532	1810	872482	469540	1342022	65.01	34.99	12428	14000	26428	14.24	29.82	19.69
1992	1011	703	1714	767484	484741	1252225	61.29	38.71	15132	16127	31259	19.72	33.27	24.96
1993	914	479	1393	672024	281843	953867	70.45	29.55	5615	14686	20301	8.35	52.11	21.28
1994	808	393	1201	626326	220103	846429	74.00	26.00	6651	14332	20983	10.62	65.12	24.79
1995	732	334	1066	682595	307100	989695	68.97	31.03	5720	10570	16290	8.38	34.42	16.46
1996	763	403	1166	608673	303631	912304	66.72	33.28	7818	12467	20285	12.84	41.06	22.23
1997	793	512	1305	637480	343787	981267	64.96	35.04	6295	10676	16971	9.88	31.05	17.30
1998	665	432	1097	800778	488145	1288923	62.13	37.87	9349	12713	22062	11.68	26.04	17.12
1999	540	387	927	1099240	211455	1310695	83.87	16.13	10625	16162	26787	9.67	76.43	20.44
2000	426	345	771	1044237	374062	1418299	73.63	26.37	11959	16804	28763	11.45	44.92	20.28
2001	372	302	674	488596	199182	687778	71.04	28.96	5563	18204	23767	11.39	91.39	34.56
2002	295	284	579	900386	179048	1079434	83.41	16.59	9665	16921	26586	10.73	94.51	24.63
2003	255	297	552	1010976	804969	1815945	55.67	44.33	3206	27050	30256	3.17	33.60	16.66
2004	236	241	477	1903054	169167	2072221	91.84	8.16	4829	19038	23866	2.54	112.54	11.52
2005	227	229	456	2722784	190817	2913601	93.45	6.55	10801	18864	29665	3.97	98.86	10.18
2006	243	187	430	1712304	98044	1810348	94.58	5.42	5318	15006	20324	3.11	153.06	11.23
2007	210	179	389	606168	118406	724574	83.66	16.34	15056	12111	27167	24.84	102.28	37.49
2008	240	181	421	1513620	65678	1579298	95.84	4.16	6955	10479	17434	4.60	159.54	11.04
2009	205	185	390	1543540	81976	1625516	94.96	5.04	4247	9046	13293	2.75	110.35	8.18

Source: Indian Labour Yearbook.

	Number			Workers Involved			Person Days Lost			Average Duration	
Year	Public	Private	Total	Public	Private	Total	Public	Private	Total	Public	Private
1981	707	1882	2589	702899	885105	1588004	10066018	26517546	36583564	14.32	29.96
1982	799	1684	2483	725943	743086	1469029	10360287	64254477	74614764	14.27	86.47
1983	884	1604	2488	757254	703211	1460465	4452645	42405819	46858464	5.88	60.30
1984	592	1502	2094	931138	1017891	1949029	7871318	48153922	56025240	8.45	47.31
1985	401	1354	1755	385087	693714	1078801	3202095	26037371	29239466	8.32	37.53
1986	389	1503	1892	678157	966725	1644882	2571830	30176398	32748228	3.79	31.22
1987	442	1357	1799	1006529	763348	1769877	5236646	30121726	35358372	5.20	39.46
1988	564	1181	1745	802046	388987	1191033	6633377	27313548	33946925	8.27	70.22
1989	615	1771	2386	918400	445854	1364254	5739612	26923765	32663377	6.25	60.39
1990	628	1197	1825	884184	423679	1307863	5735541	18350629	24086170	6.49	43.31
1991	653	1157	1810	787921	554101	1342022	4144505	22283587	26428092	5.26	40.22
1992	617	1097	1714	565935	686290	1252225	1924376	29334368	31258744	3.40	42.74
1993	359	1034	1393	565152	388715	953867	2291547	18009106	20300653	4.05	46.33
1994	316	885	1201	523371	323058	846429	1315872	19667210	20983082	2.51	60.88
1995	343	723	1066	725227	264468	989695	4793516	11496053	16289569	6.61	43.47
1996	381	785	1166	606561	332743	939304	3151038	17133765	20284803	5.19	51.49
1997	448	857	1305	618360	362907	981267	2180565	14790824	16971389	3.53	40.76
1998	283	814	1097	900882	388041	1288923	7576289	14485695	22061984	8.41	37.33
1999	165	762	927	552783	757912	1310695	1176181	25610675	26786856	2.13	33.79
2000	125	646	771	1146900	271399	1418299	10681256	18081865	28763121	9.31	66.62
2001	139	535	674	428222	259556	687778	2023491	21743318	23766809	4.73	83.77
2002	63	516	579	346677	732757	1079434	803936	25781983	26585919	2.32	35.18
2003	59	493	552	1099204	716741	1815945	6856211	23399700	30255911	6.24	32.65
2004	49	428	477	1589842	482379	2072221	1805627	22060740	23866367	1.14	45.73
2005	57	399	456	2038712	874889	2913601	2321910	27343089	29664999	1.14	31.25
2006	88	342	430	1600227	210121	1810348	2656820	17667558	20324378	1.66	84.08
2007	68	321	389	252047	472527	724574	331585	26835167	27166752	1.32	56.79
2008	85	336	421	1100451	478847	1579298	1733911	15699810	17433721	1.58	32.79
2009	78	312	390	1402088	223508	1625596	1735741	11557723	13293464	1.24	51.71

Source: Indian Labour Yearbook.

Table 5: Number and Membership of Trade Unions

Year	No. of Registered Trade Unions	No. of Unions Submitting Returns	Membership of Unions Submitting Returns (in '000s) (Total)
1982	37539	6682	5397
1983	38313	5044	2999
1984	38935	6844	5417
1985	42609	6451	5150
1986	45067	7815	6433
1987	48030	11365	8190
1988	49329	11063	7959
1989	50048	8730	7073
1990	52210	9758	9295
1991	52016	8828	7019
1992	53535	8418	6101
1993	55680	9165	5746
1994	55784	6806	3134
1995	56872	6277	4094
1996	57952	8162	6538
1997	58988	7242	5601
1998	60660	8872	7409
1999	61992	7403	7249
2000	64817	8152	6408
2001	66056	7253	5420
2002	66624	6531	5873
2003	68544	7812	6973
2004	74649	7258	6277
2005	74403	5242	3397
2006	78465	8317	8722
2007	88440	8471	8960
2008	95783	7408	7877
2009	84642	9703	9573

Source: Indian Labour Statistics.

Table 6: Labour Share, Labour Productivity and Earnings Rate (in Real Terms)

Year	(NVA)Net Value Added (Nominal)	Total Persons Engaged (L)	Nominal Labour Compensation/ Total Emoluments	Nominal Earnings Rate	Nominal Operating Surplus (NVA-Emoluments)	Deflator for K-Stock & OS (2004 Base)	Wage deflator (2004 Base)
1981-82	1451257	7894254	677753	8585	773504	24.73	17.85
1982-83	1667368	8166168	804609	9853	862759	25.59	19.23
1983-84	2013718	7994406	921825	11531	1091893	27.15	21.35
1984-85	2088716	7981370	1066021	13356	1022695	29.05	22.69
1985-86	2256813	7584007	1108113	14611	1148700	30.78	24.23
1986-87	2555224	7548755	1229918	16293	1325306	31.95	26.35
1987-88	2833360	7903826	1408105	17815	1425255	34.24	28.65
1988-89	3463480	7858281	1572832	20015	1890648	37.46	31.35
1989-90	4266281	8256712	1840888	22296	2425393	41.69	33.27
1990-91	5151459	8279403	2058633	24865	3092826	45.20	37.12
1991-92	5482702	8319563	2097048	25206	3385654	50.29	42.12
1992-93	7124819	8835952	2756026	31191	4368793	55.78	46.15
1993-94	8843399	8837716	2863967	32406	5979432	60.13	49.62
1994-95	10851699	9227097	3534151	38302	7317548	67.53	54.62
1995-96	13939719	10222169	4511605	44135	9428114	73.30	60.19
1996-97	15735887	9536282	4640358	48660	11095529	74.80	65.77
1997-98	16644124	10073485	5237112	51989	11407012	76.97	70.38
1998-99	14546105	9952708	4462585	44838	10083520	80.34	79.62
1999-00	15497442	8172836	4784351	58540	10713091	82.50	82.31
2000-01	14362141	7987780	5071873	63495	9290268	85.21	85.38
2001-02	14430212	7750366	5105957	65880	9324255	86.77	89.04
2002-03	17234004	7935948	5515801	69504	11718203	89.06	92.69
2003-04	20295377	7870081	5833675	74125	14461702	94.11	96.15
2004-05	25990686	8453624	6440594	76187	19550092	100.00	100.00
2005-06	31186419	9111680	7400820	81223	23785599	103.07	104.23
2006-07	39572526	10328434	8875099	85929	30697427	107.64	111.30
2007-08	48159268	10452535	10544284	100878	37614984	113.05	118.42
2008-09	52776558	11327485	12944123	114272	39832435	122.13	129.11
2009-10	58202428	11792814	14701404	124664	43501024	126.04	145.13

Source: Annual Survey of Industries, Reserve Bank of India.

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Table 6 (contd): Labour Share, Labour Productivity and Earnings Rate (in Real Terms)

Year	Real Labour Compensation	Real Earnings Rate	Real Operating Surplus	Real Value Added	Implicit Price Deflator for Value Added	Labour Produtivity (Real VA/Total Persons Engaged)	Labour Share (Nominal)	Labour Share (Real)
1981-82	37978	481.0868	31284	69262	20.95	877.37	0.47	0.55
1982-83	41840	512.3538	33714	75553	22.07	925.20	0.48	0.55
1983-84	43185	540.1852	40219	83404	24.14	1043.28	0.46	0.52
1984-85	46977	588.5856	35202	82179	25.42	1029.63	0.51	0.57
1985-86	45732	603.0011	37316	83047	27.17	1095.03	0.49	0.55
1986-87	46683	618.4201	41487	88170	28.98	1168.00	0.48	0.53
1987-88	49142	621.7485	41620	90762	31.22	1148.32	0.50	0.54
1988-89	50176	638.5141	50472	100649	34.41	1280.80	0.45	0.50
1989-90	55333	670.1584	58181	113514	37.58	1374.81	0.43	0.49
1990-91	55466	669.9246	68428	123894	41.58	1496.41	0.40	0.45
1991-92	49793	598.504	67321	117113	46.82	1407.69	0.38	0.43
1992-93	59714	675.806	78321	138035	51.62	1562.20	0.39	0.43
1993-94	57723	653.148	99438	157161	56.27	1778.30	0.32	0.37
1994-95	64710	701.3019	108362	173072	62.70	1875.69	0.33	0.37
1995-96	74953	733.2415	128621	203575	68.47	1991.50	0.32	0.37
1996-97	70555	739.8602	148327	218882	71.89	2295.26	0.29	0.32
1997-98	74407	738.6426	148202	222609	74.77	2209.85	0.31	0.33
1998-99	56052	563.1813	125516	181567	80.11	1824.30	0.31	0.31
1999-00	58128	711.2296	129853	187981	82.44	2300.07	0.31	0.31
2000-01	59400	743.6398	109031	168431	85.27	2108.61	0.35	0.35
2001-02	57346	739.9073	107458	164804	87.56	2126.40	0.35	0.35
2002-03	59507	749.8356	131583	191089	90.19	2407.89	0.32	0.31
2003-04	60670	770.897	153673	214343	94.69	2723.52	0.29	0.28
2004-05	64406	761.8737	195501	259907	100.00	3074.50	0.25	0.25
2005-06	71004	779.2655	230779	301783	103.34	3312.04	0.24	0.24
2006-07	79742	772.06	285195	364936	108.44	3533.32	0.22	0.22
2007-08	89041	851.856	332733	421773	114.18	4035.13	0.22	0.21
2008-09	100260	885.1023	326151	426411	123.77	3764.39	0.25	0.24
2009-10	101296	858.9663	345144	446440	130.37	3785.70	0.25	0.23

Source: Annual Survey of Industries, Reserve Bank of India.

name was changed to National Film and Television Archive; and finally 2006, it became the BFI National Archive. From the outset, the Archive contained itself within a national framework, wherein it was a resource of primarily British cinema and consequently also British television. Thus, from the counter-archive that potentially held alternative histories in its folds, the archive of cinema was pulled into the rubric of national history and a history of the nation.

A Letter to the Editor of *The Times of India*, written by a Harish S. Booch in 1960 noted the need to "preserve outstanding film(s) on an institutional or national basis."[141] He followed up this letter in January 1961, with the news that the suggestion for a film archive in India "got support from no less a person that Mr. James Quinn, the Director of The British Film Institute, who visited India recently. Besides, the Union Minister for Information and Broadcasting (I&B), Dr. B.V Keskar, has made a statement before the Parliamentary Consultative Committee promising the establishment of a National Film Library."[142] In 1964, the Information & Broadcasting (I&B) Ministry inaugurated the National Film Archive of India (NFAI) at Pune, Maharashtra. At the outset, the Archive became a member of the International Federation of Film Archives (FIAF) at Paris that boasted founder-members like the BFI/NFL, the Cinematheque Francaise, the Reichsfilmarchiv and the Museum of Modern Art (MoMA).[143]

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[141] From *The Times of India*, 14 September, 1960.
[142] From *The Times of India*, 30 January, 1961.
[143] The Cinematheque Francaise at Paris was established in 1936 and was the brainchild of Henri Langlois who was also dominant member of the FIAF that was established in 1938.
The Reichsfilmarchiv in Berlin was the official film archive of Hitler's Third Reich. The archive was inaugurated in 1935 under the keen observation and attendance of Hitler and Nazi filmmaker Joseph Goebbels. It was dissolved in 1945 as the Second World War came to an end.
The MoMA in New York City was conceived and run by Abby Aldrich Rockefeller in 1929. It continues to be a popular and prestigious centre of modern art.

from public exhibition or transmission mode through mechanical devices."[172] In less than six months of the arrival of satellite television, Press Trust of India reported that representatives from the film industry approached Member of Parliament and former actor Sunil Dutt to urge the government to take steps in order to "check the spreading of video piracy and cable television to help rescue the Indian cinema from collapsing.[173] By July 1993, an unsatisfactory Cable Bill was passed in the Parliament, allegedly without the consultation of the film industry delegation. The industry representatives had expected the Bill to deal with the issue of small, illegal cable networks mushrooming across the country, causing the industry a severe loss of revenue.[174] Cable operators recording films using small digital cameras in film theatres and screening them was a phenomenon that remained unchecked for years. Thus a new film could be seen at home, on TV the very next day after it was released. It was only in 2000 that then Information and Broadcasting Minister Arun Jaitley passed a bill that required cable operators to show only that content for which they had acquired rights. While the film industry celebrated the move, local cable operators continued to screen recent releases.

By the end of 1993, Video Compact Discs (VCDs) were being manufactured in India and the technology made a space for itself in the video market. While the movie VCD proved to be much more space saving than the comparatively bulky VHS, it functioned on more or less the same principle, that

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[172] From Screen India, 6 November, 1992. Page 1 and 4. Article titled 'FMC scoffs at AVROI claims' by Jivraj Burman

[173] Screen India July 8. 1992.

[174] Screen India, 16 July 1993. Page 1 and 2. Article titled 'Controversies over proposed Cable Bill' by Padmaraj Nair.