

**LABOUR LEGISLATION AND ITS IMPACT :  
A Case Study of Tata Steel, 1920—1947.**

Dissertation submitted to the Jawaharlal Nehru University  
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1990

DEDICATED TO MY PARENTS  
WHO ARE NO MORE



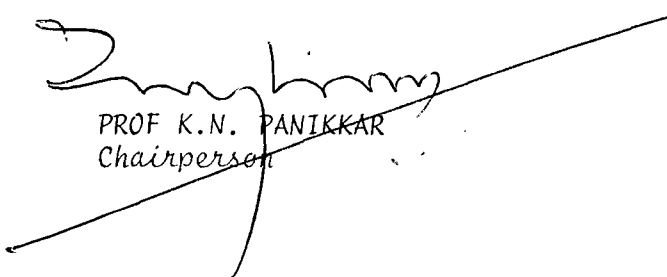
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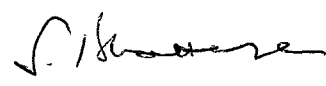
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*Certified that the dissertation entitled "LABOUR LEGISLATION AND ITS IMPACT: A CASE STUDY OF TATA STEEL, 1920-1947" submitted by BIMLA CHAND in partial fulfilment for the award of the Degree of MASTER OF PHILOSOPHY (M.Phil) in Jawaharlal Nehru University is to the best of my knowledge, a record of the student's own work, carried out by her under my supervision and guidance. It is hereby certified that this work has not been presented for the award of any other degree or diploma. We recommend this work for evaluation.*

  
PROF K.N. PANIKKAR  
Chairperson

  
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Supervisor

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contd...

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Finally I would like to dedicate this dissertation to my parents who are no more and yet are always there in spirit.

However any errors that occur are strictly mine.

NEW DELHI

5.1.1990

*Bimla Chand*  
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## LIST OF ABBREVIATIONS

ABP	:	Amrita Bazar Patrika
Assocham	:	Associated Chamber of Commerce
BLEC	:	Bihar Labour Enquiry Commission
C.I.F.	:	Chief Inspector of Factories
DOIL	:	Department of Industries and Labour
FICCI	:	Federation of Indian Chambers of Commerce and Industry
G.M.O.	:	General Manager's Office
GOI	:	Government of India
IIC	:	Indian Industrial Commission
ILO	:	International Labour Organisation
ILC	:	International Labour Conference
ITB	:	Indian Tariff Board
LAD	:	Legislative Assembly Debates
NAI	:	National Archives of India
RCLE	:	Royal Commission on Labour, Evidences
RCLI	:	Royal Commission of Labour on India
TISCO	:	Tata Iron and Steel Company
W.B.S.A.	:	West Bengal State Archives
W.C.A.	:	Workmen's Compensation Act

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## Introduction

In examining the significance of law in regulating industrial relations, I have stressed on the role of ideology in the study of labour laws whose constitutive practices are understood here as those of '*discipline against resistance*'. The analysis of production processes and the class conflict in the Marxist sense of the term are secondary in this work.

But before I go on to discuss the purpose of this socio-legal study, it is necessary to define law as referred to in this work. Here law is understood to mean state enunciated discourses which intends to discipline people into being law abiding citizens provided that they do not successfully resist such discipline because of prior or other counter conditioning.<sup>1</sup> It affects the working class in two ways. First, the law produce a background or '*ideology-effect*' that helps to maintain the social relationships that the state produces and which is

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1. Michel Foucault, *History of Sexuality* y, Vol.I (Harmondworth, 1979). Introduction.

produced in other ways. Secondly, once the law is understood as a set of discourses, it is easy to analyse the way in which law is used to create this ideology-effect by the ruling elite and then the way in which they depend upon it for power. Therefore, to quote Foucault, one has to define 'the mode of interpellation specific to the law; the nature of its intrinsic technology and distinguishing characteristic of its discursive structure'.<sup>2</sup>

These requirements were met by defining and elaborating a concept of 'legal transpositioning' whereby law is conceptualised as a set of meta-discourses characterised by their consistency whose socially defined purpose is the reinforcement of the disciplinary balances known to its in terms of 'rights', 'duties' and 'powers' and that otherwise are maintained by non-legal sets of relations and finally whose coverage is determined by those who make successful demands upon it either through the courts or the representative state'.<sup>3</sup> In this context,

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2. Ibid., M. Foucault in *Archaeology of knowledge*. (London 1972) pp.92.

3. Ibid.

I make a general assessment of the varying impact of the labour laws on industrial relations during the different phases of its developments.

Before I state the reasons for making this socio-legal study, it is important to review the existing literature on the subject. Sometime back, there were not many historical studies on the Indian working class. Morris D. Morris<sup>4</sup> work on industrial labour analyzed the problems faced by the authorities in mobilizing the workforce in early years. Other books on the labouring class, outline the activities of the trade Unions and enumerate the numerous strikes all over India.<sup>5</sup> Sukomal Sen<sup>6</sup> however discusses the structural characteristics of the labour force and their bearing on trade unionism. However, trade Unionism is generally discussed without an analysis of the nature of relationships between unions and the activities of the working class.

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4. Morris. D. Morris, *The Emergence of Industrial Labour Class in India: A Study of the Bombay Cotton Mills. 1854-1947* (Berkeley 1965).
  5. A.S. Mathur and J.S. Mathur, *Trade Union Movement in India*, (Allahabad, 1957); G.K. Sharma, *Labour Movement in India*, (Delhi, 1963); V.B. Karnik, *INDIAN TRADE UNIONS* (Bombay, 1967).
  6. Sukomal Sen, *Working Class of India: History of Emergence and Movement 1830-1970* (Calcutta, 1979).

Then there are historians and sociologists who focus on the jobber system and analyse various aspects of social, economic and political relations around it. R.K. Newman's<sup>7</sup> work on the Bombay millhands is typical example. All the peculiarities existing in the labour force were attributed in terms of the nature of the jobber system. The question of the wage differentials, maintenance of the badli reserve or the question of discipline etc. were all explained with reference to the jobber system. The agitation of the workers appeared secondary. Dick Kooiman<sup>8</sup> also discussion jobber units based on 'patronage' and mai-baap loyalties. So does R. Chandravarkar<sup>9</sup> concentrates on this aspect of the labour relations.

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7. R.K. Newman, *Workers and Unions in Bombay, 1918-29*. (ANU Monographs, 1981).
  8. Dick Kooiman, 'Jobbers and Emergence of Trade Unions in Bombay City, in *International Review of Social History*, Vol. XXII, No.3, 1979.
  9. R. Chandravarkar, "Workers Politics and the Mill Districts in Bombay between the wars" in Baker, Johnson, Seal (ed) *Power, Profit and Politics* (Cambridge, 1981).

None of the studies deal with the legal aspect of the social formation of the working class. Dipesh Chakraborty's<sup>10</sup> articles deal with legislation only as part of his greater work on nature of the relations of production in terms of the behaviour of ruling class and the ruled. Vinay Bahl's<sup>11</sup> unpublished dissertation discusses only the unionisation of the working class and their impact on the labour unrest in Jamshedpur from 1920-28. Chakraborty and Ranjit Dasgupta's study on the jute mill hands of Bengal deal with different aspects of labour relations. Legal history is not central to their study.

My aim, therefore would be to illustrate and examine the notions of fairness and legitimising principles which underpin the continuous processes of work place industrial relations and which flexibly define the terms of those relationships. The workplace is seen therefore as a stage on which the cross currents of interests supported by varying degrees of power, are mediated by appeals to

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10. Dipesh Chakraborty in a series of articles in *Subaltern Studies*, Vol. II, III and IV especially 'Conditions for knowledge of working class conditions' especially Employers, Government and the Jute workers of Calcutta, 1890-1940, in Vol. II (New Delhi, 1982).
  11. Vinay Bahl, Labour Unrest in TISCO, 1920-28 (unpublished M.Phil Dissertation, J.N.U., 1978).

moral perspectives and expressed in the debate between workers, their representatives and management. These values are rooted in ideologies in the wider society beyond the workplace, and form the means through which goals are sought, and attempts made to change or maintain current rules and practices.

I have not addressed a whole set of questions related to structural and organisational features of the working class and trade unions in Tata Steel as they are largely covered by Vinay Bahl in her work on labour unrest in TISCO (1920-28). Besides, the limitation of time and space and the material available for the research prevented me from discussing certain important questions : changing social relations of production; the impact of the national movement on the Tata Steel workers; the impact of the legislations on the workers outside the work place.

The inaccessability to the private archives of the Tata Steel prevented a detailed research. First, there was the problem of "political sensitivity", in their own words. All academics or research worker are looked upon with suspicion as they feel that certain analysis might just go against their well-built public image. The officers

in the company showed extreme reticence about certain issues like recruitment policy. In most cases union and management informants imposed extraordinary confidentiality requirements, or were reluctant to be interviewed, particularly when non-compliance with the law was at issue. The available written records were difficult and time - consuming to obtain and were, in a sense of limited value in answering questions about the attitude of the workers towards the operation of the law. In fact, most of the files I got to see had to be passed by an official of the company and I was allowed access only if I could offer a sufficiently convincing explanation as to how it was related to the short synopsis I had given them. But the material that I got from the Tatas was massive, only some of the files in the series were missing e.g. the file on Wages and also the files on Maternity Benefits Act, which probably was never implemented as the act was basically meant for permanent employees who had put in at least 7 years' of work.

Then there was the problem of ascertaining the objectives of the legislation. I did try and examine whatever was stated as reasons in the Legislative Assembly

debates, consultative documents etc. and also through Home Political Confidential files, but problems of access and availability of material abound.

In this dissertation, I have taken up four major acts namely the Indian Factories Act, the Workmen's Compensation Act, the Indian Trade Unions Act and the Payment of Wages Act. In each chapter on the various acts, I have discussed the background to the act, the evolution of the act and finally the legislations of the act and their impact on the changing social relations at the workplace. I have avoided considering the question of the 'success' or 'failure' of a piece of legislation. The unintended and indirect consequences may often be far more important than these which some of the advocates had in mind. Besides a case study of Tata Steel is insufficient to answer such wide questions.

The first chapter deals with the Indian Factories Act of 1922 and the apparent restrictions it imposed on the employers. But in reality, as I have shown, the act was merely a measure to discipline and condition the workers with convincing them the act was for their good; the act was merely



to help employers exploit labour better. There were too many loopholes in the act which were detrimental to the workers' interest.

The following chapter on the Workmen's Compensation Act of 1923 show how the legal system was a tool of the establishment and was designed for the most part, to regulate and support the interests of those with the greatest power and wealth. Despite the worker's entitlement to compensation following an accident, he was rarely ever compensated for a whole set of laws and rules made it easy for the employers' to escape the burden of compensation.

The third chapter shows how the government enacted a law to restrain combination of workers' action and to discipline the labour force into subservience. It has an undercurrent of an anti-union bias especially of the communist type. I have also argued that the trade union, especially in Tata Steel were basically the mouthpiece of the management and was never really successful in solving major issues. It was only in Manik Homi's times, 1928-32, that the trade union movement posed a threat to the major structural features which are crucial for the power, status

and rewards of the owners. The Tata management, then spent enough to remove him from the path by implicating him on fabricated charges of embezzlement of Union funds.

Interlinked with the Indian Trade Union Act was the Payment of Wages Act of 1936, the subject of the last chapter. Workers took to trade unionism due to delay and injustices in the payment of wages. Their wages were often cut for fines on bad work, late coming and absenteeism. This was again basically to discipline the workforce and inculcate a sense of 'duties' and commitment in the workers. The Act apparently to protect the workers against employers and ensure payment of wages never had a provision of penalizing the employers for unfair practices.

Therefore, the laws designed for a special social purpose were insufficient in terms of the intended objective of uplifting conditions of living.

The private archives of Tata Steel at Jamshedpur, although in disarray, proved quite useful. The confidential files and the minutes of the meetings between the union and the management were of tremendous help in providing an insight into the impact of the labour laws on the company.

They made interesting revelation into the question of manoeuvring and contravention of the laws to suit the profitability of the organisation. I also looked at the government records found in the office of the Deputy Commissioner, Singhbhum; though for a much later period. Then I depended heavily on the evidences of the Indian Tariff Board and the Royal Commission on labour, 1931, and the Bihar Labour Enquiry Committee Report and the Government of India documents of the Department of Industries and labour. I have also consulted the Legislative Assembly debates on the enactment of the legislations and the Home Political files and the Annual Reports on the working of the Acts.

## Chapter - I

### Factories Act, 1922 And TISCO

In examining the extent and significance of legal regulation of employment relations and trade union activity, it is important that an adequate historiographical account of the development of any branch of law should contain answer to three basic questions: Why and under what circumstances did legislative intervention or legal transpositioning become an issue at particular points in time? Why did particular transpositioning have the outcomes they did? What were the effects of the legal outcomes on the conditions that gave rise to the initial transpositioning efforts? These questions would be answered in terms of 'power' and 'social control' and their relationship with law. In other words, how law is used to exercise 'control' and 'power' over the labouring class and in the long run benefits the employer rather than the workers.

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1. 'Legal transpositioning' is a concept whereby 'democratic capitalistic law' is conceptualised as a set of meta-discourses whose socially defined purposes is the intermittent evolutionary reinforcements of the disciplinary balances known to it in terms of 'rights', 'duties' and 'power'. Antony Woodwiss *Discourses of Production, Economy and Society*, Vol.16, 4 Nov. 1987, pp.460-61. Also see Michel Foucault, *Madness and Civilisation* (London, 1967).

With respect to the history of the labour laws, the first question is answered in the first Chapter which refers to the changing economic, political and general ideological conditions pertaining to industrial relations - which shape legal rights in the country, in particular the structure and history of the working class movements,<sup>2</sup> understand its social significance is demonstrating to both lawyers and social scientists what E.P. Thompson<sup>3</sup> has described as the 'imbrication' of law and society, there is a need, therefore, to go 'through and not simply around the law.

The second question may be answered by the specific legal incidents themselves. Here two aspects will be investigated: the precise nature of the transpositioning attempted and the structure of the pertinent discourses. Finally, the third question about the impact of the laws on the Tatas may be answered by reference to the balance of disciplinary forces obtaining in the relevant economic/industrial situations; i.e. the consequences of any changes in the so-called discursive structure of the labour law for the conditions that

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2. See Lord Weddenburn, 'Industrial Relations and the Courts' in *Industrial Law Journal*, 65 (1980).
  3. E.P. Thompson, *Whigs and Hunters*, Penguin (1975), Conclusion.

initially gave rise to the transpositioning efforts especially as those mediated by non judicial state institutions.

It is relevant here to explore the emergence, expansion and consolidation of state administrative intervention in and control over the social world. Like all other institutions, legal institutions also marked a qualitative change in the relations between the state and its citizens. Labour was for the first time in the 1920s perceived as a 'problem' and needed to be 'contained' - this fell within the ambit of responsibility of the colonial state. In the debates which followed, the dictation of economic liberalism, which would have entailed an entirely 'deregulated', freelance status of law were shown to have been defeated by the 'demand' for surveillance of labour which came from the Manchester and Lancashire Lobby in England much before industrialisation in Colonial India and enforced in the form of factory Acts etc. and factory inspectors to 'function' as a 'point of centralization of authority for the recording and assessment of all labour activity. We shall see how legalisation/legislation of any kind existed only on paper in favour of the workers and manipulated well with the connivance of the colonial government to suit the employers - both European and Indian.

It is important here to mention also that the Colonial Government did not suddenly become interested in legal discourses but how certain international and national developments forced its hands in favour of legislations apparently in favour of labour.

#### POST WAR SCENE

The first world war created favourable conditions for the industries. Many industrial concerns including the Tatas enjoyed an unprecedented prosperity which continued for some years after the war. The Tatas made huge profits during the war but in the early 20s they began to face competition with the Japanese and European steel and were losing domestic markets. The offshoot of all these and other factors was that the Eastern province along with the rest of the country suffered a depression after 1924 culminating in the crisis around 1930. It was this economic situation that made the Tatas clamour for protection, which the government after much ado granted in 1924-25.<sup>4</sup> It continued to be protected in one form or

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4. Tisco had showed a remarkable degree of prescience in keeping on the right side of the government even at the cost of profits which would later be needed for renovation and expansion of the works. Refer Amiya Bagchi, *Private Investment in India* (1900-39), Calcutta 1980, pp.306-307.

another upto the second World War, although the degree of protection afforded by tariffs was drastically reduced in 1934. The Tariff boards worked on the assumption that labour cost per unit would fall as plants expanded and became better balanced, and as Indian supervisory staff replaced the foreign personnel. The total costs per unit did fall almost continuously from 1924-24 to 1933-34 due to mechanisation thus enabling the government to reduce the quantum of protection from 1927 onwards. The net decrease in the labour cost per ton of saleable steel over the period from 1927-28 to 1932-33 was Rs.3 since the production of saleable steel remained more or less constant over the same period (it was 429,000 tons in 1927-28). This reflected a genuine economy.<sup>5</sup>

All this meant greater rationalization programmes on the part of employer and more government interference into the administration of the factories and industries. The employers were also encouraged by the Indian Tariff Board. Rationalization generally implied increased 'efficiency' in not only managing production and marketing

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5. Indian Tariff Board: Statutory Enquiry 1933: Steel, Vol.I, (Delhi, 1934), pp.41-2, 56, 75-6.



but in general meant reduction of man machine ratio. Workers were made to work in shifts and overtime was not uncommon. In this way the mills saved the wage costs but the labourers met with retrenchment in muster rolls through a conscious policy; there was in Tatas a Retrenchment Committee and a monthly Cost Committee of all departmental heads presided over by the General Manager. In 1925, a Metallurgical Department was set up to scrutinize the quantity and quality of various products. A Fuel Economy Department was established in 1928 and a Lubricating Engineer a little later.<sup>6</sup> Wages for the newly defined work units, - New Blooming mill, New Rail Mills, New Bar Mills etc. - were also standardized informally, which meant reduced earnings for some categories of workers. Introduction of these measures along with the general political upheaval and the growth of the Communist movement provoked a wave of Labour Unrest in the 1920s.

In India, an increasingly articulate and potentially militant working class movement was developing. There emerged groups regarded as potential threats to the political and

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6. Ibid., Chapter X, and p. 38 in particular.

social structure of the colonial society. In the preceding years of the 1924 Bombay Textile strike, a communist nucleus had been formed. At the time of this textile strike Dange, the leader of the group was arrested on the charge of revolutionary conspiracy and sentenced to four years of rigorous imprisonment. According to Choudhuri,<sup>7</sup> Dange had been organising the labour movement in Bombay since 1919-20 and Haithcox<sup>8</sup> concludes that his conviction, along with Muzaffar Ahmed from Calcutta, "removed from the Indian trade union movement its two principal organisers". Dange<sup>9</sup> himself wrote in retrospect 'we took further steps to go among the textile workers' struggles directly in 1923 and 1924" but "government thought these activities too dangerous to be allowed to go further". Intelligence reports and CPI source publications<sup>10</sup> point out that in 1923-24, trade union leaders

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7. S.R. Chowdhuri, *"Leftist Movement in India, 1917-47"* (Calcutta, 1977), pp. 65-66.
  8. J.P. Haithcox, *'Communism and Nationalism in India: M.N. Roy and Comintern Policy, (1920-39)'*, (Princeton, 1970), pp.36.
  9. S.A. Dange, Comrade Ghate, our First Secretary, in *"S.V. Ghate: Our First General Secretary - A Memorial Volume"*, Communist Party Publication, (New Delhi, 1971), p.12.
  10. G. Adhikari (ed.): *Documents of the History of the Communist Party of India, Vol.III, 1923-25*, (PPH, New Delhi, 1978), pp.324.

like Dange and Joglekar were yet to take field whereas David Petrie<sup>11</sup> in his report declares rather condescendingly that before the Kanpur conspiracy cut short its activities the Communist group "was never capable of much mischief". Yet all this made the Government of India very anxious and apprehensive.

In 1920, questions were often raised in the House of Commons regarding the number of strikes, the number of Indians fined and arrested as a consequence of strikes. To answer these questions, the Secretary of State for India needed more extensive and precise information regarding the political situation in general and the labour situation in particular. Questions were whether the colonial Government of India, which frequently showed a racial bias and protected the interests of the European investor would remain a spectator to the working class upsurge or intervene to try and bring about an understanding between the employers and employees. Official records show that the colonial government did not want to remain a passive observer; yet was conscious of the risks involved in frequent interventions

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11. David Petrie, "*Communism in India, 1924-27*", (Calcutta, 1972), pp.64-65.

in conflicts and also in creating an extensive framework of industrial jurisprudence.

On April 1920, in a letter to the Chief Secretary to the Government of various presidencies as well as the Chief Commissioner of British Indian government, the Secretary to the Board of Munitions and Industries of the Government of India, F.R.R. Rudman said:

"The increasing number of labour strikes in this country has suggested to the Government of India, the consideration of the question whether legislation can be usefully attempted and a machinery devised to prevent or settle such strikes. The desirability of legislating on the lines of laws in the United Kingdom and certain other parts of the empire has been examined, but the provisions of these legislations appear to be suitable to Indian conditions as there are no labour organisations in this country able to undertake obligations on behalf of workers."<sup>12</sup>

Besides, as mentioned earlier, the post war predicament forced the employers to pressurize the government for support e.g. abolition of the unfavourable excise duty. Their demands initiated large scale government intervention in industrial affairs - needless to say all in favour of the

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12. Home Political (Poll) B, Proceedings No.205, 1920.

capitalists. Official commissions like the Indian Tariff Board started their investigations into industrial efficiency resulting in recommendations which the mill-owners found it difficult to ignore.<sup>13</sup> Government's intervention influenced the development of labour organisation, which made the millowners acknowledge the usefulness of trade unions as well as other labour legislations in theory but with the help of the government resisted any manifestation of it in practice. The government, was on paper favourably disposed towards labour because it did not have to contribute financially towards its welfare took initiatives in all the legislations but did not do much towards their implementation. In this, the government was also motivated by its concern for the maintenance of law and order, which in its own words was 'threatened by a growing labour unrest and Bolshevik influence'.<sup>14</sup>

#### INTERNATIONAL LABOUR ORGANISATION : ITS IMPACT

Moreover, the colonial government had also to project an image of a law abiding government following the

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13. Report of the Indian Tariff Board, Government of India, Vol.II, 1927, pp.124.

14. Home (Political) B. Proceedings No.337-339, Jan. 1920.

ratification of the Washington Convention in 1919,<sup>15</sup> in which India was an 'active participant'. The International Labour Organisation, founded at the end of the First World War to secure and maintain fair and humane conditions for labour, in their first conference held at Washington recommended to its member states, the necessity of reducing hours of work to 48 per week, limiting the minimum age for employment of children to 12, providing for weekly rest, prohibition of night duty for women and children.

Ever since the adoption of this convention, the question of amending the factory acts, became a subject of debate and discussion in India, both inside and outside the legislature. The employers, opposed to it, argued that it was 'unfair'<sup>16</sup> at the early stage of industrialization to reduce maximum hours in all industries especially for 'piece work' employees who would suffer if the number of hours were reduced. The argument was ostensibly that the amendment would prove detrimental for the worker rather than for the industrial production. This explains, further the

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15. Dhyani, S.N. *International Labour Organisation and India*. (New Delhi, NPH., 1977), pp.121-22.
16. Legislative Assembly Debates, Official Report, 1921, Vol.I, Part I, pp.249.

attitude of the employer especially European factory owners who calculated the welfare programmes in terms of 'harmful effects' in the sense that it would add to the cost of production in industries without any compensatory benefits. The suggestion to raise the age limit of children from 9 to 12 years was resisted as it meant 'upsetting the organisation of the factories, putting the machinery adapted to children's use in textile mills into deuseutude'. But the argument put forward by Mr. Watson,<sup>17</sup> an employer was 'men with more money, would send their children to school rather than factories'. So 'if they cannot afford schools, send them to our factories' was the logic. In fact, most employers felt that providing employment to children was indirectly rendering social welfare as it meant contributing towards their meagre family incomes. Khan Bahadur Zahiruddin Ahmad,<sup>18</sup> of Kakinara Jute Mill citing the example of guardians who opposed the idea, argued that it meant 'depriving the guardians of additional income'.

Even the local government were against raising the age limit above the age of 11 but the Government of India

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17. Legislative Ass. Debates, Off Report 1921, Vol.I, Part I, pp. 247.

18. Ibid., Vol.II, pp.249.

was duty bound to consider the opinions and not override them 'merely from a desire to avoid alienating opinion abroad'.

The amendments were also opposed as it would mean 'more work' for factory inspection.<sup>19</sup> The Bombay Millowners' Association vehemently opposed the amendment of the Act on the ground that it was 'outside influence'.

#### BUREAUCATIC RATIONALE AND LABOUR LEGISLATION

Even those who supported the amendments limiting the hour of work emphasized the need to utilize the hours thus saved for improving the efficiency<sup>20</sup> of the working class. The government noted in 1919 that while there was "a keen and increasing demand for factory labour in India, there was little apparent desire on the part of the labourers to increase their efficiency".<sup>21</sup> Improving efficiency meant improving the present 'conditions' and included not only 'education, housing and social welfare' but also such aspects as the 'comfort' and 'spare time' of the worker.

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19. Frank Carter opposed it in the Legislative Assembly, Vol.I, Part II, pp.256.
20. Jamanadas Thakardas, L.A. Debates, 1921, Vol.I, Part I, pp. 257.
21. W.B.S.A. Comm. Dept., Com Branch Nov. 1919, A 11-25.



"The efficiency of the worker<sup>22</sup> is closely connected with their education and their standard of living; the shortening of hours may not prove an unmixed good, if the workers are not put in position to make a proper use of their spare time."<sup>23</sup>

It was not just the question of providing additional hours of work but also of structuring and controlling that 'spare time' as well.<sup>24</sup> The governments' eyes for the first time fell on the various aspects of the workers' life not so much to better the standard of living - as the legislations made it out - but to serve the industrialists better through 'self policing' and 'surveillance'. The concept of efficiency created the image of the rigorous and healthy worker as opposed to that of the over worked and fatigued worker.

The Government of India believed that the longer interval of rest was desirable in order to enable the worker to maintain his vigour, and that its enforcement should ultimately prove beneficial to the employer. There

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22. Dipesh Chakraborty, *Jute Workers of Calcutta, 1890-1940, Subaltern Studies II*, pp.267.

23. Ibid.

24. W.B.S.A. Com. Dept. Com. Br. May 1927, A 1-6.

were grounds for believing that the absence of sustained work, characteristic of many factory employees in this country, had been due... to the fact that the hours fixed did not in the past allow sufficient opportunity but for the rest necessary to prevent fatigue.<sup>25</sup>

Primarily the Indian Factory Amendment Bill worried the industrialist as it would affect the profit margin when implemented. The government was not offering subsidies and most of the cost thus incurred would have to be borne by the industrialists. Lala Girdharilal Agarwalla, an M.L.A. aired some of the apprehensions of industrial lobby when he said,

"the cost of production of Indian factories should not be increased by this legislation to such an extent that we, Indians may not be able to compete with foreign goods. Besides Indian workers wile away their time and work only 10 hours instead of 15 hours slated for work".<sup>26</sup>

Moreover, the acts were always discussed and enacted without the labourers having any say in it. Even N.M. Joshi, the vociferous champion of labour cause and the Indian representative in ILO was not a labour leader - he was a member

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25. Ibid, Mar. 1924, A-45-61.

26. L.A. Debates Off. Report 1921, Vol.I, Part II, pp.1228.

Society for Servants of India. Never did he speak for any law to cover the gamut of unorganised labour force in the country. The Bombay Factory Commission Report of 1884 said 'We are of opinion that all factories in which steam water and other mechanical power was used should be covered by the act', this primarily to establish 'uniformity' rather than cover unorganised labour or those in services or worker on training or casual worker; it was very easy for the employers as we shall see to prove that a worker was casual or trainee to exclude him from the employment protection legislation. Thus in an increasingly fragmented labour market, protection won for workers through legal action were deftly put aside. More workers became part time, casual or trainees for want of better opportunities and in so doing they risked losing in the judgement of the courts the magic mantle of 'employee'. Most of the Indian labour was termed as 'unorganized' in the labour market, where casual work, uncertainty of employment or poor conditons contrasted with position of employees lucky enough to be in the 'organised' job sector. But as we shall see in case of Tatas the latter's position under the Factories (Amendment) Act of 1922, far from confronting the need to protect workers from these dangers had compounded the difficulties by reducing

the employment protection rights. Before we go on to discuss the problem, a word about the act itself pointing the loopholes in the legislation.

#### PROVISION OF ACT, 1922

The Factories (Amendment) Act of 1922<sup>27</sup> applied to all factories employing 20 persons which used steam, water or other mechanical or electrical power for manufacturing process. The age limit for employing children was raised from 9 to 14 years. It restricted employment of women or children as machine cleaners and the presence of children within factory premises.<sup>28</sup> The age of the children was certified by a surgeon or medical practitioner - which could easily be manipulated.<sup>29</sup>

The act provided for a 54 hours a week (10 hours a day) or where factory was seasonal, it was 60 hours (11 hours a day) a week with a Sunday or a weekly off.<sup>30</sup> In case a

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27. The Indian Factories Act, 1922 (Act No. XIX of 1922).

28. Ibid.

29. False birth certificates were still used when I visited Jamshedpur in 1988-89.

30. Ibid.

worker was required to work on a Sunday, the factory inspector had to be informed and a notice displayed in the factory to that effect.

Women were prohibited from working on night shift except when 'necessary'.<sup>31</sup> The Factory Act of 1922 provided for the cleanliness of the premises - a far fetched provision which is a cream even in the 1980s. In case of gas, dust or other impurities, adequate measures were required to be taken - at least on paper - to prevent injury to the health of the workers. It also made it mandatory for the manager of the factory to keep the inspector informed regarding fatal or other accidents.

The manager of the factory was required to keep a register of adult workers showing the names and the nature of work, the relay allotted or any particulars. These registers were at best irregular and inaccurate for as the Chief Inspector of Factories admitted to the Royal Commission on Labour, 'the records given in such registers do not represent true conditions.... of labourers.'<sup>32</sup>

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31. The phrase 'except when necessary', was provided for exceptions but as we shall see in case of Tatas as for other enterprises 'exceptions proved to be the rule'.

32. RCLI, Evidences Vol.IV, Part II, pp.127.

Most remarkable was the provision which empowered the local government to exempt any factory, from sections 34, 35, 36 & 37 which prohibit overtime, Sunday holidays, rest days, employment of women and children etc., to employ workers on urgent repairs. The work defined here was one of 'complementary's or preparatory nature or worker engaged in a work which for technical reasons must be carried on continuously. This was one of the reasons why the Indian Factories Act (1922) amended apparently along the lines of the Washington Convention did not go very far as it was the usual practice for employers to establish all overtime production processes as 'essential work or breakdown services'.

#### TISCO & THE ACT

The impact of the act on Tata Steel will be discussed in the context of how the management circumvented the rules by impressing upon the local government the need for exemption. Needless to say here, money changed hands and pockets were kept full to avoid making cases out of so-called 'petty' issues.<sup>33</sup> Three aspects of the act which

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33. File No.1385, GMO, Jamshedpur,1938. There were evidences of elaborate arrangements made for the entertainment of the FACTORY INSPECTOR. In a letter to the Superintendent, the General Manager scribbled

was violated will be taken up here: Employment of children, employment of women at night and the hours of work.

Jamshedji Nusserwanji Tata, the founder of Tata Steel wrote in his letters to his successors.

"We do not claim to be more unselfish, more generous or more philanthropic than other people. But we think we started on sound and generous business principles considering the interests of the shareholders as our own, and the health and welfare of the employees, the sure foundation of our prosperity."<sup>34</sup>

Such an enlightened guideline was restricted to managing the higher echelons of the employees or the press for better projection of an image of Tatas as the 'benevolent' private organisation. Such is obvious from a report to the Royal Commission on labour on the effect of the 1922 Act.<sup>35</sup> M/s Tata Iron and Steel company said that even prior to the act, the company had not at any time encouraged the employment of children. Their own files showed children employed on a massive scale as

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33 contd. that no stone be unturned to obtain the necessary concession from the factory Inspector, even if money has to be offered although that should be the last resort.

34. J.N.Tata, quoted in S.N. Pandey, Labour Relations in Tata Steel, 1983, Vol.4, No.3.

35. RCLE Vol.4, Part II, pp.65.

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recently as 1913.<sup>36</sup>

TABLE - 1.1 NUMBER OF CHILDREN GRANTED MEDICAL CERTIFICATES

Month	No.	No. of Children granted Certificate by Medical Officers
March	186	186
April	35	35
May	28	28
June	12	12
July	110	110
August	31	31
September	8	8

TH-3394

SOURCE: Inspector of Factories File, GM's Office

Table 1.1 showed on paper that all the children employed in TISCO were certified medically fit by the Medical Officer of the Company. This was all to impress the Chief Inspector of factories whose visit to the factory was postponed on several occasions till Company could arrange medical certificates for all the children employed on the factory premises.<sup>37</sup> In fact by a confidential letter, the

36. GM's Office, Confidential files No.237/9, 1924.

37. File No.1375, Factory Acts, 1922, GMO, Jamshedpur, 1924.



General Manager was instructed that those children who did not meet the fitness conditions be given off on the day of the visit by the factory Inspector. TISCO suggested however to the RCL (pp. 158) that since children mature at an early age in this country, the age of 12 should not be raised. If children were not employed in factories by 12, they would probably be employed in harder work elsewhere.

The employment of children was stopped though we have reasons to believe that it may have continued without leaving any evidence. Even if they were stopped, not because the Tatas were motivated by paternal instincts but because children could not be employed in the plants or factories except as 'chokras' or 'messengers' in office.<sup>38</sup>

#### NIGHT WORK FOR WOMEN

The same report to Royal Commission on Labour<sup>39</sup> made out that prior to the act, the employment of women at night had been stopped. In fact, they even quote the

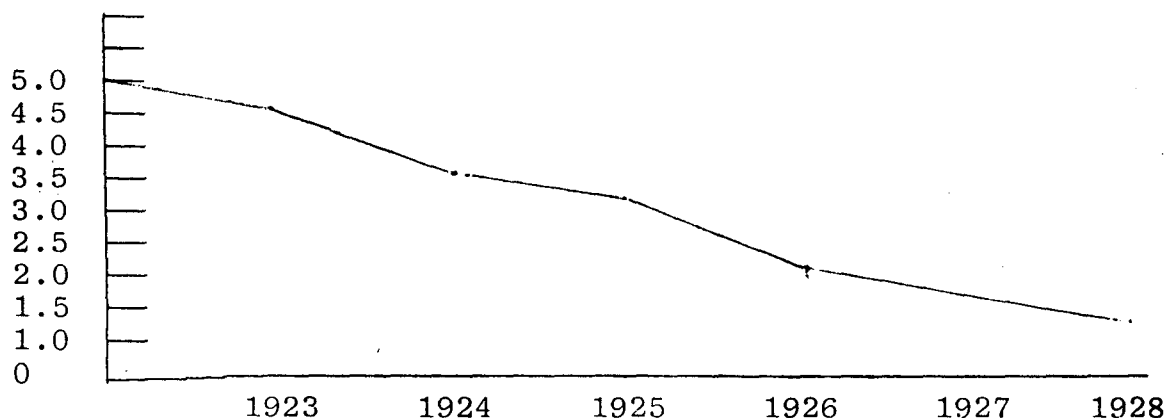
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38. Ibid.

39. RCL, *Evidences*, Vol.IV, Pt.I (Calcutta 1931,) pp.117.

figures furnished by the Chief Inspector of Factories for the daily average number of women employed by this Company show however a sliding downward graph.<sup>40</sup>

EMPLOYMENT OF WOMEN AT NIGHT



A letter from the President of labour **Federation**,<sup>Fe.</sup> Mr. Manek Homi on employment of women labour after dark noted in 1928.

"Our attention has been drawn to the fact that a certain contractor working on the new Blast Furnace has been engaging women to work during 2 p.m. to 10 p.m. shift as also the night shift - 10 p.m. to 6 a.m. We urge you to fall into line".<sup>41</sup>

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40. In 1919, when the question of prohibiting the employment of women at night at TISCO works was under consideration the Company raised strong objection stating that it would be difficult to replace women employed at Coke Ovens at night by male labourers.
41. Letter from Labour Federation President, Manek Homi to the General Manager, GM File No.237/12 Emp. of Women at night Ref. No. 1001.

The Labour Officer, Mr. Hiller,<sup>42</sup> explained that the job came under 'Urgent job' of the factory Act. Important feature of the job was removal of earth by headloads. Although the factory Act did not specifically prohibit the employment of women by contractor on Civil Engineering works after dark, a reference was made to the factory inspector to be on the 'safe side' who apparently raised no objection in view of the special and temporary nature of the work in question.

The other argument placed for employment of women was the inability to replace them with male labour rather than admitting that it meant 'Cheap Labour', especially during war when restrictions were looked upon as 'spelling difficulties' for the plant which had to be worked to the optimum, though keeping the cost of production low. Mr. Kochar,<sup>43</sup> the Factory Inspector defending the helplessness of management on this account said, 'the factory would only be pleased to replace women labour as they were 'inefficient'.

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42. Reply of Labour Officer, Mr. Hiller, 38-A,1/10/28 of 1928.

43. File No. L/2900/39 of 1939.

In 1940, W.H. James, the Chief Engineer of Perrin Process Steel Plant required about 300 women to work from 6 p.m. to 6 a.m. (12 hours) on grading work on grounds of 'War exigencies'. Such cases proved to be more a rule than exception in course of time as and when production processes were affected by war and other market situations. The permission granted in most cases emphasized the necessity of the situation compelling relaxation. The then General Manager, J.J. Ghandy wrote in 1939, 'the steel company are definitely averse to employing women after dark'.<sup>44</sup>

But it was not till the mounting pressure from the labour federation as well as other quarters that Mr. Ghandy<sup>45</sup> issued a notice to the sepoys on duty to note the number and name of women employees leaving the work gates after 7.30 p.m. and notify the General Supervisors' office to verify whether any order had been issued by the Chief Engineer exempting them from the rule prohibiting women employment after dark. From the Mohulbera gates about 50 women were found to have left the gates after 7 p.m.; the Burman Mines gates, about 12 women were on night shifts; at the

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44. GM's Office, Confdl. file dated 8.4.80, No.L.2700/40.

45. Ibid.

Jugsalai gate, about 20 women were found and finally at the Main gates about 12 women were found on night shifts. Not all women were covered by the exemption granted to the company. A contractor, testified that on festival day when labourers were not available, women on 7 a.m. shift were detained even later at nights, one such example was Diwali day when 74 wagons of pig iron had to be shipped. The other festival registering a large number of absentees is 'Chaat Festival' of Bihar in the month of November.

Not only were women employed at night in violation of the Factories Act, they were not paid the same wages as their male counterparts. The Labour Federation in a letter drew the attention to the 'unfair practices' of fixing lower wages of women at night and 'sexual exploitation'<sup>46</sup> of many of these women both by their contractors as well as by their supervisors. Figures, however, were not available regarding the number of illegitimate and abandoned children among the workers especially the adivasis who did not understand the language and got exploited in the long run.

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46. File No. 1101/40-D of 1940.

An extract on 8 January 1941 from the petition of Mr. C.R. Roychowdhury, President Dhalbhum Division, DCP, Cunningham said, 'though the Tatas claim not to employ women labour at night, the contractors employed by Tatas do it and it seems that the Tatas connive at it.'<sup>47</sup> Also the letter to Chief Inspector of Factories signed by 142 employees of contractor Ramjanam Singh alleged that women were employed at night and were paid only 5 days' wages for 6 days work and threatened molestation or firing if they protested.<sup>48</sup>

The Second World War necessitated the presence of women inside the factory premises after dark for unloading of raw material - a process automated now. In anticipation of air raids and workers deserting Jamshedpur, the Company sought exemption from Section 45 of the Indian Factory Act of 1934<sup>49</sup> and decided to establish a camp inside works to provide immediate repairs.

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47. Extract from a petition of Mr. C.R. Roychowdhury, President Dhalbaum Adivasi Sabha to the Commissioner, of Chotanagpur Division, Mr. Cunningham, File No. L-4120 dated 23.4.1941.
48. Ibid.
49. File No. 8240/41 dated 22.12.41.

In fact many of the violations went unnoticed on the pretext of war situation. The Labour Officer E.P. Hiller<sup>50</sup> wrote, 'In course of our supervision of contractor's labour, we have detected that Mr. Abdul Razak, Contractor had been employing Rejas inside works till late at night on loading job and of coal in contravention of Factories Act of Bihar and Orissa<sup>51</sup> without any exemption granted. Also that M/s B.D. Costa and Sons, Contractors were paying only seven annas to the ennuuchs employed for loading and unloading work in contravention of clause (5) of the terms and conditions of contract. Similarly, other contractors - Ramdas and Sons - employed women in the Riverside for loading sand. They work in all three shifts - A, B and C and should be discouraged.<sup>52</sup>

While the Company did nothing to stop the contractors from employing women labour at night, it assumed a very 'legalistic approach' when it was directly forced to employ women labour at night. The Chief Engineer, W.H. Ames,

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50. LO/3602/C5-2 dated 26.11.42.

51. Factories Act of Bihar and Orissa Section 45(1)(b).

52. Letter of M. Homi, to the G.M. dated June 20, 1939.

wrote about employing 40 Rejas and 25 coolies to work at night in connection with extension of Brass shop for Machine Shop No.2, 'The Steel Company is averse to allowing women to work within the confines of the plant after dark, but in this particular case, owing to the emergency of getting the work done through, we cannot do otherwise than agree to the relaxation of our rules in this respect.<sup>53</sup>

In 1949, when war or other exigencies were not in question, the Company sought for working loading and unloading<sup>54</sup> of wagon which involved women round the clock in three shifts. Obviously, the Government of Bihar did not desist from granting TISCO permission. It may be assumed here that money changed hands in a big way for any kind of favours done to industries - even now the Tatas are known to be pampering government officials and the press.

The time lag between the Indian Mines Act (1952) prohibiting women from working between 7 p.m. and 6 a.m. and TISCO ordering the traexcavators to replace women was used

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53. Confidential Files LO/3601/C5-1 dated 29.12.42.

54. G.M. Letter to the DOI, GO Bihar, Patna, dated 5.5.49 asking for exemption under Section 46 of the Act.



for exemption from Central Government<sup>55</sup> under the provision of Section 46 of the Indian Mines Act to engage females from 10 p.m. to 6 a.m. for four months at Noamundi Mines.

The Acts did nothing to protect women from molestation and other sexual exploitation. Even independence did not bring about any major changes. A letter from Secretary, B.P. Sinha to Government of Bihar<sup>56</sup> dated 27.2.56 said that the State Government had received complaints regarding molestation and want of adequate facilities for women workers employed at night.<sup>57</sup> State government desired that a suitable and qualified welfare officer preferably a lady officer be deputed to look after the welfare of women workers employed at night. Such an officer existed only on paper even till recently. Many contractor workers' were known to be exploited one way or the other - some are regularly forced to oblige just to remain in service - eke out the so-

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- 55. GM's letter to Centre File No. MQ/LO/4327/5-B dated 14.7.52.
  - 56. Letter from Secretary to Government of India, B.P. Sinha to the Govt. of Bihar, File No.3710 dated 14.2.56.
  - 57. Women who were forced to relieve themselves in the open as there were no lavatories, found more often than not physically molested or leered at.

called 'decent' living while continue to sustain the family during inflationary times.

#### HOURS OF WORK

The Factory Act meant to protect the workers from exploitation infact only succeeded in subordinating them to rules and regulations as seen from the provisions pertaining to the limit on hours of work, rest, weekly offs and overtime. A worker was never consulted whether he wants to work overtime, he was merely required to oblige the employers as and when deemed necessary. The Act only required the employers to apply for exemption which was more often than not granted without much ado. Despite the tall claim of the management<sup>58</sup> that eight hours per day work was introduced even before it was legislated in the West, the Jamshedpur Labour Federation demanded<sup>59</sup> in its Report to Royal Commission on Labour, implementation of Eight Hours standard for every industry and  $\frac{1}{2}$  hour for meals if the worker has to put in 6 hours continuously. Besides, the

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58. A.D. Singh (ed.) *Man Management in Tata Steel*, TISCO, Jamshedpur, 1974, pp.138.

59. RCLE, Vol.IV, Part II, pp.112.

nature of the work had to be considered as 'industrial fatigue reacted adversely on muscles and senses.'<sup>60</sup>

Despite the demands by the Labour Federation for Eight Hour day, the Tatas secured on 24.9.24,<sup>61</sup> exemption for the 'continuous process departments' from certain rules. The departments included, Blast furnaces, Open Hearth Furnaces, Rolling mills, Coke ovens, Recovery and Treatment of by products, Operation & Attendance to switchboards (Elect. Dept), Oiling of Motor generators, Rotary Convertors, Boosters, Transformers or the like, Ice Plant, Caluminating Plant and Boiler Plant. The continuous process department were allowed an off day fortnightly and could work 11 hours maximum in a day - the same as in other departments could work 8 hours continuously. The Tatas went on further to secure exemption to increase their production. We only have to see the figures of 1924 and 1925 (it is practically impossible to give the tables for subsequent years as they are too large to analyse) that same plant was granted exemption regularly under the provision of 'urgent' repairs.

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60. Ibid.

61. File No.L/3284 dated 24.9.24 of 1924.

TABLE 1.2<sup>62</sup>

## ADDITIONAL MAN HOURS

Month/ Year	No. of Hands	Dept.	A. Man Hours per week	Reason
Dec. 1924	2518	Brick	35252 Hrs	Weekend Repairs
Dec. 1924	124	Mechanical	1984 Hrs	Weekend Repairs
Dec. 1924	157	Furnace	2512 Hrs	Weekend Repairs
Dec. 1924	676	Calcinating Plant and other misce- llaneous works.	9464 Hrs	Weekend Repairs

SOURCE: GM's Office, TATA STEEL, File No.1366.

In the brick department over two thousand men were made to work overtime, far exceeding the limits prescribed by the Factory Act. Similarly, in the mechanical and other departments, men were exempted from the maximum hours and forced to do overtime due to shortage of staff.

62. File No.1366 dated 5.12.24 of 1924, GM's Office TATA Steel; Note that it is 12-16 hours, much more than the maximum prescribed by Factory Act.

It is interesting from the figures that only the Brick Department and the Mechanical Department in the Open Hearth furnace required men to work overtime. The management, of course found it cheaper to over work the existing work force rather than employ extra hands. Similarly we find the same pattern year in and year out - for instance the figures of 1925 are more or less the same. The number of masons required in the Brick Department was quite high. It continued to remain high till war time when it increased.

The above tables clearly show that repair work was required primarily in the Brick Department and Mechanical Department. Instead of employing additional labour in these fields, the management overworked the labourers on the pretext of shortage of labour. Besides, the illiterate majdoor and coolies were involved in this gross violation of Factory Act with the connivance of the \_\_\_\_\_ and did not realize their employment rights were protected under the Factory Acts. Hence the employers were rest assured that they could continue with such contraventions for many years to come. We shall see in a later chapter that labour movements which took up some of these issues could not force the hands of the employers or the government to bring about much changes.

In 1938,<sup>63</sup> fifteen employees of the finishing furnace in a memorandum complained of working 8 hour without rest or time to drink water ever since gas work started and the adverse effects it had on their health. They requested for relieving hands - which the Superintendent of Sheet Mills, Phiroze Kutar waved aside after comparing it to the times when they had to work on furnaces fired with coal. Surprisingly Mr. Kutar's reply<sup>64</sup> was based on the verbal evidence of 2nd furnace men who felt work was more comfortable now; obviously the work of finishing furnace men was more strenuous than 2nd furnace men.

Sometimes, differences arose over the departments not classified as continuous by the Chief Inspector of Factories, Bihar and Orissa. A letter to the Chief Inspector dated 16.9.24<sup>65</sup> requested that Traffic Department be granted exemption as they had to run round the clock. In fact most of the Mohammedan employees<sup>66</sup> of motor shed (1/3rd of the total

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63. 15 employees of finishing furnace letter dated 27.9.38 FM's Office, Tata Steel.
64. Superintendent Kutar's reply vide File No.5442/38 dated 19.10.38.
65. G.M. File No.G5/4602/25-12 dated 16.9.24, G.M.O.
66. G.M. File No. 10018 dated 23.11.38, G.M.O.

work force in department) took one day festival leave on Id. Hence the men had to work overtime which was not allowed as the Traffic Department was classified as 'Non Continuous' Department. But later it was granted exemption as the Factory Acts had provided for such circumstances arising out of en-masse absentation. Not even a day in a year was spared!

Generally, the need to work the labourers overtime arose from the necessity to increase production to meet the market demands. The General Manager, Mr. Alexander<sup>67</sup> wrote 'Owing to recent labour trouble the plant needed overhauling. Since the shops do not come under continuous process shops, it should be treated differently as the present rate of production is quite high for financial reason. Therefore it must be granted certain universal exemptions for six months, either on 'grounds of exceptional pressure of work or urgent repair or both'. Well versed in law and equipped with good legal advisers, it was the Tatas who dictated their exemptions rules.

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67. Alexander letter to C.I.F. dated 14.11.29. Exemption requested under Section 30(2) of the Act, G.M.O.

The letter from Chief Inspector<sup>68</sup> of Factories earlier construed such an exemption as 'condonation of an offence as it involved almost 2,500 employees - almost 14% of Tata's employees but by March, the following year he was convinced that the plant needed exemption from Section 35 and 36 of the Act.<sup>69</sup> It was extended for a further 6 months following its expiry in 1930.

The 'offs' granted under the Factory Acts once fortnightly for continuous process department employees and weekly offs for non-continuous process department staffs - were also treated as an hindrance in production process. But the Tatas very expertly made it out that the employees were disgruntled as they did not appreciate a loss of income. A letter from the General Manager, TISCO<sup>70</sup> to the Chief Inspector of Factories noted that employees in continuous processes of steel production were generally taking their legal fortnightly 'offs' without protest. But employees

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68. Reply letter dated 15 Nov. 29, GMO

69. Letter No.2282, GMO.

70. Letter from the General Manager, TISCO to the Chief Inspector of Factories, File No.2255 dated 20.11.29, GMO.



required to take weekly offs disliked this frequency as it meant a loss of pay. 'We fear a reoccurrence of labour trouble if you take any further steps to press holiday observance on these men'. Difference had come to a head at a time when the firm needed 'rejuvenation' and 'maintaining higher production level' for financial reasons.

The Tatas were averse to the ideas of bearing since they said, the order is not ours but governments<sup>71</sup> and hence the judicial interpretation of the employee views on the additional holidays provided for by the factory acts in favour of the firm. In fact, a report of the meeting<sup>72</sup> held in the Office of Assistant General Manager on 31.7.30 to discuss the statutory weekly 'offs' with Mr. Brady, the Chief Inspector of Factories, Government of Bihar and Orissa proved their case. Amar Singh, fitter at the new Blooming Mill, said in the report, 'we are working 8 hours a day and get 16 hours rest so no other additional holiday is required. Similar opinion was echoed by Muhammad Abdul, Furnace Helper, open hearth when he said 'our rate of pay is too little to

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71. File No.237/13 1939 December, GMO.

72. File No. 1957 dated 31.7.30.

forego two days pay a month. Fortnightly holiday is welcome if paid'. Ganda Singh of machine shop No.1, argued, 'four day's loss of pay per month is difficult especially after hurrying up to complete a job before the 'off' day and hence we are deprived of both overtime and holiday pay".<sup>73</sup> Here, it is quite likely that the opinion of the employees is 'contrived' in favour of the Company. Such practices are quite common even now as eyewitness accounts of company employees on the recent fire before the enquiry committee proved.

Any case of violation of this provision of the Factory Acts was explained in terms of 'too many absentees', 'pressure of work', 'urgency of work', 'oversight' and other unavoidable circumstances. The General Superintendent TISCO, Jamshedpur<sup>74</sup> gave similar explanation when the Chief Inspector of Factories drew his attention to the fact that rules had been contravened for the period July and August, 1926.

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73. Ibid.

74. File No.T/227/71 dated 24.2.27.

The time keeper list of 28.2.27 showed discrepancies too. The list omitted foreman and supervisory staff who were always present on Sundays. Absentees were not shown on list but were shown to have taken their offs. Men given 'compensatory offs' during week in finishing department when cutting and stamping tie bars lagged behind were excluded. Individual cases of discrepancies are too many to be mentioned here.

K.B. Dasgupta,<sup>75</sup> training shearman was working in place of J.W. Buniso, shift foreman, who was absent from 8.7.26 to 19.7.26 and again in place of S.K. Roy, Shift foreman who resigned, from 20.7.26 to 25.7.26. Hence he was not given an 'off' for the whole of July but of course, promoted to Shift foreman. In the same month, Rejas were given only one 'off' to comply with the Factory Act because of pressure of work and 'shortage' of weekly labour. Certain shops which were now working three shifts had men only for two shifts and hence found it difficult to spare men for compulsory 'offs'.<sup>76</sup>

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75. File No. 336/27 dated 28.2.67, GMO.

76. File No. E380/27 dated 1.3.27, GMO.

In 1932, the Time Officer wrote to the General Manager how the Chief Inspector detected two 'irregularities' in the sheet mills muster rolls. Firstly, there were cases of men working at the finishing end and the shipping who were allowed an 'off' only once a fortnight. Secondly, there was the solitary instance of one man having worked for 24 days without a holiday in May 1931. He also found some of the entries in the copies of the monthly returns of the structural departments and the pattern shop were incorrect'. Please advise Mr. Puri of your office to cover discrepancies before submitting returns to government.<sup>77</sup> Sometimes it was the Inspector of Factories who suggested exploiting loopholes in law for instance a letter to the General Manager suggested, 'if you strictly conform to the rules, either put the men shown in lists in shifts or show that as 'off' every week.'<sup>78</sup>

#### WORLD WAR II - EXEMPTIONS UNDER FACTORY ACT, WORKING HOURS

Further during the war, more exemptions were granted, factories were allowed to work more than 54 hours a week to

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77. File No.GSL-10024, dated 15.8.32.

78. File No.GSL-6075 dated 4.5.44.

ensure maximum production as skilled men were taken away by government ordnance factories<sup>79</sup> and were difficult to be replaced. Besides the Steel Company was supplying essentials for war effort including armour plates, acid steel, wheels, tyres, axles as well as fillets which implied more strain for the existing plant and foundries. Hence it was required to work 24 hours a day in two shifts of 12 hours each.<sup>80</sup>

The General Manager Mr. J.J. Ghandy of TISCO, appealed, "Government can be assured that these exemption are required in their own interests as well as ours as we wish to continue our war effort at the maximum speed."<sup>81</sup>

TABLE - 1.3

Shops Granted Exemption - Men Affected<sup>82</sup>

S.No.	Shop	Date of starting O.T.	Men affected
1.	Foundry	22.10.41	10
2.	Machine shop	8.9.41	58 machines 150 men
3.	Blacksmith shop	8.9.41	145 men
4.	Structural shop No.1	13.10.41	60 - O.T. not worked continuously
5.	-do- No.2	29.9.41	70 -do-
6.	Pattern shop	22.10.41	60 men

79. Letter from the Gen. Superintendent, A.A. Bryant, 27 June 1941, File No.GSL/7568.
80. File No.4171/41 dated 12.7.41 asking for exemption from Section 34 to 38 of Factories Act.
81. G.M. to C.I.F. File No.L/7262 of 25.7.41.
82. GSL/12274 dated 24.10.41.

The table 1.3 showing the number of men affected in 1941 is far from accurate since it does not constitute even 5% of the workers. In 1929, after the 1928 strike exemptions were shown earlier to affect at least 2500 men. 14% of the work force for six months only. The war efforts went on for at least more than few years and it must have affected to say the least 35% of the workforce. Figures are however, not available.

Even after the war situation in 1948, TISCO was found to violate the Factories Act as found by Inspector of Factories, Singhbhum-Manbhum Circle, Ranchi, 'most of the workers were allowed to work for 21 hours on any one day and that the maximum period of work in any one day without rest interval was 20 hours - in gross violation of the condition attached to rule 109.<sup>83</sup>

But major problem arose when it came to payment for overtime works when the company proved no better than Shylock.

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83. Letter from Inspector of Factories, File No.687/8M dated 11.8.48, GMO.

In 1941,<sup>84</sup> the Chief Inspector wrote to TISCO that extra payment for overtime work has not been made in compliance with Section 47 of the Factories Act, 1934. Another letter of the Assistant General Manager, Mr. J.J. Ghandy<sup>85</sup> to the Chief Engineer quoted Section 43(1) and concluded that the supervisory staff, who had to put in maximum hours of overtime were not covered by the Factories Act and hence were not entitled to overtime allowance.

During the war period, the Tatas had a field day. They only had to ask for exemption and it would be granted immediately. Due to war orders and important construction jobs for war works (everything was connected to war efforts even when they were expanding for commercial purposes) urgent work orders like wheel, tyre, axle etc. could be met if men were given so many 'offs'.<sup>86</sup> Similarly demands of the metallurgical department for forging 150 High Speed Steel Ingots - 8" down to 5" square billets could not be met

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84. From CIF to TISCO Manager, 1060-1453, dated 16 April 1941, GMO.
85. Reply G.M., J.J. Ghandy, File No.237/7 dated 28.4.36, GMO.
86. File No.GSL-7568 dated 27.6.41, GMO.

if men were given off. The management requested that exemption be granted<sup>87</sup> for the war period. It may be noted that Tatas acquired a great deal of self sufficiency during the war period all at the expense of the employees. The Secretary to the Government of Bihar and Orissa, Mr. R.A.E. William promptly granted the exemptions on 1.8.41 for the period during which public emergency arising out of the war continued.

A letter from the Chief Inspector of Factories in 1943<sup>88</sup> to the General Manager of TISCO said, 'all the direct workers of your factory in general shift, not in a system of relays following one another throughout the day, and hence were not exempted under rule 112 of the rules under section 35 of the Factories Act and were not granted a weekly off'. This was a general practice. The explanation was that such a practice continued for several years. Most of the workers in general shift were paid monthly and if other alternative followed, of giving weekly or fortnightly offs would cause 'dissatisfaction' among workers. The Chief Inspector<sup>89</sup> of Factories

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87. File No.4171/41 dated 12.7.41, GMO.

88. Express letter from Chief Inspector of Factories to the GM of TISCO No.2296, File No.GSL-6075, GMO.

89. Letter No.2532 File No.GSL-6075.



suggested either fortnightly offs for general shifts or workers be paid holidays or wages increased to compensate loss. The principal reason was, however, that the company would have to employ additional labour force. It was also argued by the company<sup>90</sup> that so far as can be judged by general appearance, the exemptions have not had any deleterious effects on the health of the workers. Obviously their aim was to increase production without any additional investment as more overtime to workers were not paid extra, which exemptions achieved for them during war.

Thus, it may be concluded that the workers whom the laws sought to protect were mere pawns in the hands of the Company and the Government. The enactments of legislation did not have much social implications and did not change the society for the working class, it only legitimized exploitation. Most workers, K.W. (Lord) Weddenburn,<sup>91</sup> wrote in 1965, 'want nothing more of the law than that it should leave them alone. Implicit in that assertion is both the substance of the policy of legal abstention and the main

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90. File No.273/42 dated 12.1.42.

91. K.W. Weddenburn, *The Worker and the Law*, (1966),p.11.

reason for it. The legal system in Colonial India, as in most capitalist countries is a tool of the establishment and is designed for the most part, to regulate and support the interests of those with the greatest power and wealth. It is not surprising therefore that the law did little to protect workers. Another example was the workmen's Compensation Act which was opposed vehemently by employers. This is the subject of our next chapter.

## Chapter - II

## Workmen's Compensation: Law and Practice

The Workmen's Compensation Act of 1923 had its origin in a number of strikes all over the country including in the Tata Steel. In August 1921, at a meeting in connection with the North West Railway strike, Sir George Barnes<sup>1</sup> said, 'The Government of India was already considering the question of introducing a Bill to provide compensation to workmen in respect of accidents'. It would inevitably take time as many 'interests' had to be considered.

In fact, the demand for Workmen's Compensation dates back to September 1888 when a mass meeting was convened in Bombay to support government in the proposed revision of the factories Act and added a resolution, 'the workmen sustaining serious injury in the course of his work at the mill, which may disable him for a time, should receive full wages until he recovers and that in case of

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1. DOIL, Labour File No. 875(1), N.A.I.

his being maimed for life, suitable provision be made for his livelihood'. This was dismissed then as representing the opinion of a few educated leaders, rather than the desire of the mass of the factory workers. The voluntary grant, the European employees felt, of compensation by the more liberal-minded employers did much to postpone a general demand for legislation. But as Beven, M.L.A.<sup>2</sup> put it, in most cases compensation was 'inadequate' and always 'uncertain' especially in Bombay. Employers in Madras were said to give partially disabled men the full wages that they would have earned before their injury for whatever possible work they put in. Some firms like the Tatas were known to have provided employment to the widows (they are known to provide employment to one of the family members of deceased now). But these were by no means general. In fact, most employers gave no compensation at all. Besides, there were so many defences open to the employers as to make it practically impossible for an employee to obtain compensation.

Various labour unions were demanding labour legislations for compensation. Principal among the unions were

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2. L.A.D. 71 Report, (Shimla 1921) pp.1017.

labour union, Coimbatore, Railway Workmen's Association at Howrah and Kharagpur. There had been demands at public meetings and in the press for such legislation.<sup>3</sup> The Indian Mirror<sup>4</sup> reporting on the mass meeting of Howrah Railway Workers highlighted the vociferous demand for law on compensation and supported it. Similarly the Statesman of 3rd August 1920 reported on Kharagpur railwaymen meeting reacting favourably to their demands for law on Compensation.<sup>5</sup>

But more important than the clamour from Indians was the question raised in the House of Commons on 23 June 1920 which forced the hands of the government. This apart, the government argued, "there are indications of considerable expansion in the near future in the number and size of establishments. Moreover, machinery and power are being employed in factories to a much larger extent than before;" for the case for Workmen's Compensation in August 1927. The Act, it said, would not only increase the available supply of labour but also produce 'a corresponding increase in the efficiency of the average workmen'.<sup>6</sup>

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3. Hindu, 2 July 1920.

4. Indian Mirron, 15 July 1920.

5. Statesman, 3 August 1920.

6. W.B.S.A., Com.Dept. Com. Br., July 1922 A-34-72.

## DEBATES ON THE ACT

The Members of the Legislative Assembly felt that law in this regard cannot be deferred as 'every country had a Workmen's Compensation Law. This point was not raised in the International Labour Conference, probably because the members were unaware of its non-existence in India. It would therefore be better to enact a law before we are compelled by the ILC or England or situation in India'.<sup>7</sup>

T.B. Sapru,<sup>8</sup> the Congress member in the assembly opposed the idea of basing the act along the Employer's Liability act of England as the courts in India were not competent enough to do justice to the cases. There was no move to improve the courts as the intention here was not to benefit the workmen but to control them. A tribunal with special presiding officers was suggested to be set up which made it easier for the employers to impress upon the officers to decide cases in their favour. After all, the officers were not paid enough and it was, but human, for them not to desist temptation. Therefore, there was little point in giving a workman that act without an 'honest'

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7. DOIL, Labour File No. 859(1).

8. DOIL, Labour File No. 859(9).

adequate and competent legal and judicial machinery for the administration of the Act.

The inherent nature of the working class in India - illiterate and poor - made it impossible for the workmen to recover damages by suit from his employer. Therefore A.C. Chatterjee, M.L.A.<sup>9</sup> favoured outlining the liability of the employers for accidents and dispense with the need of proving negligence. More often than not, in its implementation, it was always easier for the employer to prove negligence.

There was a large scale opposition from the employers on the Bill. The Honorary Secretary to the Factory Owners' Association, Central Province and Berar<sup>10</sup> regretted the enthusiasm of the Government of India's in protecting labour's interest, in so far, as they have concerned with employers. "They want and require employers to spend large sums for their workmen through them and thus take the credit

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9. DOIL, Labour 1921, 859(1), NAI.

10. DOIL, Labour, 1932, File No.3002(2), NAI.

for this expenditure by distribution through their agencies."

The opposition of the employers was not unfounded for the Government of India thought that the total cost temporarily must fall on the employer. The only alternative to this was a contributory system of State Insurance, which was ruled out as it was feared that the workers may 'contract out'.<sup>11</sup> Besides, the employers would be less careful to prevent accidents as they would pay a flat rate to an insurance company.

#### PROVISIONS OF THE ACT

The Act, at the time of introduction in 1923, was experimental and novel. It was five years before an amendment was contemplated. Initially, it included only those workers in organised industries covered by the Indian Factories Act and excluded vast number of workers in disorganised industries and government offices. The reason attributed by the Government of India for this was the 'impracticability and expediency', as also the success of the Act in terms of 'workability', which is reflected,

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11. A practice by which workmen can contract themselves out of the benefit of the Act.



according to the Secretary of the Bengal Chamber of Commerce, in the 'relatively little litigation under the corresponding home measures.'<sup>12</sup>

In reality the reason for less litigation was due to the 'ignorance' and the 'migratory' character of the working class as evident from the Statement of the Manager, Calcutta Claims Bureau on the Workmens' Compensation, Mr. W.J. Henridge, generally workmen employed in mofussil area and small enterprises did not utilise the facility owing to their ignorance of it. Even in organised industries, around Calcutta and Jamshedpur, it was found quite rarely that trade union officials and legal practitioners had filed cases on behalf of members and clients but not much was provided for by the act to contend for in favour of the workmen.

The Workmens' Compensation Act, 1923 which came into force from 1 July 1924 provided for personal injury to the workmen in course of his employment, by making the employer liable to compensate for total or partial disablement within

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12. DOIL, Labour, File No. 3002 (2).

seven days.<sup>13</sup> The employer was, however, never liable in respect of any injury caused by an accident which was directly attributable to the workman - 'either due to negligence or under the influence of drinks or drugs'. The Act<sup>14</sup> applied to 'occupational diseases peculiar to the employment unless the employer proved the contrary. The compensation depended on the seriousness of the injury resulting in death, permanent disablement and partial disablement. In case of death for an adult worker falling in the wage group of Rs.10-300, the compensation varied from Rs.500-4000 and in cases of minor Rs.200. For permanent disablement for adults falling within wages Rs. 10-300, the compensation was Rs.700-6300 for minor the amount was Rs.1200. In case of permanent partial disablement, the percentage of compensation was determined by the percentage of the loss of earning capacity and generally amounted to half his salary till the end. Similarly, for temporary disablement, whether total or partial, results from the injury, a half-monthly payment payable on the 16th day after the expiry of seven days waiting

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13. This word was substituted for the word '10' by Section 3 of the WCA (Amendment), 1933, (15 of 1933).

14. These words were substituted by S. 3 of W.C. (Amendment) Act 1938 (9 of 1938).

period for five years or during disablement whichever was earlier.<sup>15</sup>

#### IMPLEMENTATION OF THE ACT

Generally, when the Royal Commission on Labour consulted the various enterprises, mostly all admitted the prevalence of the Act in their company. Quite unusually, the Tinsplate Company, under British management stated that even before the Act came into force, the company compensated its workers for the time lost as a result of bonafide accidents. The Tatas claimed that they compensated workers who were not covered by the Act. The Tatas had a policy of deducting .50p from the salary of every employee as contribution towards the Accident compensation. In Table 2.1 out of the 91 fatal cases in 1926, 43 cases were from Tata - almost 50% in the province. Out of the 119 fatal cases, 54 were from Tatas in 1927.

The Royal Commission<sup>16</sup> on labour evidence shows classified figures of accidents in factories, mines, railways and docks during 1926 and 1927 (they omitted 1928 as

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15. Workmen's Compensation Act (1923) as modified upto 1st April 1950, GOI, pp.5-7.
16. RCLE, Vol. IV, Part II, pp.133.

TABLE - 2.1

*Accident Fatalities in Tata Factories*

<i>Accidents (Fatal)</i>	<i>1926</i>	<i>1927</i>
Tatas	43	54
Tinplate Co.	26	30
Indian Cable Co.	12	19
Kumardhumbi Iron Works	10	16
Total	91	119

they claimed it to be 'abnormal condition', due to labour disturbance).

TABLE - 2.2

*Causes of Industrial Accidents*

<i>Classification</i>	<i>Accidents during 1926</i>	<i>Accidents during 1927</i>
Class I Misadventure	1268	1054
Class II Negligence, Own action or fault	341	402
Class III Another person's negligence action or fault	81	63
Class IV Neglect of management to ensure safety	-	-
Class V Obscure causes	-	-
Unclassified	-	-
	1690	1535

By any standards, the above figures, although from the Chief Inspector of Factories, appears contrived.. It cannot be true that the management was not responsible for a single accident out of the over thousand odd accidents in a year. From this only, one can assume that it was always easy for the employers to prove that accidents were caused by the employees.

It was found by Calcutta Claim Bureau,<sup>17</sup> that the total number of accidents during the five years period of the Act were 14,848. The distribution had been as in Table 2.3.

TABLE - 2.3

COMPENSATION SETTLEMENT, 1923-1928

Compensation paid	36%
Claim in which no compensation was due i.e. less than 10 days disablement	40%
Cases filed as 'no claims', owing to denial of liability	20%
Case pending	4%
Total:	<u>100%</u>

To raise the percentage as well as the extent of those compensated, the Government of India suggested 'compulsory

17. DOIL, Labour, File No. 3002(2).

insurance' by employers, which was resisted by all employers' association. The Indian Mining Federation opposed it on the grounds that the 'time has not come for it, nor does there seem to be any need for it'.<sup>18</sup> The Secretary of the Bengal Chamber of Commerce in a letter to the Governor of Bengal said that it would lead to 'administrative difficulties' and that it was 'neither necessary nor desirable' and that all employers of big labour force are mostly insured and that they do not know of any instance of failure on part of the workmen to secure compensation. Messrs. TISCO<sup>19</sup> however, reported that "there are several reasons why we and several other employers have not been able to take advantage of the terms offered by Insurance Companies for (a) the rates quoted are too high for the cover they offer: (b) the individual companies are able to make the payment on claim that arises under the Act not only to the extent of the liability imposed by the law but a much higher amount for a smaller amount than the premium demanded by insurance companies for a more restricted cover."

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18. Ibid, RCLE, pp. 246.

19. File No. GSE/2468 of 1927, GMO.

Therefore, we find that cost factor or economic consideration deterred the companies from insuring. It was sometimes noted that employers worried about the cost of social welfare as the above statement of the Tatas, and were concerned to minimize the burdens falling on them directly. Employers who were clear that cost could be passed in lower wages or higher price went in for insurance. Thus the Indian Mining Federation,<sup>20</sup> reported that "in 1924, a number of Indian managed colliers incurred 'extra expense' by ensuring and that the premium paid raised the cost by raising the price of coal ~~at~~ approximately one anna per tonne." Consequently, when the price of coal went up, the cost of steel, also went up but without the Tatas covering the risk. There was an obvious benefit to the worker from the existence of the insurance facilities as he was then certain to get compensated.

There were also deficiencies (if not exaggerated claims on parts of the employers) in the disbursement of compensation allowance. Either for want of supervision or defects in the rules, the beneficiaries rarely got the

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 20. RCLE, Vol. IV, Part II, pp. 224.

amount of the benefit. Generally the attitude of the employers towards the claims made by their employees for compensation did not appear to be uniformly generous. Most employers repudiated liability on grounds that the accident was the worker's own fault.<sup>21</sup>

On 19th May 1943 at about 11 p.m. a carpenter of Pattern shop on night shift was sleeping on sand (as he was two hours early) near line track at the L town gate. He got up at the whistle of the train but was knocked down sustaining fatal injuries.<sup>22</sup> The company promptly issued a circular to stop entrance into works during off duty hours except for breakdowns.

It then referred the case to Mr. P.C. Ghosh, legal adviser on 17.9.43 asking if the company was liable to pay compensation. If yes, can the company avoid liability in future by issuing a notice that employees who enter half an hour before, do so at their own risk. As expected, Mr. Ghosh pointed out that in the present case the company was not

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21. The Act absolved the liability of employer under this condition. See Chapter II of the Indian Workmens Compensation Act 1923, pp.4.

22. GM's office, File No. 111/3B.



liable under Section 3 of the Act as the accident did not arise out of and in course of employment. Regarding the notice, the Company was advised to watch the development of the present case and to issue a notice later. It may be reiterated that the company had already issued a circular dated 27.7.43. The case dragged on till four months after the accident. Mr. Ghosh, it may be remarked, was paid to dig loopholes in the acts in favour of the company.

In yet another case, the company made out a case of negligence on the part of the worker. On 25.10.43 Ketra Mohan Mondal,<sup>23</sup> Cooly of Brick Department (Steel Melting Shop No.2) sustained complicated injury - deep lacerated wound scalp (4" x 3/4" bone deep) oval in shape on left side (6" x 2"); fracture of left cervical and abrasions and bruises all over the body. The company made out that the deceased entered the works before time and went to 'A' blast-furnace stock house to fill his cycle with compressed air. The deceased tried to see the operation of the blast furnace skip, when he was pushed by the lorry car and

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23. File No.4792/43 dated 26.10.43, GMO.

he fell down into the skip pit on the coke screener platform about 10 feet below sustaining multiple injuries as mentioned above and expired and no compensation was given as the case came under 'added peril'. The General Manager, J.J. Ghandy<sup>24</sup> promptly issued a notice on the lines of the earlier circular prohibiting employees' entry in the works before and beyond duty hours.

If the company manipulated in fatal cases it was no less cruel in case of temporary disablement where the payment made was much less as compared to fatal cases. Generally, accidents were reported by the employers as 'misadventure' as it was easy to prove it by furnishing witnesses or get the Chief Medical Officer, who was the yes-man of the management to testify minimum losses in any case. But employees were not allowed to get medical certificate from any medical practitioner or surgeon.

One such case was of Kanhai<sup>25</sup> of Plate Mill department who met with an accident in 11.7.42. The Chief Medical

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24. File No. 111/38, GMO.

25. File No. L-3033, GMO.

Officer assessed the loss capacity at 10% vide letter dated 13.4.43. The average monthly wages was estimated at Rs.46/3/- and accordingly a sum of Rs.210/- was found payable to him as compensation. Kanhai objected to the agreement on two grounds: (a) assessment of Chief Medical Officer of Tatas was wrong: (b) Profit sharing bonus had not been taken into account. He produced a certificate from the civil surgeon of Chaibasa assessing a loss of 25% and demanded compensation on basis of 60% loss of earning capacity. After much leg dragging in court, it was decided on 19.4.44 by the commissioner that the profit sharing bonus be included in the assessment of wages and the assessment of the CMO was accepted. The Company was debating whether to appeal against it on the basis of a preceding case where profit sharing bonus was excluded but decided against, in its own words 'cost of appeal if filed will be disproportionate to the sum involved in the present case'. Suffice to say here, the company was not as benevolent as it was projecting. Such cases of 'gross manipulation and working against the workers' were by no means isolated cases but too many to be quoted here. The company by its own admittances sought to 'settle most claims by compromise rather than force matters to an issue'.<sup>26</sup>

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26. J.J. Ghandy's statement. File No.C/395/45 of 11.6.46  
GMO.

The other areas where the company could manipulate were when the claims were made at superannuation and compensation for trainee employees. The case of Gozali Khan<sup>27</sup> of Steel Melting Shop No. 1 who met with an accident on 13.8.30 claimed accident gratuity on 14.2.50 on the basis of 20% loss of hearing. The compensation was granted in consultation with the Director of Personnel who thought it advisable to have the assessment done after a long time to know 'the minimum loss of earning capacity'. Similarly, S.K. Dey in charge of Steel Melting Shop No.3 met with an accident on 23.1.41 as helper at Rs.14/- per month in Bar Mills. He got Rs.441/- as compensation. Mula Singh, foreman on Pipeline East met with an accident on 30 November, 1936. The Medical Board examined him on 4.3.47 and assessed a 50% loss of earning capacity. In this case, the controller of accounts did not appreciate payment as he was earning only Rs.5/- per day in 1936 and was drawing Rs.8/- per day in 1950. In all these cases, compensation was sanctioned at the rate prevailing at the time of accident. However, the agents of the company expressing their suspicion said, 'it is difficult

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27. File No. AO/1760 of 19.4.50, GMO.

to establish after a long time that the first injury was the proximated cause for some subsequent disablement.<sup>27</sup>

Surprisingly, the company turned down the application of Dajee, ex-conveyor sheet mill and Deo Singh ex-khalasy Blast Furnace department on the grounds that they failed to present their claims within a year of the accident.<sup>28</sup>

The Company followed a 'discriminatory'<sup>29</sup> policy towards the trainee-employees and even those employees undergoing training during off duty hours. The Labour Union, however blackmailed the company by saying that if the trainees were not compensated, they would put an end to the workmen acquiring skills for the benefit of the company. This apart the scales of compensation, as shown above were quite low. The General Manager of TISCO felt, "the present scales are sufficiently high but to provide for special cases, arrangements might be made whereby the dependents of the the dead might get a minimum and similarly, arrangements might be made where a lump sum paid for total incapacity had to be paid to injured workman." On the whole they were against raising the

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28. File No. 6750/50 28.12.50, GMO.

29. Ibid.

scale of compensation for the poorer section who were on wages Rs.15 and were not covered by the Act.<sup>30</sup>

Most employees' unions<sup>31</sup> suggested an enhancement along the lines of the International Labour Conference which recommended around Rs.1500 for fatal cases and Rs.1000 for permanent disability. Most employers including the Tatas vehemently opposed it saying that this could be applicable in the western situation where profit margin was rather high. Table shows that the deposits for the province of Bihar and Orissa did not arise in proportion to the number of accidents. Similarly the Bengal Chamber of Commerce after considering the remarks of the Government of India and the recommendation of the ILO feared 'considerable enhancement in the existing scales', and as the scales were increased or the period of waiting reduced to a week, 'one of the greatest safeguard to the employer against malingering would be removed. Similar arguments were put forward against 'dealing back system'. In both cases, the employers and the insurance company feared large volumes of small claim and the work of investigating

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30. DOIL, Labour, 1288 (27).

31. DOIL, Labour, 3002 (2).

and dealing with them would be disproportionately greater in relation to the amount of compensation payable.

The employers<sup>32</sup> felt that when affecting insurance of their liability, the Act should cover also the employees of contractors working under them. In such cases, compensation was paid to contractor employees like regular employees by principal and no indemnity claimed. The principal could recover from the contractor the compensation he might be required to pay, subsequently the contractor would hike his rate. Given the nature of the labour organisation in India, the contractor would prevent the benefits of the compensation from reaching the workers.

To evade paying the return for compensation, the employers opposed almost unanimously to the Government of India's suggestion of maintaining register. The general manager of TISCO thought it 'impractical'.<sup>33</sup> In case of illiterate employees in Jamshedpur, mistakes were more a rule than an exception. Secondly frauds would probably be on the rise and ignorant employees might be persuaded to register

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32. Assocham Report, 1925, FICCI, New Delhi.

33. File No.223, Workmen's Compensation Act, 1924, GMO, Jamshedpur.

entirely incorrect names. Similarly, the chambers of commerce opposed the suggestion on 'administrative' and 'unreliability' grounds.<sup>34</sup>

These suggestions were probably made because of 'red herring' in the working of the act due to the responsibility of tracing the dependents of the deceased. Distance of the villages, ignorance of the proceedings also prevented the dependents to benefit from the compensation. In Bombay, it was reported that a large number of cases under the Act were taken by private agencies which charged a fee for their services.<sup>35</sup>

The Act remained unchanged till 1928 but the Workmens Compensation (Amendment) Act of 1929<sup>36</sup> affected certain non controversial changes. The Government of India was in fact waiting for the Report and Recommendation of the Royal Commission on labour. It requested the employers once again in the proper compilation of statistics relating to the Act, and hoped that the employers would submit returns promptly

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34. Ibid, 1925, FICCI (New Delhi).

35. DOIL, File No.L-1288(15),1927, NAI.

36. Workmen's Compensation Act 1929, GOI, 1929.



and as accurately as possible.<sup>37</sup> The differences mentioned impairs to some extent the accuracy of the figures but doubtless afford a good idea of the extent to which the Act was used during the year. The total number of cases increased from 15, 216 in 1927 to 16,768 in 1928 though the corresponding figures regarding total compensation paid during the year fell to Rs.10,95,730 as compared to 11,11,254 in 1927. Similarly, although the deposits increased, the average per head compensation paid decreased.<sup>38</sup> Yet the Government of India believed, the Act was popular and went on to contradict itself that there were still a number of employees who were ignorant of the proceedings of the Act.<sup>39</sup> In Bengal the number of cases under the Act during 1928 showed a slow rate of increase. The Bihar and Orissa returns showed that out of the total 49 cases, only 27 went uncompensated. In powerful centres like Bombay also the textile unions could not do much to obtain compensation.<sup>40</sup>

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37. Reports on the working of the Workmen's Compensation Act, 1925, DOIL, File No.1241(A), NAI.
38. DOIL, File No. 1288 (15), 1927, NAI.
39. Report on the Working of the Acts, 1927, DOIL, NAI.
40. Ibid, 1928.

Broadly speaking, the Government of India as well as the Provincial Government thought the Act to be popular and acceptable as there were no 'litigation or protest' from the employees as well as employers.<sup>41</sup> The Act also did not affect the industries or the cost of production. Figures were not available to assess how many factories actually passed on this additional burden to the general public in terms of pricing their products higher than preceding years. It was not as if the employers did not resist it, in this case their way of resistance was evasion - there was nothing to penalize the employers from so doing.<sup>42</sup>

As far as 'litigation' was taken to be symbolic of 'popularity' and smooth implementation; one needs to point out that the question of litigation does not arise when the workers were generally so illiterate and ignorant of their rights. Litigation is the privilege of the rich employers. And if one went by the evidence of the Royal Commission on labour, one came to know how insignificant the Act was for all employers and even for the trade unions. There were more important things like wages, workmen condition of living to be taken care of first.

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41. Ibid.

42. Ibid.

Therefore the reason behind the enactment of such a retrogressive act becomes understandable in terms of 'social control' through the 'power' of law which made the European business community in India stronger. Being better educated, prosperous and close to the ruling elite by virtue of their culture, the Europeans who dominated the industries exerted pressure on the government to safeguard their economic interests even if they meant gross injustice to the workmen.<sup>43</sup>

The Act however underwent several changes following the recommendation of the Royal Commission on labour by the Amendment Bill of 1933, 1937 and 1942 respectively - more favourable to the employer as it refunded the amount paid as compensation for the injury which subsequently resulted in death, if the sum did not exceed 33-1/3% of the sum payable for fatal case. The Millowner's Association,<sup>44</sup> Bombay opposed it on the grounds that if an injured operatives when alive received more than 10 months wages by way of half monthly compensation, such excess amount obviously cannot be deducted from the amount payable to his dependents at death.

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43. LAD, Official Report, Shimla, 1930.

44. File No. 111/3B, GM's Office.

Besides 20 months was too short a time limit for allowing injury to develop into death and therefore chances of employer paying by way of half monthly compensation was more than the permissible deduction. Certain occupational diseases like anthrax might cause temporary disablement and take a long time to result in death. Hence large amount was paid to workmen.

Another anomaly was pointed out in favour of the employers. Under the present arrangement if a workman with a salary of Rs.30/- loses right hand, his case for a 70% permanent partial disablement will be settled by a payment of Rs.882/-. Supposing he died his dependents will be entitled to Rs.900/- due for death less Rs.882/- already received by the worker. If the Act were to be amended the dependents were entitled to receive 2/3rd of Rs.900 namely Rs.600 in addition to Rs.882 already received. This the employers regarded as 'unfair' and inequitable to employer and therefore opposed.

The steel company<sup>45</sup> unlike the Act which provided for temporary disablement from the seventh day of accident, paid its workers from the first day of injury on condition

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45. File No.111/3B of 25.4.41, GMO.

they obeyed the advice of the medical officers, in the form of accident pay. In two cases the company refused compensation for disregarding the Company's circulars and not informing supervisory staff. Nabi Bux of Bar Mills with minor injury on 27.5.40 was unable to report the injury alleging that no member of supervisory staff was present in the mills. He attended duty and was admitted to hospital on 29.5.40. Similarly, Mistry L. Francis of the new Blooming Mill department sustained severe burns on 16.6.40 and was admitted to hospital. He left two days later against the advice of the CMO saying that he had no faith in company's doctors. After recovery, he submitted a certificate from a qualified medical practitioner claiming compensation. They were both denied compensation on grounds of 'wilfully neglecting' to notify accident or refusing, without sufficient reasons, to obey orders and hence be given only what the Act entitles them and no accident leave. Under the modified Act, the employee was at liberty to 'seek outside medical assistance'.

Finally, the subsequent amendments made it voluntary for the employers<sup>46</sup> to pay Rs.50 for defraying funeral

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46. DOIL Labour, File L-1125 (25).

expenses of the deceased and deduct the same from the compensation deposited with the Commissioner. But in cases where deceased workers' descendants were not on the spot and the advance was made to fellow worker or sardars, there was nothing to secure that the whole of the advance would be spent on the funeral. The Act was again amended to ensure funeral expenditure should be either 10% of the compensation or Rs.50 whichever is less. There was, however, no provision for advances to dependants for funeral or in case no dependants, the responsibility of the funeral expenses was not fixed. An employee after all the years of service to the Company was not assured of a decent burial.

#### CONCLUSION

Thus we find that both the factory Amendment Act of 1922 as well as the Workmen's Compensation Act of 1923 were primarily one about the attainment of an equilibrium of social forces. The crucial factor here in labour relations was the power which each side could pit against each other: with the employers (Capital) making an effort to get his services for the least possible return and the labour in an attempt to get the most for his services is conditioned to loose as combination on the one side is powerful and on

the other, 'powerless' requiring 'submission' and 'subordination'. Law was used merely as a 'technique for the regulation of social power. If at all the acts have changed working conditions, it is only marginally as the major structural features have remained totally unaffected.

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## Chapter - III

### Trade Union Laws and Collective Bargaining

This chapter on Trade Union Act (1926) will show how unions in India were not born free but in chains. Trade Union had to struggle for legality; as we shall see the act was basically to restrain combination of workers which had been growing after the first world war all over India and particularly in TISCO. There were three major strikes in Jamshedpur before the Labour Association of Tata Steel to register. The Act of 1926 formally legalised the existence of trade unions.

The Tata's response to the act depended upon their general approach to handling a dispute. Generally the management was concerned with avoiding taking measures likely to escalate the dispute. It was known to frustrate settlements and undermine long term relations with union. In fact, they prevented the formation of a union but once it was formed, they tried to coopt it and used it as a 'buffer' against the workers. Besides, with a monopoly over iron and steel production, the Tatas could exercise



significant control over their external operating environments, enjoying enhanced financial reserves, collusive arrangements with the administration. This sort of market and other advantages enhanced the power of the management in the disputes and ensured that bargaining was conducted on the company's terms at a time when strike sanctions were less effective. The Trade Union Act of 1926 only gave the employers more powers to clamp restriction on the combination of workers to protest against wages or unfair dismissals. Even if the Unions were legalised, indirect restrictions remained. The very organisation of industrial action was pronounced as criminal conspiracy whenever there was unjustifiable annoyance and interference with the employers or the production processes. Notwithstanding the fact that the place won by trade unions in the emergent industrial relations system rested in part upon legal rights, a right to associate, a right to bargain,<sup>1</sup> in India more often than not, law was used to crush striking union or to control the workers through the union.

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1. See Wedderburn, "Industrial Relations and the Courts" in Wedderburn, R. Lewis and J. Clark (edt), *Labour Laws and Industrial Relations* (Oxford, 1983) pp. 66-73.

Internationally the trade union movement aimed at freedom, that is to say, a removal of legal restraints and the right of the many to act in concert and be as free to bargain as individuals.<sup>2</sup> It was on these lines that the members of the Legislative Assembly pressed public opinion, the political parties and the local government. But what really attracted the attention of the Legislative Assembly members towards the legislation along these lines were innumerable strikes all over India and specially in Tata Steel.

The post war period saw strikes on a massive scale all over India, particularly Bombay, Calcutta and Ahmedabad to protest against the soaring inflation and other amenities. The general strikes of the 1920s usually began as accumulation of separate disputes and only gradually began to acquire a distinctive character.<sup>3</sup> The Table below shows the strike wave during 1919 and 1920 in India.

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2. Sidney and Beatrice Webb, *History of Trade Unionism*, (London, 1920) Chapter V
  3. R.K. Das, *Factory Labour in India* (Calcutta, 1923), pp. 36-37.

Table 3.1  
Major Strikes in India, 1919-1920

S. No.	Factories Affected	Dates	No. of men affected
1.	Woollen Mills, Cawnpore	4.11.19 - 2.12.19	17,000
2.	Railway Workers, Jamalpur	7.12.19 - 9.1.20	16,000
3.	Jute Mills, Calcutta	9.1.20 - 18.1.20	35,000
4.	General Strike, Bombay	2.1.20 - 3.2.20	2,00,000
5.	Mill Workers, Rangoon	20.1.20 - 31.1.20	20,000
6.	British India Navigation Company, Bombay	31.1.20	10,000
7.	Millworkers, Sholapur	26.1.20 - 16.2.20	16,000
8.	Tata Iron & Steel Co.	24.2.20 - 29.3.20	40,000
9.	Millworkers, Bombay	9.3.20	60,000
10.	Millworkers, Madras	20.3.20 - 26.3.20	17,000
11.	Millworkers, Ahmedabad	May 1920	25,000

*TISCO Strike, February 1920*

The workers at TISCO struck work on 24 February 1920 to protest against low wages, leave with pay for a month and accident compensation and adequate housing facility.<sup>4</sup>

4. RCLE, Vol. IV Part I, pp. 119. Also Amrita Bazar Patrica, 27 February 1920.

The strike was peaceful, without any disturbance.<sup>5</sup> Yet a large body of armed and military police was despatched and at the request of the local government and the company; about 100 British infantry was also sent by military authorities. The Commissioner, Mr. Heycock, the Deputy Commissioner, Mr. Scott and the Deputy Inspector General of Police, Mr. Swain were all present to monitor and control the strikes. It was at this time that Jamshedpur Labour Association was formed under the aegis of Surendra Nath Halder, a young barrister from Calcutta who arrived in Jamshedpur to play an active role in the strike negotiation.

The directors of the Company were adamant to have the men return to work and kept it as an essential precondition for any grant of concession. Pay would be increased if financial conditions permitted. The company's profit for the year 1920-21 was 17,06,42,821-11-3 and the previous year it was 12,46,79,021-7-6.<sup>6</sup> The strikers refused the

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5. Amrita Bazar Patrika, 28 February 1920

6. Annual Report of Tata Iron & Steel Company for the year ending 31 March 1921 and 1920.

terms of the directors. They refused to return to work till their wages were increased by 50% or allow any Indian to work. Both Mr. Heycock and Mr. Scott took stern action and declared picketting '*illegal*'. The workers also picketed on the railway tracks to stop the trains from carrying workers to and from the works but were forced to disperse. The police arrested 40-50 picketers and fired at the resisting mill hands, killing 5 people and injuring several others. Later police made out that they fired mainly in '*self-defence*'.<sup>7</sup> This marked the end of the strike. On 20th March the main workers returned to work spontaneously. To keep on the right side of the government, the directors of the iron and steel company passed a resolution appreciating the services of Government officers in preserving the law and order and terminating the strike. The settlement reached left much to be desired. On 20 May 1920 the directors announced (a) service rules regarding employment, discharge, disablement, sickness and leave; (b) provident fund rules. It was not received well. The most

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7. RCLE, Vol. IV . Part I, pp. 120.

important points of strike pay and extension of bonus to all workers were ignored. The demand for strike pay and fixed pay scales were refused and provident fund rules altered to include half a month's pay only, for all employees as a condition for receiving company's contribution. The employees were to get two day's festival leave. The directors refused to recognize Labour Association and promised to reconsider if experience showed that Association was a genuine body working in cooperation with management.

The Labour Association presented to the management in June 1921 three demands<sup>8</sup> (a) Bonus of one month's pay from previous year's profit; (b) an all round increase of 33 per cent (c) minimum of 8 annas a day for weekly paid labour. The management refused to comply. On 5 September 1922 an American engineer kicked a muslim worker inside the factory. As the news of this grave insult spread, the workers threatened to lay down their tools. Although a strike was averted, the workers remained restive.<sup>9</sup> The

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8. Ibid., pp. 123.

9. ABP 7 September 1922.

Labour Association had, however, sent another set of demands which included (a) dismissed employees be reinstated; (b) Labour union be recognized; (c) Eight hours shift; (d) no compulsory overtime; (e) accident compensation with leave; (f) maternity benefit; (g) medical service; (h) festival leave optional; (i) bonus; etc. The company failed to answer the letter and the workers decided to go on strike in protest against the failure of the company to control prices and check profiteering. The strike was complete and included Anglo-Indians and Bengali clerical staff. The Deputy Commissioner, Mr. Lewis was on the spot when the strike began and he was soon joined by other senior police officers.<sup>10</sup> The Labour Association called off the strike for two concessions : (1) no victimisation; (2) recognition of the Labour association. The Deputy Commissioner, Mr. Lewis remarked, *'what the company actually wanted was a Labour Association that would practically surrender the right to strike and would be controlled by management'*. The management was however determined not to take back the strikers.

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10. ABP 23 September 1922.

Finally, the strike was called off on October 24. The terms of settlement were that there would be no victimisation and a joint committee of representatives would meet and discuss all demands. The strike was largely unsuccessful. The strike leaders Sheshram and Sethi were discharged. The recognition of the Labour Association was discontinued on the grounds that 'outsiders' were taken in it.<sup>11</sup> It was only in 1925 when Gandhi visited Jamshedpur and his trusted friend C-F. Andrews replaced Haldar as President that the Management recognised the Jamshedpur Labour Association.

Therefore, we find from the example of Jamshedpur that trade unions followed strikes and were often little more than shortlived strike committees. Their numbers still heralded a new age in labour organization - a Bengal government confidential report listed 40 stable 'Labour Union and Association in 1920; 55 in 1921; and 75 in 1922; while of the 53 union active in Bombay in 1926 only 7 dated from 1920 while no less than 29 were formed between 1920-1923.

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11. An appeal...1924, Ghosh cit p. 8.



The predominantly nationalist middle class leadership often acted as a brake on labour militancy, particularly in Indian owned enterprises.<sup>12</sup> Thus the Jamshedpur Labour Association founded by S.N. Halder and Byomkesh Chakrabarti in the course of the February 1920 strike could provide only a very compromise - prone and inept guidance to the Tata workers.

*Trade Union Act, 1926 : Formative Influence*

It was against this background that the legislation for Indian trade Union Act of 1926 was first advocated in 1920 at the Trade Union Congress in Bombay. Pressure on the Government was built up through Mr. Saklatvala who organised a deputation in London on behalf of the workers' Welfare League which met Mr. Montague who promised legislation. It generated debates in Legislative Assembly. N.M. Joshi<sup>13</sup> moved a resolution that the Governor General in Council should take steps for legislation to register trade unions and protect trade union officials from civil and criminal liability for 'bonafide' influence as the workers were generally illiterate.

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12. Sumit Sarkar, *Modern India, 1885-1917*, (New Delhi, 1983), pp. 200.

13. Legislative Assembly Debates, Official Report, Vol. I, Pt. I (New Delhi, 1921), p. 493.

The Viceroy also took an interest in the matter. But the most important point which forced the government of India towards legislation was that under article 427 of the peace treaty every subscribing nation was pledged to the recognition of the right of assembly. Hence the Government of India could not go back on it. But the question was along what lines.

Indian Labour movement at the time of legislation was yet to take off and was still in its infancy and attempts were already made by government to suppress them by resorting to the civil and criminal law of the land to punish the strikers. In Madras, attempts made against Mr. Wadia for organising a strike of millhands also pressed for the necessity of a Trade Union legislation to control the strikes and Bolshevik inclinations.

The employers' representatives in the assembly opposed the resolution<sup>14</sup> on the grounds that the legislations might loose forces which will be detrimental to

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14. A.D. Pickford in Legislative Assembly debates, Official Report (New Delhi, 1921), pp. 493.

industrial development on which economic future of India depended. It must regard trade unions as a means and not as an end, not the legalised promotion of strikes but the establishment of machinery to prevent strikes, that was to be the objective of establishing '*shop committees*' for collective bargaining.

Khan Bahadur Zahiruddin Khan,<sup>15</sup> the Muslim loyalists misconstrued the proposal to mean that the government would take responsibility of organizing strikes in India if it were to provide '*immunities*' to trade union actions. Here the suggestion was to remove the discrimination in common law against the workers. If the ordinary citizens were not liable for their actions why were the workmen made liable for their actions. In India, the act was exigent because of the victimisation of the employees. Dewan Chaman Lall,<sup>16</sup> a nationalist and champion of labour suggested provisions be made in the bill making it incumbent of the employers to recognize them and prevent further victimization. But the government of India before referring the bill to the

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15. Ibid., p. 98.

16. India, Legislative Assembly, Debates, Official Report, Vol. V of 1925.

Select Committee made certain rules and regulation forfeiting the minimum benefits accruing to the workers if they struck work.

The Government of Bombay<sup>17</sup> thought that labour interest in India was only a 'microscopic' part of the total interest of the country and should be 'debarred' from expression at the polling booths, in the only way practically open to it, namely through the activities of its own organisations was an infringement of political rights. There was much to be said against the exclusion of political activities from the sphere of the trade union. Most important practical objection was found, it argued, is the present state of Indian politics and the general atmosphere in which trade unions have sprung up so far in India. The obvious danger was that the funds of Trade Unions might be diverted for such parties as Revolutionary Party in Bengal. The danger 'was so real that it justified the curtailment of the powers of the trade unions. With this, the Government of Bombay argued against trade unions' funds being used for political purposes as suggested in the Bill introduced in the Assembly in 1925.

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17. Ibid

The Bill introduced by Bhupendranath Mitra<sup>18</sup> in the Legislative Assembly, did not compel trade unions to register but allowed privileges only to the registered unions who accepted responsibilities. The privileges included '*protection*' of the Legitimate actions as also the protection of their funds against speculation or dissipation on extraneous objects. The controversy that the bill generated centred round two issues mainly compulsory or voluntary nature of registration and the expenditure of funds on political activities. Apparently in favour of the trade unions, the bill preceding the Indian trade union act was loaded with provision to control labour actions.

The local governments<sup>19</sup> opinion favoured '*compulsory registration*' as they argued that no trade unions would register unless compelled to do so. The main object of the trade union legislation was to '*foster growth on right lines*' - obviously of the pro-government, non communist kinds. The protective provisions of the bill, the

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18. India, Legislative Assembly Debates, Series I, Vol.5, of 1925, Col. 444.

19. File No. L-881 (26), National Archives of India, New Delhi.

government thought, should be limited to registered unions provided they did not spend their funds on political objects. The local government suggested specific provision against 'picketing'. The bill now incorporated the provincial views of the governments on both points.

A circular was then issued to invite debates and public opinion on the bill. The government knew it could do little to prevent trade unions from advocating political policies, but said it would ensure that funds contributed for trade unions were not expended in '*which workers have little interest*' - this little interest was defined to be of non political nature. There was, again, little the government could do to prevent the employers and the employed from collecting subscriptions for political organisation but it decided to confer privileges, '*designed to protect organisations of an essentially different type*'.

Generally, provisions against picketing as well as not spending trade union funds for political purposes met with little support. It was argued that last few years' experience had not revealed any necessity for imposing general restrictions on picketing. Trade unionists who were willing to confine picketing to '*systematic persuasion*'

resented further limitations on their powers, those who resorted to '*intimidation*' could be dealt with by ordinary criminal and civil laws. Under the existent laws, if the officers or members of the trade unionists who in<sup>n</sup> order to further a strike induced workmen to break their contracts with their employers could be sued in civil courts and were liable to criminal prosecutions. The bill provided '*immunity*' from the civil and criminal prosecutions only for the '*registered unions*'. Provisions were also made for the grant of a certain amount of protection of trade union funds against liability for tortuous acts committed by persons acting on their behalf (This was used by the Tatas to implicate one of the pro-labour leader Manek Homi who spearheaded the 1928 strike on charge of embezzlement of funds).

Mr. W.S.J. Wilson,<sup>20</sup> the Assocham representative praised the bill basing his argument on the fact that the bill was well-received by quite a few trade union organizations. So was the opinion of Purushottamdas Thakurdas.

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20. India, Legislative Debates, Series 2, Vol.5, of 1925.

The Millowners' Association,<sup>21</sup> Bombay and Ahmedabad, Indian Merchants Chamber and Bureau proposed to government of India that any organisation which did not register should be declared 'illegal'.

*Critique of the Act*

N.M. Joshi,<sup>22</sup> who opposed the bill argued that the labour organisations supported the bill without analysing the 'inbuilt chains' in the Act and that labour causes are not very well represented or supported by lawyers. The two principles, he said, which affected the 'freedom' of labour were (a) compulsory or voluntary nature of registration. Although registration was not compulsory, the bill was so framed that it was difficult for unions not to register. (b) not allowing the trade union fund to be spend for political purposes, the bill sought to hamper the growth of trade unions.

The government of India which was pressurized by capitalists, European and Indian, as well as by the local governments. What the bill implied was that if a few

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21. Ibid

22. Ibid



workmen started an association and did not register it would automatically become 'illegal' and call for 'repression'. Unlike the law of Samities',<sup>23</sup> the trade union act declared illegal a workers' organisation merely if it did not consent to registration. By the very nature of the bill proposed, trade union movement, primarily of an apolitical nature would be promoted by preventing trade unions from striking in sympathy with fellow workers<sup>24</sup> both within and without the factory as also to prevent spending funds to put up their representatives for assembly elections.

Even if one examined the kind of immunities granted by the bill, one could clearly see that it offered no protection against victimization by employers. Instead it only prevented strikes 'which may cause loss to any employers',<sup>25</sup> as any strike was bound to cause. In other words, it provided 'immunity' from Section 120-B of Indian Penal Code 3-4 under which strikers' action became liable to

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23. Under the law of samities, an association had to be declared seditious before it could be banned.

24. Clause 17 of the Bill

25. Clause 16 of the Bill

criminal conspiracy because any action which was in restraint of trade became 'illegal'. It implied that unregistered Unions would be subject to such 'oppressive' laws as nothing was done to repeal these acts.

Chaman Lall<sup>26</sup> opposed the bill arguing that it meant hampering the growth of trade union which ~~was~~ still in its infancy. The law should be so framed that it should leave the unions 'absolutely free to develop'. Therefore, as R.K. Shankekham Chetty<sup>27</sup> from south put it that labour should be allowed to spend on political activities and encouraged to further cause of labour through the propagation of Bill for maternity benefit and minimum hours of work. Finally the Bill was referred to the Select Committee.

The Select Committee inserted two important clauses<sup>28</sup> to the original bill which provided for a separate fund from optional contributions to be spent on promotion of civic and political interests of the members. It was based on

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26. India, Legislative Assembly Debates, Series 1, Vol. 5 of 1925, pp. 769.

27. Ibid

28. Clause 16, File No. 925(39), NAI, 1925, p. 25.

'contracting' in<sup>29</sup> system. Secondly, it proposed that not less than one third of the members, instead of majority should be the workers in the factory due to the low educational level of ordinary workers? The Committee differed on the question of immunity from criminal or civil liability. It recommended<sup>30</sup> that immunity be extended to all those who act in contemplation or furtherance of a trade dispute or join in an organisation for the defence of rights of employees in any industry. The bill virtually paralyzed<sup>y</sup> action in places where no registered unions exist. Dewan Chaman Lall<sup>31</sup> suggested that in the event of the dismissal of an appeal, the person aggrieved should have the right to appeal to the higher courts.

The Indian Trade Unions Act, 1926, defined a trade Union as 'any combination, whether temporary or permanent, formed primarily for the purposes of regulating the relations between workmen and employers or for imposing restrictive conditions on the conduct of any trade or business'.

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29. Where payment to political fund is optional

30. File No. 925(39), NAI, 1925, pp. 27.

31. Ibid., p. 43.

The term workmen was taken to mean both clerical and manual workers.<sup>32</sup> Any seven or more persons could apply for the registration of their organization as a trade union. The Act was based on legislation in Great Britain and even provided for registration of employees' organization under it. It provided for special fund as separate from general fund to be spent on political and civic purposes for the benefit of the workers. No less than 1/3 of the members were required to be workers of the industry. But the Act was limited to the registered union. The accounts of a registered union had to be audited and a statement forwarded annually to the registrar.

In 1928,<sup>33</sup> the Indian Trade Unions (Amendment) Act was passed to provide for first appeal against the decision of the registrar, which would be with the judge appointed for the area within which the head office of the union was situated. Any aggrieved person could appeal to a higher court against the refusal of the registrar to register the trade union or the withdrawal or cancellation of a certificate of registration.

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32. Mathur, *Trade Union Movement* (Allahabad, 1964) p. 300.

33. File No. L-1542(2), N.A.I. of 1929.

The Indian trade union Act meant to quell the labour unrest did not achieve much in its objectives. But trade unions had come to stay in India. The total number of unions in Bombay<sup>34</sup> alone were 94 with a total membership of 144,409 while the number of registered unions only 40. In Ahmedabad most of the Unions were unregistered. The Bengal report revealed that employers were reluctant to deal with unregistered unions. Information regarding the unregistered trade unions were hard to come by but it may be assumed that they were by no means negligible. Bombay continued to be the stronghold of the movement but in the last year Madras and Bengal also picked up. The movement was shunned by women workers as well as government employees who were not allowed to register or form unions. The income of the unions increased and the total income from 87 unions from whom figures were received amounted to Rs.4,32,638/6/10 i.e. average of Rs.4,973 per union. The average membership per union was 2,693.

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34. File No. L-1524 (17) NAI of 1932.

*Working of the Trade Union Act & Strike of 1928*

The annual report of Bihar and Orissa<sup>35</sup> revealed that only one trade union - Golmuri Tinplate Workers' Union of Jamshedpur which had applied for registration in 1929 was registered. Total number of registered Unions were three; two other unions having registered earlier - the East Indian Railway Union of Patna and the Labour Federation, Jamshedpur. With the years, and the introduction of the Act indicated that the Labour Organization, the government felt, made little progress in the province. The East Indian Railway Union and the labour federation were prosecuted in 1929 for the default in submitting the annual returns. There was a default again the following year by all three unions in the province. The Jamshedpur Labour Federation said that all its books and papers were seized by police in connection with criminal cases (we shall discuss them later in the chapter) and the Golmuri Tinplate Company broke open the Union Office and stole all important papers, including the registration papers. But whatever be it, the Jamshedpur Labour Federation played a major role in the 1928 strike.

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35. Annual Report of Bihar and Orissa, Registrar of Joint Stock Companies and Trade Unions, 1929.

The 1928 strike occurred when the company retrenched about 2000 workers<sup>36</sup> (Refer Table 3.2) on the recommendation of the Indian Tariff Board. The bonus scheme announced by the management was not acceptable to the workers as it excluded the clerks and employees of the TOWN department. Nani Mukherjee, a revolutionary who was sent to Andaman was employed in the Town Engineering Department. As an important functionary of Labour Association he advocated militant strategy.<sup>37</sup>

Table 3.2

*Employees at TISCO, 1907-08 to 1929-30*

S.NO.	Year	Number of Employees
1.	1907-1908	4000
2.	1908-1909	3864
3.	1909-1910	4235
4.	1910-1911	4430
5.	1911-1912	6300
6.	1912-1913	9000
7.	1913-1914	9507
8.	1916-1917	10225
9.	1917-1918	11715
10.	1920-1921	25221
11.	1921-1922	26179
12.	1922-1923	25923
13.	1923-1924	30135
14.	1928-1929	21866
15.	1929-1930	22853

36. Indian Tariff Board, 1926, Chapter III, Para 36-43.

37. Moni Ghosh, *Our Struggle*, pp. 14-15.

On 14 November 1927 workers of Duplex Plant struck work for few hours.<sup>38</sup> On 26 December the workers of the Hot Mills struck work which ended with the intervention of C.F. Andrews.<sup>39</sup> The Labour Association, the Deputy Commissioner, Mr. Lewis said was forstered by Trade Union Congress and the labourers on the executive were mainly leaders of the earlier strikes but had been promoted to responsible and well paid posts within the company.<sup>40</sup> It never appealed to the large number of uneducated workers or was ever concerned with the workers (The Tata Workers Union is similarly a Union bought off by the management with the same policies - it receives now about Rs.17 lakh per annum as contributions from the management. The money is largely to keep the mouths of the officials shut and keep their pockets full. Precisely for this reason the Tata Karamchari Union - a CITU backed leftist Union is not recognised and its members penalised). The workers called the Labour Association "*Company ka Dalal*".

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38. Reports on strikes in Bihar and Orissa, 1929. Immediate cause was the manhandling of a worker by an American overseer.
39. Weekly Reports on Labour Situation, 1928, IL, Labour 1929.
40. RCLE, Vol. IV, Part I, pp. 133.



The Labour Association was "losing face" among the workers. The electrical crane drivers had struck work mainly to protest against the reorganisation in the department and retrenchment. They did return to work, dissatisfied at the insistence of the Labour Association but turned to Maneck Homi,<sup>41</sup> a lawyer cum labour leader. Homi was denied a job in Tatas (we shall see later in the chapter how he paid dearly for antagonising the management).

On 15 March 1928, the coolies of new rail finishing mill struck work followed by coupling porters and jamadars of the traffic department and machine shop. As usual, Singaravelu Chetty and Mukund Lal Sharma of the communist party made violent speeches but did not make much headway among the workers in Jamshedpur. Meanwhile Andrews as President of Labour Association tried his best to reconcile but failed to impress the labourers. The big General Strike began on 18 April 1928. Initially, the labour association did not support it.<sup>42</sup> Till June 26, there was a complete deadlock as the company refused to deal with Homi and the

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41. J.L. Keenan, *A Steelman in India*. (New York, 1943) pp.14

42. The Statesman, 21 August 1928.

men disowned the labour association's leadership. Finally, it was under the leadership of Subhas Bose that the deadlock was broken on 13th of September when men returned to work.

*Aftermath of the Strike of 1928*

The strike resulted in a compromise over two major issues. The retrenchment policy continued but immediate reduction was stopped. Lock out or strike wages were not paid instead recoverable loans were granted. Loss of service was not adequately compensated. Bonus scheme was retained. The Labour Association which elected Bose as president and Moni Ghosh as secretary was recognised by management. Meanwhile, Manek Homi formed Labour Federation. The company was desperate to charge Homi who was looked upon as inciting the workers and disturbing the general peace of the industry. They instituted a civil suit against him and others claiming damages on the ground that Homi had procured a breach of contract by the workmen, and the company obtained an ad interim injunction restraining Mr Homi and others from pursuing a similar course of conduct in future.<sup>43</sup>

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43. RCLE, Vol IV, Part I, pp. 135.

In fact a letter of the director, Mr Sakhtvala asked the General Manager of TISCO to employ the best lawyers and move the administration to charge Homi on grounds of embezzlement. 'If all this requires money, spend it' before Homi moves to take action.<sup>44</sup> A number of charges were levelled against Mr Homi including thefts and misuse of funds etc. The office of the labour federation was ransacked for the papers and proofs on the misuse of funds. But none were found. These that were found were construed to be proof enough to charge him of criminal activities.

In an appeal at the court of Manbhum Sambalpur, Manek Homi who was charged of assaulting workers etc. said, 'the witnesses implicating me are all tutored and suborned. I am a victim of a conspiracy to ruin me and my reputation. I have nothing to do with the alleged incidents. Most cases are fabricated by Tata Company to break up and paralyse the federation. The witnesses have long standing enmity with me. Now they are all purchased by the company to give false evidence against me.'<sup>45</sup>

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44. A letter from Saklatvala to GM, dated 23.1.29.

45. Criminal Appeal No.13, 1931. Case of Maneck Homi vs. the Emperor, Court of Manbhum Sambalpur.

Homi alleged that certain workers remained loyal to the Company, (Phiroze Kutar, Assistant Superintendent of Rolling Mills who was later promoted to General Manager) and helped it during the 1928 strike. Naturally, Homi came into conflict with them. In fact some of the meeting of the Labour Federation were disrupted by stone throwing. Homi obviously suspected the loyalists of the company. Homi wrote a letter to the General Manager<sup>46</sup> of the Company regarding the misbehaviour and persecution of the workers. On 17 February 1930, the General Secretary of the Federation was<sup>a</sup> injured severely by deadly weapons.

Besides, the company was attempting to make labour federation 'unpopular'. On 16 January 1930, Homi wrote another<sup>47</sup> letter to the General Manager alleging that the supervisors of the company were coercing the workers to resign from Labour Federation. In fact, on October 1929, Phiroze Kutar, Assistant Superintendant of the Rolling Mills dismissed. L. Francis, a member of the federation.

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46. President of Jamshedpur Labour Federation, Mr. Manek Homi's letter to the General Manager dated 6.2.30.

47. Homi's letter to the General Manager, dated 16.1.30.

This was all the handwork of the loyalists and the company officers.

Phiroze Kutar was used by the company to accuse Homi<sup>48</sup> on charges of criminal breach of contract and trust in respect of Rs.5938-10-0 besides some jewellery worth Rs.1000 which he received as President of the federation and for falsification of account from 1928 to 1930. The charges were unfounded as the federation registered only on 28.1.29 and as such was not obligated to submit accounts to the registrar. Also the company officials were not entitled to question the expenditure of the Union.

About 32 official workers of the federation who were bought off by the company were examined. On the basis of this, the district magistrate held that Homi dishonestly 'misappropriated' funds of the federation and declared Homi guilty under section 408 IPC, 407 IPC and sentenced him to three years of rigorous imprisonment with a fine of Rs.1000/-.

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48. Suit No.2 in the court of subordinate sub-judge of Singhbhum Chaibasa.

Interestingly, of the 8000 members of the federation, some 6952<sup>49</sup> members of the federation applied vide suit No.2 of 1930 repudiating the authority of the defendants to represent the federation as they claimed the defendants conducted the suit at the behest of the company as the bread was better buttered on the company's side. Homi obviously was the eyesore of the company authorities who did not appreciate the growth of the federation. At first reluctant to recognize the federation but when forced to recognize, the company were always on the look out to 'ruin the office bearers of the federation so that they could have no say in the administration of the company.

It is clear from the experience of the TISCO workers within a few years after the Trade Union Act of 1926 that it sought to (a) restrict employment protection; (b) restrict immunities; and (c) debilitate unions.

First employment for workers generally was restricted. The employers' obligation to consult Unions about redundancies

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49. Suit No.7, dated 17.8.36.

remained weak and undefined as also the right of the unions to strike; it took away from the workers their right to register complaints to industrial tribunals about unfair dismissals. There was little sign that employers generally or small employers in particular had been inhibited from recruiting labour or even decreasing their work force by these legislations.

Secondly, the Trade Union Act restricted immunities. It excluded the liability for strike or interference with its performance in trade disputes and rendered much of industrial action unlawful. Therefore the employers' customary policies of exploitation were natural bedfellows of the new policies of the government. The definition of dispute was crucial to distinguish between what was industrial and what was political. Our investigation of Tatas has shown that any hindrance in the production process was considered 'political'. The major area affected was the right to picketing, however peaceful, was not protected by law and was made liable to legal action.

On the whole, the powers of the employers to dismiss strikers were significantly extended. One thread ran through the legal developments: to limit the collective strength of workers.

## Chapter - IV

## Legislation on Payment of Wages

It cannot be denied that trade unions in the 1920s, although in their infancy were aware of a persistent anxiety almost an obsession with '*inflation*'. While the Report of the Royal Commission on Labour in 1930 made its genuflection to that concern, it saw its task as '*improving*' the system of industrial relations. The government however did not give wage/income policy priority over social objectives inherent in the idea of '*improved*' collective bargaining.

The Government of India had a Price and Income policy and an Industrial Relation Policy - the two were related at times, but they never coalesced. Why was legislation towards payment of wages needed in 1936? It was needed in the context of the depression of the 1930's, the rise in cost of living, and rise in unemployment.

Even as the Act was introduced in the Legislative Assembly,<sup>1</sup> it reflected a mercantile/industrial capital view point rather than one supportive of the workers. N.M.Joshi

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1. Legislative Assembly Debates, Official Report Shimla, Feb. 1933 pp 608.



was the only member who argued the labour cause but all in vain. As a consequence of this labour legislation - most-ly of the combination of the workmen to raise their wages was accepted as legitimate in principle but the typical means, such as strikes, pickets etc. through which such a combination could be made effective remained illegitimate. Further, political pressure by the employers and the industrial bourgeoisie was brought to bear on the Legislative Assembly which prevented any Act in favour of the workers. The Tariff Protection for example, the absorbing concern in the 1920s and 1930s of Tata's interests, required workingmen's support and any resentment among even the small group of labourers would have jeopardized the prospect of securing the desired legislation. Yet the Tatas risked it and impressed upon the need of the Tariff Board the need for retrenchment. The result was the strike of 1928.

The Payment of Wages Bill of 1936<sup>2</sup> was an extension and modification of the Contract Act of 1886 whereby the

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2. Payment of Wages Bill,  
GOI, (Delhi, 1936)

employee had agreed to work for a period of time - often a year- for wages that he would receive at the end of this term. If he left his employment before the end of the term, the law reasoned, the employee would receive nothing for the labour he had already expended. Since a breach, of any part was therefore a breach of the whole; There was no basis for allowing the employee to recover '*on the contract*'. In most cases, in India, the workers were too poor to bargain for wages on their own terms.

DEBATES ON THE BILL, 1934

Frank Noyce,<sup>3</sup> a member of Industries and Labour, introduced the Payment of Wages Bill on the first of February, 1933 and recommended that the Bill be circulated for public opinion. Why in 1933 was such a bill introduced? Probably as a result of the recommendation by the Royal Commission on Labour. It also had a long history behind it. The Government of India's attention was first drawn to the question of '*regulating imposition of fines on workmen*', as early as 1925, as a '*disciplinary measure*'. The local

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3. Ibid.

governments were consulted and data were collected on the subject. At the same time the question of payment of wages was raised by a private bill in the house primarily, to enforce the system of weekly payments in industry. The material collected through the local governments was presented to the members and the public. But that was all.

Then in 1930, the Whitley Commission<sup>5</sup> on Labour contemplated legislation regarding payment of wages in three directions namely to regulate the deduction from wages, to secure prompt payment of wages and reduce, in certain class of factories, the period by which wages were paid. The bill dealt with the first two of these purposes.<sup>6</sup>

The members agreed that a worker's wage should be paid with reasonable promptness and without unreasonable deductions. Although the Commission on Labour had recommended legislation, the Assembly felt it was important to secure the opinion of the employers and employees. This Bill was not to relieve the workers and ensure fair payment of wages but to reduce combinations which was more often than not

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4. Report of Royal Commission on Labour, London, 1930. pp. 264.
  5. Legislative Assembly debates, Official Report, Shimla, 1933, pp.611.
  6. Ibid. pp. 612.

owing to the delay in payment of wages or for enhanced payment of wages.<sup>7</sup> Till 1936, workers had no effective means to redress against a deduction unfairly imposed by an employer. Nor short of a strike had he any effective means, of enforcing the payment of wages.

Therefore the Bill had two main purpose - to secure the worker against unfair deduction of the wages and prompt payment of the wages. The Bill did not provide criminal prosecution for non-payment of wages.<sup>8</sup>

Although, it said:

" the worker was to be given in a non criminal but simple proceeding, redress and compensation for the infringement of the law and a prosecution would only be resorted to after that proceeding had concluded and sanction for it was expressly granted."

The object was, as Frank Noyce<sup>9</sup> said, *'to prevent unnecessary harassment of employers'* for while the provisions of the bill were greatly

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7. Frank Noyce in his argument said it will reduce strikes.

8. L.A.D., Official Report: Shimla 1933, Vol.I, pp.617.

9. Ibid.

needed in specific cases the practices against which it was aimed were far from general. Thus, the initial operation of the Bill was restricted.

Mr. N.M.Joshi wanted that the Bill should include the provision of payment of minimum wages as recommended by the Royal Commission on Labour.<sup>11</sup> Secondly, payments should not be allowed to be made on rest days and holidays as in coal mine area where wages were paid on holidays and most workers lost their holidays as they had to come to their mines from villages.

Besides, the Royal Commission<sup>12</sup> had recommended prompt payment of wages and extent on the Bill to mines, railway and plantations. N.M.Joshi requested the assembly to extend the bill to tramway, docks, and other organised industries. Section 3 stated that delay of not more than 7 days be allowed before the wages

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10. N.M.Joshi, in L.A.D. , Off. Report, Shimla, 1933, Vol. I., pp. 612.
  11. Report of the Royal Commission on Labour, 1931, pp.121. 'The matter, it said' 'is one that might be left to the initiative of the management but if, after a reasonable time, payment on a rest day has not been discontinued, Government should take steps to prohibit the practice.
  12. Ibid. pp.24.

were paid after they were due, Joshi stressed that the period should be even shorter or in fact be '*paid promptly*'.

He argued that when reforms in labour legislation were demanded for Indian workers:

" we are told that Indian workers were quite different from the workers in other parts of the world and a differential treatment was justified on account of the ignorance of the Indian workers. When the payment is delayed because of inefficiency of employers, 'The employers' representatives in the house would obviously not admit that they are less efficient than the employers in other parts of the world."

The Royal Commission on Labour<sup>13</sup> had recommended that the employers should not be made to deduct fines for losses to employers or certain advances made to the employee either by way of travelling expenses or for meeting their other expenses. These advances should not be allowed to be recovered by more than one instalment. N.M.Joshi vehemently argued against any fines.

Both Cowasji Jehangir and Mohammed Yakub

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13. Ibid, pp.236.

supported fines by saying that such fines were "*for breach of discipline*". To this, Joshi said he did not understand why only workmen should alone be disciplined. He quoted the Truck Committee Report<sup>14</sup> to substantiate his argument that fines caused irritation and discontent. The only way of maintaining discipline was by the employers setting a better example on their workmen.

Moreover, it was difficult to ascertain whether the production was spoilt by labourers, machinery or material. Employers should be made to take the losses which were inherent or incidental to the business. Thirdly, Joshi opposed deduction of wages on account of housing, tools, raw materials supplied by employers on grounds that it was the duty of the employer to supply raw materials and tools. As for the houses, if the employers built houses and the employees voluntarily took them, only then they should be allowed to deduct from their wages.

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14. Report of the Truck Committee said in 1908 that 'disciplinary fines fail in their purpose. We believe them to be not merely negative in good but active in harm in as much as they maintain and even create the very situation, they are designed to destroy. They do the work of supervisor e.g. a good teacher can manage without punishments whereas a bad teacher may be vindictive and yet never secure order. In England supervisory system replaced fine system.

Joshi<sup>15</sup> argued that the Bill which was based on the English Truck Act omitted the provision of the fine being fair and reasonable. The Bill laid down the maximum amount to be deducted from the wages of the workmen by way of fine, but even the maximum so fixed was higher i.e. 1/2 anna in the Rupees of a workman's wages which was more than 3% of his wages. The employers in Bombay, when they made their standard bye-laws, proposed that the fines in a month should not exceed more than 2% and the Government of India for no apparent reason fixed the amount at more than 3% of wages. This, the Government of India's appointed official in the Assembly Mr A.G.Clow, said was recommended by the Royal Commission on Labour.

The Bill also proposed that the fines be deducted in two instalments which went against the workmen as it would tempt the employers to impose higher fines. Besides, the English Act provided that the particulars of his acts or of his omissions, and the fines charged should be

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15. Ibid ,pp.614.



supplied to the workmen. The Bill in India made no such provisions.

The English Act also provided for the notices as regards the agreement between the employers and the employees outlining the terms by which employers imposed fines for losses should be exhibited. The Bill did not have any such provisions. Besides, the employer, as in the English Act, was obligated or authorized to send a copy of the particulars of agreement to the Inspector of Factories. The Bill protected the employer from possible prosecution and even if the employer had to be prosecuted, consent of the Inspector of Factories had to be 'sought'.<sup>16</sup>

Mr Clow<sup>17</sup>, then pointed out the

"apparent measures taken to implement the recommendations of the Royal Commission on Labour. Firstly, there are no evidence that the Bill needed to be applied to mines, plantations. Secondly, the Truck Committee had decided against the abolition of fines. Since it is difficult to point out whose fault it is in losses, the bill is quite clear and specific on

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16. The English Act did not make sanction of the Inspector necessary for prosecution.

17. Ibid., pp.615.

the point and proposed that the employer should only be entitled to deduct if the loss was due to the neglect or default of the employed person."

Mr Jadhav<sup>18</sup> of the Bombay Central Division said in support of Joshi's argument that the workers sometimes had to wait for two months before he was paid his wages and also a month's wage was kept as a deposit almost till the time he left and many a times that amount was forfeited by the employer. The poor workmen was often fined for defective work which perhaps may be due to causes over which he had no control.

The Bill was then voted for circulation for public opinion and it was not picked up till 1934<sup>19</sup> when N.M. Joshi demanded a policy to prevent unemployment by undertaking the Fawcett Enquiry Committee recommended steps to protect unemployment as a means to prevent labour dispute.

As regards the wages, it was argued that since prices had gone down the wages of the workers should be

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18. Ibid, pp.617.

19. Legislative Assembly Debates, Official Report, Shimla, 29.1.34., Vol.I, No 4, pp.302.

reduced as it would not mean decline in real wages. All this was true in certain cases but the wages were so slow that the workers could not afford even the barest of the minimum. Mody had once said,:

"What right had the consumers to expect the things below the cost of production"

Similarly, Joshi<sup>20</sup> argued, what right had the employers to get labour that were below reasonable standard of life. Prices may have gone down and real wages gone up but the total wage bill for industry had not increased and in fact they were reduced<sup>21</sup> and the responsibilities of the employees have increased as they had to somehow shoulder the onus of unemployment.

N.M.Joshi repeatedly suggested to the Government of India to lay down the minimum wages in all industries. Most of the industries in which wage reduction was affected were protected by Government and hence the Government was expected to protect the workers and change the Indian Companies Act limiting the dividends

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20. Ibid. pp.307.

21. Due to the general reduction in workers employed under the Rationalisation Scheme.

that were paid to the shareholders and compel companies that ran factories and industries to establish a 'wage equalisation fund'.<sup>22</sup>

Sir Shanmukhan<sup>23</sup> Chetty, the President of the Assembly moved the resolution that:

"Assembly recommends to the Governor General in Council to take immediate steps to protect the workers in the country against the increasing unemployment and reduction of wages."<sup>24</sup>

#### THE NEW BILL , 1935

In 1935,<sup>25</sup> the payment of wages Bill was again taken up after the public opinion on it was collected. Criticism were inevitably voluminous and cogent. The Bill was redrafted considerably and was reintroduced in February, 1935. The Bill applied to all factories including railway factories. Local governments were

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22. Ibid. 314.

23. Report of the Royal Commission on Labour, London 1931.

24. L.A.D. 1934, pp. 320.

25. Ibid.

given power to extend provisions of the Bill or such as they chose to select; with such modifications and relaxations as they thought expedient, to certain other industrial undertakings namely mines, quarries, plantations and workshops.

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The Second provision of the Bill regarding prompt payment of wages was also attacked by Joshi<sup>26</sup> and others and discussed by the Select Committee. The Bill now was made applicable to the railways and such power of relaxation as was permitted was given only to the Governor General in councils. No general power was given to Local Government to relax in regard to other industries covered by the bill. But factories and undertakings employing more than a thousand hands were allowed to take 10 days in making up their pay sheets and paying their employees.<sup>27</sup>

Changes were made with regard to the deductions and fines also. Wages were now re-defined to include all bonuses and other contingent payments contemplated

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26. Ibid, pp. 32.

27. L.A.D. Official Report, Vol. V. No. 10, 13.9.35 pp. 1001.

in the terms of the contract. No deduction were allowed for travelling expenses incurred at the beginning of the workmen's employment. Wages were to be paid in cash and no deductions allowed on account of payment in kind.

Under the bill as amended, the employer's list of penal acts had to be approved by the Local Government and no fine could be imposed now without a show cause notice to the workmen and the limit of the fine was now reduced. All fines were to be credited to a fund which was to be administered on behalf of the employees. This was meant to reduce the practice of imposing fines to negligible limits. But we shall see how this was not achieved.

The Select Committee introduced several important changes to tighten the administration of Bill. Under the amended Bill, a Commissioner for Workmen's Compensation or some person with judicial experience was appointed to examine cases. And the appeals by workmen were to be made to the District Court or in Presidency towns, to the small case court. The abstracts of the Act and of the rules thereunder were to be pasted in the factories.

The Bill apparently did away with traditional relationship between employers and employees but the mai-baap relationship or the one of the master-servant still existed in Tata Steel where the workers paid homage to J.N.Tata at the works gate before they went in to work at 6 a.m.

The Bill was basically to ensure the benefit of prompt and full payment. The Bill forced many employers to readjust their methods and caused them great inconvenience.

The payment of wages Bill was passed in 1936 and made into an act, not because the Colonial Government was interested in the Labour Welfare but to project an image of its concern for the labouring class as Mitchell put it , *'no other country in the world has put so much labour legislations on the statute book'*. The act was brought into force with effect from 28th March 1937.<sup>28</sup>.

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28. Gazettee of India, 1937, pt. I, p.326.

## PROVISIONS OF THE ACT OF 1936

The payment of Wages Act was extended to British India including Baluchistan and the Sonthal Parganas. It applied to all factories including tramway, motor service, dock, wharf inland steam vessel, mines, quarries, oil fields and plantations, and upon any railway employee either directly or through a sub-contractor. The local government after giving a three months notice could extend the Act to any class of persons employed in any industrial establishments.

The wages meant all recommendations expressed in the terms of contract as much as conditional payment upon regular attendance, good work or conduct or other behaviour of employees. It also included bonus or other additional remuneration and the value of any house accommodation, supply of light, water supply, medical attendance or other amenities as also any contribution paid by the employer to any pension fund or provident fund. It excluded any travelling allowance or the value of travelling concession; any gratuity payable on discharge and any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment.



The responsibility for the payment of all wages rested with the employer or the manager of the factory, or the supervisor or the railway administrator in charge of the local area concerned.

The wage period had to be fixed and could not exceed a month. For the railway factories and industrial establishments employing less than one thousand people, the wages were to be paid within 7 days. For the others the time period was fixed at 10 days. If the employment of any person was terminated by or on behalf of the employer, the wages were to be settled within 2 days.

The Provincial Government could at their discretion exempt the employer from the provisions. All payments were to be made on a working day and in currency notes and coins. Deductions from the wages had to be made only in accordance with the provisions of the Act and were namely (a) fines (b) deductions for absence from duty (c) deduction for damage to or loss of good (d) deduction for house accommodation supplied by the employer (e) deduction for such amenities and services supplied by the employer as the provincial

government authorised (f) deduction for recovery of advances or for adjustment of over payment of wages (g) deduction of income tax payable by the employed person (h) deduction required to be made by order of a court or other authority competent to make such order. (i) deduction for subscription to, and for repayment of advances from any provident fund (j) deduction for payments to cooperative societies approved by the provincial government or to a scheme of insurance maintained by the Indian Post Office (k) deduction made with the written authorisation of the employed person, in furtherance of any war saving schemes, approved by the Provincial Government, for the purchase of securities of the Government of India.

No fines were to be imposed on any employed person save for mistake on his part. But this was subject to the approval of the Provincial Government. A notice specifying such mistakes was to be exhibited on the premises of the factory. The concerned employee had to be provided an opportunity of showing cause against the fine. The total amount of fine which had to be imposed in any one wage period was not to exceed 1/2 anna in the rupee

of the wages. Children below 15 years were exempted from such fines. No fines was to be recovered by instalments or after two month from imposition. All fines and realisation thereof were to be accorded in a register to be kept by a person responsible for the payment of wages.

An Inspector of Factories was appointed by the Provincial Government for factories and industrial establishments. An inspector was empowered to enter any premises and examine any register or document relating calculate to payment of wages and take evidence of any person and exercise such other powers of inspection as he may deem necessary.

The Provincial Government could, by notification in the official gazettee appoint any Commissioner for Workmen's Compensation or other officer with experience as a judge of a Civil Court or as a Stipendary Magistrate to decide upon claims arising out of deductions from wages, or delay in the payment of wages , or delay in the payment of wages of people employed or paid in that area.

Contrary to the provision of this Act, wages were deducted or payment of wages delayed, an application could be made for redressal within six months from deduction. He could at his discretion after careful inquiry direct the employer to refund the amount deducted together with the payment of such compensation as the authority thought if fit, not exceeding ten times the amount deducted in the former case. No direction for the payment of compensation was made in the case of delayed wages if the authority was satisfied that the delay was due to (a) bona fide error or bonafide dispute as to the amount payable to the employed person (b) the occurrence of an emergency or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, to make prompt payment (c) failure of the employed person to apply for or accept payment.

If the authority hearing any application under the section was satisfied that it was not bonafide complaint, the authority may direct that a penalty not exceeding Rs. 50 be paid to the employer by the applicant.

This was the most important clause as in most cases it was easy to prove 'bonafide' errors on the part

of the person responsible for payment. Besides, in India, labouring class was too illiterate and ignorant to realise that his pay had been cut or he was not paid on time. Even if he did realize , he was too petrified by the authorities to complain. The registers that the employers were required to maintain and the Inspector to check were either never there or were inaccurate. The Chief Inspector of Factories<sup>29</sup> admitted to the Royal Commission on Labour, 'the records given in such registers do not represent true condition of labour'. The Labour Office of Bihar was impregnated by such malaise. The Wages Act was well protected in favour of the employers and largely seen as 'needlessly harassing the mill managers' and therefore when the claims were found not bonafide<sup>30</sup> the claimant was made to pay a fine as high as the Rs. 200 to Rs. 500 which in most cases were too high and enslaved the employee for life. The houses and the water supplied to the workers in Tata Steel were on preferential basis - depending on personal 'good terms'

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29. RCLI, Vol. IV. Pt. I.pp.117.

30. Payment of Wages Act, GOI, 1937.

with the contractors or the supervisors.<sup>31</sup> An official of the Government of Bihar said<sup>32</sup> 'The wage position in industries are inchoate. The mill groups under different managing agents have different wage structure. Even if under the same managing agents, there are differences which seems incredible'.

#### THE TISCO AND THE WAGE ACT

The bargaining power of the workers at TISCO had deteriorated significantly during the 1930s owing to the depression. Wage cuts were enforced in practically all major centres but real wages did not decline as the cost of living also went down substantially in most centres. Given the excess supply of Labour concerted action by trade unions were very difficult. Further, the Trade Disputes Act of 1929 made it punishable offence to strike without sufficient reason and with an intention to cause harm to the public. With the industrial recovery in 1937 and the introduction of Congress ministries in 8 provinces of India, strikes broke out

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31. This phenomenon is still found there.

32. R.C.L.I. Vol. IV. Pt. I., pp.96.

ANNUAL WAGE PER HEAD (Rs.) AND NUMBER OF UNCOVENANTED EMPLOYEES IN TISCO, 1912-13 TO 1922-23

Year	Cokeovens		Blast Furnace		Open Hearth		Blooming Mill		28 inch Mill		Bar Mill		All Depts	
	No.	Wages	No.	Wages	No.	Wages	No.	Wages	No.	Wages	No.	Wages	No.	Wages
1912-13	657	185.92	846	376.93	900	182.49	217	391.45	730	179.25	567	74.20	3917	220.36
1913-14	628	207.25	810	839.48	860	242.27	198	414.98	648	185.23	541	106.29	3685	236.95
1914-15	656	167.79	743	272.82	750	246.71	182	503.93	641	327.39	500	167.80	3472	254.40
1915-16	713	167.90	915	206.54	980	236.35	224	483.55	791	370.07	620	288.57	4243	264.03
1916-17	950	200.79	838	207.06	1010	250.10	235	518.86	905	385.48	750	289.32	4688	278.29
1917-18	1120	198.66	1040	198.33	1490	258.54	260	522.95	1090	395.91	980	286.86	5980	278.03
1918-19	1450	234.03	1550	175.09	1850	300.15	306	408.44	1264	377.20	1150	316.18	7570	281.59
1919-20	1910	235.95	1993	162.64	2070	205.31	325	393.99	1315	378.35	1170	287.90	8783	246.18
1920-21	2450	243.64	2293	232.84	2305	242.41	310	565.99	1440	428.34	1165	362.27	9963	291.47
1921-22	2353	255.47	2306	272.12	2360	239.82	332	595.98	1543	401.68	1030	356.99	9924	300.28
1922-23	2725	238.66	2339	246.25	2265	208.88	360	532.15	1590	343.19	1050	340.02	10329	270.47

SOURCE : ITB : Evidence (Report on Steel), Vol.I [Calcutta, 1924], pp.109-11.

NOTE : Figures for some Departments in 1918-19 were reported as being related to a period of nine months only. But internal evidence suggested that the figures for all Departments related to a nine month period.

all over India demanding that the cuts in wages made in the preceding years should be restored and that retrenchment should be stopped.

Table 4.1 shows the wage rate of unconvenanted employees that is Indian employees, in the Tata Iron and Steel Works over the period of 1912-23.

During the period there was some substitution of European and American staff by Indian staff who were generally paid higher-than average wages. Yet we find that wages per head did not rise steadily and some compensation for increases in cost of living was made only after the costly strikes in 1920 and 1922.<sup>33</sup> The 1928 strike was primarily due to an attempt by the company to retrench the labourers on the recommendation of the Indian Tariff Board. The inquiry by the Royal Commission on Labour<sup>34</sup> found that while 'skilled' labourers at Jamshedpur earned a little more than elsewhere the unskilled labourers earned very little more. Since cost

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33. Radhakamal Mukherjee, *Indian Working Class*, (Bombay, 1945), pp.122-27.

34. RCLI : *Evidence* Vol. IV. Part I (London, 1931), pp.122.



of living in Jamshedpur was higher than in any other towns and villages of Bihar, the real wages of unskilled labour were lower than other centres. Between 1922-28, the wages of the skilled and unskilled labour in TISCO works remained almost stationary with, the wages of skilled workers increasing very slowly. In fact, in the same town, the wages of Tinsplate workers were higher than wages of TISCO workers. The wages of skilled workers were higher in Jamshedpur than their counterparts in other factories in Bihar such as the sugar works of Marwaha or the engineering works of Arthur Butler and Company, Muzaffarpur. But the wages of unskilled workers were about the same at Jamshedpur as elsewhere in Bihar.

The cost of labour per head per annum at TISCO for 1927-33 is shown in Table 4.2 below.

Table 4.2: Cost of Labour Per head Per Annum

	<u>1927-28</u>	<u>1929-30</u>	<u>1930-31</u>	<u>1931-32</u>	<u>1932-33</u>
Convenanted	25,271	25,924	26,389	25,597	24,328
Monthly paid	619	782	794	836	834
Weekly paid	158	189	179	184	174

Source: ITB STATUTORY ENQUIRY 1933, STEEL Vol.I(DELHI) pp.76.

The disparity in the wages of different groups of employees and the divergence in movement of wages of monthly paid and weekly paid employees were too wide. Besides, there was no significant increase in wages per labour until 1920-21.<sup>35</sup>

But there was a substantial increase in the wage plus bonus of covenanted labour in most departments from 1916-17 onwards; the impact of this was to some extent moderated by the replacement of covenanted labour by Indian skilled personnel, who were paid much less than the Europeans and Americans.<sup>36</sup> Table 4.3 shows a comparison of 1915-16 and 1921-22 in replacing the covenanted hands by Indians on various departments:

Table 4.3: Number of Hands Replaced

<u>Departments</u>	<u>1915-16</u>	<u>1921-22</u>
Coke Ovens	3	10
Open Hearth	32	51
Blast Furnaces	10	8
Rolling Mills	30	43

Source: ITB: Statutory Enquiry (Steel) 1933, Vol.I pp.83.

35. ITB : *Evidence* (Report on Steel), Vol.I (Calcutta, 1924), pp.109-11.

36. R.D. Tata informed the Tariff Board in his oral evidence that trained Indians when obtained at all, would not be paid more than two-thirds of the pay of a European.

In fact by 1931 the Coke oven was completely run by the Indians. Even with such replacement, however, the increase in the wages of the covenanted staff was so great, that in the crucial Blast Furnace Department the cost of covenanted labour per ton of product increased a little between 1915-16 and 1922-23. This cost increased substantially (by about 30%) in the Open Hearth Department between 1915-16 and 1920-21.<sup>37</sup> But the major part of the increase was at first made up of an increase in the labour, fuel and raw material requirements of the plant which were intensively worked and therefore needed frequent overhauling and careful maintenance. Then from 1919-20 onwards, the cost of coal began to increase substantially,<sup>38</sup> from 1920-21 the wages of Indian labour also began to go up (there were strikes by workers because of the substantially higher cost of living before wage increases were granted).<sup>39</sup> This is true only to some extent as to effect the cost of living, TISCO provided employment to more members of the same family.<sup>40</sup> This was to meet the shortage of labour as the years 1914-25 were a period when Great Extension of TISCO was completed.

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37. ITB - Evidence (Report on Steel), Vol.I (Calcutta, 1924) pp.109-11.

38. Ibid pp.31.

39. Ibid, Vol.I, P.109-11 and 149.

40. File No.689, GM's office, TISCO, Jamshedpur, 1924.

Table 4.4 shows the decrease of covenanted staff over the years but the uncovenanted hands increased during 1924-25 and after that there was a constant decrease. The decrease in covenant staff did not make much differences to the total wages of the company as their wages and bonus increased substantially. Mr. Padshah, the agent of TISCO<sup>41</sup> wrote to Mr. Tutwiller, the General Manager in 1921,

'the 500 whites are indispensable as the 50,000 Indians would not benefit the company so much, as giving bonus to Europeans of imported workmen and local workers being necessarily different, the condition of remuneration have to be different also.'

TISCO built special bungalows and took special care for their entertainment.

TABLE - 4.4

Table showing decrease of covenanted staff and uncovenanted staff

Years	Covenanted	Uncovenanted
1923-24	172	8500
1924-25	164	9838
1925-26	117	9620
1926-27	105	9029
1927-28	100	8509

41. Letter from Mr. Padshah to Tutwiller, Sept. 1921, GMO, Jamshedpur, 1921.

The average salary of the covenanted employees remained more or less the same, with a slight fall after 1930-31. But the Indians replacing them were employed at salaries which were only 50% to 70% of the salaries of covenanted employees. The gross saving in cost per unit of saleable steel through the decrease in the number of covenanted employees was Rs.4 between 1927-28 and 1932-33. Along with this, the number of employees in all departments went down from 26,290 in 1925-26 to 18,113 in 1933. The number in the productive departments contracted much faster than in the service department. See Table 4.5.

TABLE - 4.5

*Average Attendance of Workers*

<i>Year</i>	<i>Workers No. in Production</i>	<i>No. in Services</i>	<i>Total</i>
1926-26	16,393	9,897	26,290
1926-27	14,068	10,988	25,056
1927-28	13,622	10,386	24,208
1928-29	11,116	10,750	21,866
1929-30	12,307	10,546	22,853
1930-31	11,925	9,810	21,735
1931-32	11,135	8,407	19,546
1932-33	9,777	8,336	18,113

SOURCE: ITB: Statutory Enquiry Report 1933 : STEEL, Vol. I (Delhi 1934), pp.76.

The average wages (per annum) of non-covenanted employees rose from Rs.497 in 1927-28 to Rs.688 in 1932-33, but this rise also reflected the salaries of Indian supervisory personnel who were increasingly replacing the covenanted staff. The net decrease in the labour cost per ton of saleable steel (after deducting the gross decrease on account of replacement of covenanted employees by Indians) over a period from 1927-28 to 1932-33 was Rs.3. This reflected a genuine economy.<sup>42</sup>

The economies in labour as in other departments were effected partly through a conscious policy : there was a Retrenchment Committee and a monthly Cost Committee of all departmental heads presided over by the General Manager. But this economy in labour did not mean an improved standard of living of workers. To judge the latter, the condition of housing, the degree of indebtedness of workers, the legal and illegal deductions from pay by employees for jobbers and money-lenders and condition of public health have all to be taken into account.<sup>43</sup> It is important here to mention also

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42. ITB: Statutory Enquiry 1933 : Steel, Vol.I (Delhi 1934), pp.41-2, 56, 75-76 and 94.
43. Buchanan, *Development of Capitalistic Enterprise*, Chapters XV and XVII.

the mode of recruitment of workers, nature of contract between worker and TISCO in terms of permanent, temporary and contract labour etc.

The method of recruiting labour differed according to the category of labour required i.e. unskilled, semi-skilled or contract labour. For the unskilled workers, a central employment bureau was set up. Government reports revealed that large sums were exacted by Head Mistries and even the foreman on first appointment. This money was usually borrowed from Kabulis of whom there were 40 or more at Jamshedpur at 4 annas a month interest i.e. 300 per cent per annum. In 1920-21 half of the working population of Jamshedpur was directly employed by TISCO. Census reports said that after the 1920 strike, wages were sufficient to attract labour without a special system of recruitment offering advances to contractors to get labour. But whenever any difficulty was faced in getting unskilled labour, a 'gomastha' was sent out armed with advances to look for them.<sup>44</sup> The 'Thekadars' were mostly Bengalis who recruited tribal peasants from neighbouring villages particularly at times of distress like

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44. DOIL, 1921, File No.924.

flood or drought.<sup>45</sup> The contract labour worked with the sense that they were paid less wages and also had to pay a share of their wages to the contractor. TISCO in a reply to the questionnaire of Bihar Labour Enquiry in 1939 stated that in the case of contractors' labour a provision has been introduced in their contract compelling them to pay not less than 8 annas per man per day and 6 annas per woman a day while they paid 8-3/4 annas per man and 7 annas per woman for its direct labour.<sup>46</sup> The contractors therefore took 3/4 annas per male labourer and 1 anna per female labour and the 1936 Act of payment of wages did not make a dent into their system.

Some foremen exploited the situation and even dismissed workers to recruit new men for 'monetary consideration'.<sup>47</sup> These foremen were also responsible for recommending promotions of subordinates.

The skilled labourer at the post carrying higher wages than the 2-8-0 a day had to be recommended by the General

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45. S.K. Sen : *House of Tatas - Capital - Labour Problem*.  
 46. Bihar Labour Enquiry Report, 1939 (Patna) Vol.I,p.213.  
 47. Moni Ghosh, *Our Strugggle*, Calcutta (1970), pp.1.



Manager. The semi-skilled posts were filled by unskilled promoted from labour ranks.<sup>48</sup>

#### NON-WAGE BENEFITS IN TISCO

The TISCO also had some Labour welfare schemes which affected its wage structure. It built some 5290 quarters and 275 bungalows by 1927 for its uncovenanted and covenanted staff - far from enough, as it housed more than 3 times the number of workers. The unskilled workers were allowed to built hutments accommodating 8 people in a room. Some advances were given upto a maximum of two third of the value of the house but only applicable to workers drawing more than 8 annas a day.<sup>49</sup> The charges on those occupying quarters was realised on an approximate return of 4 percent to 5 percent on capital expenditure without providing for maintenance and repair.<sup>50</sup>

This apart, the sanitation condition was far from respectable. There was only one water tap to cater to the needs of several hutments in the busties.<sup>51</sup>

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48. R.C.L.I., Vol.IV, Pt.I, London, 1931, pp.117.

49. TISCO Report to International Textile Workers Delegation 1927, DOIL, File No.1302, NAI.

50. Moni Ghosh, op. cit., p.186.

51. Memorandum of Labour Federation, Feb.1928, R.C.L.I. op. cit., p.109.

TISCO did provide a semblance of medical facilities, free of charge to its workers. There was Tata Main Hospital with 72 beds, 12 for women and had four branches in the town. But the relatives of the workers had to pay Rs.1/- for the services of the Assistant Medical Officer and Rs.2/- for Senior doctors. Workers demanded in 1922 free medical aid for their families. There was no lady doctor and the nurses employed were also inexperienced.<sup>52</sup> The families of covenanted officials were taken care of and provided free medical care and free education for children.

TISCO opened night schools for its workers to learn arithmetic etc. in 1916. Commercial schools for adult employees to learn short-hand, typing were also run by the company. Three reading rooms, public library and two technical libraries were opened by the company since 1918. There were schools of some sorts for the workers/children. But for higher paid employees, the facilities were better - one English primary school and 11 primary schools for boys and middle school for girls and 2 middle schools for boys, run by missionaries or some trust.

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52. RCIL, Vol.IV, Pt.I, London 1931.

TISCO also ran a subsidized grain store for its employees. Although it was the landlord of Jamshedpur town markets it did not actually try to check profiteering by shopkeepers in the markets. In 1923, it closed the fair price shops of grains and cloth for its employees.<sup>53</sup> The Directors of TISCO wrote in 1923, it closed the fair price shops of grains and cloth for its employees.<sup>53</sup>

The Directors of TISCO wrote in 1923, 'the principal cause of such discontent as exists now is the high prices. We are trying to organise a cooperative store which will supply all classes of the population from coolies upwards.<sup>54</sup> But actually, the cooperatives which came into existence were mostly supplying the needs of either Europeans or highly paid Indians.

#### WAGES AND WORKERS' UNREST AND DISCONTENT

There were as mentioned earlier large discrepancies in salaries and wages of the uncovenanted and covenanted labour force. The weekly paid and contract labour was still

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53. Appeal issued by Jamshedpur Labour Association, 1924, op. cit.

54. Ibid.

larger in number but the total bill amounted to only Rs.14.30 lakhs for both the categories put together, whereas covenanted bill alone accounted for Rs.32.90 lakhs. The uncovenanted employees were working for a long time on a temporary basis and there was no system of making them permanent on regular basis. This was true also of the workers in highly mechanised plant who worked temporary for a long time on low wages. As late as 1939, a memorandum of the Tata Workers' Union said, 'in the construction department workers representing more than half the personnel are employed on temporary basis despite having put in 5 years at 10 annas per day, much lower than the regular rate of Rs.2 per day.'<sup>55</sup>

In fact a report on the wages by the General Superintendent, Mr. Phiroze Kutar to the Managing Director, Mr. A.R. Dalal said,

"investigations showed 'chaotic condition'. It was not uncommon for a man to be paid 16 hours and 24 hours overtime in a day's work. System called 'Standard Overtime' that is, the superintendent of a department instructed the timekeeper that a

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55. B.C.L.E.C. Report: Memorandum presented by Tata Workers' Union, 1939.

TABLE - 4.6

## WAGE RATES FOR YEAR 1920-21

	Category of Worker	Minimum Wage Rate R- A-P	Maximum Wage Rate R- A-P
1.	Head Fitter	0-12-6	4- 0-0
2.	Fitter	0-12-6	4- 0-0
3.	Head Turner	0-12-6	3- 6-0
4.	Turner	0-12-6	3- 6-0
5.	Head Carpenter	0-12-6	2- 0-0
6.	Carpenter	0-12-6	2- 0-0
7.	Head Blacksmith	0-15-0	2- 0-0
8.	Blacksmith	0-15-0	2- 0-0
9.	Mason	0-14-0	1-15-3
10.	Boilerman	0-12-6	3-10-9
11.	Furnaceman	0-12-6	1- 6-6
12.	Electrician	2- 0-0	5-12-9
13.	Machineman	1- 6-6	3- 6-0
14.	Painters	0-12-6	1- 9-0
15.	Moulders	0-12-6	2- 6-3
16.	Hammerman	0-12-6	1- 4-0
17.	Ladderman	0-12-6	1- 4-0
18.	Cobbler	0-12-6	1-14-0
19.	Mate Coolies	0- 8-0	1-11-6
20.	Male Coolies	0- 6-3	0- 8-9
21.	Female Coolies	0- 4-6	0- 7-0
22.	Boy Coolies	0- 3-6	0- 7-0

R : Rupees,      A : Annas,      P : Pies

certain number of overtime charges be paid till further notice. So overtime was paid whether a man worked overtime or not. Similarly, it was not unusual for a man to act in a vacancy and not be paid the 'acting allowance' while a different man got the allowance."

In the absence of complete data, it is not possible to trace the exact variation in the rates and wages of uncovenanted workers in TISCO. However, from the available data, it is possible to ascertain the differential wage rate between temporary and permanent male and female worker. Table 4.6 gives us a rough idea into the wage rate of skilled, semi-skilled and unskilled workers.<sup>56</sup>

The table 4.6 shows the disparity between the wages of the same category of workers specially the blacksmiths and headfitters. Electricians who fall in the same category have different wage rates. The above rates were established after the 1920 strike. The wages were raised by 40 per cent for the lower paid ones to 20 per cent for higher grades.<sup>57</sup> The increment was not fully effected. In 1928, some increment

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56. Labour File No.689, 1913-21, GM's Office, Jamshedpur.

57. Labour Gazette, 1927-28, pp.759.

was given to unskilled workers due to the strike of 1920. But basically there were no appreciable changes in the earnings of the workers over the years. Actually, total wages fell by 2 percent.<sup>58</sup> Radhakamal Mukherjee compares the following figures:

TABLE - 4.7  
COMPARISON OF WAGES

	Wages upto 1918	Wages upto 1928
Men	5 annas	7 annas
Women	3 annas 6 p	5 annas

In fact by their own records, the minimum wages of coolies, weekly paid workers, majdoors did not increase between 1911-38 as the gains of the 1920 and 1922 strike did not percolate down to the workers.

Table 4.8 shows the minimum wages of coolies and majdoors in TISCO.<sup>59</sup> (See overleaf)

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58. Radhakamal Mukherjee, 'The Indian Working Class' (Calcutta 1963) p.153.
59. A.D. Singh (edt), 'Man Management in Tata Steel' TISCO Pub. 1974, pp.122.

TABLE - 4.8  
 BASIC RATE AND WAGES OF COOLIES & MAJDOORS

<i>Year</i>	<i>Basic Rate</i>	<i>Basic Wages</i>
1911	0-8-0	15.00
1920	0-8-0	14.00
1934	0-8-0	14.00
1938	0-8-0	14.00

Tata Workers Union<sup>60</sup> in its memorandum to Bihar Labour Enquiry in 1939 wrote that 'as a result of Subhash Bose's efforts the minimum wages for the unskilled workers was raised to 8 annas a day in 1928.

But this was not the general case and more of an exception. Till now TISCO does not have a system of standardised wages. No two persons working in the same department have equal wages. There was no system of acting allowance and similarly it was not unusual for one man to act in a vacancy while a different got acting allowance. Then there were men who had not received increments for years or were

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 60 Labour file on strikes (unnumbered), 1939, GM's Office, TSR.



TABLE - 4.9

## PRICES OF STAPLE ARTICLES IN JAMSHEDPUR (1916-20) IN RS-ANNAS

Name of Articles	1916	1917	1918	1919	1920
Rice good quality	7 seer	6-1/2	8	4-1/2	4-1/2
Rice poor quality	7 seer	8-1/2	7	7	7
Atta (per seer)	0-3-0	0-2-9	0-3-0	0-3-6	0-3-9
Flour	0-4-0	0-3-6	0-4-0	0-5-3	0-3-9
Dal	0-2-3	0-2-0	0-2-3	0-3-3	0-5-3
Rapeseed Oil	0-8-0	0-7-0	0-8-0	1-1-0	0-3-9
Ghee	1-5-0	1-6-0	1-9-0	2-2-0	1-3-0
Potatoes	-	0-2-6	0-2-6	0-5-3	2-9-0
Brinjals	-	-	-	0-2-9	0-5-6
Onions	-	-	0-1-0	0-2-0	0-2-0
Milk	-	-	0-2-0	0-3-3	0-2-9
Kerosene (per bottle)	-	-	-	-	0-3-3

made permanent. There were no rules worth the name. Superintendents of departments were empowered to give increments without the previous sanctions of the General Superintendents. Even after the strike although certain rules were introduced, heads of departments still had the power to hire and discharge men and give them increments. There was neither a group system nor a system of standard rates or a grade system of wages.

The cost of living in Jamshedpur was the highest in Bihar. The prices as given in table 4.9 shows that prices of the commodities were rising constantly since 1918. It was only after TISCO subsidized some poor quality of rice that the price was levelled for sometime. The price of good rice went up to 4½ seer per rupee in 1919 from 7 seers in 1916. There is no evidence suggesting that the company continued to sell foodgrains at a subsidised rate.

Besides a sample survey report<sup>61</sup> of 1040 families in 1938 revealed that there were 1052 men and 132 women earning members in Jamshedpur. In these 1040 families, there were 1631 men 1968 women and 2292 children. These also

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61. B.L.E.C., Vol.2, p.38.

included dependents living away from workers. These living away from the workers numbered 259 men, 327 women and 251 children. For the majority of the families there was one earning hand.

And the average family size was 4.296. This meant if the wages of the worker was Rs.15, the per capita income would be only Rs.3/-. Even for those with higher wages, e.g. between Rs.40 and Rs.50 -- the per capita income would be between Rs.9-10 per month i.e. below poverty line.

Then there were the problems of imposing fines on the workers. Till 1928 the Tatas imposed fines on workers in case of damages done to the company. Following table shows the sum fined by TISCO from 1925-28.

TABLE - 4.10 : Fines per Annum

<i>Year</i>	<i>Sum fined</i>
1925-26	Rs.10854
1926-27	Rs. 5039
1927-28	Rs. 334

The available figures showed a gradual decline. But the company was very adept in not maintaining records for such

underhand dealings or anything that brought discredit to the company. In a copy of the minutes of the meeting held in 1952, J. Ghandy said that,

"for any act of indiscipline such as deliberate slowing down, idling, instigation of others to stage demonstration etc. strong action in accordance with the company's approved procedure and practice should be taken at once. Where an individual was involved, action should be taken at once but where a group of men were involved, the union should be consulted before taking action. Such steps would be conducive to discipline and efficiency, for if the supervisory staff were confident of getting support from higher management in any rightful action taken by them then they would show more initiative and responsibility."62

A confidential report of the committee on the wages said in 1937 that out of total number of 1625 occupations only 40 percent carried increments at about 25 percent of the basic rates. It agreed that about 546 workers in 546 occupations could be put on a grade system whereby increments would be not more than 25 percent annually, until the standard rate of the job was attained. This in effect

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62. Confidential Papers, Minutes of a meeting held in Jehangir Ghandy's room on 3.10.52, GMO, TISCO, Jamshedpur, 1952.

amounts to considering the standard rate as the maximum rate of the graded system of wage rate for the designation in question.

If the group system of wages was eliminated, about 5300 men under 66 designations would be affected and the grade system with an average daily increment of Rs.2/- per annum and allowing for 20 percent absentees. It would also increase the wage bill by about Rs.193,000 for the first year and Rs.500,000 over a period of five years on the 1937 payrolls. and if one rate group was changed to grade system, men in other rate group would ask for similar changes. But still they said opposition existed for introducing grade system whenever new units were created.

Then wages also meant deductions for the recovery of the cost of reinforcements during the 1928 strike. A letter from the Inspector General of Police, Mr. W. Swain to the General Manager TISCO<sup>63</sup> said,

'since the local government has approved to recover the cost of the forces brought from other districts for TISCO, I request you will be so good as to cause payment to be made in

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63. File No.689 No.5961 A, letter from IG Police, Mr.W. Swain to GM, TISCO dated 13.9.28, GMO, JSR 1928.

the local sub-treasury to the credit of the General Police Fund of the sum of Rs.68465-7-3 and sent me the copy of the treasury chalan.

Besides, in 1939, Mr. Abdul Bari<sup>64</sup> declared at a meeting in G town maidan that the late Sir N. Saklatwala had left Rs.25 lakh for the welfare of the workers but the money was likely to be spent away celebrating Founder's Day for which various games such as Kabadi, wrestling were being organised. He suggested limiting such extravaganza to one lakh and give the rest of the amount as two months' wages to the workers.

The departmental bonus scheme<sup>65</sup> which was paid in addition to the wages to certain key men in production were denied to the other workers whose contribution to the production was only indirect. Since the scheme was in consultation with

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64. Labour File, GM's Office, 1938, Jamshedpur, Annexure A
65. The rates of bonus under the scheme was fixed so as to give the workers suitable addition to their wages based on normal production of the departments concerned the amount of bonus payable rising with production in excess of the normal limit and following with production below the normal limit to a level below which no such bonus will be admissible. The scheme meant 10% minimum of wages and more for less paid. Graduating under the scheme but the total was not to exceed 10% of wages. File No. L/1259, Tata Workers Union 1938, Annexure H, Labour GM's Office, Jamshedpur

with union (the union was deliberately impressed upon about the nature of the scheme which excluded a lot of men) the management was 'confident' that it would have the support of the union in what it considered was the 'unfounded claims' of the employees. Trouble arose from sections of the brick workers who were excluded from the scheme and the union colluded with the management in resisting their claims, perhaps thinking that the extension of the bonus to the Brick Department men in the Open Hearth and Duplex Plant Department covered a substantial percentage of men of Brick Department. This scheme was basically an incentive for higher production and hence it was argued that people who had been excluded cannot be accommodated under the scheme. Only about 7000 workers of the total workforce were brought under the scheme introduced in 1939 incurred an expenditure of 2.95 lakhs of rupees in per year. The scheme did not apply to clerical staff and weekly workers.

Under the scheme,<sup>66</sup> the worker drawing less pay was paid a higher percent of the pay whereas those earning a higher wages were entitled to a lower percent. The table 4.11

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66. TISCO new departmental bonus scheme, Annexure H, 1938.

below shows the prescribed pay group scales in which assuming normal production particulars are shown of the percentage of the actual bonus to wages payable to each group. The table basically shows the daily rated wage earners and the daily rate of bonus admissible to the pay group to which he belongs for the number of days of his attendance during the such wage period.

Table 4.11  
Percentage of Actual Bonus to Wages

Group No.	Pay Group	% of Bonus to total wages earned by each group	Bonus per man per day when normal product
1.	upto 0-10-0	15%	Rs. 0-4-6
2.	" 0-10-0 to 0-12-0	14%	Rs. 00-1-8
3.	" 0-10-0 to 0-14-0	13%	Rs. 0-1-10
4.	" 0-14-0 to 1-0-0	12%	Rs. 0-1-11
5.	" 1-0-0 to 1-4-0	11%	Rs. 0-2-2
6.	" 1-4-0 to 1-8-0	10%	Rs. 0-2-4
7.	" 1-8-0 to 2-0-0	9%	Rs. 0-2-0
8.	" 2-0-0 to 2-8-0	8%	Rs. 0-2-11
9.	" 2-8-0 to 3-8-0	7%	Rs. 0-3-5
10.	" 3-8-0 to 5-0-0	6%	Rs. 0-4-2
11.	" 5-0-0 to 7-8-0	5%	Rs. 0-4-11
12.	" 7-8-0 to less than 10/-	5%	Rs. 0-7-0

It is obvious from the table that despite the lower graded workers getting a higher percentage of the wages as bonus, the actual



bonus was quite small and the higher the wage, the higher was the bonus. So it was misleading for the illiterate workers that justice was done to them. Besides, if the productive capacity of any particular department or operation, in respect of which the new bonus was admissible, was altered from any cause; as for e.g. when increased capacity was obtained due to relining or remodelling of the furnace or when additions were made to existing plant or equipment; the prescribed low level limit and the scales of bonus would be liable to modifications so as to retain the amount of bonus admissible on normal production in the a wage period at approximately 10% of the average of the employees concerned.

In 1946, the NDB system was replaced by 'Per Capita Bonus' popularly known as General Production Bonus. Basically there was not much difference between the two save for the name. The latter was to encourage better production through minimum number of men in any department. Before this there was the Profit Sharing Bonus, started in 1936-37 linked to the amount of dividend payable to shareholder at half-a-month's basic wages to all employees for every Rs.25 lakh in excess of Rs.one crore as dividend. This scheme continued till 1977-45. From then it was linked to the net profits. This

continued till 1957-58 as the company faced acute financial burden due to plant expansion, the chances of the net profit to be shared with workers in the near future became doubtful. There was also the Emergency Bonus System which was introduced in May 1942 when it was exigent to provide some incentive to the workers to overwork themselves as there was need to enhance production without any significant changes in the workforce or the structure of the factories, to meet the war demands.

TISCO had many more bonus schemes on paper but not many were implemented. The table 4.12 shows the trend of minimum wages from 1911 to 1949<sup>67</sup> and the amount paid under the various fancy bonus schemes. We find that most of the bonus schemes were never implemented, as also the fluctuations in the annual bonus schemes despite profits going up to an all time high during the war period.

Therefore we find that whatever were the reasons for putting these schemes on paper and not implementing them, it

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67. A.D. Singh (edt), Ibid.

TABLE - 4.12 : TREND OF MINIMUM WAGES FROM 1911-49  
(Coolies/Weekly/Mazdoor at minimum Grade)

Year	Basic Rate (Per Day)	No. of Days for in Month	Basic Wages	Dearness Allowance	Emergency Allowance	Food Rebate	Good Attendance Allowance	Service Bonus	Ad-hoc Allowance	Incentive Bonus	Coke Subsidy	Annual Bonus	Total
	R A P		Rs. p.m.	Rs. p.m.	Rs. p.m.	Rs. p.m.	Rs. p.m.						Rs. p.m.
1911	0- 8-0	38	15.00	-	-	-	-	-	-	-	-		15.00
1920	0- 8-0	28	14.00	-	-	-	1.00	-	-	-	-		15.00
1934	0- 8-0	28	14.00	-	-	-	1.00	-	-	-	-	1.25	16.25
1938	0- 8-0	28	14.00	-	-	-	1.00	-	-	-	-	3.75	18.75
1940	0- 8-9	28	15.31	2.50	-	-	1.09	-	-	-	-	3.83	22.73
1941	0- 8-9	28	15.31	4.00	-	-	1.09	-	-	-	-	3.74	24.14
1942	0- 8-9	28	15.31	9.00	5.00	-	1.09	-	-	-	-	3.83	34.23
1943	0- 8-9	28	15.31	10.00	5.00	-	1.09	-	-	-	-	5.99	34.59
1945	0-10-0	28	17.50	15.00	5.00	-	1.25	-	-	-	-	5.85	42.40
1946	0-10-0	28	17.50	15.00	5.00	4.87	1.25	-	-	-	-	5.83	49.45
1947	0-11-0	28	19.25	15.00	5.00	4.87	3.85	-	-	-	-	5.84	53.81
1949	0-14-0	28	24.50	15.00	5.00	13.00	4.90	-	-	-	-	3.68	66.08

R : Rupees, A : Annas, P : Pies

is certain that these laws were impractical. The managers had shown themselves reluctant to use laws or implement them once framed and accepted some disorder as the price for flexibility in dealing with the pressures of product and labour markets. It can be argued here that while the law may offer an attractive solution to the problems of labour and create hope for them in principle, circumstances could dramatically bungle their implementation. Legal actions against employers for breaking or violating laws were not possible as they always favoured the rich and affluent employers. Besides, law was always very complicated and intimidating for the workers.

Notwithstanding the transformation of the employment situation brought about by the conditions of recession and high unemployment, it was undoubtedly the most significant determinant of management's attitude towards the law and the implementation of the laws and the various schemes in favour of workers. More or less uniformly, employers were induced by tighter product markets and the increased urgency of financial pressures, and encouraged by the weakened labour market power of trade unions to take a tougher stand against strikes and bargaining over implementation of the schemes. The

Tata Workers' Union accommodated the management, and for them after 1928, it was 'goodbye to the big battalions' as industrial restructuring changed the face and character of the typical workplace. In the thirties the opposition to the Company disappeared as the management succeeded in making the union subservient by its tremendous money, power and clout.

## Conclusion

Contrary to the popular belief projected by the Tatas that they were the pioneers in introducing a number of 'firsts' in labour welfare, I have shown even when the laws were passed, the company did not implement them fully and immediately. The TISCO violated the laws whenever they impeded its production and profit objectives; examples of such contravention were particularly abundant during the second world war when the Tatas had to meet growing market demands. In our perspective, law is not seen merely as a set of abstract rules to be applied without particular understanding of the relationships affected by these rules; legislation was, as Kahan-Freund puts it.<sup>1</sup>

"a technique for the regulation of social power of social power, and more over, one which could only be understood when one remembered that the main characteristic of all societies was an unequal distribution of power".

This notion of power and the role of ideology is stressed in this short study of labour laws as instruments

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1. Wedderburn in "Otto Kahan Freund and Labour Law," in Wedderburn, Lewis and Clark (eds), *Labour Laws and Industrial Relation* (London 1983), pp.30.

to 'discipline' and 'control' labour in general as a part of a wider pattern of social control - in particular in providing legal sanction to policing and harassment of labour in different forms. These objectives were partly achieved through the four laws discussed here, viz. Indian Factories Act of 1922, Workmen's Compensation Act, Indian Trade Union Act and Payment of Wages Act.

The Indian Factories Act of 1922 introduced a regulation on the number of working hours, holidays, and overtime to discipline and condition the workforce. It redefined the contract of employment, the hiring and firing of workers, as well as the general framework of work discipline and the nature of the job structure. We have seen that not only during the war but even otherwise, this law was contravened by the TISCO to suit their purposes. Women were employed even when prohibited by the law and paid less than their male counterparts for the same amount of work. They were mostly employed at night for loading and unloading of wagons; the registers and the time of entry could generally be manipulated to show 'compliance with the law'.

The law on compensation was made for the benefit of the workers. But when it came to implementation, there was vehement opposition from the employers to whom welfare was unacceptable at the cost of the interests of capital.

In places where the employers could pass on the responsibility of bearing the extra charge entailed by the various welfare programmes initiated ostensibly by law, to the consumers in the form of enhanced prices, the employers did not hesitate to increase prices. But in places where market structure did not allow for such illegal means, the employers simply ignored the enforcement of law which by itself was not stringent especially when it concerned the workers. These laws did not provide the barest minimum of justice as the cost of justice remained exorbitant and the colonial government was not interested in setting up less expensive tribunals for the workers.

The Trade Union Act was a direct way of exercising control over the combination of workers. The Act did not protect the unions from civil and criminal liability especially when the workers struck work in protest against violation of law or breach in employment contract. All sympathy strikes were liable to injunction. On paper this Act as we have seen in Chapter III, was to legalise unions but inbuilt in the Act were too many brakes which impeded the development of an independent trade union movement. This is clear in the case study of Tata Steel. The Labour Association remained a tool in the hands of the management



to be used against the broad interests of labour and in favour of the management.

Similarly, the Payment of Wages Act of 1936, was to control labour unrest against the growing inflation and the unfair fines imposed on the workmen. We have seen how the employers manipulated the law which could not provide prompt payment of wages and stop imposition of unfair fines on the workmen. Thus we find that the series of legislation on various aspect of the workers' life to regulate their life never provided a code of substantive rules to govern terms and conditions of employment.

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