Effectiveness of Trade Unionism in a Globalized World: Evidence from India

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> "For most of humanity, about the only commodity a person has to sell is labour power, so that the person's entitlements depend crucially on his or her ability to find a job, the wage rate for that job, and the prices of the commodities that he or she wishes to buy" – Amartya Sen in 'Development: Which way Now?'

1. Conditions of Work in the Organized Manufacturing Sector

In so far as, development is promoted through the expansion of entitlements, it may be argued that the living standards of the organized manufacturing sector workers in the last three decades have hardly improved in India. This is because the real wages more or less remained stagnant[2] during this period (Fig:1). If anything, after economic downturn hit the manufacturing sector in 1997-98, there was a sharp *absolute* decline real wage (and product wage). Further, as the pace of product wage growth decelerated thereafter (up to 2008-09), real wages virtually stagnated for the next one and half decade (even as product wage growth showed some recovery after 2008-09). Chandrasekhar and Ghosh (2007) documenting the trend in organized manufacturing real wages noted: "Meanwhile, contrary to public perception, the average real wage of workers in the organized manufacturing sector has been more or less constant right through the 1990s. Average real wages increased in the early years of the 1990s, until 1995-96, and then fell quite sharply. The subsequent recovery after 1998 has been muted, and real wages have stagnated since 2000. *As a result, real wages in the triennium ending 2003-04 were around 11 per cent lower than real wages in the triennium ending 1995-96*" (emphasis added). However, it should be noted that the

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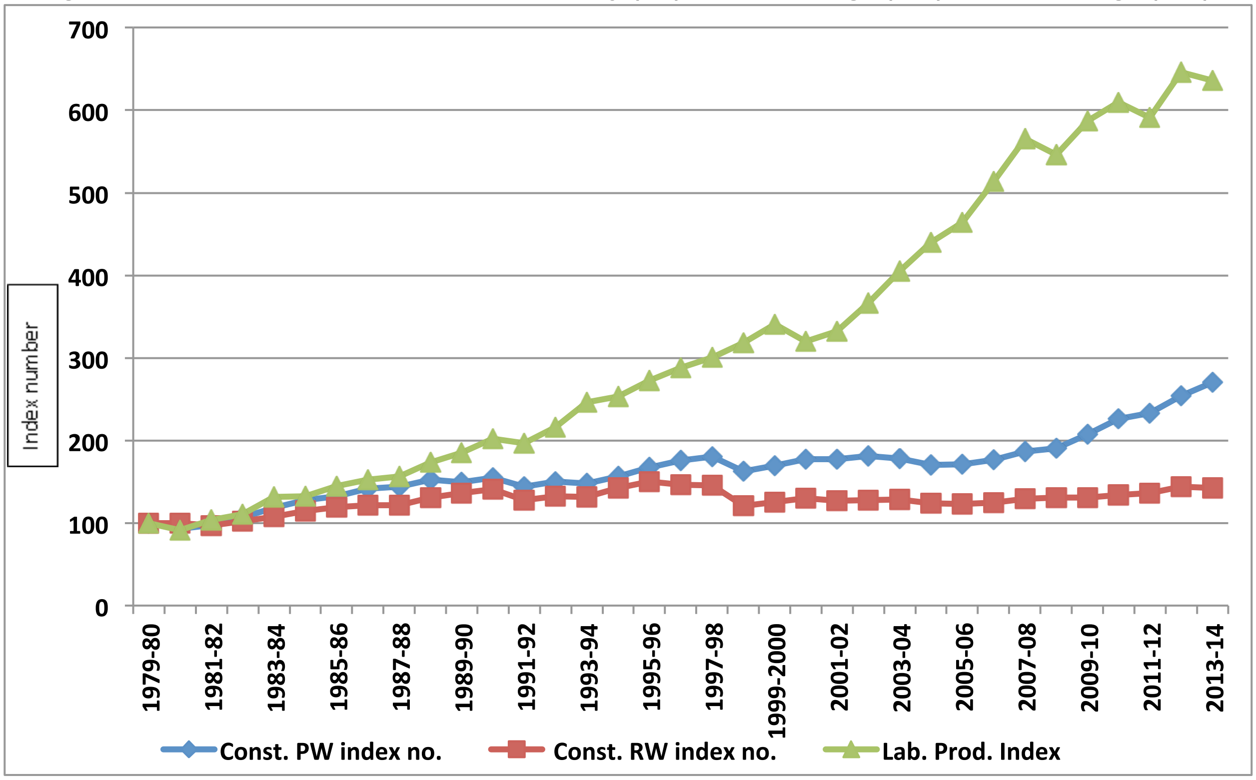
[2] The wage stagnation hypothesis is well documented in the literature; Bhattacharjea (2006) notes – "Several recent studies have shown that during the 1990s, real wages in organised manufacturing were almost stagnant on average, and actually declined in many industries; the growth rate of product wages decelerated; and both wage series lagged far behind labour productivity, whose growth accelerated. Consequently, the wage share of value added declined" (p.28).

real wages stagnated despite rapid rise in labour productivity during the period. Therefore, in the organized manufacturing sector the growth story was not accompanied by shared prosperity.

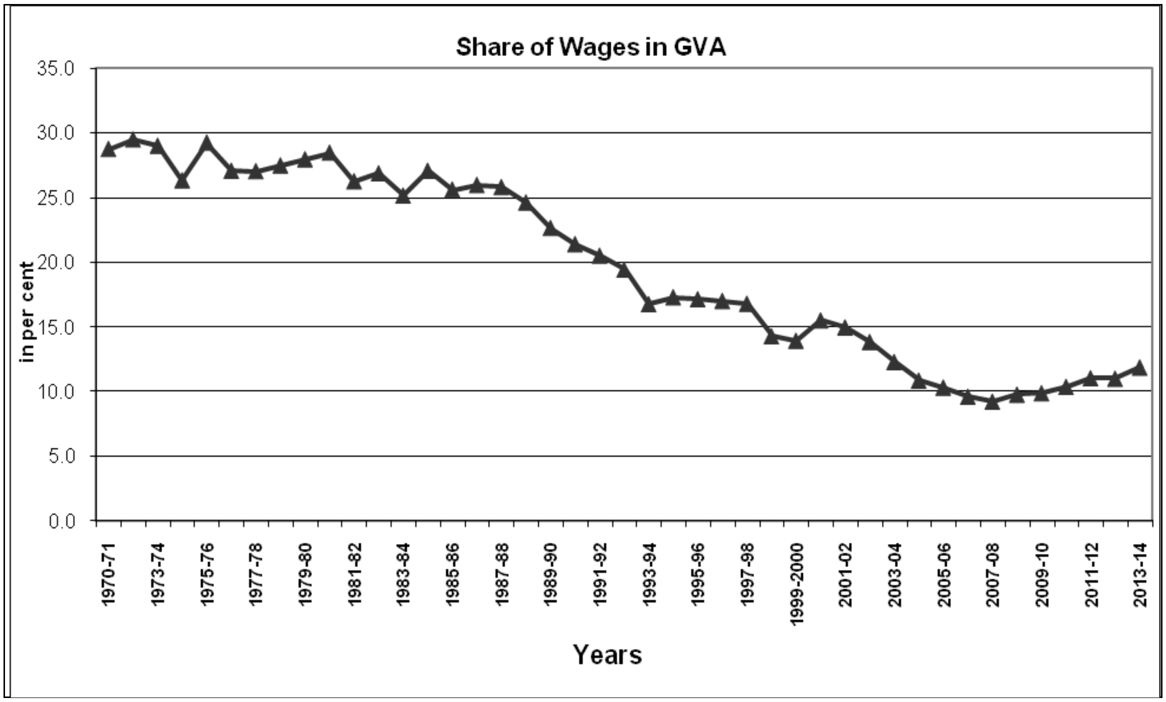
Figure: 1 Index number of Labour Productivity (LP), Product Wage (PW) and Real Wage (RW)



Source: Annual Survey of Industries (ASI), various issues

Since there was no remarkable improvement in employment creation thus, unsurprisingly the share of wages in gross value added (GVA) sharply came down particularly from the mid-eighties (Fig.2). For example, the share of wages which stood at 26 per cent of GVA in 1987-88 reached its nadir in 2007-08 (9.2 per cent) and recovered only slightly to reach 11.9 per cent in 2013-14.

Figure: 2

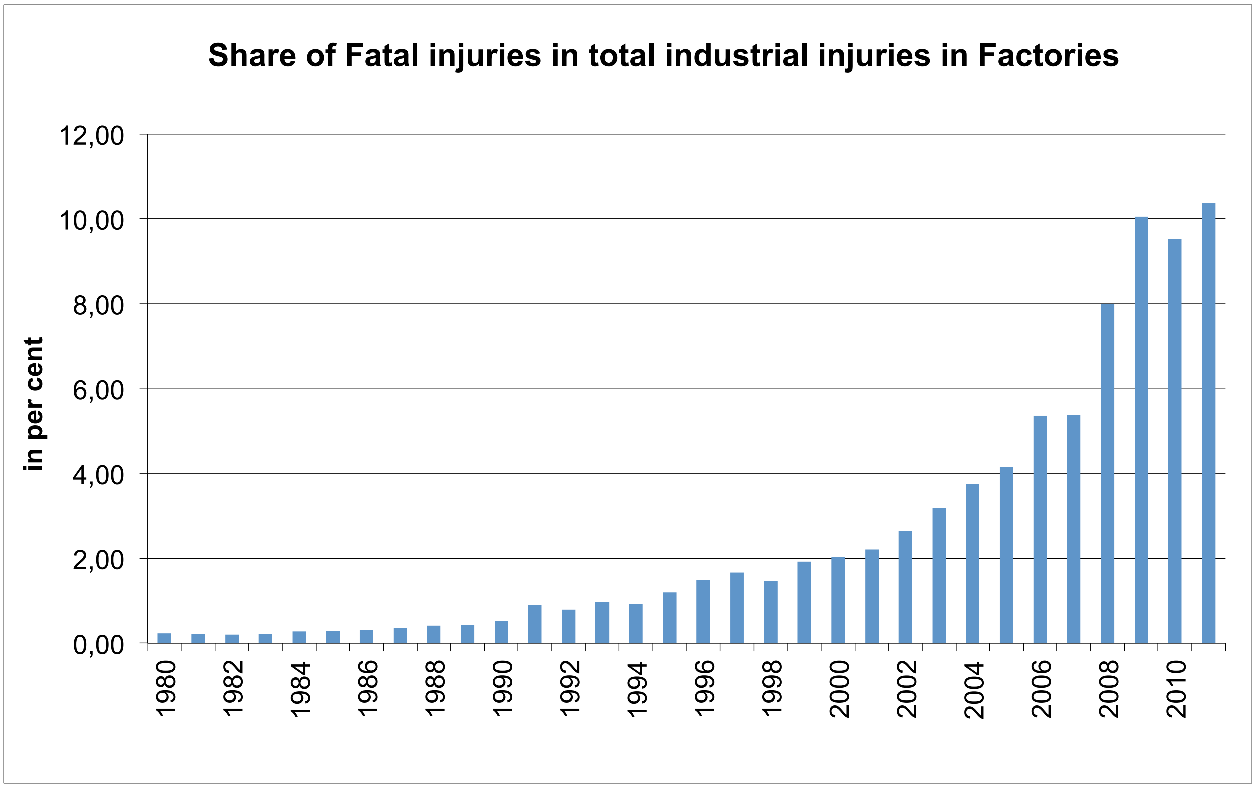


Source: Annual Survey of Industries (ASI), various issues

Next we look for an indicator which captures the basic working condition in the industrial units covered under Factories Act, 1948. These data pertain to the whole of organized sector. As a proxy for safety in workplace – we enumerate the share of fatal injuries as a percentage of total industrial injuries[3] (fig.3). This shows a secularly rising trend throughout the period – especially after the advent of liberalization process in 1991. Thus, workers' basic safety norms were diluted at the workplace – since firms were now engaged in cost-cutting to withstand intense international competition.

[3] Statistics on injuries are obtained from industrial accidents by reason of which persons affected are prevented from attending to work for a period of 48 hours or more, immediately following the injury. Data on injuries pertains to only those factories submitting returns, as no estimate of injuries can be made for the defaulting units.

Figure: 3

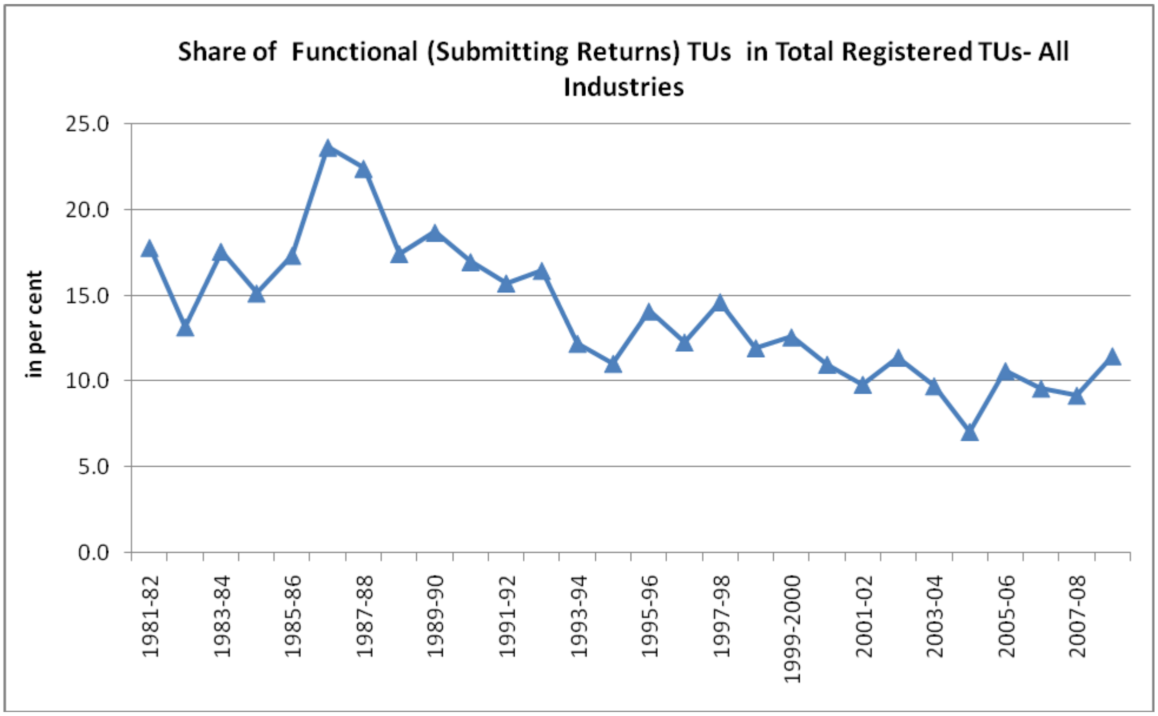


Source: Indian Labour Year Book, various issues

2. Trade Union response and its explanation

Faced with this reality trade union (TU) movement should have been vigorously energized – translating in widespread labour unrest – after all, TUs struggle for higher wages and improved working conditions. Let us examine, what happened to TU activity during this period.

Figure: 4



Source: Indian Labour Year Book, various issues

Note: Data after 2008-09 not comparable as number of registered TUs fell by 75% due to large number of non-responding States and UTs; (see p.18 http://www.labourbureau.gov.in/Trade_Unions_In_India_2010.pdf)

First, we look at the proportion of functional (defined as those submitting returns) trade unions (TUs) to total registered trade unions – for all organised industries. Figure 4 shows that this share is steadily declining since the mid-eighties. Share of functional TUs rapidly fell from just below 25 per cent in the mid 80s to just above 10 per cent in 2008-09. Thus, trade unionism at the all (organized) industries level clearly shows a declining trend during the period under observation.

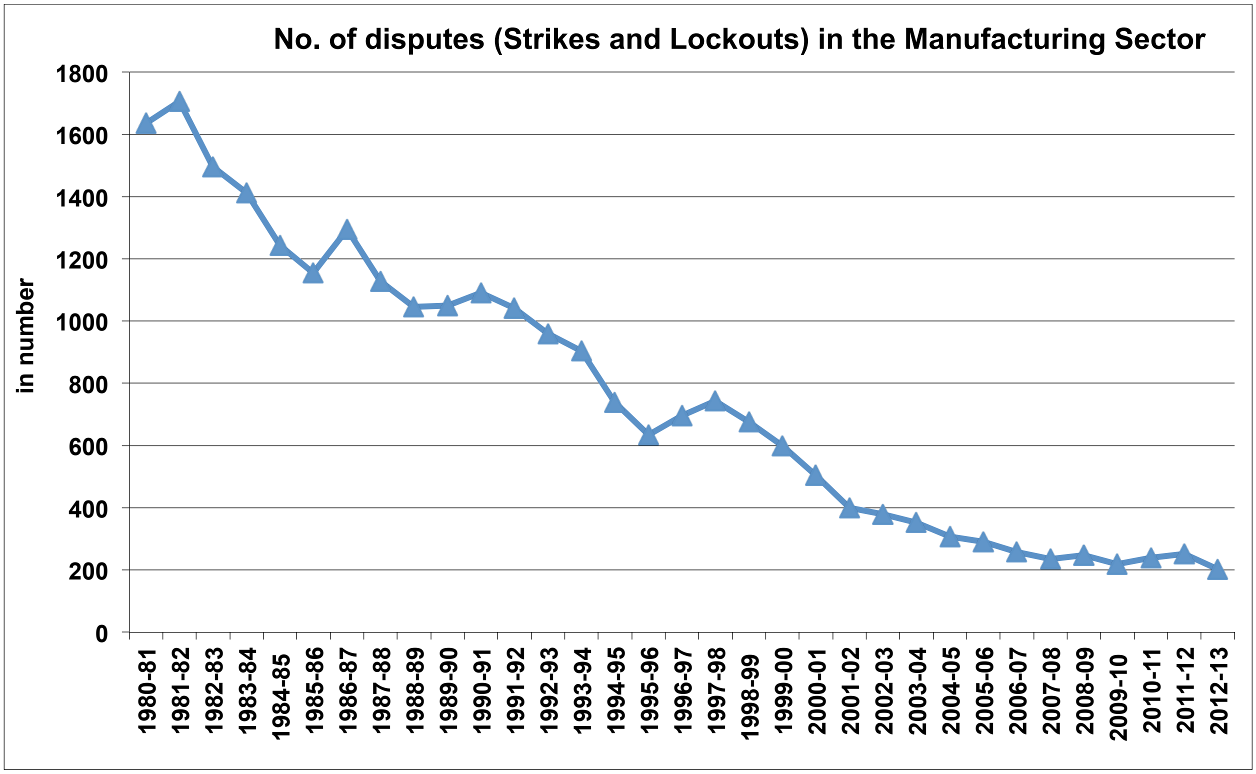
Figure: 5

Source: Indian Labour Year Book, various issues

Note: Data after 2008-09 not comparable as number of registered TUs fell by 75% due to large number of non-responding States and UTs; (see p.18 http://www.labourbureau.gov.in/Trade_Unions_In_India_2010.pdf)

Turning to the organized manufacturing sector, we calculate the share of unionized workers to total workers in the manufacturing sector (Fig.5). This however shows a stable trend over the last twenty eight years – with some improvement in the last two years under observation. Thus, there is no evidence of greater labour activism in face deteriorating workers' condition – in which case we would have witnessed a rising trend in unionized workers.

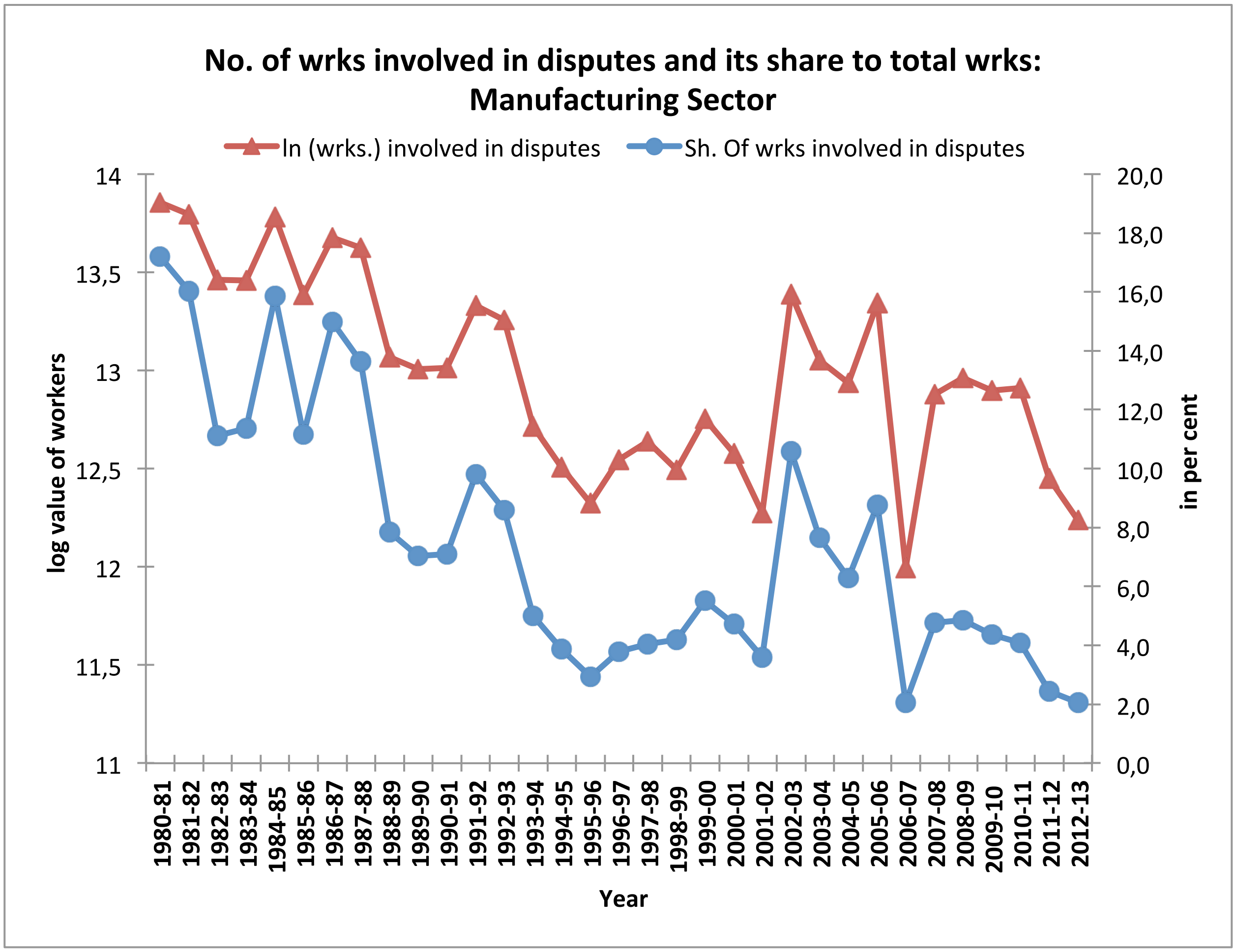
Figure: 6



Source: Indian Labour Year Book and Indian Labour Statistics, various issues

But this it may be argued is an insufficient proof of the proposition at hand – for even if unionization of manufacturing workers was not on the rise, nonetheless, labour activism of the *existing* unionized workers might have increased. Therefore, we try to provide more direct proof. For this we investigate the number of disputes (Strikes+Lockouts) occurring in the organized manufacturing sector over the years (figure 6). It is evident that the number of disputes has come down drastically during the said period – which negates any rise in labour unrest even in face of worsening working conditions.

Figure: 7



Source: Indian Labour Year Book and Indian Labour Statistics, various issues

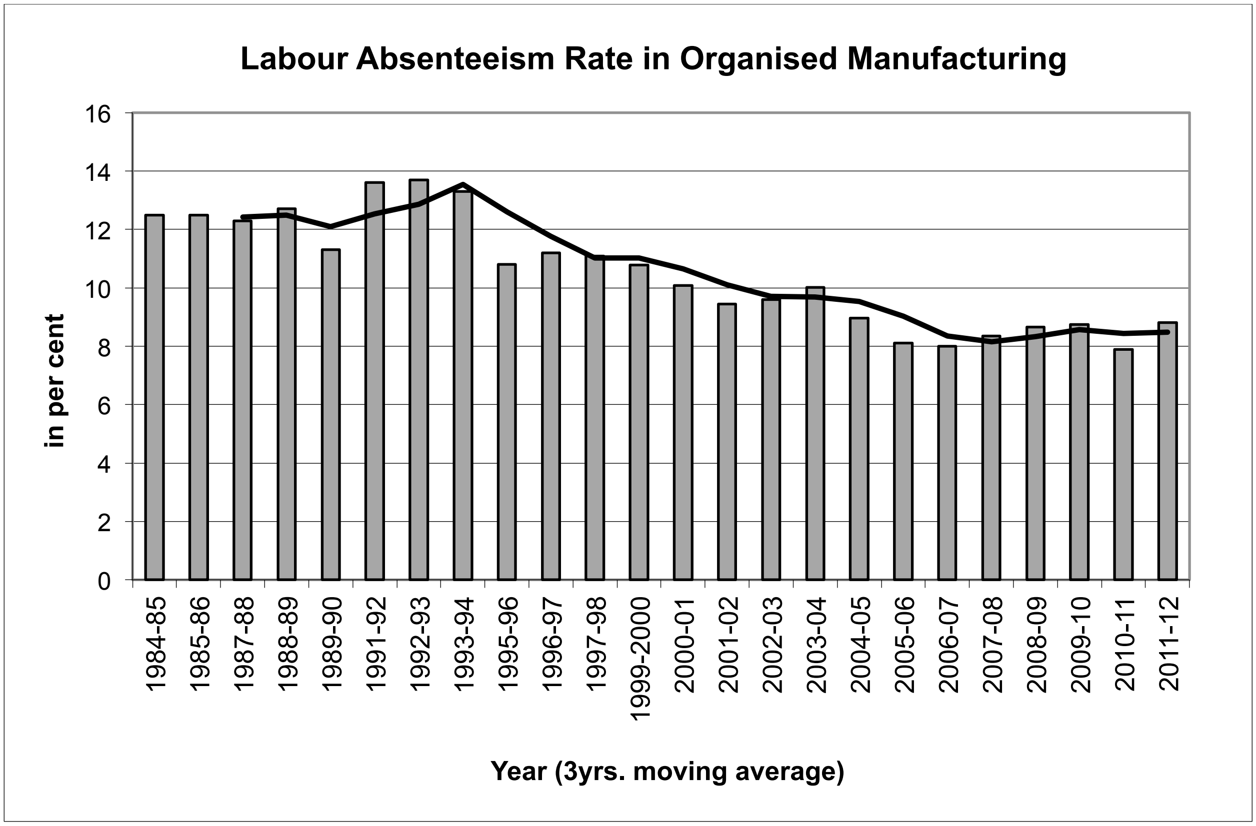
For further evidence we plot the number of workers (log value) involved in disputes and its share to total number of (organized) manufacturing sector workers. It can be seen from figure 7 that both these variables are showing consistently declining trend over time except for a brief period of four years namely, 2002-05 – when both variables registered an upturn. However, for the more recent years both these variables were far below the values attained at the time of advent of liberalization in 1991. Thus, there is little evidence to suggest that labour movement got energized during the last three decades.

Figure: 8

Source: Indian Labour Year Book, Indian Labour Statistics and ASI, various issues

However, it may be still argued that the number of disputes or the number of workers and their proportion are not enough to adjudge the effectiveness of labour disputes since a small but strong union may paralyze economic activity and hence entail a large loss to the enterprise and the manufacturing sector as a whole. In order to rule out such confusion we calculate the share of mandays lost to total number of mandays worked in figure8. This share it can be seen is unambiguously falling overtime – leaving little room to substantiate any invigorating of the labour movement.

Figure 9



Source: ASI Report on Absenteeism, Labour Turnover, Earnings, Employment and Labour Cost, various issues

Next we turn to labour absenteeism rate[4] in the organized manufacturing sector (Fig.9). These data are compiled by ASI and pertain to only directly employed regular workers during the calendar year. They cover all establishments under Section 2m(i) and 2m(ii) of the Factories Act, 1948 and bidi and cigar workers.

We find no evidence of labour indiscipline in terms of *increase* in labour absenteeism in the organized manufacturing sector (figure 9). Labour absenteeism showed a rising trend only briefly with the advent of economic reforms in 1991; however after 1993 it declined almost

[4] Abseenteeism rate is defined as the percentage of mandays lost due to absence to the number of mandays scheduled to work. Absence means failure of a worker to report for work when s/he is scheduled to work i.e. when the employer has work available for him/her and the worker is aware of it. Authorised absence is also treated as absence, while presence for even part of a day or a shift is not considered as absence. Absence on account of strike, lock-out or lay-off is not taken into account.

secularly – seen from the three years moving average trend line[5]. Thus, absenteeism data do not corroborate any stimulation of the labour movement.

Moreover, there is no report of widespread labour unrest in India, except for the car manufacturing plant of Maruti and the recent countrywide strike on 2nd September, 2016. What explains this paradox?

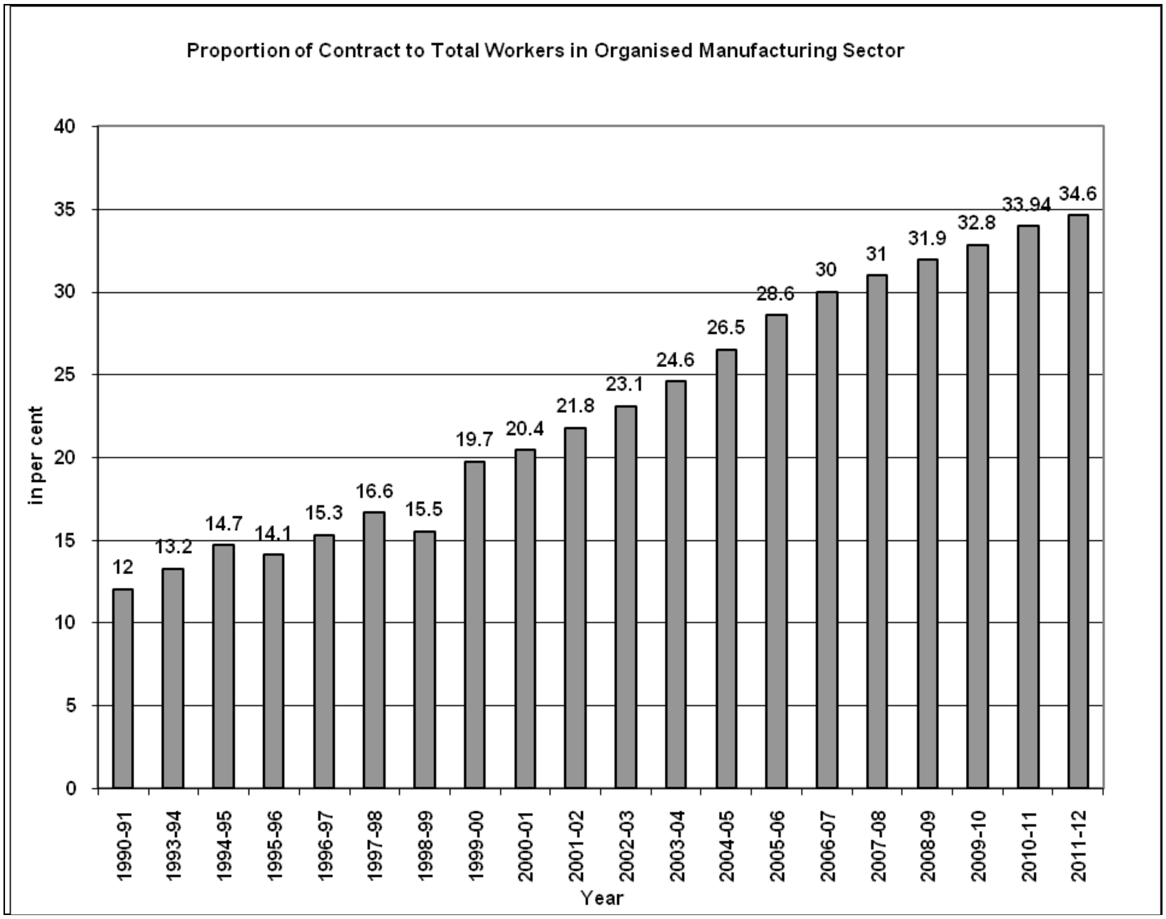
Absence of large-scale labour protest is largely explained by rising informality in the organized manufacturing sector captured by the secular[6] rise in share of contract workers from merely 12 per cent in 1990-91 to 34.6 per cent in 2011-12 – with little bargaining power and living under the constant threat of dismissal (Fig.: 10).

However, the share of contract workers in total workers depicted in figure 11 is an *underestimate* of the proportion of workers easily dispensable, hence difficult to organize through TUs. This is because even regular workers employed in establishments employing below 100 workers can be fired at will, without any hassles. Thus, if we add the number of regular workers in 0-100 category to the growing number of contract workers then in 2011-12 – the proportion of workers that could be fired at will stood at 59.6 per cent (this trend has been continuously increasing since 2003-04).

[5] Up to 2000-01 data pertains to Census Sector only. From 2001 onwards Labour Bureau clubbed the Census sector data with the Sample sector. Hence later years are not strictly comparable with the earlier period. However, the falling trend is discernable even if we restrict our analysis up to 2001.

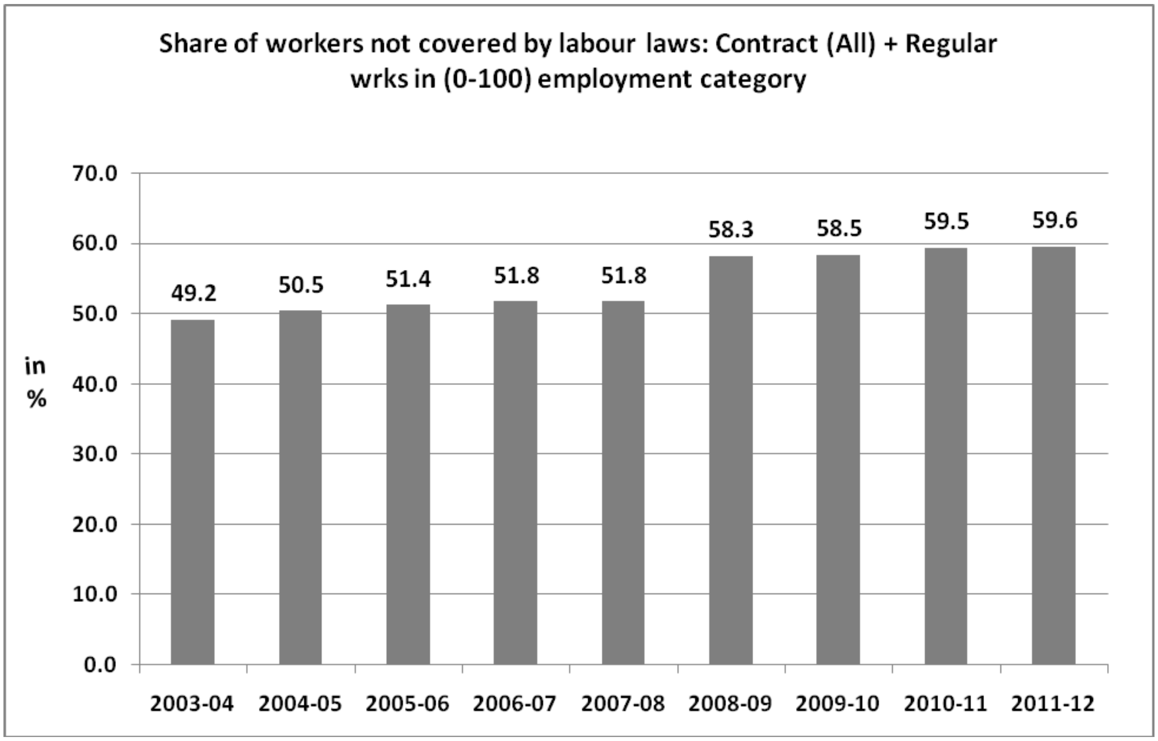
[6] Except for 1998-99, most probably due to the revision in the ASI frame undertaken that year.

Figure: 10



Source: Annual Survey of Industries (ASI), various issues

Figure: 11



Source: ASI, various issues.

Incidentally, this also explains the falling wage share in GVA. Figure 12 shows the share of contract workers' wage rates to *all* workers' wage rates[7] (which also includes contract workers). Available evidence shows that contractual workers consistently receive lower wages than regular workers – although the gap has reduced overtime. Therefore, rising proportion of contract workers is an effective way of depressing the wage share.

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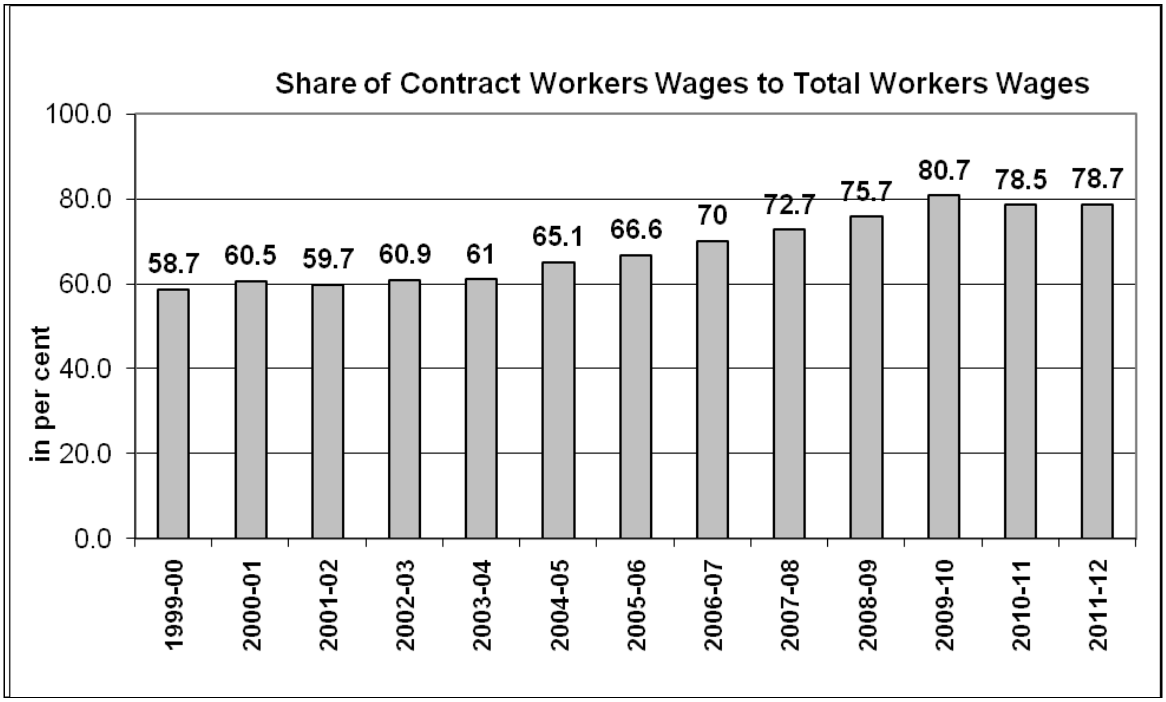
[7] Wage rates are defined as wages per manday worked.

Figure: 12



Source: Annual Survey of Industries (ASI), various issues

Although, rising share of contract workers to a large extent explains the inability of TUs to effectively agitate in face of attack on the working class, however, this incapacity of TUs may get aggravated by independent forces. Two powerful independent forces at work are: (a) role of the state and (b) international competition. The view state takes towards to the working class is crucial and expressed through its stance in balancing the power between capital and labour. Allowing indiscriminate use of contact labour (those can be fired overnight and paid low wages) in the organized sector and dilution of factory inspections may effectively lead to violation of rights at work. Similarly, precedence over promoting international competition may lead to advancing the interests of capital continuously, often at the expense of the workers' rights.

3. Role of the State

State, is suppose to resolve any conflict arising between labour and capital – but, a neoliberal State decisively promotes the interest of capital at the expense of the constituency of labour. This is evident from the position adopted by successive governments in the context of reforming the labour laws. For example, in the early nineties under the Congress rule: The Inter-Ministerial Working Group on Industrial Restructuring submitted its report in March, 1992; additionally, The Goswami Committee on Industrial Sickness and Corporate Restructuring also submitted its report in July, 1993. Both these committees forcefully recommended that Chapter V-B of Industrial Disputes Act (IDA), 1947 should be completely deleted. Further, Deputy Chairman of the Planning Commission for two successive UPA regimes, Mr. Montek Singh Ahluwalia – for promoting growth in the manufacturing sector – recommended the following strategy, " … some consideration has to be given to the long-standing issue of the need to rationalise our labour laws to give employers more flexibility to shed labour when faced with a downturn. This is not to advocate policies of hire and fire, but only to say that more flexibility needs to be built into the labour laws than exist at present" (Ahluwalia, 2011 pp.97-98). Likewise, present Prime Minister Mr. Narendra Modi noted, "Ease of business is the first and foremost requirement if Make in India has to be made successful" (17 October 2014, The Indian Express). Mr. Modi also instructed secretaries of different central ministries to adopt measures such that India's ranking in the "ease of doing business" improves in 2017 (The Economic Times, 24 March, 2016). In fact, Department of Industrial Policy and Promotion (DIPP) secretary Mr. Amitabh Kant pointed out that due to the reform measures to be implemented in future: "We are absolutely confident of being in top 50 [of the doing business rankings] in three years as per the target set by PM [Prime Minister]" (The Economic Times, 28 October, 2015). Among the key reform measures to be implemented are the labour law reforms[8] (Financial Express, 27 May, 2016) and the passage of the Insolvency and Bankruptcy Code, 2015 that will make it easier for companies to wind up (Business Line, 3 May, 2016). In what follows, we shall evaluate the stance adopted by the State vis-à-vis labour from the content of recent proposals for change/amendments in labour laws.

[8] Launching one such reform measure allowing employers to submit a self-certified single compliance report for 16 Central labour laws – Mr. Modi declared, "These facilities are what I call minimum government, maximum governance" (17 October 2014, The Indian Express).

Labour Law changes by Union government

Labour Code on Industrial Relations Bill, 2015: It proposes to amalgamate the following three regulations (with crucial changes in their provisions): (a) Industrial Disputes Act, 1947 (b) The Trade Union Act, 1926 and (c) Industrial Employment (Standing Order) Act, 1946.

Industrial Disputes Act, 1947: The new code proposes to restrict the applicability Chapter V-B requiring permission from government for carrying out layoff, retrenchment and closures of units to only establishments employing 300 or more (current threshold is 100) workers. However, amendment to IDA is the most controversial of all labour law reforms and trade unions are expected to resist it the most. Therefore, this piece of legislation has been tactically left to the states to individually amend their IDAs – with a clear signal of providing tacit support. This would in effect decentralize the Indian labour market, with 29 states each vying to offer the most lucrative labour regime to attract industries.

The Trade Union Act, 1926: With the 2001 amendment, trade unions (TUs), for registration, now require at least 10 per cent or 100 of workers (whichever is less) engaged in an establishment or industry, as its member. The earlier requirement for registering a TU was only 7 members (which now applies only for units where 10 percent of workforce is less than 7). Traditionally, non-worker members of trade unions or outsiders (i.e. not actually engaged or employed in the establishment or industry with which the trade union is concerned) play crucial role in formation of TUs and strengthening TU activity as office bearers. Earlier, a maximum of up to 5 persons could be non-working office bearers of TUs in the organized sector and in the unorganized sector at most 50 per cent of office bearers could be outsiders. However, the proposed code on Industrial Relations does not allow any outsider office bearer in TUs working in the organized sector and allows only two non-worker office bearers in the unorganized sector. These moves are likely to weaken the TUs particularly, by starving them of the expertise/specialized knowledge (notably legal) that the outsiders bring from different fields.

Industrial Employment (Standing Order) Act, 1946: The new code proposes the application of Standing Orders only to industrial units with 100 or more workers. A standing order clearly delineates policies and provisions on various aspects of working conditions, with the objective of protecting labour by defining workers' rights and fixing the responsibilities/duties of employers. In many states (like Uttar Pradesh, West Bengal, Maharashtra and Assam, among others) it is applicable to industrial units with 50 or more workers – thus, with the new code workers in these states might stand to lose.

Factories (Amendment) Bill, 2014: It proposes to amend the Factories Act, 1948. In the proposed amendment the eligibility of paid leave for workers has been reduced from 240 days to 90 days; also establishments liable to provide restrooms or shelters has been reduced from 150 workers to 75 workers. These are positive developments. However, the bill proposes that only factories employing 20 or more workers (using power) or 40 or more workers (without using power) shall be governed by the Factories Act [up from the present cut off of 10 workers (using power) and 20 workers (without using power)]. Further, in response of the demand for revising the list of hazardous industries and hazardous substances in the first schedules of the Factories Act, the first schedule has been altogether deleted for including new hazardous industries and substances. However, deleting the schedule may complicate matters further, rather than resolving it; resulting in lengthy deliberations between management and workers, to the detriment of the latter. Moreover, the Bill also allows women workers to work in night shifts (7 pm-6 am), of course with proper safety measures. This would certainly help firms in cutting down on wage cost through substitution of men by women workers, since women workers' wage is typically half of their male counterparts even in the organised manufacturing sector. The bill also proposes to increase the spread over of the working hours from the existing 10.5 hours to 12 hours causing harassment to workers. Another major change has been the increase in the limit of overtime work across the board. Overtime limit for shift workers has been raised from 50 to 100 hours per quarter (that is, per three months period). The same has been raised for typical workers from 75 to 115 hours per quarter (and up to 125 hours per quarter for public utilities). This move would definitely elongate working hours (thereby thwarting fresh job creation) and further help firms in depressing labour costs as 'overtime wages' would not include allowances which are complimentary in nature (otherwise to be paid to new workers) such as house rent allowance, transport and small family allowance. Due to the biased proposals in the bill against labour it has been rejected by the parliamentary standing committee on labour and sent back for review.

The Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014: It proposes to exempt factories employing less than 40 workers (defined as "small factory") from fourteen[9] labour laws, if these units complied with the stipulations laid down in the bill. Women are allowed to work in night shifts, of course, with proper safety measures in small factories and the spread over of work has been increased from 10.5 to 12 hours. However, with poor state of inspection implementing the stipulations in the bill remains highly questionable. Further, these units can buy health insurance and provident funds products from the market instead of subscribing to the mandatory social sector schemes of Employees' State Insurance (ESI) and Employees Provident Fund (EPF). Moving to a market based health insurance may deny the workers "sickness benefit" (i.e. periodical payments to any insured person in case of his/her sickness). Similarly, moving away from EPF advocating, "Every employer shall ensure that all worker in the small factory are covered by a Provident Fund scheme, approved by the Insurance Regulatory and Development Authority set up under the Insurance Regulatory and Development Authority Act, 1999" – would deny the workers from "defined benefit" scheme and subject them to the risk of "defined contribution" scheme (where benefit varying with the performance of the market).

Child Labour (Prohibition and Regulation) Amendment Bill, 2016: On 26 July 2016, the Rajya Sabha (upper house of Indian Parliament) consented to the provision of this bill which allows employing a child below 14 years of age, "where the child helps his family or family

[9] These are: 1. The Factories Act, 1947 2. The Industrial Disputes Act, 1947 3. The Industrial Employment (Standing orders) Act 1946. 4. The Minimum Wages Act, 1948 5. The Payment of Wages Act, 1936 6. The Payment of Bonus Act, 1965 7. The Employees State Insurance Act, 1948 8. The Employees Provident Funds and Miscellaneous Provisions Act,1952 9. The Maternity Benefit Act 1961 10.The Employees compensation Act,1923 11.The Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 12.(State) Shops and Establishments Act 13.The Equal Remuneration Act, 1976. 14.The Child Labour (Prohibition and Regulation)Act,1986.

enterprises, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations". Moreover, the amended Bill – awaiting President's assent before becoming law – substantially reduced the list of professions considered hazardous. However, UNICEF India's Chief of Education, Euphrates Gobina noted: "Under the new Child Labour Act, some forms of child labour may become invisible and the most vulnerable and marginalised children may end up with irregular school attendance, lower levels of learning and could be forced to drop out of school" (http://www.unicef.org/media/media_92021.html). Therefore, to provide a protective legal framework for children, UNICEF strongly recommended the removal of the provision "children helping in family enterprises" from the bill.

The Apprentices (Amendment) Act, 2014: It amended the Apprentices Act, 1961. In the amended Apprentices Act the definition of workers has been changed to *include* workers employed through a contractor (contractual workers). Earlier workers with only regular contracts (regular workers) were considered for determining the number of workers in an enterprise. However, this restricted the number of apprentices an enterprise could appoint, as it has to maintain a fixed worker-to-apprentice ratio prescribed by the government. Thus, broadening the definition of workers would help firms in hiring more apprentices (typically apprentices earn stipend which is only a fraction of the wage received by workers). Further, until now daily (and weekly) hours of work an apprentice has to put in an enterprise was decided according to the norms prescribed by the Central Apprenticeship Council. In the recent amendment, employers have been given the power to *unilaterally* decide on the daily (and weekly) working hours of an apprentice. Thus, working hours of apprentices would now depend on the vagaries of the employers. Similarly, employers are given *full freedom to formulate their own policies* regarding recruitment of apprentices, which is bound to increase employers' discretionary power. Moreover, failing to comply with the provisions of the Act would now attract only monetary penalty and unlike before offending employers cannot be put behind the bars.

The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Act, 2014: It amended the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988. The

Bill containing the proposed amendments were rejected twice (2005 and 2011), on grounds of being excessively employer friendly by the Parliamentary Standing Committee on Labour. Yet the Amendment Bill, 2011 (with minor modifications) was passed in the Rajya Sabha in 2014 and got President's approval the same year. The original legislation exempted "very small establishments" (employing up to nine workers) and "small establishments" (employing 10 to 19 workers) from maintaining registers and filing returns *individually/separately* for nine[10] labour laws (about meeting the prescribed norms/standards), if these establishments provided a *consolidated* account for the same. *The basic reason for such exemption is to facilitate business by curtailing the transaction/compliance costs.*

The recent amendment changed the definition of "small establishments" and allowed consolidated submission of returns for seven[11] *additional* labour legislations. The threshold for determining "small establishments" has been increased from 19 to 40 workers. This is clearly a business-friendly move since larger set of firms would now come under the Act; additionally, they would now be exempted from separately furnishing information for sixteen (instead of nine) labour laws subsumed under the Act. Note that among the newly added laws there are very sensitive ones like, Child Labour Act and Migrant Workers' Act requiring strict implementation. However, there is evidence of labour inspection sharply deteriorating in India in the recent past (Sood *et.al.* 2014) – therefore, implementation of these laws remain questionable (a concern shown by Standing Committee; see Roychowdhury, 2015) which may potentially lead to pervasive violation of these laws, compromising workers' welfare.

[10] These are: 1. The Payment of Wages Act, 1936; 2. The Weekly Holidays Act, 1942; 3. The Minimum Wages Act, 1948; 4. The Factories Act, 1948 (63 of 1948); 5. The Plantations Labour Act, 1951 (69 of 1951). 6. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; 7. The Contract Labour (Regulation and Abolition) Act, 1970; 8. The Sales Promotion Employees (Conditions of Service) Act, 1976; 9. The Equal Remuneration Act, 1976

[11] The seven additional labour laws exempted are: 1. The Motor Transport Workers Act, 1961; 2. The Payment of Bonus Act, 1965; 3. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966; 4. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; 5. The Dock Workers (Safety, Health and Welfare) Act, 1986; 6. The Child Labour (Prohibition and Regulation) Act, 1986; and 7. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

Labour Law changes in Rajasthan

Industrial Disputes (Rajasthan Amendment) Act, 2014: Rajasthan amended the Industrial Disputes Act, 1947. It raised the applicability of Chapter V-B requiring permission from government for carrying out layoff, retrenchment and closures of units to establishments employing 300 or more (instead of 100 or more, previously sanctioned) workers. Madhya Pradesh also amended its IDA along these lines[12]. Both states stipulated a time of three years for raising any case of retrenchment or layoff for conciliation, failing which such incidents will not be considered as industrial dispute. Rajasthan increased the membership requirement for recognition of a trade union (by management) from 15 per cent to 30 per cent.

Contract Labour (Regulation and Abolition Rajasthan Amendment) Act, 2014: Rajasthan amended the Contract Labour (Regulation and Abolition) Act (CLRA), 1970. The amended act is applicable only in establishments employing 50 or more workers, instead of the current 20. This move would have the implication that all permanent jobs in establishments having less than 50 workers (but above 20 workers) could be abolished[13]. This employer-friendly move would also implicitly encourage the use of contract workers more liberally in establishments employing more than 50 workers.

Factories (Rajasthan Amendment) Act, 2014: It amended the Factories Act, 1948. Previously, the Act covered those factories employing 10 or more workers (using power) or 20 or more workers (without using power). The recent amendment increased this threshold to 20 workers (using power) and 40 workers (without using power). The attempt to amend the Factories Act by the Union government along similar lines has been rejected by the Standing Committee on Labour (Third Report, December 2014) noting: "… if the amendment is carried out more than 70

[12] Maharashtra is reported to be moving along similar direction (17 October 2015, The Times of India).

[13] For example, according to 2010-11 data around one-third of 2.15 lakh regular workers in the manufacturing sector of Rajasthan were located in establishments employing less than 50 workers.

percent of the factory establishments in the Country will be out of the coverage of the Factories Act [with the increase in threshold] and workers will be at the mercy of employers on every aspect of their service conditions, rights and protective provisions laid down under the Act" (p.56). Yet, Rajasthan government instituted this change. Another amendment is in the area of "cognizance of offence". Previously, labour inspectors could directly report an offence to the court; however, with the amendment inspectors have to seek permission in writing from the State government before reporting any offence to the court. Certainly, this is going to delay the proceedings and curb the power of labour inspectors.

The foregoing discussion clearly shows that State is promoting the interest of capital at the expense of the working class.

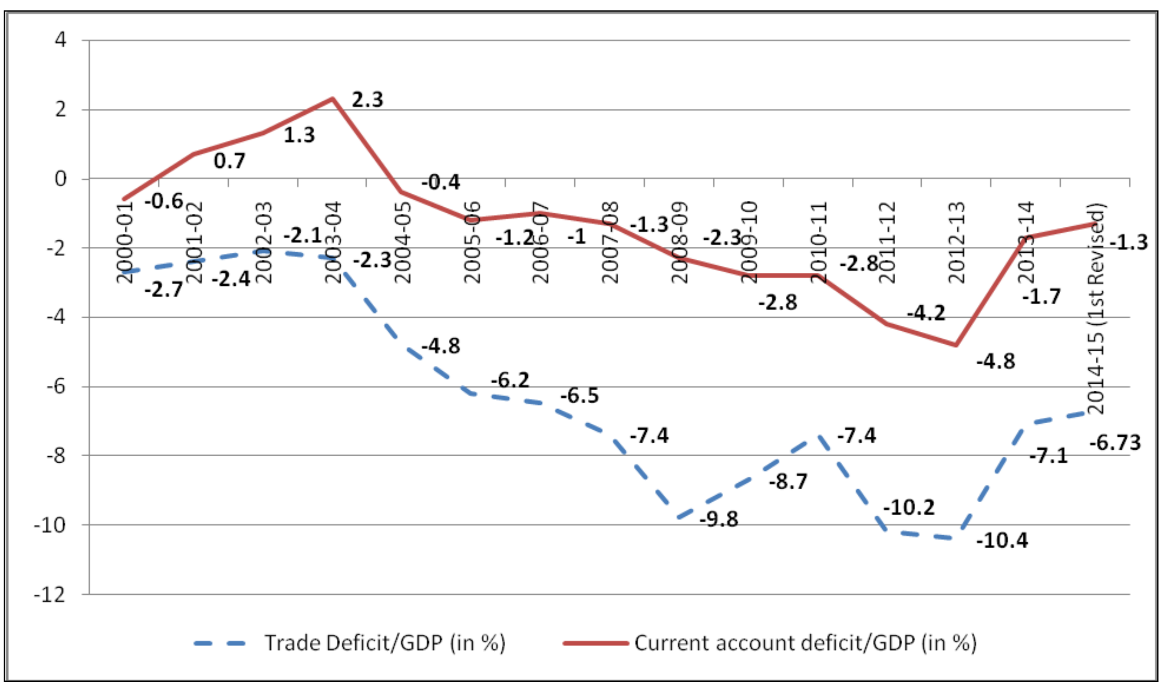
4. Role of international competition

A neoliberal state, in fact, introduces/forced to bring in labour law changes in order to promote international competition. For example, Report of Task Force on Employment Opportunities, constituted by the Planning Commission in 2001, chaired by Mr. Montek Singh Ahluwalia noted that, "India's labour laws have evolved in a manner which has greatly reduced the flexibility available to the employers to adjust the labour force in the light of changing economic circumstances. *In a globalised world, persisting with labour laws that are much more rigid than those prevailing in other countries only makes us uncompetitive not only in export markets but also in domestic markets. Some changes in the laws are therefore necessary if we want to see rapid [economic] growth*." (emphasis added) (Task Force on Employment, GoI, 2001 p.171). Sharing the same sentiment the Second National Commission on Labour in 2002 noted, "In the new circumstances of global competition, it may not be possible for some enterprises to continue and meet the economic consequences of competition. … *In these circumstances the Commission came to the conclusion that the best, and more honest and equitable course will be to allow closure, provide for adequate compensation to workers* ... [and] *prior permission is not* [deemed] *necessary in respect of lay off and retrenchment in an establishment of any employment size. Workers will, however, be entitled to two month's notice or pay in lieu of notice, in case of* *retrenchment*" (emphasis added) (SNCL Report, 2002 p.350). Further, corporations' strategy of wage restraint and adoption of lean production procedure is actively facilitated by the State.

However, United Nations Conference on Trade and Development (UNCTAD) – Trade and Development Report (Overview), 2011 noted that if many countries take recourse to such a strategy for sustaining their growth process then this would lead to a 'race to the bottom' in terms of wages, ultimately proving counterproductive – "The simultaneous pursuit of export-led growth strategies by many countries implies a race to the bottom with regard to wages, and has a deflationary bias" (p.8).

In fact, it may be argued that a neoliberal State is forced to pursue policies promoting the interest of capital – as the principal growth stimuli shifts from deficit-financed state expenditure based on home market to private investment and debt-financed consumption expenditure based on external market – decidedly so, if the economy runs a persistently high current account deficit. This is the case in India.

Figure: 13 Current Account Deficit and Trade Balance as proportion of GDP



Source: Handbook of Statistics on Indian Economy, various issues

It can be seen that India's current account deficit persistently widened since 2004-05 (except for the last two years[14] and may be considered as special circumstances) – as our import bills were rising at a faster pace than the export earnings (Patnaik, 2007 and Chowdhury *et.al.*, 2015 explains the underlying factors). Actually, it is the huge merchandise trade account deficit (accounting for export and import in goods) that explains such massive current account deficit – which is partially offset by invisible earnings (mainly accounting for export and import in services and remittances).

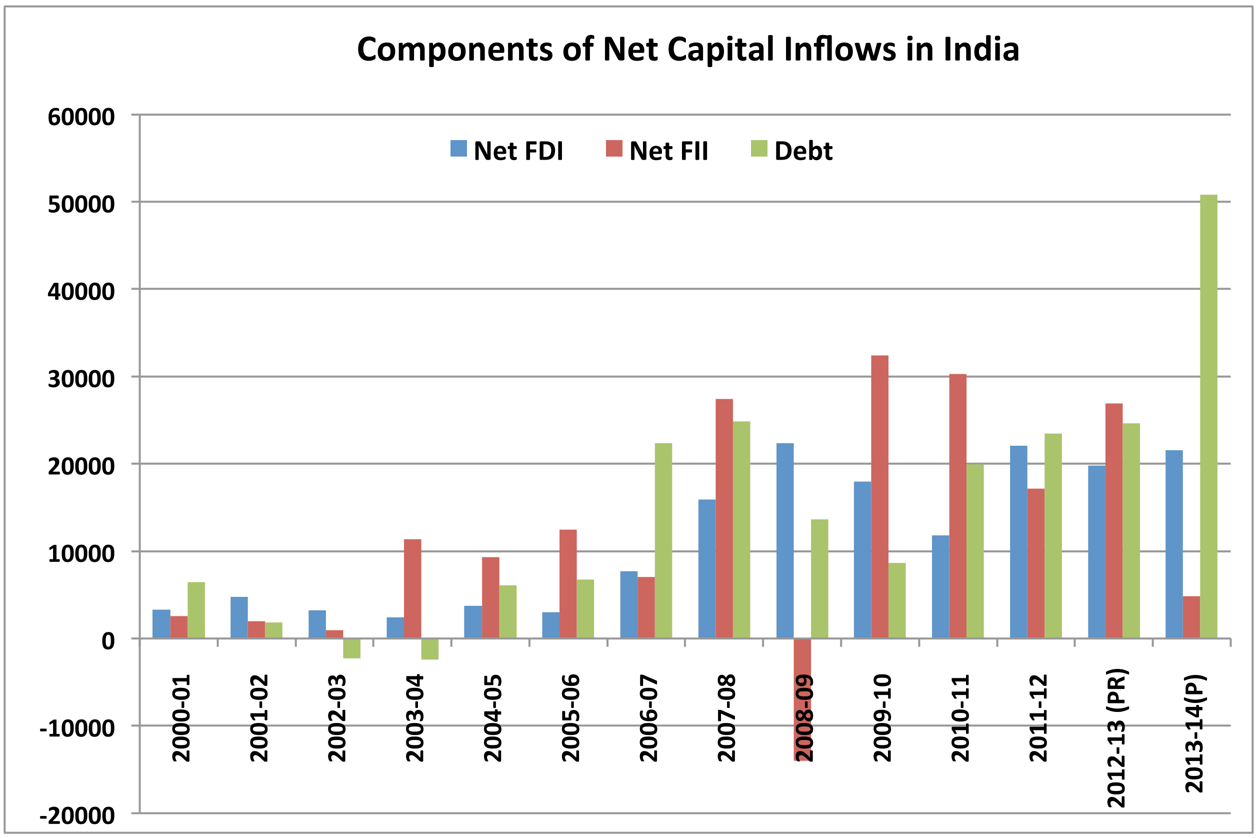
Now this deficit is financed through capital account inflows; also, the much touted benefit of liberalization in form accumulating large forex reserves actually masks a fundamental weakness in India's external account. As Chandrasekhar (2012 p.6) puts it, "India's foreign reserve accumulation was (unlike China's, for example) not the outcome of its excess earnings of foreign exchange relative to its annual expenditures of foreign currency. Rather it was reflective of the fact that, for many years now, while economic liberalization had not delivered on its promise of generating an export and current account surplus, financial liberalization had resulted in large inflows of foreign capital in the form of portfolio flows and debt. India's dependence on foreign finance has increased considerably, increasing its vulnerability". Given this, just to meet the external payment obligations in foreign currency the State has to advance blandishments to capital such that it continues to flow in.

In this context, the Budget Speech of 2013-14 by the then Finance Minister Mr. P. Chidambaram is revealing: "This year, and perhaps next year too, we have to find over USD 75 billion to finance the current account deficit. There are only three ways before us: FDI, FII or External Commercial Borrowing. That is why I have been at pains to state over and over again that India, at the present juncture, does not have the choice between welcoming and spurning foreign

[14] Improvement in the current account (and trade account) in 2013-14 and 2014-15, primarily occurred due to import growth turning negative since, growth in exports were sluggish in these two years. In fact, "there has been significant deceleration in growth rates of exports which is somewhat a global phenomenon as global trade volumes have not picked up significantly since the 2011 … [due to] … sluggish global demand, which owes to a great extent to the weakness in the Eurozone" (Economic Survey, 2014-15 p.15). The decline in imports mainly owed to the following two factors: (a) lower growth in oil imports due to sharp decline in international oil prices and (b) restrictions placed by government on gold imports in 2013-14, which was only lifted on 29 November 2014 (*op.cit.* p.60).

investment. If I may be frank, foreign investment is an imperative. What we can do is to encourage foreign investment that is consistent with our economic objectives" (http://indiabudget.nic.in/ub2013-14/bs/bs.pdf). Extending the same logic, in June 2016, Prime Minister Mr. Narendra Modi announced a slew of reforms raising the FDI limits across various sectors mentioning specifically – "Now most of the sectors would be under automatic approval route, except a small negative list", emphasizing that, "India is now the most open economy in the world for foreign direct investment" (The Economic Times, 21 June, 2016). Now the increase in vulnerability of the Indian economy vis-à-vis external payments – may be traced from the nature of capital inflow in the economy.

Figure: 14



Source: Handbook of Statistics on Indian Economy, RBI

P: Provisional; PR: Partially Revised

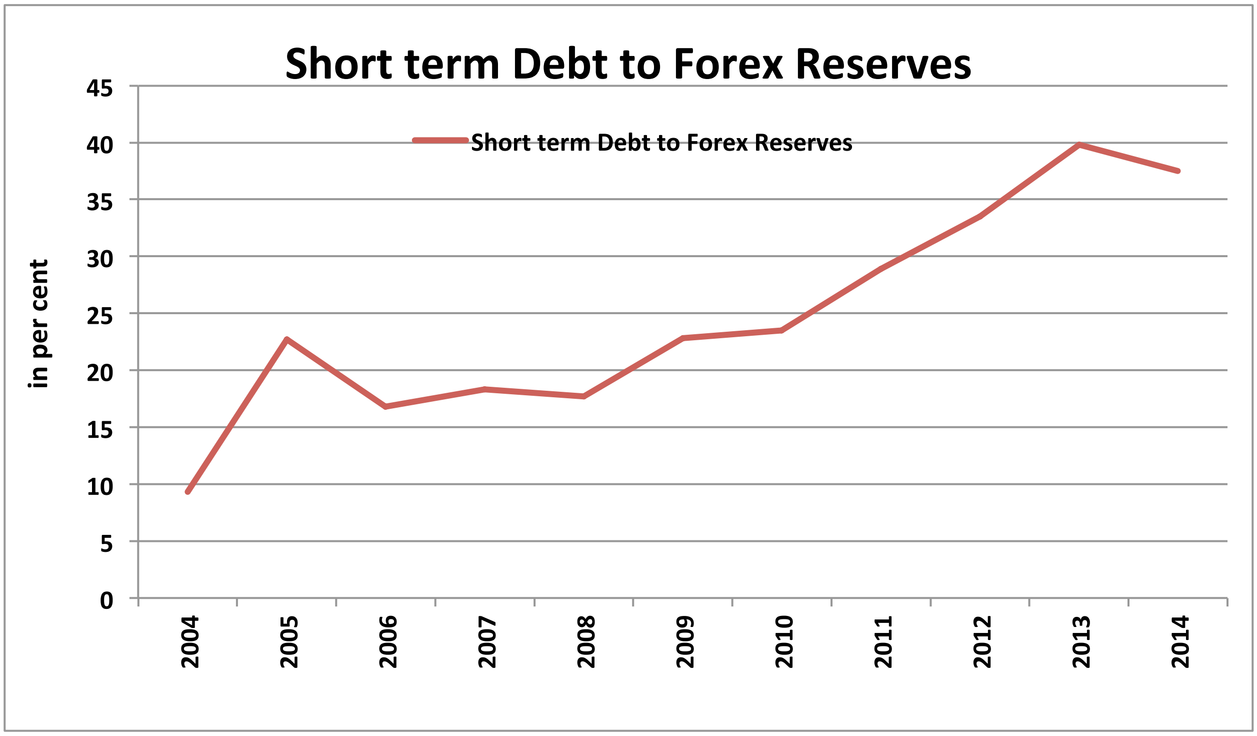
It can be seen from the figure 14 that in most of the years, more volatile capital inflows (i.e. FII) have dominated over – especially from 2003-04[15] – relatively stable capital inflows (i.e. FDI). Thus, simply to meet the external payment obligations, state has to maintain a good 'investment grade' before the international rating agencies – which essentially means providing various concessions to capital (one of its key elements being introducing labour market flexibility).

However, *all* FDI inflows are not unambiguously stable, since a part of this inflow is in form of private equity. As, Chandrasekhar and Ghosh points out, "In the past, it made a lot of sense to separate portfolio inflows from direct foreign investment, on the grounds that the former are typically more short-term in orientation and more likely to be volatile and therefore exit the country in periods of downswing. However, the emergence of private equity, especially after 2000, has changed this considerably, since this is typically included in FDI. Private equity is also essentially short-term in orientation, since it seeks to make relatively rapid capital gains on the acquisition of domestic assets. A significant proportion of inward FDI into India in the recent past has been in the form of private equity. As a result, a significant proportion of inward FDI is also effectively short-term, and cannot be assumed to be in for the long haul, any more than explicitly portfolio inflows" (9 January, 2012 Business Line).

Further, the second major component of capital inflows after FIIs, which has been important in financing India's burgeoning current account deficit, is the debt component. However, this method of financing the current account deficit has also increased the vulnerability of the economy – as the composition of the capital inflow in the debt account, clearly demonstrates that the share of short-term debt to foreign exchange reserves is more or less continuously rising since 2004, precisely the period in which the deficit in current account widened (Fig. 15). Thus, a neoliberal state may be trapped into promoting policies which are in the interest of capital.

[15] This is because the then Finance Minister in the Budget for 2003-04 announced: "In order to give a further fillip to the capital markets, it is now proposed to exempt all listed equities that are acquired on or after March 1, 2003, and sold after the lapse of a year, or more, from the incidence of capital gains tax. Long term capital gains tax will, therefore, not hereafter apply to such transactions. This proposal should facilitate investment in equities." Long-term capital gains tax before this announcement was 10 per cent. This concession definitely encouraged FII inflows in India.

Figure: 15



Source: India's External Debt: A Status Report, various issues

http://www.finmin.nic.in/reports/ind_Ext_debt.asp

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