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26

**PLANTATION LABOUR ACT 1951 AND
SOCIAL COST – THE CASE OF TEA
INDUSTRY**

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ABSTRACT

The tea plantations were among the first industrial establishments in India, but owned and managed by colonial planters, the product of which was mainly for international consumption. The PLA gives certain social and economic rights to unskilled / manual workers in these plantations, who are descendants of millions of indentured workers transported to these plantation areas from far off places. The PLA gave the onus of the delivery of these rights to the employers. 'Social cost' of tea production has been an issue of intense debate in recent years. Present paper examines the source and rationale of the argument that a legislation intended to address the welfare needs of workers in effect leads to increased cost of production and reduced competitiveness. Assuming the validity of this statement, the paper further examines whether the PLA has empowered tea workers and how far it is inclusive in its outreach. The economic and social implications of a piece of law has been differentially understood and interpreted by the planters and the workers, the former as empowering and the latter as cost enhancing. This paper examines the reasons for this differential interpretation by delving into the historical context that brought PLA into existence and its practice by various actors. The paper locates itself in three hypothesis - whether PLA is cost enhancing, whether it is labour empowering and whether it is exclusionary - and seeking the answers within the context of the history of the tea plantation industry in India. The evolution of the PLA, its implementation, its reach and its assimilation by the workers is discussed.

I. Introduction

'Social cost' of tea production has been an issue of intense debate in recent years. 'Social cost' of tea production is defined as those costs the planters have to bear on workers over and above the costs they incur as cash wages to comply with the welfare provisions of Plantation Labour Act, 1951 (PLA). Though PLA is applicable to seven plantation crops, it is the representatives of the tea industry that articulated this concern vociferously. Present paper examines the source and rationale of the argument that a legislation intended to address the welfare needs of workers in effect leads to increased cost of production and reduced competitiveness. Assuming the validity of this statement, the paper further examines whether the PLA has empowered tea workers and how far it is inclusive in its outreach. The economic and social implications of a piece of law has been differentially understood and interpreted by the planters and the workers, the former as empowering and the latter as cost enhancing. This paper examines the reasons for this differential interpretation by delving into the historical context that brought PLA into existence and its practice by various actors.

II. On Labour Rights

It is Dworkin (1986), among the twentieth century's influential liberal political and legal philosophers, who said that there exist *internal* (the practitioner) and *external* (sociologist and historian) argumentative aspects of law, both having a bearing on the proper understanding of the

law¹, though his emphasis has been on the former. An exploration into the ‘argumentative’ aspect of PLA among its practitioners (lawyers of workers and employers as well as judges) did not take us any far since there are rarely any case law on PLA in the Supreme Court. This means that the provisions of the PLA has not been used by the workers to defend their rights as provided for in the law or by the employers to counteract such claims. The historical and social context in which the PLA came into being will then have crucial bearing on its practice and differential interpretation. A large part of this paper will deal with the specific characteristics of the provisions of this law as it evolved in history. At the same time, it must be acknowledged, as Dworkin points out, that the provisions of the law is being practiced on a day-to-day basis by a large number of people including planters, district officials, labour officers, trade union officers either in implementing the provisions of the law or on the contrary.² The paper will also examine the contemporary perspectives of some of these agencies, especially employers, workers and law enforcement agencies.

A related aspect but central to the discussion is the concept of ‘labour welfare’. The PLA³ is a labour welfare law; *assuring*⁴ plantation workers’ reasonable amenities, such as the supply of drinking water or suitable medical and educational facilities or provisions for canteens and creches, provision for sufficient number of latrines and urinals separately for males and females and housing accommodation for every worker.⁵ As welfare measures in the PLA are therefore statutory entitlements, it is important to understand these entitlements within the ambit of ‘labour rights’ and ‘labour rights’ within the ambit of ‘human rights’.

Entitlements that relate specifically to the role of being a worker are usually termed labour rights, exercised individually and collectively. Among these are the rights to accept a job freely chosen, fair working conditions, just wage, protection from arbitrary and unjustified dismissal;

leisure and rest; limitation on working hours, holidays, protection from occupational hazards and ill-health, to associate and be member of a workers organisation, to strike etc. Labour welfare, intended to improve the living and working conditions of workers are also seen as part of labour rights. These include retirement benefits, health insurance, accident and invalidity compensation, maternity benefits etc.

Nevertheless, conceptual application of labour rights within the discourse of human rights is not uniform and straightforward. The Universal Declaration of Human Rights, 1948 (UDHR) incorporates a number of components understood as labour rights such as prohibition of slavery and servitude; the right to freely chose work, equal pay for equal work; decent remuneration for work performed; a dignified life for workers and his/her family; right to form and join trade unions; right to rest and leisure, reasonable limitations of working hours, as well as holidays with pay. Subsequently, labour rights get separated into civil and political rights (International Covenant on Civil and Political Rights, 1966), and as economic and social rights (International Covenant on Economic, Social and Cultural Rights, 1966).⁶ “...rights such as the right to form and join a trade union and the right to privacy were categorised as civil and political rights, and rights such as the right to work, the right to decent working conditions or the right to strike, were categorised as social and economic rights.” (Mantouvalou 2012).⁷ The implication of this, when also coupled with the argument that rights are rights only when specific rights can identify its duty holder, was that some of these, mainly civil and political rights, were viewed as real human rights, while others were presented as aspirational goals, each having differential application by the states and in legal practice.

There are those who insist that “the history of modern welfare economics has been largely that of the purging of freedom, justice, and naturalness from the vocabulary of the profession” (Kennedy 1985). From an understanding that labour laws promote collective rights, social

justice and workplace democracy, their application has moved more into addressing individual labour rights vis-a-vis rights of employers over property, trade and contract, where the latter gets precedence conditioned by globalisation and neoclassical economic thought (Pollert and Smith 2009). Neoclassical thought advocates market's capacity for self regulation of not only movement of finance and capital but also employment and wages. This has challenged the welfare state approach and social security systems developed on that framework, plunging workers and other sections populations into socio-economic insecurity and economic inequalities. (Guy Standing 2009, 2011) In line with neoliberal prescriptions, States' withdrawal from labour market interventions and from labour welfare and in turn, proposes that the labour law should be limited to the setting up of a threshold of basic rules and leaving labour market opened for flexibility and informalisation.⁸ Labour law is characterised as 'labour market regulation' and advocates 'labour flexibility'; 'labour rights' are seen as 'labour costs' and calls for extrication of the employers from the burden of ensuring labour rights (Bronstein A, 2009).

Adoption of Declaration of Fundamental Principles and Rights at Work by the ILO in 1998 has resulted in an intensified discussion on globalisation, labour laws and labour rights, (Chapman and Russel (Ed.). 2002) many of them re-emphasise rights based approach to work and redistributive justice. Among them, Joseph Stiglitz (2009) argues that labour flexibility and withdrawal of state from social protection measures have made the economic system less stable.⁹ In his framework, social protection measures are seen as part of labour rights. He also suggests that observation of labour rights addresses inequalities inherent in economic systems, noting that in the current phase of globalisation, distribution of income at global, national and personal level has become more unequal, benefiting capital much more than labour. From a libertarian framework, 'social safety net' and 'protective security' have been posited as necessary conditions for ensuring that the positive

prospects of globalisation reach everyone and ‘when people’s predicaments diverge and some groups are thrown brutally to the wall while other groups experience little adversity’¹⁰. (Sen 2000 a). An assumption here is that labour rights, labour welfare, safety net or protective security though involve cost are necessary for the benefits of development to reach all and even to protect the system from instabilities.

Guy Standing’s position on ‘social income’ further reiterates that ‘social security’ and/or ‘social protection’ are not notional, but it is the income of an individual necessary for her/his survival. For an individual there are various sources that income, which determines not only the level but also the overall security of the income. A person’s social income is constituted by five sources of income, according to Guy Standing (2002), which he defines as follows:

$$SI = W + CB + EB + SB + PB$$

where SI is the individual’s total social income, W is the money wage or income received from work, CB is the value of benefits or support provided by the family, kin or the local community, EB is the amount of benefits provided by the enterprise in which the person might be working, SB is the value of state benefits provided, in terms of insurance benefit or other transfers, including subsidies paid to workers or through firms to them, and PB is private income benefits gained through investment, including private social protection.

Under globalisation, the structure of social income and the constituent element(s)’ contribution to the total social income of individuals has been changing. For workers, a major part of the social income comes from their wage and the benefits from the employer and the state. Flexible work, employers’ attempts to reduce the quantum of benefits extended to workers and the state’s systematic withdrawal from regulation of labour laws as well as from welfare responsibilities have increased the insecurities of workers and inequalities in society.

Besides the concerns of social and economic justice arising from the issues discussed above, the need for addressing ‘social exclusion’ or the opposite, the need for affirming universality has been emphasised in this context. From the perspective of practical justice, Amartya Sen points out that the reach of the ILO’s goal (ILO 1999)¹¹ in the context of its adoption of Declaration of Fundamental Rights and Principles at work” is indeed momentously large: it includes all workers, wherever and in whatever sector they work; not just workers in the organised sector, nor only wage workers, but also unregulated wage workers, the self-employed, and the homeworkers”. He also points out that the ILO’s approach has emphasised the universality and placed work within a broad economic, political and social context. (Sen 2000 b.)¹² ILO has also called for social security for all and not just workers in the formal sector (ILO 2010). Universality can be achieved only if social exclusions are addressed both conceptually and practically. From a capability deprivation framework, Sen (2000) in his discussion on ‘social exclusion’ has pointed out that it can be “constitutively a part of capability deprivation as well as instrumentally a cause of diverse capability failures” and called for policies that address persistent unemployment but also deprivation arising from “unfavourable terms of inclusion and adverse participation”.

The Constitution of India provides the basis for laws relating to labour and employment in India. The fundamental rights enshrined in Part III of the Constitution reflects some of the basic human rights of all people and provide inter alia for equality before the law, right to associate and for prohibition of discrimination on the basis of religion, caste, sex, etc. The Directive Principles of State Policy in Part IV of the Constitution encapsulates the directives to the Government while formulating its policies pertaining to adequate means of livelihood, right to education, and just and humane conditions of work, and to participation of workers in the management of industries. Of significance in our discussion is how these principles, especially right to livelihood have been read into

Article 21 (right to life) to safeguard and guarantee the workers their rights.¹³ Labour legislations in India tackle issues relating to working conditions, industrial safety, hygiene and welfare, wages, trade unionism, social security, etc. Laws also meet the special needs of specific industries and commercial establishments, such as mines, plantations, factories, shops and establishments, etc.

The PLA provides for the welfare of labour by way of ensuring medical facilities, canteens, creches, recreational facilities, suitable accommodation and educational facilities for the children of plantation workers in and around the work places in the plantation estate. The social cost angle of these provisions come from the fact that the PLA requires the employer to provide these welfare measures. The 2012-13 Outcome budget of the Tea Board of India, submitted to the Department of Commerce, Ministry of Commerce and Industries Government of India had the following observation on the social cost. *“...it has also been observed that it has become financially unviable for the tea industry to continue to bear the social cost burden in their garden estates.”* Considering the same, the Tea Board of India recommended the *“creation of a separate trust or an agency under the aegis of the Tea Board to look after a. housing facilities under Indira Awas Yojana, b. sanitation facility under Total Sanitation Campaign, c. Safe drinking water under Swajaldhara, d. health under National Rural Health Mission (NRHM), and e. Educational facilities under Sarva Siksha Abhiyan.”*

The proposal by the Tea Board has two major implications; one conversion of certain statutory welfare benefits of the tea workers into non-statutory schemes, two, the shifting of the onus of servicing of the schemes to the state from the employers and thereby reducing the costs of the planters.

As proposed in the beginning of the paper, this will be discussed asking three questions - whether PLA is cost enhancing, whether it is labour empowering and whether it is exclusionary - and seeking the

answers within the context of the history of the tea plantation industry in India. The evolution of the PLA, its implementation, its reach and its assimilation by the workers will be discussed. It ends with key conclusions.

III. Tea Industry in India and the Evolution of the PLA

(a) Tea as a Plantation Crop

The prefatory note to the PLA, 1951, which gave the objects and reasons for the Act, assumes the existence of a class of agricultural activities as plantations and emphasised its distinctiveness. It said, “In spite of the fact that the plantation industry provides employment for more than a million workers, there is at present no comprehensive legislation regulating the conditions of labour in the industry. The Tea District Emigrate Labour Act, 1932, which applies only to Assam regulates merely the conditions for recruitment of labour for employment in the tea gardens of Assam. The Workmen’s Compensation Act, 1923, which applies to estates growing cinchona, coffee, rubber or tea also does not confer any substantial benefit on plantation labour as accident in plantations are few. The other Act like Payment of Wages Act, 1936, Industrial Employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947, benefit plantation labour only to a very limited extent. In its report the Labour Investigation Committee observed “that as the conditions of the life and employment on plantations were deferent from those in other industries it would be very difficult to fit plantation labour in the general framework of the Industrial Labour Legislation without creating serious anomalies and recommended a Plantation Labour Code covering all plantation ares.”

It has been observed that ILO Convention on Plantation is among the least ratified conventions; only 10 ratifications so far and India has not ratified. Though implementation of provisions of the PLA is mandatory, various studies and reports have pointed out its tardy

implementation amidst increasing concerns of cost enhancing properties of the PLA. Non-ratification of the ILO Convention has been attributed to its decreasing relevance in the wake of the innovations and re-organisations in global agricultural production and trade by agri-corporations (Lincoln 2010)¹⁴. He also points out the shift in emphasis in ILO to all agricultural labourers after adoption of labour inspection convention. What then, are the factors that contribute to the PLA being ineffective and at the same time being cost enhancing? In order to understand this, it is important to explore briefly labour relations that existed in the colonial plantations in India, the merit of provisions in the PLA in that light and effectiveness of the PLA provisions post the enactment.

The PLA is applicable only to those crops under Ministry of Commerce, which has its specific history and characteristics - the colonial heritage; and among which we will concentrate on tea. Indian tea estates are registered under the Companies Act, 1956. Three among the four corporations (War on Want 2010) who dominate the global tea trade - Unilever (UK/Netherlands), Van Rees (Netherlands), James Finlay (UK) and Tata Tetley/Stansand (UK) - have clear Indian connection. The legacy of industrial production of tea goes back to its origin itself. The Indian tea plantations were set up in the second half of the 19th century as industry (industrialisation of an agricultural activity) taking advantage of the end of monopoly of East India Company in tea trade. The industry was organized as joint stock companies of 'managing agency' owning different plantations, either as sterling companies in London or as rupee companies in India (Gupta B, 1995; Aldous M, 2012)). Bishupriya Gupta points out that the managing agencies were involved in different economic activities, in particular, the control of the three major industries in eastern India, tea, jute and coal control rested with the managing agents; and tea has been a classical example of managing agency system (Gupta B, 1995).¹⁵

Nevertheless, legal status of industry in itself does not constitute a plantation. In his seminal work, 'Persistent Poverty: Underdevelopment in Plantation Economies of the Third World', George L. Beckford quotes S W Mintz as giving certain preconditions for plantations. These are “ (1) capital sufficient to allow the plantation organisation to secure needed factors of production; (2) land in sufficient quantity and of quality adequate for present and future production; (3) labour in sufficient quantity to minimise production costs and so maximise profit; (4) technology of a sufficiently high level for 'modern' production; (5) sanctions of a political-legal sort to maintain a disciplined labour force and to regulate the distribution of surplus. In addition, the system needs (6) sizeable industrial market for its staple; (7) a system of class stratification that differentiates those with capital from those with only labour services to sell.” (Mintz S W as quoted in Beckford, G L 1999) ¹⁶ Europe, in particular the imperial Britain, provided the necessary capital, technology and market; slavery and indentured labour provided labour. Of significance for us is a brief examination on how colonial public policy and law facilitated industrialisation of an agricultural activity like growing tea.

(b) Plantation Development Policies and Laws on Land and Labour

Beckford points out two functions of public policy and law, first, the direction given by the public authorities in order to achieve the objectives of plantation development; second, regulation of the conditions of life and work of the population involved in plantation production. However, he adds that in all instances the second was subsidiary to the first - that is to say, the regulation of conditions of life and work was carried only to a point which would serve to minimise the degree of social unrest and thereby keep the plantation structure intact (ibid). Two things are important, one how the colonial government facilitated the acquisition of large tracts of land by the joint stock companies in India, and two, how the colonial law regulated the life and work of labourers.

In 1840, The Assam Company was granted two-thirds of the experimental tea establishment rent-free for ten years, along with a permission to settle on other lands (Sharma J, 2011). Guha (2010) explains that the Charter Act of 1833 gave the East India Company the right to allow vast waste lands to European enterprises on a long term lease with free hold rights. Large tracts of uncultivable waste lands in the annexed territories (in Assam) of the British enabled large plantations to get established. Waste Land rules of March 6, 1838 were framed which gave a forty five year lease on condition that a quarter of the area will be cleared within five years. (In 1954 this was revised and made 99 years.) Behl points that the wasteland settlement policy adopted by the government in 1850s and 1860s was to facilitate large tracts of land to European planters. The terms were further liberalised in 1861 under the Lord Canning's 'fee-simple rules' under which land was sold for 2.8 to 5 rupees per acre without any clearance conditions attached. Land was also put up for sale at auctions.¹⁷ By 1870-71 0.7 million acres of land had been settled by the planters, but the actual area under tea cultivation was only 56000 acres – 8 per cent. Having control over land not directly under tea served a crucial function for the planters, to which we will return a short while. The minutes of the thirty-third Annual General Meeting of the Assam Branch, Indian Tea Association¹⁸, (held at Tezpur on Saturday, the 11th November 1922) gives some insightful information on the number and size of the plantations. “In 1921, Assam's 900 plantations covered a total area of 417800 acres, an average of 464 acre per plantation; Bengal's 372 plantations had an average size of 488 acres; the average size of 106 Travancore plantations was 460 acres and the average size in Madras presidency was 218.

To cultivate the huge tracts of land, cheap and abundant labour was the most important need of the planters. Guha (2010) notes that after the services of the Chinese workers were dispensed in 1843 local people were the labour force till about 1859, who were considered lazy and placid by the colonialists. During this period labour was in short

supply (10000 total workforce in 1859 whereas the requirement was 16000-20000). The planters found a way out, with the support of the colonial government, they made millions of people to migrate as workers from other areas of the empire to the tea growing areas through systems of 'arkati', 'sardars' and as 'indentured labour' as well as situations of famine and misery in source areas. Plantations were among the first industrial organisations in which the workers were separated from the means of production and subjected to some thing like factory discipline. However, various scholarly studies have brought out the slave like existence of plantation workers in the plantations during the indenture system and even after its abolition. Hundreds of workers died during transportation from far away places and getting exposed to inhospitable conditions at work.

(c) Law to Ensure Uninterrupted Flow of Labour

Of relevance to us in this discussion is how the laws of the colonial government facilitated unhindered labour supply to the planters. For instance, the Act XIII of 1859 or the Workman's Breach of Contract Act, tied the worker to the plantation for three years. If the contract was breached, worker could face arrest, imprisonment for three months or return to the employer. Government appointed a commission to enquire into the problem of very high mortality rate during transportation of labour from source areas, which led to enactment of Act III of 1863 or Transport of Native Labourers Act, which sought that the mortality rate of labourers was reduced. The Act required licensing of contractors, recruiters, steamers, boats etc. Labourers were required to sign a contract before judicial or civil authorities. The Special Act of Assam, formalised over 1863/1882 gave planters the right of private arrest without recourse to the police. Longer contracts of five years were permitted. Contracts could be signed in the district where the plantation was located, rather than under the recruiting district. (Rana P. Behal and P. Mohapatra, 1992) The seriousness of the situation could be gauged from the

following narration quoted from the Assam Labour Enquiry Committee Report, 1906,

“Many of these coolies had been recruited on false representations and were quite unfit to stand the climate. They were unable and unwilling to work, the speculator however, could not afford to wait, and he was often bound by the terms of the lease to clear one-eighth of his grant within five years. The result, was that gross cruelty was frequently resorted to. The flogging of coolies for doing short work was common and absconders when recovered were also flogged. Hill men were rewarded for arresting absconders and the amount of the reward deducted from the absconders’ pay. Between 1st May 1863 and 1st May 1866, 84,915 labourers were ‘landed in the tea districts: out of these considerably over 30,000 had died by 30th June 1866. Between 1st July 1865 and 30th June 1866, 9,147 labourers died and 8,187 deserted. As it is certain that the majority of the deserters died, the deaths on a total labour force of about 40,000 are estimated to have exceeded 11,000 in a twelve-month.’¹⁹

Based on the recommendation of a committee, the Government passed Act VI of 1865, though purportedly for the benefit of the workers, had stringent provisions including imprisonment and loss of pay. Assam Labour Enquiry Committees of 1906²⁰ and 1922 talks about labour protection, ultimately laws were tuned to ensure labour supply as far away as from Madras Presidency. Workers had to abide by the Workmen’s Breach of Contract Act as well as the 1865 Act, which has increased the misery of workers. The laws and policies were oriented towards an uninterrupted supply of productive labour through the indentured system of recruitment, first by way of the *Arkatti* system, characterised by unlicensed recruiting from source areas; and then through the *Sardari* system characterised by recruitment of new labourers by those already employed in the tea estates.

(d) Monopoly over Land and Labour

Bhowmik (2010) notes that the only way planters could get cheap labour was by not allowing a labour market to develop in the plantations. Absence of a labour market, in other words, opportunities for workers to choose work of their choice, is to be understood with three other related factors. One, exercise of monopoly over the land by the joint stock companies of the planters. Two, as a result, land as entitlement was deprived to millions of people migrating to tea plantations as workers, though they were settled in plantations, at the mercy of the planters. Assam Labour Enquiry Committee (1906) report gives an interesting observation on how government policies and practices of the planters deliberately controlled access to land to workers. It reads,

“The Settlement Rules empower the Local Government to issue leases on favourable terms in order to encourage persons to take up waste land for ordinary cultivation, in tracts not likely to be opened out within a reasonable period. In practice however, this provision has remained almost a dead letter, as it has been feared that the grant of special concessions to new settlers would have the effect of tempting time-expired labourers to leave the tea estates and take to cultivation on their own account. And the view that nothing should be done which might tend to encourage the settlement on Government land of labourers who had been imported by the Tea Industry at a high cost, has always governed the land settlement policy of the Assam Administration.” (Assam Labour Enquiry Committee, 1906).

The planters followed a policy of granting kitchen gardens to workers and claimed this formed a substantial addition to the latter’s income; the size was too small to called agricultural land. For example, the labour enquiry committee reports says that the Langla garden, for instance, has given out 500 acres among a garden population of 3,300. Third, revenue generated from the sale of tea went out of the country

and was never brought back into the plantation colony for its development. All these factors contributed to, as Beckford calls 'resource misallocation', starkly expressed in the occurrence of gross under utilisation of labour and land as well as of underconsumption (Beckford 1977).²¹

(e) Other Benefits extended to Workers

However, in order to retain workers in the garden, the planters, with the approval of the government, were willing to offer certain 'attractions' to migrant labourers. Among these were one room for a family in the worker line as accommodation, supply of drinking water, garden hospitals, firewood, rice and at times, a small plot of land within the garden. The colonial government claimed that 'a great deal of attention is paid to the health of the labour force. There is generally a good supply of pure water, and tea or boiled water is often provided for the labourers when at work. The garden hospitals are as a rule well equipped, and the native doctors are almost invariably under the Superintendence of an European Medical officer. The coolie lines occupy well drained sites, and the houses are in good repair and commodious, if not perhaps sufficiently in accordance with the labourer's idea of comfort'. However, it is pertinent to emphasise here that none of these were entitlements of the workers, but were instruments of enticements the planters offered to retain workers in the plantations.

Of relevance here is a discussion the report of the Assam Labour Enquiry Committee, which the Committee called 'issues of special consideration' in Chapter VIII 'Maintenance of the Labour Force'. Three issues discussed are: (1) the strength of the labour force required; (2) the natural growth of the labour force apart from immigration and (3) the settlement of labourers on land. The strength of the labour force dealt with the 'annual wastage due to deaths', 'desertions' and to 'time-expired coolies' leaving the estate. The natural growth of labour force addressed the issue of to the low birth-rate which prevailed on tea gardens. It went

on to add, “The importance of a high birth-rate can scarcely be over-estimated; the more difficult Assam finds it to import coolies the more essential is it that they should be bred in the country. Had the imported population bred properly in the past there would probably have been at the present time 200,000 more persons of the coolie class in the Assam Valley than there are at present.”(Assam Labour Enquiry Committee 1906) It not only takes our attention to how colonial planters ensured a regular labour supply but also to how they used Indian women as reproductive machines. The practice of ‘depot marriages’ is an instance, in the contractors’ depots single men and women were paired off regardless of caste and sent up as” family coolies. Obviously, planters were making efforts to offer certain attractions to maintain labour force in the plantations.

To bring us back to one of the key concerns of this paper, the question to be posed is what has been the cost of these benefits and whether these have been incorporated into the wages of workers.

(f) Subsistence Wages as a Means of Control

Surprisingly, much before the recorded date of origin of the concept of ‘minimum wages’, it was introduced in the plantations of India. Section 4 of Act VI of 1865 provided that all labourers imported under its provisions should receive a minimum wage of Rs.5 for a man, Rs.4 (per day, presumably) for a woman and Rs.3 for a child, unless they were fined for absence or indolence by a magistrate. The contract was for three years. The Act VI of 1901 had fixed minimum rate of wages for men and women to be Rs.5.00 and Rs.4.00 respectively in the first year, Rs. 5.50 and Rs.4.50 during the second and third years, and Rs.6.00 and Rs. 5.00 in the fourth year of contract. (Assam Labour Enquiry Committee 1906) Many gardens in Sylhet paid their labourers daily; each morning tin tickets are issued” for the work of the day before; the shape of the ticket varies for a whole haziri,” a 3/4 haziri or a 1/2 haziri. It shows that the minimum wages were further reduced into smaller units.

Above these minimum wages were the ‘attractions’ or ‘concessions’ offered to workers to retain them in the gardens as discussed in the previous section, disbursement of which were left to the prerogative of the individual planters. Though together it constituted the wages of the workers, in most instances, the enjoyment of the benefits tied workers to the plantations and increased their indebtedness. (Behal 2012) Behal analysing the wages and movement of prices of essential items in early 19th century concludes that reduction in real wages kept the Assam tea workers in appallingly low standard of living and they experienced acute undernourishment. The situation of subsistence existence of tea workers did not change at the eve of Indian independence. Behal has quoted from the Rege’s National Labour Investigation Report, 1946: “The standard of living of tea garden labourers in Assam is appallingly low. They merely exist. They have hardly any belongings except a few clothes (mostly tattered) and a few pots (mostly earthen). Their womenfolk have no jewellery except German silver bangles in a few cases. Their houses presented a picture of stark poverty.”

The historical phenomenon of subsistence wages in tea plantations have two important corollaries. One pertains to the logic of fixation of wages in tea plantations and two pertains to valuation of women’s work.

(i) The Logic of Fixation of Wages

The Assam Labour Enquiry Committee (ALEC), 1922 had two terms of references as follows:

- i. to enquire whether the remuneration in money payments together with the concessions received by the coolies in the way of free housing, medical attendance, cheap rice, clothing, garden land, etc., is sufficient to maintain the labourers in health and reasonable comfort.
- ii. to enquire whether it is possible and desirable that the indirect remuneration represented by the above mentioned concessions should be converted into an increase of money wages, and to

make any recommendation which seems desirable for improving the conditions of labour.

ALEC's satisfaction that the coolies earn a decent living wage (with reference to ToR i) is based on the same logic the Indian tea industry currently uses to determine the wages of workers. There is no individual worker in tea plantations. Though the migrants are 'free' labourers, they do not have social or economic individuality. They are subsumed in the convenient identity of a family, where man, women and children are productive units. In page 123 of the Report, the committee stated that "stress has rightly been laid on the necessity of taking into consideration joint family earnings in the case of tea garden labourers". The minutes further reads, "in calculating such earnings they have adopted Mr. Melitus' (the Commissioner of the Assam Valley Districts) standard of an average working family, as consisting of one working man, one working woman and 3/10 of a working child". The figures below show the family earnings calculated on the average daily working strength. The last column indicates the percentage of increase in 1922 as compared to 1914:

Table 1: Family Earnings Calculated on the Average Daily Working Strength (1914-1922)

District	1914			1922			Percentage in rise
	Rs	A	P	Rs	A	P	
Lakhimpur Sdr	18	2	4	21	15	2	21
North Lakhimpur	15	13	10	20	4	3	28
Darrang	14	14	10	18	15	8	27
Maugaldai	15	11	5	18	15	4	21
Sibsagar	15	15	11	20	1	0	26
Jorhat	16	7	7	18	0	11	17
Golaghat	14	0	11	17	7	4	25
Nowgong	16	11	9	18	8	10	11

Source: The Assam Labour Enquiry Committee (ALEC), 1922, pp.66.

The ALEC further goes in to give platitudes on how to fix the wages, but gives the responsibility of fixing wages to the district Sub-Committees and expresses faith in the fair-mindedness of the Managers of the gardens, “the district sub-committee should recommend what they consider to be a decent monthly or daily rate of wage, which is not to be a mere subsistence allowance, but a wage that will suffice to keep the labourer in health and reasonable comfort with the possibility of saving a little. ...His Excellency in Council believes with the Committee that Managers are a reasonable and fair-minded body of men, and is convinced that the Sub-Committees are in the best position to say what is a fair task for a decent living wage.”

While dealing with the second terms of reference, ie., whether it is advisable to convert the concessions into money wages, the ALEC observed:

“The view of the committee as regards housing, medical attendance and land for cultivation is that though there is a theoretical possibility of converting these concessions into a money equivalent this is impracticable and undesirable both from the point of view of the labourer and of the garden. As regards, rice and clothing concessions, the Committee thinks that the labourer should have the opportunity of earning a sufficient wage without working overtime to enable him to buy rice and clothing in the open market, unless they are abnormally dear, when he might reasonably expect the garden to come to his assistance.”

Subsequently, the Government resolution on the subject accepted this logic. Plantations did not want to loose the instruments of control over workers. Consequently, there had been a double depression of wages in plantations, one, by way of arbitrarily fixing ‘minimum wages’ and second, by extracting three persons labour and remunerating for one.

Legacy Continues

Post-independence, in 1957, when the Indian Labour Conference (ILC) put forth the concept of a need based minimum wage and subsequently the Central Wage Board in the tea plantations was formed, the planters strongly objected to the formula adopted by the ILC of three consumption units and argued that since employment in plantations was family based one and a half consumption units should be the criteria. Consequently, plantations assume that the wages to a person is sufficient to meet the subsistence needs of the person and partial needs of one child. Fetching for meeting the remaining portion of the needs of the child, is the responsibility of the partner (assumes that in a plantation worker household adults or both parents are regular employees). As a result wages in plantations have remained depressed.

The same logic has been used by the Indian Tea Association and UPASI in calculating the social cost. O P Arya Committee, constituted by the Ministry of Commerce in 2007, has accepted these submissions.

(ii) Valuation of Women's Work

Here is an industry that pioneered female employment. But colonial plantation could never recognise women as individual units; they were undervalued, discriminated, considered as part of the joint family labour and viewed as instruments of reproduction. Women were engaged in similar work as men; but were given lesser wages. On the other hand, planters were willing to give maternity leave and cash benefits to women in order to ensure that they perform the reproductive functions - or reproductive instruments - so that the labour supply is ensured. There was multiple level of exploitation women experienced at work, as reproductive agents and at home.

A combination of factors including the theory of joint family labour in plantations, refusal to convert benefits to money wages and non-recognition of value of women's work etc have contributed to the

practice of fixing ‘subsistence wage’ as ‘minimum wages’ in plantations. This practice started by the colonial planters with the support of colonial government is even now being religiously followed in the tea plantations in India.

IV. PLA and the Rights

In colonial plantation, the concept of worker rights were non-existent not only for planters, who extended benefits to workers as a means to extract labour from them, but also for the workers, who were never allowed to gain critical consciousness or the energy of the collectives. Laws existed, but these were mainly to facilitate recruitment of labour from far off places, their ‘safe’ journey, their absorption as resident plantation labour and in ensuring their continued availability. Laws made many things illegal for the workers; as Kennedy (1982) has pointed out, “..if you are a worker, in which you are constantly being told by people who are frightening but also authoritative that you can’t have it because it’s illegal. ...the idea of legal and illegal is something which, if you can manipulate it skillfully, you can use to exercise great power over people who believe it.”

The enactment, by the independent India’s Parliament, in 1951, of the Plantation Labour Act changed the situation radically. It regulated employment. It also made legal those benefits which the planters were giving differentially and arbitrarily as incentives to workers. PLA mandated the employers to ensure **health** of the workers by providing wholesome (or clean) drinking water, separate urinals for men and women, medical facilities for worker and their families; to ensure **welfare** of workers by providing canteens (in plantations employing 150 or more workers), creches (in plantation wherein 50 or more women workers are employed or were employed on any day of the preceding twelve months or where the number of children below the age of six years is 20 or more), recreational facilities, educational facilities (where the number of workers’ children in the age group of six and twelve years exceeds

twenty five), housing facilities; to **regulation of work** by stipulating weekly hours of work (not more than 48 hours a week and no adolescent or child for more than 27 hours a week and with overtime not more than nine hours on any day and more than 54 hours in any week), daily intervals of rest (at least half an hour each day after 5 hours of work), insisting on no night work for women and children, annual leave with wages, sickness and maternity benefits.

This was a marked shift from restrictive and having focus on matters relating to labour supply to those of rights at work and places of residences of immigrant plantation workers. The PLA was passed immediately after the adoption of the Constitution of India (1950) with its commitment to economic, political and social justice as well as egalitarian national development. Other laws passed by the parliament after India's independence include Factories Act 1948, and the Minimum Wages Act 1948, the Dock Workers (Regulation of Employment) Act 1948, the Employees' State Insurance Act 1948 and the Employees' Provident Fund and Miscellaneous Provisions Act 1952. If we include Maternity Benefit Act 1961, Payment of Bonus Act 1965 and Payment of Gratuity Act 1972, we see that Plantation Labour Act, 1951 comes as part of an array of welfare laws in India in tune with the nation's emphasis on social justice and economic equality. All of these are applicable to plantations. These laws were visualised within an employer-employee relationship and premised on the assumption that increasingly industrialised India's workers and employers will contribute to these welfare schemes. Implementation of welfare laws necessarily involved a cost - labour cost (ILO 2013)²² - for employers. How has it worked in the case of implementation of the provisions of the Plantation Labour Act?

1. PLA and Cost Enhancement

Planters in India have long argued that the expenditure on the social costs covering statutory benefits as well as non-statutory benefits that have been traditionally given (fuel for workers, food-rations at

concessional prices) is burdensome for the industry (FAO 2012). They have opined that this is seriously affecting its competitiveness.

(a) Kailash Joshi 2003

Various Committees appointed by the Government of India have quantified this and pointed that the expenditure of the plantation industry on account of the statutory provisions be partially reimbursed to the plantation estates through Government funding sourced from the Central and provincial Governments. Kailash Joshi committee report (2003) pointed

“Presently, the Indian Tea in the International market is getting priced out, mainly due to high cost of production. The social cost is the major component that has increased the cost of production of Tea. The welfare measures in the plantations to be provided to the labour are covered under the Plantation Labour Act, 1951, which makes elaborate provisions relating to shelter, health, education, welfare and social security benefits. It is a Central Act, administered by the State Government, through the rules framed by them, on the basis of a model provided by the Centre. The Act is applicable to any land used for growing Tea, coffee, rubber, Cardamom or Cinchona, which measures five hectares or more and in which 15 or more persons are employed. The employers have to provide such welfare facilities, free of charge, within the Estate, to the workers and their families. The plantations maintain garden hospitals at considerable cost and are finding it difficult to meet the medical needs of the workers. The Committee recommend that various Central and State labour welfare schemes should be extended to plantation areas also so that the tea plantations may be benefited by it. Government should also consider to entrust the Employees State Insurance Corporation of India (ESI) to run the tea garden hospitals, but the tea plantations cannot escape from their responsibility. They must

also contribute the share of the employers and the employees.”
(Parliamentary Standing Committee on Commerce 2003)

The committee also gave the example of Kerala where the labour wages were the highest at Rs.77.26. In addition, there were additional cash components such as Provident Fund, Gratuity, Bonus, Medical, Welfare measures, etc., adding up to Rs.52.74 per day, making a total wage of Rs.130/- per worker, per day. Declining land productivity, low standard output and sky-rocketing cost of input had pushed up the cost of production to a level of Rs.65/- to Rs.70/- per kg.

(b) Parliamentary Standing Committee 2012

102nd report of the Parliamentary Standing Committee on Commerce (2012) again echoed these concerns. It observed that India’s labour cost comprised around 60 per cent of the cost of production and the welfare cost inclusive of concessional food grains is over Rs. 8 per kg of tea in India, which made the cost of production in India the highest comparing to other tea producing countries.

The report further observed that the planters had justified the non-implementation of statutory provisions in the PLA as due to their inability to bear the social cost.

“The Committee during its Study Visit to various tea plantations found that the statutory requirements as laid down in the Plantation Labour Act were in general being overlooked by the plantation managements. On enquiry, it was informed that it has increasingly become difficult for the management to bear the social cost due to higher cost of production and thinning of profit margins on account of high labour wages and rise in input costs. It was informed that an Inter-Ministerial Committee constituted to find solution to this problem had recommended for sharing the social cost in the ratio of 10:40: 50 (10 % by the concerned state government, 40% by the central government and 50% by the plantation owners). However, the State Governments did

not come forward to share the cost and the issue was re-examined by subsequent Committees such as O.P. Arya Committee, S.N. Menon Committee and then by the Indian Institute of Plantation Management as part of a study on the structural infirmities of the plantation sector. All these Committees/Study emphasised the need for sharing the social cost and the matter was taken up at the highest level where the Ministry of Labour's views on the issue which inter-alia states that "the cost sharing should be the responsibility of Plantation owners and the State Governments concerned and if this responsibility is shifted to the Central Government, this would undermine the statutory provisions of the Plantation Labour Act, 1951. Moreover, the Ministry of Labour does not have any such Scheme/Fund which can be extended/diverted to address the requirements of providing statutory welfare facilities to the plantation workers were still being examined. In short, no solution has been offered to redress the problem."

What is being recognised is that there is a serious setback in extending statutory welfare benefits to the plantation workers. And the non-compliance of the law is justified as causing escalation in cost of tea production.

(c) Voices from the Field

Jallan Furkating Tea Estate, Jorhat, Assam

The Jallan Furkating Tea Estate estate has a workforce of 142 permanent workers. It was declared a sick unit until 6 years back but is functioning now to its 'full capacity'. About 40 percent are not pukka. The inhouse medical facilities in the estates are confined to first aid. There are no schools or educational facilities in the plantations. Mr. Bijoy Kotokoi, manager at the Jallan Furkating Tea Estate, talked of the additional costs on the company to install filters to provide for safe drinking water that installation of filters were governmental responsibility, which the latter has shied from. For housing and medical

facilities too, the management feels governmental intervention should come through.

Thengalbadi Tea Estate, Jorhat, Assam

In Thengalbadi Tea Estate, just on the outskirts of Jorhat town, until March 2012 was declared sick, and the property of the earlier owner was ordered seized by the Bank for defaulting causes. The earlier owner defaulted on loan repayments and was duly prosecuted in the process. The estate is now part of the Jallan Group and houses 250 permanent workers. Here none of the houses are pukka. There are no schools or educational facilities in the plantations. W. A. Choudhury, assistant manager at the estate pointed that health was a prime concern with no availability of registered doctors, nurses and midwives though the company has deputed registered medical staff in times of emergency. Dwijendra Nath Neog, manager at the estate, suggested that government should depute medical interns to visit tea estates as part of their post-studies internship programmes.

NKS (Newlands, Kumargram, Sankos) tea estates, Kumargram, West Bengal

The company bearing the social costs for the workers was echoed in Bengal as well. In the NKS (Newlands, Kumargram, Sankos) tea estates of Kumargram block in Jalpaiguri district of West Bengal. Kumargram Tea Estates are huge with close to 12000 workers. There are 10 schools run by the garden catering to the primary educational needs of 1200 students, secondary educational needs of 1668 students and higher secondary educational needs of 200 students. Electricity and drinking water facilities are provided and almost 95% of the houses are pukka in nature. Permanent workers are trade union members. Medical facilities are available in the form of clinics and dispensaries in estates. Central hospital run jointly, is at a distance of 40 kms from the block. Despite the fact that NKS group of Estates in Kumargram are among the few well-functioning gardens which has strived to provide facilities to

workers as per the PLA and the workers too are members of trade unions, there are shortcomings. Management of the estates (Mr. Rehman, manager at Kumargram Tea Estate and Matthew Philips, manager of Newlands Tea Estate) pointed that alternative to PLA needs to be construed as soon as possible for the industry to survive the competitive edge, and this could be in line with the inter-ministerial committee recommendation of 2004.

Dhanguajhar Tea Estate, Jalpaigudi, West Bengal

According to Mr. Ganguly, scientist and head of the R&D centre for soil testing at the Dhanguajhar Tea Estate just outside of Jalpaiguri city limits, said that the tea estate where he works as having a 30-bed hospital and then took a comparison with such facilities provided for at other labour intensive industries. For him, plantation worker not paying for his medical expenses was more than what the company could afford in these days of cut throat competition for the tea industry at large. For him, PLA was an ideal that is hard to follow and if the government sits down to deliberate on the costs involved and how the companies are facing up to these, common sense prevailing, there would indeed be either abrogating the Act, or a call for a sustained reworking of the Act itself.

Perspective of the Planter's Associations

In the words of A. R. Kasera, Chairman, Assam Tea Planter's Association (ATPA), "We are burdened with many social responsibilities under the ambit of PLA, such as housing, drinking water, health, education, which otherwise should have been taken care of by the governments. Parliamentary committees²³ have also recommended sharing of these social costs between gardens and governments. I plead for speedy implementation of the recommendation. I also urge introduction of housing loans at soft interest rates and also subsidies for construction of new houses for garden workers to meet the shortfall in providing houses.

All garden schools should be provincialized under Sarva Shiksha Abhiyaan. This has become more necessary in view of recent legislation making free education fundamental right of every child.” Mr. Kasera highlighted these issues during the welcome address of the 74th AGM of the ATPA. The social costs, which no doubt serve the cardinal issue for the workers as well as for the management in tea estates in the country, however, were termed to be slightly on the onerous side, if the entirety of the responsibility fell squarely with the management. This was emphasized further when Mr. Kasera laid down certain factors that raised the cost of production of tea, and which were directly linked with some of the most crucial clauses in the Act. For instance, he requested the state government for issuing directive to Assam Gas Company Limited to allow gas for captive generators and for cleaning equipments since these too were part of the cost incurred during the manufacturing activity.

Mr. Debeswar Bora, secretary of ATPA and Anjan Bhuyan, additional secretary of ATPA pointed that the PLA was a burden. According to them, it either needs to be drastically amended to stay in tune with present day scenarios, or abrogated as it had done little or nothing to lessen the costs for the companies. There were reasons in plenty that were cited by Mr. Bora that led to the dissent against the Act. Rising cost of living, introduction of gramin rozgar yojanas by the central government, problems of absenteeism due to workers finding better options of earning by working lesser durations compound the problems further according to Mr. Bhuyan. This is because the dependents are still to be looked after. He reiterated the fact that no other industry provides for free housing, a patch of cultivable land for private farming, free drinking water supply, free electrical installation services, free medical facilities, and the government still wants to wash its hands of social responsibilities towards the workers.

For P. K. Bejboruah, chief of the editorial committee of ATPA and owner of 16 tea gardens in Jorhat and Dibrugarh in Assam, the importance of PLA from the social costs point of view is indeed a blessing. He does understand the low wages and associated difficulties faced by plantation workers. He wants the government to interfere in making uniform a wage structure on par with what is prevalent in the rest of the country. At the same time, he believes in the transparency of the Act, and a possible appraisal body to see that none of the violators go scot free and are brought to justice and prosecuted. While talking about the cost enhancing nature of PLA, he was of the opinion that for tea plantations to survive, these were mandatory in nature, but sole responsibility would strike a bad note with the industry at large. With government sharing some of the social costs, things could indeed look brighter for tea industry on the whole.

(d) Components of Wage

There is a firm conviction among planters that the providing statutory benefits under PLA will necessarily increase the cost of production of tea. They also demand that the burden of this social cost must be borne by the government, partially, if not fully. Colonial planters did not consider the 'attractions' to workers as the right of workers. PLA said these are legal rights of workers. Now, the challenge is not the 'right' per se but on who will bear the cost. Interestingly, a lot of costs for labour welfare are born by the state. Consider the food grain distribution, which is among the statutory benefit the planters expected to deliver to the workers. In the interviews ATPA stated categorically that the rationing of food grains needs to be revised. Food grains were earlier thought to be supplied by the government's PDS, to which the Assam Chah Mazdoor Sangh (ACMS) objected due to geographical locations of the estates and gardens which made it immensely difficult for the PDS to be set up. Subsequently, the supply of food grains was routed through a handling agent.

The association has a direct tie-up with the Food Corporation of India (FCI). The supply of rice and wheat comes in every month after a requisition is sent by the gardens to the state supply director of FCI through the agent. A garden gets a quintal of rice priced at Rs. 915 and a quintal of wheat priced at Rs. 790. This is subsidised price for plantation since the declared procurement price (MSP) of rice and wheat in 2011-12 had been Rs.1020 and Rs.1120 per quintal respectively. (Food Corporation of India 2013) The cost for the plantation is approximately Rs.16.34 per kg of food grain excluding the storage and distribution costs. Every week, a worker in an Assam plantation gets 3.26 kgs of food grain, an adult dependent on the worker gets 2.44 kgs, whereas 1.22 kgs is distributed for the children of the workers. Tea garden owners are supplying food grains at 54 paise per kg in Assam, 40 paise per kg in Dooars and Terai and 63 paise for rice and 54 paise for wheat in Tripura. (O P Arya, 2007) Nevertheless, O P Arya Committee report says that planters prefer to keep the non-cash component or the ration component as part of the wages instead of hundred per cent cash wages. Similarly, it has been pointed out that the plantations deduct a specified amount every week or month, as the case may be, from the agreed upon 'minimum wage' of plantation workers. In Assam, education has been provincialised and the salary for teachers come from the exchequer of the state.

Let us evaluate this parameter of labour cost further by looking at the figures that go on to make the daily wage for the worker in the tea gardens. For the same, due acknowledgement is made to Assam Branch Indian Tea Association (ABITA), who provided with the daily wage structure in Assam during the period 1st April 2011 to 30th June 2012.

Table 2: Daily Wage (Labour Cost) in Assam during 1 April 2011 to 30 June 2012 (Rs)

Sl. No.,	Components	Amount	Total
1	Basic		
1.1	Basic wage	71.50	
1.2	Additional compensation	3.00	
	<i>Sub-total basic</i>		74.50
2	Non-statutory		
2.1	Food grains	14.20	
2.2	Dry tea	2.88	
2.3	Fuel (includes firewood)	5.32	
	<i>Sub-total non-statutory</i>		22.40
3	PLA statutory		
3.1	Housing facilities	7.15	
3.2	Medical facilities	3.37	
3.3	Welfare facilities	2.86	
3.4	National (festival) holidays	2.38	
3.5	Sickness benefits	2.22	
3.6	Earned leave	3.58	
3.7	Educational facilities	0.36	
3.8	Maternity benefits	1.67	
	<i>Sub-total PLA statutory</i>		23.79
4	Common statutory		
4.1	Provident fund (PF)	8.82	
4.2	DLI	0.41	
4.3	Bonus	12.87	
4.4	Gratuity	3.57	
	<i>Sub-total common statutory</i>		25.67
	Total		Rs. 146.36

Source: Information provided by the Assam Branch of Indian Tea Association.

If this wage structure is matched with an international benchmark for defining extreme poverty, probably, workers in the tea gardens would fall in the bracket of extreme poverty. For the international benchmark states that the daily wage needs to be US \$1.25 per head of purchasing power parity, else a wage lower qualifies for extreme poverty. Even with the national cut on Rs. 26 per day as consumption in rural pockets qualifies most of the workers under Below Poverty Line (BPL). No wonder, BPL cards are priced possessions for workers in the gardens, though many eligible do not get it. If one were to compare the daily wages of workers in tea gardens with the state notified wages for Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) for Assam and West Bengal, which are Rs. 136 (w.e.f. 1st April 2012) for both, then the situation these workers find themselves in is nothing short of pathetic. Not only that, even the agricultural worker in Assam gets Rs. 100 per day and in West Bengal gets Rs. 87.50 per day. These figures draw a sorry picture for plantation labourers.

ABITA calculation says that 16.25% of the total labour cost of Rs.146.36 as on June 2012 is on account of meeting the statutory provisions under the PLA - housing facilities, medical facilities, welfare facilities, national (festival) holidays, sickness benefits, earned leave, educational facilities and maternity benefits. While for employers these are cost enhancing, for workers these are inadequate to raise their standard of living.

(e) O. P. Arya Committee 2007

Government of India constituted in March 2007 a Committee²⁴ under the Chairmanship O. P. Arya, Additional Secretary (Plantations), Department of Commerce “in order to streamline, rationalize and harmonize the applicable laws with the objective of giving fillip to faster development of the tea industry”. The committee articulated in its report (Arya 2007) the most detailed formulations on the issue of ‘social cost’ and the PLA.

Table 3: Estimate of Total Turnover of the Tea Industry during 2006 vis-a-vis Required Annual Expenditure for Providing Statutory Facilities under PLA (in Rs Crores)

	<i>North India</i>	<i>South India</i>	<i>All India</i>
Total Turnover	6269.97	1623.67	7893.64
Total Estimated cost for providing facilities for Statutory Provisions	247.7	46.45	294.15
Percentage to total turn over	3.55%	2.86%	3.73%

Source: O. P. Arya. (2007). Report of Committee on Legislation: Plantation Sector. New Delhi: Department of Commerce, Ministry of Commerce and Industry, Government of India.

The committee estimated that the impact of providing for social infrastructure and facilities translates to about Rs.3.44 per kg in South India and Rs. 4.12 per kg in North India. The average price of tea in 2006 was about Rs.70 per kg in North India and around Rs. 45-50 per kg in South India.

The committee suggested, “All the social security measures provided in the PLA need to be retained. In fact, there is a need to have improved social security system for the workers in place.” While making this conclusion, the committee observed, that PLA is a unique legislation and (i) the progressive measures in it have definitely played a crucial role in improving the standard of living of the plantation workers, especially women who constitute fifty per cent; that (ii) the PLA differs from many other social security legislations in imposing liability exclusively on the employer to provide these facilities.

2. PLA and Labour Empowerment

The question, whether the PLA, 1951 has contributed to the empowerment of plantation workers is looked at from two angles, (i) the effectiveness of implementation of the provisions of the Act, based on

information available from contemporary secondary literature and from field observation; (ii) the internalisation by workers and trade unions.

(a) Empowerment and Union

It may not be incorrect to say that plantation labour unions did not have much role in the enactment of the PLA. The government of India post-independence instituted a tripartite industrial committee to look into the conditions of plantation workers. The committee engaged the labour bureau in Shimla to conduct a detailed study. They also conducted a study on medical aid in plantations under Dr Lloyd Jones, Deputy Director, General health services (social insurance). On the basis of these the committee framed a draft plantation labour code which was discussed in the tripartite plantation conference held on September 1949 and October 1951 (Joseph 2000). It was introduced in the parliament in 1951 and got President's assent on November 2, 1951. It was brought into force from April 1, 1954. In 1959 the Government of Assam passed an act called the Assam Tea Plantation Labour Employee's Welfare Fund Act. Jayeeta (2006) reminds us that until independence, planters, with the help of compliant British officials, resisted all pressures toward unionisation. This was despite the fact that trade unions had already established a strong presence among railway and oil industry workers in Assam (Sharma 2006). Expressing a similar opinion, Ranajit Guha points out that since every garden was separate, producing a 'state within a state', the mobility of labour was strictly restricted, an organised class formation was unlikely. He says that historical sources suggest there might be nothing more than the occasional 'crowd gathering' of tea labourers in spontaneous resistances, particularly in the early period. In West Bengal, workers of Bengal-Assam Rail Road Workers Union were responsible for the formation first tea workers union in 1946. The Dooars Cha Bagan Workers' Union emerged in 1948. After independence tea workers were in Assam were organised into the Assam Chah Mazdoor Sangh (ACMS), affiliated with the INTUC. Now, all major Central Trade

Unions have their respective unions among the tea plantations and the workers are considered unionised.

Despite this, no fundamental structural change has happened in plantations, where most of the workers continue to receive a subsistence wage, live in unhealthy and appalling conditions, denied vertical mobility and live a degrading life. Wage negotiations take place regularly between groups of trade unions and organisations of planters; but such agreements have not helped in changing the 'subsistence wage' of the tea workers. Mostly even after raising the issues, critical demands of the unions like changing the norms of wage determination, houses to all workers, providing adequate drinking water, drainage and electricity facilities to all the gardens, clearing provident fund dues, early gratuity to the retired workers and regularization of all temporary workers etc, - those pertaining to the PLA - do not figure in the collective bargaining agreements (Biswas 2012).

(b) Hierarchy and Absence of Mobility

Virtual immobility - both vertical and horizontal - characterises tea plantations. The PLA does not seem to have contributed in breaking the rigid hierarchy in the plantations. The personnel in a plantation are deployed in the hierarchical order of manager, staff, sub-staff and workers divided based on work assigned to each level. A worker can never aspire to move up the hierarchy. In terms of horizontal integration, workers, who are classified as unskilled, who constitute more than 90 per cent of the workforce, also do not change plantations. Workers do not exercise free choice in terms of with whom they should work on what conditions. Moreover, discontinuation of indentured labour system did not result in the complete integration of the immigrant labour in the plantation to the local society, even after independence. In Assam, the community is called 'Tea Tribe', a progression from the pejorative word of 'coolie', yet far away from full social and economic integration.

(c) Effectiveness of Implementation

PLA says that government must provide institutional systems to monitor and implement the provisions of the Act. Paper presented by Mr P H Kurien, Labour commissioner, Kerala in the Technical Meeting on Industrial Relations Issues in the Plantation Sector (2000) elaborated upon the condition of inspections in plantations in Kerala, He points that though drinking water has been extended to all plantations, in many cases the supply remains scarce. Public water supply has been extended to very few plantations. 113 plantations are required to appoint welfare officers but only 73 have done it and being employees of the management, their effectiveness is doubtful. He further points that 11 inspectors are empowered under the Act to inspect 777 plantations and about 1.5 lakh workers spread across the entire state. Being an inspector in the labour department he is not technically qualified to inspect medical facilities. He says that as there is a plethora of provisions, the inspectors have kept their inspections limited to specific complaints instead of conducting regular inspections. He suggests annual inspections as far as possible in the presence of a workers' representative. Another presentation by A K Malakar, labour commissioner of Assam notes that inspection in the tea estates is done at the consent of the management, when the department is not in a position to provide means of transportation, the management takes an advantageous position in providing vehicles and therefore inspections cannot be impartial. Therefore management escapes prosecution even for grave violations. Penal provision is ludicrous – Rs 500 and is not a deterrent. He concludes, “the habit of alcoholism, lack of sense of health and hygiene and lack of general knowledge leads to death and destruction among the tea communities which work as a ‘flash point’ for all sorts of anger against the management and at times murderous attempts have been made against the managers. The cases are many and varied and as such requires to be properly studied by the social scientists and suggest measures. If all the ills are to be tackled the

expenditure on labourers will be doubled. Whether the management is in a position to pay for this cost needs to be examined.”

Tea workers have the right to health and nutrition. However, a community-based cross-sectional survey conducted by Indian Council of Medical Sciences in 2006 in eight randomly selected tea gardens of Dibrugarh district of Assam among 4,016 participants (1,863 male and 2,153 female) throws disturbing health and nutrition status of tea community. The study assessed health problems and nutritional status through medical examination, evaluation of medical records, anthropometry and laboratory investigations. They were mostly illiterate, and nearly 52.9 per cent (1,197 of 2,264) of adults were manual workers in the garden. Prevalence of underweight among children was 59.9 per cent (357 of 596), and thinness among adults was 69.9 per cent (1,213 of 1,735). Anemia was widespread. Worm infection (65.4 per cent, 217 of 332); skin problems; respiratory infections, including tuberculosis; filariasis were present in a significant way. Children suffered more in various diseases. Major non-communicable diseases like hypertension, stroke were emerging in the community and were associated with modifiable risk factors like alcohol and tobacco use (Medhi et al 2006).

PLA stipulates that in every plantation with over 25 children in the age group of 6-12, educational facilities have to be provided unless there is a school by the government or the local body within 1.6 kms radius. A paper presented during the ILO organised ‘Technical Meeting on Industrial Relation Issues in the Plantation Sector’ in Darjeeling in 2000, points out that in Nilgiris about 80 per cent, in Coimbatore 40 per cent, in Chikmanglur 45 per cent and in Idukki 30 per cent plantations do not have educational facilities and government schools are not close or accessible. They also found (survey in Coimbatore, Nilgiris, Chickmanglur and Idukki) that 17.9 per cent of children were at work (no children were found at work in Kerala) and only 60 % attended schools while the rest were not at work or in school. In terms of workforce

participation, age group 6-14 and 15-18 put together, constituted 11 per cent of the total workforce (Vidyadas, Mohanadas and Mani, 2000) .

An official study (Labour Bureau 2009) conducted by the Labour Bureau, Ministry of Labour, Government of India in 2008 shows deplorable reach of provisions of PLA among plantation workers. The study was conducted in tea, coffee, rubber and cardamom plantations, all under the PLA, 1951. The average per day earnings was Rs 67.6 at aggregate level, probably less than a subsistence wage. Only 48.5 per cent of the units were providing medical facilities to workers and their family members. Crèche facility was provided by only 37.1 per cent of the total units surveyed. In Assam state, from which maximum number of sample units were drawn, and which employs majority of the plantation workers, only 16.7 per cent units are providing canteen facility. The basic welfare amenities like urinals and latrines were provided by only 9.8 per cent of the units surveyed. Rest shelter was provided by only 25.0 per cent of the units surveyed. Specific welfare facilities for women workers like washing facility, separate urinals, rest shelter were provided by 6.1 per cent, 7.6 per cent and 6.8 per cent and unit respectively.

Findings of a study (Abhishek Dacholia 2006) by the students of Indian Institute of Management, Kolkata pointed out that the entitlements were too little. The study 'Labour Conditions in Tea gardens in New Jalpaigudi' found that subsidised ration in case of a male worker caters to wife and two dependent children and in case of a female worker it caters only to two dependent children. This is a cause for concern considering that the majority of labourers consist of female workers. Firewood entitlement was of two and a half piles to each permanent worker per year. Though a part of the tea estate was leased by the owner from the government at nominal rates to provide housing entitlements to workers, the non-pucca house was being built by the worker himself/herself without any subsidy from the government. No upgradation or new constructions were undertaken for a long time.

If enforcement is a measure of application of the 'rule of law', with respect to the enforcement of PLA, law has not been applied so that tea garden workers could fully enjoy the rights guaranteed in the law and they could make advancement in their relations with the state and with other citizens.

(d) Empowerment as a State of Being

There are two ways in which this can be looked at. One, is the case where worker organisations internalise the rights guaranteed under PLA and use them in collective bargaining. In such situations permeation of right consciousness among worker members are greater and there are greater chances of those being implemented. The case of Kumargram is an example. In the NKS (Newlands, Kumargram, Sankos) tea estates of Kumargram block in Jalpaiguri district of West Bengal has close to 12000 workers. Management said that there are 10 schools in the area catering to the primary educational needs of 1200 students, secondary educational needs of 1668 students and higher secondary educational needs of 200 students. All of these schools are run by the gardens. In addition to these, medical facilities are provided for in the form of clinics and dispensaries within the estates and a central hospital run jointly. The gardens also provide for electricity, drinking water facilities and housing. According to Mr. Rehman, manager at Kumargram Tea Estate, the garden has interests of its plantation workers as its priority. The estate has respected its workers by giving them timely bonuses. However, he cautioned that if the current state were to continue, then the industry would be hampered thus making it difficult for the business to be run. For him, as well as for Matthew Philips, manager of Newlands Tea Estate, the alternative to PLA needs to be construed as soon as possible for the industry to survive the competitive edge, and this could be in line with the inter-ministerial committee recommendation way back in 1974. But, for the three registered (UTUC, CITU and INTUC) out of a total of five trade unions in NKS, statistics provided for by the management was a

rosy picture covering a dark underneath. They are not satisfied with the health facility; pointed out that the houses need repair. Trade unions are a powerful voice in the tripartite system and therefore a deterrent in providing for labour what has been generally accepted by the unions. It may not be incorrect to say whatever is seen in the gardens is sheer bargaining power wrought by unions to oversee welfare schemes and rights of plantation workers. Second, workers live in an ambience created by the law; a sense that workers are entitled for housing, education, health, water and sanitation. More than fifty years of implementation of the Act; two generations of workers living a life in the plantations, even if the rights were known to her/him, she/he still lived a life shaped by rights as entailed within the PLA.

3. PLA and Exclusion

In an interesting formulation, Joseph (2012) described PLA as a case of ‘illusive inclusion’²⁵, though he recognised it as one policy level ‘institutional innovation’ (Joseph 2010) the plantation sector has adopted over years. Calling PLA a double edged sword, he argues that “it is very likely that the PLA may not be implemented in ‘spirit’ though they may follow it in letter.” This is because on the one hand they have to incur additional burden to incur the cost of the social welfare and on the other, the welfare provisions of education, health and other facilities would capacitate the workers and their families such that these workers and their next generation may not be ready to continue as plantation workers, which ultimately will deplete the stock of labour. While agreeing with this argument, we have also seen that many of the components of the act were accorded to the workers by the colonial planters as instruments of control, but not to the extent of allowing them to eat into profit or of improving the ‘capabilities’ of workers so that they become capable of taking independent decisions in their life. Nevertheless, it is pertinent to ask the questions whether PLA offers only ‘illusive inclusion’ or it also contributes to ‘instrumental exclusion’. We discuss briefly

four components in the PLA that we consider contributes to ‘instrumental exclusion’. First and second relate to its definition of terms plantation and worker; third to its influence in deciding the work and wage; fourth, its approach to women and children.

Table 4: Tea Plantations Covered and Submitting Returns under PLA in 2008

Sl. No.	State	Plantations covered under PLA	Plantations submitting returns
1	Assam	803	544
2	Himachal Pradesh	16	14
3	Karnataka	9	7
4	Kerala	86	68
5	Tamil Nadu	285	219
6	Tripura	51	27
7	Uttarakhand	9	9
8	West Bengal	267	198
	Total	1526	1086

Source: Labour Bureau. (2008). Report on the Working of the Plantations Labour Act, 1951 during the Year 2008. Chandigarh: Ministry of Labour, Government of India.

(a) Exclusion of Workers in Small Tea Grower Gardens

Section 1(4) of the Act applies to any land used or intended to be used for growing tea, coffee, rubber, cinchona and cardamom which admeasures 5 hectares or more and in which fifteen or more persons are employed or were employed on any day of the preceding twelve months. At the time of the promulgation of the PLA, entire tea was produced by tea estates. In 2011, more than 26 per cent (Table 2) of tea is produced by small tea growers in India. PLA is not applicable to workers engaged by small tea growers having growing area less than 5 hectares, a case of intrumental exclusion. Matters get worse, when large numbers of growers are worker-cultivators.

(b) Exclusion of Temporary and Casual Workers

PLA defines “worker” as a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work skilled, unskilled, manual or clerical. There was another clause (2k) within the exclusionary clauses, which says that only a person drawing monthly wages below rupees seven hundred and fifty will be considered as a worker. This was changed in an amendment in 2010 and wage ceiling has been increased to rupees ten thousand. However, this does not mean that all workers in a plantation are covered by the Act. Tea workers are generally classified into men, women and adolescents; permanent and temporary / casual. A third division is between resident workers and outside workers (Table 5). A serious instrumental exclusion is the fact that temporary or casual workers, both resident and non-

Table 5: Trends in the Category of Resident and Outside Workers (1964 to 2004)

	Category of Workers			
		Outside Workers		
	Resident Workers	Permanent Workers	Temporary Workers	Total
1964	698749	NA	NA	120034
1972	744497	44165	77621	121786
1980	762147	44200	106175	150375
1992	832512	67907	145228	213135
2000	836227	85837	287659	373496
2004	943750	86492	227368	313860
CAGR (1968-2004) %	0.68	2.02	3.17	2.80

Source: Table 1.3 in Thapa, N. (2012). Employment Status and Human Development of Tea Plantation Workers in West Bengal (NRPPD Discussion Paper 11). Thiruvananthapuram: Centre for Development Studies. Retrieved from <http://www.cds.edu/wp-content/uploads/2012/11/NRPPD11.pdf>

resident, who constitute more than 40 per cent of the daily workers in the tea plantations, as a rule, are not covered under the PLA. Though the 2010 amendment considers “a person employed on contract for more than sixty days in a year” as a worker, it is not easy to claim the benefits, if denied.

(c) Exclusion in Wage Determination

Another serious instrumental exclusion pertains to the wage determination in plantations, which has a bearing on the definitions in the PLA. Irrespective of the status of employment, tea plantation workers are daily rated. Wages, whether given weekly, fortnightly or monthly, are determined on the basis of the number of days they work and significantly, Sunday is an unpaid holiday. We have already seen how individual wages of tea plantation workers are determined, assuming that work in plantation is a ‘family labour’, individual plantation worker’s wage is calculated considering one and half units consumption unit in violation of the principle of “three consumption units for one earner, the earnings of women, children and adolescents being disregarded”.²⁶ Plantations are in the scheduled employments in the Minimum Wages Act 1948 though the wages in plantations are decided through collective bargaining between the planters and the trade unions. The distortions in the principles employed in wage determination keep the plantation worker wages at subsistence level despite collective bargaining.

(d) Exclusion faced by Women Workers

Instrumental exclusion in PLA has a gender dimension. As discussed in the section, ‘valuation of women’s work’, women constitute more than 50 per cent of workers and they constitute almost hundred per cent of manual workers; and plantations exploit both the productive and reproductive functions of women. Above all, there is a deliberate devaluation of women’s work.

Table 6: Average Daily Number of Workers Employed in Tea Plantations during 2008

Sl. No.	State	Men	Women	Per cent of Women
1	Assam	2,15,299	2,33,033	51.98
2	Himachal Pradesh	65	155	70.45
3	Karnataka	738	1,067	59.11
4	Kerala	17,678	21,235	54.57
5	Tamil Nadu	17,484	29,818	63.04
6	Tripura	3,665	3,290	47.30
7	Uttarakhand	463	851	64.76
8	West Bengal	77,065	92,025	54.42
	Total	3,32,457	3,81,474	53.43

Source: Labour Bureau. (2008). Report on the Working of the Plantations Labour Act, 1951 during the Year 2008. Chandigarh: Ministry of Labour, Government of India.

4. Globalisation and Structural Changes

It also to be observed that the ineffectiveness of the PLA and its exclusionary characteristics are accentuated by the structural changes being experienced by the tea plantation in consequence to its exposure to compulsions of globalisation (Mansingh and Johnson 2012). 1990s saw the beginning of restructuring in the tea industry, a process that was brand-centric and marked by forward integration and consolidation at the near consumption ends. Unilever became the world leader in tea industry through acquisitions and mergers of brands. The Tata Tea Group of Companies, which includes Tata Tea and the UK-based Tetley Group, became the world's second largest global branded tea operation with product and brand presence in 40 countries. This integration at the higher end of the value chain was accompanied by a strategy of disinvestment in plantations. Tata tea started to transfer its 17 south

Indian plantations to a new company in February 2005 and Hindustan Lever announced in 2005 that it would sell off its 14 plantations located in Tamil Nadu and Assam to wholly owned business subsidiaries. This has two implications in terms of welfare rights of workers. First, the companies maximise profits and at the same time getting rid of the risks involved in maintaining and running plantations. Consequently, from the mid 2000s the tea plantations were confronted with closures and abandonments. Suspension of work deprived plantation workers not only of their daily income but also access to the basics - drinking water, medical and educational benefits indicating the non-viability of the plantation system. Secondly, the production of tea leaf shifted gradually to small tea growers, outside the framework of plantation system and the provisions of the PLA.

V. Conclusions

The PLA, 1951 applies to those agricultural crops which are cultivated on an extensive scale in a large contiguous area, owned and managed by an individual or a company for commercial purposes. The tea plantations were among the first industrial establishments in India, but owned and managed by colonial planters, the product of which was mainly for international consumption. The PLA gives certain social and economic rights to unskilled / manual workers in these plantations, who are descendants of millions of indentured workers transported to these plantation areas from far off places. The benefits that are part of the PLA - for instance housing, health, maternity benefits, supply of drinking water and monetary incentives - were not entirely a new concept, but were given to workers as enticements to workers with the objective of retaining them in the plantations and ensuring a regular supply of labour. PLA has made these benefits statutory rights of workers in contrast to a situation where laws applicable to the plantation were to augment supply of productive labour to the plantations. The PLA gave the onus of the delivery of these rights to the employers.

The enactment of the legislation happened in the overall context of assertion of India's Constitutional principles of development with justice and equity; and there was no significant involvement of the trade unions of tea plantations in it, though after independence workers became members of unions. The implementation of the provisions of the Act, however, did not lead either to the empowerment of the workers or to the structural transformation of the colonial plantations. The PLA has its constraints in the articulation of the rights, definition of plantation, definition of worker and its failure to break the logic of division of labour within plantations, the highly restrictive logic of determination of wage and in the limited valuation of women's labour. These point to the fact that PLA contributes to institutional exclusion. The most vociferous argument has been that the observance of the provisions of the PLA increases the cost of production of tea making the industry inefficient. While it is acknowledged that the provision of rights will necessarily involve cost, it cannot be a justification for maintaining subsistence wages for hundreds of thousands of workers in plantations.

The proposal by the Tea Board to create a trust and to manage housing facilities under Indira awas yojana; sanitation facility under total sanitation campaign; safe drinking water under swajaldhara; health under national rural health mission; and educational facilities under sarva siksha abhiyan must be re-evaluated in this context. The main concern here is that none of the schemes mentioned above are statutory rights. These are schemes which does not have the solidity of entitlements; denial of these cannot be challenged before a court of law. Essentially, these schemes will take away statutory social and economic rights already enjoyed by the workers. O. P. Arya committee's strong view that all the social security measures provided in the PLA need to be retained must guide the policy option. Government must also seriously consider the inter-ministerial committee's recommendation of a three side sharing of the social responsibilities among the central government, the employer and the state government.

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Notes

1. Dworkin said, “One is the external point of view of the sociologist or historian, who asks why certain patterns of legal argument develop in some periods or circumstances rather than others, for example. The other is the internal point of view of those who make the claims. Their interest is not finally historical, though they may think history relevant; it is practical, in exactly the way the present objection ridicules.”
2. In the same book, Dworkin adds that “A more complete study of legal practice would attend to legislators, policemen, district attorneys, welfare officers, school board chairmen, a great variety of other officials, and to people like bankers and managers and union officers, who are not called public officials but whose decisions also affect the legal rights of their fellow citizens.”
3. The PLA 1951 describes itself, “An Act to provide the welfare of labour, and to regulate the conditions of works, in plantations”.
4. The word ‘assure’ was used in the Prefatory Note (containing the Statement of Object and Reasons) to the Bill introduced in the Lok Sabha in November 1951.
5. The PLA, 1951 in its Prefatory Note says, “the present Bill drafted as an All India measure seeks to regulate the conditions of plantation labour generally. It applies in the first instance to tea, coffee, rubber and cinchona plantations, but the state Government may apply it to any other plantation. Provision is made in the Bill for assuring to the worker reasonable amenities, as for example, the supply of wholesome drinking water or suitable medical and educational facilities or provisions for canteens and creches in suitable cases, provision for sufficient number of latrines and urinals separately for males and females. Housing accommodation is also to be provided for every worker and standards and specifications of such housing accommodation will be prescribed after due consultation’. The Bill also regulates the working hours of worker employed in plantation”.
6. Kevin Kolben has cautioned labour rights activists’ over dependence on a human rights discourse, pointing out that the human rights movement is characterised by ‘legalism, elitism’, as well as an ‘individualist and philanthropic frame’ towards workers’ rights.
7. Mantouvalou also points out that ILO (formed in 1919), the institution that precedes UDHR, has not explicitly presented its documents within the human rights framework till the adoption of ILO Declaration of Fundamental Rights at Work in 1998. This opinion is expressed by many including Kevin Kolben (2009). A contrary view is expressed in Swepston, L. (1998). Human rights law and freedom of association: Development through ILO supervision. *International Labour Review*, Vol 137 No.2, 169-194.
8. Guy Standing. (2011) said “If there is a dominant model at the moment, it is one geared to maximise labour informalisation and labour market

flexibility, with state efforts to decentralise and individualise bargaining over all labour matters.”

9. Joseph Stiglitz has argued that neo-liberal mantra of labour flexibility and attack on social protection systems have made the economic system less stable and weather a storm. “many of our policy frameworks in recent decades have been making things worse. I have already mentioned that we have weakened our automatic stabilizers by weakening social protection, and we have destabilized the economy by making wages more flexible rather than providing job security. We have created greater anxiety, which, in times like this, increases savings rates and weakens consumption. All of these so-called reforms have made our economic system less stable and less able to weather a storm.” {Joseph E. Stiglitz, 2009}
10. Amartya Sen. (2000 a) A says, ...the forces of “globalization” are bringing new groups of people into economic, social, and cultural contact with each other. Globalization is both a threat (especially to traditional ways of earning and living) and an enormous opportunity (especially in providing new ways of being prosperous and affluent). The ability of people to use the positive prospects depends on their not being excluded from the effective opportunities that globalization offers (such as new patterns of exchange, new goods to produce, new skills to develop, new techniques of production to use, and so on). If people are excluded from these opportunities — either because of international restrictions or due to national or local lack of preparedness—then the overall impact of globalization may be exclusion from older facilities of economic survival without being immediately included in newer ways of earning and living.
11. See ILO. (1999) defines its goal as the promotion of opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity”
12. Sen, (2000 b.) examines four conceptual features of “decent work” essential to its achievement in a context of globalisation. he argues, ‘The process of economic globalization is seen as a terrorizing prospect by many precariously placed individuals and communities, and yet it can be made efficacious and rewarding if we take an adequately broad approach to the conditions that govern our lives and work.’ He further says, “The rights at work can be broadly integrated within the same overall framework which also demands opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity”. A much detailed elaboration of these concepts can be seen in his celebrated work, ‘The Idea of Justice’.
13. In the famous *Olga Tellis & Ors vs Bombay Municipal Corporation & ...* on 10 July, 1985 (1986 AIR 180, 1985 SCR Supl. (2) 51) a five judge bench of the Court ruled that the word ‘life’ in Article 21 includes also the ‘right to livelihood’. The court said: “It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is

the right to livelihood because no person can live without the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest ways of depriving a person of his right to life would be to deprive him of his means of livelihood. In view of the fact that Articles 39(a) and 41 require the State to secure to the citizen an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life.”

14. Lincoln argues, “With the spread into low-cost tropical and subtropical countries of horticultural and other fresh produce production for immediate consumption in high-wage temperate countries, and with changes in labour forms and tenure arrangements, the traditional plantation and its crops have been altered or sometimes displaced as the export agricultural norm in the global South. Consequently, the relationship between latitude, crop and labour is not as straightforward today as it may have appeared in the 1950s.” when the Plantations Convention was formulated.
15. Gupta, B. (1995). observes, “In eastern India most of the tea companies were controlled by relatively few managing agents and the place of registration of the company did not cause any significant difference in their functioning. Thirteen leading agency houses controlled 75 percent of the tea output in India. Many managing agents controlled both rupee and sterling companies. A list of sterling companies in 1914 shows that of the 124 companies that existed 42 were controlled by four of the prominent managing agents in the industry: George Williamson and Company, Octavious Steel and Company, Walter Duncan and Company and R.G. Shaw and Company. Their counterparts in India controlled 34 of the 88 tea companies registered in eastern India in 1911.”
16. Quoted from S.W. Mintz, ‘The Plantation as a Socio-cultural Type’ in Pan American Union, *The Plantation Systems of the New World*, pp45-47 in Beckford, G. L. (1999). *Persistent Poverty: Underdevelopment in Plantation Economies of the Third World*. Barbados. Jamaica. Trinidad. Tobago: The University of West Indies Press.
17. A similar process of state intervention facilitating tea companies to acquire huge tracks of land has also been observed in Sri Lanka. See D.W. Ananda Wickramasinghe and D.C. Cameron. (2005). *British Capital, Ceylonese Land, Indian Labour: The Imperialism and Colonialism of Evolution of Tea Plantations in Sri Lanka*. Retrieved January 24, 2013 from <http://www.mngt.waikato.ac.nz/ejrot/cmsconference/2005/proceedings/managementorganizational/wickramasinghe.pdf>. They say in the article, “A planter could choose a plot of land and have it surveyed at his own expense. The government would then publish an advertisement in the local news paper for three months and the land would be put up for auction on the appointed day. There was an established custom that others would not outbid the land away from the planter who originally selected and surveyed it. Land was sold at prevailing minimum upset price, which was five shilling an acre until 1844 and twenty shillings thereafter. In this way, early British planters (almost all of them government officials) were able to accumulate vast tracts of land in the Kandyan Highlands (De Silva and Royal Commonwealth 1965).

18. The sterling companies formed Indian Tea Association in London in 1879 and in Calcutta in 1881.
19. See (1906). Appendix A. Note on the Previous History of Tea Garden Labour Legislation. In *Report of Assam Labour Enquiry Committee* (pp. 135-147). Calcutta: Office of the Superintendent of Government Printing, India.
20. It says, "The early history of the Tea Industry is disfigured by many evils; coolies too often suffered from the ignorance, the want of foresight or the anxiety of their masters to make a profit at any cost. Then followed a period when feelings of humanity or self-interest, backed up by official pressure, led to general amelioration in the conditions of the labour force. The coolie was fairly paid, well housed, and carefully tended in sickness; but the general inclination was to do for the coolie what the Englishman thought best. for him and to exact in return the service which the Englishman thought could fairly demanded. It, however, did not follow that these terms-however unobjectionable to the English mind-were congenial to the coolie." The coolie was expected to work six days in the week although he preferred to work five; to turn out at the hours his master chose and not at the hours he himself preferred; to live in the house which his master thought it best for him and not in the house which he himself thought best; to stay on the garden where he was fairly well-off instead of returning to his home or taking to cultivation."
21. Beckford argues, "The inescapable conclusion is that the plantation system, as a type of economic and social organisation, creates the following social diseconomies: (1) persistent and expanding unemployment; (2) relatively low levels of national income; (3) a most unequal distribution of what little income is produced; (4) gross underutilisation of land; and (5) extreme underconsumption generally."
22. ILO defines for the purpose of labour cost statistics, as "the cost incurred by the employer in the employment of labour. The statistics concept of labour cost comprises remuneration for work performed, payments in respect of time paid for but not worked, bonuses and gratuities, the cost of food, drink and other payments in kind, cost of workers' housing borne by employers, employers' social security expenditures, cost to the employer for vocational training, welfare services and miscellaneous items, such as transport of workers, work clothes and recruitment, together with taxes regarded as labour cost". OECD Statistical Portal. (2003). Glossary of Statistical Terms: Labour Cost - ILO. Retrieved January 28, 2013 from <http://stats.oecd.org/glossary/detail.asp?ID=1484>. This definition can also be accessed from <http://www.ilo.org/stat/lang—en/index.htm>
23. An Inter Ministerial Committee constituted by the Ministry of Labour in 2002 examined the Plantation Labour Act and suggested the following among various others: "Government of India and State Governments/local self-government should agree to bear 50% of the social and infrastructural cost under the Plantations Labour Act, while the industry should bear the remaining 50% of this cost. The 50% share to be borne by the Union and

the State/ local self-government in the ratio of 40 : 10. The lower sharing of the expenditure for the States is recommended because of extremely difficult fiscal situation and having regard to the fact that plantation industry is primarily under the purview of Union Government. The share of the Central Government should preferably be routed through the respective commodity boards. Source: O. P. Arya. (2007). Report of Committee on Legislation: Plantation Sector. New Delhi: Department of Commerce, Ministry of Commerce and Industry, Government of India.

24. This was in follow up to an Inter-ministerial committee set up the committee under the Chairmanship of Additional Secretary, Ministry of Commerce and Industry, Mr. L.V. Saptharishi, and representatives from the Labour Ministry, the Revenue Department and from the Governments of Assam, West Bengal and Tamil Nadu in 2003 to look into the problems plaguing the plantation sector against the backdrop of falling commodity prices and fierce competition faced by domestic industry vis-à-vis from those of Vietnam, Sri Lanka, Indonesia and Malaysia. This committee on social cost of estate owners, said that there might not be “any justification for continuation of the relevant provisions in the Plantations Labour Act, 1951”. Stating that the PLA was enacted at a time when socialistic ideas were ruling the roost with the sector which was cash-rich with money and economy not having been fully developed, the sources said that things had altered over the years with “efficiency wage concept” turning the promoter-entrepreneur to be alive to the requirements of labour to prevent attrition G. Srinivasan (2003).
25. Joseph (2012) uses Amartya Sen’s framework of ‘social exclusion’ in understanding ‘inclusiveness’ of ‘innovations’ in plantation economy. Joseph develops on Sen’s four situations; (i) constitutive exclusion, (ii) instrumental exclusion, (iii) active exclusion and (iv) passive exclusion in reviewing policies pertaining to plantation industry in India along with the framework of ‘innovation’ and ‘development’ as evolved by Cozzens and Kaplinski jointly as well as individually.
26. A resolution passed at the 15th Session of the Indian Labour Conference held at New Delhi in July 1957 laid down that the minimum wage should be need-based and should ensure the minimum human needs of the industrial worker. The following norms were accepted as a guide for all wage-fixing authorities including Minimum Wage Committees, Wage Boards, Adjudicators, etc.: (i) In calculating the minimum wage, the standard working class family should be taken to comprise three consumption units for one earner, the earnings of women, children and adolescents being disregarded; (ii) Minimum food requirements should be calculated on the basis of a net intake of 2700 calories as recommended by Dr. Akroyd for an average Indian adult of moderate activity; (iii) Clothing requirements should be estimated on the basis of a per capita consumption of 18 yards per annum, which would give for the average worker’s family of four a total of 72 yards; (iv) In respect of housing, the norm should be the minimum rent charged by Government in any area for houses provided under the Subsidised Industrial Housing Scheme for low income groups; and (v) Fuel, lighting and other miscellaneous items of expenditure should constitute 20 per cent

of the total minimum wage. The Resolution further laid down that wherever the minimum wage fixed was below the norms recommended above, it would be incumbent on the authorities concerned to justify the circumstances which prevented them from adherence to the aforesaid norms. The Resolution, thus, tried to give a concreteness to the whole concept of minimum wage. In 1991, the Supreme Court in its judgment expressed the view that children's education, medical requirement, minimum recreation, including festivals ceremonies, provision for old age and marriage should further constitute 25 per cent and be used as a guide for fixing the minimum wage. (See Labour Bureau. (2010). Report on the Working of the Minimum Wages Act 1948 for the Year 2008. Shimla: Government of India, Ministry of Labour and Employment.)

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