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FROM THE MARGINS: EFFECTIVENESS OF THE PLANTATION LABOUR ACT, 1951 IN THE TEA GARDENS OF ASSAM

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Abstract

Tea Gardens are a site of marginalisation, resulting from the remnants of a colonial past of slavery, servitude and exploitation. Called as enclave societies, tea gardens host a number of communities that have experienced slack from the authorities, both in colonial and post colonial times. The Plantation Labour Act, 1951 was a milestone legislation for improving the conditions of the tea garden workers by providing necessary benefits for an improved life. The legislation provided an impetus on the industry to incur these 'social welfare costs'. However, cases of rampant abuse of power and privilege have eroded the credibility of the legislation. Moreover, amalgamation of the legislation into the Code on Occupational Safety and Health, 2020 and the Social Security Code, 2020 has put the effectiveness of the legislation into question. This paper highlights the above mentioned concerns in the light of the effectiveness of the Plantation Labour Act, 1951 in the context of the tea gardens of Assam.

Key words: Labour, Plantation, State, Tea gardens, Women Workers.

Introduction

Plantations are a paradox in their own light. They are a site of cheap labour, providing both direct and indirect employment to millions of workers and also contribute enormously to the economy of the region. Many scholars on tea plantations have identified the plantations in two ways: as a private property for the management and a public space for the labourers. Stuck in time, tea gardens are a site of continued oppression and resistance. Both oppression and resistance find their manifestations particularly in two areas

of work: one in the tea garden and the other at homes within the tea gardens. According to Gothoskar (2012), plantations “were part of the colonial capitalist accumulation process” and thereby, oppressive in nature. Plantations in general and the tea industry in particular, due to their oppressive nature are deemed as ‘enclave societies’ and ‘total institutions’. As a total institution, the tea garden settings provide not just work but also habitation for the workers to reside with their families. Das (2013) therefore compares the tea gardens to a “walled city”, where the residents “hardly interact with the outsiders” and rarely come out of the garden premises, the exceptions being during festivals or for marketing purposes. He therefore argues that there is a state within the state in the tea gardens of Assam.

Tea industry, one the most important sectors of the plantation economy, is known for its capacity to generate livelihood for millions. It justifies the true character of a plantation, with the employment of manual labour and technology, a true blend of farming and industry. Therefore, tea gardens positively are sites of blended labour. As such, in most occasions, the distinction between skilled, semi-skilled and unskilled labour is blurred, which again, acts as an impediment on the upliftment of the labourers engaged in the gardens.

Women tea garden workers are the worst sufferers of this arrangement. Women workers are desired for their skill of plucking/picking tea leaves and as witnessed, they are irreplaceable in this job. Male workers are hardly encouraged to carry out this task, highlighting the fact that this task is exclusively reserved for women. As pointed out by Gurung and Roy Mukherjee (2012), within the organized sector the industry with the highest percentage of female workers is the plantation industry. Conditions like cheap, regular and easily accessible labour made the women workers more desirable who could perform the tasks of production and reproduction (thereby guaranteeing a regular flow of labour) in the peculiar state of a tea garden. For these reasons, the tea industry is regarded as a “feminized industry” (Saikia, 2022). The term ‘feminisation of labour’ was used for the first time by Guy Standing (1989) to refer to the phenomena wherein, apart from a fall in the jobs for men, the jobs traditionally held by men were also going into women’s hands. This according to Standing was a direct outcome of globalisation of labour. This phenomenon of ‘feminisation of labour’ is also witnessed in the case of agricultural labour in India.

However, the scenario of plantation labour is different in the sense that plucking or picking of tea leaves has always been a task reserved for women. The task of plucking tea leaves, seen as an ‘unskilled job’ requires women workers in huge numbers. The Statistical Profile on Women Labour published in 2009-2010 also stresses on this fact while mentioning that women constitute 55.86% of the bulk of the labour force in the plantation industry. Tea gardens in Assam are seen as an “icon” or a symbol (Baruah, 2018). This icon of Assam is symbolized through the female workers carrying baskets on their heads and printed as cover pages in newspapers, reports, documents. However, the slack received by the women workers goes unnoticed, who need to work both in the field and at home.

Tea gardens in India are guided and regulated by various legislations, which include the Employees Provident Fund and Miscellaneous Act 1952, the Payment of Gratuity Act 1972, the Employees Compensation Act 1923, Maternity Benefit Act 1961 and most importantly the Plantation Labour Act 1951. However, these legislations have not proved to be sufficient for improving the conditions of the tea garden workers. The onus of providing social protection to the workers have been placed on the garden management, while the state is required to monitor the implementation of the same, as per the Plantation Labour Act, 1951. Lack of incentive from both the management and the state for proper implementation and monitoring of the said legislation has been witnessed. In this backdrop, this paper seeks to understand the effectiveness of the Plantation Labour Act, 1951 in the tea gardens of Assam. It unfolds the impact of the provisions of the Act of 1951 on the workers in general and women workers in particular.

Methodology

This paper is a culmination of both primary and secondary data. Primary data was collected using tools like in-depth semi-structured interviews and Focus Group Discussions. For the collection of primary data, a study was conducted among tea garden women workers in one of the tea gardens in the Jorhat district of Assam. Fieldwork for this purpose was conducted in the month of July, 2022, wherein, 15 women workers across different age groups were individually interviewed and three Focus Group Discussions were conducted. Secondary data has been collected from sources like books, journal articles and newspaper articles. A qualitative analysis has been arrived at using the tools as mentioned.

The Plantation Labour Act, 1951: An Overview

The Labour Investigation Committee (a committee of enquiry) set up by the Government of India in the Department of Labour in 1944-45 under the chairmanship of Mr. D.V. Rege, I.C.S (hence, also called the Rege Committee), was empowered to collect various information regarding different aspects of social security and inform the same to the Planning Committee so that a programme of social security for labour could be set up in India. It was on the recommendations of the Rege Committee that the Plantations Labour Act was enacted in October, 1951, which came into force in 1954. The core idea of the legislation was to provide social security measures to workers in the plantation industry. It seeks to regulate working conditions in the plantations. As per the provisions of the Act, the plantation owners are required to incur certain social benefit costs, for improving the living and working conditions of the workers. A safe and healthy working environment and adequate provisions for the welfare of the workers are mandated to be provided under the Plantation Labour Act, 1951.

As such, for proper monitoring and evaluation, a provision for engaging inspecting staff is also provided under the legislation. Certifying surgeons for better health conditions of the workers are also required to be appointed by the concerned State Government. With regard to provisions on health, the Act makes it mandatory for the plantation owners to provide and maintain a sufficient supply of drinkable water for all the workers at convenient places. Urinals and latrines for maintaining proper hygiene conditions are also a requirement. The welfare provisions under the Act include providing canteens; crèches with adequate accommodation, light and ventilation “under the charge of a woman trained in the care of children and infants”; recreational, educational and housing facilities. In respect of working conditions with regard to hours and limitations of employment, the Act provides the following provisions:

- ▶ That no adult workers should work more than fifty four hours a week and no adolescent or child for more than forty hours a week
- ▶ That there should be a day of rest in a week and daily intervals for rest
- ▶ That a child below the age of twelve years must not be employed in any plantation
- ▶ That every worker must be able to avail leave with wages
- ▶ That every woman worker must receive maternity allowance.

However, the Union Government in 2019 proposed to replace the existing labour laws with four codes, which could make these legislations more accessible to the general public. As per the report of the Second National Commission on Labour (2002), operational problems with regard to inconsistent definitions have been a major concern with regard to the labour legislations. Hence, the NCL recommended the consolidation of all the labour laws into broad groups like industrial relations, wages, social security, safety and welfare and working conditions. The Ministry of Labour and Employment in the year 2019 put forth four Bills on labour codes for the consolidation of the 29 labour laws. These Codes include: Wages, Industrial Relations, Social Security and Occupational Safety, Health and Working Conditions. The Plantation Labour Act, 1951 and its provisions have been subsumed under the Code on Social Security, 2020 and the Code on Occupational, Safety and Health, 2020.

Effectiveness into Question: Cases in Consideration

This section highlights the cases that point to the fact that the Plantation Labour Act, 1951 runs short of its provisions and their implementation. To understand the effectiveness of the legislation, a thorough study must be done on the steps taken by the concerned authority, which are the garden management and the appropriate state governments.

The plantation industry has multitudes of scope for improvement. It does not, for instance, include any provisions with regard to small growers and casual or temporary workers. However, temporary workers constitute a large chunk of the working population in the industry. As mentioned in the report titled ‘India’s Plantation Labour Act, 1951-Need a Revisit’ by Tantri (2018), the legislation suffers from definitional and institutional inclusion-exclusion problems. It highlights that the mandatory criteria of providing welfare provisions to the workers erodes the sector’s competitiveness. With regards to the effectiveness of the legislation, manifold problems have been witnessed. These include non payment of wages and non-fulfilment of provisions of working conditions. Some common problems with regard to human rights violations in Assam’s tea gardens highlighted in the report by The International Roundtable for Sustainable Tea (THIRST) include, low wages, poor sanitation (this includes drinking water, latrines, drainage), poor housing (this includes insufficient space and delays in repair of damages) and poor healthcare (this includes inadequate number of medical personnel or doctors who are inadequately trained) (Banerjee, 2020). Banerjee also maintains that although under the Plantation Labour Act, 1951 adequate housing

needs to be provided from the management to the workers, the housing is of very poor quality and requires maintenance, the lack of which causes wearing and dilapidation. This leads to a situation where workers need to use umbrellas to shelter themselves from the rains inside the house. Whilst facing such conditions, workers are also treated to disciplinary actions, if they carry out repair works on their own. Banerjee cites the Columbia Law School report to argue that the government is aware of the breaches of the Plantation Labour Act, 1951.

The Columbia Law School report, as cited by Banerjee (2020) with regard to sanitation facilities in the tea gardens mentions that in 2009, “plantations in Assam lack nearly one third of the latrines required”. Tea gardens are also characteristic of the high prevalence of diseases like cholera, jaundice, tuberculosis, diarrhoea and skin diseases. Problems with regards to poor healthcare amongst the tea garden workers in the tea gardens arise due to issues like poorly trained and regularly absent medical staff. Moreover, the prevalence of fake doctors is rampant in the tea gardens of Assam. In addition to these, lack of proper protection while applying pesticides respiratory and skin diseases amongst the workers. Also, workers suffer from accidents arising out of occupational hazards due to the lacunae in providing protective gears like masks, coats and shoes. In situations where these are provided, workers are unable to wear them due to their poor quality.

Cases of workplace hazards have been frequent in the tea gardens, particularly in the factory settings. As per the Plantation Labour Act, 1951, safety gears like helmets must be provided to the workers working in the factories so as to avoid various health hazards and accidents. However, non-compliance is seen in this regard amongst garden owners and management. Deep (2022) highlights the case of Moina Nayak, a 24 years old temporary worker in Dibrugarh’s Lepetkata Tea Estate. The estate owned by Luxmi Tea Company Private Ltd. faulted along the lines of providing protective gears like helmets to its workers working in the factory premises. As a result, Moina Nayak, the sole bread earner of her family was severely injured and admitted to the Intensive Care Unit of Guwahati Medical College and Hospital. At the time of the incident, Moina Nayak was sweeping the floor of the factory, collecting the residual tea leaves falling out of the Crush, Tear and Curl (CTC) machine. Bandopadhyay (2022) in her report mentions that the tea estate management failed in its duties of preventing the accident but incurred the post-accident expenses by providing a compensation of Rs 13.41 lakh.

Another case of occupational hazard had occurred in December 2020, when 27 year old Manki lost her life when her sari got caught to a CTC machine while sweeping the floor to collect the dust. She died as her head was dragged into the machine (Deep, 2022). Flouting of the provisions of the Plantation Labour Act, 1951 has been observed in several cases of fake doctors providing treatment to tea garden workers in the Mokjalbari Tea Estate, Mancotta Tea Estate and Tinkhong Tea Estate in the Dibrugarh district of Assam. According to the Act of 1951, doctors are mandatorily required to be appointed by the tea garden management. Cases of such impersonating and fake doctors being nabbed by the police highlight the irregularities in the implementation and monitoring of the legislation on the part of the management and the state. Parashar (2021) argues that lack of uniformity in appointment of doctors across the tea gardens without any proper checks is one of the reasons for such menaces existing in the tea garden settings.

Both the management and the state work in tandem to hide the loopholes in their work with regard to the Act of 1951. In a 2018 case of Doyang Tea Estate in Assam’s Golghat district, 19 workers had died under mysterious circumstances within a matter of few days. The Golaghat district head of the directorate of health services concluded that the cause of the deaths was consumption of local alcohol which contains toxic substances, including electronic wastes like batteries and polythene. Locals were, however, critical of the health department’s quick assessment of the situation without having conducted a post-mortem of most of the deaths. As Saikia (2018) mentions, student unions had criticised the government of covering their own inadequacies with assumptive assessments.

Lack of incentives on the part of the government and the management was also seen during the pandemic of 2020-2021, when there was a 300 per cent rise in Covid-19 cases in Assam’s tea gardens. A report by The Indian Express also mentioned that the vaccination drive was not carried out in its full potential in the tribal belt of Assam. As per a report by the Labour Department, Government of Assam, titled ‘Tea Gardens of Assam: A Report on Plantations Labour Act, 1951 Under 100 Days Action Plan’, Assam’s tea gardens have a shortfall of residential houses; latrines and water points; hospitals, doctors and pharmacists; and crèches which are violations under section 15, sections 9 and 8, section 10 and section 12 of the Act of 1951.

The Case of Women Workers: Have the Labour Legislations Done their Part?

Women workers in the tea gardens are the most disadvantaged section. They are deprived in every aspect: socially, by restricting their areas of work; politically, by minimal or negative representation in public forums like trade unions; and economically, by depriving them from the price of their labour (their earnings). In spite of these deprivations, it is important to mention that they constitute 80 per cent of the workforce, including permanent, casual and temporary workers.

Tantri (2012) mentions that it is very important for the women workers to limit the number of hours worked in the garden as they also have roles in social reproduction. Their work at home is crucial for maintaining marital power and household harmony, as stated by the women workers. The relationship between women workers and the trade unions represent patriarchal oppression, in the sense that women are rarely seen holding important portfolios in the organisational structures of the trade unions. However, Tantri (2012) believes that “trade unions were crucial for the survival and betterment of women workers.” Banerjee (2020) maintains that trade unions function “as a part of management”. Moreover, workers’ unions are dominated by men, leaving behind any scope of advancing the concerns and interests of the female workers. As remarked by one of the respondents:

“We are not encouraged to go to the meetings. It is mostly my husband who goes and takes part in the meetings of the ACMS. We do not get to raise our concerns in front of anyone.”¹

Dismal pictures of the health conditions of women workers are witnessed in the tea gardens of Assam. Most women consume food of low nutritional value and the calorie intake of these workers is also very low. In comparison to the hours of work dedicated and the weight carried on their backs, women workers are substantially low fed. As Tantri (2012) mentions, “women carry more than 40 kilograms of green leaf on their backs every day for years since they are very young, and later whether they are pregnant or old.” As a result, women suffer from problems like anaemia and malnutrition. Alexander (2020) in her report on the human rights violations in the tea industry of Assam and West Bengal mention that tea gardens in Assam have “a high maternal death rate”. The statistics show that 404 mothers per 100,000 live births lose their lives during childbirth. According to experts, this scenario is

being witnessed due to “poverty, malnutrition, lack of sanitation and a lack of healthcare facilities” (Alexander, 2020), which is a direct outcome of non-compliance of the Plantation Labour Act, 1951. These issues have also been highlighted by one of the respondents in the study area:

“We bring plain rice and boiled vegetables or sometimes a *roti* or a bread to eat with cold tea for lunch. Sometimes we also share the food amongst ourselves. We do not feel full but it is enough to help us keep working for the rest of the day.”²

Deaths during pregnancy or at childbirth are witnessed across the country. Protests against the management had occurred in 2012, organised by the tea pickers in West Bengal with the help of the UIF (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations), when one of the workers being seven and a half months pregnant was denied medical treatment (Alexander, 2020). The management gave in to the demands of the workers of securing improved housing and better maternity rights. However, respondents in the study area of this research seem happy with the medical provisions available inside the garden. They reveal that deaths during childbirth have not been witnessed in the garden, as per their remembrance. Hence, the question of protesting against the management on issues as such has also never arisen. However, it must be noted here that silent symbols of protests (wearing black badges) were seen amongst the male workers against the government’s intention of leasing out the gardens under the Assam Tea Corporation Limited to private players.

Although provisions of crèche facilities under a trained woman caretaker are provided under section 12 of the Act of 1951, the workers in the study area reveal that no such facilities have been received by them at any point of time. This induces the women workers to keep their children at home, under the protection of their old in-laws, thereby perpetuating a sense of dependence on the part of these women workers in the family. This situation pushes the women workers to acknowledge the dominant role that family plays in their lives; at times, contributing to unequal power relations within the household. Understandably, failure of the state mechanism to ensure better working conditions for the women workers negatively affects the power structure at home.

Incentives from the Government

In an answer given to the Parliament by the Minister of State (I/C) for Labour & Employment Shri Santosh Kumar Gangwar on 10 February, 2021, he mentioned that plantation workers are provided social security under not just the Plantation Labour Act, 1951, but also other legislations such as the Employees Provident Fund and Miscellaneous Act 1952, the Payment of Gratuity Act 1972, the Employees Compensation Act 1923.

The Assam government has also announced financial assistance of Rs 3000 each to around 7.47 lakh tea garden workers under the ‘Chah Bagicha Dhan Puraskar Mela’. As stated, this programme aims to boost the financial inclusion of tea garden workers (Nath, 2021). The scheme was started in 2017-2018.

Along with this, the Assam government took the decision to engage the tea garden workers under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) to boost their economic opportunities during the lean winter season when production is low in the tea gardens. The workers would be provided work like pond excavation and building of roads under the scheme (Singh, 2021). The latest incentive provided to the tea garden workers is mentioned in the Assam Budget for fiscal 2023-24. In a major decision, the Finance Minister had announced that electricity dues of all the families of tea garden workers would be waived off as a “special one-time relief measure” (Karmakar, 2023).

Such incentives are as much a welfare mechanism on the part of the government as a vote-garnering device. Respondents have mentioned that their engagement in MGNREGA related works boost their economic situation during the lean season. Both men and women are engaged in several tasks, depending upon their skill and physical endurance. This definitely marks a gendered connotation of assignment of tasks, further reinforcing gender roles.

However, a lot needs to be done by the state to uplift the conditions of the women workers at a more micro level, looking through the prism of the household where women workers are conveniently placed by the society and the state.

Concluding Observations

This paper was based on the premise that the ‘core’, consisting of the powerful, that is the tea garden management and the government need to

work to provide the provisions for healthy, secure and improved lives to those at the ‘margin’, consisting of the powerless, that is the tea garden workers. The most important tool in this regard in the hands of both the management and the state is the Plantation Labour Act, 1951. While the management is the chief implementing authority with regards to the legislation, the state also has a definite monitoring role so that workers receive the benefits of the Act. However, as has been witnessed, lacunae and loopholes in monitoring and implementation have pushed the tea garden workers further to the margins. As a deprived community, the tea garden workers require protectionist interventions from the state with strict compliance of the provisions of the current labour codes. Stringent punishment and penalties under appropriate guidelines would facilitate proper implementation of the laws introduced by the government.

The women workers, being the worst sufferers of these malpractices are also in a voiceless position. Under-representation in trade unions or workers’ unions, double burden of garden work and housework, restrictions on mobility in occupational hierarchy and terrible state of working conditions push these women workers to extreme degrees of subjugation. Hence, the onus falls upon the state to uplift the women workers, as they constitute the backbone of the tea industry in India and Assam.

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Endnotes

1. Interview conducted on 18/07/2022
2. Interview conducted on 19/07/2022

MOTHERS IN THE CONFLICT SITUATIONS OF ASSAM: UNDERSTANDING THE GENDERED TRANSFORMATION OF ROLES AND IDENTITIES

Debajani Gogoi

Abstract

This article examines how in Assam the decade's long armed conflict; ethnic movements and ethnic strife between communities influence and affect the lives of women's especially of mothers. The article also explores how the mothers experience the risks of these conflict conditions and the ways in which gender roles; gender relations and gender identities are changed in the times of conflict and its aftermath. In the context of Assam, the article analyses how mothers activism for instances as house heads, as resisters as peace negotiators during conflict or in post conflict situations establish their independent identities.

Key words: mothers, motherhood, conflict, gender-roles, Assam.

Introduction

Motherhood and mother identity hold an important place in military discourse of conflict zones. War, militarization and security discourse includes mothers in various forms in to their paradigm. However war and conflict is about death on the other hand mothering is about nurturing life (Khannel, 2009). But, directly or indirectly mothers are drawn into the deaths and difficulties of conflict. In such situations, the maternal body stands central and very relevant in the conflicts. Women's bodies are prominent site for the assertion of power (Murathy, 2016). Hence, the symbolic capacity of maternal body in different forms acquires significant meanings in the conflict situations. The symbolic metaphor of mother's figure as nation as biological reproducer

¹ This paper is a part of my current research on 'Body, Identity and Nation in Conflict affected societies: Experiences of women in BTR. The theme has been a major part of my M Phil research undertaken in the department of Political Science at Dibrugarh University.