

## Context

# Social Outcomes of Closure and Retrenchment of Workers

Deepti Chandra<sup>1</sup>

## Abstract

*In the last few years, a large number of workers have lost their jobs due to Voluntary Retirement Scheme, retrenchments and closures both in the organised and unorganised sector. In practice, there is hardly any check on either the use of contract labour for jobs of a permanent nature, or on retrenchment or closure of units. Employees are often the casualty of retrenchment. Loss of service due to closure stands on the same footing as loss of service due to retrenchment, for in both cases, the employee is out of employment suddenly and for no fault of his. Closure of an undertaking involves termination of employment of many employees. The sudden unemployment poses great hardship, not only to the concerned workmen but also to his entire family. The article presents a compilation of literature and attempts to examine the basic theoretical concepts in the light of available legal framework regarding closure and retrenchment. The first section of the article describes the historical perspective of closures and retrenchment. The second section describes the importance and the study objectives in the light of the legislative provisions related to closure and retrenchment. The third section reviews literature that allows us to understand the evolution of the topic, the theoretical conceptualizations and the evidences of the social impact of closures and retrenchment in India. The article concludes with the socio-cultural context of the issue and addresses the possibilities of developing a study that would allow an empirical examination of the topic in the near future.*

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<sup>1</sup> UGC-Senior Research Fellow (UGC-SRF)  
Department Of Commerce & Business Administration (Monirba)  
University Of Allahabad  
**E-mail:** deeptichandra13@gmail.com, deeptichandra\_13@yahoo.co.in

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## **Introduction**

According to Marxism and Leninism (Lenin, 1999), under capitalisation the working class or the proletariat is a class of wage workers who do not have their own means of production and who earn a living by selling their labour and being directly exploited by the capitalists in the course of capital production.<sup>1</sup> Workers' labour is being steadily intellectualised under the impact of the scientific and technological revolutions. The socio-economic difficulties of the working classes are increasing under modern capitalism. Though the proletariats' place in the income distribution system is the same as was pointed out by Lenin, workers do not have their rightful and growing material and cultural requirements and the gap between the working classes' socio-economic position and that of the big bourgeoisie is widening.

Marx's conclusion that "even the most favourable situation for the working class—however much it may improve the material existence of the worker, does not remove the antagonism between his interests and the interests of the bourgeoisie, the interests of the capitalists"(Marx and Engels,). The characteristic features of the working class are under-going rapid changes. "The introduction of new production processes made special demands on the workers with regard to their technical skills and general education. From the new strategy of highly qualified workers it was not so much the skills of physical and manual labour that were demanded, but rather a higher level of general education, a knack for organisation, broad technical know-how and the ability to adapt to quickly changing conditions in the factory"(Charnayar, )

*Production based on maximization of profit is the root cause of crisis*

In a society based on private ownership over the means of production, the motive force of production is not just to earn profit, but maximum profit for the owners. Nevertheless, the owners cannot earn this profit without exploiting the workers engaged in factories or without exploiting the people. The phenomenal development of science and technology lead to the increase in production or the productive capacity of society. Consequently, there appeared the problem of overproduction in the capitalist system.

When production runs far ahead of this demand, it is overproduction. It is then that a crisis develops, and so comes down the axe of retrenchment. With the introduction of newer machines, more and more workers are retrenched. The unemployed workers start agitations. The retrenchment is not due to new machines, nor is it due to the advancement of science. The workers are retrenched because the capitalists utilize the new machines to earn maximum profit, and because the entire productive system is run in the interest of earning maximum profit by the capitalist class. For instance, after the introduction of the crane, the number of workers engaged in loading and unloading gets drastically reduced, and many workers are at once retrenched. The reason is that the owners, the capitalists are not ready to maintain workers who have no job to do. The introduction of the crane reduced the labour cost and hence the cost of production, increasing the profit of the owners — but the net result was retrenchment of workers and nothing else.

The second problem is the problem of rationalisation. The capitalists run mills and factories in the interest of earning profit. Certainly, they do not do so to provide employment for livelihood and to eradicate the problem of unemployment for the common people. They start industries with a view to earning profit. If they find that the introduction of some machines lowers the cost and helps them earn more, they will employ less workers, resulting in further aggravation of the unemployment situation. Therefore, this measure of rationalization is sure to lead to retrenchment of workers (Ghosh,2010).

### **Growing Misery & Unemployment**

In the last few years lakhs of units have closed down and millions of people have lost their jobs due to Voluntary Retirement Scheme (VRS), retrenchments and closures both in the organised and unorganised sector. In practice, there is hardly any check on either the use of contract labour for jobs of a permanent nature, or on retrenchment or closure of units. Closure, lay-offs, retrenchment, wage freeze, withdrawal or reduction in social security measures, has been pushed to a dangerous dimension by the employers' class. Employees are often the casualty of retrenchment. They are often considered either profiting or costing the company, and are therefore either a necessary expense or a financial liability. In this era of

globalisation, downsizing has become the catchword for the entire capitalist class. Ban on recruitment in government jobs, refusal to fill the vacant posts, closure of several industrial units due to policies of import liberalisation and cut in import duties, reckless use of voluntary retirement schemes to cut manpower down in most of the industrial undertakings have created a huge army of unemployed in the country. Steps for ‘modernisation’ have also rendered a large number of workers jobless. Failure of the central government to strengthen the employment-oriented projects has also contributed to the process.

**Table 1: Growing Numbers in Labour Force  
(in millions)**

<b>Years</b>	<b>Total Population</b>	<b>Labour Force</b>	<b>Annual incremental labour force</b>
<b>2009-10</b>	<b>1177</b>	<b>520</b>	<b>10</b>
<b>2010-11</b>	<b>1193</b>	<b>530</b>	<b>10</b>
<b>2011-12</b>	<b>1208</b>	<b>541</b>	<b>11</b>
<b>2012-13</b>	<b>1224</b>	<b>552</b>	<b>11</b>
<b>2013-14</b>	<b>1239</b>	<b>563</b>	<b>11</b>
<b>2014-15</b>	<b>1254</b>	<b>574</b>	<b>11</b>

**(Source: Labour Ministry, Annual Report to the People on Employment)**

The table shows that the Government has projected an increase in the total labour force of the country to 574 million by 2014-15, up from an estimated 520 million in 2009-10. According to the Labour Ministry's Annual Report on Employment, an incremental workforce of 10 million is expected to be added in 2009-10 and 2010-11. In the next four years till 2014-15, however, the incremental addition is projected to be 11 million a year (Phande, 2010).

Thousands of industrial units have been illegally closed down without obtaining permission from the government as per the provisions of the Industrial Disputes Act, 1947. The provision of the Contract Labour Regulation and Abolition Act, 1970 that no contract labour must be

engaged in jobs of permanent and perennial nature, is being systematically violated in industrial undertakings. Even the government of India is engaging contract labour in public sector undertakings and government services. In most of the industrial units, both in public and private sectors, a large number of regular employees have been replaced by contract labour (Aspects of India's Economy, 2005a).

Unemployment is not merely a human problem, a difficulty face by the unemployed. It is an expression of the inability of the existing social system to draw on all resources available to it to increase production. Lakhs of units have closed down in the past years and millions of people have lost their jobs. *“A large number of workers have lost their jobs due to VRS, retrenchments and closures both in the organised and unorganised sector. Exact number is not available. No data has been compiled by any State Government.”* (Aspects of India's Economy, 2008).

### **Historical Perspective**

India was no exception to the laws of historical development. Before colonial rule, in the feudal structure of Indian society, production for the market formed a large segment of the economy (since land revenue was collected in cash or sold for cash); domestic and foreign trade grew, and merchant capital flourished, with some merchants acquiring fabulous wealth and the urban sector expanded, in which a high proportion of the population was employed in industrial/craft production. New elements began to appear – instances of private property in land (whereby land could be bought and sold like any commodity); the emergence of cultivation performed with hired labour; the setting up of some manufacture and mining enterprises worked with hired labour. In response to the increasing extraction of rent, there arose revolts and movements of the peasantry and artisans of various regions, sometimes clothed as religious movements, sometimes led by local chieftains. These dealt blows to the Mughal Empire and accelerated its collapse (Srivastava, 2010).

#### *Glimpses of the De-Industrialisation Process during the Colonial Rule*

The glimpses of the effect of the de-industrialisation process could be seen with the arrival of the colonial rule. In 1700, India's share of world Gross Domestic Product (GDP) was roughly the same as that of all of Europe,

that is, both were around 23 per cent; by 1952 India's share was 4 per cent and Europe's 30 per cent. India's share of world manufacturing fell from almost one-fourth in 1750 to less than one-fiftieth in 1900. The British imposed internal tariffs on Indian textiles and heavy tariffs or outright bans on their import into Britain, whereas British textiles were imported into India at low tariffs. India was converted from a leading manufacturer and exporter of textiles to a massive *importer* of them. This destroyed the section of the Indian textile industry producing fine fabrics for consumption by the earlier feudal elite. The industrial cities of the earlier period – Agra, Dacca, Surat, Patna, and others – declined in economic activity and population. **Large-scale unemployment was thus a direct and enduring product of colonial rule.** The share of *industry* in the workforce *fell*, as did its share in national income. **The share of agriculture in workforce and national income grew, not thanks to any development in agriculture, but because of the shrinkage of industry.** The artisans and workers once employed in the textile industry now had to fall back on agriculture. **However, as de-industrialisation took place under British rule, and ruined weavers fell back on the land as the only means of livelihood, land became scarce. At the same time, those trying to eke out a living in all sorts of petty trade proliferated, since there were no 'barriers to entry' in this field.** Thus, the income of the so-called *self-employed* in such petty activities remained even lower than the income of those involved in production.

#### *Introduction of Modern Industry – Displacement without Re-Employment*

Machine industry was introduced into India in the 1850s (in cotton and jute textiles), and grew faster from the late 19th century onward. Whether the firms were owned by British entrepreneurs or by Indian ones, the machinery for these firms was imported, largely from Britain. **As modern industry proceeded, it kept displacing more workers from traditional industry, such as the surviving spinners and handloom weavers who produced cloth for the lower end of the market.** “With the cessation of World War II and the re-establishment of normal transport facilities, new and improved machinery began to flow into the country. These, in turn, resulted in rationalisation of production processes and retrenchment of

surplus labour. The situation was, however, met by the State interference in regulating the employer's right to retrench their workmen directly through the Ministry of Labour and indirectly through the Industrial Tribunals. The situation continued till 1953 (Aspects of India's Economy, 2005b).

### *Stunted Industrialisation*

Because of the pauperisation of the peasantry and the small size of the working class and the middle class – largely as a consequence of British rule – the market for manufactured goods remained very restricted. Given the limited market and the absence of comprehensive *tariff protection*, investors did not find the Indian home market attractive enough to warrant large investments. By the 1930s multinational corporations (a new phenomenon) were setting up plants in India to take advantage of tariff protection and penetrate the Indian market. Industrialisation was inevitably lumpy and spread unevenly over the country. As industrial employment stagnated and capitalist concentration of landholding failed to materialise, the *workers retained strong ties to their villages and to the land*; these ties proved useful for the industrial employers, as they could escape paying the worker a level of wages that would provide for security after retirement, or for the upkeep of the worker's family (which would often remain in the village). **Thus, workers tended to retreat to their villages at the times of strikes and mill closures (Mohapatra, 2010).**

### **Changes in the Landscape of Labour—De-Industrialisation Process**

In several key areas of the industrial sector there, is visible evidence of 'de-industrialisation', as in the case of the cotton textiles of Bombay, Ahmedabad and Kanpur where worker retrenchments numbered in lakhs. In addition, there has been continuous downsizing in several private and public sector industries under the impact of liberalisation and globalisation, compounded by a deepening recessionary trend in industry in general. On the other hand, new forms of work and labour processes associated with information technology have made their presence felt. A steady, if unspectacular, trend is noticeable too in the increasing participation of women in the labour force, gradually modifying its gender profile.

### **Informalisation and Casualisation of the Labour Force**

However, the most significant change in the landscape of labour is the relatively recent rise to prominence of the concept of “informal sector”. Initially, associated with self-employment and petty trading. Since its introduction in the 1970s and its popularisation, it is now used to describe that vast sector of the economy, designated in official statistics as the "unorganised" sector. Labour in the informal sector includes, apart from regular workers in these small enterprises, casual and temporary workers of all kinds in construction and other such industries, vast numbers of migrant labourers in seasonal industries in urban and rural areas, home based workers, artisans, domestic servants, and other service sector workers.

### **The Industrial Transition**

In the first decade after independence, primarily in the context of the planned economic development, industrialisation was to be the preferred route for economic growth and modernisation. As far as labour was recognised as a crucial "factor of production", its deployment, bargaining practices and conflict behaviour became objects of methodical scrutiny. Industrialisation and modernisation, then, were the twin interrelated processes that were expected to transform traditional institutions of Indian society and realise economic growth (Economy of India, 2009).

### **Post-Independence Period of Economy of India**

The economy was then backward in nature. Industry was characterised by ill-equipped and unscientific management. Poverty was visible and unemployment widespread with complete absence of social security measures. India resorted to economic planning by the way of Five Year Plans for economic development. Again by the beginning of 1990's, the Indian economy was under great crisis. India faced serious balance of payment problem (Report of 2<sup>nd</sup> National Commission).

### **Post Reforms Changes in the Indian Economy**

The introduction of reforms in 1991 resulted in sweeping changes in the Indian Economy. **The reform process consisted of three processes, liberalisation, privatization and globalisation (LPG model).** Under liberalisation markets were deregulated, under privatization private participation was encouraged and many public sector undertakings (PSUs)

were privatized and under globalisation restrictions on foreign investments were removed. With the advent of liberalisation in 1992, the industrial relations policy began to change. **Employers opted for workforce reduction, introduced policies of voluntary retirement schemes and flexibility in workplace also increased.** *“A review of industrial relations in the pre-reform decade (1981-90) reveals that as against 402.1 million man-days lost during the decade (1981-90), i.e., in the pre-reform period, the number of man days lost declined to 210 million during 1991 to 2000-i.e., the post-reform period. But more man-days have been lost in lockouts than in strikes...A large number of workers have lost their jobs as a result of VRS, retrenchments and closures both in the organised and unorganised sectors. The exact number is not availabl.”* (Neha, 2010).

There is no official statistics on how many jobs were destroyed during the period of ‘Economic Reform’. From various fragmented information a list has been compiled of job destruction, which is however not exhaustive. Coal Mines: 20,000 already lost, another 95,000 are waiting to be unemployed. Mica Mines: 8000, fertilizer: 12,000, Mining Machinery: 4000 people have lost their jobs. Steel: 20,000 workers have already lost their jobs; another 23,000 in (IISCO) are waiting to be unemployed. Rubber: Rubber farmers are committing suicides in South India; 8000 workers of Dunlop are unemployed. Aluminium foils: 6000 already lost their jobs; Medicines: Job losses were about 1000. Railway Engines: 6000 people will lose their jobs if this sector is privatised. Aluminium: Already 4000 have lost their jobs; others are waiting to be unemployed (Popala, 2005).

### **Employment and the Economic Reform**

Increase in employment in the public sector was much higher during the ‘planned’ regime of the 1980s than during the liberalisation phase of the 1990s. This is true for both the manufacturing and the construction sector. In the private sector, although the total generation of employment was higher during the 1990s, in the construction sector it has failed.

#### *Workers in a Globalised World*

In developing countries like India, globalisation is often seen to endanger jobs in existing enterprises. This is because of competition from imported

goods that would lead to technological changes resulting in redundancies or even closure of the relatively less efficient enterprises. As observed by the WCSDG (World Commission on the Social Dimension of Globalisation), those associated with successful multinational enterprises and with internationally competitive national enterprises, and those endowed with capital and other assets, entrepreneurial abilities and education and skills have benefited most from globalisation while the poor, asset-less and unskilled have lost out. Even where workers displaced from jobs have found alternative employment, it has been mostly in the informal sector. Most new workers have also to resort to this sector for earning their livelihoods either as self-employed or wage earners.

### **Structure and Quality of Employment: Emerging Trends**

Recent data available from the preliminary results of the 58th round of the NSSO suggest that employment growth has picked up over the post-2000 period not only in the manufacturing sector but in the aggregate. Employment is estimated to have grown at a rate of over 2.7 per cent per annum during the period 2000-2004. Doubts are expressed about the veracity of these data for the technical reasons of small sample size and limited half year period of survey. In any case, the share of the regular wage and salaried workers has stagnated and, in some cases, declined, and that of casual workers has seen significant increase (Country Strategy for India, 2004)

#### *'New Economic Policy' 1991*

In July 1991, the Indian government began to implement its 'new economic policy', largely dictated by the International Monetary Fund and the World Bank. An important agenda of this policy was bringing about 'labour flexibility'. This included two types of changes. First, changes in the law to allow easy retrenchment and closure, which the Government termed as '**exit policy**'. Second, the replacement of permanent labour that enjoyed various legal rights, in particular job security, with contract labour, which was far cheaper and could be fired at will (Business World, 1988)

### **Labor Market Inflexibility**

Restrictions on the hiring and firing of workers by medium and large firms were one of the greatest challenges of doing business in India. Employment in India's registered firms (those with more than 100 employees) was highly protected. Any registered firm wishing to retrench labour could only do so with the permission of the State Government which was rarely granted. These provisions made labour rationalisation in registered firms very difficult, which was especially difficult for labour-intensive sectors. The Investment Climate Assessment 2002 found that the typical Indian firm reported having 17 per cent more workers than it desired and that the labour laws and regulations were the main reason why it could not adjust to the preferred level. Further, the use of contract labour is restricted to temporary activities by the existing Contract Labour Act. Since the introduction of the New Economic Policy, the government has periodically announced that labour legislations required for such 'labour flexibility'. However, the major trade unions have always announced their opposition to such changes. No major legislation had formally been presented or passed in this respect. While a major change was imposed in retirement benefits (converting provident fund dues to a pension), the laws on industrial disputes and contract labour have remained the same.

### **Without Any Legislation**

“Labour flexibility” already existed to an extent before 1991, and has increased since then *without any legislation*. Since 1991, hundreds of thousands of workers have been forced to leave their jobs with insignificant amounts of 'voluntary retirement' payments (aggregate official data is not available in this respect). Thousands of factories have closed down without legal formalities. From the latter half of the 1980s managements began refusing to conclude new settlements with their existing unions; indeed, in a reversal of the normal situation, *managements* began the practice of presenting `charters of demands' to their *unions* — dictating reduction of workforce, complete freedom of deployment anywhere, linking wages to 'productivity', and freedom to use contract labour.<sup>18</sup> It became standard practice to victimise union activists, impose illegal lock-outs (often by such simple devices as failing to pay the electricity bill), and force workers to accept 'Voluntary' Retirement Schemes (VRS). The **Board for Industrial and Financial Reconstruction (BIFR)**, which was purportedly set up to

revive such sick companies as could be revived, actually operated as an elaborate mechanism for owners to extract tax concessions, loan write-offs, and concessions from the starving workers, but the **BIFR completely failed to ensure the reopening of illegally closed units**. Where managements' applications for factory closure were once automatically rejected by state governments (under section 25 of the Industrial Disputes Act, 1947), the Maharashtra Labour Commissioner told the *Economic Times* (12/8/03) that such applications were now being allowed “in the changed scenario”.

#### *Undermining Resistance by Trade Unions*

Where trade unions genuinely representative of the workers resisted these changes, openly pro-management 'trade unions', thugs and the police were freely employed against the workers. But in the majority of the cases, the existing established 'trade unions' have subtly or openly collaborated with managements in a variety of ways, the most important being the failure to put up serious resistance struggle. If a worker felt that it was unlikely that his/her union would put up a serious struggle against a voluntary retirement scheme, it became an *individually* rational choice for him/her to accept the payment as soon as possible.

#### *Depression of Wages*

This situation has facilitated a widespread depression of the share of wages. One method is the widespread increase in workload, whether as the result of failure to recruit additional staff as output increases, failure to fill vacancies, or actual retrenchment carried out while maintaining/increasing production/services. Secondly, not only do unorganised sector wage increases lag behind inflation (so that real wages decline), but even outright wage cuts are imposed in many sectors. Wage cuts are now being imposed on sections of permanent workers once thought secure. The most endemic form of wage-cut is the replacement of permanent workers in industry with low-paid contract workers. This is to be found not only in production but service sectors as well (Mishra, 2001).

#### *Corporate Restructuring in State Public Sector Enterprises*

The corporate restructuring of the State Public Sector Undertakings (SPSUs) in India had assumed vital dimensions in the context of the fiscal crisis. The losses incurred by these enterprises were about 1.5 percent of

the nation's GDP. The closure/retention of these enterprises was subjected to a number of provisions imposed by the various Acts relating to the functioning and control of these enterprises such as Companies Act, Industrial Laws, Monopolies and Restrictive Trade Practices Act, Insolvency Act, Securities & Exchange Board of India Act, Sick Industrial Companies Act, State Financial Corporations Act, State Road Transport Corporations Act, Employees State Insurance Act and Article 12 of the Indian Constitution to mention a few (Howell and Kambhampati, 1999).

### *Liberalisation Policy and Labour*

In 1991, the Indian Government began to seriously tread the path of liberalisation. It started to open up the economy, discuss the privatization of the public sector, invite foreign investment and reform the labour market. These points have been explored through an investigation into retrenched workers in the cotton textile mills of Ahmedabad, Gujrat state: *first, it cannot be assumed that the informal sector can readily absorb a sudden localised surge in unemployment. Second, even where retrenched workers have found employment in the informal sector, their conditions of employment in terms of wages, working hours, health and safety and representation are likely to be worse. Third, the National Renewal Fund has not been effective as a social safety net for retrenched workers nor as a mechanism for regenerating industry and, finally, it cannot be assumed that, the trade unions will be able to negotiate a satisfactory deal for redundant workers.*<sup>21</sup>

Jan Breman has expressed views on how lakhs of workers lost their jobs on closure of textile mills of Ahmedabad. "My following comments relate to Ahmedabad, the primary location of many of the horrors that have been reported. Since 1998, I have been carrying out research in localities in the city, which used to be marked by the smoking chimneys of textile mills, many of which had a history of production for close to, or even more than, a hundred years. To this branch of industry Ahmedabad owed its fame as the Manchester of India. The proud record came to an end when, from the early 1980s onwards, these factories started to close their gates. Twenty years later more than 50 mills have stopped production and, in this still

ongoing crisis, at least one-lakh workers have lost their jobs. While around the middle of the 20th century half of the city's workforce used to earn its livelihood from employment in the composite textile enterprises dominating the industrial landscape, this percentage has now dwindled to a tiny fraction. The dismissed workers were driven into the informal sector of the economy, to depend on casual rather than regular jobs, requiring no or only minimum skills, remunerated with very low wages and paid not on time but on piece rate. Hired for hardly more than 15 to 20 days per month, most of them have been forced to strengthen the economy of their household by bringing former dependents, women and also young children, into the labouring process. Even all these efforts combined generally result in a life standard far below the poverty level. In the process of immiseratisation the erstwhile mill workers have been made to surrender the regularity, stability and dignity they used to enjoy in the formal sector of the economy (ILO, 2009).

### *Rising Unemployment*

The deepening of the global financial crisis entailed a heavy toll on employment worldwide. A rapid rise in the unemployment had been witnessed since 2008 and was expected to worsen in 2009-2010. Initially unemployment was projected at 50 million over the next two years, but it was predicted that if the situation continued to deteriorate, this number could easily double (Venketesan, 2001).

*To sum, during the last 20 years the working class in both the organised and unorganised sectors have suffered its worst setback in post-1947 India. Not only has unemployment soared, but also exploitation of those employed has greatly intensified.*

Loss of service due to closure stands on the same footing as loss of service due to retrenchment, for in both cases, the employee is out of employment suddenly and for no fault of his. Closure of an undertaking involves termination of employment of many employees and throws them into the ranks of unemployed. The closure brings about en-mass termination. The sudden unemployment poses great hardship, not only to the concerned workers but also to his entire family (Business Standard, 2009). Many retrenched workers are left with no choice but to sell or mortgage their

personal belongings in order to make both ends meet. Losing a job ranks fifth in life's most traumatic events and occupies an undisputed first place in work related trauma[see, 1984] 4 SCC 392 (S.C.)

### **Contextual Legislative Framework—The Industrial Disputes Act, 1947**

Like some of the earlier Regulations of the East India Company, the **Employers' and Workmen's Disputes Act, 1860** was passed which was concerned with only specific industries. The Government had no active role to play. Then, the **Trade Disputes Act, 1929**, provided for the constitution of two *ad hoc* bodies, the Court of Enquiry and the Board of Conciliation to inquire into and for resolution of "trade disputes". Experience of the working of the Trade Dispute Act, 1929, had revealed its main defect that no provisions have been in the Act to render settlement of an industrial dispute. Hence, the need arose for a permanent legislation. **The Industrial Disputes Act, 1947** is one of the central labour Acts and is common to all states. The object of the Act is "to make provision for investigation and settlement of industrial disputes and for certain other purposes". It sets out the guidelines for conciliation, arbitration and adjudication in the case of an industrial dispute. One of the main purposes of the Industrial Disputes Act is to define the procedures for dispute settlement and authorities involved. It includes provisions on the lay-off and retrenchment of workers. It also lists conditions required for closure of establishments and prohibits 'unfair labour practices' and defines the penalties involved.

The Supreme Court in *Dimakuchi Tea Estate Karmchari Sangh v. Dimakuchi Tea Estate* [A.I.R. 1958 S.C.358], summed up the principal objects of the Act as follows:

1. promotion and measures for securing and preserving amity and good relations between the employers and workmen.
2. investigation and settlement of industrial disputes, between employers and employers, employers and workmen or workmen and workmen, with a right of representation by registered trade

- union or a federation of trade unions or an association of employers or a federation of association of employers.
3. prevention of illegal strikes and lockouts
  4. relief to workmen in the matter of lay-off and retrenchment, and
  5. collective bargaining.<sup>26</sup>

The Industrial Disputes Act, 1947 has undergone several amendments since 1947. The **Industrial Disputes (Amendment) Act, 1982** apart from other important amendments had **inserted a new clause (cc) defining “closure”**.

#### *Closure of an Establishment*

According to Clause (cc) of the Industrial Disputes Act, the expression ‘closure’ had earlier not been defined in the Act. But in view of a lot of litigation being centered on the closure of industrial undertakings, subsequent legislation has accentuated the need for defining a ‘closure’. Therefore to effectively deal with the subject, this definition has been inserted. **The term closure is defined in Section 2(cc) to mean “the permanent closing of a place of employment or part thereof.”** Thus ‘closure’ may be of the entire undertaking or even a part of it.

Two years later the **Industrial Disputes (Amendment) Act, 1984**, was introduced. It made important amendments pertaining to the definition of “retrenchment”.

#### *Retrenchment of Workers*

Retrenchment can be referred to as “when a portion of staff or labour force is discharged as surplus in a running or continuing business, the termination of service which follows may be due to a variety of reasons; e.g., for economy, rationalisation of industry, installation of new labour-saving machinery, etc.” **Section 2(oo) of the Industrial Disputes Act, 1947 defines it as “Retrenchment means the termination of the service of a workman by the employer for any reason whatsoever, otherwise than as a punishment inflicted by way of a disciplinary action. It further excludes:-**

- i. **Voluntary Retirement**
- ii. **A retirement of workman on reaching the age of superannuation**
- iii. **Termination of service as a result of non-renewal of contract of employment**

**iv. A termination of service on ground of continued ill-health of workman.”**

One can say that business itself is being continued but that a portion of the staff or the labour force is discharged as surplusage. Hence, the Industrial Disputes (Amendment) Act, 1984, excludes from the definition of “retrenchment” “termination of the service of a workman as a result of the non-renewal of the contract of employment on its expiry and on the termination of such contract in accordance with the provisions thereof”.

*The Concept of Downsizing*

According to Noer (2001), downsizing is defined as a deliberate organisational decision to reduce the workforce in order to increase organisational performance. The decision to downsize can be triggered by economic decline (Budros, 2002), mergers and acquisitions (Appelbaum, Everard and Hung, 1999) or market regulations (Michael, 1997), among others. Other euphemisms used to refer to downsizing are retrenchment and/or layoffs. Sandringham (2000) points out that there are various strategies used in downsizing, namely workforce reduction (such as early retirement, transfers and out-placement, buy-out packages, lay-offs and firings) (Makawatsakul and Kleiner, 2003), work redesign, and systemic strategies. Worrall, Cooper and Campbell (2000) observed the negative impact of downsizing in the public sector as breakdown of the psychological and reduced job security among managers (Industrial Dispute Act, 1947). Whenever any organisation lays-off a significant workforce, it means it has downsized. Corporate downsizing is not a rare phenomenon in the present day environment. Most of the companies downsize in order to rise above market competition. Downsizing is sometimes referred to as "smart sizing" when companies try to reduce the labour cost by laying off a large number of people. Positive effects of downsizing on the organisation can be reduction in the labour cost and enhanced corporate image, when an organisation restructures itself, in terms of human resources, products and services

*Closure or Retrenchment—A Matter of Policy of the Employer*

Law has given the right to an employer to close down his undertaking as and when he feels depending upon the circumstances. If an employer is unable to carry on business or production he has full right to close down. Closure is a matter of policy of the employer, whether to run his business or not. The employer may close down an industrial activity bona-fide on such eventualities as suffering continuous loss, no possibility of revival of the business or an inability for various reasons, to continue the industrial activity. The desire of an employer to make profit is natural and therefore lawful. The management has full right to determine the volume of its labour-force. If, for instance, a scheme for re-organisation of the business, or he wants to introduce new labour saving devices or where he wants to cut down on expenditure, or he wants to introduce rationalisation in the industry, he may have to prune the labour found to be in excess. No employer is expected to carry the burden and retrenchment has to be accepted as inevitable, however, unfortunate it may be. <sup>28</sup>

### **Social Outcomes of Closure and Retrenchment**

The results or consequences of job loss due to retrenchment have been studied by a number of psychologists and social sciences researchers, such as Stevenson (1998), DeWitt (1998), Laubscher (1999), Vermeulen and Wieser (2000) and Waters (2001). Their findings have shown that retrenchment has traumatic effects on a person's life and his or her family. Even the employees who manage to survive; the company, the organisation and the whole society experience the ill-effects of retrenchment. The situation in case of closure and retrenchment is sudden and unalterable.

### **Review of Literature**

'Losing a job ranks fifth in life's most traumatic events and occupies an undisputed first place in work related trauma'. (Business Standard, February 5, 2009) In a society, where a person's identity is quantified by his work, the psychological impact of losing a job is quite significant.

#### *Concept of Closure*

A paper titled "**Organisational Closure: A Critique of the Literature and Some Research Propositions**", by Rune Wigblad of Dalarna University College, Borlänge, Sweden and John Lewer of Employment

**Studies Centre, University of Newcastle, Newcastle, Australia,** discusses that most of the analysis of closures has tended to fall within the burgeoning literature on downsizing which emerged since the 1980s. It has been contended that, in part, organisational decline has been a generally neglected topic in the organisational sciences as much of the literature has emphasised growth (e.g. Cameron, Sutton and Whetten, 1988; Whetten, 1980). Similarly, as Sutton (1987) noted much has been written about *why* organisations die yet, in contrast, little research or conceptual work has focused on *how* the process of organisational closedown unfolds. Organisations are born, develop and mature; some even become prosperous. Over time, many face decline, and often downsize their workforce. At its most extreme, downsizing occurs when either a part, or a whole organisation, is closed (Weber and Taylor, 1963). Closures are common events and account for major job losses. Labelled organisational death by Sutton, explanations for closures have been analysed through the frames of orthodox economics (market forces, labour costs and the like), industrial relations (especially as a union avoidance strategy) and the organisational life cycle literature, for example, decisions over a firm's product mix may lead a shut down of an subsequently obsolete facility (Greiner, 1972). As with downsizing, closures are commonly attributed to the effects of globalisation, increasing competition, mergers and acquisitions, government deregulation, and changes in product markets; all which increase pressure on managers to improve performance by reducing human and/or capital resources to better align the organisation with its competitive environment (DeWitt, 1993; Drazin and Van de Ven, 1985; Hardy, 1985; Hardy, 1990).

Some organisations are closed due to strategic decisions while others 'die' because of bankruptcy (e.g. Altman, 1971, Gratzler and Box 2002; Gratzler, 1999). Managers frequently cite poor industry conditions or weak demand as a reason for downsizing or closedowns (Espahbodi, John and Vasudevan, 2000). Other research points to labour costs as an explanation of closures, particularly for capital flight as resources are deployed elsewhere for a better return on investments (Laabs, 1999). The impact of unionisation and other employment-related issues have been studied as a potential cause of closure. Workers in the face of a closure decision

experience powerlessness and insecurity (Greenhalgh and Rosenblatt, 1984). Furthermore, displaced workers face both a loss of identity and important social networks. This means that closedowns are often emotionally charged events; characterised by mourning, anger, depression, sorrow, an ambiguous present and the fear of an unknown future (Cunningham, 1997; Harris and Sutton, 1986). Indeed, individuals may experience some pathology. When placed in a threat situation, an individual's most well-learned or dominant response may be emitted which could be grossly inappropriate (Weick, 1979). Similarly, decision-making groups' performance may decline as a result of the stressful situation (Staw, Sandelands and Dutton, 1981; Shaw and Barrett-Power, 1997). Later studies have maintained this momentum: the literature exploring how retrenched workers adjusted during the post-displacement period (regardless of the reason for their job loss including whether it followed from a closure) is voluminous. Taylor (1984); Deery, *et al.* (1986) and Murtough and Waite (2000), for example, examined this question in detail without distinguishing between the reasons why the workers were retrenched. Fallick (1996) through a detailed synopsis of the worker displacement literature analysed for duration of unemployment, earnings effects and how investments in human capital (mainly training activities) affected the adjustment experience. From case study evidence, Turnbull and Vass (1997: 27) concluded that retrenched employees, 'wantonly discarded through (mis)management', disproportionately bore the costs of job loss. Overall, for those who are retrenched, the literature points to a litany of personal negative effects: 'shock, disbelief, anger, hurt, sense of powerlessness, loss of confidence and self-esteem' (Webber and Campbell, 1997: 189; Kets de Vries and Balazs, 1997).

According to the paper, although closure is all pervasive but scholarly understanding of the phenomenon is uneven. Hence, a comprehensive international survey is needed to draw published data on closures (number, industries, employees affected, reasons and the like) and to map the state regulatory arrangements (and practices) which seek to affect managerial decision-making over closures. Second, more data is needed to test the effects of agencies such unions and community coalitions on closures. What contemporary strategies, for example, do unions employ when

confronted with closure decisions and what is their utility when measured against the union's objectives? Third, the paper has demonstrated there are an extremely small number of single firm studies, which have reported on an organisation's performance during a closedown period. Also, very few quantitative studies on the issue have been located (Gupta, 2010).

### **Social Outcomes Evident from Closure**

Social outcomes resulting from closure were evident from the closure of textile mills in Ahmedabad, Mumbai and Kanpur during 1980s, which have been documented by earlier studies (e.g. Papola 1994). Kanpur was one of the biggest producers of the textile products. Apart from the textile industry and the leather industry, two wheelers, chemicals, fertilizers, hosiery, and engineering goods were also the major industries made this city the Manchester of the East. Now the image has completely changed. Nothing more than chaos and gloom was reported by the SME Times. It was found that Kanpur, once India's leading industrial center, is now a graveyard of industries. In the 1990s the textile industry was in a state of crisis where most of the mills closed down. In the past 15-18 years almost 90 percent of big industries and around 50 small units have closed down. Thousands of labourers have been retrenched from their jobs. They are crying for their livelihood, but no one is listening. Their lives and identities are closely intertwined with work in the mills ( Breman and Shah, 2008).

Similar views have been expressed by human sciences researchers **Jan Breman and Parthiv Shah (2004)** in the book reviews titled **“Working for the Mill No More”** and **“The Textile Mill Workers of Ahmedabad”** by **Sharit K.Bhowmik, in Labour File Journal Special Economic Zones: Their Impact on Labour (2008)** where these authors bring out the social outcomes evident from the closure of mills in Ahmedabad, where no one questioned why mills stopped functioning—neither the union nor the Government. No one seemed to be bothered why the mills closed and what would be the fate of thousands of workers and their families. The workers fought to get their dues and most got nothing. Those workers who did get compensation, the amount was much less than they had expected. These workers were lucky because they could start small enterprises or become

self-employed. But lives of most of the families of workers were in poverty and insecurity. The city was divided into haves and have-nots. The frustration among ex-mill workers made them vulnerable to communal forces. The sad part of the story is that today's glamorous Ahmedabad is built on the graveyard of the mills and the aspirations of the mill workers (Unni and Rani, 2002).

#### *Growing Informalisation*

A study “**Employment and Income in India: Case of a city economy**” **Conducted by Jeemol Unni and Uma Rani at the Gujrat Institute of Development Research, Gota, Ahmedabad (2002)** reveals that Ahmedabad city generated employment of 1.5 million workers in 1997-98 and an income of Rs. 60,130 million. 77% of this employment and 47% of the incomes were generated in the informal economy where the informal workers were mainly engaged in trade, hotels and restaurants, transport and manufacturing sector. The study identified that the organised sector in the city was expected to have suffered a major setback due to the closure of textile mills and subsequent retrenchment of workers which began in 1982. Since then employment has grown faster in the informal compared to the formal economy. The study found that closure of a large number of textile mills was partly compensated by the emergence of a large pool of “informal sector workers” (Rawat, 2002).

#### *Sharp Repercussions of Closure*

An article by **Rachna Bisht Rawat, “Textile Mills Closure Exacting its Pound of Flesh”, published in the Indian Express Frontpage by Indian Express Newspapers (Bombay) Ltd. (1999)** shows the sharp repercussions of closure of the recession-hit textile mills of Ahmedabad. It speaks about the story of how housewives of ex-mill workers were compelled to take up prostitution to support their families and to keep their home fires burning. The article gives a sharp look at the unfortunate situation of the ineffectiveness of the much publicized the rehabilitation programmes for the retrenched textile workers. The article briefly shows how the wives of 50000 workers who have lost their jobs when about 50 mills closed down within five years, were driven towards prostitution. For the retrenched workers jobs were hard to find. Some of them tried to set up small businesses, but failed. Many men took to liquor. The social service

societies quoted that “prostitution and child labour are the two fallouts of the mill closure” (Weller, 2007).

*The Cost of Job Loss*

The study, “**The Cost of Job Loss: The Other Side of Precariousness**” by Sally Weller, submitted to Centre for Strategic Economic Studies, Victoria University (2007) emphasised that emotional, career and financial impacts of retrenchment are mutually constituted and inseparable. The study also describes the long term impacts of job loss. The study was conducted based on a survey of a stratified random sample of 700 former employees of a failed Australian Airline, Ansett Airlines. The sample for the study was drawn from Ansett’s employee records. The cohort provided an unusually illuminating case for the study of retrenchment outcomes. The study’s survey of Ansett retrenched workers sought to identify the overall impacts of retrenchment in a way that took into account workers’ different post-retrenchment trajectories. It probed the financial, career and personal impacts of retrenchment, which were understood as separate but related dimensions.

The results of the study showed that Ansett’s failure had a sustained impact on workers’ perceptions of wellbeing, on their careers and on their financial situation. In this study, all redundant workers were from the same firm and had similar experiences of an unexpected and clumsily-handled redundancy. Over a quarter of respondents reported that they were either better off in the longer term or had been unaffected by the collapse of the Airline. 28.6% of the sample reported that they had recovered their well-being fairly quickly after the initial shock. 19% of the respondents reported that they had not recovered their sense of well-being. 28.5% had not recovered their careers and 25.4% had not been able to restore their financial status. For a significant subgroup, the emotional, financial and career impact of retrenchment persisted for a full five years after the actual event. The responses suggest that well-being recovered more quickly than careers and finances. In fact, career and financial impacts were more closely correlated with each other than personal impacts. The study also suggested that over the five years, financial difficulties have been a more important source of personal stress than career progress (Vermeulen, 2005).

### **Psychological Dimensions of Job Loss**

A study was conducted on the “**Perceptions of Procedural Justice in the Retrenchment of Managers**” by L.P. Vermeulen submitted to the **Department of Human Resource Management, University of Pretoria (2005)**. The results of the study demonstrated that the way people exit an organisation is likely to influence their perceptions and psychological reaction to retrenchment and unemployment outcomes. The results of the study supported the early findings by authors like Rousseau and Anton (1991), DeWitt (1998) and Waters (2001). According to them, employees who experience involuntary retrenchment react more negatively to unemployment and are more likely to perceive retrenchment as a one-sided breach of psychological contract with the organisation. Waters (2001) examined that given the psychological and economic importance of work, as well as symbolic rewards of group membership, it can be expected that when only a few individuals are targeted for retrenchment this has detrimental effect on their self-image, social status and feelings of personal worth. He found that lay-off magnitude correlated negatively with depression and economic deprivation. The study found that employees who were involved in singular or minor retrenchment exercises were more depressed and unsure about their financial position than participants of the study who had been involved in generalized downsizing. The results of the study confirmed that it is doubtful that managers will perceive their retrenchment as fair if the organisations do not provide considerable tangible and concrete support in assisting them (rightly called Employee Assistance Programmes provided by the organisations), from the termination of their services to their securing of a suitable new career. These programmes are used to mitigate and decrease the negative effects of retrenchment and lay-offs, their family members and the survivors.<sup>35</sup>

### **Chain of Adversity**

Some authors as *Price* (2002) have coined the phrase ‘chain of adversity’ to express the downward spiral of misfortune that some workers experience after retrenchment. The psychology literature describes the event (shock of job loss due to retrenchment) as ‘illness’ and the change in personal and career front it initiates as ‘recovery’ from the ‘illness’.

### **Implications of Psychological Experience of Unemployment**

A research project titled "**Some Implications of the Psychological Experience of Unemployment**", by **P. Nancey Hoare & M. Anthony Machin, University of Southern Queensland, published in Australian Journal of Career Development; Volume 18(3), pp. 57-61, 2007** presents a summary of some of the implications and psychological influences on the experience of unemployment. Drawing from deprivation theory and the stress and coping literature, the research project explored coping resources, cognitive appraisals, coping behaviours, mental health, and re-employment. The research project consisted of two studies. The first was a cross-sectional survey of 371 unemployed participants from South East Queensland, Australia, which was reported in Hoare and Machin (2006). The second study consisted of 115 of those same participants, surveyed 6 months later, and used both cross-sectional and longitudinal designs. The surveys were paper-based and were distributed by staff from employment agencies to their unemployed clients. There were four major objectives for the research project. The first was to determine how coping resources and cognitive appraisals influence coping behaviours. The second was to examine how the coping variables influence mental health. The third was to determine which variables predicted job acquisition and the final objective was to explore changes over time in the coping variables as a function of employment status. In her seminal work in the 1930s, Jahoda (1982) found that unemployment results in a loss of access to five important psychosocial benefits of employment, which she believed accounted for the poor mental health experienced by the unemployed. Jahoda contended that employment not only provides a regular income (the manifest benefits), but it provides people with a sense of collective purpose, opportunities for contact with others outside of their immediate family, a sense of social status, enforced activity, and a structure to their time. Jahoda found that unemployment reduced or deprived people of those five psychosocial benefits, causing them to experience significant distress. This suggests that the experience of distress in the unemployed is associated with appraisals associated with loss of the latent benefits. Thus, Jahoda's theory can be readily incorporated into the stress and coping framework.<sup>36</sup> Fryer argued that having limited finances restricts people's ability to exercise control over their lives and to make plans for the future, which influences their

well-being. Thus, Fryer's emphasis on the loss of the economic benefits of employment can also be incorporated into the stress and coping theory because perceived access to finances is considered to be a coping resource (Nirmala, 2006).

According to a study titled, **“A Study on Organisational Rightsizing: Actors, Processes and Outcome”** by Maria Christine Nirmala, submitted to Faculty of Engineering, Department of Management Studies, Indian Institute of Science, Bangalore (2006), the psychological fall involved in losing a job is quite significant. Reduced trust, job insecurity, increased stress from heightened workloads, reduced self-efficacy and self-esteem and decline in job satisfaction and organisational commitments are often the effects on individuals who have survived downsizing. According to the study, work is the only cultural role that can meet all 5 levels of human need: income, expenditure of time and energy, identification and status, association and source of meaningful life experience. Employees who are used to concepts of “job security” and “life-time employment” need to get used to the “hire and fire” approach. The study points out that the focus has now shifted from priority based on age and seniority to performance. However, other processes like clear and transparent appraisal systems, psychological contracts, and performance based pays and incentives are yet to catch up scientifically (Mukhopadhyay et al., 2003).

#### *Gender Differences in the Impact of Retrenchment*

A study **“Gender Differences in the Impact of Retrenchment: A Comparative Study of Delhi and West Bengal in India”** by Swapna Mukhopadhyay, Rina Bhattacharya, Rajib Nandi and Ranjan Swarnakar, Institute of Social Studies Trust, New Delhi, where household surveys were carried out in two states, Delhi and West Bengal. In Delhi retrenched workers from the readymade garment units were selected while in West Bengal, respondents were retrenched workers from different manufacturing units in private, public and small scale units. It was found that given the differential roles of men and women, women seem to be able to absorb the shock of job loss and cope with it better than men. It

came out very clearly that households of retrenched workers have adopted different strategies to cope with the deteriorating economic situation like curtailing expenditures on food and clothing. A large number of households have reported that they had taken loans and assets had to be sold. The analysis of the data shows mental distress, loss in incomes, de-skilling were some of the consequences of retrenchment (India Budget, 2008).

## **Section IV**

### **Conclusion**

In order to provide Social Safety Net to the Insured Persons who are rendered jobless due to retrenchment, closure of factory/establishment or permanent disablement of at least 40% arising out of non-employment injury, the Employees State Insurance Corporation (ESI Corporation) had introduced a new scheme called "Rajiv Gandhi Shramik Kalyan Yojna" w.e.f. 01.04.2005. Changes have been made in this scheme with a view to provide more benefits to the Insured Persons and to simplify the procedures so that the benefits are available in a hassle free manner. As per "Rajiv Gandhi Shramik Kalyan Yojna" as on 01.02.2009 the person should have been, an insured person, under the ESI Act on the date of loss of insurable employment, on account of closure of the factory or establishment, retrenchment, or permanent invalidity arising out of non-employment injury. Insured person should have contributed under the ESI Scheme, for a minimum period of five years prior to loss of employment. Unemployment Allowance shall cease to be payable from the date the insured person is re-employed elsewhere. Only the insured person, who becomes unemployed, on or after 1st April, 2005, shall be entitled to receive Unemployment Allowance. The Unemployment Allowance is payable for a maximum period of twelve months.<sup>40</sup> To protect the interests of workers affected by such closure and retrenchments, safeguards are provided under the Industrial Disputes Act, 1947 and other labour legislations. In the Central sphere, for which the Union Government is the appropriate authority, manpower rationalisation and closure of units is normally affected only after all options for revival and rehabilitation have been explored. Government offers voluntary retirement package to the surplus workers. In the private sector, employees are often the casualty of retrenchment where

the general tactics applied are laying-off employees, closing superfluous offices or branches, reducing benefits like medical coverage or retirement plans or just closing the units and running away from the scene. Hence, the Indian Industrial Relations can be broadly understood as changing relationships between workers, trade-unions, employers, the economy and the State. The trend in most industries is to reduce permanent employment and to use more contracts, temporary and casual workers. Although modern Human Resource Management has significantly altered labour-management relations in the advanced sectors of production without necessarily leading to a decline in union bargaining power.

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