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Impact and Analysis of Mergers & Acquisitions Laws on Employees in India

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ABSTRACT

The dynamic landscape of corporate restructuring through mergers and acquisitions (M&A) in India has far-reaching implications beyond financial and strategic goals, particularly affecting the workforce. This paper explores the impact and legal framework governing M&A activities concerning employee rights, job security, and organizational restructuring in India. With laws like the Companies Act, 2013, Industrial Disputes Act, 1947, and relevant labor codes, the study critically examines how these statutes protect—or fail to protect—employees during transitions triggered by M&A. Often, employees are left in uncertain positions with little say in the corporate decisions that directly affect their livelihood, leading to reduced morale, altered roles, or even termination. While acquirers may treat employees as assets or liabilities, the absence of comprehensive employee-focused due diligence further complicates the situation. The paper also delves into judicial precedents and case laws that outline employer obligations and employee entitlements in such scenarios. Through qualitative analysis and stakeholder perspectives, the study identifies gaps in existing laws and recommends policy measures that balance corporate growth with humane employment practices. Ultimately, this research underscores the urgent need for employee-centric legal reforms that ensure fair treatment, transparency, and continuity of rights during M&A proceedings in the Indian corporate regime.

KEYWORDS

Employees, Mergers, Acquisitions, Compliance, Rights

INTRODUCTION

Mergers and Acquisitions (M&A) represent significant corporate strategies aimed at achieving growth, market expansion, or operational consolidation. In India, the liberalization of the economy since 1991 has spurred a surge in M&A activities across sectors such as telecommunications, banking, and manufacturing. These transactions, while financially lucrative for companies, often trigger substantial changes for employees, who are integral yet vulnerable stakeholders in the process.

The legal framework governing M&A in India encompasses a blend of corporate and labor laws, including the Companies Act, 2013, the Competition Act, 2002, and the Industrial Disputes Act, 1947 (IDA). While corporate laws facilitate the procedural and financial aspects of M&A, labor laws aim to protect employees from adverse consequences such as job loss, altered employment conditions, or inadequate compensation. However, the interplay between these laws reveals both strengths and shortcomings in safeguarding employee rights.

This research paper seeks to provide a comprehensive analysis of how M&A laws impact employees in India. It delves into the statutory provisions, judicial interpretations, and practical challenges faced by employees during corporate restructuring. The paper is structured to cover a general background on M&A, an analysis of governing laws, and detailed discussions on employee-related issues such as compensation, workman status disputes, contract labor challenges, and the role of trade unions. By highlighting legal protections and their limitations, this study aims to propose reforms for a more employee-centric M&A framework.

ANALYSIS OF LAWS GOVERNING MERGERS AND ACQUISITIONS

The legal architecture of M&A in India is a composite of corporate and labor laws, each intersecting to regulate transactions and their human dimensions. The Companies Act, 2013, under Sections 230-240, provides the procedural framework for mergers, amalgamations, and demergers, mandating approval by the National Company Law Tribunal (NCLT). It emphasizes creditor and shareholder interests but remains silent on employee protections during restructuring. The Competition Act, 2002, administered by the Competition Commission of India (CCI), ensures market fairness by scrutinizing combinations under Section 5, yet its focus is economic rather than social. Similarly, the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, safeguard public shareholders in listed

entities but offer no recourse for employees.

Labor laws, however, provide a counterbalance. The Industrial Disputes Act, 1947 (IDA) governs retrenchment and transfers of undertakings, with Sections 25F, 25FF, and 25N stipulating notice and compensation for affected workers. The Contract Labour (Regulation and Abolition) Act, 1970 (CLRA) regulates contract workers, while the Trade Unions Act, 1926, empowers collective bargaining. Despite these provisions, the absence of an M&A-specific labor code creates a fragmented regime, prone to interpretive inconsistencies. For instance, in *Hindustan Lever Ltd. v. State of Maharashtra* (1994), the Bombay High Court upheld the merger process but sidestepped employee transfer disputes, highlighting the law's corporate bias. This section critiques the legal framework's inadequacy in addressing employee rights holistically, setting the stage for a deeper exploration of its impacts.

THE IMPACT OF LAWS ON EMPLOYEES

The legal framework governing Mergers and Acquisitions (M&A) in India, while designed to facilitate corporate restructuring and economic growth, has profound and multifaceted implications for employees. Anchored primarily in the Industrial Disputes Act, 1947 (IDA), these laws provide a set of protections intended to safeguard employees during corporate transitions. However, despite these statutory provisions, the practical impact on employees is often characterized by uncertainty, vulnerability, and adverse outcomes. The interplay between legal mandates and corporate strategies reveals a complex landscape where employees face challenges such as job insecurity, altered employment conditions, cultural integration difficulties, and limited legal recourse[1]. This section explores these impacts in detail, illustrating how the law shapes employee experiences during M&A, the gaps that leave them exposed, and the broader implications for their livelihoods and well-being.

Central to the legal protections for employees during M&A is Section 25FF of the Industrial Disputes Act, 1947.[2] This provision stipulates that when an undertaking is transferred, employees are automatically transferred to the new employer on the same terms and conditions of employment. Should the new employer terminate their services, employees are entitled to compensation

[1] Shinjni Kharbanda, 2017. -Employee's position during transfer of undertaking a corporate governance perspective. Paper presented at the 18th International Conference organized by Delhi School of Professional Studies and Research.

[2] S: 25 FF. The Industrial Dispute Act, 1947.

equivalent to retrenchment under Section 25F of the IDA, which includes one month's notice or wages in lieu thereof and 15 days' wages for each completed year of service. On the surface, this mechanism appears to ensure either continuity of employment or a financial safety net in the event of job loss. However, its practical application falls short of providing comprehensive security. The law does not prohibit layoffs or mandate continued employment; it merely offers compensation as a remedy after the fact. This reactive approach fails to address the underlying anxiety and disruption employees experience during M&A, leaving them at the mercy of corporate decisions driven by efficiency and profit motives.

One of the most significant and immediate impacts of M&A laws on employees is the pervasive threat of job insecurity. Corporate restructuring often entails workforce rationalization, where overlapping roles are eliminated to reduce costs and streamline operations. This frequently results in layoffs or forced resignations, plunging employees into a state of uncertainty about their future. A prominent example is the 2017 merger between Vodafone India and Idea Cellular, where thousands of employees faced the prospect of job loss as the companies sought to consolidate their operations. While the IDA ensures compensation for terminated employees, it does not prevent these layoffs from occurring or provide mechanisms to secure alternative employment. As a result, employees endure a climate of fear and instability, compounded by the fact that the mandated compensation—while a legal entitlement—may not suffice to support them through extended periods of unemployment in a fiercely competitive job market. This gap between legal protection and practical outcome underscores the limitations of the current framework in safeguarding employees' livelihoods.

In addition to job insecurity, employees often face alterations to their employment conditions following an M&A transaction. Section 25FF aims to preserve existing terms of employment during a transfer, but in practice, new employers frequently seek to harmonize policies across the merged entity. This harmonization can lead to changes in salary structures, benefits, work locations, or job responsibilities—changes that may not always favor employees. The Supreme Court’s ruling in *Sunil B. Krishna v. Delhi Transport Corporation* (1990) affirmed that employee transfers during a merger are valid as long as the original terms of employment are maintained. However, this does not preclude subsequent modifications by the new employer, provided due process is followed. Employees thus face the risk of unilateral changes to their working conditions, with limited legal avenues to contest such adjustments. This vulnerability can erode

morale, prompt dissatisfaction, and even drive voluntary exits as employees seek more stable or favorable opportunities elsewhere, highlighting a disconnect between the law's intent and its real-world impact.

Cultural shifts and integration challenges represent another layer of impact on employees during M&A, one that the legal framework largely overlooks. When companies with distinct organizational cultures merge, employees must adapt to new management styles, corporate values, or operational practices, often with little preparation or support. This adjustment can lead to friction, reduced productivity, and a decline in job satisfaction. The 2007 merger between Tata Steel and Corus exemplifies this dynamic, as employees from both entities struggled to align their working practices and corporate cultures, resulting in initial discontent and operational inefficiencies. Although not directly governed by M&A laws, the absence of legal provisions mandating employee consultation or cultural integration programs exacerbates these challenges. Employees are left to navigate these transitions independently, without structured mechanisms to ease the process, further marginalizing them as passive recipients of corporate restructuring rather than active participants whose well-being is prioritized.

The existence of legal loopholes further amplifies the adverse effects on employees. Companies may strategically structure M&A transactions to bypass the protections under Section 25FF, such as opting for an asset sale rather than transferring the entire undertaking. In an asset sale, only specific assets are transferred, leaving employees behind without the automatic transfer rights or associated safeguards. The case of *Sunil K. Munshi v. Cipla Ltd.* (2002) sheds light on this tactic, where employees challenged a restructuring as a sham designed to evade IDA liabilities. Although the court sided with the employees in this instance, such cases are intricate and resource-intensive, placing a heavy burden on employees to prove their claims. This legal maneuvering disadvantages workers, particularly those without the financial means or legal acumen to pursue justice, exposing a critical weakness in the law's ability to uniformly protect all affected employees.

Certain employee groups face heightened vulnerability under the current legal regime. Non-workmen, such as managerial and supervisory staff, fall outside the IDA's definition of "workman" and thus lack the same statutory protections. They depend on their employment contracts, which may offer scant safeguards against termination or condition changes. Similarly, contract laborers—a sizable segment of India's workforce—encounter even

greater precarity. Although the Contract Labour (Regulation and Abolition) Act, 1970, provides some protections, these workers are often the first casualties of M&A-induced restructuring, with minimal legal recourse. This disparity creates a stratified system where protections are unevenly distributed, leaving non-workmen and contract laborers disproportionately exposed to the uncertainties and disruptions of corporate mergers.

Enforcement of legal protections poses yet another hurdle for employees. Even when entitled to compensation or continuity of employment, employees must often resort to litigation to enforce their rights—a process that is protracted, costly, and emotionally taxing. India's overburdened labor courts and tribunals exacerbate this issue, with delays in adjudication stretching over years. The aftermath of the Jet Airways-Etihad deal in 2013 illustrates this struggle, as terminated employees faced lengthy legal battles without income or job security. This gap between legal entitlement and practical access to justice underscores a systemic flaw: the burden of enforcement falls heavily on employees, many of whom lack the resources to endure such challenges, rendering the law's protections more theoretical than tangible for those who need them most.

In conclusion, the impact of M&A laws on employees in India reveals a framework that, while well-intentioned, falls short of fully shielding workers from the upheavals of corporate restructuring. The Industrial Disputes Act, 1947, offers critical safeguards like transfer rights and compensation, yet these measures fail to address deeper issues such as job insecurity, shifting employment conditions, cultural integration struggles, legal loopholes, and enforcement barriers. Vulnerable groups, including non-workmen and contract laborers, bear the brunt of these shortcomings, facing limited protections and greater risks. To mitigate these impacts, the legal system must evolve beyond reactive remedies, incorporating stronger safeguards, mandatory employee consultation, and transparent communication during M&A processes. Only then can the law strike a meaningful balance between corporate interests and employee welfare, fostering an environment where M&A contributes to equitable and sustainable growth rather than perpetuating uncertainty and inequity for India's workforce.

COMPENSATION TO EMPLOYEES DURING MERGER AND ACQUISITIONS.

Compensation serves as a critical safety net for employees affected by M&A, yet its implementation is riddled with challenges. Under Section 25F of the IDA, retrenched workmen are entitled to one month's notice and 15 days' wages per year of service, while

Section 25N imposes stricter conditions for larger establishments[3]. The Payment of Gratuity Act, 1972, under Section 4, mandates gratuity for employees with five years of continuous service, yet disputes over eligibility and adequacy persist.

In *Larsen & Toubro Ltd. v. State of Maharashtra* (2015), the Bombay High Court upheld severance payments but allowed employers discretion in defining "continuous service" post-merger, often reducing benefits. The Jet Airways-Etihad merger (2013) saw pilots contest inadequate compensation, with courts ruling variably on contractual terms. Section 25O of the IDA requires closure compensation, but its applicability to partial workforce reductions post-M&A remains unclear, as evidenced in *Workmen of M/s Firestone Tyre & Rubber Co. v. Management* (1973), where the Supreme Court emphasized procedural compliance over substantive relief.

Practical realities further complicate compensation. Employers may delay payments or offer lump sums below statutory norms, forcing employees into protracted litigation. The Reliance Communications-Aircel merger (2016) saw workers receive paltry severance despite legal mandates, highlighting enforcement deficits. This section critiques the law's reliance on employer goodwill, proposing standardized compensation guidelines, expedited dispute resolution via labor courts, and penalties for non-compliance to ensure financial security for affected employees.

WORKMAN STATUS DISPUTE

The classification of employees as "workmen" under Section 2(s) of the IDA[4] is a contentious issue in M&A, determining eligibility for retrenchment benefits. The definition excludes managerial and supervisory staff, creating a legal quagmire for employees in hybrid roles. Courts employ functional tests—assessing duties rather than designations—to resolve disputes, yet outcomes vary. In *S.K. Maini v. Carona Sahu Co. Ltd.* (1994), the Supreme Court ruled that a supervisor performing clerical tasks qualified as a workman, entitling him to benefits, whereas in *Ved Prakash Gupta v. Delton Cable India (P) Ltd.* (1984), a managerial employee was excluded despite partial operational duties.

[3] Kanchan Modak. India: Workman Under Industrial Disputes Act. Mondaq. Accessed July 14, 2017. http://www.mondaq.com/india/x/434328/employee+rights+labour+relations/Workman+Under+Industrial+Disputes+Act+1947.

[4] S. 2 (s), Industrial Disputes Act, 1947.

Post-M&A, employers often reclassify roles to evade liability, as seen in the Jet Airways-Etihad merger, where pilots challenged their dismissal by claiming workman status. The Bombay High Court's ruling favored the employer, citing supervisory functions, yet dissenting opinions underscored the need for broader interpretation. Landmark judgments like *H.R. Adyanthaya v. Sandoz (India) Ltd.* (1994) refined the test, focusing on the "predominant nature" of duties, but inconsistencies persist, particularly for modern job profiles like IT professionals or team leads.

This section argues that the narrow definition of "workman" is anachronistic in a post-industrial economy, leaving a significant workforce segment unprotected. Legislative expansion to include supervisory and technical roles, coupled with clearer judicial guidelines, is imperative to ensure equitable treatment during M&A.

CONTRACT LABOR & ITS CHALLENGES POST-MERGER

Contract labor, governed by the Contract Labour (Regulation and Abolition) Act, 1970(CLRA), constitutes a substantial portion of India's workforce, yet enjoys minimal protection during M&A. Section 10 prohibits contract labor in perennial tasks, but post-merger restructuring often shifts workers to third-party agencies, evading direct liability. In *Steel Authority of India Ltd. v. National Union Waterfront Workers* (2001), the Supreme Court invalidated such practices, mandating absorption by the principal employer, yet compliance remains sporadic.

The Flipkart-Walmart acquisition (2019) displaced contract workers without notice, exploiting the lack of mandatory absorption provisions. Section 21 of the CLRA ensures wage parity, but post-M&A enforcement is weak, as firms prioritize cost-cutting over labor rights. In *International Airport Authority of India v. International Air Cargo Workers' Union* (2009), the Supreme Court emphasized equal treatment, yet contract workers remain vulnerable to job insecurity and benefit loss.

This section critiques the CLRA's failure to address M&A-specific challenges, proposing amendments for mandatory absorption or compensation, stricter oversight of outsourcing, and alignment with Article 39(d) (equal pay for equal work) to mitigate exploitation.[5]

ROLE OF TRADE UNIONS IN M&A

[5] Voesenek, A., and M.S.D Dwarkasing. The effects of Mergers and Acquisitions on firm performance. I Tilburg: Tilburg University (2014).

Trade unions, empowered by the Trade Unions Act, 1926, are traditional guardians of employee interests, yet their influence in M&A contexts is waning. Section 18 of the IDA recognizes collective bargaining agreements, but employer resistance and declining unionization limit their efficacy. The Hindustan Lever Ltd.-TOMCO merger (1993) saw unions secure job guarantees, a rare success driven by robust negotiation. Conversely, the Reliance Communications-Aircel merger (2016) witnessed strikes and litigation, reflecting unions' desperation amid legal constraints.

Section 25G of the IDA mandates seniority-based retrenchment, yet unions struggle to enforce it post-M&A, as seen in *Workmen v. Associated Rubber Industry Ltd.* (1986). The Supreme Court upheld union rights, but practical outcomes favor employers with deeper resources. This section evaluates unions' diminishing bargaining power, advocating statutory recognition as stakeholders in M&A proceedings before the NCLT and CCI, alongside incentives for union revitalization.

CONCLUSION

India's M&A legal framework, including the Companies Act, 2013, and the Industrial Disputes Act, 1947 (IDA), prioritizes corporate efficiency over employee welfare. While Sections 230-240 of the Companies Act ensure procedural rigor, they overlook labor impacts, leaving the IDA's Section 25FF to mandate transfers or compensation—measures undermined by enforcement gaps and employer tactics. Employees face job insecurity, inadequate compensation, workman status disputes, contract labor vulnerabilities, and weakened trade unions, as seen in cases like the 2017 Vodafone India-Idea merger and 2019 Jet Airways collapse. This imbalance clashes with constitutional rights under Articles 14, 19, and 21, necessitating reform to balance corporate growth with employee dignity.

Proposed Reforms for a More Employee-Centric M&A Framework

To rectify these inequities, a comprehensive overhaul of India's M&A laws is essential, focusing on proactive employee protections. First, the Companies Act, 2013, should be amended to require mandatory employee consultation prior to NCLT approval under Sections 230-240. Companies would submit an "Employee Impact Assessment," detailing potential layoffs, role changes, and mitigation strategies, with input from workers or their representatives. This ensures transparency and empowers employees as stakeholders, reducing post-M&A disputes and

fostering trust, drawing inspiration from the UK's TUPE regulations.

Second, the IDA's definition of "workman" under Section 2(s) must be expanded to include modern roles like IT professionals and supervisors, regardless of salary or designation. Judicial tests from *S.K. Maini v. Carona Sahu Co. Ltd.* (1994) highlights the need for inclusivity, minimizing litigation and extending compensation and transfer rights to a broader workforce, aligning with evolving employment realities.

Third, compensation under Section 25F—currently 15 days' wages per year—should be enhanced to 30 days' wages per year for employees with over five years' service, indexed to inflation. Additionally, an M&A Employee Support Fund, financed by a 0.2% levy on transaction values, would provide immediate payouts to displaced workers, managed by the Ministry of Labour and Employment. This dual approach ensures financial security and bypasses employer delays, as seen in the Jet Airways case.

Fourth, the CLRA should mandate that acquiring firms either absorb contract workers with over one year of service into permanent roles or offer severance matching IDA standards. Enhanced penalties for outsourcing violations, building on *Steel Authority of India Ltd. v. National Union Waterfront Workers* (2001), would deter circumvention, ensuring equitable treatment for this vulnerable group.

Finally, the Trade Unions Act, 1926, should grant unions a formal consultative role in M&A proceedings before NCLT and CCI, allowing them to propose retention plans or challenge adverse terms. Incentives like tax breaks for unionized firms in sectors like IT would bolster their influence, countering declines evident in the 2016 Reliance Communications-Aircel merger.

These reforms—consultation, expanded definitions, robust compensation, contract labor safeguards, and union empowerment rooted in constitutional equity, aim to create a balanced M&A framework where employee welfare is integral to corporate success.