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India's Plantation Labour Act - A Critique

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INDIA'S PLANTATION LABOUR ACT – A CRITIQUE

Malini L Tantri[1]

Abstract

The paper critically revisits the PLA 1951 (and its amendments) and discusses threads of anomalies in its making over the years. While doing so, it discusses the conflicts about the domain of plantation sector, on the issue of institutional exclusion, presents views of planters and government bodies on the components of social costs and explore alternative ways to reduce social welfare cost components of the sector so as to improve cost competitiveness of the industry along with protecting labour interest.

Background

Prior to the 1950s, the Workmen's Compensation Act, 1923, was enforced irrespective of whether the estates grow cinchona, coffee, rubber or tea. However, it, had failed to provide substantial benefits to plantation workers since there were fewer reported accidents in plantations (Raman, 2010). Likewise, the Tea District Labour Emigrate Act, 1932, enforced in Assam, regulated merely the conditions for recruitment of labourers in the tea gardens of Assam. Further, the other Acts like Payment of Wages Act, 1936, Industrial Employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947, benefited plantation labour only to a very limited extent. It was in this context that the Labour Investigation Committee had drawn the attention of policy makers to the conditions of life and employment in plantations that were different from those prevailing in other industries. The committee had observed that it would be very inappropriate to include the plantation labour in the general framework of the Industrial Labour Legislation without giving a thought to the inherent serious anomalies and thus recommended the formulation of a Plantation Labour Code covering all plantation areas. (John and Mansingh, 2013). Based on its recommendation, Indian parliament enacted the Plantation Labour Act (PLA) in October 1951, which came into force in the year 1954. The Act made it mandatory on the part of the employer to provide a set of statutory (both health and welfare) facilities to its employees. In fact, it is quite interesting to note that, plantation industry is the only industry where free housing and medical aid, according to the prescribed norms, are provided at the cost of employers without any contribution being made by the worker or the government. By way of providing these facilities, the industry incurs certain expenditure which is commonly termed as 'social welfare cost' or 'social cost', which of late has been blamed as one of the reasons for eroding competitiveness of the sector. The sector is also blamed for not implementing many provisions of PLA in true spirit. In addition to this, it is being criticised in the literature that many of the PLA clauses lead to a systematic institutional exclusion and thereby defeating the purpose of bringing parity to the plantation labourers through PLA. It is in this context, that this particular paper critically revisits the PLA 1951 (and its

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amendments), particularly certain anomalies present in it. Particularly, it discusses the issue of institutional exclusion of PLA, components of social cost and explore alternative ways to reduce social welfare cost components of the sector so as to improve cost competitiveness of the industry along with protecting labour interest. The rest of the paper is organized as follows: the next section outlines few details pertaining to PLA. Third section discusses issues and debates around PLA and the last section summarises the paper, with major policy recommendations.

About the PLA

As per the PLA, plantation is defined as a piece of land of five hectares (15 acres) or more being used for the cultivation of Tea, Coffee, Rubber, Cinchona, Cocoa, Oil Palm and Cardamom, with fifteen or more persons being employed on any day of the preceding twelve months. This act applies to labour employed in big plantation estates and also covers workers employed in offices, hospitals, dispensaries, schools / balwadis and crèches, etc., functioning across plantations. However, it does not apply to those factory premises in which the provisions of the Factories Act, 1948 apply. It covers the entire country, except the State of Jammu & Kashmir. The State Governments are empowered to extend all or any of the provisions of the act to any plantation. Till recently, PLA, 1951, had allowed the employment of adult male or female (above 18 years of age), adolescent (above 14 years of age) and child workers (less than 14 years). However, a recent amendment to the PLA (2010) abolished the employment of children below 14 years of age. In order to get a minimum wage, PLA defines working condition for adult workers as 48 hours in a week, while adolescent workers have to work for 27 hours in a week to be eligible for a minimum wage (Sec, 19). Plantation Labour Act, 1951, underlines both the statutory and non-statutory provisions as part of regulating the working conditions across plantations as well as the welfare of plantation labourers. There are two types of provision spelt under 'statutory' needs, namely, health and welfare. Under 'health' provision, in every plantation, the employer has to arrange for clean drinking water (Sec, 8); a fair number of conveniently usable, convenient latrines and urinals separately accessible for males and females (Sec, 9); medical facilities for plantation workers and their families (Sec, 10). Under 'welfare' provision, it is mandatory for the employer to provide Crèches (Sec 12); recreational facilities for workers and children (Sec, 13); educational facilities for children who are under 12 years and above six years who exceed 25 in numbers, according to the law passed by the state government (Sec, 14); housing accommodation (Sec, 15) and protective clothing against rain and cold for workers free of cost under the state government rule (Sec, 18). Recently (2010), a provision in the PLA was amended under section 18a which states that, in every plantation, the employer has to provide for safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances. The State Govt/s may make rules that prohibit or restrict the employment of women or adolescents from using or handling hazardous chemicals. Every worker, who is exposed to insecticides, chemicals and toxic substances, is required to be medically examined periodically, in such a manner as may be prescribed by the State Govt/s. In addition to this, every plantation employer is required to maintain a health record of every worker who is exposed to insecticides, chemicals and toxic substances while using, handling, storing or transporting and every such worker should have a ready access to such a record. Besides the above mentioned statutory provisions, plantation employers provide their workers with food grains, dry tea and fuel (includes firewood). The worker is also benefited with some sort of education and training regarding plantation works by the employer in some cases. Although PLA is a Central government Act, the respective State governments play a major role in implementing the provisions of the act. The role and responsibilities assigned to the State governments under the provision of Plantation Labour Act, 1951, include appointment of a qualified person as chief inspector for taking care of and observing the working of law and keeping an account of the benefits to be given to workers as stated by the law. They can frame laws for the benefits and welfare of plantation workers. Under this act, the state governments are empowered to take all suitable steps towards improving the conditions of plantation workers. Accordingly, many Indian states have introduced state-specific act/policies with respect to plantation labourers (Table 1). Apart from PLA, 1951, a few more acts are also applicable to the plantation industry and are listed in table 2.

Table 1: Major State-specific Plantation Labour Acts/Policies

Sl. No	State	Year	Act Name
1	Assam	1959	Assam Tea Plantation Provident Fund Scheme
2	Karnataka	1956	The Plantations Labour (Karnataka) Rules
3	Kerala	1959	Kerala Plantations Labour Rules
		1978	Kerala Plantation & (Welfare Officers) Rules
4	Tamil Nadu	1955	The Plantations Labour Rules
5	Tripura	1954	The Tripura Plantations Labour Rules
		1984	The Tripura Plantations Labour Rules, Amendment
6	West Bengal	1951	Plantations Labour Act

Source: Author's compilation

Table 2: Acts Applicable to Plantation Labourers (other than PLA)

Sl. No	Act Name	Year	Objectives
1	Industrial Disputes Act	1947	It secures industrial peace and harmony by providing machinery and procedure for the investigation and settlement of industrial disputes by negotiations.
2	Minimum Wage Act	1948	This Act was formulated to fix minimum rate of wages for certain employments.
3	Employees Provident Found Act	1952	It provides for the compulsory institution of contributory provident funds, pension funds and deposit-linked insurance funds for employees.
4	Maternity Act	1961	This act aims to regulate the employment of women in certain establishments for certain periods before and after childbirth and to provide for maternity benefits including maternity leave, wages, bonus, nursing breaks etc.
5	Payment of Bonus Act	1965	This act provides for the payment of bonus (linked to profit or productivity) to persons employed in certain establishments and matters connected therewith.
6	Payment of Gratuity Act	1972	The Act provides for a scheme for the payment of gratuity to employees engaged in factories, mines, oil fields, plantations, ports, railway companies, shops or other establishments.

Note: there are, in all, 24 labour enactments applicable to the plantation sector.

Source: Author's compilation

Issues and Debate around PLA, 1951

The fundamental purpose underlying the enactment of PLA was to avoid serious anomalies arising out of fitting the general framework of the industrial labour legislation with plantation crops (John and Mansingh, 2013). Accordingly, in the post independent India, PLA was enacted, making it mandatory on the part of planters/employers to provide social security measures and welfare schemes without any contribution made either by the government and/or by labourers. At least on paper, this appears to be a labour-friendly Act. However, the very making of PLA needs to be questioned, given its definition, scope and coverage of labour. Thus, this section highlights the major issues and debate around PLA, 1951.

Conflict of Domain

The difference of opinion between planters and government agencies is related to the plantation definition– i.e., considering commercial agricultural crops both as agriculture and industry. As a result, rules and regulations formulated by both the ministries/departments are made applicable to this sector, thereby exposing the sector to a double-edged sword. For instance, plantation, as an occupation, is considered synonymous with the cultivation of commercial agricultural crops. Accordingly, production, agricultural practices and exports are brought under the ambit of agricultural exports. As a result, it falls directly under the jurisdiction of both the Ministry of Agriculture and Ministry of Commerce and Industry. However, with regard to the labour-related provisions, it is classified as an industrial sector and accordingly, it is mandatory on the part of the employer to protect the welfare interests of labourers and also their social security which, otherwise, are not applicable to any other commercial agricultural crops. On one hand, as growers of commercial crops, they are expected to pay various agricultural taxes (See Table 3) and on the other, being considered as part of the industry, they are bound to provide for various welfare measures as part of protecting the various labour interests both as planters and industrial units which, otherwise, are not applicable to any other industrial unit in the country.

Table 3: Tea Plantation Tax System across Major Indian States

Assam
Agricultural income tax: Up to Rs. 1,00,000- 30%; Above Rs. 100000- 35%; For tea routed through ICD Amingaon, an admissible deduction @ 50 paise per kg.
Green leaf cess payable under Assam taxation on specified land (amendment) act**;** Upto 4 hectares Nil; 20 paise per kg of green leaf produced by producers having an area of above 4 hectares, but within 40 hectares; 32 paise per kg of green leaf produced by producers having an area of above 40 hectares in Brahmaputra valley; 29 paise per kg of green leaf produced by producers having an area of above 4 hectares, but within 40 hectares in Cachar/Barak Valley.
Land revenue under Assam Land revenue reassessments amendment act**;** @ Rs. 12 /- per Bigha for tea estates in Brahmaputra Valley; @ Rs. 9 /- per Bigha for tea estates in Barak Valley; Plus local tax on land revenue @ 25% and surcharge on land revenue @ 30%.
Assam sales tax: 1% on sales through Guwahati tea auction centre (including private sales through GTAC). Orthodox teas purchased for export exempted; 8% on sales outside auction, but within Assam; 4% on ex-garden inert state sales; 1% on inter-state sales through Guwahati tea auction centre.

8% Entry tax under Assam entry tax act 2001 on several inputs (both revenue and capital items) used by the tea industry.
West Bengal
30% Agriculture income tax (levied on 60% of the total income)
Green leaf cess payable under WB rural employment and production act; WB primary education act: 8 paise per kg of green leaf; 4 paise per kg of green leaf.
Land revenue: @ Rs. 30/- per acre under west Bengal land reforms amendment act; 1955 plus Road cess @ 6% of land rent; PWD cess @ 25% of land rent; Rural employment surcharge @15% of land rent.
Salami (payable on transfer of properties other than by any way of inheritance at the time of renewal): Rs. 15,000 per hectare.
Sales tax
Tea sold in Kolkata or Siliguri Auctions: Tea sold to a registered dealer for exports- nil; Tea sold to a registered dealer for re-sale in original form-1%; Tea sold to a un-registered dealer - 8%.
Tea sold in other than in Kolkata or Siliguri Auctions: Tea sold to a registered dealer for exports- nil; Tea sold to a registered dealer for re-sale in original form-1%; Tea sold to an unregistered dealer - 8%.
Interstate sales: Tea purchased in Kolkata or Siliguri Auctions in the course of inter-state trade - 2% CST. • Tea sold to ex-garden in the course of inter-state trade -4% CST.
Agricultural production market fees: @1% under west Bengal Agricultural production marketing regulation act 1972.
Tamil Nadu
Agriculture income tax (levied on 60% of the total income): Exempted (Tamil Nadu government has passed a bill in the assembly to repeat the Tamil Nadu agriculture income tax act 1955).
Land tax, including local cess and local cess surcharge payable to panchayats: Rs. 51.87 per hectare.
Factory license fees: Ranging from Rs. 6,400 to Rs. 54,000.
Dangerous and offensive trade license fees for factory, machinery, pump sets, gen sets etc. and other services installations.
House tax or property tax levied by Panchayats/town Panchayats based on capital value at market rates subject to quinquennial revisions and library cess.
State sale tax: Tea sold through auctions-8%: Tea sold through tea serve (Auction)-4%; Tea sold through other than auction-8%; Resale for second and subsequent sales on dealers above Rs. 10 Lakhs-1%; Infrastructure surcharges 5% on sales tax.
Interstate sales: Tea sold in auction for interstate sale-4%; Tea sold through tea serve (Auction)-2%.
Population control consent fee under water and air pollution acts: Ranging from Rs. 5,000 to Rs. 25,000 per factory.

Kerala
Agricultural income tax (levied on 60% of the total income): Up to Rs. 25,000-45%.; Above Rs. 25,000 to Rs. 1 lakh-50%; Above Rs. 1 lakh to Rs. 3 lakh-55%; Above Rs. 3 lakh to Rs. Lakh-60%.
Agricultural tax had been exempted for holdings of 50 acres and below during the years 2000-01 to 2003-04
Plantation tax (under the Kerala Plantation tax act 1960) Plantation tax on tea exempted for the financial years 2003-04 and 2004-05.
Land tax (under the Kerala land tax act 1961): Panchayat tax –Rs. 50 per hectare per annum; Township or municipal area Rs. 100 per hectare per annum; Corporation area Rs. 200 per hectare per annum.
Sales tax: Tea sold through auctions-8%: Tea sold through other than auction-8%; Addl. Sales tax - 15%.
Internal-sales tax: Tea sold in auction for interstate sale-4%: Other than auction-4%.
Karnataka
Agricultural income tax (levied on 60% of the total income): Up to Rs. 1 lakh- 30%; Above Rs. 1 lakh to Rs. 5 lakh- Rs. 3,00,000 plus 40% of the amount by which the total income exceeds Rs. 1 lakh; Above Rs. 5 lakh Rs. 1,90,000 plus 50% of the amount by which the total income exceeds Rs. 5 lakh.
Turnover tax: Above Rs. 5 lakh but less than Rs. 5 crore-1%.; Above Rs. 5 lakh but below Rs. 10 crore-2%.; Above Rs. 10crore-3%.
Infrastructure development tax: 5% on tax payable
State Sales Tax: Unbranded-8%-12%; Branded-12%.; Central sales tax- 4%.; For registered dealer sale of unbranded tea grown 9%.

Source: Tea statistics report 2003-04

Institutional Inclusion and Exclusion

The implementation of Plantation Labour Act of 1951 in its true spirit was expected to safeguard and benefit thousands of workers in the plantation sector. In fact, it has been amended so as to bring additional statutory benefits under its ambit, for example, Maternity Benefit Act (1961), Minimum Wages Act (1948), etc. However, it is found that human development indicators related to plantation labour differ substantially across states (Abraham, 2010; Thappa, 2012), raising doubts about the effectiveness of PLA. In fact, the Act itself needs to be scrutinized from an institutional inclusiveness and exclusiveness point of view, on social welfare rather than focusing more on its implementation.

The plantation sector in India comprises two major actors, namely, big estates[i] and small growers. On an average, small growers dominate in terms of the number of land holdings, area under production and in some cases, production as well. For instance, for the latest available year (2010-11), small and medium land holdings dominate both in terms of a number of land holdings and area under total plantation in India (Table 4). In the case of a number of units across major plantation crops too, small growers account for 97.46, 36.70 and 99.77 per cent respectively for coffee, tea and rubber (Table 5). With respect to the share of crops in total area across land holding sizes, small growers dominate both in respect of rubber (98.94) and coffee (74.64) (table 7). Although tea seems to be a big grower phenomenon at the national level (Table 6), in some regions like the Nilgiris, small growers dominate both in area and production and thereby highlighting the status of the Nilgiris as a small tea grower phenomenon. These small growers are largely self-employed in their plantation, occasionally hiring temporary workers in peak season and also work as casual labourers on other farms and/or big estates. The Plantation Labour act, however, applies only to formal employment provided by big estates and is silent on the social welfare aspect of small growers, thereby keeping a large proportion of labour outside the purview of PLA and creating a clear case for institutional exclusion.

Big estates provide both formal and informal employment (See flow chart 1). Formal employment is generally residential in nature, while informal employment is non-residential in nature. In the case of tea plantations in India, the share of permanent resident labour in the total tea plantations shows a decline from 83.6 per cent in 1981 to 75 per cent for the year 2004. On the other hand, the share of temporary labour shows an increase from 10.8 per cent to 18 per cent for the same period. In the case of Nilgiris, the share of the resident labour in the total tea plantation labour shows a decrease from 72.8 per cent in 1971 to 55.2 per cent for the year 2004. The share of temporary labour, on the other hand, shows an increase from 25.3 per cent to 39.6 per cent for the same period. As per the provisions of PLA, only permanent and residential labour needs to be provided with various social welfare measures. This among others, undoubtedly mirrors and also explains why and how, over the years, the nature of employment within the plantation sector has been changing towards causal/temporary employment and thereby limiting the size of labour availing the benefits under PLA. Alternatively, this could be interpreted as estate planters as perhaps preferring more of temporary labour to permanent labour as part of reducing the social cost components. If so, it could also be argued that informality is being encouraged systematically in the plantation sector in view of the stringent norms under PLA. Thus, it supports the notion that making of PLA has provided a systematic case for institutional inclusion and exclusion and thereby failing to bring a fair degree of parity among the labour strata within the plantation sector. Further, although a person employed on a contract basis for more than 60 days in a year is considered a worker, the fact that temporary or casuals workers are not covered by PLA makes them ineligible to claim the benefits under PLA (John and Pallavi, 2013). The exclusive nature of PLA is eventually linked to the implementation design. Planters look at the implementation of PLA as detrimental to the labour supply issue. Since the responsibility of providing welfare benefits under the PLA is given to planters rather than the government taking it up as its duty, they are unlikely to implement the PLA in its true spirit (Joseph, 2010). Hence, the implementation design of PLA precludes it from carrying out its own objectives smoothly. In the plantation sector, apart from the PLA benefits, there are institutional exclusions in the form of subsidies disbursed, for example, the plantation subsidy scheme of spices, where subsidies are covered only for cardamom and black pepper, while other spices grown by small holding farms are excluded (Joseph, 2014). Similarly, he notes that in the case of rubber, the subsidy scheme is excluded for those practicing mixed cropping. The exclusion is also seen existing in the policies of plantation boards, for example, while there exists a lacuna for small growers representation in the tea board, the rubber board is fairly better off with three representatives out of 29 board members, but given that small growers of rubber constitute 93 per cent of production and 90 per cent of the area, this representation is very unjust and hence, has been considered as active exclusion (ibid). Further, though many commodity boards offer various labour welfare measures, a majority of them cover estate workers rather than small growers. For instance, Tea Board of India offers a wide range of welfare schemes (See Table 8), but are exclusively applicable to big estate workers rather than small tea growers[ii]. In fact, Tea Board tries to bridge the gap in terms of demand and supply of various labour welfare schemes of the big estates, but remains absolutely silent on the welfare of small tea growers, who dominate in some areas, at least, in, terms of area and production. Joseph (2012) also points out exclusion in the spheres of knowledge, production, promotion, marketing, labour market innovations and organization, and calls the PLA an elusive inclusion. In the sphere of innovation related to production and promotion, exclusion is identified at two levels – selection criteria for receiving plant subsidy and the amount of subsidy received. He further notes that in the sphere of marketing, small holders face significant entry barriers to auctions (ibid).

Table 4: Size Class-wise Estimation of the Number of Holdings and Area under Total Plantation Crops across All Social Groups in India (2010-2011)

Size Class (in Ha.)	No. of Holdings	Total Area (in Ha.)
Small	3214305 (93.4)	1191325 (43.2)
Medium	216206 (6.3)	1015814 (36.8)
Large	11205 (0.3)	551530 (20.0)
Total	3441716 (100.0)	2758669 (100.0)

Source: Indiastat

Table 5: Trends in the Distribution of Units across Different Landsize Holdings.

Year	Coffee		Tea		Rubber	
	Small Growers	Big Growers	Small Growers	Big Growers	Small Growers	Big Growers
1980	97.46*	2.54	86.70	13.30	99.77	0.23
1990	-	-	87.82	12.18	99.96	0.04
2000	98.41#	1.59	98.56	1.44	99.97	0.03
2008	98.77^	1.23	98.94	1.06	99.98	0.02
CAGR (1980 to 2009)	4.26	0.81	10.19	0.19	5.75	-2.55

Note: '*' the share corresponds to the year 1985; '#' the share corresponds to the year 2003 instead of 2000; '^' the share corresponds to the year 2007 instead of 2008.

Source: Performance and Innovation System: A Study of Plantation Sector in India, (http://www.punjabiuniversity.ac.in/cdeiswebsite/papers/21%20namrata%20Thapa%20-%20paper.pdf)

Table 6: Share of Crops in the Total Production across Land Holding Sizes

Year	Tea		Rubber	
	Small Growers	Big Growers	Small Growers	Big Growers
1980	0.02	99.98	70.35	29.65
1990	0.06	99.94	81.46	18.54
2000	18.21	81.79	87.84	12.16
2008	26.25	73.75	93.01	6.99
CAGR (1980 to 2009)	32.47	1.72	7.03	0.86

Source: Performance and Innovation System: A Study of Plantation Sector in India, (http://www.punjabiuniversity.ac.in/cdeiswebsite/papers/21%20namrata%20Thapa%20-%20paper.pdf)

Table 7: Share of Crops in the Total Area across Land Holding Sizes

Year	Coffee		Tea		Rubber	
	Small Growers	Big Growers	Small Growers	Big Growers	Small Growers	Big Growers
1980	57.90*	42.10	2.58	97.42	75.82	24.18
1990	57.82#	42.18	2.77	97.23	83.66	16.34
2000	65.20	34.80	19.35	80.65	88.04	11.96
2008	74.64	25.36	28.19	71.81	89.94	10.06
CAGR (1980 to 2009)	4.39	0.84	10.59	0.44	3.70	-0.11

Note: The latest data on the area across size holdings were available for 2008, and hence, instead of 2009, the year 2008 was considered. ('*' the data corresponds to the year 1985 instead of 1980. '#' the data corresponds to the year 1987 rather than 1990, as the data corresponding to 1980 and 1990 were not available)

Source: Performance and Innovation System: A Study of Plantation Sector in India, (http://www.punjabiuniversity.ac.in/cdeiswebsite/papers/21%20namrata%20Thapa%20-%20paper.pdf)

Flow Chart 1: Plantation Labour Structure

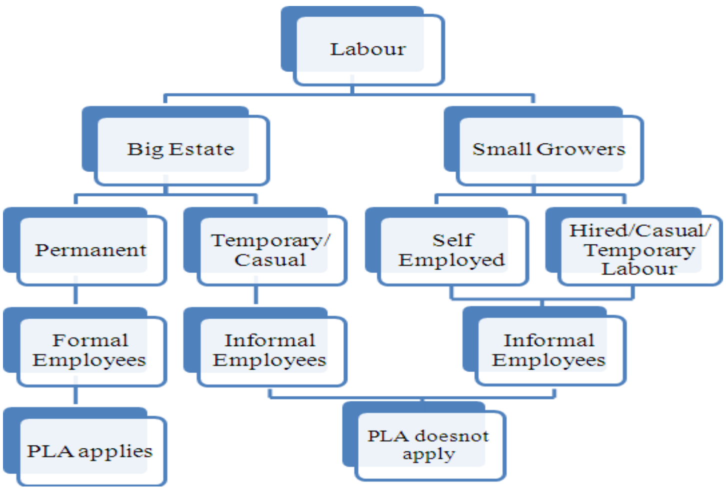


Table 8: Tea Board Labour Welfare Scheme – A Snapshot

Sl. No	Scheme Name	Objective of the Scheme
1	Capital grants for educational institutions for the extension of school buildings etc.	This grant is only for those cases where the institution goes in for additional floor and is not required to acquire land or go for foundation work. The institution should bear not less than 30% of the capital cost of the project, but may have to bear more than the said percentage. The quantum of Board's grant will be decided on merit in each case after taking into account the extent of facilities the tea garden students would genuinely derive. The Board's grant shall, however, be limited to 70% of the total cost or Rs. 8 lakh whichever is lower.
2	Capital Grants for construction of school/college buildings and hostel buildings attached to the school/colleges.	The grant will also cover construction of Hostel, Auditorium, Gymnasium, Laboratory, Playground etc. The Institution should bear not less than 30% of the capital cost of the project, but may have to bear more than the said percentage. The quantum of Board's grant will be decided on merit in each case after taking into account the extent of facilities the tea garden students would genuinely derive. Grants to be sanctioned by the Board shall not exceed 70% of the capital cost of the project or Rs. 12 lakh whichever is lower.
3	Capital grants for construction of new health centres, construction and extension of hospital/medical clinic buildings etc.	The Board may sanction capital grants to any institution looking after the health of tea plantation workers and their dependents for setting up new health centres, construction and extension of hospitals/medical clinic buildings located near tea plantation areas where medical facilities are not readily available, but are rendering services to the tea garden workers and their dependents. Quantum of Board's grant will be decided on merit in each case after taking into account the extent of facilities the tea garden workers and their dependents would genuinely derive. Grants to be sanctioned by the Board shall not exceed 70% of the capital cost of the project or Rs. 12 lakh whichever is lower.
4	Capital grants for hospital/medical clinics towards extension of treatment facilities and also purchase of medical equipment, accessories and ambulance.	Grants are given for the construction of buildings for creating additional beds/wards attached to the hospitals as well as for purchase of equipment like X-Ray plant, surgical instruments, ambulance etc. required for specialized treatment. The Board may also sanction in special cases necessary recurring grants towards maintenance of beds in hospitals for tea garden patients. The quantum of Board's grant will be decided on merit in each case after taking into account the extent of facilities the tea garden workers and their dependents would genuinely derive. Grants to be sanctioned by the Board shall not exceed 70% of the capital cost of the project or Rs. 8 lakh whichever is lower.
5	Capital grants to the institution running rehabilitation and therapy centres for the physically challenged persons.	This grant may also be allowed to this institution for purchasing of vehicles to transport all the beneficiaries attending such centres. The board may also reimburse the cost of bus passage to the beneficiaries and their attendants wherever such facilities are available. Grants to be sanctioned by the Board shall not exceed 70% of the capital cost of the project or Rs. 12.00 lakh whichever is lower.
6	Educational stipend for wards of tea plantation workers. (revised - effective from 1-4-2007)	The grant of educational stipends for wards of the tea plantation workers is one of the welfare schemes of the Board. Under the scheme, tuition fees and hostel charges (including boarding and lodging) are paid on the basis of actual subject to a maximum ceiling of Rs. 40,000/- per annum per student consisting of Rs. 20,000/- as tuition fees and Rs. 20,000/- as hostel charges (effective from 01-04-2007).

7	Book grants to libraries maintained by tea producers' association/registered voluntary organization /labour organisation.	This grant is limited to a maximum of Rs.1000/- per ward per annum (limited to 2 wards per worker family) and will be paid directly to the workers through the garden management or such other authorized medium or institution.
8	Nehru award for the wards of tea plantation workers.	The scheme provides a lump sum grant @ Rs. 2,000/- and Rs. 2,500/- for the wards of tea plantation labour, who would secure at least 75% marks in the last Class X/Madhyamik or equivalent and Class XII/ Higher Secondary or equivalent examination and then undergoing studies in Class XII or Higher Secondary or Degree course studies respectively as educational expenses/book grants. This should be applicable to only those tea plantation workers whose annual income does not exceed Rs. 1,20,000/-. The Board allots a total of Rs. 4 lakh per year as lump sum grants, expecting a desired suitable increase in the State-wise number of recipients which might be based on the total tea plantation labour population.
9	Tea board's financial assistance to Bharat scouts & guides in West Bengal, Assam, Tamil Nadu, Kerala and Tripura.	The Board's grant under the financial Assistance Scheme towards Bharat Scouts & Guides covers payment towards (i) salary and allowances for maintenance of 30 posts of District Scout/Guide Organizers; (ii) reimbursement of training camp charges; (iii) payment for holding rallies, rally-cum-camps, jamborees etc; and (iv) A matching grant for purchase of uniforms to tea garden scouts/guides etc.
10	Board's financial assistance for disabled persons' dependents of tea plantation workers.	The articles which are required by the disabled persons dependent on tea plantation workers as certified by the Medical Officer in form as designed by Board maybe accepted irrespective of articles to be purchased.
11	Board's financial assistance for encouraging sports activities amongst tea plantation workers.	Instead of providing grants for organizing tournaments/trophies, etc. through different organizations, it will be more helpful to provide grants directly to the promising players.
12	Financial assistance for vocational training course for the wards of tea plantation workers & their dependents. (effective from 1st April 2007)	The grant will be sanctioned for the purpose of conducting Vocational Training Courses amongst the wards of tea plantation workers and their dependents only for a duration of six months to one year for each course of vocational training. The quantum of grant will be made up to a maximum of Rs. 1.5 lakh for a course with a duration of six months to one year for one discipline.
13	Scheme for improving health of the tea garden population during the 11th plan period – provision of safe drinking water and sanitation.	The HRD Scheme was introduced to achieve improvements in the life and living conditions of the Tea Plantation labourers and their dependents in the following three broad areas :- a) For improving the health of workers; b) For the education of wards of workers; c) Imparting training to improve skills for growers/workers and plantation managerial staff etc.

Source: Tea Board

Issues related to Social Welfare Costs

Of late, two reasons have been attributed to the plantation sector for losing its competitiveness both in the domestic and in international markets. One, an unparalleled match between a steep increase in wage rate and an increase in the domestic price realization of the product. Two, PLA mandates plantation employers to provide social welfare benefits to their employees, which, in turn, lead to a significant increase in the social cost components of the industry. These issues affecting tea plantation sector are discussed in detail here. The focus is on tea plantation sector because, compared to other plantation crops, PLA mainly applies to this sector. Moreover, tea is generally known as a big estate phenomenon at the national level, while other plantation crops are a small grower phenomenon.

Over the last twenty years (1995-2014), the average wage rates in all South Indian Tea plantation states have increased more than five times, whereas, tea prices have not even doubled (See figures 1, 2 and 4). In fact, at 1995 prices, average wages have increased more than 500 times, whereas average tea prices have increased marginally i.e., by 186 times (Figures 2 and 3). Further, if one were to look at the price sharing formula of tea, it becomes clear that retailers and blenders together account for a high share (88 per cent of the value added per cup of tea), as compared to 7 per cent by factories and a very minimal share by tea auction brokers and tea pluckers in most of the developing countries (See figure 5) including India. This could be one of the reasons why, over the years, the export competitiveness of Indian tea planters has eroded besides becoming unsustainable. Also, this has raised concerns in the domestic market with the signing of some of the free trade agreements (FTAs) with countries in South Asia and the Association of South East Asian Nations (ASEAN). Teas from some of the member countries (viz., Vietnam and Indonesia), enjoy a significant cost advantage as compared to India, and may flow into the Indian domestic market due to import tariff reductions. This, in turn, may lead to adverse implications for Indian tea growers and labourers. Also, India faces significant competition from Kenya and Sri Lanka in the traditional export markets (Nagoor, 2010), as the cost of tea production is lower in these countries as compared to India. In addition, these countries are not faced with any cost burden corresponding to the social welfare costs borne by the Indian plantation sector in general. For instance, in Sri Lanka, there is an independent trust/body to deal with the social cost of the tea sector. Therefore, in the face of such competition from other tea-producing countries, it is necessary to improve the cost competitiveness of the industry so as to safeguard the interests of the domestic market. With respect to three major South Indian states, (Karnataka, Kerala and Tamil Nadu), the percentage share of statutory benefits to the total wages is reported at 76 %, 65% and 70 % respectively (See Table 10) Further, the average social cost per ha (2008-09) for the industry as a whole is estimated approximately at Rs.22,000 in the Nilgiris region (Table 11).

These circumstances are pushing plantation owners to find alternative options such as opting for more temporary/casual labour over permanent labour and substituting capital for labour, specifically female employment from the field like plucking and collecting green leaf. For instance, plucking, which is conventionally done by women is getting replaced by shears and other machines, especially in the Nilgiris. This has two limitations: although machines are trying to replace labour in the plantation field, they are unable to match the fine plucking of green leaf by labour. As a result of these two, namely, high social cost components and a low price margin, many big estates are running in to losses including the Tamil Nadu Government undertaking, TANTEA. During fieldwork in the Nilgiris, a majority of the planters invariably opinioned that the future of tea plantations in the next 15-20 years would be very bleak. A coping strategy in this respect is seen in leasing out part of land to real estate ventures, including homestays. For instance, recently one of the Tea estate has got permission to convert 50 acres of land into real estate. In this context, it is to be noted that plantation land consists of two types, namely, forest land and agricultural land. Technically, it is almost impossible to convert forest land to any other purpose, however, agricultural land can be converted into non-agricultural purposes with a little effort. If this trend continues, then over the next few decades, a substantial proportion of the plantation growing region may lose its natural biodiversity besides being converted into concrete jungles.

In fact, various government committees too have emphasised the relaxing of the existing provisions under PLA, in order to ensure the long-term sustainability of the sector. For instance, The Report of the Inter-Ministerial Committee constituted by the Ministry of Labour, Government of India in 2004, dealt with the subject in detail and worked out the cost of social welfare provisions in the case of North-East India. The report arrived at an average social cost in the total cost of production being 10-11 % approximately. The Kailash Joshi committee (2003) too pointed out the social cost as the major component in increasing the cost of production of Tea and that because of this, the Indian Tea in International market was getting priced out, mainly due to high cost of production. The Parliamentary Standing Committee (2012), during its study, found that the PLA act welfare provision is making it increasingly difficult for the management to bear the social cost due to a higher cost of production and the thinning of profit margins because of high labour wages and a rise in input costs. O.P. Arya, S. N. Menon Committee emphasized that the sharing of social cost should be the responsibility of Plantation owners and the State Governments and that if this responsibility were to be shifted to the Central Government, it would undermine the statutory provisions of the Plantation Labour Act, 1951.

In this context, a quick glance on the available data and survey of literature on adherence to statutory benefits across the plantation sector provides interesting insights. Based on the latest available data, a snapshot of various benefits provided by the plantation sector, as per PLA, is shown in the following table (table 9). The Total number of Estates / Plantations registered under the PLA as of 2012 stands at 3,747. Tea is the major plantation crop covered under the PLA with 1557 estates. Although Karnataka has the highest number of plantations registered, it happens to be the least among states in terms of submitting returns, as only 13.19% of the plantations out of 1,183 submit returns. With respect to housing facilities, only 64.17% of the total eligible (4,11,831) workers have been provided with housing. West Bengal, despite being a traditional plantation growing state, is the least among all the states providing just 3.36% of the total eligible 98,729 workers with housing. Although, Assam has covered 83.05% of eligible workers, it is faced with a shortage of 37,893 houses. Overall, in the nine plantation states of India, only 64.17% of the total, that is, 2,64,254 workers, have been provided with housing, with a shortage of 1,47,577 houses.

As per the government maternity benefit report, during the year 2011, out of 3,119 plantations, 51.94% submitted returns with daily women workers numbering 7,93,360. Out of which, 29,123 (3.67%) women workers claimed their maternity benefits. It is observed that Assam stands second after Karnataka in terms of plantation establishments covered under the Maternity Benefit Act. In fact, in a separate survey by government, it was found that only 43.5% of women workers of the plantation sector were aware of Maternity Benefits Act, 1961. It was noted that out of the 42 tea units taken into consideration, 89% were providing medical facilities to workers and their family members. Coffee units, on the other hand, performed poorly in that out of 22 units surveyed in Karnataka, only 4.5% provided medical facilities and shockingly only one medical officer was reported to have been deputed for the entire 22 units. Further, it was also reported that women workers often felt discomfort while approaching male doctors, especially in the case of gynecological problems. This further extends to lack of facilities in prenatal and postnatal treatment (ibid). In terms of social security, provident fund plays a crucial role in acting as a cushion for employees at the time of crisis or retirement. Employees Provident Funds (EPF) Act, 1952, covers all the tea plantations, except plantations in Assam. Assam has implemented Assam Tea Plantations Provident Fund Scheme Act, 1955. As per Labour Bureau (2008) report, 74.5% of the tea plantations which make various deductions, EPF seems to be the major reason. Entire Assam and Tamil Nadu plantation units make deductions towards EPF. However, this is just a sample survey and only gives information on the number of units making deductions towards EPF. ‘The Hindu’ (2014) reported in 2014 that 228 tea gardens had defaulted on depositing to the provident fund with the total default amount amounting to around Rs. 91.63 crore. As per the act, if an employer defaults on depositing to the workers provident fund, then it should be treated as a criminal case. But, as Bhowmik (2015) states, despite large scale defaults, the state government authorities have not registered criminal cases against the plantation owners. Further, under the directive principle of the state and with the insertion of the right to education in the Constitution, a state is supposed to provide free and compulsory education to children coming under the age group 6-to-14 years. Under the Plantation Labour act 1951, the employer has to provide education facilities to children, if the number is more than twenty five. The Directorate of Welfare of Tea Garden and Ex-Tea Garden Tribes of Assam government introduced multiple schemes and grants such as grants for books, education tours, etc. These interventions were aimed at boosting the educational status of tea workers. But, the implementation of rules at the ground level has not been impressive. Many research studies (Toppo, 1990; Bosumatari and Phanindra, 2013; Fernandes et al, 2003) point out the poor literacy and high dropout rates due to the lack of infrastructure facilities. From the Socio- economic Survey of the labour bureau on plantation industry, it is found that only 19 units out of the 47 sample tea plantations were maintaining schools. A study in the Cachar district of Assam (Sutradhar, 2013) attributes the lack of education among women to the government policies that have marginalized them. Thus, such social and economic exclusion also has led to political exclusion. The sample survey of Labour Bureau report on PLA points out that of the 790 tea plantations in Assam, there existed 903 primary schools and in Karnataka, it reported that all the plantations were having primary schools with trained teachers. However, the received information relates to only 50% of the total tea plantations covered under PLA by this report. In the case of coffee and cardamom plantations, the report ‘Socio-economic Conditions of Women Workers in Plantation Industry’ (Labour Bureau, 2008-09) indicates that no units were providing educational facilities to workers' children. The same report indicates that 54.4% of the workers were illiterate in the plantation industry. The highest illiteracy was found in the tea industry, with Assam performing worst with 83%, followed by West Bengal with 73%. A quick survey of literature on compliance of various provisions spelt under PLA across major plantation growing states depicts a completely different picture. For instance North-East estates have recorded a high number of hunger and malnutrition-related deaths among plantation labourers.

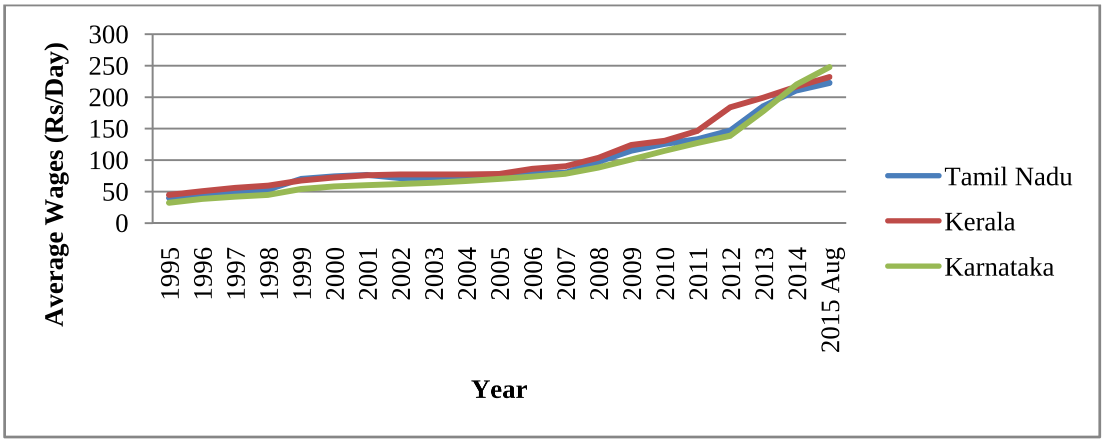
Table 9: A Snapshot of the Provisions Covered and Provided for under the Plantation Labour Act, 1951. As of 2012

Sl No	Particulars	Total
1	Number of estates / plantations covered under the Act	3,747
2	Number of plantations submitting returns	1,880
3	Number of employees in the plantations submitting returns	6,72,760
4	Number of plantation workers provided with housing accommodation	2,64,254
5	Number of plantations providing crèche facilities	1,148
5.1	Average daily attendance in crèches	8,336
6	**Sickness benefit**	
6.1	Number of workers claiming sickness benefit	3,69,448
6.2	Number of workers who have received sickness benefits	3,66,600
6.3	Amount paid towards sickness benefit	Rs. 21,49,20,637
7	Maternity Benefit:	
7.1	The number of women workers who claimed maternity benefit during 2012	27,435
7.2	Number of claims accepted during 2012	26,863
7.3	Paid either fully or partially for 2012 year claims	13,916
7.4	The total amount of maternity benefit paid	Rs. 11,18,56,350

Source: Labour bureau: Report on working of PLA, 1951 for the year 2012

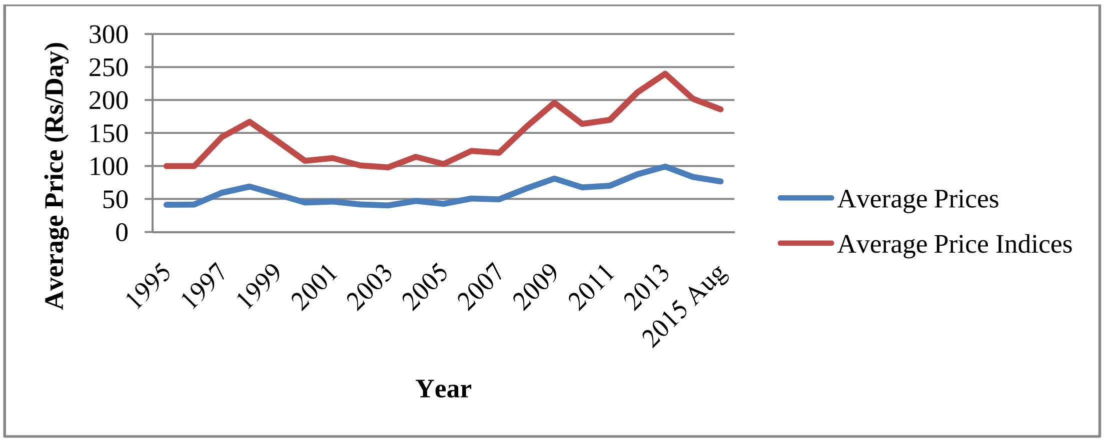
On the whole, in the blame game between planters and government, labour interests are at stake. Perhaps one of the alternatives to handle the situation is to club together various welfare schemes, wherever possible, under PLA. For instance, in the recent past, state governments have initiated a number of welfare schemes with a view to bring minority sections into the mainstream. In fact huge development funds of local administrative bodies remain largely unutilized and cannot be channelized towards the plantations due to the existence of PLA mandates, as welfare requirements of plantations are exclusively governed by PLA. Hence, there is a need to devise an institutional mechanism to extend its coverage to the plantation sector so that its social cost is minimized wherever possible. While doing so, a very careful approach needs to be followed in undertaking necessary course correction measures towards easing of the PLA provisions. For instance, the components, adding substantially towards social cost borne by planters in North-Eastern states could be entirely different from those in South Indian states. Again, they specifically differ across tea, coffee, rubber and spices. As per the S N Menon committee — a high powered committee constituted to examine the issue of social cost in respect of the Indian tea industry— the schemes which have the potential to be devoted to the plantation sector are; Indira Awas Yojana (IAY) for providing housing facilities; Swajaldhara for the provision of safe drinking water; National Rural Health Mission (NRHM) for the provision of medical facilities and Sarva Siksha Abhiyan (SSA) for providing educational facilities. These schemes come under the administrative control of the Ministry of Rural Development, Ministry of Health and Family Welfare and the Ministry of Human Resource Development, Government of India.

Figure 1: Trends In the Average Wage Rate Of Tea Plantation Labour (Major South Indian States)



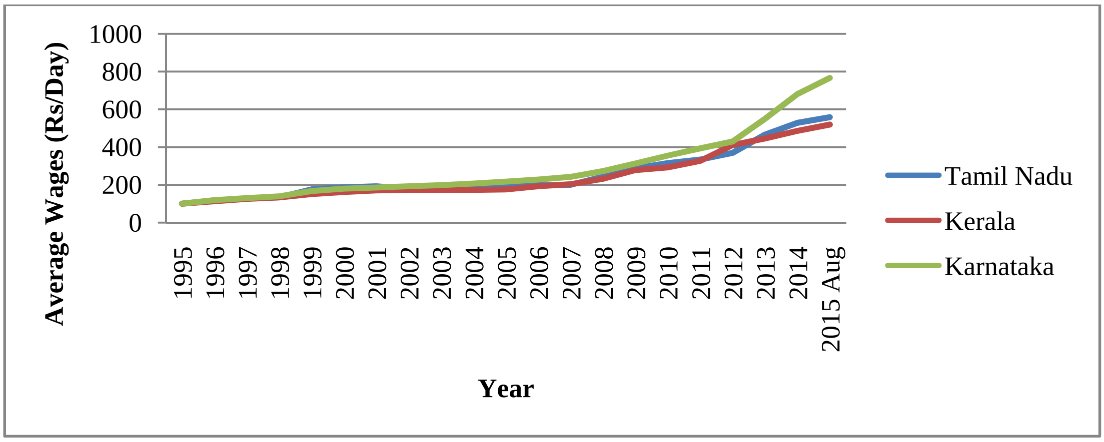
Source: UPASI

Figure 2: Trends in the Average Price and Average Price Indices of Tea in South India



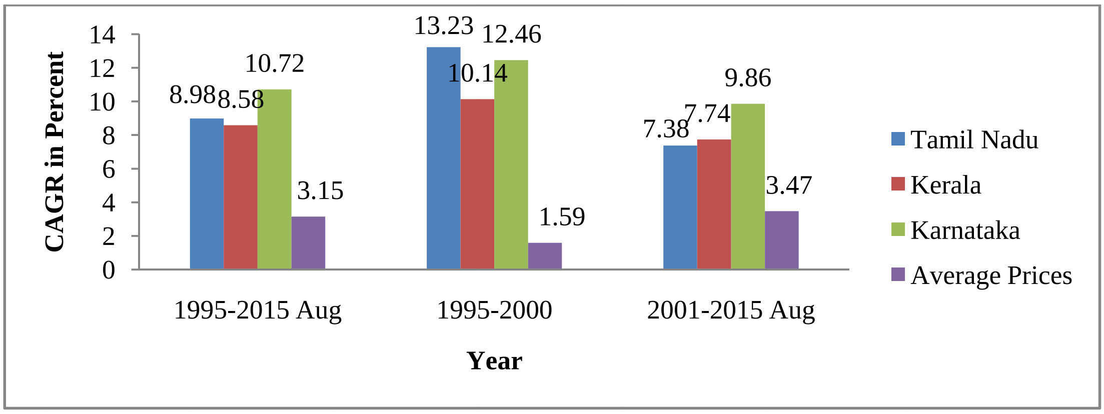
Source: UPASI

Figure 3: Trends In the Average Wage Indices of Tea Plantation Labour (Major South Indian States)



Source: UPASI

Figure 4: Compound Annual Growth Rates of Wages in Tea Plantation v/s Tea Prices in South India



Source: UPASI

Figure 5: Shares of price margins along the tea chain

(Adopted from War on Want and Ana 2010)

Table 10: Approximate Per day Income of Tea Plantation Workers-South India Oct/Dec 2015 Quarter

Particulars	Karnataka**	Kerala	Tamil Nadu
Wages (Oct/Dec 2015)	Rs. Per day	Rs. Per day	Rs. Per day
Basic (Consolidated Daily Wage in T.N)	175.00	301.00	96.65
Variable Dearness Allowance	72.97	-	133.38
Sub Total	247.97	301.00	230.03
Statutory Benefits	188.67	196.01	161.83
Non-Statutory Benefits	13.02	15.81	12.09
Total per day per workers	449.64	512.79	403.94
Percentage of Statutory Benefits value on total Wage	76	65	70

Note: **In Karnataka, 240 days are taken as average working days in a year for calculation of wages and for Kerala & TN, it is 280 days, with South India Average-percentage of Statutory Benefits value being 72.67 % of wages.

Sources: UPASI

Table 11: Comparative Statement of Social Cost Per Hectare (2008-09) Incurred By Members

Name of the Estate\ Company	Cultivated area in ha.	Revenue Expenditure and Recurring cost for the year (Rupees in lakh)			Aggregate Cost (Rs. in lakh)	Approximate Cost\ha. (Rs.)
		Housing	Hospitals	Schools		
Nilgiris Region	5874	755.28	490.73	54.01	1300.02	21551.49
Nilgiri Wynaad Region	2572.5	326.02	251.08	31.23	608.33	23090.04
Anamallais Region	13712	1688.75	1337.76	168.91	3195.42	22858.49

Note: In this table, data from 17 estates from the Nilgiris Region, 7 estates, each frame from the Nilgiri Wynaad Region and Anamallais Region have been included

Average cost per hectare of the industry as a whole- Rs. 23033.00

Sources: UPASI

Summary

The fundamental purpose underlying the enactment of PLA was to overcome serious anomalies arising out of fitting the general framework of the industrial labour legislation into plantation crops (John and Mansingh, 2013). However, many of its clauses and provisions are indirectly eroding the competitiveness of the sector on the one hand, on the other, fail to protect labour interest. For instance, in the context of South Indian tea plantations, the percentage share of the statutory benefits to the total wages amounts to 76 %, 65% and 70% respectively for the states of Karnataka, Kerala and Tamil Nadu. On an average, the social cost per ha (2008-09) for the industry as a whole amounts to approximately Rs. 22,000 for the Nilgiris region. As a coping strategy, many plantation owners in India are (a) opting temporary labour/casual labour over permanent labour, since as per the provisions of PLA, only permanent and residential labour needs to be provided with various social welfare benefits. This can also be viewed as growing profits of the plantations do not go back as distributive justice for the workers except for those on regular payroll, as casual (informal) labour are getting replaced with regular (formal) labour in the face of growing competition. This also mirrors how exclusion, perhaps informality, is promoted institutionally within the ambit of PLA, by substituting capital with labour, specifically female employment, from occupations like plucking and collecting green leaf. Apparently, there is a growing voice from planters with regard to relaxing various stringent labour provisions so as to improve the long-term sustainability of the sector. In fact, various government committees have emphasised, from time to time, the importance of relaxing the various provisions of the Act for long-term sustainability of the sector. Thus, it is argued in this paper that the very making of PLA has created a very clear case for institutional exclusion and inclusion, thereby providing scope for informal employment. Besides this, defining plantation as both an agricultural occupation and an industrial activity in itself is questionable. Thus we argue for devising appropriate policy interventions to cover the basic social security of temporary/casual labour working in big estates and small growers as well; the government can also consider sharing part of social cost components or clubbing them together under the existing welfare schemes. If these issues are not dealt with on a priority basis, then in the next few decades two major challenges are expected to emerge: one, the nature of employment may be more of temporary labour than permanent/residential labour and also the mechanization of plantation activity. Two, in the next few decades, the plantation regions may lose its rich biodiversity and get converted into a concrete jungle.

End Notes

[i] Big estates can be owned by private parties and/or by government agencies like TANTEA in Tamil Nadu which is owned by Tamil Nadu government for repatriate Tamil refugees from Sri Lanka.

[ii] An Exception to this argument, of late, Tea Board has introduced general insurance for STGs. However, its actual expansion is yet to happen.

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