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India

Labour Law Reforms, Indian Capitalism and the Modi Government

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From the beginning of the era of globalization in India, one routine yell of the capitalist class has been that the Indian labour laws are archaic, and pose the greatest hindrance to progress. In reality labour laws are very often ignored or flouted. There are so many ways to avoid labour laws in the unorganised sector, in the SEZs, etc. But capital must forever seek to increase its profit rate. So the few laws that protect a few of the workers, they too must be brought under attack. The word “reform” is a code word for an all-out offensive.

The national convention called by the Central Trade Unions, a group of mostly moderate organisations, mainly led by either reformist left parties or affiliated to bourgeois parties, and therefore not at all inclined to make excessively radical claims, adopted a declaration that said, in part:

“The Governments’ aim in aggressively pushing through sweeping changes in labour-laws is nothing but to push out overwhelming majority of workers out of the coverage of all labour laws and to drastically curb the trade union rights. The CTUs had besides other issues raised the issue of strict enforcement of labour laws and universal social security but this Govt. is doing away with all rights-components in all the labour laws aiming at creating conditions of bonded labour in all the workplaces. Employees Provident Funds and Employees State Insurance schemes are proposed to be made optional which is also aimed at demolishing the Provident Fund and ESI schemes dismantling the basic social security structures available to the organized sector. And for the vast unorganized sector workers, old schemes are being repackaged and renamed, without providing for funds and implementation-machinery/network with a view to befool the people.’ [\[1\]](#)

So who is right – the bosses and the government, with their array of experts, development economists, management gurus, or the workers and their unions? Before and during every strike, dozens of newspapers and dozens of television channels produce innumerable experts, who explain in unctuous tones that getting rid of the archaic laws will benefit not just the bosses, but the entire economy, including the workers. The archaic labour laws, we are told, act as shackles on the feet of the Indian economy.

So what are the laws which must be reformed? The list includes the Factories Act (1948), the Apprentices Act (1961), and the Labour Laws Act (1988).

It is true, that since independence, or even since 1991, labour laws have not changed much. The basic idea behind some of these laws is, that in any non-agricultural work, if there are ten or more workers in a workplace (when it has electricity) and twenty or more (when it does not have electrical power), then there will be governmental regulation of the rules of work. This sector is called the “organised sector”.

Establishments under the organised sector usually have to register themselves under the Factories Act. This means, in theory they are bound to allow government inspectors to enter their premises at any time. But even so, some 90 per cent of India’s labour force, belonging to the unorganised sector, are currently outside of these rules. So such things as rules about working hours, overtime pay, rights of women workers, all these are restricted to a less than ten percent fragment of the working class. There was a formal claim behind the making of this structure in the colonial and immediate post-independence period, namely, as the nation developed, as modernisation proceeded, the organised sector would grow and more and more workers would come under protection. In reality, from the 1970s, development has taken a different path.

Nevertheless, the existence of these laws does have some consequence. Even if, today only ten percent of the

working class is protected by these laws, the rights they enjoy appear as a forward looking goal to the vast majority. In the same way, we can refer to the regular announcement of pay revisions, of payment of Dearness Allowances [2], etc. The bourgeoisie, its paid media hacks, its paid ideologues who are called economists, all attack these workers/employees. They allege that these workers are privileged. It is routinely spread in newspapers, in fiction, in organised rumours, that these are people who get fat salaries without doing any work. Had the state sector not existed, it is then asserted, they would not have these privileges.

There is of course some truth in these fables. Take the public sector and the private sector buses in Kolkata. Private sector bus drivers and conductors usually get a share of the money taken in, not a salary. As a result, they work long hours. Public sector buses are kept in depots, where there is a full time maintenance staff. Private sector bus drivers and helpers have to look after their own buses. So owners make big profits. And as long as certain groups of workers go on getting definite pay scales, periodic revision of the pay scales, dearness allowance, a number of guaranteed promotions during one's working life, some even if limited) benefits for women workers, such as paid maternity leave or child care leave, these persist in becoming benchmarks for other workers, in formulating their demands and in fighting for them. This was why, even as Chief Minister of Gujarat, Modi had objected to the formation of the Seventh Pay Commission (his view had been echoed by West Bengal Chief Minister Mamata Banerjee).

So the law is important because it creates a somewhat better space where the workers can fight. To ignore that is not a useful political stance. Year after year, big capital has been demanding that the laws restraining them must go. Some of the Acts they want removed or modified are the Industrial Disputes Act and the Contract Labour (Regulation and Abolition) Act. The IDA says, in any plant having 100 or more workers, before sackings or closure, the owners must seek government permission. The second Act restricts the use of contract labourers in existing industries. Modi wants the number of workers needed to bring a factory under the Factories Act to be increased from 10 to 40. It is to be noted that in today's world of lean production, a factory employing 40 workers and using robots multiplying the work of those 40 tenfold or more, is actually quite a considerable factory. The BJP-led Rajasthan government has already taken some steps. In the Contract Labour Act, where the references had been to twenty workers or more, they have increased it to fifty or more. In the case of the IDA, they have announced that permission of the state government need not be sought regarding sackings unless the size of the workforce is 300 or more. When the workers are taken in as apprentices, all restrictions on sackings have been lifted. They have also made getting recognitions for unions more difficult. In addition, Modi has proposed making firings easier, imposing up to Rs. 50,000 fines plus jail terms for "illegal" strikes; and the already taken action – making child labour legal.

Child Labour

On one hand, much din is being made and much data is being fudged in order to claim that poverty is going down in India. On the other hand, instead of taking social welfare measures directed at poor children, child labour has been legalised. In an interview, Gautam Mody, General Secretary of the New Trade Union Initiative, explained in an interview, that officially the position is, children may be made to work outside school hours. But if children have to attend school, and then perform labour outside school hours, then where does childhood go? What does education mean? Secondly it has been said that the labour of members of the family can be used when using child labour, But if it is not clarified what family means, this can be a real problem. Using the concept of "joint family", children of poorer kin can be exploited. Moreover, as child labour becomes widespread, and extremely low wages are paid to these children, that will have the effect of dragging down the overall wage level, certainly in a number of sectors. So the "reform" of child labour law has the clear intention of lowering wages and producing larger numbers of low paid unskilled labourers.

Contract Labour

The bulk of the people in the labour market of India are short term contract labourers. At present, 85 per cent of the enterprises engaged in industrial production work with less than 50 workers. 58 per cent of factories have less than 30 workers. Even in the organised sector about 80 per cent of workers have no formal, written agreement. Or they have contracts for less than one year. A huge part of these workers work under sub-contractors. Even in government jobs, or in jobs where the salary ultimately comes from the government, thirty per cent are currently working with short term contracts. But out of the 36 million contract workers now in existence in India, hardly 6 million even now come under the Contract Labour (Regulation and Abolition) Act of 1970. Modi's proposed reform wants to take all workers in all factories hiring 50 or fewer workers outside the purview of this Act. In that case, of course, far more workers would come under the tender mercies of the contractors.

Small Industrial Enterprises

By the Small Factories (Regulation of Employment and Condition of Services) the definition of a small factory has been sought to be changed to all factories employing fewer than 40 workers. In the name of simplifying the laws, all such factories are thus going to be taken out of the protection of 14 labour protection laws. It is to be remembered that post-1991, most of the new jobs created fall in the unorganised sector. The proposed reforms will immensely strengthen the owners in that huge sector.

Factory Inspection and “Self-Certification”

Industrialists and bankers often use the term “inspection raj”. Inspections can be of different types. But the truth is, India never had much of a decent labour inspectorate. In 2012, in order to see whether the Minimum Wages Act was being properly implemented, there were a princely total of 3171 inspectors for about 7.7 million enterprises. It is evident that there was not much real inspection. According to official records, in 1986 there had been actual inspections of 63 per cent of all factories. By 2008 this had come down to 17.88 per cent.

Even 31 years after the Bhopal disaster, awareness of industrial safety is extremely poor. In the case over Vadodara's Hema Chemicals, it was the Supreme Court Monitoring Committee that found a mountain of 77,000 tonnes of toxic waste material created by the owner. [3] Yet, in this situation, instead of looking at the problems workers face, the Modi government has, in a particularly shameless manner, called for “self-certification”. The owner will annually certify that the company is following all laws. There may be occasional (not annual) inspections. If that ever results in proving that the owner had lied, then they might be handed stiff penalties. As had happened to Union Carbide after Bhopal, one supposes!! In reality, everything will be imperilled as a result of this: workplace safety, drinking water, eight hour working day, adequate toilet facilities, extra pay for overtime work, leave with full pay – every right won over a century.

The Gujarat Model

Before the elections of 2014, we were repeatedly told, that the road to the country's development was being shown by the Gujarat Model. So what does development mean in that case? The Gujarat Industrial Disputes (Amendment) Act, 2004 and the Gujarat Special Economic Zones Acts have ensured that most of Gujarat's industries fell outside the control of India's labour laws, or most of them. But though the SEZs were outside the control of national labour laws, they did not generate vast numbers of jobs. What happened was, the rate of profit and the total profits of the bosses multiplied manifold. Secondly, the SEZs were built by occupying large tracts of land. At the all India level,

that model has already led to tremendous uproar. Seizing the opportunity, even the bourgeois opposition parties have started making trouble over this issue in Parliament.

But what, overall, was the Gujarat Model? In 2012, an independent trade union named the Jyoti Karmachari Mandal filed a query under the Right to Information Act concerning the Gujarat Government's Swami Vivekanand Youth Employment Week. The Gujarat Government had claimed that 65,000 young women and men had been given jobs through Rozgar Melas (Employment Fairs). But a district-wise break up obtained through RTIs showed a total of not more than 51,587. Of these, 11,172 were apprentices, so there is no guarantee they would retain their jobs after the apprenticeship period was over. That leaves 40,415. But the responses to the RTI provided only 32,372 names and addresses. Moreover, it was learnt from the RTIs that not one person had been given appointment letters. What was done, it emerged from the data provided by the RTIs, was that 18.7 million rupees were spent out of public funds (for the security of the ministers who went round these fairs handing over fake documents called "Employment letters" (bad in law) to the youth, and for setting up stalls, putting advertisements etc. The result was the hiring of low paid workers – mostly for the private sector. So this is the model that Modi wants to present to the whole of India. The rulers will no doubt be happy.

Environment and Workers' Health Issues

Another important issue connected to this is the health issue. In 1960, industry in Gujarat was restricted to four cities – Ahmedabad, Vadodara, Surat and Rajkot. The discovery of mineral oil and natural gas changed the picture. Currently 51 per cent of India's chemical industry production comes from this one province. Twenty per cent of Gujarat's total industrial activity is over this one industry. Yet even so many years after Bhopal, the state government is not worried about the health of workers in this industry. In 2009, the Central Pollution Control Board (CPCB) and IIT Delhi joined hands to develop a new system of pollution measurement. On this index, the Comprehensive Environmental Pollution Index, in 2009 Ankleswar in Gujarat with CEPI 88.50 was India's most highly polluted place. In 2011 and 2013 this dubious honour went to Vapi in Gujarat, with CEPI 85.31. In 2013, out of the 30,310 factories registered under the Factories Act in Gujarat, 4,559 were identified as dangerous chemical works. Yet the Gujarat government has never developed any plan to tackle dangerous chemicals. As the first step to transferring the Gujarat model across India, the Modi government has already diluted many of the environment protection rules to facilitate setting up highly profitable industries.

So the words Labour Law Reform, do not imply protecting, far less improving, the health, the wages, and working environment of workers. Their meaning should now be clear: destruction of trade unions, intensification of exploitation, reduction of wages, increasing child labour. That is why the strike of 2 September is such a vital action.

[1] <http://www.govtempdiary.com/2015/05/declaration-by-national-convention-of-workers-all-india-general-strike-on-2nd-september-2015/>

[2] The Dearness Allowance (DA) is a cost of living adjustment allowance paid to Government employees, Public sector employees (PSU) and pensioners in Bangladesh and India. Dearness Allowance is calculated as a percentage of an Indian citizen's basic salary to mitigate the impact of inflation on people. Indian citizens may receive a basic salary or pension that is then supplemented by a housing or a dearness allowance, or both. The guidelines that govern the DA vary according to where one lives (for example, whether rural or urban).

[3] See 'Class Struggle and Environmental Activism', in <http://www.radicalsocialist.in/arti...>