

Sacrificing workers on altar of “development”

WPC Statement on labour ordinances pushed by states

Summary Statement

After watching the horrific and heart wrenching condition of workers on the streets of India in the wake of the long COVID-19 lock down, it is with great alarm, sadness and dismay for us to learn that the governments of Uttar Pradesh and Madhya Pradesh have decided to dismantle their existing labour laws. At least ten other states including Haryana, Himachal Pradesh, Gujarat, Rajasthan, Odisha, Assam, Maharashtra and Uttarakhand have officially increased working hours from 9 to 12 a day.

Through our statement in response, we would like to highlight the following;

- At a time of economic distress for workers, incentives to support workers to return to economic activity benefits both workers as well as economic recovery. None of the announced stimulus packages can succeed without workers. No incentives have been offered for wage security, or enhancement or better infrastructure and working conditions that will reassure workers of safety upon their return. The conditions of loss of wages and poor/costly housing that made them leave places of employment, have not been addressed.
- Instead, at a time of crisis, regressive ‘reforms’ of Labour Laws have removed limits on working hours and overtime payments in violation of domestic and international conventions, as well as constitutional protections. Particularly:
 - At a time of a health epidemic, removal of occupational safety and health provisions by removing clauses of the Factories Act 1948 in workplaces endangers worker’s health as well as weakens effective handling of COVID-19.
 - Removal of protections on wage security are direct violations of Article 23 of the Indian Constitution and numerous supremecourt jurisprudence, including constitutional bench pronouncements.

The Uttar Pradesh government has now withdrawn its draconian proposal of introducing 12 hour working shifts, after a notice from the Allahabad High Court. This is an important indication to all other states, that such illegal and unconstitutional measures will not be tolerated by the working class. Relative to the overall problem this is but a minor victory, but it is due to the relentless and continued efforts of various workers’ organizations that government has been forced to roll back this step.

The use of ordinances to justify these violations as “temporary measures” is unethical. These measures must go through strict legislative and legal scrutiny. We assert that the economic recovery of the country, which can only commence if it is in the interest of *both* workers as well as employers, will fail if it is built on the back of sacrificing the protections, rights and security of workers. If we do not respond to this diligently and urgently, we fear that India might see a social unrest unprecedented in its independent history.

The aforementioned arguments have been explained at length below;

Full Statement

India’s labour laws have been a result, not only of persistent workers’ movements for over a century, but also of the economic evidence proving the positive contribution of basic social security measures for workers to stable and sustainable economic growth. Unequal and insecure working conditions put enormous socio-economic pressures on society, as it accentuates existing health, educational, livelihood and social vulnerabilities. The state is then forced to address them with further investment from its limited state coffers.

While all the states that have announced ‘reforms’ have brought about changes in working conditions and maximum hours of work, some states have abolished all provisions and Acts under the Industrial Relations Act, including Trade Union Act and Industrial Disputes Act. Changes announced by the UP government have been the most drastic, as they have removed even the basic provisions under the Minimum Wage Act (minimum wage will now be set by the government). Many states have also shockingly dismantled even basic social security protection, including the historic Maternity Benefits Act that was just most recently introduced by this government.

In the name of ‘reforms’, crucial provisions such as sections of the Factories Act, 1948, have been changed so that it is no longer required to ensure that workers have access to proper ventilation, lighting, toilets, sitting facilities, first aid boxes and basic conditions of work have been degraded. Without even bathroom breaks and proper infrastructure, it should shock us more so that in the middle of a virus pandemic, the government’s proposals would effectively ensure even lesser facilities for workers to have hygiene and personal care, risking their own lives and the produce of their labour!

In order to build an “*Aatm-nirbhar*” (self-reliant) nation, it is important that our workers are also empowered and self-reliant. While the incentives for business owners and investors have been generously announced, any incentives for labour protection is conspicuous by its absence and the state is moving in a diametrically

opposite direction- through which it is seeking to dismantle the existing labour rights and protection architecture.

Suspension of Protection and Relaxation of Labour Laws is a counterproductive exercise:

The suspension of several key protections comes at a time when there have been disasters of gas leaks, such as the Vizag plant where a recent mishap followed in the footsteps of the Bhopal Gas Tragedy, and led to the loss of lives and environmental damage. In the absence of legislative protection, there is now no need for employers to follow basic safety norms in factories, nor provide due compensation in the event of industrial accidents. This is not a war against coronavirus, but a class war of the industrialists' interests outweighing the exploitation of the poor workers!

In the contemporary context of the COVID pandemic, using the power conferred under section 10(2) of the Disaster Management Act 2005, the Central Government is facilitating state/union territories to bring about relaxations in the labour laws in their respective jurisdictions. This has initiated a competition between the states, 'a race to bottom' to reform existing labour market institutions. It is likely to promote unhealthy competition among Indian firms, and would eventually edge out small and medium scale firms from the market, unable to survive the competition, due to comparative costs and technological advancements.

Amending Labour Laws in the interest of business expansion is a myth and a misleading narrative for the country:

The governments argue that these amendments are expected to encourage business and to promote flexibility in industrial development, which are in turn crucial to India's post pandemic economic recovery. However, an already beleaguered economy that pegs and predicates its hope of revival on heaping more misery on the poorest and most vulnerable, will only deepen inequality and violent working conditions.

India's rise from the 130th (2016) to the 63rd (2019) rank in the Ease of Doing Business (EDB) is boasted about across industries in the country. However, with each such rise, our global ranking in parameters such as hunger, peace, slavery, labour and workers' rights, slips towards the bottom quartile. The 'ease of doing business' perspective seeks to turn a blind eye towards these other parameters, due to the tremendous pressures exerted by business and other lobbies (both external and internal), to deregulate the labour market and allow easy hire-fire policy. The existing laws already promoted an extremely repressive contract and oppression system, making workers extremely fragile to any kind of shock or crisis, as was made evident

by the devastating impact of the pandemic and the lockdown on these groups.

The measures have been undertaken as part of Section 5 of the Factories Act, that allows for exemption of any factory or class or description of factories, from all or any of the provisions, in the event of a public emergency. India is a signatory to ILO's Tripartite Consultation International Labour Standards Convention, 1976, which requires governments to consult stakeholders — employer and workers' bodies — before making decisions on the labour market. No such consultations have been held, and under the lockdown, the capability of workers and unions to mobilise, is sharply delimited. There was no effective dialogue with stakeholders on the four codes on – Wages, Occupational Safety, Industrial Relations, and Social Security – that were introduced in parliament, and out of which wage code was passed. This is bound to systematically destroy the welfare ideas of minimum wages, workplace safety, collective bargaining, and social security.

The withdrawal of all labour legislations in UP and MP is a final nail in the coffin, particularly for the protection of informal workers, and a glaring continuity of the state's hostility towards informal workers, particularly migrants. The removal of occupational safety standards, including penalty for violations, means that informal workers cannot legally contest even the most inhumane work conditions. While these workers have long been forced to work with hazardous machines and dangerous chemicals, now they would have no legal recourse whatsoever to challenge them, and demand better conditions. In the absence of rule of law and social contract that ensures workers' rights, the history of labour jurisprudence and shared collective conscience will be obviated. This brazen governmentalization of neo-liberal capital is thus anathema to everything we hold dear as constitutional guarantees that accord minimum dignity to these workers.

Learning from History may be more necessary now than ever before:

Historical jurisprudence in India has particularly asserted fair wages as a constitutional right. In the absence of such rights, we are heading towards the creation of a new slave labour market, as non-payment of minimum wages is a violation of Article 23 of the Indian constitution, amounting to slavery. Further, the states have completely stripped workers of the right to collective bargaining provided under their respective Industrial Disputes Acts. This means that workers, unions, and activists cannot organise, protest work conditions or bargain for safer worksites and better wages. Withdrawal of legal protection and collective bargaining will particularly make women and children vulnerable to all sorts of physical and mental exploitation.

We are on the verge of undermining history, which will lead us to unstoppable social unrest, and make irreparable damages. It is imperative that we revisit the efforts

taken after such a big crisis in the world. The William Beveridge Commission is considered one of the key milestones which was constituted immediately after World War II. The Beveridge report unleashed a climate diffused with an idealism for a new, more just society, and welfare legislation with a clear sense of rebuilding a better future. In the report it set out a plan to put an end to what he called the 'five giants' – Want (today we would call it poverty), Disease, Ignorance, Squalor and Idleness (unemployment)[1]. The centrepiece was a state-run system of compulsory insurance. Every worker, by contributing to a scheme of national insurance deducted through the weekly or monthly paypacket, would be helping to build up a fund that would pay out weekly benefits to those who were sick or unemployed or who suffered industrial injury. The scheme would pay pensions at the end of a working life to employees and the self-employed. The idea was to support the worker and his family. Alongside these financial security provisions for all, there would be universal access to education and to health services. These would be funded from taxation and would be free at the point of use: Welfare States. It is imperative that after such a global crisis, we try to alleviate this problem instead of further aggravate it. Yet, we are instead pushing this country to plunge to an even worse, unimaginable chaos. The aftermath of the Beveridge report was progressive change for India's ESIC and EPFO laws, and we must be inspired to repeat the same now instead of taking steps back.

It is important that we invoke the past to remember the struggles of the present. In 1925, during the time of the Royal Commission of Labour Reports by the imperialistic British regime, Ambedkar pioneered the right to collective bargaining and trade union associations. He pushed for these key labour reforms even amidst the colonial government. As we reach an era 100 years from now, today we must try to recall this history of India's labour law and contributions. These laws were the outcome of the working classes, Dalits, and poor masses' struggle. Today, we must remember this history again in our fight to preserve these rights.

Conclusion

At this time of crisis when the uncertainty of livelihood and wage loss of millions is looming, labour law reform seems to be the top policy priority of the states like UP and MP, whose performance on various socio-economic indicators such as GER, HDI are already abysmally lower than the national average. Reforming labour markets through amending key labour laws will intensify informality, even in the formal sector, by weakening labour market securities like employment, health and safety, skills, income. When UP and MP amended their laws in favour of employers, they unthinkably allowed the process of exploitation to take further root in the functioning of industrial democracy, pushing workers to higher levels of vulnerability. This kind of absolute power in the hands of state without any recourse of redressal on any front, will be a step towards a dehumanised state and society.