

PEOPLES' UNION FOR DEMOCRATIC RIGHTS (P.U.D.R)

33rd Dr. Ramanadham Memorial Meeting, 2018

'Work in Progress? Labour, Capital and Democratic Rights'

PUDR has carried out several fact finding investigations in recent years into incidents of violations of labour rights in the industrial areas in the Delhi-NCR. Some of our investigations and surveys on labour have pertained to the globally integrated industries in the region – such as automobile industry at Manesar (Haryana), consumer electronics such as LG and Vivo phones (Greater Noida), garment workers in Kapashera (Delhi); as well as local industries, such as workers in localised factories in Bawana and also workers engaged by the government in PWD. All of these highlight a stark ground reality, one which should perhaps not shock us given its commonness, except that it does. That reality is that across sectors and industries, labour laws are either brazenly flouted or the laws themselves become the basis of weakening the strength of labour and strengthening capital. Let us illustrate this by focussing on merely three aspects of workers' condition in the globally integrated industries.

1. Contractualisation:

One of the easiest ways to weaken labour is by rampant employment of contractual and casual workers. Their wages remain unchanged for very long time and remain always around the minimum wage level. They are neither entitled for statutory benefits like, PF, ESI, Bonus etc. nor do they get facilities that regular workers do, like leaves, weekly off-days and medical facilities. Because of these factors we can see the increasing deployment of contractual workers, undermining the Supreme Court Judgement against the use of contractual workers for regular jobs. As we found in the course of our investigations, 95 to 99 per cent of the garment workers in NCR are hired through labour contractors and are contractual workers. In Vivo, the workforce is entirely contractual. In LG, only 850 out of 2000 are permanent workers. In SPM Autocomp Systems Pvt. Ltd., all workers in the foundry were found to be contractual workers. In the Maruti Company's Gurgaon plant, permanent workers were increasingly replaced by contractual workers with the company being taken over by Suzuki, and by 2007, nearly half of the permanent workers had been removed. Maruti's Manesar plant was set up around this time with less than 40 per cent permanent workers and the rest were contractual workers. In this plant, after the incident of violence on 18 July 2012, in which few management officials and workers were injured and an HR manager was tragically killed, the company changed the worker composition drastically replacing the permanent workers with contractual workers. The proportion of contract workers has been increased and these workers are now called Temporary workers (TW –Type I and Type II). TW-I are hired for 7 months and after this period a few among them are selected and hired as TW-II workers, but again for only 7 months. It has become almost impossible in these industries for a contract worker to become permanent.

2. Wages:

Across industries and the region, the legally stipulated minimum wages which should be the starting wages have effectively become the maximum possible wages in most of the cases. The workers hardly, if ever, get a wage higher than the minimum wage their wages are stagnant for very long durations without any increment. Not surprisingly, just and fair wages have consistently been one of the key demands of workers. Virtually none of the industries pay a Dearness Allowance to the workers to protect their real wages from the growing inflation. As a result even if there is any marginal increase in the wages, their real wages have been falling considerably. In the garment

industry, the basic pay of the ‘sampling tailor’ (tailors who makes samples and are most privileged amongst all tailors) fell continuously in real terms between 2007 and 2014. In 2015, the basic pay of these tailors was a meagre 6500 rupees per month. Adding various allowances (House Rent Allowance, Travel Allowance and Dearness Allowance) the monthly wage became Rs. 8800. The production tailors received a monthly wage of Rs. 6500 in April 2015 but there were no further allowances. In a similar manner, the wages paid by Vivo company in 2017 was merely Rs. 9300 per month (and after deduction of PF and ESI merely Rs.7100). None of the workers of this company have ever managed to get the PF since they were removed before the completion of necessary period for withdrawal of PF i.e. 6 months. The monthly wage in SPM was Rs. 8279 in 2017 which is the legal minimum wage set by the Haryana government. These low wages make it essential for workers to work overtime to make ends meet. Even with overtime, the workers in the garment industry were able to earn merely 10,000 rupees per month. The workers also face arbitrary deduction in wages in many industries. An absence of a single day can lead to a deduction in gross wage by as much as Rs. 2000 (little less than one fourth of monthly wage) in Vivo India Pvt Ltd. In the units of garment manufacturers in Gurgaon, a 10 minute delay can lead to deduction of one hour’s wages.

The wages are much lower than the figure of Rs 16,000 (for the year 2014-15) calculated by India’s 7th Central Pay Commission as a ‘need based minimum wage’ (NBMW) for the lowest ranked staff in government¹ (RUPE 2018). In fact, if we look at the garment sector in particular, even with two adult members earning, the family wage turns out to be less than this figure.

3. Conditions inside the factory

Intensification of work has been a common feature across industries. At the Gurgaon plant of Maruti, the index of hours (man-hours per car) required to produce cars was reduced continuously from 100 in 2001 to 76.15 in 2002, 59.36 in 2003 and 37.95 in 2006. The falling index indicates the increasing work pressure on workers. Work pressure and intensity grew to unbearable limits and became one of the key issues in the workers’ struggles of 2011-12 at the Manesar plant. It remains a key issue for workers – at Maruti and across the automobile sector.

We also found ample evidence of this in our investigation into the attack on the workers’ union at SPM Autocomp Systems, a vendor company of Maruti. The factory has seen so much intensification of work that accidents have become fairly common in this factory in recent years. The workers attribute regular accidents to excessive workload and intensity. While workers have been complaining of being fatigued and overworked production targets have been going up continuously. A terminated worker from VMC (Vertical Machine Control) said that within a span of 5 years, the production target in a single shift almost doubled from 60 pieces to 110 pieces.

In the garment industry in the NCR, there was a transition almost 20 years ago, from a system of ‘full piece tailor’ wherein each worker was responsible for making the garment in its entirety, to ‘chain system’ or the assembly line where each assembly line has large number of workers, each responsible for cutting or stitching a small part of the garment. Supervisors are deployed to ensure that workers meet rising production targets. More recently, in order to supervise and increase the work intensity in the garment industry, devices such as stop watches and magnetic cards were adopted. According to the workers, production targets had increased three-fold within a span of 5 years. Production targets have become so punishing that when one worker collapsed on his seat in a factory of the apparel manufacturing company Orient Craft Limited in 2014, other workers realised this only after some time had lapsed as they did not have the time to even raise their heads from their sewing machines.

The above are merely illustrative in nature. It is in the context of this this chilling ground reality of rampant violation of and assault on workers’ rights by managements that we need to see the role of labour reforms and codes formulated in recent decades.

Labour Reforms and Labour Codes

Labour reforms were an important element in the economic reforms of the globalization era. Ever since the economic reforms began in India in 1991, attempts have been afoot to whittle down the rights of the workers. These reforms were finally drafted by the early 2000s and are being sought to be enacted and turned into laws or otherwise implemented at present. The term 'labour reforms' while referring to these proposed changes in labour laws is a complete misnomer, if by 'reform' we mean measures that lead to the betterment of labour conditions, better effectivity etc. These are not intended for this purpose. Their history and functioning shows that they are not in any way intended to bring about labour welfare, and on the contrary facilitated capitalists and industrialists in practice.

Context and history:

Most of the existing labour laws in India are either colonial laws or formed immediately after the independence [Workmen's Compensation Act (1923), Trade Union Act (1926), Payment of Wages Act (1936), Industrial Disputes Act (1947), Minimum Wages Act (1948), Factories Act (1948), Employees State Insurance Act (1948), Employees' Provident Fund Act (1952)]. The laws formed immediately after the independence reflected the aspirations of the people and contained some safeguards for the working class. Additionally there are some constitutional safeguards for the working class through the Directive Principles [Articles 41(Right to work), 42 (Provision for just and humane conditions of work and maternity relief) 43 (Living Wages) as well as Article 23 (Prohibition of traffic in human beings and forced labour) and 24 (Prohibition of employment of children in factories)].

The first National Labour Commission was established on 24 December, 1966. The objective was to study and review the living conditions of labour and the labour legislations since 1947. It was also asked to "advise how far these provisions (labour laws) serve to implement the Directive Principles of State Policy..." The committee submitted its report in August 1969 in which it underlined the need to ensure a minimum level of protection and welfare to labour, to improve the effectiveness of measures relating to social security, safety at places of work and occupational health hazards.

Over two decades later, after economic liberalisation, industrialists started complaining about the 'rigid' labour laws, claiming that they are not investor friendly. Heeding these demands of the industrialists the NDA-I government formed the Second National Commission on Labour (Second NCL) on 15 October 1999 which submitted its report on 29 June 2002. The Second NCL reflected and reinforced the complete shift of paradigm since the First NCL. The 'emerging economic environment' and the need for responding to the change in 'methods, timing and conditions of work,' and the need to bring existing laws 'in tune with the ...labour market needs and demands' was emphasised. Not even lip service was paid to the need to improve the conditions of labour or the Directive Principles. While the Second NCL aimed to provide 'minimum level of labour protection and welfare measures' it was clearly restricted to those measures which would be 'conducive to a flexible labour market and adjustments necessary for furthering technological change and economic growth.'

The Implementation:

There was a complete boycott of Second NCL by the majority of Central Trade Unions because of its anti-worker terms of reference. Partly because of the stiff resistance from the trade unions and partly due to coalition governments, no government has dared to implement the recommendations of the Second NCL explicitly or in totality. However, all successive governments have been trying to implement its recommendations directly and indirectly, in one form or another. Since 'Labour' is in the Concurrent list, states are also making their own laws to implement these recommendations. States are competing with each other to attract investment and providing concessions in the form of greater profits to capital. This is sought to be done by reducing labour costs, and increasing productivity –by diluting the protections given to the workers in the existing labour laws. They are either replacing the existing laws or amending them. Sometimes they are also using the ordinance route for the labour reforms.

One of the important recommendations in the Second NCL report was that the existing set of 100 odd labour laws should be broadly amalgamated into the following five groups, namely:–

(a) Industrial relations; (b) Wages; (c) Social security; (d) Safety; and (e) Welfare and working conditions. A series of draft labour codes on each of these aspects was sought to be created. The Draft Code of Wages 2017 is one of these and reveals the explicit commitment to capital that underlies these ‘reforms’ and the laws that are guided by it. The present code on wages claims to be inspired by the recommendation of Second NCL but a critical examination of the bill shows that it in fact goes beyond Second NCL recommendations. Indeed, with Prime Minister Narendra Modi speaking of the need to ensure “ease of doing business” the thrust was on making changes which would help employers. PUDR has come up with a detailed critical analysis of the important and the problematic proposals in the Code on Wages, 2017. The bill is yet to be passed.

Another important measure (along the lines of the Second NCL suggestions) that was adopted recently by the Narendra Modi government was the extension of the facility of hiring workers on ‘fixed-term employment’ in all sectors to improve the ‘ease of doing business’.

Prior to this the facility for hiring on fixed term contract was available only for the apparel manufacturing sector as per the Industrial Establishment (Standing Order) 1946. The Government has issued a notification to amend the order, stating that the words ‘fixed-term employment in apparel manufacturing sector’ will be replaced by ‘fixed-term employment’ meaning that this would be available for all sectors. Fixed-term employment is defined as employment given to a workman who is employed on a contractual basis for a fixed period. Thus the services of the workman will be automatically terminated as a result of non-renewal of the contract between the employer and the workman concerned. A separation of service of a workman as a result of non-renewal of the contract of employment between the employer and workman concerned shall not be construed as termination of employment. With this notification Narendra Modi government has fulfilled the long standing demand of the industrialists for the flexible hiring and firing policy.

Through PUDR’s investigations pertaining to labour issues we have found that whether or not the recommendations of the Second NCL have become law, they directly and indirectly guide labour policy and practices across industries. On the one hand management practices that make labour more precarious and violate workers’ rights to life with dignity, are widely adopted and are sanctioned by state authorities, even when they openly violate existing labour laws. State institutions and regulatory bodies – such as the police, the labour inspectorate and even the judiciary meant to uphold constitutional and labour rights either remain inert or intervene to assist capital, if workers confront managements over such violations.

On the other hand, the state is also bringing in some of the labour reforms recommended by the Second NCL directly and pro-actively through executive orders and circulars (like the fixed-term employment). The state’s commitment to abet capital, to uphold its profits and bring in changes, ‘rationalisation’, to suit the interests of a flexible labour market is evident from its interventions across industries. The labour reforms it appears are evidently going to be, and indeed are already being, aggressively rammed through regardless of their devastating impact on workers’ lives and labour rights, including those guaranteed by the law and constitution.

If the Code of Wages Bill and other labour codes being formulated become law, it would mean that these anti-labour measures that are already being implemented in industrial units across the country would become part of the legal framework and get legal validation. The balance would be tilted further in favour of capital in the conflict between capital and labour. Labour would be deprived of an important tool, in the form of rights it still has in existing law, at least on paper, which it can possibly use to combat this onslaught on its rights. This is the reason that labour unions across the board have been opposing these labour codes and reforms.

Both capital and state today see labour unions as the biggest hindrance, not only in implementing labour codes and reforms that favour capital, but also in their on-going efforts at pushing through policies and measures on the ground, and in the shop-floor, that put the squeeze on labour and favour profits and investment. For workers, it is only by organising themselves into unions that they can hope to combat this onslaught on their rights. This is the reason why capital with the firm backing of state institutions has been systematically scuttling various attempts by the workers to come together and organise themselves to demand their rights. Our speakers today will address this predicament and its implications for labour struggles.