

# **Labour Rights are in Free Fall\***

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As India slowly attempts to lift its nationwide lockdown, under compulsion of reviving the economy, labour rights are disappearing at an astonishing pace. Uttar Pradesh, Madhya Pradesh and Gujarat, which are States ruled by the Bharatiya Janata Party, took the lead in suspending crucial labour laws for varying lengths of time.

## **Undemocratic introduction**

This strategy visualises effecting an economic turnaround through improvement of India's rank in the "ease of doing business" index, thereby attracting foreign direct investment (FDI) and enthralling domestic private capital. Flexible labour and environmental laws are key instruments through which improvement in ranking is sought (incidentally, India's rank jumped from 130 in 2016 to 63 in 2019).

Such thinking forms the core of the 'Make in India' programme; therefore, elements of labour law dilution are already visible in the four labour codes aimed at consolidating 44 central labour laws (these are on wages, industrial relations, social security and occupational safety, health and working conditions). However, what is surprising is the undemocratic manner, by promulgating ordinances and notifying rules, in which labour rights are suspended without tripartite discussion.

The continuity in direction of policy, although more vigorously pursued now, is obvious: for instance, consider the extension of a work day up to 12 hours. It is argued that this would address the problem of labour shortages at a time when social distancing is the norm. Interestingly, draft rules on the Code on Wages, 2019 already proposed extension of a workday by one hour (from eight to nine hours) when the novel coronavirus pandemic was nowhere on the horizon. Further, even though working hours are extended, there is no provision for overtime pay in Madhya Pradesh and Gujarat (although such provisions are available in Uttarakhand, Haryana, Rajasthan and Himachal Pradesh).

## **Shades of an agenda**

Next, take the U.P. ordinance that shockingly exempts employers from complying with the Minimum Wages Act 1948. However, the Code on Wages, 2019 makes a distinction between national minimum wage (calculated on the basis of an objective formula) and national floor wage (without providing a methodology to calculate it). This was done on purpose, for the minimum wage calculated by a government-appointed committee in 2018 was ₹375 per day, whereas, the national floor wage in the same year was a mere ₹176 per day; however, State governments, under the wages code, are directed to set their minimum wages only above the national floor wage. Thus, States, vying for private investments, would essentially consider the national floor wage, and this in effect would dilute the idea of minimum wage.

Additionally, the U.P. ordinance also exempts employers from complying with the Industrial Disputes Act 1947. Therefore, employers can hire and fire workers at will; however, employers even now are allowed to offer "fixed-term" employment without

any restrictions on the number of renewals. Hence, firms hardly face any problem in adjusting their workforce.

Now check the M.P. ordinance which exempted factories employing less than 50 workers from regular inspections and allowed third-party inspections. Again the wages code severely eroded the inspection mechanism by snatching away the power of inspectors to conduct surprise checks. Even when violations in law are detected, they are mandated to advise, provide information and facilitate employers to comply with the law; in fact, they are now called inspector-cum-facilitator.

The M.P. ordinance further states that for new establishments, provisions guiding industrial dispute resolution, strikes/lockouts and trade unions would cease to operate. This is in line with the Industrial Relations Code, 2019, which proposes to raise the membership threshold of a trade union from 15% to 75% of the workforce in an establishment, for it to be recognised as the negotiating union.

Therefore, it seems the novel coronavirus pandemic simply provided a window to aggressively fulfil the long-term agenda of diluting labour rights. This becomes evident from the length of suspension of these labour rights — which vary from 1,000 days (M.P.) to three years (U.P.). Surely there is no basis to expect that the impact of the lockdown will stretch for so long and it appears that State governments are competing to project themselves to be investor-friendly.

But will such suspension of labour rights, aimed at reducing labour cost, stimulate private investment and ensure recovery? Past experience does not inspire confidence. The Reserve Bank of India, for some time now, has single-mindedly designed policies that reduce the cost of borrowing capital, but this has clearly failed to unleash animal spirits. Further, reductions in corporate tax in September 2019 made no impact in boosting private capital and reviving growth in subsequent quarters. Actually, banking on private investment for economic recovery when the economy is wrapped in acute uncertainty is essentially futile. This is easy to understand: for example, home buyers, once uncertain about completion of a housing project, will never evince interest even if flats are offered at dirt-cheap rates accompanied by additional benefits. Private agents wait and watch for a predictable environment before committing their money and, therefore, cannot be the principal agent for guiding an economy caught in a downward spiral.

### **Issue of timing**

Finally, consider the timing of labour rights suspension. Although industry associations and government are projecting these changes as necessary for enticing FDI relocating from China, this is only a cover for the unique opportunity provided by the lockdown. In other times, such a violent attack on the fundamental rights of workers would lead to widespread protests and massive strikes. Both instruments are toothless now; protests are prohibited by lockdown rules and strikes are meaningless when production days are lost anyway. However, this exposes the authoritarian nature of the state, and every section of society must come together to protect the rights of workers. This is essential for destroying the rights of one section of society makes the rights of other sections of society vulnerable as well. For example, the plight of migrant workers will now spread to the working class as a whole, and industrial

accidents such as the ones in Bhopal and Vishakhapatnam could engulf larger sections of society. It is time we see these interconnections and resist unitedly.

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