

Working Class Will Not Allow Implementation of Labour Codes

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Despite passing the Labour Codes in Parliament, the Modi led BJP government could not notify them for implementation for more than four years. The united working class movement strongly opposed and resisted their implementation through country wide struggles including general strikes.

Returning to power for the third time, though with highly reduced numbers and compelled to stand on the crutches provided by its allies like TDP and JDU, has emboldened the Modi led NDA government to complete its pro corporate neoliberal agenda. It has now embarked upon aggressive measures to notify the Labour Codes for implementation. As per all available reports, the Modi led government wants to notify the Labour Codes by April this year.

Let the Modi government and the corporate class be warned that the working class of India will not allow the Labour Codes in their present form to be implemented. The moment the Labour Codes are notified, the working class will erupt into massive protests at all workplaces across the country, as per the call of the joint trade union platform. This will be followed by a country wide general strike. The Samyukta Kisan Morcha, which spearheaded the historic farmers' struggle against the three farm laws, which the Modi government was forced to repeal, has announced its unstinted support to the struggle of the trade unions against the Labour Codes. Thus, the Modi government will have to face the united wrath of the entire mass of toiling people, who produce the wealth of our country, if it goes ahead with its agenda of snatching away the hard earned rights of the workers to serve its corporate masters.

Why the opposition to Labour Codes?

CITU published many booklets, pamphlets, and other materials on the content of the four Labour Codes, how they promote corporate interests, how the hard won existing legal rights and working conditions of the workers will be adversely affected etc. *The Working Class* too has carried many articles on the subject during the last four years, starting from when the first drafts were released till the Bills were passed in Parliament.

Here only the salient features of the Labour Codes are highlighted to refresh the memory of our cadres and activists about their real character. The working class has to be made aware of this through an extensive and intensive campaign and be prepared for higher forms of struggle to stall implementation of these Labour Codes

The main aim of the entire process of repealing 29 existing labour laws and subsuming them in the four Labour Codes, in the name of simplifying laws as part of 'labour law reforms', is to eliminate the components in the present labour laws that provided some protection to the workers. The existing labour laws were achieved through prolonged struggles of the working class and, with all their flaws, provided some protection to the workers in terms of workplace rights, wages, social security, health, safety and welfare etc. Labour Codes will drastically curtail all these for the benefit of the employers.

Despite all the big talk about 'universalisation', the Labour Codes seek to push even major sections of the workers in the organised sector, not to speak of the unorganised workers, out of coverage.

Definitions in the Codes are manipulated to meticulously exclude large sections of the workers. For example, 'workers' and 'employees' are used interchangeably in the Code on

Occupational Health, Safety and Working Conditions - in fact, 'employee' is more widely used in the code -opening the avenue for the employers to misinterpret, discriminate working people and keep some sections out of the ambit of this Code.

The definitions exclude 'apprentices', and 'trainees' who have been working in in some industries for years together. 'Contract labour' is excluded from the scope of 'worker' and 'employee'. The Code on Industrial Relations provides scope to push large sections of workers and employees out of coverage by terming them 'supervisors' or 'managers'. Those who are said to be employed in the so called 'supervisory capacity' drawing more than Rs 18000 as wage will be excluded from the definition of 'workers' or 'employees'. Similarly, the definition of 'establishment' does not include units with less than ten workers. The definition of 'factory' excludes factories with less than 20 workers, if power is used and less than 40 workers without power. Plantations below five hectares are excluded from the applicability of the OSHWC Code.

The threshold limits of employment have been raised to such a level that employers can easily escape from their obligations under the Code. For instance,

- No safety officer for factory or building and other construction work where less than 500 workers are employed
- No welfare officer if the number of workers is less than 250
- No canteen if the number of workers is less than 100
- No creche if the number of women workers in less than 50
- No rest rooms or lunch rooms if the number of workers is less than 50
- No provision of ambulance if the number of workers is less than 500

The Code on Wages subsumed four wages/ bonus related Acts, on the pretext of 'simplifying' and 'rationalising'. But what it does is selectively incorporate some provisions while diluting or removing many to the advantage of the employers. It does not incorporate the basis for fixing minimum wage as recommended by the 15th Indian Labour Conference way back in 1957, reinforced by Supreme Court judgment in the Raptakos and Brett case in 1992, and reiterated again and again in the 44th, 45th and 46th ILC and also recommended by the Parliamentary Standing Committee on Labour. It was reluctantly included in the Draft Rules, due to the relentless fight by the trade unions. The definition of 'wages' has been made truncated including only basic pay dearness allowance and retaining allowance, if any.

Where is universality? The claim of universalisation is nothing but hypocrisy

The sector specific Acts, for examples those related to construction, beedi and cigar, mines, dock workers, working journalists, sales promotion employees, motor transport workers etc, which have been repealed dealt with working conditions, employment relations, safety and other related matters taking into account the sector specific work patterns, processes, problems and issues. The OSHWC Code into which these have been subsumed seeks to define working conditions of all in the same 'one model fits all' manner. Thus, the workers, most of who are migrant and contract workers will be subjected to arbitrary interpretation by the employers with a helping hand from the 'appropriate government'.

In the Code on Social Security, the existing legally prevalent social security rights and provisions for a large section of workers in industries like beedi, iron ore mines, mica mines, limestone mines, dolomite mines are thrown into total uncertainty, as the government has abolished all related provisions of cess collection. The Code on Social Security does not propose any social security benefit for them. The unorganised workers are left in the lurch without any government commitment for fund allocation so as to address the minimum social security measures.

Under the claim of rationalising the existing social security schemes including EPF and ESI, the Code on Social Security actually laid the foundation to dismantle these time tested social security schemes by open ended empowerment of the central government to reduce the rate of contribution, change the existing scheme to benefit the employers' class, exempt any establishment from EPF schemes and provisions and allowing any establishment to exit from EPF obligations altogether.

The unanimous demands of the trade union movement on gratuity, that there should be no restriction/ ceiling on entitlement, eligibility and calculation, are continuously being ignored by the government. The Code on Social Security reflects the same.

Working Hours:

The OSHWC Code reluctantly mentions eight hour work but allows for its violation with impunity. It gives enormous scope to alter the eight hour duty by the employer; the same can be decided by the appropriate governments. The previously existing thirteen Acts that dealt with working conditions, which this Code subsumes, very categorically defined working hours. Concepts like daily working hours, weekly working hours, period of work, intervals for rest, over time duty and spread over hours were all well defined in all the relevant Acts, particularly the Factories Act. These were invariably used on these questions in our labour jurisprudence. By removing all these, the Code leaves the workers at the mercy of the appropriate governments. The attempts by the BJP government in Karnataka to increase the working hours to twelve, which was later notified by the Congress government in the state and the notification of twelve hour work by the DMK government which was later withdrawn in the wake of strong opposition by the trade unions as well as its allies, point to the serious threat to the eight hour work from the governments more concerned with appeasing the corporates by promoting 'Ease of Doing Business' than the welfare of the workers. This is even before the Labour Codes are notified and came into force. Internationally and universally accepted principle of 'not more than eight hour working day' are thrown open to renegotiation and review by the 'appropriate governments'. It is natural that corporate honchos like Narayana Murthys and Subramaniam are competing in demanding 70 hours and 90 hours work weeks to squeeze life out of the workers to maximise their profits.

The basic right to organisation and collective action including going on strike and their right to grievance redressal provided by the Industrial Disputes Act, which is subsumed under the Code on Industrial Relations, are sought to be totally curbed. Gross changes are sought to be made in the character of employment relations by introducing temporary and fragile work relations through fixed term employment, contract work etc in the name of flexibility. The fragile and precarious employment relations ensure that workers do not organise themselves. Whatever provision are there for the workers remain only on paper as long as the workers are not able to organise and assert their rights; employers can violate these with impunity being under no threat or challenge to their unbridled exploitation of workers.

The IR Code provides the employers the right to 'hire and fire' and virtually a 'trade union free' workplace. It is nothing but to appease big corporates like the Samsung, Amazon, etc which have been declaring that they have a 'No union policy'. This is the core element of neoliberalism that the Modi led government is committed to.

Supervision:

Any law becomes meaningful, only when its proper implementation is ensured through effective enforcement. This is even more true of the labour laws. Periodic inspection and /or physical inspection on receipt of complaints is the life line of enforcement. The

system of labour inspection is given a virtual go bye in these Labour Codes. The nomenclature itself has been changed from 'inspector' to 'inspector cum facilitator'. These 'inspectors cum facilitators' are duty bound 'to conduct inspections including web based inspection in such a manner as may be prescribed by the appropriate government', in short, to facilitate 'Ease of Doing Business', not to carry out inspection to ensure compliance with laws. This is basically against the ILO's Labour Inspection Convention (No 81) which mandates member countries to put in place a system of labour inspection whereby the 'workplace shall be inspected as often and as thoroughly as possible to ensure the effective application of the relevant legal provisions'. Inspections will no longer be based on complaints or surprise checks by inspectors; no more work spot inspections. Instead, workplaces will be visited (not inspected unless specific order, as the government deems fit, passed thereon) based on computerised 'random' selection of 'information' uploaded online in the designated national portal. Then, 'inspection' may be done through online or even over phone. Employers can well be informed beforehand. The OSHWC Code even empowers the government to empanel third party 'experts' to do the job of inspection in the start up establishments. By puncturing the inspection system, the Codes make all the other provisions practically meaningless for the workers.

Executive power replaces Parliament's power

The Codes are full of stipulations like 'as may be specified/ as may be prescribed/ may be framed' in respect of almost all substantive provisions, for any change to be made in future, related to working hours, safety and health and criteria/ norms for minimum wage, entitlement, contributions, benefits and also on aspects that remain undefined in the Codes. This means that any future change in many substantive provisions can be made through executive decisions, by passing Parliament and by passing all stakeholders, particularly the workers and their unions.

Labour Codes are an important component in the war on labour by the BJP led government at the Centre, guided by the fascistic RSS. It is clear that the ruling classes are determined to intensify the labour exploitation by making the working conditions more precarious and fragile and depriving the workers of their basic workplace and trade union rights.

This frontal attack on the working class by the profit greedy corporate class, facilitated by the corporate communal nexus in governance must be resisted and defeated. It is with this determination that the working class must prepare to strengthen unity and intensify united struggles lifting them to higher levels of defiance and resistance.