

Four Labour Codes to Plunder Workers and their Rights

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Seven and half decades after the transfer of power in 1947, India is now at "Azadi ka Amrit Kaal". The chief of the central ruling party loves to play with words and syntax. Whatever he utters, he does the opposite. Perhaps his actions are hidden in his utterings. Similarly, whatever he does, he says the opposite. This happens to be his tactics. Hailing with the slogan "Jai Kisan" by utterings – it was evident that the agro-bills were brought in with an aim to ruin the farmers, agro-labourers and workers. However, the united movement of the farmers compelled them to retreat. The game of words like "Sabka Saath – Sabka Vikas", "Naa Khaunga – Naa Khane Dunga" etc. have failed miserably.

On the draconian four new labour codes, he hailed them "Shramev Jayate" in the manner of "Satyamev Jayate". A rampant campaign has been carried out. Let us examine that how far these codes do hail with the labour and workers or how much they are dedicated to the interest of domestic and foreign MNCs.

In this article, various laws, acts etc. are defined in English to avoid confusions or obfuscation. It is needed to mention, the labour related subject is incorporated in concurrent list of our constitution. The four new labour codes have been introduced to replace 44 Acts and Amendments. They are : 1) The Employees' Compensation Act 1923, (2) The Employees' Compensation (Amendment) Act 2017, (3) The Trade Unions Act 1926, (4) The Trade Unions (Amendment) Act 2018, (5) The Payment of Wages Act 1936, (6) The Payment of Wages (Amendment) Act 2017, (7) The Industrial Employment (Standing Orders) Act 1946, (8) Notification dated 07.10.2016 (Amendment to Schedule), (9) The Industrial Disputes Act 1947, (10) The Minimum Wages Act 1948, (11) The Employees' State Insurance Act 1948, (12) The Factories Act 1948, (13) The Plantation Labour Act 1951, (14) The Mines Act 1952, (15) The Employees' Provident Funds and Miscellaneous Provisions Act 1952, (16) The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act 1955, (17) The Working Journalists (Fixation of rates of Wages) Act 1958, (18) The Employment Exchange (Compulsory Notification of Vacancies) Act 1959, (19) The Motor Transport Workers Act 1961, (20) The Maternity Benefit Act 1961, (21) The Maternity Benefit (Amendment) Act 2017, (22) The Payment of Bonus Act 1965, (23) The Payment of Bonus (Amendment) Act 2015, (24) The Beedi and Cigar Workers (Conditions of Employment) Act 1966, (25) The Contract Labour (Regulation and Abolition) Act 1970, (26)

The Payment of Gratuity Act 1972, (27) The Limestone and Dolomite Mines Labour Welfare Fund Act 1972, (28) The Bonded Labour System (Abolition) Act 1976, (29) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act 1976, (30) The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines labour Welfare Fund Act 1976, (31) The Beedi Workers Welfare Cess Act 1976, (32) The Beedi Workers Welfare Fund Act 1976, (33) The Sales Promotion Employees (Conditions of Service) Act 1976, (34) The Equal Remuneration Act 1976, (35) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979, (36) The Cine Workers and Cinema Theatre Workers (Regulation of Employment) Act 1981, (37) The Cine Workers Welfare Fund Act 1981, (38) The Dock Workers (Safety, Health and Welfare) Act 1986, (39) The Child and Adolescent Labour (Prohibition and Regulation) Act 1986, (40) The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act 1988, (41) The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Act 2014, (42) The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act 1996, (43) The Building and Other Construction Workers Welfare Cess Act 1996, (44) The Unorganized Workers' Social Security Act 2008.

The above acts did not come into being on natural course. They were achieved by dint of several struggles and movements, and as a result of many sacrifices and a lot of blood and sweat the ruling class were compelled to enact them. It was not that the security and the benefits of workers were ensured by the above acts, because most of the provisions do serve the interest of the ruling class and owners. Even to attain the minimal benefits available in the provisions, the workers need to struggle. Labour Tribunal, Labour Courts, Labour Commission—none were easy and convenient. However, if some provisions do remain favourable, it fosters confidence and enhances faith among workers. The rulers and exploiting masters are bound to remain within the framework of the statute. Some amount of pressure is mounted on administration and Govt. too.

The four codes under reference are as follows

(1) Code on wages 1919, (2) Industrial Relation Code-2020, (3) Code on Social Security Code 2020, (4) Occupational Safety & Working Conditions Code-2020 — which repeal or subserve 44 labour laws/acts.

Background

Under the direction of the trident of imperialist forces IMF, WB and WTO and accepting the conditions of globalisation in 1991, the industrialisation policy was introduced in India. As a result, the monopoly aggression of domestic and foreign big capitalists along with the plunder of labour increased many fold. Qualitative changes did take place, certainly against the toiling masses. Then begun the attempts for compulsory structural reforms. The target had been to plunder the hard-earned rights and privileges of the workers through struggles and sacrifices. The amendments of laws and acts were made one after another. The scope for collective bargaining for the workers was curtailed gradually.

In accordance with the diktats of the IMF-WB-WTO trio, the imperialist policies—liberalisation, privatisation and globalisation were commenced to be implemented by the Indian Govt. Nevertheless, it was halted at times due to the pressure of the movement, but never stopped completely. The present BJP led govt. has been adamant to enforce it. Their immediate aim is to privatise the Railways, Banks and Insurance.

It can be said that the execution of current four labour codes commenced with the enactment of the Special Economic Zone (SEZ) since 2000 throughout the country. The then Left Front Govt. also implemented it in West Bengal. In SEZ areas the existing laws are abandoned. Thus, there happen to be pieces of foreign lands within the country. Through the SEZ act it began enforcing the despoilment of job security, wage cut, increase in working hours and the engagement of casual workers along with random outsourcing. That is the reason the social security and standard of living of workers began to decay. As a result of these imperialist laws, the organised sector of our country had broken into several unorganised units resulting in a vast number of workers stripped off their minimum security.

In India, the Factory Act was introduced in 1881 during the British regime. Although workers of jute mills of Bengal tried to get organised at first, the Bombay Mill Hands Association formed in 1884 by Narayan Lokhande in Textile Mills of Bombay was the first organized trade union. That union could force a definite period of work, half an hour tiffin break and a day off in a week. Although the Factory Act was replaced in 1931 by the new act, it came with many restrictions. It was believed that the pressure was built up by the textile industry owners of the Lancashire, Britain from behind.

Russian Revolution of 1917 had its influence on India too. INTUC was formed in 1920, which was the first Trade Union in India. This added a new momentum to the anti-British movement. Trade Union Act was brought into force in 1926 to undermine organised labour movement and its influence.

The most important observations and recommendations of the first Labour Commission instituted under the chairmanship of the former Chief Justice Prahlad Gajendra Gadkar were (i) To guarantee the employment and security of the surplus workers arose out of labour reforms (ii) To enhance the standard of wages on account of surplus created due to upgradation of mechanical and technical knowledge and to outreach its fruits to society. (iii) To reforms of Wage Board etc.

Second National Labour Commission was instituted in 1999. BJP leader and the then Labour Minister Ravindra Verma was the Chairman. But the Commission was boycotted by the other Trade Unions except BMS and INTUC. Their representatives were Hasubhai Dave and Sanjiv Reddy respectively. Subsequently Hasubhai was replaced by Sarji Narayan for BMS. Verma Commission submitted its report in 2002. The recommendations were made for an “Umbrella Legislation” bringing all labour related laws under one umbrella. The observations and recommendations of the commission is that there should be no specific recognition, declaration, or commitment for the rights of the poor and working class. Because, the sense

of right mobilises the boiling masses, generates massive protest and then Naxalite movement which is witnessed across the country.

Sanjiv Reddy of INTUC signed the report in agreement. But Sarji Narayan of BMS though agreed on other points, expressed his separate opinion on "Review of Labour Laws" mentioned in 6th chapter and said - Economic reforms and in line of that reforms Labour Laws are running in wrong direction. The course of thought of the ruling class is drowned in the capitalist ideology. Their sole aim is to curtail the rights of the workers and ensure unbridled anti-worker power to be vested in the hands of owners. "The Employment Opportunities " Report made by Montek Singh Ahluwalia, "Austerity" Report made by Gitakrishnan Committee, "Privatisation of Railways" by Rakesh Mohan Committee etc., all controversial recommendations are influenced by capitalist ideology.

After two decades, the New Labour Laws have been passed in the Parliament tabled by the BJP led Central govt. - called as the Four Labour Codes.

Four Labour Code -

True Character

The ruling class of our country were never been at ease due to political unrest, price rise, food shortage, unemployment since the power transfer from the Britishers. In the 50s-60s of the last century the crisis intensified, which became apparent in 70s, people got agitated due to the brutal repression of the emergency in 1975. In 1977, following the fall of Indira Gandhi Govt. Janata party came into power, but they failed to fulfil the expectation of people. During this regime S.Bhutlingum Committee (study group on labour) was formed. They showed utter highhandedness on minimum wages, dearness allowance, bonus, wage discrimination, job security, social security issues. Amid massive protest and mass movement, Janata govt. or their successors could not dare to implement them.

Now BJP led Govt. is out to enforce the laws in favour of owners and against the interest of the workers. Their aim is to blunt the class consciousness of the workers and disrupt their class unity and finally single them out.

The statistics of 2020 shows - in India out of total employed persons, 41.19% were engaged in agriculture, 26.18% were in industrial sector and 32.33% were in service sector. Out of all workers more than 94% were employed in unorganised sector. In 2021, the number of working people was 501 million (fifty crores ten lakhs) and out of them 93.40% were or compelled to be outside Trade Unions. The rate of unemployment was 6.1% at that time, which was worse then. A vast brigade of unemployed youth kept at their disposal, owners have been compelling the workers to work at lower wages and under inhumane conditions. The owners remain prompt to smash the workers movement by utilising a section of this unemployed brigade. This context is also needed to be kept in mind.

Now, let us view the labour Codes one by one-

1. **Code on Wages 2019** :- The Bill was passed as Act No.29 of 2019 and through this code - The payment of wages Act 1936, Minimum Wages Act 1948, The payment of Bonus Act 1965 and The Equal Remuneration Act 1976 and etc., Acts are repealed

According to Dr. Aykroyd formula in the 15th ILC held on 11th and 12th July,1957, in Shimla- 2700 calories of food per head, 72 meters of cloth per family, medical, housing, education, electricity etc. with an extra 20% need-based wage decided in tripartite settlement was adopted. BJP led govt. is out to avoid and by-pass that settlement. It has to be kept in mind that the definition of family and number of consumers was considered like this: Worker - 1 unit, spouse - 0.8 unit, two children - 0.6 unit each i.e. 1-2-unit, total - 3 units. Here, there is no existence or provision for parents. Thus, it can be said without hesitation that the minimum wage formula adopted in 15th Labour Commission was not ideal. Nevertheless, it was not that easy to earn this from the reluctant rulers. It was possible by virtue of prolonged movements. In a court case in 1992 - Raptakas Bret vs Labour Union, Supreme Court gave its Judgement in favour of the decision of Labour Commission. Even the subsequent 44th Labour commission (2012), 45th Labour Commission (2013), 46th Labour Commission (2015) - all seconded the same decision.

But the so-called Expert Committee instituted by BJP led Government sang a contrast song. Rs.178 per day i.e. Rs. 4628 for 26 working days in a month as minimum wage - a ridiculous and derogatory recommendation along with an increase in working hours for intensifying the exploitation. This code speaks for the formation of "Minimum Wage" committee both by the Central and State government - which would primarily consist of the owner, representatives of govt. and lastly the workers representatives (selected by owner) in utter minority in essence.

Owners Exempted from their Liability :- In accordance with the erstwhile law-if owner violates any law or defies any competent authority, he would have been subjected to a Fine of Rs. 10000 or imprisonment for 5 years. There is no imprisonment in the present code. On first violation, he will be warned. There is almost no scope for any criminal case to be lodged against owner.

Previously, there used to be some liberty for Labour Inspector to carry out inspection or investigation. Now, they would be Inspector cum facilitator and lose their liberty to the least. They have to carry out their job advising the owner in advance and providing the first opportunity compulsorily to the owner. It is mentioned in the code that owner himself can certify that minimum wage is being paid.

Previously, if any contractor is providing workers for any factory, that company used to be treated as Principal Employer. Now, this code has exempted the company from that liability. Instead, the contractor would be liable for all compliances. The Central govt. will form advisory council on code related subjects where in equal representation of worker and owner shall be there along with one-third specially nominated persons. The Central govt. if desires, 5 persons can be nominated from different states. Similar councils shall be formed

in each state. Workers will remain in minority everywhere. **Bonus**- It shall not be mandatory to pay 8.33% bonus as earlier.

Working Hours :- This is eight hours per day and 6 days per week and forty eight hours of maximum work per week. One can work for 12 hours in a day though no one can be engaged more than 5 hours at a stretch. This is not that worker shall be allowed to take rest for 4 hours. For this additional 4-hour of work, worker shall not be eligible for any wages. In IT sector, this method of exploitation has been going on earlier also; for the additional work beyond the scheduled time, it was entitled to get extra wages at doubled rate. In fact, the provisions of this code happen to be contradictory and obfuscating. In this context it is worth to mention the recent statement of N.R. Narayan Murthy, another founder of Infosys- "In order to increase the productivity-seventy hours work in a week - has to be introduced. Any "appropriate authority" mentioned in the code i.e. Central or State government or any official nominated by them if takes some decision 'with honest belief' or initiates action - No suit can be filed against them.

2. Industrial Relations Code 2020 :- This has been passed in the parliament as 'Act No. 35 of 2020' and this has repealed the Trade Union Act 1926, Industrial Employment (Standing Orders) Act 1946, Industrial Disputes Act 1947 and etc.

According to this code, there shall be nothing like permanent job. All jobs shall be temporary and for specified term. Earlier, permanent nature of jobs, perennial nature of jobs was carried out by casual temporary-irregular workers in various areas. In the area of seasonal work, the concept and practice of specified term jobs were introduced. Now, this shall be followed everywhere. Specified term job means - any worker may be employed by employer on the basis of a written contract. Prior to introduction of this code, employer used to practice this. Now, they attained a legal weapon to sack the workers. This means, employer can sack the workers for profit even depriving them from their dues and entitlements by using this legal weapon. In fact, taking advantage of helplessness of workers, employer can extract extra work without paying wages to earn more and more profit.

This code shall also not permit the contract workers to be organised, not allowing them to join Trade unions. Hence, with the passage of time Trade unions will wither away and employer shall have free hand to increase the working hours and extract extra work for more profit.

Strike happens to be the main weapon of the workers. Through this code, the right to strike of the workers is seized. If 50% of the workers go on leave for any agitation - that shall be treated as strike. In order to observe strike complying the laid down procedure, notice signed by the secretary along with 5 other representatives of registered Trade union shall have to be served to the employer or Department of Labour. In the event of Arbitration, strike cannot be observed. If dispute is not resolved in Arbitration, the same will be referred to Tribunal or Central Tribunal, then strike cannot be observed within 60 days from the closure of the conciliation. If arbitration takes place through a nominated person-strike cannot be

observed within 60 days from the closure of the procedure. Otherwise, strike shall be declared illegal.

Earlier, in the event of any dispute under **Industrial Dispute Act**, the filing period was within 3 years from the dispute-date. That has been reduced to 2 years in this code. With the enforcement of the code, avenue for seeking justice in Labour Court, Tribunal shall be closed.

Earlier, for discussion and bargaining with the employer though it was mentioned about the Recognised union as the bargaining agent, all the Registered Unions were used to be invited for discussion. Now, at least 100 workers or 10% of total workers are compulsory for registration. If the membership is less than 10%, there shall be no right for even discussion.

With regard to retrenchment or closure, Govt. approval is required in case of 300 or more number of workers. This number would come down to 100 with this code. In order to overlay the wound of retrenchment or closure, a fund with a cosmetic name- "Worker Reskilling Fund" shall be constituted-'sprinkling salt on wound'.

The Central govt. itself is interested in employment on temporary basis instead of permanent basis. These temporary workers will have no job or social security. Neither any right to be organised. Even in respect of permanent employees-several restrictions have been imposed and as a result, it has become almost impossible to carry out Trade union work. The attitude of BJP led govt. at centre is very clear from the above. Other state govts are also following the same vigorously.

3. Code on Social Security 2020: - The bill was passed as Act No.36 of 2020 in the parliament and with this EPF and Miscellaneous Provisions Act 1952, ESI Act 1948, Payment of Gratuity Act 1972, Maternity Benefit Act 1961, Employees Compensation Act 1923, Building & Other Construction Workers Welfare Cess Act 1996, Employment Exchange (Compulsory Notification of Vacancies) Act 1959, unorganised Workers Social Security Act 2008, Cine Workers Welfare Fund Act 1981 etc were repealed.

With a view to curb almost all the hard-earned rights and privileges on social security of workers, the attempts are made through this code. This shall be further clarified from below

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Although the Govt is speaking about ensuring occupational and social security of organised-unorganised, permanent-temporary, direct or contractual workers, this code speaks the opposite. It was spoken, though, to safeguard the interest of 40 crores of unorganised sector workers, they are excluded from the security scheme of the regular workers. The gig workers, platform workers, delivery boys/girls have been termed as 'working partner'. Thus, employer does not have any liability to treat them as worker. In respect of wages, nonpayment of wages or equal wage for equal work - the vendor appointed by the organisation is considered as the 'Principal Employer' and the Government is said to be the "ideal employer". However, this code has exempted the principal employer from that liability.

Provident Fund- In accordance with the EPF & Miscellaneous Provisions Act – if at least 20 workers or employees are employed in an organisation, social security like Provident Fund etc. were made available to them. The demand was to reduce the number from 20 to 10. That did not happen. In lieu of the provision of 12% from employers & 12% from worker every month to PF, this code shall make it 10% by employer even if worker contributes 10% or more. From the employer's contribution of 12% towards PF, 8.33% was to be transferred to Employee Pension Plan (EPP) and 3.67% to PF. But with enforcement of this code, it is needless to say that the worker's interest shall be hampered.

Employees State Insurance (ESI) – Earlier, the mandatory contribution of the employers was 4.75%, which has been reduced to 3.25% and for the workers it has been reduced to 0.75% from 1.75%, in ESI scheme. As a result, the medical facility of the workers under ESI scheme shall be obviously deteriorated and the employers shall be able to avert their liability.

To attain the eligibility for gratuity, one must have worked for at least 5 years at a stretch. In case of term work-gratuity shall be payable proportionately on termination. For seasonal work gratuity shall be payable equivalent to 7 days wage against each of season.

Construction workers, Beedi workers, app based indefinite types of workers/ employees (for whom gig worker term is used) -delivery persons, platform workers – are neglected, marginalised even though mentioned in the code. Formation of welfare board for the building & the construction workers is mentioned. In respect of gig workers, platform workers – a) loss of life & disfigurement b) accidental insurance c) health & maternity facility d) children hostel e) facilities provided by the Central govt. etc. are mentioned. A fund shall be formed contributed wholly or partially by the Central govt., partially by state and partially by aggregator. Those rendering services through e-platform are called aggregator which is comparatively a new concept. Nevertheless, despite all verbosity how much of such facilities would trickle down to, is always doubtful.

4. Occupational Safety, Health & Working Conditions Code-2020: The Bill was passed in the Parliament as Act No. 37 of 2020 and by this – Factories Act 1948, Plantation Labour Act 1951, Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act 1951, Mines Act 1952, Working Journalists & Other Newspaper Employees (Conditions of Services Miscellaneous Provisions) Act 1955, Working Journalist (Fixation of Rates of Wages) Act 1958, Motor Transport Workers Act 1961, Beedi & Cigar Workers (Conditions of Service) Act 1966, Sales Promotion Employees (Condition of Service) Act 1976, Contract Labour Regulation & Abolition) Act 1979, Cine Workers & Cinema & Theatre Workers Act 1981, Inter State Migrant Workmen (Regulation of Employment & Conditions of Service) Act 1979, Dock Workers (Safety, Health & Welfare) Act 1986 etc. 13 main Labour Laws are repealed.

The nature of work, environment, characteristics of any sector or field-factory or plant, mines, dock, garden, construction, transportation etc., are different. The 13 repealed laws were framed, keeping in mind the diversity of occupations, fields of production, nature of

job etc. Instead of removing opacity and imperfection of the operating laws, this OSHWC code is introduced.

In case the factory or production is run on electricity, then at least 20 workers and in case the factory/production is not run on electricity, at least 40 workers shall be required to be considered as manufacturing unit and shall be covered under this code. It is observed that presently 50-70% of workers-employees are employed under contract. As a result, the question of occupational, environmental, health etc., are utterly neglected. Instead of permanent employment, contractual or hired base employment are being encouraged. In case the contractor gets the job done with less than 50 workers, obtaining license shall not be compulsory. This means-license for enough loot and plunder. In case, the employment is less than 10 migrant workers there shall be no need to furnish any particulars of workers. Earlier, it was 5 workers instead of 10. In the event of retirement in various sectors or resignation, employees can encash mere 30 days of their earned leave in lieu of 120 days which was there earlier. If any worker is retrenched without offence - 90 days salary shall have to be paid which was for 120 days earlier.

Combined Objectives of the 4 Codes and the Impact on Working Class

These 4 codes are scheduled to be implemented in 23 states from July 1st, 2023. It is evident from the discussion made so far that the working class had compelled the Indian state to enforce certain laws/acts at various times through many struggles. Since a long time, the attempts were made to weaken them, sometimes through structural adjustments and sometimes in the name of New Industrial Policy.

At the same time the poison of communalism is being spread to divide the working class and the people. In these circumstances on the basis of Neo-Liberalism, New Economic Policy introduced in our country in 1991, opened up our market for foreign capital&investment in the name of globalisation. Further, it was declined to accept the erstwhile rights of workers and employees, the mutual relations between workers and Industry Directors, employers and employees and to execute under the old laws and acts. During the worldwide crisis of capitalism, the prime objective of globalisation - imperialism and their comprador big capitalists want to get rid of crisis through unhindered plunder of working people.

Since beginning the working class raised their protest and resistance against such policies. Finding no other way, as a tactics, Govt built Special Economic Zone (SEZ) to avert all those laws and restrictions. But imperialism and domestic big capitalists are not satisfied with that. They want arbitrary liberty for plunder of working class. The present ruling group with their utmost communalism and undemocratic stand unleashed their cruel attacks in the interest of imperialism and their comprador big capitalists. By spreading communalism and creating a war situation in border, masking all the attacks, they are translating the threat of fascism into reality.

The impact of these 4 codes is not sheer stampeding the rights of the workers-employees, rather on much bigger political and ideological plane, stampeding the democracy as a whole. Thus, it is a struggle of all-workers, peasants, middle class and other democratic people. This is a step to destroy the limited democracy enjoyed by the Indians through these codes. Today, working class has to advance their struggle to the struggle against the danger of fascism. They have to lead the people's struggle.

The standard of living of vast number of working people will further decline. They will have less jobs and as a result their income will further decrease. This will bring changes from their clothing to their food habits-less will be their consumption. The retail trade will reach gradually abysmal.

However, the benefit of technical knowledge and development would have been utilised in the interest of workers by reducing their working hours and improving their standard of living & ensuring social security. But, how can a production system motivated by earning super profits upgrade the standard of living of the working class? The Owners are free to shut the factory almost without resistance or in consequence of excessive retrenchments. Workers are bound to return to their villages to depend on the small pieces of land, which is not enough for their survival. That is the reason no workers movement could be cemented in towns or cities. On the other hand, farmers-workers united movements have succeeded to halt the attempt of seizure of land by the ruling class in the interest of foreign-domestic capitalists. In this era of liberalisation-privatization-monopoly onslaught -just sheer short-term movements for decent wages or for reducing the working hours is not enough, but a workers-peasants united prolonged mass-resistance is needed to repeal these four labour codes. And for that an alternative livelihood for the workers and their equation with agri-land relations has to be contemplated which means to enhance the agrarian revolution in the country.