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Karnataka:

Victorious Sanitation Workers Strike

In a historic victory to the sanitation workers across Karnataka, the BJP-led government at the State has agreed to make their jobs permanent, among other demands. After a four-day long strike held in 31 districts, including sweepers, auto drivers, helpers, loaders, UGD workers, who were working under the direct-payment system, sham contract, daily wagers, among other artificially distinguished workers, will be made permanent. The workers, as a part of their strike, refused to collect or dispose off the garbage over these four days, which brought the government to its knees. The unity of all sanitation workers of the state and their unions was another major reason.

BBMP Powrakarmikara Sangha, Karnataka Pragatipara Powrakarmikara Sangha (both affiliated to AICCTU) and other unions of sanitation workers across Karnataka jointly organised this indefinite strike from July 1st, with a single point agenda of seeking permanent jobs. The workers who have been relentlessly fighting for their dignity and rights through decades of their service, and who were risking their lives for the lives of the public during COVID-19 crisis, have won a hard-fought battle today. A majority of these workers belong to the Dalit community and are predominantly women, thus making this victory more significant!



"This is a dream come true. We have been working since the time our wages was Rs. 400. Our Union has been able to achieve this today, because of our consistent efforts to unionise the women," said Com. Rathnamma, the general secretary of the BBMP Powrakarmikara Sangha.

Com. Gangamma, the vice president of the union, said that the Chief Minister saw them sweeping the roads every single day in front of his house. *"But it took our massive collective efforts for him to notice we exist and we will demand for our rights,"* she said.

In 2017, when the workers waged a similar struggle for the abolition of contract system, the State Government, led by the Congress then, had brought only the sweepers under the direct-payment system, whereas those workers engaged in garbage collection and transport continued to be exploited under the illegal contract system. Since then, the workers have been demanding that their jobs be made permanent, so that they are able to have job security, wage security, social security, among other benefits accrued to a permanent worker.

On Monday, 4th July 2022, the Karnataka Government finally gave in to the demands of the workers and agreed to make their jobs permanent after setting up a committee which will include representatives of powrakarmika (sanitation workers) unions, which will come up with the rules for their appointment. The committee will also look into implementation of 'equal pay for equal work'

for the workers. To enable the implementation of the committee's recommendations, the legislative assembly will propose a special law in its upcoming session. The government has also agreed to bring auto drivers, helpers and loaders under the direct-payment system in all other districts of Karnataka in a phased manner, except for those workers in Bruhat Bengaluru Mahanagara Palike (BBMP), who will continue to remain under the exploitative sham contract system. Our Union, AICCTU, will continue to fight against such illegal and exploitative contract system and will continue to strive towards ensuring rights and dignity for all.

The government has also agreed to implement IPD Salappa report in terms of the population to sanitation workers ratio (500:1), as also provide scholarships for children of powrakarmikas, implement a housing scheme, maternity benefits, among other service benefits.

The BBMP Powrakarmikara Sangha and Karnataka Pragatipara Powrakarmikara Sangha, affiliated to AICCTU, have consistently undertaken struggles seeking permanency of jobs, better working conditions and dignity of work for Powrakarmikas. The workers have constantly fought against caste oppression and sexual assaults, and will continue to fight for dignity, equality and justice. ■



Sanitation Workers of LHMC Hospital Fight for Dignity and Rights

★ Surya Prakash



Sanitation workers, the core constituent of the workforce that runs every institute, are most often the ones whose legal and social rights are violated and overlooked by the powers that be. Particularly, institutions like hospitals and nursing homes will, effectively, stop functioning without the most primary service provided by the sanitation workers. When the country was experiencing the deadly effects of the Covid 19, it is the sanitation workers, along with the health staff of the hospitals, who saved people from the dangerous disease through their dedicated services. Yet, these are the workers who are being dispensed off, in complete violation of laws and procedures, from several hospitals all over the country. We still remember how, in the peak of the Covid wave, the Modi-led central

government enacted a drama of ‘ornamental rhetoric’ and ‘respects’ to the frontline workers for their yeoman services in saving the nation from the disease. It is indeed ironic that the very same central government is violating the Delhi High Court order to reinstate the sanitation workers of Delhi hospitals.

After a spate of retrenchments of contractual medical staff, massive retrenchment of sanitation workers have taken place in various Delhi hospitals. In the hospital complex of LHMC alone, including Lady Harding Medical College, Sucheta Kripalani Hospital and Kalawati Saran Children’s Hospital, around 357 contractual sanitation workers were illegally retrenched. These workers have rendered services to the institute for more than a decade

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and were ruthlessly retrenched in an arbitrary and illegal manner.

Union Busting and Victimisation of Workers

The recent retrenchment of the sanitation workers should be seen in the context of their protracted struggle for rights and union formation. Most of the retrenched sanitation workers have been working in the institute for many years. In fact, several of them have been working for more than a decade. They formed their union Kalawati Saran Contract Karamchhari Union (affiliated to AICCTU) in December 2017. In 2019, more than 100 workers of Kalawati Saran Children's Hospital started their struggle for implementation of legal minimum wages. After several rounds of litigation, these workers got Rs 1.3 crores as arrears of their unpaid wages. Subsequently, they also succeeded in enforcing the central government's rate of minimum wages from June 2021. The workers are relentlessly fighting a legal and political battle for implementation of EPF and ESI, equal pay for equal work under CLARA, 1970 and for regularization of their services. While their petitions are still subjudice in various courts, the hospital administration has retrenched them in April 2022.

Since then, the workers have been fighting an energetic battle against the illegal and arbitrary retrenchments. They have been holding protest sit-ins at the gate of LHMC for almost a month now. In the meantime, through the intervention of the union, the Delhi HC ordered reinstatement of the workers with pending cases before it.

The Delhi High Court's direction for their continuation of service via order number W.P.(C) 6674/2022 dated 31.6.2022 is as follows:

"It is directed that in case the respondents engage any new contractor for the same work(s) which the petitioners have been performing for the last many years, the respondents will direct the said contractor to engage the petitioners on the same terms and conditions as existing today without demanding any commission or premium from them for such engagement. Consequently, till the next date the

services of the petitioners shall not be terminated and they will be permitted to continue under the new contractor, if any, engaged by the respondents."

Hence, it is fully clear that the responsibility of compliance lies on the hospital management run by the government which is the principal employer in this case. It is utterly shameful that even after the direction of Delhi HC, the workers have not been reinstated yet. The central government as well as the hospital administration are clearly violating the legal rights of sanitation workers. Even to implement a HC order in a government institution, the workers had to go for another round of protests, face police crackdown and day long detentions, etc., to demand their legal right of reinstatement. Very recently, on 24 June, one of the sanitation workers and an activist of AICCTU, Comrade Nitin, was physically assaulted by a police personnel of Mandir Marg police station. The AICCTU has filed a complaint and is committed to ensure that the police personnel is punished for assaulting a Dalit sanitation worker.

The hospital administration has most shamelessly replied to the demand for implementation of the Delhi HC order that they have communicated the order to the service provider. This is nothing but an attempt to evade its responsibility as the principal employer. The AICCTU is determined to carry forward the battle until workers are reinstated.

The struggle of the sanitation workers of LHMC hospital complex in Delhi resonates in every other places of the city and also of the country. Forced into a caste ordained profession, the sanitation workers are being systematically denied their rights. The sham contract system has made the situation worse. It is only through forming unions and building up a collective resistance against the inhuman and systematic exploitation, the fight for dignity and rights of sanitation workers can be taken to its logical conclusion. ■

Scheme Workers Victory in UP under AICCTU Leadership

★ **Vijay Vidrohi**

Consistent struggles by ASHA and mid-day meal workers in Uttar Pradesh have secured victory in terms of clearing various pending dues and also in getting corrupt officials punished. On June 6, intensifying the ongoing agitation under the call of Uttar Pradesh ASHA Workers Union (affiliated to AICCTU), ASHA workers vigorously demonstrated in more than two dozen districts of the state and sent their demands to the Chief Minister through appropriate officials. The demonstrations took place in many districts including Lucknow, Allahabad, Hardoi, Deoria, Sitapur, Rae Bareilly, Kanpur, Bareilly, Shahjahanpur, Hamirpur, Varanasi, Barabanki, Sonbhadra, Badaun, Pilibhit, Moradabad, Aligarh, Firozabad, Agra, Mau, Kushinagar, Hathras, Jaunpur, Kanpur Dehat and Siddharth Nagar.

Major demands of the agitation were :

- Establishment of a permanent monitoring mechanism to prevent large-scale corruption which is alleged to be to the tune of Rs. 500 crores annually, including the massive administrative corruption over incentives for works done by ASHAs.
- Immediate disbursal of honorariums pending since March 2022.
- Payment of Rs. 12,000 per month for the work done during Covid period.
- Formation of district-level gender cell to prevent sexual violence and harassment faced by ASHAs, as well as issuing circulars to every hospital against humiliating ASHAs and Sanginis.
- Punish the CMO (Chief Medical Officer) of Hamirpur District Dispensary for the shameful act of forcing ASHA worker Savitri to do sit-ins for talking over phone.

- Rs. 20 lakhs compensation to the kin of ASHAs who died due to accidents while on work. The agitation further demanded health insurance of Rs. 10 lakhs and a life insurance cover of Rs. 50 lakhs along with ESI facility and PF benefits for all scheme workers.
- Ensuring legal minimum wages and guaranteeing the status of state health worker to the ASHAs.

In this state-wide call, ASHAs and Sanginis took to the streets with great enthusiasm. They held organized processions, demonstrations and meetings on a very large scale. In Bareilly, more than 2000 ASHAs and Sanginis joined the agitation. Their energetic struggle ensured reimbursement of Rs 1,90,000 taken as advance (bribe) from the ASHAs. They gheraoed the office of the District Magistrate, forced intervention of the CMO and secured the suspension of the corrupt officer and his accomplice. More than 10,000 ASHA workers took part in the demonstrations in the state. Mid-day meal workers joined the demonstrations in Rae Bareilly, Varanasi, Deoria, Sonbhadra, Firozabad, Sitapur and other districts. They demanded immediate payment of seven months arrears of honorarium. Finally, the administration yielded to the pressure of protests and massive mobilization by the scheme workers. Payment of arrears to mid-day meal workers and ASHA workers has started from June 7. Moreover, the corrupt officers have been duly warned.

Encouraged by the victory of their movement, the ASHAs and Sanginis are actively engaging in organising the union, forming committees and expanding membership. They are preparing to make the demonstration in Lucknow on 12 September 2022 a tremendous success. ■

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BITTER BREW

Simmering Discontent Among Bengal Tea Workers

★ Abhijit Mazumdar

The battleground is all set to launch a protracted movement in Bengal tea sector. Tea workers, both the daily wagers and the employees together have been raging for the last 7 years with the demand to implement Minimum Wages for the first time in more than 150 years old tea gardens in North Bengal. Compelled by a long series of massive mass demonstrations before the respective government and employers' offices in the hills and the plains of North Bengal, the state labour directorate had to mediate with both the employers and the workers to arrive at a promising tripartite wage agreement way back in February 2015. That very agreement held a mandate for ensuring a temporarily raised wage with retrospective effect from April 2014 and the promise made by the labour department to implement MW in the scheduled employment in the next 6 months' time. To that end a Minimum Wages Advisory Committee (MWAC) was formed comprising of 9 representatives each from the operating trade unions, employers and the labour directorate for formulating the Minimum Rates of Wages and Salaries through a designated Gazette notification. But to the extreme detriment of the workers conditions, that pledge has remained a chimera.

Meanwhile, in a long span of the last 7 years, the West Bengal state government had rolled out a number of interim, yet nominal increases in wages in a unilateral, arbitrary and discriminating way. Measuring out such a minimal placatory relief has actually paved the way to a disorderly state of affairs. In absence of a scheduled revision of salaries, the staff and sub-staff employees have been losing a substantial portion of their pay packet as their monthly increment of salary is stalled.



In view of this stand-off situation necessitated by the stubbornness of the employers, at the behest of the Labour department, both the Joint Forum of almost all the operating tea unions and the Joint Committee of the staff and sub-staff associations had agreed to arrive at a temporary truce for a substantial raise in wages and salaries, subject to a firm commitment of implementing MW within a stipulated short timeline. The parleys continued even during two recently concluded tripartite meetings at Siliguri in February and June last. At the 2nd June meeting, the state labour secretary had promised to settle the issue within the next 10 days during the forthcoming tripartite meeting in the very presence of the honourable Labour Minister of West Bengal.

Like a bolt from the blue, the Honourable Chief minister of West Bengal Smt. Mamata Banerjee, notwithstanding the ongoing 3-pronged negotiations, ordained a flat 15% hike in both wages and salaries on 9 June while participating in a TMC organized tribal mass-marriage programme in one of the Dooars tea gardens. A hasty notification to this end was issued by the labour secretary on 14 June. Such abrupt declaration at once derailed

the formal negotiations regarding fixation of MW for the 4.5 lakh tea workers of Terai-Dooars-Darjeeling hills of North Bengal as well as demeaned the labour directorate in violation of established norms. The tea workers took it as an assault on their dignity and rights. Even the 18-rounds of meeting of MWAC and 4-rounds of meeting of the sub-committee formed thereafter to the purported purpose of expediting the promulgation of MW suddenly came to naught.

This most recent notification along with the earlier notifications on interim wage increases failed to enhance the other linked corresponding component of wages and salaries like Extra Leaf Price (ELP), Additional Compensation of payoff posts, rates of yearly increment along with Basic Pay, finalization of identical retirement age of 60 years etc.

Quite understandably, this most recent notification has sent out a negative impulse

among all sections of the tea workers. The Joint Committee immediately gave a call of striking work for an indefinite period demanding resumption of the disrupted tripartite from 4 July onwards. Seeing red the labour commissioner of the state urged the Additional Labour Commissioner posted in North Bengal to restrain the staff and sub-staff of the industry during this high plucking season. Failing in this placatory effort to convince the roiled workmen, the Labour Minister has made his department fix the next tripartite in his presence on the 4th itself.

The stage for the battle is now all set. It may prove decisive to break the resistance of both the capitulating labour ministry and the notorious employers in accepting the MW wage and the salary structure to be implemented in line with Tamil Nadu, Karnataka and Kerala. ■

Soldiers as Job Seekers: The Agnipath Scheme and its Discontents

★ Akash Bhattacharya

An Ad-hoc Army

In a leaflet written in the middle of March 1917, Lenin summed up how the February Revolution had come about:

The insurgent workers were joined by most of the men of the Petrograd and Moscow garrisons. The workers and peasants in soldier's uniform extended a hand of brotherhood to the workers and peasants not in uniform. The honest-minded part of the officer corps joined the revolution. Officers who tried to go against the people were shot down by the soldiers¹

Armies are usually laden with workers and peasants in uniform, who also wear a powerful military identity. However, there are times in history when the drudgery of ruling class wars diminishes this

seemingly overwhelming military identity and enables organic class solidarities to emerge. India stands at a juncture when the endless expansion of neoliberal policies could possibly create the conditions for soldiers to feel more like ad-hoc workers in a private company. The Agnipath scheme looks like a step in that direction.

The scheme completely transforms the previous pattern of recruitment to the soldier rank. Once selected, the recruits will go through training for six months and will then be deployed for three-and-a-half years. Whereas earlier they were deployed for a minimum of 15 years, now they will be deployed effectively only for 4 years. After 4 years, only 25% of the recruits will be taken in as permanent recruits and the rest will be discharged.

[1] Vladimir Lenin, "To Our Comrades in War Prisoners' Camp", March 1917. Accessed at: <https://www.marxists.org/archive/lenin/works/1917/mar/15.htm>.





During this period of 4 years, the Agniveers, as the government calls them, will get a starting salary of Rs 30,000, along with additional benefits which will go up to Rs 40,000 by the end of the four-year service. 30 percent of their salary will be set aside under a Seva Nidhi (Welfare Fund) programme, and the government will contribute an equal amount every month, and it will accrue interest. At the end of the four-year period, each soldier will get Rs 11.71 lakh as a lump sum amount, which will be tax-free. They will also get a Rs 48-lakh life insurance cover for four years. In case of death, the pay-out will be over Rs 1 crore, including pay for the unserved tenure.

However, they will neither get a lifelong pension or any regular benefits after being discharged. Unlike the previous system, their families will not get lifelong benefits in the case of their death during the four years of service. For those who are re-selected, the initial four-year period will not be considered for retirement benefits.

The scheme has been marketed on the ground that

during the four years of service, the salary will be higher than under the previous employment model, and that the recruits will be allowed to study through distance learning or in Universities during their period of service. They will also be allowed to avail of education loans. 10% of seats in the Central Armed Police Forces (CAPF) and Assam Rifles will be reserved for those discharged after 4 years.

Notwithstanding these assurances, the protests have continued because at a fundamental level, the scheme brings with it a huge amount of precarity, uncertainty, and a non-existent kitty of lifelong perks and benefits that earlier came with the soldiers' high-risk job. And that is an inescapable part of the scheme, since reducing the expenditure in salaries and pensions is a key reason

behind its promulgation.

Neo-Liberalism and the Army

Activist and author Shivsundar sums up the cost-cutting motive behind this move in the following words:

Thanks to the neo-liberal fiscal conservatism driving official policy, the government is desperate to reduce expenditure on salary and pensions. In the defence budget of nearly Rs 5 lakh crore, more than 2.6 lakh crore is spent on salary and pensions. The Fiscal Responsibility and Budget Management Act (FRBM), 2003, enacted to show India's creditworthiness to global investors, mandates the Union and state governments to adhere to fiscal discipline by bringing the revenue deficit down to zero, and hold the fiscal deficit at 3% of GDP. In practical terms, this means that the government must cut revenue expenditure and increase revenues to finance pro-capital reforms and

spend on infrastructure required by global capital.²

The scheme reduces the soldier's job to that of an ad-hoc worker at one stroke, of course not without some perks which an informal sector worker can only dream of. The perks are however minimal, especially when set against the aspirations that prod young people towards a career as a soldier despite the risks involved.

Over the last decade, neoliberal employment policies – contractualisation, fixed-term employment, withdrawal of social benefits – have been implemented in all sectors. Government recruitment too has increasingly become contractual, tentative and without pension benefits. Currently only around than 10% of the workforce is formal.³ The Agniveers – first as soldiers under the recently expanded “fixed term employment” and later as workers under various kinds of contract, will swell the ranks of the 90 percent.

Pre-covid estimates for 2018 indicate that 80% of India's 461 million workers, or 369 million of them, are in the informal sector – an overwhelming number among them being Dalit Bahujan and Muslim.⁴ Even within the formal sector, several workers are employed as informal workers, as casual labour. That number has increased following the pandemic and has been legitimized by the new labour codes.

For most of the informal-sector workers, living and working conditions are very poor. Domestic and workspaces often converge into one. Unlike the formal sector, there is no regulation of wages, living conditions, working hours, and other social security nets. Due to their paltry wages, occupational multiplicity is the only way many workers can make ends meet. The state institutions are apathetic towards them; and this apathy is rooted in the lack of dignity given to workers.

The prospective Agniveers come from a milieu where work in the informal sector is the primary alternative to the army. When army recruitment is reduced to precarious short-term work, the anger of the youth is unlikely to die down quickly.

The protestors have received support from civilian as well as army quarters. Several additional concerns have been cited by former armed personnel and political leaders. Undervaluation of soldiers, who were being paid lower than the average civil servants even under the previous recruitment scheme, has been brought up as an issue. Questions have also been raised about the threat to national security, if the army is made up of soldiers who will have little incentive for risking their lives.

For the sake of the job-seeking soldiers, perhaps all kinds of solidarity are welcome right now. At the same time, it must be pointed out that not many people are raising voices against the long-term trajectories towards neoliberalism in the defence sector. Not many military personnel and politicians seemed to have a problem with the shift to 100% Foreign Direct Investment (FDI) in army equipment manufacturing. This step, taken in 2014, was a major one towards privatizing defence equipment manufactures. The current move needs to be understood in continuum with this policy.

Reshaping the National Security Debate

There is a need for the progressive, democratic forces to step into the ongoing movement against the Agnipath scheme in even larger numbers. The fight against neoliberalism as well as against the Hindutva machinations could be expanded along several directions in the course of this movement.

If the 100% FDI policy enabled private players into arms manufacturing, the Agnipath scheme could now pave the way for Private Military Contractors

[2] Shivasundar, “Agnipath is a Marketing Trick in Which Job Destruction is Being Sold as Job Creation”, *The Wire*, 19 June 2022. Accessed at: <https://thewire.in/government/agnipath-scheme-job-destruction-creation-modi-government>.

[3] Staff Reporter, “Formal jobs on the up, stands at 9.98% in 2017-18: Economic Survey 2019-20”, *The Economic Times*, 31 January 2020. Accessed at: https://economictimes.indiatimes.com/small-biz/sme-sector/formal-jobs-on-the-up-stands-at-9-98-in-2017-18-economic-survey-2019-20/articleshow/73802278.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

[4] Jenny Sulfath and Balu Sunilraj, “Covid-19 Crisis: An Indictment of India's Informal Economy”, Centre for Sustainable Living, Azim Premji University, February 10, 2021. Accessed at: <https://cse.azimpremjiversity.edu.in/publications/covid-19-crisis-an-indictment-of-indias-informal-economy/>

(PMCs) to operate in the defence sector. Rahul Bedi rightly points out that the Agniveers' youthfulness and accompanying vigour would be employable assets for PMCs.⁵

According to Dr Sean McFate, one of the world's leading experts in the United States of America on soldiers of fortune and PMCs, mercenaries are here to stay, possibly increasing. Contracting had become a new American way of war, he stated, and trends indicate that the US could outsource 80 to 90% of its future wars to PMCs whose personnel largely come from national military forces. This pattern, Bedi suggests is likely to be copied across the world, especially in the US-admiring India.⁶

Worryingly, Indian military officers themselves seem to privately admit that Agniveers were "ideally suited" for such employment, as their training and deployment – especially in the Army – would be across terrain which offers diversity like nowhere else. This includes the upper Himalayan reaches, the Rajasthan desert, the flat Punjab plains, and the swampy jungles in the northeast.⁷

And of course, there is a genuine fear of Rastriya Swayamsevak Sangh (RSS) influencing military recruitment during the filtering out process after four years. They have been looking for all kinds of ways to infiltrate into public institutions and capture them fully. A pro-Hindutva rank and file will certainly aid their political project of making India a Hindu Rashtra. At the same time, the discharged soldiers could come of use to them as well.

Concerned citizens have also pointed out that the trained and discharged Agniveers could become a menace to society. The menace is not a general one. In times when the authoritarian populist Hindutva forces are increasingly operating through a "militant fringe", discharged Agniveers would be the ideal recruits to the Hindutva brigade. Unemployed, militarily trained working-class youth could thus become cannon fodders in communal and upper caste militias.

The debate on national security continues to be

lopsided, with a focus on the territorial frontiers of the nation state. A large chunk of the army and paramilitary forces are deployed against our own people – in areas such as Kashmir and the Northeast, against "internal security threats" in "Naxal" areas, and others. Private security agencies are on the rise, and they are often deployed by corporate agencies to safeguard grabbed and occupied land.

Will trained Agniveers be recruited for these roles? Will the Agnipath scheme pave the way for similar recruitment patterns across the paramilitary forces? Will private capitalist armies rise to a position of strength? These questions are not far-fetched. These questions are already being posed as part of the ongoing campaigns but perhaps more needs to be done to highlight the likely outcomes of the Agnipath scheme.

In today's militarized political discourse, the hyper-masculine jawan is a figure of valour. For a change, and for the first time in the memory of our generation, the jawan is appearing in public as a worker and a job seeker. The nature and role of the army in a democracy has also become a matter of public debate.

The protests against the scheme seem to offer an opportunity to create a groundswell against the exploitative and precarious employment regimes perpetrated by neoliberal states and markets, and against hyper-masculine and militarized social and cultural set-ups. While several movements have been going on for farmers' and workers' rights, against economic inequality and corporate rule, for depolarizing society and de-escalating hatred and aggression, there is still some way to go before these can decisively shape mainstream politics. The protests against the Agnipath scheme, happening even in areas where the ruling party has got many votes, could be an important moment in this process.



[5] Rahul Bedi, "Here's What's Likely to Happen to Indian Army's Discharged Agniveers", *The Wire*, 11 June 2022. Accessed at: <https://thewire.in/security/agniveer-tour-of-duty-unemployment>.

[6] Ibid.

[7] Ibid.

The Struggle of Daily Wage Workers For Regularisation in NEHU, Shillong

★ NEPOLEON S MAWPHNIANG

Around 504 casual workers of North Eastern Hill University, of both Shillong and Tura campuses, have begun their struggle for regularisation and to guarantee other rights of workers under the banner of All NEHU Workers Union (ANWU). They formed their union on 29th April this year, after being denied of their right to secure a permanent position in the University.

The casual workers form the bedstone of functioning of the University. They are entrusted with multiple jobs at different places and departments of the University - from the VC Office to the Examination block to the Central Library. Despite the fact that they have been working in the university for more than a decade now and provide the most basic services, the University administration has been conveniently denying to implement their legal rights. They continue to work under the threat of being terminated every day. To fight back the present situation, the workers formed their union and started the struggle.

The Union of the workers have submitted their Charter of Demand to the Office of the Vice Chancellor, Prof Prabha Shankar Shukla. Their demands are as following-

1. Regularise all casual/daily wage workers.
2. Fulfill all legal entitlements such as PF, overtime, gratuity, ESI, accident compensation, compassionate employment schemes, etc.
3. The workers are presently being paid less than minimum wages. However, their wages are not according to latest minimum wage rate declared by the government. The minimum wage must be paid along with pending arrears.
4. As the nature of jobs remain same as the regular workers, the Equal Pay for Equal work provision must be implemented.
5. Immediate implementation of mandatory social security mechanisms such as Creche, Day Care Centre facilities and constitution and notification of an Internal Complaints Committee as stipulated



by the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013.

6. Increase the workforce of the university. The casual workers are overburdened with work as the University has not employed new workers for several years now. The union has demanded that all workers who have been illegally retrenched in last few years must be re-employed.

The Union had given a 30 days' notice to the administration to respond.

Getting no response from the administration, the union started its peaceful protest at the VC office of NEHU from 1st June, 2022. The demonstration and hunger strike demanding implementation of the rights of workers continued till 15th June. Forced by the consistent struggle of the workers, the University administration has formed a committee to start negotiation with the workers on 15th June.

While the agitation of the workers has forced the administration to start the process of negotiation, the Union will resume the protest if the legitimate demand of the workers are not met.

It is, indeed, a shame that the casual workers are being illegally forced to work without any regularization despite more than 621 non-teaching posts are lying vacant in the university. The Union of the workers have raised their demand with the Union Education Minister Dharmendra Pradhan and the Governor of Meghalaya. Yet, the workers are services are not being regularised. The struggle of the workers shall continue till achieving their legal right of regularization of services. ■



US Starbucks Workers' Unionizing: A Working-Class and an Anti-Capitalist Struggle

★ SURYA



Tyler Daguerre is a 26-year-old area organizer and barista in Boston. His Starbucks store became one of the first two stores to win their union election in Massachusetts. He serves on the organizing committee for his store as well as is involved at the regional and national level in the Starbucks workers' movement. He focuses mostly on unfair labor practices, outreach, and community solidarity-building.

1. What interested you to become a barista? How long have you worked for Starbucks?

Tyler Daguerre: I had worked at Whole Foods, which is part of Amazon now, for three months at a Cafe before Jeff Bezos bought it. When I came to Boston to go to law school, I knew that I had to supplement my income to make ends meet and

save some money. I love coffee and, I thought, Starbucks is a reputable company that tends to treat their workers well from what I understood. So, I applied and got hired.

2. In the US, there are 15, 444 stores out of which 8,900 are owned and operated by Starbucks. What are the working conditions? What the key motivations of Starbucks workers in organizing a union?

Tyler Daguerre: I will speak for the 9000 company stores because I can't fully speak for the experience of a franchise store. Collectively what the movement tends to stand for is democracy in the workplace, then, of course the obvious being able to have a living wage, good benefits,

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without any sort of requirements for minimum hours worked and also prevent our employer from terminating us. We do not want to be inundated and stressed out on the floor. We are fighting for more benefits and material support for our well-being.

3. Have there be some incidents that exemplify some of these working conditions?

Tyler Daguerre: Recently, store employees went on strike for a day because there was a massive leak in the roof that was producing dirty water, whose source was unknown. They were told to continue to work during the incident and they would not be receiving hazard pay. Within less than 24 hours of the leak, the workers went on a strike. This shows how Starbucks is willing to put profits over the safety of its workers.

4. Our understanding is that the US Starbucks workers are being organized by store and/or district? How did you and the other workers' start to organize Starbucks workers?

Tyler Daguerre: Right, every Starbucks store votes for its own union at this point. As we were one of the first stores to unionize in Massachusetts, other store employees started to contact us. We got involved in regional organizing and are now also coordinating at the national level. We are working with Workers' United, which is affiliated with Service Employees International Union (SEIU) and is facilitating this campaign. At this time, 17 stores have petitioned to unionize, and 12 stores have unionized in Massachusetts. In the US, it is estimated that 350 stores have petitioned out of which 140 stores have unionized. Each Starbucks store has between 15 to 20 employees. We are aiming for 1000 stores to petition by September, 2022.

5. How many of the Starbucks franchise stores have been unionized?

Tyler Daguerre: Almost all of the stores that have formally unionized in the United States are company owned stores. As far as franchise stores are concerned, historically, United Food and Commercial Workers International Union (UFCW) has organized franchise stores. At this

time, this movement is company store focused.

6. What has been the role of social media in the organizing? Have you been using TikTok, Facebook, Twitter etc. like Amazon Labor Union organizers? What tactics have worked on social media?

Tyler Daguerre: In Massachusetts, we have mostly relied on Twitter and Instagram. Nationally, they have heavily utilized Tick Tock, Instagram and Twitter.

One trend on Twitter that was popular was workers would use the hashtag #WhyWeOrganize and then explain their personal story for what issues they are fighting against and it became very popular. Another tactic is around sharing facts and making jokes out of the Union busting tactics that Starbucks uses. These play very well with a younger audience. Also, showing rallies and strikes are good on Instagram or Twitter. #WhyWeOrganize hashtag was very successful because it was people telling their real stories. Tick Tock has been used in a more lighthearted way.

Our collaborations with digital media outlets have been very successful. There are very prominent storytellers of unionization efforts across the country and they have had a pretty close relationship with our campaign. They have done a lot of short interviews and testimonials that I know have gotten a lot of publicity such as in the MorePerfectUnion campaign.

The idea that coffee workers of the rank and file are coming together and getting big victories against the multinational corporation - I think that gives people hope.

7. What have been the challenges in organizing the union? What is the status of fired pro-union Starbucks workers? Are they firing workers after they have been unionized?

Tyler Daguerre: One of the main challenges that we have had is figuring out how to educate and reach workers before the misinformation campaigns begin to hit their stores. Starbucks has been unrelenting in trying to convince workers that the union is a third party and that they are coming to take your dues money. They are going to interfere with the good relationship that you

have with your manager.

We are also trying to avoid burnout and exhaustion amongst rank-and-file driven unionization campaign, as a lot of us are working full time while also being very active in organizing for the unionization campaign.

We are also dealing with firing of workers such as in Memphis. Starbucks has terminated more than 20 organizers nationally. Out of all the workers who have been formally fired, there have been many other workers who have been terminated or forced to leave. Recent labor shortages, which results in being overworked and understaffed, eventually, pushes workers out, especially when they are trying to make enough money to pay rent and eat.

Legally, one cannot fire an employee as they are protected by the National Labor Relations Act. The National Labor Relations Board (NLRB) has, I believe, issued more than 200 charges of federal labor law violations against Starbucks.

8. Regarding the 140 stores that have been unionized, what is the status in terms of negotiations?

Tyler Daguerre: Starbucks corporate is playing tricks. Historically, collective bargaining takes a year or more. They are trying to negotiate one contract per store to stall negotiations. We have setup regional collective bargaining committees and national collective bargaining committees to discuss creating a sort of national or regional templates. We might try to negotiate fewer contracts so it takes less time.

9. What kind of solidarity have you received from other workers? What reciprocal solidarity have the unionized Starbucks workers shown towards workers around the world, including from low-income countries?

Tyler Daguerre: We have received such a significant outpouring of support nationally. We have received solidarity from labor councils to other trade unions. Various labor working groups, customers and politicians have been very supportive. It has been young and longtime workers who have teamed up with longtime

organizers. We have had politicians speaking out and supportive of us like Bernie Sanders, Alexandria Ocasio Cortez, etc. and the Democratic Socialists of America.

What has been even more impressive has been the outpouring of love and support from workers like Chris Smalls, the President of the Amazon Labor Union. For example, recently Chris Smalls was in Cleveland and he stopped by at an organizing Starbucks store because he heard that Cleveland was facing difficulties in organizing.

As of now, Starbucks Workers United has not been able to show the same amount of solidarity and support that others have shown for us. This is such a new campaign and where we are focused on a lot of organizing ourselves. I think that it is incredibly important and pivotal to return that love and solidarity. There should be conversations on not only how we can support workers nationally, but internationally.

Our struggle is not just a working-class struggle but also an anti-capitalist struggle, an anti-imperialist struggle, it is an anti-oppression struggle that needs to expand.

10. Starbucks is the world's largest coffeehouse chain with more than 33 thousand stores in 80 countries. Are there any efforts outside the US to organize Starbucks workers?

Tyler Daguerre: There has been organizing in Chile for Starbucks workers and there is support internationally from some labor unions. Workers in Canada have moved to organize currently in Victoria and/or Vancouver. There has been interest in organizing in Latin America and there have been demonstrations in South Korea.

When our union gets our contract, we are looking forward to focusing on not only the international struggle of baristas but also how we get our coffee. We rely on workers in Latin America, Asia and Africa who are being exploited as well. This is an internationalist struggle, and it will be important to support farm workers in the global coffee supply chain that Starbucks controls. ■

Railway Workers in the UK Organize Historic Three-Day National Strike

★ V ARUN KUMAR



Thousands of railway workers in the United Kingdom embarked on a historic national strike on June 21, 23 and 25 against the attempts by Network Rail (that operates and develops most of Britain's railway infrastructure) and train operating companies to cut thousands of jobs. The strike, which was organized under the banner of National Union of Rail, Maritime and Transport Workers (RMT) was the biggest rail strike in last 30 years. The union and railway workers are also demanding pay rise, social security and better working conditions as the inflation figures in the Britain reached close to 9 percent in April 2022, marking a 40-year high. As prices of food and other household items are increasing rapidly, the RMT is demanding a minimum of 7 percent pay rise and a complete stop on all job cuts by the companies.

“Railway workers have been treated appallingly and despite our best efforts in negotiations, the rail industry with the support of the government has failed to take their concerns seriously. Our union will now embark on a sustained campaign of industrial action which will shut down the railway system. Rail companies are making at least £500 million a year as profits, whilst fat cat rail bosses have been paid millions during the

Covid-19 pandemic,” RMT general secretary Mick Lynch said in a statement.

Meanwhile, the Boris Johnson government has shown no desire to negotiate or to concede the railway worker's demands and instead, they have stubbornly refused to compromise.

The workers of the London Underground (subway metro system), also under the banner RMT, joined the strike on June 21 with similar demands. More than 4000 workers of London Underground had embarked on a strike action previously on June 5 against the pay stagnation and job cuts by the company.

More unions, like that of postal workers and employees from transport and travel industries are also preparing for possible strike actions as the government and industries are planning to trample down the rights of working class under the veil of 'Covid losses'.

The historic strike of the National Union of Railwaymen worker way back in 1989 that achieved 8.8% pay raise for railway workers continue to be the source of inspiration of the successful strike of 2022. ■

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Solidarity Letter from IREF to RMT

28 June 2022

Indian Railway Employees Federation (IREF) affiliated to All Indian Central Council of Trade Unions (AICCTU) congratulates National Union of Rail, Maritime and Transport Workers (RMT) and the railway workers of the United Kingdom for the successful three-day national strike.

Under the drupe of 'loss of profit,' globally we are witnessing a trend of passing the burden on the working class with wage cuts and stagnation, dismantling of social security policies and mass scale retrenchment.

Since 2014 we have been facing the disastrous far-right Narendra Modi regime in India. With every passing day, the government has been implementing anti-labor policies in the name of 'ease-of-doing-business.' We are witnessing large scale privatization of railways, including selling of railway stations, production units and the rail network to private corporates. Majority of jobs are being converted into contractual/casual positions, leaving workers without any social security and

proper wages. During the outbreaks of COVID-19 pandemic, the Modi government has aggressively moved ahead with the implementation of anti-worker 'labor codes', which will wreck disaster for working class in India creating a situation of bonded labor.

Amid the onslaught, we are fighting back attempts to trample the rights of the working class. The success of national strike in the UK, the largest in the recent history, is an inspiration for millions of workers including rail-workers and toiling masses across the world and in India, who are facing increasing neoliberal onslaught amid the COVID-19 pandemic.

IREF being the youngest federation in Indian Railways representing the aspirations of more than hundred-thousands of railways' workers reiterates it's solidarity with the the working class of Britain for successfully demonstrating the strength and resilience of their unity. At a time when the railway workers in India are facing unprecedented attacks by the right-wing, pro-corporate, communal government; your strike gives us another reason and a bright ray of hope to intensify our struggles. ■

Labour Laws: What about IT?

★ AVANI CHOKSHI

The Principal Labour Court, Chennai recently awarded reinstatement with full backwages to Mr. Thirumalai Selvan, an employee of TCS, and in a seven-year legal battle. The case must be seen as an important victory for this section of workers. It is one among a large number of similar cases, where workers employed in the Information Technology/Information Technology enabled Services ['IT / ITeS'] Sector across the country are seeking their statutory entitlements under the Industrial Disputes Act, 1947, and

The issue of whether IT/ ITeS workers fall within the ambit of existing labour laws has wide ramifications. The answer lies in the laws themselves

and their interpretation by courts of India. The Industrial Disputes Act, 1947, for example, covers disputes relating to workers in industries. The terms 'workman' and 'industry' are both defined in the ID Act itself. To claim her rights under the ID Act, an IT worker would have to show that a) she is a worker and b) her employer company is an industry. The second question is easier to show in respect of an IT establishment. However, the main dispute in most cases remains whether IT employees are workmen as defined in the ID Act.

The ID Act defines workmen as any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work



for hire or reward.. The definition specifically excludes persons employed mainly in a managerial or administrative capacity; and those employed in a supervisory capacity, draws wages exceeding ten thousand rupees per month.

The Supreme Court has interpreted the term workman on a number of occasions. In 1994, the Supreme Court held that to be a workman, a worker would have to not only show that he is not covered by the exceptions, but must also show that he is employed in one of the main categories.¹ Hence, for an IT worker to seek relief under the ID Act, he must show that his work falls within one of the categories mentioned above. In Thirumalai Selvan's case, the Court came to the conclusion that his work was principally skilled and technical work.

In such cases, the primary contention of the management is usually that the employee is not a 'workman' as defined under the Act. They often seek to argue that the nature of duty is supervisory or managerial in nature. However, it is a settled position of law that it is not any incidental work that would be considered to determine whether the employee is a 'workman', but the principal nature of work. Moreover, if he himself were working as part of a team while supervising the others, then his work would not be considered as supervisory in nature. In Thirumalai Selvan's case, the Court held on the basis of the evidence before it that he was leading a team. It was held therefore, that the evidence suggested that "this petitioner is also one among the team, may be, first among the equals". Hence, the court came to the conclusion that he was a "workman" under the ID Act. If so, he was required to be paid compensation prior to retrenchment, which was admittedly not done.

Interestingly, in another recent judgment of the Karnataka High Court, it was also held that IT employees and software engineers would be workmen.² Ironically, the dispute arose out of a tax concession being claimed by the company which was claimable only on new employees who fell within the definition of workmen under the ID Act. Despite

claiming financial concessions for employing these workers under the taxation regime, the companies deny the workmen their entitlements under labour law. The Court, while allowing the appeal and granting the concession to the company, held as follows:

In terms of section 2(s) of the ID Act, the definition of a workman is very wide inasmuch as the said definition would cover any person who has the technical knowledge, self skilled in an industry. It cannot be disputed that the Assessee's business is an industry. It also cannot be disputed that the employees of the Assessee are technical persons skilled in software development and, as such, engaged by the Assessee to render services in the industry being run by the Assessee. Thus the software engineer would also come within the purview and ambit of workman under Section 2(s) of the ID Act so long as such a person does not take a supervisory role..

Importantly, the Court went on to hold as follows:

"In our considered view, the concept of the workman has undergone a drastic change and is no longer restricted to a blue collared person but even extends to white-collared person. A couple of decades ago, an industry would have meant only a factory, but today industry includes software and hardware industry, popularly known as the Information technology industry.

This finding is of extreme relevance to IT/ ITeS workers, in view of the feudal understanding of 'workman' often held by courts. Several courts are swayed by the fact the IT workers earn in lakhs each month, and believe that such employees could not be considered as workmen. Such an understanding is deeply flawed and contrary to law. There is no salary ceiling in the law for inclusion as a workman. In fact, the Supreme Court in 2011 held that the quantum of pay would be irrelevant to decide whether or not a person is a 'workman' under the ID Act.³

Despite the fact that in law, an IT/ITeS employee would be a workman entitled to benefits under labour laws unless he is employed mainly in a

[1] H.R. Adyanthaya v. Sandoz (India) Ltd., AIR1994 SC 2608,

[2] Commissioner of Income Tax v. Texas Instruments India Pvt Ltd (I.T.A No 141 of 2020 c/w I.T.A No 151 of 2020

[3] Devinder Singh v. Municipal Council, Sanaur, AIR2011SC 2532

supervisory, administrative or managerial role, this is not a commonly accepted fact among IT/ITeS workers. There is a myth that the employees are governed solely by the contract and terms of appointment between the management and them. However, this is not true, and workmen are entitled to various benefits, including among many others, the following:

- 'First come last go' – right of seniors to continue working till all juniors are retrenched.
- Right to compensation and notice before retrenchment
- Right against forcible resignation, which would amount to retrenchment
- Right to closure notice and compensation
- Right to protection during the pendency of cases
- Right to claim amounts due from the management
- Right to Unionise and right to protection against victimisation for unionisation
- Right to collective bargaining, and seeking industrial adjudication on charter of

demands. It is an unfair labour practice to refuse to collectively bargain with a recognized trade union.

These rights are usually not exercised by IT employees, who are often not even aware of these entitlements.

In the corporate model, though IT employees may have high salaries, their rights are routinely violated through hire and fire policies, forced resignation, PIPs and other modes of victimisation of outspoken employees. The new Labour Codes that are being pushed through by the Union Government will also have a substantial impact on IT employees through the formal sanction of hire and fire policies in the form of Fixed Term Employment. With the development of new forms of labour, a legal struggle will also have to be undergone to ensure that all workers have comprehensive coverage under labour legislations. IT/ITeS employees must also be part of the larger battle against the Labour Codes while claiming their own statutory entitlements. In order to secure their rights, IT/ITeS workers must recognize that their interests are best protected by collectivization. ■

Campaign against Outsourcing of 64 Ticket Booking Counters in West Bengal

★ NN BANERJEE

A mass campaign including protest demonstrations against outsourcing of 64 Ticket Booking Counters over Kharagpur Division of South Eastern Railway was launched by South Eastern Railway Mazdoor Union (SERMZU, affiliated to IREF and AICCTU) from 11th to 25th June, 2022.

A tender for handing over 64 Ticket Booking Counters to Private agents over Kharagpur Division in South Eastern Railway was floated on 20.4.2022 as per the Railway Board's guidelines. This was done with the ulterior motive of privatising the whole commercial activities of Railways - right from ticket reservation to small parcels/luggage booking-

through IRCTC as it was done in catering services. This unwarranted move has been implemented with the sole motive of facilitating profit seeking by private companies at the cost of permanent and dignified jobs in the railways. Practically this scheme is intended to finish off Railway's social service obligations maintained so far.

When the affiliated unions of recognised federations like NFIR/ AIRF were silent on this issue of outsourcing, SERMZU took up the issue seriously and started a campaign from station to station and exposed the larger conspiracy. Thousands of leaflets were distributed, exposing and explaining the implications and adverse impact on Rail-workers





and the travelling public. Along with this, a Mass Signature Campaign enlisting 2,015 signatures from the employees and Rail-Users were also organised during the period. The Campaign started on 11th June at Andul Station through a meeting addressed to the employees and the travelling public. The mass signature campaign and leafleting received a tremendous response from the employees and the people. A mass meeting was held at Midnapur Station premises where district AICCTU leaders along with a large number of municipal workers participated. The campaign was organised at 25 stations, which ended in a Mass gathering on 25th June at Santragachi with a participation of a good number of running and commercial staff as well as contract workers of the Railways. The next day signatures collected from different stations were submitted to the DRM, Kharagpur.

Huge Job Creation through Outsourcing/ Contractualisation is a Myth

Initially, the Railways started outsourcing of perennial jobs, not directly linked with train operations, such as cleaning, house-keeping, maintenance of CCTV Cameras, display board, etc, terming them non-core activities. Now, core activities like ticket/reservation booking, electrical & mechanical maintenance work connected to running of train are being outsourced. Consequently, 50% of

existing vacancies are surrendered by the Railway Ministry with an abolition of 80,000 posts in 2020-22. To justify such random outsourcing, the Modi government, through its well-oiled propaganda machinery, is constructing a myth that huge jobs will be created in Railways. Let us check the veracity of their claims through the present case in hand. Contractualisation of Station Booking Agent (STBA) for selling unreserved tickets is sure to reduce the scope of employment. In place of 200 posts of commercial clerks, termed as 'surplus', a small number of contract employees will be recruited with 12 hour work and with 6,000 to 8,000 monthly pay. Let alone the question of providing social security like PF, ESI, etc.

Adverse impact of Outsourcing on Permanent Staff

This scheme, if implemented, will render about 200 Posts of Commercial Clerks in the division as surplus and only 10% of this surplus can be suitably redeployed in ticket checking branch. The future of the rest is quite uncertain, so much so that they may be asked to opt for retirement without extra benefits. It is also apprehended that such surplus staff are likely to be transferred to other divisions situated in other states, unsettling their family life and forcing them to apply for voluntary retirement.

Passengers – Perennial Victim of Irregular & Inefficient Service

Since the outsourced Ticket Booking Counters will be operated by inept persons having no formal training prescribed by the Railway Board, the intending passengers are likely to be subjected to different degrees of harassment such as closure of many ticket booking counters.

South Eastern Railway Mazdoor Union is determined for a bigger fight against such disastrous scheme, mobilising workers of other departments and Railway contract workers in co-ordination with AICCTU. ■

Mid-day Meal Workers Hold Demonstration in Kolkata Demanding Rights

Hundreds of mid-day meal workers held demonstration under Paschim Banga Sangrami Randhankarmi Union and Nadia Jela Sangrami Mid-day Meal Union, both affiliated to AICCTU, at Dharamtala in Kolkata on 7 and 8 June against the continued neglect of their demands by the state government. More than 500 workers participated in the demonstration.

The protest demanded increase in honorarium, recognition of workers' rights, legal minimum wages for the entire year and guarantee of social security for the workers.

Amidst the scorching heat of the summer, workers from different districts of the state assembled at Kolkata. Leaders of both the unions Mina Paul, Jayashree Das, Krishna Gopal Das and China Shaikh addressed the protesters. They expressed the anger and resentment of the mid-day meal workers of the state and stated that the West Bengal is one of the states where the situation of scheme workers is the worst in the country. The government of West

Bengal is completely shying away from fulfilling its duty of ensuring basic minimum rights of the scheme workers. The honorarium for the scheme workers has not been increased for the last ten years. The workers have been raising their voice for long but the government has been humiliating them by completely ignoring their demands.

Leaders of several other unions also participated in the protest and expressed their solidarity with the movement. Madhumita Chatterjee from CITU, Prabir Mishra from Swaraj India, Shyamal Ram from AIUTUC and Anuradha Deb from PDS movement spoke in the protest. AICCTU leaders Atanu Chakrabarty and Nabendu Dasgupta also addressed.

AICCTU submitted a memorandum with 20,000 signatures of mid-day meal workers to the secretary of the education minister. It is a gross violation of labour rights by the ministry to deny hike in the honorarium of the workers for so long. AICCTU is resolute in intensifying the struggle for the rights of mid-day meal workers. ■

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Criminal Procedure (Identification) Act: An Attack on Individual Rights, Liberty and Privacy

★ RADHIKA KRISHNAN

In early April this year, the Criminal Procedure (Identification) Bill was passed by both houses of the parliament and has subsequently become a piece of law that will be enforced. This Act, which we will refer to as CPIA in this article, is the latest in a long list of draconian legislations designed to allow the state to target and surveil citizens. The provisions of this Act are an attack on individual privacy, on the right to a dignified existence, and on the right to not be discriminated. The CPIA is a modification, and

one could argue an extension in scope and range, of the colonial era Identification of Prisoners' Act 1920. It allows authorities to collect, store and analyse biometric, biological and personal data of anyone who is arrested. It also allows such data to be collected from a person against whom there is a presumption that they may commit a criminal act in future. Therefore, the CPIA is designed not just to help authorities with current investigations, but also to build a system of criminal profiling. This means

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that a wide variety of personal data – fingerprints, footprints, signatures, handwriting samples, blood, semen, hair samples and swabs – can now be routinely and legally collected, stored and used by authorities.

Attack on Individual Rights, Liberty and Privacy

The CPIA poses several challenges to rights and liberty provided by and defended by the Indian constitution. To begin with, the constitution provides an individual the right against self-incrimination. In other words, it is a key judicial principle in the Indian legal framework that no individual should be forced to be a witness against themselves, no one should be coerced to provide evidence against themselves. The CPIA violates this constitutionally protected right. The CPIA severely curtails the right of an individual, who is arrested, to refuse to handover the personal data to the authorities; barring certain exceptions, this refusal is deemed as a criminal offence in itself. The Act essentially states that authorities will not face any consequences when they resort to any action to collect personal data, and therefore coercive, and previously suspect actions by authorities now have the backing of the law. Moreover, no reasons have to be stated before an order to collect biological and biometric samples is passed. For example, if a person participates in a protest and is arrested for doing so (an unfortunately routine occurrence these days), their DNA samples can be collected, stored and used for analysis as well as future targeting without any specific rationale being offered to justify the collection of samples. In fact, if a Magistrate deems it appropriate, data can be collected from any person, even if not arrested, if it “helps” an ongoing investigation.

The nature of samples that can be collected under the ambit of this Act makes this legislation particularly dangerous. This Act was introduced to expand the scope of its predecessor, the Identification of Prisoners’ Act, 1920. CPIA keeps the definition of “biological samples” vague, and therefore, the Act could also open up the doors to legalization of coercive narco analysis and brain mapping. These procedures, questionable and dubious as they are, have correctly been critiqued the world over for their lack of accuracy and for the damage they can cause to the very idea of evidence and a fair trial. And

now, the CPIA, without saying so explicitly, allows for such data to enter the investigative procedures followed in the country.

The right to privacy, another constitutionally protected right, is also under attack from the CPIA. The Act allows personal data collected under its ambit to be stored in the archive of the National Crime Records Bureau for 75 years. Given the fact that India does not have a strong data protection framework in place (the Data Protection Bill in its current format has several loopholes, and even if passed is not a robust guarantor of individual privacy), this opens up the space for substantial sharing and misuse of personal data by a variety of state and even non-state actors. The CPIA does not really provide a substantial and effective “right to be forgotten”, even if one were to be fully acquitted and discharged. In other words, authorities could use their “discretionary” powers to not just collect and use all sorts of intrusive personal data from an innocent person, but also to prevent this person from getting this data removed from public databases.

Difference from the 1920 Legislation

In response to the opposition to CPIA, the government has been arguing that the new legislation is merely a necessary modification of the previous 1920 legislation, a modification necessitated by the emergence of new technologies. It is, therefore, necessary to understand the nature of the difference between the two legislations. As the PRS Legislative Research states, CPIA expands “(i) the type of data that may be collected, (ii) persons from whom such data may be collected, and (iii) the authority that may authorise such collection. It also provides for the data to be stored in a central database” (<https://prsindia.org/billtrack/the-criminal-procedure-identification-bill-2022>).

The new CPIA essentially arms the state with more coercive tools to intimidate, harass and punish citizens. It is an assault on individual rights and can also lead to a highly problematic regime of criminal profiling of entire sections of the population – of the poor, of the marginalised, of those deemed by the state to be ‘troublemakers’. ■



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