WORKERS
RESISTANCE

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MASSIVE DEMONSTRATION FOR RIGHTS BY SCHEME WORKERS ON 12 SEPTEMBER IN UTTAR PRADESH

The Government's Lies and Myth-Making at the National Labour Conference

★ ATANU CHAKRABARTY

As the Modi government prepares to implement new labour codes which undermine rights of the working class, it is simultaneously trying to portray itself as the emancipator of workers. In his inaugural address to the National Labour Conference, Prime Minister Modi argued that the new labour codes are designed to deliver workers from "slavery" of the past. According to him, the Centre has taken initiatives to abolish laws dating back to "the period of slavery". These laws, he argued, reflect slavery mentality and therefore needed to be amended. He added further, "the country is now changing, reforming and simplifying such labour laws...which will ensure empowerment of workers through minimum wages, job security, social security and health security".

While the Prime Minister was busy propagating these goebbelsian lies, a report of International Labour Organisation (ILO) titled 'Wage and Minimum Wage in the time of COVID-19' tells us what is really happening on the ground. According to this report, informal workers in India suffered a 22.6 per cent fall in wages, even as formal sector employees had their salary cut by 3.6 per cent on an

average during the pandemic. This report also mentioned that the real wage growth in India was one of the lowest in the Asia Pacific, lower than even Pakistan, Sri Lanka and Vietnam.

In purchasing power parity (PPP) terms, India's average monthly gross wage of $215 was third from the bottom amongst the 30 countries that are part of the Asia Pacific region in 2019, placed just above Bangladesh and the Solomon Islands. The ILO report states that India's wage grew by a paltry 2.8 per cent in 2015, 2.6 per cent in 2016, and 2.5 per cent in 2017 – a gradual fall in two successive years, while it remained flat in 2018. One should note here that the ILO did not put out a number for rate of wage growth for 2019 in India. The ILO report further stated that following years of

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poor inflation adjusted wage growth, India is experiencing a net negative rate of wage growth, as wages fell further in 2020. This, the report points out, will surely impact the process of economic recovery and poverty alleviation efforts in the post-Covid era.

Even when compared to its immediate neighbours such as Pakistan, Sri Lanka, China and Nepal, India's performance in terms of real wage growth was poor. Arup Mitra, Professor of Economics at the Institute of Economic growth, New Delhi pointed out, "the ILO report [considers] the first few months of the lockdown and if it takes the past eight months [into consideration], then the fall of the formal sector salary will be much more than 3.6 per cent". Therefore, Mitra argues that the ILO figures, alarming as they are, are actually a gross undervaluation because millions of jobs were lost and those who did not lose jobs had to face pay cuts. The crisis of real wage growth was silently pushed under the carpet by the powers-that-be to aggressively push for pro-corporate labour reforms.

Even as the real wages of Indian workers are falling, the collective profit of listed companies at the Bombay Stock Exchange (BSE) in 2021-22 soared to 9.3 lakh crores, which is an increase of more than 70 per cent over the previous year and nearly three times more than the average profit earned every year for a decade before the pandemic (between 2010-11 and 2019-20). During the first year of the pandemic (2020-21), the profit of these listed companies had touched a record 5.5 lakh crores, more than double the preceding year. But the profits that accumulated during the second wave of pandemic have surpassed all previous records.

There are a couple of factors behind this exponential rise in profit. According to CMIE, "raw material costs shot up by 40.1 per cent YoY; power and fuel costs were up even higher by 47 per cent, and purchase of goods was up by 30 per cent". Though the operating costs of the companies increased, this did not keep pace with the wage and salary bills. During the pandemic, vast numbers of workers were retrenched and not all were re-inducted. Newer employments are low paid and the number of contractual, informal workers increased substantially. With far less workers and increased workload, the productivity has increased. Tax cuts and other concessions showered on the big corporate houses have further given a fillip to corporate profits. On the other hand, Rs 10.72 lakh crores of NPAs have been written off by public sector banks and out of this, Rs 2.03 lakh crores was written off during the first wave of pandemic.

In his speech to the National Labour Conference, Modi argued that a work from home ecosystem and flexible work hours and systems like flexible workplaces should be considered as opportunities for increasing the participation of women in the labour market. What, however, is the ground reality that Modi tries to conceal? According to data compiled by the World Bank, the proportion of working women in India dropped from 26 per cent to 19 per cent between 2010 and 2020. In India, the female labour force participation fell so steeply that India is now in the same league as war-torn Yemen. Though women in India represent 48 per cent of the population, they contribute only around 17 per cent of the GDP, compared to 40 per cent in China. The Global Gender Gap Index for 2022 was released by the World Economic Forum on 24 August this year, and it ranks India at 135 out of 146 countries. In 2021, India was ranked 140 out of 156 countries.

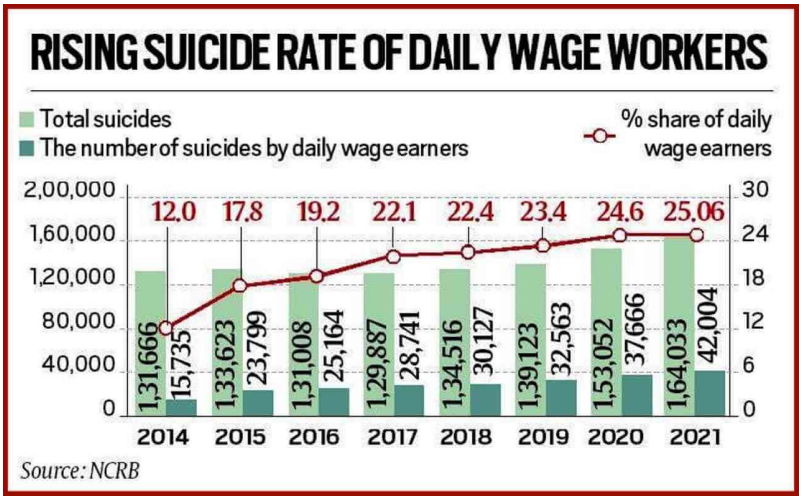
Clearly, despite what Prime Minister Modi tries to propagate, the 'Amrit Kaal' he talks about, is marked by stark inequality and poverty faced by millions of Indians. The Indian economy is heading towards an abyss, even as all democratic institutions have lost their relevance. ■

Increase in Suicide by Daily Wage Workers

A case of institutionalized violence caused by Government's neo-liberal policies

★ MAITREYI KRISHNAN

The latest report by National Crime Records Bureau (NCRB) on Accidental Deaths and Suicides in India –2021 has been made available just a few days back. Hidden among the mass of data and tables and charts is a stark indication about the life – and death – of the daily wage worker. Of the total of 1,64,033 suicides, 42,004 suicides were by daily wage workers - 1 in 4 persons committing suicide are daily wage workers.



What is more alarming is the fact that while the total number of suicides recorded by the NCRB increased from 1,31,666 in 2014 to 1,64,033 – an increase of about 25%, the number of daily wage workers committing suicide increased from 15,735 to 42,204 – an increase of about 168%. This is also clearly visible in the fact that the daily workers committing suicide as a percentage of all suicides increased from 12% in 2014 to 25% in 2021. Between 2020 and 2021, the total number of suicides grew by about 7% while the suicide among daily wage workers increased by 11.5%.

It is also worth noting that a very large number of workers working under insecure conditions are from historically oppressed communities. The Periodic Labour Force Survey for 2018-19 found that the magnitude of informal workers was highest among those from the Dalit Community at about 84 per cent. The working conditions of daily wage workers – lack of job security, lack of wage security, lack of any form of social security and the long and arduous working hours create an environment where they are constantly immersed in economic uncertainty and social support of any kind.

In most cases they are denied even minimum wages and labour laws being constantly and completely violated. Many of them have worked for several decades performing the same work in the same place but are denied permanency and designated as 'daily wage' workers. This is most common among workers working in the "D-Group" - usually caste ordained occupations performed traditionally by Dalits in government and urban local bodies. With almost no access to institutionalized credit systems, they are compelled to borrow under usurious interest rates and consequently falling into debt traps.

The unplanned lockdown in 2020 and 2021 highlighted the vulnerable conditions under which daily wage workers work with absolutely no social security. The lockdown immensely worsened their situation – with a steep decline in wages, wage theft and loss of jobs.

This condition of daily wage workers is a result of the conscious neo-liberal policies of the State attempting to keep workers disorganized. The steep rise in the number of suicides among daily wages workers from 2014 can be directly correlated to the anti-worker policies brought in by

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the Government and this includes the regressive changes in labour laws and the policies pushing for "ease of doing business" at the cost of the worker. The NCRB data showing the steady increase in the number of suicides by daily wages workers from 2014 is a clear indicator of a failing system. Not only is the Government failing to even recognize this and find ways of alleviating the problem but has exacerbated it by the introduction of the four new labour codes that effectively destroy the hard-won rights of the working class and will only result in worsening the conditions of the daily wages workers. The Codes not only pushes more people from the organized sector into the unorganized sector and into conditions of great insecurity, it also takes away even the minimal rights that daily wage workers are entitled to.

The suicides of daily wages workers has to be recognized as a clear consequence of institutional violence -State policies that reduce workers to "cheap labour" to suit "ease of doing business" policies. ■

Future of Contract Labour

★ CLIFTON D' ROZARIO

"What about those who are employed? Constitutional Lawyers assume that the enactment of Fundamental Rights is enough to safeguard their liberty and that nothing more is called for. They argue that where the State refrains from intervention in private affairs—economic and social—the residue is liberty. What is necessary is to make the residue as large as possible and State intervention as small as possible. It is true that where the State refrains from intervention what remains is liberty. But this does not dispel the matter. One more question remains to be answered. To whom and for whom is this liberty? Obviously, this liberty is a liberty to the landlords to increase rents, for capitalists to increase hours of work and reduce rate of wages. This must be so. It cannot be otherwise. For in an economic system employing armies of workers, producing goods en masse at regular intervals someone must make rules so that workers will work and the wheels of industry run on. If the State does not do it, the private employer will. Life otherwise will become impossible. In other words what is called liberty from the control of the State is another name for the dictatorship of the private employer."

Dr. B. R. Ambedkar[1]

Legislative background to the Contract Labour (Regulation and Abolition) Act, 1970:

During the early period of industrialization, the industrial establishments faced problems of labour recruitment on account of lack of labour mobility, caste and religious taboo, language, etc.. Unable to solve these problems led employers to depend on middlemen who helped them in recruitment and control of labour. These middlemen or contractors were known by different names in various parts of the country.

Contract Labourers were considered as exploited section of the working class mainly due to lack of organisation on their part. Due to this, the Whitley Commission (1860) recommended the abolition of contract labour by implication. Other Committees were:

1. The Bombay Textile Labour Enquiry Committee (1938) stated that "if the management of the mills" did not "assume responsibility for such labour", there was "every likelihood of its being sweated and exploited

[1] "States and Minorities: What are Their Rights and How to Secure them in the Constitution of Free India", Memorandum on the Safeguards for the Scheduled Castes submitted to the Constituent Assembly on behalf of the All India Scheduled Castes Federation.

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by the contractor"; it also recommended the abolition of the "contract system of engaging labour" as soon as possible and "that workers for every department in a mill should be recruited and paid directly by the management".

2. The Bihar Labour Enquiry Committee (1941) condemned the practice of recruiting labour through contractors because they said: "the contractors ordinarily lack a sense of moral obligation towards labour which the employers or the managers are expected to have, and, therefore, do not often hesitate to exploit the helpless position of labour in their charge".
3. The Rega Committee (1946) found that the system of contract labour is very much in vogue.

In the case of **Standard Vacuum Refinery Company Vs. their workmen [AIR 1960 SC 948]** the decision of the Tribunal directing the company to abolish the contract system was called into question. This arose from a dispute raised by the regular workmen of the company with respect to contract labour employed by the company for cleaning/ maintenance. The result of the contract system was that there was no security of service to the workmen who were in effect doing the work of the company. Besides, the contractors were paying much less to the workmen than the amount paid by the company to its unskilled regular workmen. Further, the workmen of the contractors were not entitled to other benefits and amenities such as provident fund, gratuity, bonus, privilege leave, medical facilities and subsidised food and housing to which the regular workmen of the company were entitled. The work was of a permanent nature, but the contract system was introduced to deny the workmen the rights and benefits which the company gave to its own workmen. The Supreme Court upheld the Tribunal's judgment as follows:

"We now come to the question whether the tribunal was justified in giving the direction for the abolition of the contract system in the manner in which it has done so. In dealing with this question it may be relevant to bear in mind that industrial adjudication generally does not encourage the employment of contract labour in modern times..."

The Supreme Court of India observed that contract labour should not be employed where:

- The work is perennial and must go on from day to day
- The work is incidental to and necessary for the work of the factory;
- The work is sufficient to employ considerable number of whole-time workmen; and,
- The work is being done in most concerns through regular workmen.

In the Second Five Year Plan, the Planning Commission stressed the need of improvement in the working conditions of contract labour and thus, recommended for a special treatment to the contract labour so as to ensure them continuous employment where it was not possible to abolish such type of labour.

It was discussed at various meetings of Tripartite Committees at which the State Governments were also represented and the general consensus of opinion was that the system of contract should be abolished wherever possible and practicable and that in case

where this system could not be abolished altogether, the working conditions of contract labour should be regulated so as to ensure payment of wages and provision of essential amenities.

Based on these views "The Contract Labour (Regulation and Abolition) Act, 1970" was passed by both the Houses of Parliament and received the assent of the President on 5th September, 1970 and it came into force from 10th February, 1971.

The Contract Labour (Regulation and Abolition) Act 1970 prevent the exploitation of contract labour and also to introduce regulation of work. The Act provides for abolition of contract labour where practicable and regulation of their employment where it cannot altogether. It is, thus, clear that the Act does not contemplate the abolition of contract labour.

Judicial murder of contract labour:

- Section 10 – abolition of contract labour:

The Supreme Court, in AIR India Statutory Corporation Vs United Labour Union and Others [1997 LLR 305 (SC)] ruled that by "necessary implication" the Principal Employer will be under statutory obligation to absorb the Contract Labour on abolition of the Contract Labour system.

This was overturned in SAIL Vs National Union Water Front Workers and others (2001 LAB. I.C. 3656] decided by the constitution bench of the Supreme Court. The Court ruled that in section 10 of the CLRA act there is no implicit requirement of automatic absorption of Contract Labour by the Principal Employer in the concerned establishment on issuance of notification by the appropriate Government under section 10(1) prohibiting employment of Contract Labour in a given establishment. However, the Court observed in case a contract between the Principal Employer and the Contractor is found to be not genuine but a mere camouflage, the so-called Contract Labour will have to be treated as employees of the Principal Employer and shall be directed by the industrial adjudicator to regularize the services of the Contract Labour in the concerned establishment. However, such cases will be dealt under the Industrial Disputes Act and not under the CLRA.

- Rule 25(2)(v)(a):

In Hindustan Steelworks Construction Ltd. v. Commissioner of Labour [(1996) 10 SCC 599] the Supreme Court held that there was no provision under those rules which made the principal employer liable for payment if the contractor contravened that condition.

The casual approach of exploitation of the contract labour is something unbelievable. Rarely does a case of this nature reach the apex court for adjudication. Since it had reached it, the court should have seized the opportunity to do justice and should not have so easily let the principal employer off the hook. The reason behind the enactment of the contract labour Act was to regulate conditions of these vulnerable section of workers by regulating their working conditions with a view to progressively eliminating the system altogether.

- **(Non)regulation:**

Indiscriminate issuance of licenses to contractors and registration of principal employers by the Labour Departments in all establishments. This is being done by the Labour department without assessing whether this stands contrary to the provisions in section 10 of CLRAA, 1970 or whether it amounts to employing "workmen casually or temporarily as 'badlis' and continue them for years, with the motive of depriving them of the privileges of permanent workers", which is prohibited under unfair labour practice. Moreover, there is no political or bureaucratic will to oversee and ensure the compliance of the various provisions of the CLRAA, 1970 including those relating to welfare facilities to workers and their wage security.

- **Resultantly institutionalisation of Contract labour in State and private establishments.**

This accelerates particularly so following the adoption of free market policy in the early nineties which saw the dawn of liberalization, privatization and globalization (LPG) in the country.

- Some hope – ONGC and sham contracts; Assam and Tamil Nadu conferment of permanent status Act

After the SAIL judgment, another decision which the proverbial final nail in the coffin of contract labour was the Uma Devi case of 2006. In this judgment, the Supreme Court held that regularisation of services of daily-wage workers amounted to back-door entry and hence was prohibited by the Constitution. Thus, as a consequence of this judgment, establishments continued to employ daily-wage employees free from the fear of being compelled to regularise them. In fact, in Uma Devi case, the Supreme Court effectively prohibited the High Courts and Supreme Court from directing the regularisation of such workers. This judgment also served as a weapon in the hands of the employers to deny any claims of regularisation by contract workers as well.

It in this situation that the judgment of the Supreme Court in ONGC Ltd vs Petroleum Coal Labour Union & Ors [(2015) 6 SCC 494], is of great importance since the Supreme Court clarified that:

"19. The provisions of Industrial Disputes Act and the powers of the Industrial and Labour Courts provided therein were not at all under consideration in Umadevi's case. The issue pertaining to unfair labour practice was neither the subject matter for decision nor was it decided in Umadevi's case."

In Oil and Natural Gas Corporation v. Krishan Gopal, 2020 SCC OnLine SC 150, decided on 07.02.2020]: The bench of Dr. DY Chandrachud and Ajay Rastogi, has called for the reconsideration of the abovementioned division bench verdict in Oil and Natural Gas Corporation Limited v Petroleum Coal Labour Union, and has, hence, referred the matter to a larger bench, on, inter alia, the following question:

"The limitations, if any, on the power of the Labour and Industrial Courts to order regularisation in the absence of sanctioned posts. The decision in PCLU would, in our view, require reconsideration in view of the above decisions of this Court and for the reasons which we have noted above."

It remains to be seen which way the Supreme Court decides this reference.

- **Summarising:**

1. The first strategy par excellence, which has defined labour law, ever since its inception has been the startling discordance between the law on the books and the law in action. The fact is that this legislation was a dead letter and is responsible for the misery inflicted upon the contract workers who have been reduced to a condition of precarity.
2. Gradual whittling away of labour protections through judicial interpretation. The *locus classicus* (among many others) in this hall of constitutional shame is the judgment in SAIL, which has effectively gutted the Contract Labour (Regulation and Abolition) Act.
3. The last strategy has been the repeal of existing labour law protections. The Contract Labour Act will be repealed once the Occupational Safety, Health and Working Conditions Code, 2020 comes into force. This grants legal sanction to the existing exploitative system of contract labour – section 2(p) r/w 57
4. Contract labour is nothing but modern day slavery and the Code grants official sanction for the same.

The Supreme Court has repeatedly held that the system of contract labour is nothing but an improved form of bonded labour[2] and that it is nothing but a new technique of subterfuge adopted by employers in recent years in order to deny the rights of the workmen under various labour statutes.[3] It is necessary that immediate steps be taken to enact law on lines of the Assam Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1985 conferring permanent status to workmen who have been in continuous service, whether daily wage employees, contract or casual for a period of 180 days in a period of 12 months. ■

[2] Sankar Mukherjee And Ors vs Union Of India [AIR 1990 SC 532]
[3] Bhilwara Dugdh Utpadak Sahakari S. Ltd. Vs. Vinod Kumar Sharma and Ors.[AIR 2011 SC 3546]

A Summary of the Report for

Regularisation of Sanitation Workers of Karnataka

★ MAITREYI KRISHNAN

After a historic four-day strike by powrakarmikas (sanitation workers) across Karnataka that ended on 4th July, 2021, the Karnataka Government agreed to make their jobs permanent after setting up a committee which will include representatives of unions, including AICCTU that come up with the manner in which permanent status can be granted to Powrakarmikas. A summary of the submissions drafted by AICCTU in regard to the grant of permanent status and adopted by the unions is detailed below:

It is necessary to ensure the grant of permanent status to powrakarmikas with the following background:

- **Reports that recommend grant of permanent status:** In Karnataka, there are 3 important reports that look at the conditions of powrakarmikas

1. The report by the Committee under the Chairmanship of Shri I.P.D. Salappa titled, "Report of the Committee on the Improvement of Living and Working Conditions of Sweepers and Scavengers" which was submitted in April 1976 in which it made several recommendations, which remain relevant even to this date and specially recommends that all Pourakarmikas who have put in service of not less than one year should be confirmed.
2. The **"Report on the Proposed Road Map and Guidelines for the Comprehensive Development of Safai Karmacharis"** by the "Three member Official Committee" constituted in 2013
3. The Report of the National Law School University of India submitted in 2021

All three reports have recommended that services of all Powrakarmikas, whether

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employed on daily-wage, equal pay or as contract powrakarmikas, be immediately regularized.

- Current workforce of Powrakarmikas is almost entirely Dalit since the profession is hereditary:

The workers are almost entirely from the Dalit (Scheduled Caste) community since this profession is heredity and caste ordained. The NLS Report found that 86.3% of the workers belong to the Madiga community. 3.9% belong to the Scheduled Tribes and a small percentage belonged to other Scheduled Caste Communities. The IPD Salappa Committee Report, notes that "As the Pourakarmikas form the lowest rungs of the social ladder, it is necessary that every effort is made to formulate comprehensive and effective measures to improve their conditions. The process of exploitation of these Pourakarmikas by the vested interests should stop forthwith."

As such the State Government is constitutionally bound to act under Articles 15(4), 38, 39, 41, 42, 43, and 46 of the Constitution.

- **Current employment of Powrakarmikas is an unfair labour practice:**

1. The exploitative terms under which the Powrakarmikas including sweepers, drivers, cleaners, loaders, UGD workers, etc. are working is also an unfair labour practice which is prohibited under section 25T r/w Entry 10 of the Fifth Schedule of the Industrial Disputes Act, 1947.
2. The Supreme Court in Maharashtra State Road Transport Corporation and Anr. v. Casteribe Rajya Parivahan Karamchari Sanghatana [(2009) 8 SCC 556] has, relying on Section 25T and 25U of the Industrial Disputes Act, 1947, held that:

"Employing badlis, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees is an unfair labour practice on the part of the employer under Item 6 of Schedule IV."

- **The State Government and ULBs are bound by the judgements granting permanent status to contract powrakarmikas:**

The employment of Powrakarmikas on contract was challenged by the contract Powrakarmikas in Mumbai, resulting in the Award of the Industrial Tribunal directing the Mumbai Municipal Corporation to treat 2700 contract Powrakarmikas as permanent employees of the Corporation and to extend them the benefits and status of permanent workers retrospectively from the date of completion of 240 days of service from their dates of joining. This was challenged by the Municipal Corporation before the High Court and then before the Supreme Court, where the appeals were dismissed and the 2700 contract Powrakarmikas were directed to be granted permanent status. The High Court of Bombay in its judgment Municipal Corporation of Greater Mumbai vs Kachara Vahtuk Shramik Sangh [2017 (1) ABR 599] dismissed the petition of the Corporation and held as follows:

"52. It is a mandatory duty of the Corporation to remove the solid waste to keep the City clean ... The case of Safai Kamgars has always been treated on different footing by the State Government, looking at the nature of work they do and their oppressed social status. The plight of Safai Kamgars, primarily consisting of the backward sections of the society, has engaged the attention of the State Government for long time and various committees have been constituted to suggest measures improve the living and working conditions

72... These workers work throughout the year, barring four days. One does not have to go through years of such sub-human existence to complain of exploitation. The various ameliorative measures contemplated by the State for this class, their extreme backwardness tied up with the caste system, the lowly menial work they are forced to engage into by a public body which is bound to follow the ideals of the Constitution of India, makes the case of the concerned workers sui generis and cannot be compared to any other contract labour dispute. The Corporation is under a mandate to keep the City clean. Residents of the City have a fundamental right to a clean environment. This fundamental right and the mandatory duty, cannot be achieved by subjugating the fundamental rights of the workers to basic human dignity. The anxiety to

find innovative ways to maintain a clean city can be understood, but in a welfare state, cleanliness for one class of citizens cannot be achieved by engaging in 'slavery' of the others. These 2700 workers, working round the year, provide the foundation on which the City functions. Instead of acknowledging this importance and giving them stability of permanent tenure to improve their living conditions, the Corporation, a public body, has taken advantage of its dominant position to exploit this lowest strata of the community, disregarding various welfare measures suggested by the State. In the circumstances, setting aside the award in the equity jurisdiction of this court, will be a travesty of justice."

Vide order dated 07.04.2017 in Civil Appeal No. 4929/2017 (@ SLP No. 6202/2017), the Supreme Court disposed the appeal filed by the Municipal Corporation of Greater Mumbai also holding that permanent status should be conferred to those employees who had died in service or permanently incapacitated. As a model employer it is necessary that the State Government and all ULBs would refrain from unfair labour practices in regard to Powrakarmikas i.e. employing them as sweepers, drivers, cleaners, loaders, UGD workers, etc. on exploitative terms as direct payment powrakarmikas, daily-wage powrakarmikas, equal-pay workers, guised contract Powrakarmikas under contractors/manpower agency/ labour contractors/SHGs/NGOs, etc.

Hence, the State Government has to recognise this historic injustice done to these workers and their community, and endeavour to break this chain. For this the State Government has to:

1. grant permanent status to the workers presently working
2. ensure regular recruitment in the future by following the roster system so that members from other communities are also involved in this work and,
3. take all necessary steps to address the concerns raised in the IPD Salappa Committee and NLS reports that members of the other communities who are recruited as Powrakarmikas do some other work in the ULB which is not connected with the work of Powrakarmikas

Following are the suggestions for granting of permanent status to the Direct Payment Powrakarmikas:

Firstly, the State Government must ensure the creation of adequate posts for Solid Waste Management since this is the core and obligatory function of the local bodies under the Karnataka Municipal Corporation Act, 1976, Karnataka Municipalities Act, 1964 and BBMP Act, 2020.[1] For this the State Government would have to implement the recommendation of the NLS Report that there should be 1 powrakarmika for every 300 population. The Shri IPD Salappa report dated 1976 (i.e. almost 50 years ago) had recommended that there should be 1 powrakarmika for every 500 population, however, given the increase in population and increase in garbage generation, the recommendation of the NLS Report is to be implemented.

Secondly, towards granting permanent status to the Direct Payment Powrakarmikas, the State Government can consider

[1] Karnataka Municipal Corporations Act, 1976: Section 58 of the Karnataka Municipal Corporations Act, 1976 makes it an obligatory function of the Corporation to water and clean public places, remove sweepings and collect, remove, treat and dispose of sewage and offensive rubbish. Section 255 makes it the duty to ensure the removal of filth, and Section 258 makes it mandatory to provide for daily cleaning of streets and removal of rubbish and filth. Section 261 provides for the maintenance of establishment for removal of rubbish and filth.

Karnataka Municipalities Act, 1964: Section 87(c) and (f) of the Karnataka Municipalities Act, 1964 makes solid waste management the obligatory function of all Municipalities

Bruhat Bengaluru Mahanagara Palike Act, 2020: Section 107 r/w Entry (A)(vi) of First Schedule of the Bruhat Bengaluru Mahanagara Palike Act, 2020 makes solid waste management the core function of the BBMP

the following options:

Option 1: Passing of a comprehensive special statute, firstly as an ordinance and then a law, namely "The Karnataka Safai Karamcharis (Social Upliftment and Welfare), Act" under Articles 15(4), 38, 39, 41, 42, 43, and 46 as also Entries 23 and 24 of the Concurrent List (VII Schedule) of the Constitution. The law will be passed recognizing the historic injustice done to powrakarmikas and to set the same right. It is passed recognizing that the practice of employing Powrakarmikas, previously under contract for years was sham, and continual employment of powrakarmikas on direct payment amounts to an unfair labour practice prohibited under section 25T of the Industrial Disputes Act, 1947. The law will provide for implementation of all recommendations of the abovesaid Three Committees and particularly the following:

- Conferment of permanent status to workmen who have been in continuous service as powrakarmikas, whether as direct payment workers, daily-wage employees, contract or casual for a period of 180 days in a period of 12 months on the lines of the statutes passed by the Assam Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1985.
- Working and service conditions including provisions relating to

leave and holidays, service registers, promotional opportunities, conditions of work and overtime and work load.

- Pay structure and special allowance
- Retirement and post-retirement benefits including pension and gratuity
- Appointment of Welfare Officer
- Provision of welfare measures such as education of children of Powrakarmikas, health service and housing for Powrakarmikas and their families
- Appointment of inspectors to ensure the functioning of the act and to initiate action for violations thereof.
- Grievance redressal system, which would ensure time-bound Redressal.
- Nodal Authority for overseeing implementation of the Act being the Karnataka State Commission for Safai Karamcharis.
- Establishment of a fully autonomous and financially independent Board "Pourakarmikas Welfare Board" to supervise the implementation of the various welfare measures
- Allocation of funds for Powrakarmikas through State Government grants.
- Responsibility of officials in implementing the provisions of this Act ensuring accountability and strict action for non-compliance.
- Option 2: Pass a law on the lines of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 and the Assam Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1985, including for urban local bodies, whereby DPS workers would have the right to be granted permanent status.

Option 3: Framing a Scheme for granting permanent status to Powrakarmikas through a law, in compliance with the recommendations of the 3 Reports. ■

LABOUR SNIPPETS – SEPTEMBER 2022

★ LEKHA ADAVI

Place of Posting or Seniority: Employees with Disability Cannot be Deprived

The Supreme Court has held in a case that physical disability must not prove to be an impediment for the employee with a disability to avail benefits of seniority for choosing a place of posting which would be of convenience to him. The Appellant, who was appointed as a senior teacher was aggrieved by the order of Division Bench of the High Court of Rajasthan and preferred an appeal before the Supreme Court challenging the same. The employee contended that as per a circular of the State Government, the appointing authorities must consider posting employees with physical disabilities at or near the place which they opt for, and the same was violated when he sought to be transferred to his home district and was entailed a down-gradation in his seniority. The Supreme Court stated that the benefit to be extended to employees with disabilities as per the circular of the state government cannot be taken away by subjecting the exercise of the right to avail of the benefit on terms and conditions, as that would render the benefit without any purpose.

[Unreported judgment of the Supreme Court of India in Civil Appeal No. of 2022 Arising Out Of S.L.P. (C) Of 2022 (Diary No.2738 Of 2020) in Net Ram Yadav v. The State of Rajasthan & Ors.] ■

Gujarat HC Raps Jamnagar Municipal Corporation for 'Retrenching' Workmen

In a case before the Gujarat High Court, the workmen employed with Jamnagar Municipal Corporation who worked for several years as linemen maintaining street lights were denied employment as the Jamnagar Municipal Corporation replaced the street lights with LED lights and floated a tender for "special jobs". The workmen contended that this amounted to violation of Sections 25G (procedure for retrenchment) and 25H (re-employment of retrenched workmen) of the Industrial Disputes Act as these workmen had completed 240 days of service. The Corporation claimed that the services of the workers were terminated as per Section 2(oo)(bb) of the ID Act, which is termination of services of the workman as a result of the non- renewal of the contract of employment between the employer and the workman. The Court rejected this contention of the Corporation stating that the Corporation had sought work from the workmen through contract system and the same was an afterthought by the Corporation to subterfuge the rights of the workmen, and therefore this amounts to breach of Sections 25H and 25G of the ID Act. Therefore, the Court dismissed the appeal of the Corporation and upheld the order of the Labour Court which had directed reinstatement of the workers.

[Unreported judgment of Gujarat High Court in C/SCA/10126/2018, Jamnagar Municipal Corporation v. Avdesh Kishorbhai Solanki] ■

Huge Retrenchment in Big Tech Companies

Tech companies like Apple Inc., Tesla Inc., Amazon, Google, Microsoft, Meta Platform Inc., Snapchat, among others, have been laying-off several hundred workers from employment in the recent past. While Apple Inc. laid-off 100 workers who were hired as contract recruiters, Microsoft has laid off close to 2,000 employees, including 200 employees in their research and development department. Google, Amazon, Tesla, Meta and others are on the verge of laying off their employees with fear in the wake of a global recession and in the name of "slowing down of work". Snapchat is looking to lay-off 6,000 of their employees. Many of these tech giants are citing economic contraction for the second quarter in a row and hence have decided to pause hirings. ■

PSUs See a Decline in Number of Employees, Private Sector Sees a Hike

The Indian Express has reported that except for SBI Life Insurance and IRCTC, a majority of the 15 listed public sector undertakings are reporting a decline in the number of employees for the past several years. On the contrary, the privately owned

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top 10 companies added over 3 lakh employees. "India's largest bank SBI last witnessed an increase in the number of its employees in 2017-18, when it added 71,000 employees following the merger of its five associate banks and Bharatiya Mahila Bank during the year. Even prior to that, the bank was witnessing a steady decline in staff strength. SBI's subsidiary SBI Cards and Payments too saw a decline over the last three years to 3,774 people on its rolls as of March 31, 2022, compared to 3,967 as of March 31, 2020," the article said. The decline in the number of employees in PSUs has been highlighted time and again by the employees' associations and workers union, which has not only seen a rampant increase in contractualisation of jobs but has witnessed a constant decline in the number of permanent jobs, thus depriving fresh appointees of job, wage and social security. BSNL-MTNL witnessed a whopping 92,000 employees opt for VRS among the total workforce of 1,53,000, thus causing severe shortage of employees and disproportionate burden of work on those who continue to work. BSNL workers have been constantly organizing demonstrations and protests seeking new appointments. ■

Tea Workers in Bangladesh Seek Increase in Wages

Under the banner of Bangaldesh Cha Shramik Union, workers across 167 tea plantations in Bangladesh, have struck work demanding an increase in their wages. The plantation workers are demanding an increase from Rs. 120 to Rs. 300 per day as daily wages. The protest began on August 8th and has been continuing indefinitely in the form of a strike since August 13th. In a bi-partite meeting between the union and the plantation owners' association – Bangladesh Tea Sangsad, while the workers' union sought for a hike in wages, the owners' association proposed to hike the wages by Rs. 14, which the workers refused and preferred to go on strike. Some of the leaders who were reported speaking to the media stated that in Bangladesh, the minimum daily wage stood between Rs. 300 to Rs. 800, whereas the tea workers continued to work for abysmally low wages. Moreover, the owners' association had entered into a settlement with the workers' union, which has expired and are refusing the renew the same or to sign a new one. Hence, the strike. The workers' leaders stated that in the past 15 years, the daily wage of tea workers has increased by a pittance of Rs. 88/-, even as the prices of essential commodities are skyrocketing. This shows the extent to which the workers are exploited in these plantations, the leaders said. ■

Pakistan Powerloom Workers Protest

A two-week long protest by the powerloom workers in Pakistan's Faisalabad, which is renowned to be a 'textile city', ended in victory with most of the demands of the workers being met. In a protest led by the Labour Qaumi Movement, over 3,00,000 workers sat in a protest blocking the route to the Faisalabad Airport, which brought the state down to its knees. The powerloom workers wanted to highlight the plight of their working conditions, which has been increasing the rate of occupational diseases among the workers. They were demanding an increase in wages, better social security measures and against the recent increase in electricity tariff by the Central Government which has stated made their everyday lives difficult. Media reports state that inflation in Pakistan hit 37.67% in August. ■

Thousands of Rail, Mail and Dock Workers Strike in UK

In the biggest strike action seen in 30 years in Britain, railway, mail, and dock workers have launched strikes against the increasing inflation rates which has a direct impact on their wages. Tens of thousands of workers have been striking work demanding better wages and social security measures as prices of essential commodities like food and fuel have been soaring in the country. Train movement has been disrupted as a result, which has brought to halt the national train service. To add to this, the dock workers even in the country's largest port have also joined the strike. Postal workers, criminal lawyers, British Telecom staff Amazon warehouse workers and sanitation workers have announced that they would join the strike. While more than 1,15,000 British postal workers employed with Royal Mail have planned a four-day strike by August end, telecom staff will desist from work for the first time in 35 years around the same time. Such actions by the workers have already seen a dent in the economic supply chain of UK. ■

Report on Technical workshop held by ILO and Government of Telangana

★ UDAY KIRAN

International Labour Organizationincollaboration with labour department of Government of Telangana held a two-day consultative technical workshop to implement ILO's FPRW principles in Cotton Supply Chain sector in Telangana on 2nd and 3rd of August 2022 in Hyderabad, Telangana. Ten major central Trade unions took part in the workshop. Comrade Uday Kiran represented AICCTU in the workshop from Telangana.

Welcome Address and Introduction of FPRW principles:

Dr. E Gangadhar, Additional Commissioner of Labour and Director for the Center for Elimination of Child and Adoloscent labour gave a welcome note to the Trade union leaders. Mr. Ranjit Prakash, National Project Coordinator for implementing FPRW principles, ILO, addressed the inaugural session of the workshop and highlighted the main objectives of the workshop. He elaborated on the fundamental principles and Rights at workplace. Their focus primarily seems to develop and strengthen Trade union work to implement the FPRW principles, Elimination of Forced and compulsory labour, Effective abolition of child labour, Abolition of discrimination on the lines of caste and gender, Recognition of Right to Freedom of Association and right to collective Bargaining and Organisational safety and health. Both, ILO and Telangana labour department have appealed to the trade unions to take these principles forward in the field of cotton farming.

Technical sessions conducted in consultative/ interactive manner:

Representatives from ten central trade unions AITUC, CITU, INTUC, AICCTU, AIUTUC, BMS, HMS and others took part in the interactive session, following the Introductory session. All the participants were asked to regroup into four groups and each group was asked to provide major issues facing the trade unions in implementing the right to collective bargaining and freedom of association, Abolition of Forced and Bonded labour, Child labour, Caste and Gender Discrimination and occupational safety and health, reasons for those issues to be in existence, solutions and way forward in general workplaces and cotton sector in particular. There was an enthusiastic participation from all the representatives of different Trade unions in providing their reasons and solutions.

The second day of the workshop was continued in the same pattern asking trade unions to provide steps that are going to be taken across all TU's in implementing these FPRW principles. Most of the participants have come up with the socio-political reasons and reformative policies as suggestions and strong mechanism for the strict implementation of the existing labour laws.

New Labour Codes condemned:

The issue of new labour codes that are being brought into implementation was highlighted as the most regressive step and termed as the bane for the Indian working class by most of the CTUs, though the hosts have in a way requested the organizations to refrain from suggesting any long term reforms or change in policy of the government.

Concluding session:

The Central Trade Unions came up with a bunch of activities and tasks to be implemented in the coming days to enforce the FPRW principles in work places in general and cotton farming sector in particular. The session was concluded on Day 2 with the mutual promises of cooperation and support for the effective implementation of the FPRW principles and to strengthen the trade union activity to better the conditions at workplaces in Telangana state. ■

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ZERO DRAFT

Observations of the Central Trade Unions (CTUs) on the Indian Government's Report to the Committee of Experts on the Application of Convention and Recommendations (CEACR) regarding the application of Convention No. C81 and C144, INDIA

Member States have an obligation under the Constitution of ILO to submit regular reports to the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on the measures they have taken to implement the provisions of ratified ILO conventions. These reports are due by 1 September 2022.

As we know, the same deadline also applies for workers' organisations to submit their own observations. The Committee of Experts will be meeting in November and will draft its Annual Report which will be published in following February or March. This report serves as a basis for discussion in the Committee on the Application of Standards (CAS) at the International Labour Conference in June.

As we all know a specific cycle for reporting has been defined by the ILO for different Conventions:

- every three (3) years for fundamental Conventions (C87/C98; C100/C111; C29/C105; C138/C182), and Governance Conventions (C81/C129; C122; C144)

- every six (6) years for all other Conventions (technical Conventions).

Observations on C81:

- Government of India's reply to Observation 2020 on ordinances of the States of UP, MP, Rajasthan and Gujarat: There was no clear direction from the Central Government to State Governments. Government has not shared the reports as mentioned. Much before drafting the Codes, the Government consulted various trade unions. However, they did not consult trade unions after drafting the codes, to seek their inputs on the draft codes. They have stated that in no case any proposal having possibility of adverse impact on labour was recommended. This is not true, as the stated objective of bringing in labour codes in haste is to simplify and modernize labour laws with an emphasis on ease of doing business.

Regarding the Government's reply on Articles 2 and 4 of the Convention:

- Labour inspection in SEZ's: SEZ's labour inspection has been delegated to the Development Commissioner which violates the labour laws. Violates C81

- Many demands of trade unions have been refused. Within the SEZs, even entry of trade unions is highly restricted. It is not possible to file either a complaint or a report, and it is not possible for the trade unions to know about announced/ unannounced inspections.

- The government has restricted inspections and is advocating work-based/ computer generated randomised inspection. The Government has also used the devastating pandemic as a shield to cover up its negligence.

With respect to Articles 4, 20 and 21, as mentioned in the report regarding the EPFO and ECR there is no relevance to it. E-shram portal is also for the unorganised workforce, hence the government is trying to mislead by giving irrelevant examples.

The Governments reply in the report related to Articles 12 and 17- Free initiative of labour inspectors to enter workplaces without prior notice and discretion to initiate legal proceedings without

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previous warning – All the central trade unions had strictly objected to and opposed the modified name of "inspector cum facilitator". This was also the recommendation of the Parliamentary Standing Committee of Labour. In its report, the Government has not given any clear specific reply regarding sanctioned posts of labour inspector and posts lying vacant, on roll. It is obvious the strength of labour inspector has drastically decreased.

Government report mentions that Art 35 gives free entry to the workplace for the movement of the facilitator, as per the OSH code, but Section 34 and 37 of the OSH Code restricts the movement of inspector in the name of randomisation by confining the inspections to the randomly computer-generated list. In the Government report it is explicit that the freedom of inspector is restricted.

Article 10,12 and 16 of the Convention: Coverage of workplaces by labour inspections Self – inspection Scheme. According to the report, Annexure 1 itself shows that Self certification is not at all effective. It gives liberty to employer to legalise unfair practices. But C81 mandates physical and direct inspection, thus self-certification is against the spirit of C81. All government statistics mentioned says the inspections are declining (both announced and unannounced inspections).

In Government's reply in the concluding part regarding Articles 12(1)(a) and (b) and Article 18, the government has revealed their ignorance that it is not the jurisdiction of the court to judge the violation of ILO convention.

Lastly the government report has mentioned 11 workers' organizations but sadly has excluded one of the major Trade Unions - Indian National Trade Union Congress (INTUC) (which is owing political allegiance to the opposition party, the Congress - ed).

Observations on Convention 144:

India is the founder member of the ILO and the ILC (Indian Labour Conferene – ed) is the apex-level tripartite consultative committee which should be held every year in order to advise the government on the issues concerning working class of the country. Yet, since 2015, Indian trade unions have regularly been demanding regular ILC meetings, and the government has not held a Standing Committee meeting yet.

Government could not provide any reason why ILC could not be held before or after COVID. It is pertinent to note that these meetings did not happen even when the government was bringing in drastic changes in labour laws by amalgamation, simplification and codification of the hard-earned labour laws into "labour codes". Although the report submitted by the government admits that the ILC need to be relooked and updated in a time-bound manner and the overall exercise of the labour law amendments should be discussed in the tripartite forum, this was totally overlooked and ignored. Although ILC is the highest body available to look at policies related to labour, it was not convened.

It is on record that no discussion on Labour Codes happened in the Committee of Conventions (COC) meeting. Government in its report says 5 tripartite consultations were held in 2015 on four Labour Codes. The fact is that the first draft of the first Labour Code (IR) was released in 2017. The government's claims are totally false and misleading. There were few meetings/ consultations conducted on the Apprentice Act, FTE, etc. but not on the Labour codes. In fact, these labour codes which will result in grave implications for the working class, were hurriedly pushed through in the delayed Parliament Session in September 2020.

Government had called for a video conference on rules which was opposed and boycotted by all the major 10 Central trade unions. It is also a fact that 10 major Central Trade unions refused to attend the video call on the draft rules on Labour Codes.

It is also to be noted that collective and individual submission of trade unions were totally ignored. The government has also not adopted the recommendations of the Joint Parliamentary Standing Committee on Labour.

Debarring INTUC from participating in Tripartite Consultations: Indian National Trade Union Congress (INTUC), a Central Trade Union registered with the Registrar of Trade Unions, Delhi under the Trade Union Act, 1926 and a trade union having a large membership has been debarred.

Since its inception in 1947, INTUC has functioned democratically conducting elections as per clause 8(II) of the Constitution. The present National President, Dr. G Sanjeeva Reddy was first elected in the year 1994, which was ratified by General Council in a meeting held at Kolkata and has been re-elected thereafter unanimously.

Though there was no embargo from the courts on the functioning of INTUC, the government has deliberately excluded INTUC from all its tripartite consultations for reasons best known to them. This action of the government was regularly protested by 10 major central trade unions and their joint forum. Besides this violates the statutory rights as conferred under the Trade Union Act, its bye-laws and memorandums.

Articles 2 and 5 of the Convention- Effective Tripartite consultation: Government's reply regarding the list of tripartite meetings held in 2018-19 are not factual. There was no Tripartite meeting on C81 in 2018 and 2019. So also no tripartite consultation was held on C144 in 2018.

It is important to mention here that during the Covid period, when the country was under lockdown, the government took this opportunity to hurriedly pass three labour codes without any tripartite consultations. No discussions were held, and all opposition was kept outside the Parliament. At this time, both the country and the Parliament were in a state of turmoil regarding the amendment of the Indian Constitution (Article 370) on Jammu and Kashmir. This was the backdrop in which the Code on Wages was passed without any consultation.

Article 19 reports on Unratified Conventions: no meeting was held in 2019, 2020 & 2021.

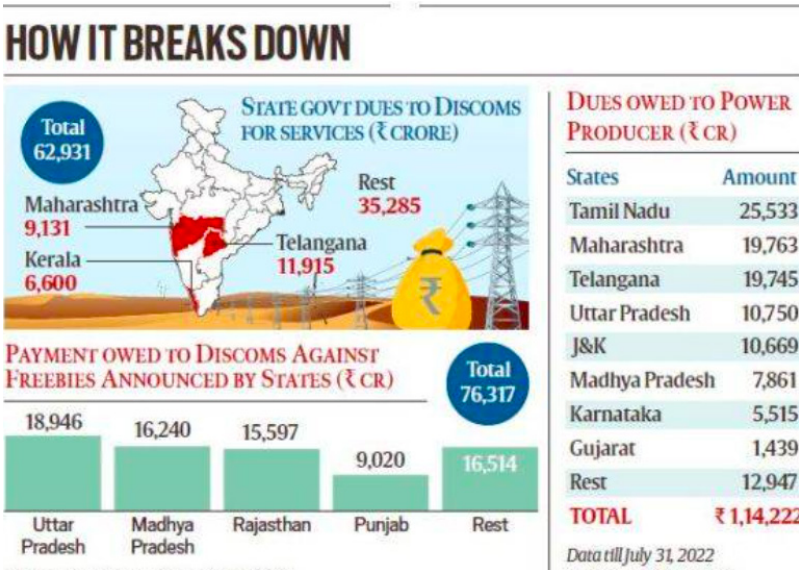
Regarding the Decent Work Country Program (2018-2022), which has an overarching development objective and articulates the 2030 Agenda, and much needed post pandemic reforms, the government in the report mentions that regular tripartite meetings were held annually in 2019-2022. This is untrue as there was no meeting held on implementation of Decent Work program.

INTUC| AITUC |HMS | CITU | AIUTUC | TUCC| SEWA AICCTU| LPF | UTUC ■

A very expensive electricity bill

★ AVANI CHOKSI

The Union Government is seeking to significantly alter the right of people to electricity through the Electricity (Amendment) Bill 2022, introduced in Lok Sabha on 8 August 2022. The Bill has now been referred to the Energy Standing Committee of the Parliament, and has seen vocal opposition from workers, farmers and political parties in the opposition. While corporations are welcoming the move, the provisions clearly reveal that the Bill, if enacted,



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will be a heavy blow to people's right to electricity.

Electricity as a Fundamental Right

At the outset, it must be kept in mind that various courts across the country, including the High Courts of Kerala, Madras, Himachal Pradesh, Delhi, Orissa and Gujarat have all held that people of India have a fundamental right to electricity as a facet of the right to life under Article 21 of the Constitution. Of course, it has long been settled that the right to life is more than a right to animal existence - it is a right to a dignified life. Electricity, then, has been given the status of a necessity required to ensure the dignity of the individual. The Courts have acknowledged and recognised the relationship between power supply and development. In fact, the Madras High Court in Judgement dated 27.09.2013 in W.P. No.17608 of 2013, [T.M.Prakash and Others v. The District Collector and Anr.] held as follows:

"66. Lack of electricity supply is one of the determinative factors, affecting education, health, cause for economic disparity and consequently, inequality in the society, leading to poverty. Electricity supply is an aid to get information and knowledge. Children without electricity supply cannot even imagine to compete with others, who have the supply. Women have to struggle with firewood, kerosene, in the midst of smoke. Air pollution causes lung diseases and respiratory problems. Electricity supply to the poor supports education and if it is coupled with suitable employment, disparity is reduced to certain extent. Lack of education and poverty result in child labour...

68... Electricity supply is an essential and important factor for achieving socio-economic rights, to achieve the constitutional goals with sustainable development and reduction of poverty, which encompasses lower standards of living, affects education, health, sanitation and many aspects of life. Food, shelter and clothing alone may be sufficient to have a living. But it should be a meaningful purpose. Lack of electricity denies a person to have equal opportunities in the matter of education and consequently, suitable employment, health, sanitation and other socio-economic rights. Without providing the same, the constitutional goals, like Justice, Liberty, Equality and Fraternity cannot be achieved."

Hence, there is a well settled judicial understanding that provision of electricity is a basic welfare right. Not only this, but the mandate of the welfare state demands provision of electricity to all.

Of course, the symbiotic relationship between electricity and development is well documented. Moreover, the fact remains that the vastly unequal society in India has resulted in a situation where 35.2 per cent of the Indian population was living in slums in the year 2018. Since the COVID pandemic, economic insecurity and inequality has only increased. This population is largely made up of workers in the unorganised sector - who fall beyond the ambit of labour legislation. It is through this lens then, that the proposed Amendments to the Electricity Act must be considered.

Multiple DISCOMS in a single area.

The most drastic change sought to be brought in is to allow multiple private players to attain licences to distribute electricity in a single area, using the existing distribution network. Effectively, this will allow consumers to choose between electricity Distribution Companies [Discoms], just like a choice between Airtel and Vodafone in the telecom sector. The Stated objectives of this change is "the need to provide choice to consumers in order to promote competition". This is an explicit materialisation of free market ideology, which has been creeping in from the 90s, and was formalised in the 2003 Electricity Act. Now, an entitlement to a fundamental right is left to be determined by market forces!

Not only this, but such a move is directly contrary to state interest and plays into the hands of corporations. Profit motivated private players would have no reason to participate in the welfare aspects of electricity

distribution, and would pounce on the commercial, profitable areas. On the other hand, the state discoms would be left with loss-making areas. Hence, the profitable areas are being freely given away for the taking and the state is left to bear the losses. This is totally senseless - but has numerous parallels in various actions of the State, including privatisation of PSUs - and is reflective of the deep commitment of the state to its crony corporate regime at the expense of the people.

Cross subsidy balancing fund

Cross-subsidisation refers to the practice of imposing higher tariffs on one set of consumers in order to offer subsidised rates to another. The Bill makes an attempt to regulate such practices through the creation of a "cross subsidy balancing fund". This fund is to be set up by state governments in supply areas with more than one distributor. Distributors will be required to deposit any surplus generated from cross-subsidisation activities into this fund, allowing Government entities to decide where to utilise these funds. This fund could be used to direct resources to areas that the private players empowered by this Bill may not be incentivised to serve. However, the practical utility of this mechanism to provide equitable access is questionable. The way this fund is utilised can further entrench the position of private players empowered by this Bill — a similar Universal Service Obligation Fund in the telecom sector was used to award contracts to private players like Airtel and Jio, sidelining the state-run BSNL.

No dispatch of electricity unless payment

The Bill also proposes that no electricity shall be scheduled or despatched unless adequate security of payment, as may be prescribed by the Union Government, has been made. There is no involvement of the State in deciding the adequacy of the prescribed security. Loss-making state discoms may not receive dispatch of electricity if they are unable to pay. And as discussed above, the state discoms will continue to perform welfare functions and cover subsidised areas. Effectively, such a provision could result in electricity for the subsidized areas being cut off, in violation of the fundamental rights of the impoverished.

Deemed licence

A proposed clause that will have grave implications is the proviso that the failure of the commission to grant/ reject the application for licence within the time period will result in the applicant being deemed to have been granted the licence. The benefit of State inertia is therefore with private licencees, who may not even be qualified or suitable to be considered.

Violation of Federal Structure

'Electricity' is an item that falls within the Concurrent list of the Seventh Schedule of the Constitution. Therefore, the State and the Union may both legislate on the issue. At present, each State has separate Grid Code and Grid commission regulations, compliant with the union Electricity Act.

Several proposals for amendment now seek to firmly establish the primacy of the Union Government. For example, applicants who seek to distribute electricity in more than one state would now be granted licence by the Central Electricity Regulatory Commission, whereas this is purely determined by the State as on date. There are also no provisions regulating any consultation / prior permission or any other mode of involvement of the State.

Similarly, the National Load Despatch Centre [NDLC] has been granted dominance explicitly in the Bill, for the stated objective "for ensuring the safety and security of the grid and for the economic and efficient operation of the power system in the country". Whereas the NDLC could not indulge in electricity trading, the Bill now proposes a proviso that permits electricity trading by NDLC if mandated by the Central Government for implementation of any scheme to ensure the stability of the power system. The NDLC has been made the apex body to

ensure integrated operation of the power system in the country, and has been given supervisory and controlling powers over regional and state networks. The NDLC is also permitted to give directions over the power system as may be required "for the safety and security of the electricity grid of the country, for ensuring the stability of grid operation and for achieving maximum economy and efficiency in the operation of the power system throughout the country." This is a direct attack on the federal character of electricity legislation and firmly establishes dominance of the Union

Mandatory compounding and decriminalization

The Bill also proposes to remove all imprisonment penalties, while increasing fines. The Statement of Objection says that the proposal is to "decriminalise the offence by removing imprisonment provisions for ensuring ease of doing business." A private corporation will be able to get off with payment of a fine for violations.

Similarly, the Bill proposes mandatory compounding of offences - whereas previously the Government could compound an offence on payment of a certain amount, now, no discretion will vest in the government and it will be obliged to accept applications for compounding of offences.

Hence, profit-motivated companies may even find it profitable to violate the law and pay the penalty amount as and when the same is ordered or even compound the offence for a few thousand rupees.

Anti-People amendments

The entirety of the Electricity distribution system is heavily indebted. On one hand, States grant subsidies to households / categories of workers but fail to ensure the payment of due amount to the DISCOMS. The DISCOMS fail to make payments to the electricity supplier.

The Bill has been introduced at a time when the supreme court is taking up issues pertaining to provision of 'freebies' by States for election purposes. However, the provision of electricity at a subsidised rate or for free can never be viewed as a freebie, and is an effectualisation of the positive obligation of the State towards the fundamental rights of the individual. It cannot be gainsaid though that promises of free electricity are used as electoral tactics and there are often lapses in the due follow up, which is the allocation and payment of requisite funds to the discoms. For example, it has been reported that the BJP government in Uttar Pradesh made a pre-poll promise of halving electricity bills of farmers, and grant of free electricity for tubewells of farmers. Now, the UP DISCOM has sought Rs 2,250 crore from the government, including Rs 250 crore towards implementation of the pre-poll announcement.

The loss-making DISCOMs will now be under further pressure, and may not be able to give adequate security, leading to subsidies being eventually dropped.

The bill spells a doom to free electricity to the poor and the downtrodden in the long run. The days are not far off when subsidised electricity for agriculture is withdrawn and thus can have a greater impact on the agriculture and the farmers.

One of the demands of the farmers' movement was the scrapping of the Electricity Bill. The Union Government had written to the Samyukta Kisan Morcha on 9/12/2021 that the Bill would be placed before Parliament only after the discussion with the Morcha. This was one of the bases for withdrawal of protests. The introduction of the Bill in the Lok Sabha is a betrayal of the promises of the Union Government, and will have grave implications for not only farmers but workers and the poor across the country. Workers must take up the cause and launch a joint struggle with farmers, Dalit and women's organisations to ensure that the Bill is never enacted. ■

Sanitary workers are most neglected in Odisha

Urban bodies as principal employers must intervene to ensure their wellbeing.

★ MANAS JENA

Sanitary workers are not like other workers of any occupation but they are also one of the most vulnerable communities among scheduled castes in India. Scavenging or sanitary work is still prevalent as a customarily caste based occupation in India. As per 2011 census the population of Hadi community in Odisha was 2.5 lakh who are largely engaged in sanitary work. They are also called by different local names such as Mehenter, Behera, sweeper and scavengers. With increasing urbanization most of them have migrated to urban locations to get engaged in sanitary work and largely concentrated in cities. In the recent past, the Government of India has identified about 60,000 manual scavengers from 18 States including Odisha. Though legally manual scavenging is banned under the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, it is still in practice in many places of Odisha.

Both men and women of the community are being engaged in this occupation and the State Government is the largest and principal employer. In a caste ridden society of India, sanitary workers are looked down upon in the caste hierarchy and they are the most socially discriminated community both in rural and urban areas only because of their caste and caste based occupation. They clean toilets, clogged drains by entering manholes, carrying and cleaning, disposing off all kinds of waste, garbage, disposal of dead animals, carcasses, including human excreta. They all start work early in the morning only to keep our houses, all public places, hospitals, schools, stations, bus stops, roads, and cities clean to maintain sanitation for a healthy and clean life. In spite of modernization, this particular community people are routinely engaged in large numbers with this most hated occupation which has no social respect in public life. Some of them also additionally do drum beating, leather work, shoe making and bamboo work. But in spite of all their dedicated service to mankind what they have been getting? What is their socio-economic status?

Almost all of them live in slums for generations without homestead land and even struggle every day to access basic amenities such as safe drinking water, electricity, toilets and a house for the family. Their houses in slums routinely face eviction drives as unauthorized habitations, without a rehabilitation plan. They have been always pushed into the outskirts of the cities and displaced again and again either in the name of expansion or beautification of cities without a permanent solution to their land and housing rights which must be recognized as basic human rights to live a life with identity and dignity. The Prohibition of Employment as Manual Scavengers and their

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Rehabilitation Act 2013 is in place to abolish manual scavenging as a correction of historical injustice and indignity and to establish the right to live with dignity as a fundamental right under the Constitution.

There is a provision in Section 13(1) (c) of the Act for allocation of residential plots and financial assistance for construction of houses or a ready-built house to sanitary workers. As per the rule, there should be a State-level and district-level survey committees under the chairmanship of district Collectors with representatives of community including women, but the Odisha Government has not yet implemented it as nowhere there is such committee.

Their literacy rate is comparatively lower than other social groups. Their children become rag pickers, child labourers and largely dropouts. There has been no major change in their life even with 75 years of intuitional interventions, protective laws, and a host of schemes while we are celebrating Azadi Ki Amrut Mohachab.

Why so? It is because the popular clean drive project of our Prime Minister has not been inclusive of the concerns of sanitary workers? In almost all urban bodies in Odisha, sanitary work has been slowly getting converted into privatization and contractual appointments and surprisingly no one has been getting minimum wage and even workers with 25 years of experience are not being treated as semi-skilled or skilled workers because sanitary works are not the skillful one. Even many of them get less than minimum wage for eight hours of hard work and no extra wage for overtime. The principal employer has no role to ensure minimum wage of these vulnerable helpless workers and Labour department has monitoring mechanism for these workers.

The kind of work they have been doing is most hazardous as they are more prone to TB, skin diseases and water borne diseases due to long exposure to dust, polluted water, wastes and unhygienic places. It is the duty of the employer to provide all kinds of protective equipment, rest and holidays and sickness leave but this has been undermined and there has been violation of all kinds of Labour laws.

They must have protective equipment such as masks, gloves, boots, helmets and all kinds of such instruments while on the job. It has been frequently reported that some of them die in roadside manholes, soak pits and waste pits while cleaning. Unfortunately such deaths largely remain unrecorded by urban bodies; there is no data base.

The trade unions, civil society organizations and other such social identity-based bodies have made very little intervention to change the socio-economic condition of the sanitary workers.

As part of national commitment in line with the Constitution of India along with the National Commission for Scheduled Castes (NCSC), there is a special panel since 1993, the National Commission for SafaiKarmacharis (NCSK), and the National SafaiKarmachari Finance and Development Corporation (NSKFDC) since 1997 with a share capital of Rs 700 crore to look into the specific issues of scavenger communities. The NSKFDC has declared schemes for skill development, Swacha UdamiYojana, sanitary marts scheme, construction of pay and use toilet, study loan for students , and rehabilitation programme for self-employment with loan at lower rate of interest and subsidy but it has covered very little.

The Odisha SC and ST Development Finance Cooperative Corporation (OSFDC) is the nodal agency in the State for implementation of such programmes for the Safai Karmacharis. In States like Karnataka, there is also a State commission for Safai Karmacharis under the provision of the State Act to ameliorate their condition. The various public sector and private corporations are also contributing out of their CSR funds to the NSKFDC for rehabilitation work. But it is most unfortunate that the State of Odisha has been neglecting the cause of sanitary workers without any visible effort for correction of continued historical injustice against sanitary workers of the state. ■

Pushbacks against Capital: Corbynism and its Lessons for Us

★ AKASH BHATTACHARYA

Five Years of Corbynism

The British Railways have been witnessing a series of strikes this year over long-running dispute on pay, jobs, and conditions. There was one on 27 July. Strikes have again been planned for 15 and 17 September. More than 40,000 union members will strike, the Rail, Maritime and Transport union (RMT) has said, warning it will "effectively shut down" the entire rail network.

Notwithstanding the crushing of the historic strikes of the 1970s and 80s, working class militancy never died in Britain. However, over the last five years, such militancy has found a powerful ally in a new frame of political thinking, broadly termed as Corbynism.

Corbynism emerged in the wake of the economic crisis of 2008 in whose aftermath both the Conservative Party and the Blairite Labour Party adopted pro-capital stances. Powerful autonomous grassroots movements emerged as a result of peoples' sufferings and these found allies within the Leftist section of the Labour

Party, most notably in Jeremy Corbyn. Corbyn eventually won the leadership contest within the party in 2015, due to his socialist proposals and brought the idea of a new economic order into mainstream of British political discourse even without such proposals.

Through various back and forth developments, including Labour's stunning election defeat in 2019, Corbynism has managed to retain a substantial amount of space in British politics and society. Even though the post-2019 leadership change in the Labour Party has temporarily subdued the socialist bent, the party continues to be a site of sharp ideological struggle. So strong is the fear of an immediate socialist reassertion within the Labour Party that recently Sam Terry, a Labour frontbencher, was removed from his position in the frontbench merely for appearing in a picket line during the railway strikes.[1]

What is Corbynism?[2]

In the 2017 elections, Labour presented a blueprint for a completely different society

[1] Jessica Elgot, "Shadow ministers question Labour's stance on strikes after Tarry sacking." *The Guardian*, 27 July 2022. (https://www.theguardian.com/politics/2022/jul/27/sam-tarry-sacked-labour-frontbench-rail-strike-picket-line-keir-starmer)

[2] Dawn Foster, "Jeremy Corbyn Just Announced a Plan for a Humane Britain." *Jacobin*, 22 November 2019. (https://jacobin.com/2019/11/jeremy-corbyn-labour-party-manifesto)

that promised to undo the harm a decade of austerity had unleashed upon the country and to push back the drastic neo-liberal reforms undertaken during the 1980s. The blueprint was largely retained for the 2019 election. Promises like the plan to nationalize fiber broadband and give every home free, high-speed internet access became immensely popular. Renationalizing rail, mail, and utilities were also high on Corbyn's agenda. Mass investment in the public services that had been decimated by central government funding cuts emerged as a cornerstone of his campaigns.

But there was more: a promise to reverse the anti-trade union laws the Conservatives had passed to prevent workers fighting for better pay and conditions, with the promise to outlaw zero-hour contracts, raise the minimum wage to £10 an hour, and extend maternity and paternity leave. These were broad and far-reaching promises, giving workers the same rights whether they're self-employed, new to a workplace, or working part-time.

Labour's promise to institute statutory leave for bereavement and miscarriage was remarkable, with the potential to bolster the emotional well-being of individuals when they are at their most vulnerable. Greater protections for terminally ill people and women experiencing menopause are further examples of the "pragmatic utopianism". Labour made a hallmark of their policymaking during Corbyn's era. The Party also sketched out a plan for a Green Industrial Revolution, creating a million jobs in the regions and towns that needed employment the most, aiming to make the economy carbon neutral by 2030. Journalist and author Dawn Foster wrote the following about this environmental policy:

> The environmental policy is radical and hugely ambitious, and ushers in the promise that not only can we avert the flooding that blighted the first few weeks of campaigning, but that in doing so Britain can bring back genuinely good jobs to regions that collapsed economically after "Thatcherism on steroids" killed mining, steelworks, and shipbuilding jobs in working-class communities that had the temerity not to vote Conservative.[3]

Lessons for Us

At a juncture where the Indian left is trying to mount a serious challenge to the communal-corporate regime of the RSS/BJP, one wonders which developments at the global level can supply useful lessons and inspiration. Corbynism is certainly one of the experiments that we must observe carefully. Notwithstanding the electoral defeat of the Corbyn-led Labour Party in 2019, and the subsequent change of leadership in the Labour Party, Corbynism has left a deep imprint on British politics. It may yet end up decisively reshaping British polity and society in the times to come.

An analysis of the nature of Labour's electoral defeat of 2019 leaves much room for optimism. Daniel Finn points out that despite losing fifty-nine seats overall, Corbyn's party still comfortably bested the Conservatives with every demographic cohort under the age of forty-five: according to Lord Ashcroft's exit poll, by 57 to 19 percent among eighteen- to twenty-four-year-olds, by 55 to 23 percent among twenty-five- to thirty-four-year-olds, and by 45 percent to 30 percent among thirty-five- to forty-four-year-olds. Voters old enough to remember when Margaret Thatcher became prime minister in 1979 opted for her party.[4] The strongest rejection of Thatcher's legacy came from those who had only ever known the world she made – younger voters whose yearning for an egalitarian future remains unfulfilled.

For us, the fact that a socialist agenda can significantly influence mainstream political discourse is heartening. We are living in times when Indian politics

[3] Ibid.

[4] Daniel Finn, "Jeremy Corbyn's Movement Was a Signpost for the Future, Not a Relic of the Past." *Jacobin*, 12 December 2020. (https://jacobin.com/2020/12/jeremy-corbyn-labour-uk-defeat-december-2019-election)

and economics are undergoing a deep-seated neo-liberal transformation. So powerful is this transformation that many have started wondering whether "old" demands for improved state-led welfare schemes, universal public systems, workers' rights, make sense anymore. Corbynism's rise to prominence after more than two decades of neoliberalism is something which should give us hope.

This achievement is the cumulative result of small-scale, localized social and political struggles.[5] The Corbynism story tells us that small-scale, local struggles are capable of influencing the societal consensus over time, and they do build up to something significant. The forms of organizing which made this possible – as well as the shortcomings which stopped the Labour Party from claiming an electoral victory – needs further study.

In times when questions are being raised about the ideological efficacy of socialism in the fight against fascism in India, a close look at the Corbyn experiment throws up something interesting and important. Its interventions were the product of creative alliances between actors in electoral politics and grassroots movements on the one hand, and a sharp ideological critique of Neoliberalism based on principles rooted in Marxian socialist traditions on the other. ■

[5] Samuel Earle, "The Corbyn Generation", *Jacobin*, 01 September 2018. (https://jacobin.com/2018/01/student-revolt-austerity-uk-corbyn-momentum)

TRADE UNION ACTION DAY FOR WORLD PEACE OBSERVED ON 1ST SEPTEMBER 22

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