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NEW
INDUSTRIAL RELATIONS BILL
AN ANTI-WORKING CLASS MEASURE—A CRITIQUE

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The introduction of the anti-working class, anti-union Industrial Relations Bill in Parliament in the wake of the passage of the 45th Constitutional Amendment Bill in the Lok Sabha glaringly exposes the limitations of the Janata leaders' concept of democracy. The 45th Amendment Bill is designed to eliminate the Emergency framework institutionalised by the 42nd Amendment Act. The anti-trade union Bill in reality institutionalises the Emergency provisions and policies in relation to the trade union movement. No wonder Shri Madhu Limaye who recently resigned from the Secretaryship of the Janata Party lodged a powerful protest against this reactionary and betraying piece of legislation which no democrat or trade unionist can support.

The new Bill was rightly denounced by our MPs, the MPs of the Forward Bloc, CPI and some Janata MPs as a piece of reactionary legislation. The entire trade union movement — the CITU, AITUC, BMS, HMP and HMS, INTUC — has unanimously condemned it and expressed the united resistance of the trade union movement to it.

All legislations which purport to deal with "industrial relations", but refuse to recognise the existence of two unequal classes, one of whom has to fight for its livelihood against the money-power of the other, end in putting one-sided restrictions on the oppressed and exploited classes and help the process of exploitation. 'Industrial relations'

is a non-class expression to hide the ugly reality of class struggle, of the necessity for any genuine democracy to throw its full weight behind the oppressed to curb the exploiters.

The first task of democratic Government, therefore, if production is to go on uninterrupted, is to ensure through legal compulsion, such minimum conditions as need-based wage, decent housing and living conditions for the workers and end their slave status by eliminating or curbing the arbitrary rights of the employers to hire and fire.

The Janata Government, of course, does not believe in any such policy or outlook, though its Election Manifesto stated :

“The Janata Party believes that economic policies should subserve the interests of workers in the agricultural and industrial sectors. The party will ensure minimum wages for all categories of workers. Such minimum should be sufficient for the maintenance of the worker and his family.” It further added: “A wage and price policy must ensure that income disparities are reduced. Steps will be taken to see that minimum incomes rise rapidly so that the difference between the minimum and maximum income is reduced to 1 : 20. It will strive to further reduce the difference to 1 : 10, within a decade by a policy of income redistribution that raises floor levels and discourages bloated incomes.”

BETRAYAL OF PLEDGE

This is a correct policy to maintain industrial peace, keep production uninterrupted and rouse the workers' interest in production.

But instead the Janata Party, like its predecessor, the Congress Party, like all bourgeois-landlord parties in other

countries, is concentrating attention on the forcible maintenance of industrial peace to help the employers to perpetuate conditions of misery and exploitation. Instead of a need-based wage, it is legislating to ban the workers' strikes, to suppress their struggle for need-based wage and living conditions. The legislation is a betrayal of the solemn pledge given in the Election Manifesto which the top Janata Government leaders are determined to treat as a scrap of paper. One is overcome with sickness and nausea in witnessing the role of some ex-trade union leaders now functioning as Cabinet Ministers. And one recalls the honourable role of Shri V. V. Giri who as Labour Minister resigned from the Nehru Cabinet when the Prime Minister tampered with an award which went in favour of the bank employees.

The trickery of all modern labour legislation consists in its pretensions to treat both labour and capital on an equal footing, with the Government pretending to be a third independent force. The Janata legislation indulges in this chicanery. Since hypocrisy will stand exposed if it only restricts and bans strikes, it makes elaborate provisions to restrict and ban lockouts. But every worker knows that in practice lockouts are not banned, but sanctioned, while strikes are prohibited. The famished workers fighting for their minimum demands for existence and the profit-hunting capitalist coercing thousands through a lock-out are put on the same footing.

An employee who goes on what is described as an illegal strike shall be punished with imprisonment for a term which may extend to three months. An employer who illegally locks out thousands to starve them into submission will also be imprisoned maximum up to three months. What more do you want? Isn't the Janata Government impartial, doesn't it hold the balance even between the

worker and the employer? The Labour Department may reply; but while the worker is to be fined a hundred rupees, the poor employer will be fined two thousand rupees. Isn't that enough?

The pretentious objective of the new law is to delineate a legal framework that will "promote cordiality and peace in industrial establishments, protect the legitimate rights of employees and the legitimate interests of industries (read capitalists) so that industrial harmony and cooperation may lead to increased production and productivity, increased flow of goods and services and consequent improvement in the standards of living of the people and a greater measure of social justice". A very laudable objective. How to achieve it? By no means by legislating for minimum living conditions but outright banning of strikes of a vast number of workers and making them slaves of compulsory arbitration and their fate dependent on the arbitrary will of a bureaucrat or sychophant judge. To quote the statement of objectives and reasons: "A distinction will be made between establishments or undertakings that cater to essential services and others. In the former, there will be compulsory reference of disputes for adjudication, or arbitration failing bipartite negotiations and conciliation. In these cases there should, therefore, be no need for any work stoppage either in the form of a strike or lockout...."

WHOLESALE BAN ON STRIKES

Strikes are therefore banned in the following: (1) any establishment of, or connected with, the armed forces, of the union or installations connected with the defence of the country against war or external aggression; (2) any railway service or any other transport service for the carriage of passengers or goods, by air, water or land; (3) any service in the International Airport Authority of India constituted under the International Airports Authority Act,

1971; (4) any service in or in connection with the working of, any major port or dock; (5) any section of an industrial establishment or undertaking on the working of which the safety of such establishment or undertaking or the employees employed therein depends; (6) any postal, telegraph or telephone service; (7) any service in, or in connection with, the working of any public sector undertaking engaged in the purchase, procurement, storage, supply, or distribution of foodgrains; (8) any industry which generally supplies or distributes power, light or water, to the public directly or indirectly; (9) any system of public conservancy or sanitation; (10) banking; (11) all atomic energy installations including power stations; (12) production, supply and distribution of coal.

Practically the majority of the Indian workers are to be deprived of the right to strike as in the days of the Emergency. No previous Government dared to come out in an ordinary legislation with such a comprehensive list for wholesale banning of strikes in industries. Nor did any previous Government extend the ban to banking. But the Janata Government led by Shri Morarji Desai has earned this badge of shame while paying homage to the fundamental rights of the people in connection with the 45th Amendment Bill.

But this is not all. Section 157 of the Bill further arms the appropriate Government to add to the list of strike-banning industries by putting new industries in the list of essential services.

It has been the demand of the trade union movement that all sections of workers should be granted protection from arbitrary dismissals, retrenchment, lay-offs etc., under a common act. The Supreme Court itself had struck down the restrictive meaning of industry as interpreted under the

previous Acts and made it applicable to almost all activities involving employer-worker relationship. The framers of the Bill had to take notice of it and widen the definition of industry, though here also they sought to arbitrarily exempt some activities. Hospitals and educational centres — teachers, professors and nurses are not to get any protection for job security. "Having regard to the nature of the work performed in hospitals, the need to maintain, in educational and training institutions and in scientific and research organisations, an atmosphere different from that in industrial and commercial undertakings and to meet the special needs of organisations engaged in charitable, social and philanthropic services, such institutions and organisations are being excluded from the provisions of the Bill."

The professors, teachers and others are supposed to be satisfied with plain living and high thinking without any guarantee for minimum living conditions. The doctors and nurses are angels spreading the message of human kindness — why should they bother about how much they are paid or whether they have any place to live in? The Janata Government feels embarrassed to declare hospitals, educational institutions, etc., as essential services and ban strikes in them. It has therefore introduced a separate Bill to deal with these workers. The Bill bans all strikes in educational institutions, hospitals, etc.

However, in the wake of the Supreme Court decision, the definition of industry has been widened to mean any systematic activity carried on by cooperation between an employer and his employees (whether such employees are employed by such employer directly or by or through any agency, including a contractor) for production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which

are merely spiritual or religious in nature), whether or not...such activity is carried on with a motive to make any profit.

Normally this should benefit larger numbers of workers if it is not accompanied as under the Bill, with the threat or actual banning of strikes and paralysing all resistance of the workers.

What protection does the Bill offer against layoff, retrenchment and closures? In spite of its pompous wording, there is hardly any protection. Layoffs, retrenchment, closures are now made dependent on the whims and consent of the Government and even a blind man can see where the sympathies of the present Government lie.

AUTHORITARIAN PRACTICES

In relation to layoffs, Section 82 states no employee, etc., shall be laid off by his employer except with the previous permission of the Government. The Government's consent must come within sixty days of the application for layoff; if it does not come the employer can presume consent and go ahead with layoff.

The same provision applies to retrenchment. No employee working in an establishment in which not less than one hundred persons are employed and who has been in continuous service for a year in such establishment can be retrenched without the permission of the Government. The Government is not bound to consult the workers or the trade unions. It may on its own grant such permission and the employer can then legally retrench thousands.

All these provisions which seem to restrict the powers of the employers will in practice invest their layoff and retrenchment offensive with official sanction and legality. This is one of the most scandalous parts of the Bill. Retrenchment and layoffs are not the vital concern of the

workers, but just a matter between the Government and the capitalists! This is nothing but introduction of authoritarian practices to deal with the workers' struggle. This is how democracy and the authority of the trade unions is being sacrificed in the name of a comprehensive Industrial Relations Bill.

IMMOBILISING TRADE UNIONS

These notorious clauses are accompanied by provision of compensation for those laid off, retrenched or thrown out due to closure.

The Bill provides that changes in matters relating to employment or conditions of labour applicable to any employee cannot be made except through procedure laid down under it.

The employer and the recognised trade union (negotiating agent) must negotiate. Their negotiations may last for not more than sixty days. In case of failure the dispute goes to the Conciliation Officer who is to work for a settlement — the time-limit again is sixty days. Failing settlement the conciliation officer will forward his report **as soon as possible** to the appropriate Government which may take another sixty days to consider whether a reference is necessary to the Labour Court or Tribunal.

A Court of Enquiry shall submit its report within a period of one hundred and eighty days; the Labour Court shall announce its award ordinarily within a period of ninety days and the Tribunal or National Commission shall pronounce its award ordinarily within a period of one hundred and eight days. The actual period is likely to be much more. So for a whole year at least the trade union movement must stand still when a recalcitrant employer refuses to accept the urgent demands of the workers.

All strikes during the pendency of any conciliation

proceedings are illegal; they are illegal if declared fourteen days after the conclusion of such proceedings. Strikes during the pendency of any proceedings before an arbitrator, labour court, tribunal or National Commission are illegal. They are illegal if undertaken sixty days after the conclusion of such proceedings.

Besides, no person employed in any industrial establishment shall go on strike in breach of contract without giving to the employer a notice in writing within six weeks before striking and within 14 days of giving such notice.

This is the scheme of the Bill. First, arbitration wherever it suits the Government or the employers, prolonging negotiations as long as possible and delay and disrupt the working class action and organisations. The arbitrators' or Labour Courts' decision is final, though the workers are not prevented from going on a strike after the award. But then it will mean that the award being binding on the workers, the full powers of the Government will be used to crush the strike.

No previous Government had dared to impose compulsory arbitration on the trade union movement. The arbitrators drawn from the services or the Judiciary will be far from impartial and very rarely will their verdict meet the genuine demands of the workers.

And finally Section 120 of the Bill arms the Government when it is a party to an industrial dispute to change an award if it will be inexpedient to give effect to it on public grounds affecting national economy. It only means that the Government has a right to change an award if it favours the workers.

The workers' right to strike is further sought to be restricted by the provision that the proposal for strike must have the support of 60 per cent of the workers in a strike

ballot. It means that the right of 59 per cent to go on strike will be vetoed by a minority. Besides, the notice of the strike can be given only by the negotiating agent, i.e., a recognised union, which bans any other union having more influence with the workers from proposing direct action. This is one more hurdle against the right to strike.

Section 90, besides, provides that the Registrar shall have general power of supervision, superintendence over a strike ballot and he shall decide any dispute pertaining to a strike ballot.

The induction of the Registrar into the strike ballot is yet another authoritarian provision for Government control over the trade union movement. This power of the Registrar will be used to falsify the result of the ballot by unscrupulous officials.

Section 77 further empowers the Government to prohibit a strike in any industry where a dispute has arisen when the Government thinks it is necessary to do so in public interest.

It will be seen that strikes are not only banned in essential services, they are being virtually eliminated in other industries through several provisions.

With the working class deprived of its effective weapon what chance is there to bring a recalcitrant management to the path of settlement? The restrictions imposed on the employers regarding unilateral change in conditions of work, and the compulsion to go through negotiations, conciliation, etc., will not really enhance the bargaining capacity of the workers. With the fear of direct action removed, the conciliation and arbitration proceedings will remain formalities, with the employers' attack at best delayed by a few months.

The Bill provides for imprisonment of three months

for an employee who commences an illegal strike'. The workers' leaders (in the language of the Bill, one who instigates to take part in illegal strike) are to be imprisoned for a term which may extend to six months. This is Janata Gandhian democracy with a vengeance.

Formally, an employer who introduces an illegal change, etc., is punishable with imprisonment which may extend to one year. But we have yet to witness the miracle of an employer being sent to jail for illegal action against the workers. He will be allowed to get off with a fine if convicted. In any case a Government whose head urges extra-constitutional consideration for the Raja of Challapalli is not likely to jail any employer.

The Bill provides for punishment for unfair practices on the part of employers and trade unions and employees. The list of unfair practices on the part of the employers is fairly exhaustive and includes victimisation of trade union workers. Considering however the tenor of the Bill and its anti-working class bias it is easy to see that enforcement will be lacking and the employers will merrily continue their old ways including outright victimisation of workers for trade union activities.

Unfair practices on the part of employees and their organisations include slowing down of production, demonstrations at the residence of the employers or the managerial staff, refusal to work overtime, refusal to negotiate collectively in good faith, threats to non-striking employees or the managerial staff, picketing of non-striking employees, physically barring them from entering the work place.

This is an atrocious list really intended to ban strike activities, picketing, demonstrations, etc., i.e., another way to illegalise strike. It is made to appear as if only certain types of violent and coercive activities are objected to. The

fact is that it is intended to ban normal picketing, etc., accusing the workers of intimidation.

The employer will be allowed to get away with unfair practices while the workers and their organisations will be penalised for their legitimate activities.

UNWARRANTED INTERFERENCE

As if all this was not enough, the Bill makes further inroads into the freedom of the trade union movement. Unnecessary restrictions and new conditions are laid down for registration of unions. Under the existing Act seven employees can form a union and get it registered. Now a minimum of 100 or ten per cent are required for registration. All trade unions registered under the 1926 Act have to compulsorily re-register under the Bill when it becomes an Act. The Registrar is being given wide powers for interference and trade unions are to be harassed by demanding a spate of statements, documents, etc.

The Bill dictates that a trade union carrying on its activities in one industrial establishment shall not have more than two office-bearers who are not persons actually employed in the undertaking. It further dictates that a person cannot be an office-bearer in more than four trade unions. Militant and honest leaders are called upon to help several unions and the Bill unwarrantedly interferes with the workers' right to choose their office-bearers.

In passing it should be noted that the Bill designates the organisation of the employers as a trade union of employers obviously to protect their exploiting role. It makes it slyly appear as if an industrial dispute is a fight between two trade unions and not between the capitalists and the workers.

It is still more shocking to find that the Bill dealing with hospital and educational establishments does not des-

cribe the organisations of nurses, doctors, professors and teachers as trade unions; they are called associations. The Tatas and Birlas have a right to form trade unions, but the professors and nurses must have no such right. They can only have associations.

The Bill runs into a hundred pages with its complicated causes. And yet the workers are prevented from engaging lawyers under the Bill. Can idiocy and stupidity go further? It seems that the framers of the Bill do not want the workers and trade unions to make proper defence of their interests.

RECOGNITION OF UNIONS

The trade union movement has been demanding proper and honest provisions for recognition of unions. The employers and the Congress Government in the past favoured the INTUC unions whether that had the requisite mass following or not. Many of these recognised unions entered into anti-working class agreements accepting retrenchment or wages cuts — all without consulting the workers. The workers who repudiated these agreements came into conflict with the law because legally the agreement made by the recognised union was binding on them under certain Acts.

The trade union movement has therefore been demanding that recognition should be decided by a secret ballot of all the workers.

This demand was pressed by the trade union movement minus the INTUC at the tripartite conference. But the Janata Government has turned it down. "The Bill provides for the determination of a negotiating unit (recognised union) by the appropriate Government. . . . It will be for the appropriate Government to determine, inter alia, in

the light of the state of unionisation in the industry and certain other matters whether such determination will be done through a secret ballot or through verification of membership." The workers' right to choose their own union for negotiation is to depend on the whims and the arbitrary decision of the bourgeois-landlord Government and its bureaucrats. The Government is free to foist through the so called process of verification any union on the workers and the agreements made by this union are legally binding on the workers.

The result of verification depends on the will of the officials. They adopt questionable methods, doctor results, falsify them to favour organisations which are favourites of the ruling party. This was how verification functioned under the Congress. This is how it will function under the Janata; that is why the central trade unions have refused to cooperate with the Labour Ministry for ascertaining the strength of central trade union organisations by verification.

Under the Bill if a union has the support of not less than sixty-five per cent, it will be the sole negotiating unit (recognised union). If a union has the support of more than 50 per cent but less than sixty-five per cent it will be the chief negotiating unit and if there are others who have the support of not less than 20 per cent workers, the latter will have the status of an associate unit.

The sole negotiating unit, the chief negotiating unit will have plenty of rights to negotiate on behalf of the workers including right to receive information in regard to the finance and economy of the industrial establishment.

But will the workers really gain by these provisions? The recognition of these unions will not be decided by a

secret ballot, but by the verification done by the bureaucrats. Instead of genuine representatives of the workers, favourites of the employers and administration are likely to get the privilege of recognition.

UNITE IN HUGE PROTEST

In conclusion it might be stated that the new Industrial Relations Bill is a reactionary, authoritarian piece of legislation to help the capitalists and curb the trade unions. A Government which conceives of such a Bill cannot be trusted to defend the democratic rights of the people. The Janata Government leaders very reluctantly withdrew the MISA. They have retained the provision for preventive detention in the Constitution. Some of them are not unhappy that the two Congresses combined to defeat the provisions regarding referendum, Emergency, etc. And now this Bill marks yet another stage in the unfolding of their anti-democratic outlook. All this brings grist to the mill of the authoritarian forces.

The democratic forces must combine with the entire trade union movement to defeat this Bill and throw it on the dung heap. All central trade union organisations and their unions, all federations of workers and employees must combine in a huge protest agitation to fight this allsided attack on the freedom and liberty of the trade union movement and its right to strike. The Janata Government will not be allowed either to enchain the trade union movement or enslave the workers.

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