

15th May, 2020**PUCL Statement: Oppose Dilution of Labour Laws!!****Labour Laws Necessary to Protect Fundamental Rights of Workers**

PUCL is deeply concerned at the swiftness with which many states in the nation are dismantling the protection afforded to workers under their various labour laws. These laws provide many of the basic guarantees to workers – ensuring that employees get paid decent wages on time, have reasonable working hours, and are not subject to discrimination. They require employers to provide basic necessities such as drinking water and clean toilets to workers, and protect them from accidents and occupational hazards and diseases. Labour laws are essential for ensuring fundamental rights for our workers - rights which are guaranteed by the Indian Constitution to all Indian citizens, at all times. PUCL believes that withdrawing these protections from the working population in an effort to entice new businesses, is an unconstitutional, immoral and unethical attempt to revive an economy at the expense of its weakest citizens.

Better Enforcement of Labour Laws Required, Not their Dilution

The country is currently witnessing a massive human tragedy as lakhs of migrant workers found themselves stranded during the lockdown, without any means of getting food or work. Much of this could have been averted had the laws on migrant workers been properly implemented, and all of them been duly documented. Many of these workers have not been paid for months. Again, had the laws relating to timely payment of wages been enforced, many of these workers would not have been forced to take desperate measures like walking thousands of kilometers back to their homes.

As the country is slowly emerging from the lockdown, the working citizens of this country are at their most vulnerable, facing threats of mass layoffs and firings with depleted reserves of cash and food. This is the time when they most need the protection of labour laws to ensure that they are not unduly exploited. PUCL is alarmed by the ordinances cleared by Uttar Pradesh and Gujarat cabinets, which would indiscriminately suspend all labour laws except a few basic ones, for close to three years. Notifications by the governments of Madhya Pradesh, Rajasthan, Himachal Pradesh, Punjab and Haryana have also suspended crucial portions of their labour legislations. *We fear that these moves would force a large proportion of our population to inhuman servitude and destitution, and condemn them in no uncertain terms.*

Labour Laws ensure basic living conditions for a large section of the population

1. Remuneration for Work

Employers are mandated by law to pay workers no less than the minimum wages in a timely manner, and also supplement the incomes of their low wage employees with yearly bonuses drawn from their profits. In addition, laws on gratuity ensure that at the end of employment, due to retirement, death or disablement, the employees or their families are compensated for the length of their service. Workers covered by Employee State Insurance are entitled to half of their monthly wages as unemployment benefits for a maximum of two years, and the Employees Provident Fund allows them access to a small fund at retirement, or during an emergency.

We would like to point out that in actuality only a small proportion of all workers are enrolled in ESI and EPF, even in industry notified under EPF. For example in the brick-kiln industry it is estimated that anywhere from 5-8 million workers do not get this benefit. Similar is the situation in relation to Gratuity and Bonus. The demand should be make these protections universal; instead these provisions are being suspended even for existing workers.

Most of the currently proposed labour law amendments guarantee only the minimum wages, and have suspended all other benefits. We note that Punjab has also rolled back its latest increase in minimum wage and other states may soon follow. UP and Gujarat propose to suspend gratuity, bonus, provident fund, and all other benefits, which are crucial to sustain the workers at this time. PUCL strongly opposes the move of these various governments to deprive workers of the protection of existing labour laws.

2. Working Hours

Factories Act mandates that working hours should be limited to 9 hours in one day, with a maximum of 48 hours per week. Any additional hours of work have to be compensated as **overtime wages at twice the ordinary rate**. A large number of states including Rajasthan, Punjab, Haryana, Himachal Pradesh, Gujarat, Uttar Pradesh and Madhya Pradesh have extended the workday to 12 hours per day, for the next 3 months, with no increase in the number of rest intervals. A majority of these states have also extended the workweek from 48 hours to a grueling 72 hours. PUCL is distressed to note that the states of Gujarat and Uttar Pradesh have exempted their industries from having to pay overtime wages for these extended work hours.

Extension of working hours also goes against the stated aim of these labour law amendments to increase overall employment, because *they effectively incentivize the employers to employ fewer workers* than required, and compel them to work for longer hours.

It should be recalled that the demand for limiting the working hours to 8-hours a day and 48 hours in a week originated during the Industrial Revolution in order to protect the workers' health and safety by providing them with adequate amounts of rest and recuperation. Considering that the right to shorter working hours was the subject of the very first Convention of ILO 'International Labour Standard (C001)' adopted by the ILO and ratified by India, PUCL is alarmed to see the clock turn back more than 100 years of workers' struggle. It is especially against the very requirement of health and immunity

following Covid19; this is because simultaneous with the 12- hour work day, the rest time for the worker will now be available not after the first 4 hours, but after 6 hours of continuous work. This will have an adverse impact on health and emotional state of the workers. Also given the high increasing rate of unemployment, this will further limit the employment opportunities. The hours work should be reduced to six.

3. Health, Safety and Welfare of workers

Factories Act, Mines Act and Dockworkers Act are some of the labour laws that enjoin employers to protect the health and wellbeing of their workers. These laws provide for clean, ventilated and adequately lit working spaces with drinking water, and toilets. An employer is also expected to provide first aid facilities, sitting spaces and creches. These laws also mandate inspections for safety and health, safe disposal of hazardous materials, notifications of industrial accidents and occupational diseases.

As a pandemic rages in our country, and with a living memory of the Bhopal Gas Disaster and the recent Styrene gas leak causing death of 11 people and serious injuries to over 200 people in the LG Polymers India plant in Vishakapatnam on 7th May, 2020, it is obvious that these measures not only secure the health and safety of industrial workers, but also of entire communities.

PUCL is disappointed to note that Madhya Pradesh, Uttar Pradesh and Gujarat have stripped or suspended these laws at a time, when it is in the greater public interest to implement them with great vigour.

4. Grievance redressal machinery and the right to Collective Bargaining

The central Industrial Disputes Act and the state Industrial Relations Acts primarily protect workers from uncompensated lay-offs and retrenchments, unreasonable changes in their working conditions, unfair labour practices etc. They allow for a system of labour courts, industrial tribunals and arbitration boards where the workers can raise an industrial dispute relating to wages, working hours, conditions of work etc, and get their grievances redressed. The Trade Unions Act recognizes associations of workers to act as their representatives and enter into collective agreements with the employers.

In view of the announcements by several states of the suspension of these acts, PUCL points out that the institutions established by these acts are critical for the smooth functioning of the industry, and provide a mechanism for social dialogue between the workers and employers. This machinery is essential for ironing out the tensions between the labour and the management, without having to take recourse to the lengthy and expensive litigation, or acrimonious strikes and lock-outs.

The suspension of these crucial laws violates the basic provision of labour law of tripartite mechanism. We must remember that the highest level labour related bodies at National (Indian Labour Conference) and International (International Labour Organisation) level are tripartite in nature. This is no way can be compromised.

5. Worker Welfare

In addition to these, there are many other labour laws which afforded some protection to the most vulnerable category of workers, such as pregnant women, migrant

workers, contract workers, manual scavengers, and those working in the beedi industry, in mines and in the unorganized sector, who are now also left open to exploitation by industry owners.

Diluting labour laws will not attract additional investment

The justification given by various governments that existing labour laws are a deterrence to investment by industry, and by extension, to the prosperity of the state, needs to be examined more critically. The notion that stringent labour laws are the primary impediments to investments in states is highly debatable – manufacturing industries depend on a complex set of factors such as reliability of infrastructure, access to credit, availability of skilled workers, good governance and freedom from corruption.

Several studies have shown that strong labour market institutions and social welfare legislation are necessary to reduce inequalities and encourage inclusive growth¹, and that high levels of inequality can retard growth in developing economies². Even the UN Trade and Development Report, 2019, warns governments against “promoting cuts to labour costs” as their “adjustment strategy of choice” when faced with economic downturns. Instead, the report encourages governments to adopt progressive fiscal arrangements, and expanded social insurance, among other measures for achieving Sustainable Development Goals.³ An increase in the average wage of the worker will drive domestic demand, fueling growth in the economy.

Suspension of Labour Laws is Unconstitutional & violates International Covenants

The new industry regime ushered in by these changes, where employers can pay rock-bottom wages, hire and fire workers at will, coerce them into working long hours each day, and prevent them from unionizing, goes against the very grain of our constitution, and is also in violation of many international conventions. Such precarious working conditions are clearly violative of Article 21, the fundamental right of workers to live with dignity, as held by J Bhagwati in the *People’s Union for Democratic Rights v. Union of India* (1982)⁴ case.

The Supreme Court has held that Article 21 also encompasses the “protection of health and strength of workers and just and humane conditions of work.”⁵

The rights of workers to non-discrimination, a living wage, safe and humane working conditions, and a decent standard of life and full enjoyment of leisure and social and cultural opportunities, is also enshrined in our Constitution through Directive Principles of State Policy⁶.

The right to form trade unions and engage in collective bargaining is protected by Article 19(1)(c), which guarantees all citizens the right to form associations or unions for a lawful purpose. It is also a fundamental human right recognized by the Universal

¹ Labour Markets, Institutions and Inequality - Building Just Societies in the 21st Century, edited by Janine Berg, ILO, 2015

² Inequality, Growth, and Investment, Robert J. Barro, National Bureau of Economic Research (NBER) Working Paper No. 7038, Issued in March 1999

³ Trade and Development Report 2019: Financing a Global Green New Deal, United National Conference on Trade and Development

⁴ AIR 1982 SC 1473

⁵ Occupation Health and Safety Association of India v Union of India (2014) 3 SCC 547

⁶ Articles 39, 42 and 43

Declaration on Human Rights, 1948, enabling the effective participation of workers in economic and social policy.

PUCL strongly objects to the dilution of labour laws, the bulwarks of our legislative edifice against exploitative and extractive labour practices, as a strategy to kick-start economy. We demand that the President send back the UP and Gujarat state ordinances to the respective states. We further demand that the states of Gujarat, Punjab, Haryana, Himachal Pradesh, Rajasthan and Madhya Pradesh revoke their notifications amending the Factory Act, Industrial Disputes Act and related acts. Vast sections of our working population are better served by a caring government that watches out for their rights as workers, assuring them secure jobs which meet their basic needs, rather than one that merely treats them as fodder for the ruthless engine of industry.

PUCL wishes to emphasise that the purpose for India's industrialization and development cannot be to ensure profit for international companies, at the cost of the dignity, well-being and liberty of India's working class people. The aim of India's development must be for creation of sustainable growth with high levels of employment for the working age population and good quality of living for all people living in India. What is required is universal application of laws with adequate provisions of effective enforcement, transparency and monitoring, within tripartite frame.

PUCL gives a call to all concerned citizens of India to rise up as one to oppose the dilution of labour law changes proposed by the Governments of UP, Madhya Pradesh, Gujarat, Punjab, Haryana, Himachal Pradesh and Rajasthan.

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