

WORKING TO ILLNESS AND DEATH: WHO CARES?

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ABSTRACT

Occupational safety and health have been ignored as a non-negotiable labour right in India even as workplace accidents have been on the rise with an alarming frequency. This paper describes the narrow Indian context in light of the broader context of widespread irresponsible capitalism, and suggests the need for preventive labour and social policy as the only way out of the unending mess and misery.

Keywords: Capitalism, Globalisation, Liberalisation, Occupational Health and Safety, Preventive Social Policy, Social Democratic Capitalism.

INTRODUCTION

Capitalism, which is euphemistically known as the ‘market economy’, is the predominant economic system prevalent in the world in which a country’s trade, industry and profits are controlled by private companies, rather than by the people whose time and labouring powers those companies appropriate. It takes the position that ‘greed is good’ and is a huge driver of social and economic inequality. It dehumanizes work whereby human workers are reduced to a sub-class at a par with animals and machinery subject to a steep increase in job stress and working hours (Kelly, 2020; *Weekly Bolshevik*, 2013).

The employers in this system go to the extremes to evade the costs of safe and healthy workplaces. The working class is hit with the choice: unsafe job, or poverty, or slave labour with both. Wolff (2020) has brilliantly summarised the continuing story of capitalism since its genesis thus:

“Capitalism has always struggled to minimise outlays on workplace safety and health. Workers have protested this wherever capitalism became the prevailing economic

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system over the last three centuries...The profit-driven logic of capitalist enterprises incentivizes *not* spending capital on workplace safety and health conditions unless and until they deteriorate to the point of threatening profits. Capitalists and mainstream economics textbooks repeat endlessly that profit is every enterprise's "bottom line."

Wolff further argues:

"Profitability measures each firm's economic performance. Profits reward employers; losses punish them. Employers use capital to yield profits; that is their chief goal and priority. As objectives, workplace safety and health are secondary, tertiary or worse: obstacles to maximizing profits. Capitalism has always sacrificed the safety and health of the majority employees to boost profits of its minority employers. That minority makes all the key enterprise decisions and excludes the majority employees from that decision-making. No wonder employers figure disproportionately among society's rich, safe, and healthy, while employees figure disproportionately among the poor, unsafe, and unhealthy... In some times and places, capitalism's iron fist wears velvet gloves. When profits are high and/or critics of capitalism ally strongly with its victims, employers may spend more on making workplaces less unsafe and less unhealthy. Otherwise, employers do spend less. If and when they fail to prevent government regulations mandating minimum health and safety standards, employers campaign to evade, weaken, and eventually repeal them. Employers usually repeat the same old arguments to block or undo regulations mandating safety and health standards. Such regulations, they insist, divert capital from productive uses (hiring workers) to "unproductive" uses (improving workers' health and safety). Thus fewer workers will be hired, hurting the employee class. With such arguments employers have often succeeded and undermined workplace safety and health. Capitalism's long record of maintaining nearly constant unemployment—its "reserve army"—not only got workers to accept lower wages for fear of being replaced by more desperate unemployed. Rising unemployment also can make employed workers to accept unsafe, unhealthy workplaces. Unemployment is a kind of torture by one class of another. It helps maintain lower wages and unsafe and unhealthy worksites."

It is therefore not at all surprising that a similar reality is reproduced in our country as well.

INDIAN CONTEXT

The forces of globalisation and liberalisation have aggravated the already existing serious problems of occupational health and safety in the Indian capitalist context. With the advent of globalization, labour-intensive, hazardous and environmentally destructive manufacturing operations have been shifted from the developed to developing countries, particularly in Asia. Less developed countries such as India have thereby become pollution havens for dirty industries. Energy, chemicals, transport, metallurgy and food processing are classified as the "red" or most polluting industries. The largest inflows of foreign direct investment in India have been into the dirty industries, especially chemicals.

With the advent of liberalization, many activities reserved for the public sector have been de-licensed and private and foreign firms have been allowed into these activities including polluting industries such as mining, power generation, chemicals, etc. The impact of this shift

has been devastating for the environment and the workers in those industries. The case of Hindustan Lever's mercury thermometer factory in Kodaikanal is a relevant example in this regard. Mercury poisoning went almost 250 times above the permissible limits and adversely affected the environment of the Kodaikanal region. Hindustan Lever opened this factory here after closing down its unit in the USA. Therefore, actually the environmental and the human costs of the mercury thermometer production were transferred from the USA to India. Moreover, India's 7500 km long coastline has been converted into a destination for waste disposal of the entire world. Lead ash, battery scrap, zinc ash, waste oil and old ships laden with asbestos have been increasingly reaching this coastline. India has been importing huge amounts of zinc waste and lead waste at its 7 major and 100 minor ports. Huge amounts of plastics and metal waste have been coming into India from Australia, Canada, UK and USA apparently for recycling. The Indian company Futura Industries of Tamil Nadu has imported 10,000 metric tonnes of plastic wastes since 1992 up to 2010. Indian coasts are now emerging as world's largest ship breaking yards. Ship breaking is a very dangerous work.

Alongwith globalization, a competitive model of export-oriented growth based on foreign investments has been promoted. The developing countries have been compelled to compete with one another for more and more export orders and for more and more share of foreign investments. This competition has actually become a war against own working people in each country, in terms of slashing subsidies from public welfare and extending huge monetary incentives like tax exemptions to investors, uprooting the indigenous communities and granting easy access of natural resources to investors, etc. The working class has been denied any labour rights as human rights and treated as unlimited supplies of cheap labour to ensure super profits for the investors. Whatever labour enforcement machinery was set up initially in the country became almost completely paralyzed in the name of abolition of 'inspector raj'. This has progressively led to rampant violation of safety laws and aggravation of health and safety related problems at workplaces. According to ILO's conservative estimates, more than 1,000 workers every day or 46 workers every hour die due to occupational health and safety problems.

The legislative framework of occupational health and safety (OHS) in India is poor. It is not comprehensive, covering all workers in all economic sectors. OHS legislation exists only for four sectors--manufacturing, mining, ports, and construction. But even in these sectors there are serious shortcoming by way of coverage, quality and effectiveness of various provisions. Much of legislation is just paper-work show-off.

The International Labour Organisation has so far adopted 182 conventions including 13 conventions on occupational health and safety and working environment, but it is strange that India has ratified only a total of 39 conventions and only 2 conventions on occupational health and safety namely Radiation Protection Convention (No.115), 1960 and Benzene Convention (No.136), 1971.

About 97 percent of the enterprises in India employ less than ten workers and most of these employ less than five workers, and therefore these enterprises are out of the coverage of the Factories Act. About 66 percent of total workers employed in all enterprises are engaged in the enterprises employing less than 10 workers. In all the major economic sectors, informalisation

is predominant. Even in manufacturing, the unorganized sector represents more than 80 percent in terms of labour input. The informal sector has become a source of generating super profits with the dispersal of the assembly lines in low wage locations stretching up to home based work. In the process, there are double benefits to capital--a huge reserve army of labour always puts downward pressure on wages in the formal sector; and there is unlimited opportunity to exploit highly vulnerable cheap labour without incurring any overhead costs. Therefore, it is evident that majority of enterprises which are not covered under the Factories Act, are actually doing work for the larger enterprises. Moreover, many of these enterprises are actually employing less than ten workers. It is a general trend that to save on the costs, factories try to escape from the coverage of the Factories Act, and even when they employ many more workers, they show only less than 10 workers on record. Many of these small enterprises are engaged in manufacturing, waste handling, using hazardous chemicals or carrying on operations dangerous to the health and safety of workers. It is well known that the working conditions are highly hazardous in the informal sector enterprises, but without any justification they are put out of the coverage of the Factories Act.

The growing informalisation of workforce in the formal sector has resulted in worsening of the problems of occupational health and safety in the formal sector as well. Informal workers are generally denied any formal contract or salary slips, and so in the absence of any proof of employment they are unable to claim the legal benefits even when they are supposedly covered by the Factories Act or some other legislation. Informalisation of workforce also makes it almost impossible to form trade unions and without trade unions it is a daunting task to compel the employers to respect and implement the provisions of health and safety and provide the legal benefits to the workers. Informalisation of workforce has accelerated with the advent of globalization and liberalisation and there is no exaggeration in mentioning the fact that formal workers are becoming a minority. In majority of factories in some sectors like garments, the informalisation of workforce has reached almost 100 percent. It is also interesting to note that the increase in total employment in the Indian economy has overwhelmingly been of informal nature.

About 94 per cent of Micro, Small and Medium Enterprises (MSMEs) in India are not registered, simply because registration is legally not mandatory. These enterprises are variously defined by level of investment in plant and machinery. There is no limit on the number of workers they can engage, and as such many of these enterprises are employing more than 10 or 20 workers. They ought to be covered under the Factories Act, but as they are mostly unregistered, they easily escape from the coverage of various labour laws including the Factories Act. The MSMEs are involved in the manufacturing of more than 6,000 products, including food products, textiles and readymade garments, basic metals, chemical and chemical products, metal products, machinery and equipments, transport equipments, rubber and plastic products, furniture, paper and paper products, and leather and leather products, etc. As most of them are in the unorganized/informal sector, they are out of the coverage of the Factories Act, and therefore actually out of the coverage of any occupational health and safety law. We will only have to imagine the intensity of the OHS problems the workers are facing in these enterprises without any elbowroom to make any complaint against the daily injustice.

The advent of globalization and liberalization has been associated with a legislative drive to making a huge number of factories virtually immune to the Factories Act and also various other labour laws and OHS legislations.

Moreover, there have been recommendations and proposals to introduce the provision of self-certification of labour laws, without inspection, in various industries. The policies are already in place in different states of India and the facility of self-certification is being liberally extended to IT and IT enabled services, biotechnology, export-oriented units and Special Economic Zones all over India. Even if the Labour Department is free of corruption and also allowed to do inspections of factories, it is beyond its capacity to do so. The Labour Department is actually completely paralyzed by way of downsizing its staff. The state's weak attitude towards occupational health and safety in industries is also reflected in its meagre or negligible budgetary allocations.

It is impossible to construct a comprehensive picture of the state of affairs with respect to OHS in various industries in India because there is no systematic and comprehensive data available. The data on OHS is always under-reported and also there are great discrepancies in data reported by various departments of the government.

For many industries, all aspects of OHS data are altogether absent and never reported. Only for the factory sector, some data is available, and that is also not systematic, and not all aspects are covered and many a time the data from various sources are contradictory as already mentioned.

There is no OHS data available for agriculture. Accidents and pesticide poisoning and the like are frequently reported in the newspapers but the victims never get the benefits of the Insecticide Act or Dangerous Machinery Act. The increase in beedi-making workforce is correlated with the decrease of family income in their primary occupations, i.e., agriculture and handlooms. This increase in beedi-making workforce is largely in terms of more women and children entering this occupation. Respiratory diseases and posture-related health problems are most commonly reported among beedi workers, but as most of them are unregistered, they are not covered under the Beedi and Cigar Workers (Conditions of Employment) Act and therefore do not get any benefit of treatment or compensation. Only a minority of plantation workers are covered under the Plantation Labour Act, because the Act covers only plantations of the size 5 hectares and above; there is a large number of small plantations not registered; and there is engagement of more and more informal workers in them, i.e. workers without any formal contract. In plantation work, the working conditions are so bad and the wages are so low that a study in North East India revealed that, "Due to malnutrition people started falling sick, in the last five years more than 200 people have died on this (tea) estate alone". "They do not have any rice, they are hungry and they have to work on empty stomach--so they fall ill and die. All of them died due to hunger and malnutrition. This is how my husband died, he worked without enough food and he died because the tea garden was shut down." Another study exposes that in May 2010, workers assigned to pesticide spraying at Powai Tea Estate, collapsed and died on the job. The spray workers were not provided with any personal protective equipment, mask, respirator, chemical-resistant gloves, and spraying coat or boots. A protest followed after

the death of the workers but instead of fulfilling the desperate demands of the workers, a repression was unleashed by the state with two workers dead and 15 getting seriously injured in the police firing. This kind of response from the state machinery is too common to be ignored and condoned. Construction Industry in India is the second largest employer next to agriculture. Safety problems are most serious here. Construction is rated eight times riskier than manufacturing sector. However, it is not reflected in the data provided by the Ministry of Labour. The number of fatal accidents due to fall of persons is underreported. Almost the entire construction workforce is employed through contractors and subcontractors, without there being any formal contract and any benefits to the workers. The absence of effective trade unions in this sector makes any positive change in the deplorable situation impossible.

Total number of working mines in India has increased and output of coal has increased. And alongside, the number of fatal accidents has increased but surprisingly the data on accidents and number of workers killed indicates a declining trend over two decades! This data generally reflects the conditions of larger mines and not the smaller ones. There is large number of unregistered/ illegal mines and the conditions there go unnoticed. Moreover, the enforcement machinery of the Mines Act is so understaffed that it can never inspect all the mines.

All trade and services related establishments are generally covered under the Shops and Establishments Act of various states. However, only sales tax laws are properly enforced and laws related to wages and working conditions are never enforced under such an Act. There is also absolutely no data on OHS in shops and establishments covered under the Act. Note that these units have massive workforce in activities like electrical and mechanical repair work, small garages, air conditioners/refrigerators repair shops, small jobbing workshops, coffee grinding shops, flour grinding shops, and new service activities like software development, etc.

Manufacturing industry is said to be more organized with better OHS standards, but most manufacturing units are in the informal sector and most workers are informal workers and therefore they face the worst kind of OHS problems. The paralysis of the labour law enforcement machinery has aggravated the problems to such an extent that actually workers and working conditions in the factories are at the mercy, and whims and fancies of the employers.

These realities (as portrayed in Pratap, 2012) and the growing incidence of industrial injuries, which are well-supported by newspaper reports, are not going to change for the better with the recent drafting of the Occupational Safety, Health and Working Conditions Code, 2019 under the current National Democratic Alliance government. The fundamental problems as mentioned above are not at all addressed. As labour relations experts such as Shyam Sundar (2020) have emphasized, the Code suffers from several serious shortcomings in terms of narrow coverage, poor drafting with conceptual as also operational deficiencies and so on and so forth. This drawback along with disappearing enforcement system on the pretext of enabling ease of doing business along with the rise of regional 'hire and fire' labour reforms challenging the relevance of national lawmaking, does not augur well for workers confronting the reality of increasing incidence of industrial injuries.

CONCLUSION

Labour and social policy in India has not evolved in tune with the Directive Principles of the State Policy or the labour standards envisioned by the International Labour Organisation (Shyam Sundar, 2020). It may be noted that the Directive Principles of the State Policy direct the State, *inter alia*, to devise policies and/or laws to enable both men and women to have the right to livelihood, ensure health and strength of workers (Article 39), provide public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want (Article 41), secure just and humane conditions of work (Article 42), earn living wage and extend conditions of work enabling a decent standard of life and full enjoyment of leisure and social and cultural opportunities (Article 43). This means that a secure workplace in all economic activities needs to be guaranteed so that all kinds of workers are able to enjoy uninterrupted employment, and in the event of an interruption, they should be suitably compensated. The International Labour Organization has adopted numerous international labour standards, conventions and recommendations concerning occupational safety and health (OSH) and for implementation of labour laws via labour administration and inspection system. But as already pointed out, India has ratified only a handful of conventions on OHS (C 032, C 115, C 136, C 174) and not the main one, C 155, Occupational Safety and Health Convention, 1981 (No 155).

As NCEUS (2006) had suggested, we need to make visible the nameless, faceless labour force that includes itinerant or migrant workers. We need ground level action towards the registration of the overwhelming majority of unorganised workers and unorganised units in the production chains of all the industries.

We need a preventive labour and social policy on the lines of the Scandinavian welfare states (Jochem, 2011). These Nordic countries offer comprehensive protection against social risks and invest positively in lifelong learning by means of integration in the labour market of as many people as possible and provisioning of highly organised and high quality services to the working people.

Policy makers in India need to learn new things as to how the Nordic countries have designed preventive social policies by embedding them in a tax and fiscal policy regime in which extensive redistribution is combined with principles of robust public budget management so much so that economic growth is not at all compromised. This is well explained in Komlos(2019) who points out that there is substantial real-world evidence from the European countries that high taxes coupled with social spending fosters, rather than inhibits, economic growth and welfare.

In fact, there is no effective solution to the problem of working to illness and death in any part of the world without there being the universalization of the preventive Nordic social policies. In other words, we need to replace capitalism gone mad in terms of savage capitalism everywhere by social democratic capitalism everywhere.

The Directive Principles of the State Policy in India are the beacon of light that we Indians already have in order to design and implement such social democratic policies as found in the Nordic countries. Governance in India must respect and abide by the Preamble of the Constitution of India.

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