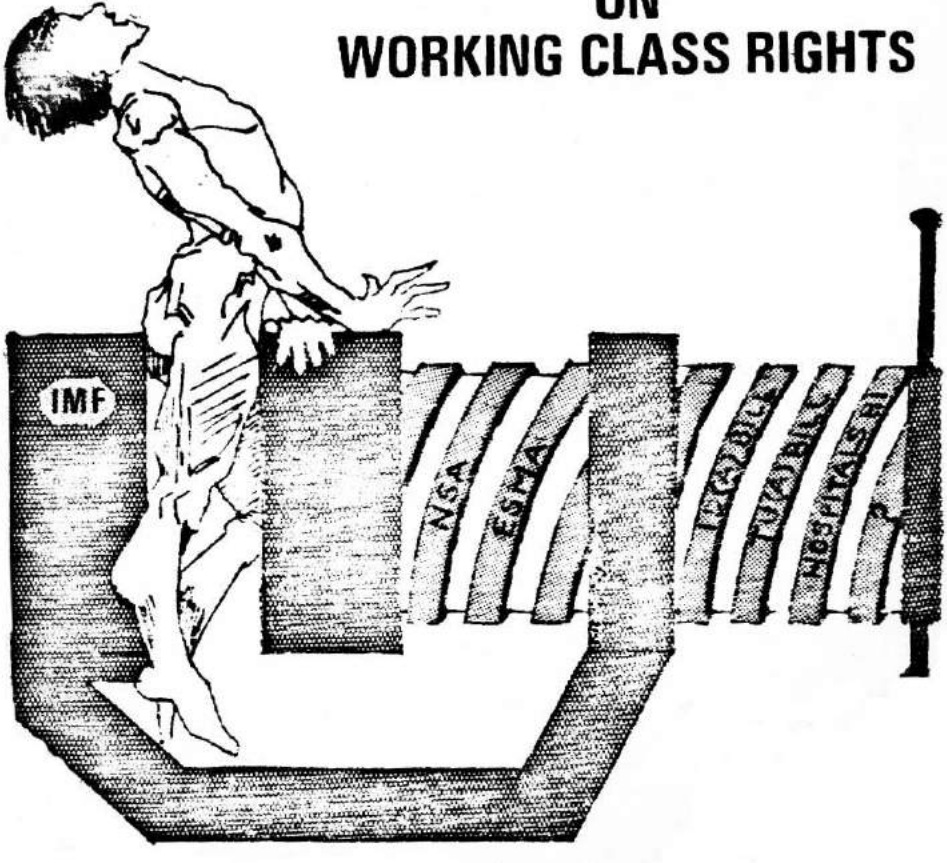
- Industrial Disputes (Amendment) Bill '82
- Trade Unions (Amendment) Bill '82
- Hospitals and other Institutions (Settlement of disputes) Bill '82

CLAMPING DOWN ON WORKING CLASS RIGHTS



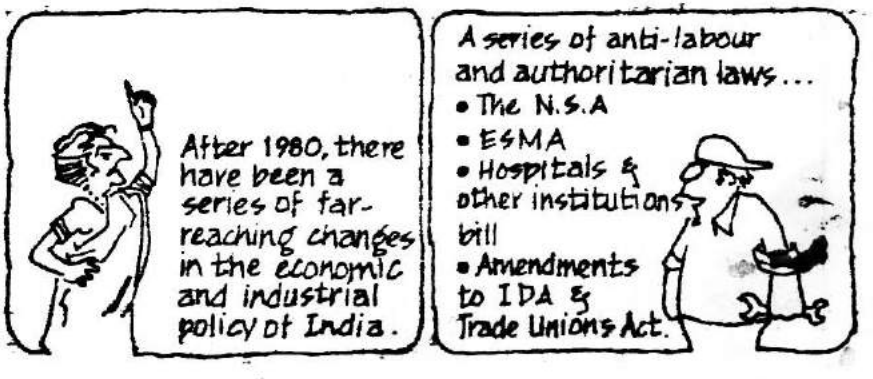
A CPDR PUBLICATION

Clamping down on working class rights

I

The National Security Act (NSA) received the assent of the President on 27th December, 1980; the Essential Services Maintenance Act (ESMA) came into force on 23rd September, 1981; the Union Finance Minister wrote the Letter of Intent to the International Monetary Fund (IMF) on 28th September 1981 making a formal request for the loan amounting to Rs 5,025 crores which would be released over a period of three years starting from November, 1981 and ending in June, 1984. Now, three bills have been placed before Parliament : (i) The Hospitals and other institutions (Settlement of Disputes) Bill; (ii) The Industrial Disputes (Amendment) Bill; (iii) The Trade Unions (Amendment) Bill.

After Mrs. Gandhi took over the reins of government in 1980, there has been a series of far-reaching changes in the economic and industrial policy of India. All these changes are in accordance with one particular pattern: removal of restrictions on the expansion of monopoly houses, production for export rather than for import substitution, welcome and encouragement to multinationals, abolition of subsidy to foodgrains and other consumer



goods, slashing of expenditure on welfare activities and clamping down on the working class and curbing the rights of citizens. Now what does all this mean ?

In bygone days the industrialised nations robbed the underdeveloped nations of their natural resources by using military might to directly conquer them and turn them into colonies. But today this is not possible because of the emergence of powerful national liberation struggles and revolutionary movements in these former colonies. The death knell of direct colonial intervention was sounded at the end of World War II. The days of military conquest were over. Therefore the industrialised countries resorted to institutional arrangements like the IMF and the World Bank. Both these institutions and their affiliates use finance capital to maintain and preserve the system whereby

the countries of Asia, Africa and Latin America remain as suppliers of raw materials and cheap labour while Europe and Northern America supply finished goods and arms to the whole world.

Such a policy is based on the naked and ruthless exploitation of the millions of people who live in developing and underdeveloped countries by richer nations.This pattern of imperialist economic development is reflected in the terms and conditions of the IMF loan to India. Let us take a closer look at some of them :

a) Resource Mobilisation
In revising tax measures, care would be taken to ensure that private savings and investments are not adversely effected. The main emphasis in re-

source mobilisation efforts would be on indirect taxation. Much greater reliance than in the past would be placed on reducing subsidies and improving the profitability of private sector undertakings by flexible pricing policies and by improvement in capacity utilisation and efficiency. (The Government has already reduced direct taxation to a great extent. According to the Jha Commission, 55% of the indirect tax revenue in 1973-74 came from households with a monthly per capita expenditure of Rs 100 or less. The Law Minister has introduced a bill in the Lok Sabha to amend the Monopolies and Restrictive Trade Practices Act which will facilitate the expansion of , and the establishment of new undertakings by, the monopoly houses.)

b) Industrial Policy
The key elements of industrial policy would be to improve the performance of, and raise the investment in, the private sector industry. The procedures relating to foreign collaborations and royalty payments would be liberalised. The administered prices would be so adjusted so as to bring them progressively in line with the costs. (The Government has already taken steps to remove restrictions on the pricing of manufactured goods.)

c) Agricultural Policies
Efforts would be made to contain subsidies on publicly distributed foodgrains and the procure-

Efforts would be made to contain subsidies on publicly distributed food-grains.... A greater emphasis would be placed on raising the output of commercial crops... for export and for the affluent at home

ment prices for the cereals would be fixed in such a manner so as to keep the prices competitive with the world markets. A greater emphasis would be placed on raising the output of commercial crops. (The procurement price of wheat has recently increased by Rs 15 to Rs 30.The emphasis on

commercial crops has sinister implications because they will be exported and at home they will be used only by the affluent. As a consequence the space for the production of cereals will be reduced. In countries like India where the staple food of the masses is cereals, such a policy will starve the millions as it has done elsewhere.)

d) Foreign Investment
A more liberal attitude would be adopted with respect to foreign collaboration.

e) Foreign Trade
Measures would be taken for the progressive liberalisation of imports. Selective steps would be taken to reduce the level of protection to domestic industry. The foreign trade policies would be neutral as between production for export and import substitution. Wherever there is a conflict between the two, the need for production for exports would be accorded greater priority. (This will lead to a policy in which India will export only raw materials, semi-finished goods and labour intensive manufactures.)

f) Devaluation of the rupee
The Government of India does not believe that "at the present time" devaluation of the rupee is necessary. The Government has, however, promised to keep the exchange rate policy under review and make adjustments, when appropriate, to encourage exports and promote external adjustments.

At midnight on 14th Aug 1947, Pandit Nehru stated that India had made a tryst with destiny. That destiny has turned out to be a destiny of suffering and misery.... a destiny of destitution.

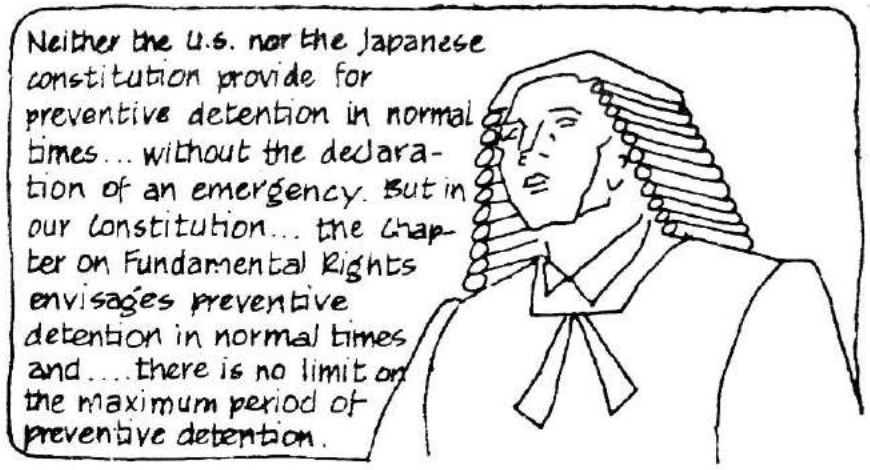
The Indian economy would thus be structured and adjusted to suit the requirements of industrialised nations. Such a policy would lead to the pauperisation of India and mass unemployment. The

purchasing power of the masses would be further reduced. Unrest and revolt are going to be the order of the day.

At midnight on 14th August, 1947, Pandit Nehru stated that India had made a tryst with destiny. That destiny has turned out to be a destiny of suffering and misery — a destiny of destitution. The Indian masses are fast losing their faith in the present system. The traces of revolt are visible everywhere. Hence anti-labour and authoritarian laws.

II

A fascist, repressive machinery can be constitutionally constitued in India even without a declaration of emergency. The Parliament is empowered to pass a law of preventive detention on three grounds : (a) defence, (b) foreign affairs, and (c) the security of India. The Parliament and the state legislatures have concurrent power to enact laws of preventive detention on two other grounds : (a) the security of a state, and (b) the maintenance of supplies and services essential to the community. The dreaded MISA of the Emergency era was passed under this constitutional provision, so was the recent National Security Act.



Neither the US not the Japanese constitution provide for preventive detention in normal times,

that is, without the declaration of an emergency But in our Constitution preventive detention is recognised as a normal topic for legislation in Schedule 7, and even the Chapter on Fundamental Rights envisages preventive detention in normal times and provides for it in Article 22.The maximum period of preventive detention shall be decided by Parliament and there is no limit on such

The Government first used the provisions of preventive detention against political dissidents. The case of A.K. Gopalan is a milestone in the history of the Indian Constitution.

period which it can fix. Thus a person may languish and rot in jail for the rest of his life under preventive detention.

The provisions of preventive detention were incorporated in the Indian Constitution for political reasons. The Constitution was passed at the time of the peasant uprising in Telengana and other parts of India. The Government first used the provisions of preventive detention against political dissidents. The case of A K Gopalan is a milestone in the history of the Indian Constitution. Preventive detention has become a permanent feature of Indian polity and has existed in India in one form or another ever since 1947.

The latest law on preventive detention is the NS. This Act has been encated when there was neither emergency nor internal armed rebellion. The motiforces for enacting this Act must be the agreement with the IMF and the growing dissatisfactio among the masses.

Under the NSA, the Government can detain a perso if it thinks that he has acted in any manner prejudicial to the defence of India, the relations of India with foreign powers or the security of India. The other grounds for preventive detentio are the security of the state, maintenance of public order and maintenance of supplies and services essential to the community. The grounds ar

really quite wide. This power of detention can be exercised by the District Magistrate and the Police Commissioner. Anybody who is critical of the Government can be put under preventive custody under this Act. Employees who go on strike, political activists who organise demonstrations and almost anybody can be detained at will and the voice of dissent can be stifled. For example, over a score of striking textile workers of Bombay have been arrested under NSA. Their crime is that they have challenged the intimidation of the RMMS and the exploitation of the mill owners. Today many of them languish is jails, but when Sukhur Narain Bakhia is wanted under preventive detention, he gets bail even before he surrenders to the police ! This shows that preventive detention is effective not against anti-social elements and blackmarketeers but against political agitaters and rebels.

The Janata Government had introduced certain safeguards against arbitrary arrest and detention under any law providing for preventive detention. These safeguards, which were in the form of amendments to the Constitution, stated that preventive detention could not be effective for more than two months unless an Advisory Board constituted in accordance with the recommendations of the Chief Justice of the appropriate High Court had reported before the expiration of the said two month peiod that there was in his opinion sufficient cause for such detention. The amendment further stipulated that the Advisory Board shall consist of a Chairman and not less than two other members, and the Chairman shall be a sitting judge of the appropriate High Court and the other members shall be sitting or retired judges of any High Court.

The amendment in question had been passed in Parliament by a two-thirds majority but still the Cabinet did not present it before the President for his assent and thereby flouted the will of Parliament. Our rulers swear by Parliamentary democracy when it suits them, but whenever it is inconvenient, they break its norms and conventions. Some citizens even filed a writ of mandamus in the Supreme Court that the Government must be ordered to present the bill before the

President for his assent, but the Supreme Court held that this action was discretionary for the Cabinet. Hence the amendment was not enacted and the NSA does not contain these safeguards.

The maximum period of detention under the NSA is twelve months, but a person can be re-arrested after his release on the expiry of the said twelve months.

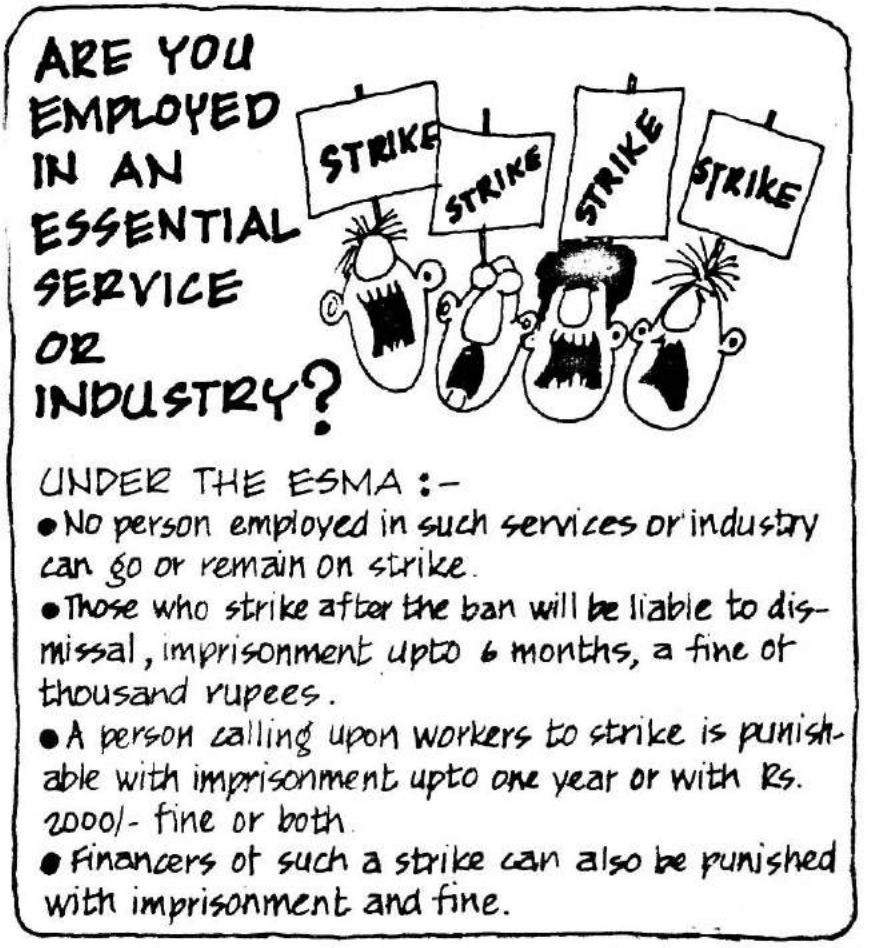
III

The Government has singled out the working class for its onslaught against democratic rights. Soon after Mrs.Gandhi's return to power, the Essential Services Maintenance Act (ESMA) was passed. The Act declared many important sectors of our economy as 'essential services' and enabled the Government to prohibit strikes in such sectors. The 'essential services' under the Act are : (i) Postal, telegraph and telephone service (ii) any railway service or transport service for the carriage of passengers or goods by air, land or water; (iii) any service connected with aerodromes and aircraft; (iv) any service connected with ports; (v) anything connected with customs; (vi) any service or industry connected with defence or the armed forces; (vii) any service in connection with foodgrains; (viii) any service in connection with public conservancy, sanitation or water supply, hospitals or dispensaries; (ix) banks; (x) oil industry; (xi) mint or security press;(xii) any service in connection with election; (xiii) any service concerning the affairs of the Union; (xiv) any other service which effects the maintenance of any public utility service, the public safety or the maintenance of supplies and services necessary for the life of the community or would result in the infliction of grave hardship on the community.

These are the sectors where there is organised labour. Therefore the Government clamped down first on the organised sections of the working class.

Once strikes are banned in these services and

industries, no person employed in such services and industries can go or remain on strike. If any strike is started in such industries, it will be illegal. Any person who strikes after the ban will



be liable to dismissal. He can also be punished with imprisonment upto six months, or with a fine of a thousand rupees, or with both. The punishment for a person who calls upon the workers to go on strike is more stringent : he is punishable with imprisonment upto one year, or with a fine of two thousand rupees, or with both. People who finance such a strike can also be punished with imprisonment and fine. The offences under this Act are cognizable and a police officer can arrest

without warrant any person suspected of any offence under this Act.

IV

The latest in the armoury of the Government against the working class is the Hospitals and other Institutions (Settlement of disputes) Bill along with amendments to the Industrial Disputes Act and the Trade Unions Act.

1) The Amendment to the Industrial Disputes Act
One of the major reasons for the amendment to the Industrial Disputes Act, 1947, is the Supreme Court judgement in the Bangalore Water Supply and Sewerage Board vs. Rajappa and others (AIR 1978 SC 5489). The definition of the term 'industry' has always been a matter of debate and controversy in the courts of law. This controversy was brought to an end by the Supreme Court in 1978 and the definition of the term was finally decided in the Bangalore Water Supply Case.

Section 2 (j) of the Industrial Disputes Act,1947 defines 'industry' as "any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

While interpreting section 2(j) with finality, the Supreme Court opined in the Bangalore Water Supply case : "The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory definition can be taken to the logical conclusion without any preconceived notions." The Supreme Court then proceeded to define the term, sweeping aside the cobwebs of confusion created by the previous decision of the Courts:
"(a) Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (the direct and substential element is chimerical) and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or

services geared to celestial bliss), prima facie, there is an industry in that enterprise.

"(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

"(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

"(d) If the organisation is a trade or business, it does not cease to be one because of philanthropy animating the undertaking.

"The consequences are : (i) professions, (ii) clubs,(iii) educational institutions, (iv) co-operatives, (v) research institutes, (vi) charitable projects,and (vii) other kindred adventures, if they fulfil the triple test, cannot be exempted from the scope of section 2(j).

"Even in departments discharging sovereign functions, if there are units which are industries and they are substantially severable, then they can be considered to come within s.2(j).

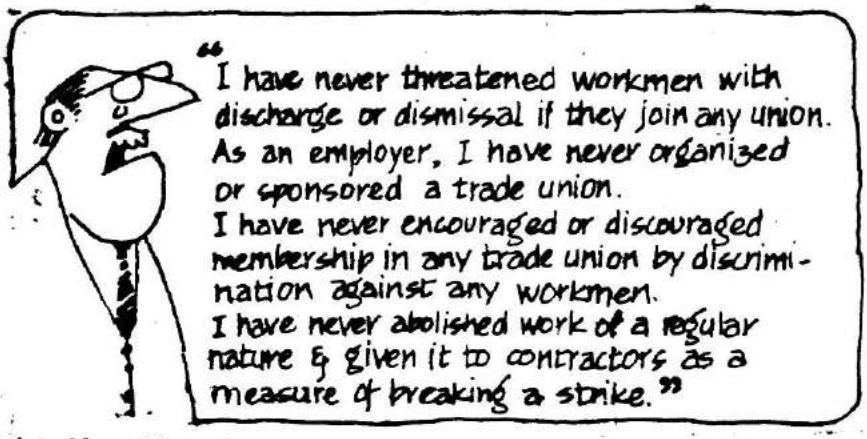
"A restricted category of professions, clubs, co-operatives and even gurukulas and little research labs may qualify for exemption if, in simple ventures, substantially and, going by the dominant nature criterion, substantively, no employees are entertained but, in minimal matters, marginal employees are hired without destroying the non-employee character of the unit."

Applying these criteria, the Supreme Court held that hospitals, educational institutions, research institutes, etc. where the employer-employee nexus exists, are industries under s.2 (j) of the Industrial Disputes Act.

The only exemptions granted by the Supreme Court were institutions where the number of employees is negligible or the workers give their services out of love or are motivated by a sense of social service. Still the Union Law Minister was dishonest and presumptious enough to claim that the amend-

ments to the Industrial Disputes Act were in accordance with the Supreme Court judgement. The Supreme Court included hospitals, educational institutions, research institutes, etc. in the expression 'industry' while the Government excluded them from the scope of this expression.

The Labour Minister states that the objects of the bill are mainly to ensure speedier resolution of industrial disputes by removing procedural delays and to make certain other amendments. But in reality the amendment may create one more hurdle in the way of speedier resolution of an industrial dispute. The amendment seeks to incorporate a new Chapter 11 B into the Industrial Disputes Act. Under the provisions of this chapter, every employer in whose establishment 100 or more workmen are employed will set up a grievance settlement authority. When a dispute arises concerning an individual workman, it will be first referred to the grievance settlement authority. The Government will not interfere in the dispute until the authority has taken a decision on the dispute and the decision is not acceptable to one of the parties



to the dispute.

This chapter has a big catch : the grievance settlement authority will be set up by the employer. A rat cannot expect justice in the hands of a cat. No time limit has been fixed for the [illegible] settlement authority to take a decision. It can go on indefinitely. The Government will not refer the dispute to Boards, Courts or Tribunals until

the matter has been finally disposed of by the settlement authority. Once the dispute is referred to a Board, Court or Tribunal as the case may be, the workers cannot go on strike. Now this chapter will further frustrate the workers and deprive them of their right to go on strike. Apart from that, even if the settlement authority promotes a settlement, it benefits only individual workmen. Another instance of the devious ways of the Government is the provision that the Government will in its order specify the period within which the report must be submitted when an industrial dispute is referred to an authority under the Act. At the next breath the amendment says that if the parties to a dispute apply, whether jointly or separately, to the authority concerned he may extend the period. The employers will take advantage of this section and make a legal strike impossible. It will also lead to indefinite delay, instead of speedy disposal. Still the Labour Minister had the audacity to say that the amendment has been introduced to promote the speedier disposal of industrial disputes ! He has tried to mislead and hoodwink the people by claptrap.

There is a Chapter V c added to the Industrial Disputes Act which deals with Unfair Labour Practices. There are several unfair labour practices listed on the side of both employer and employee. But it will be easy for an employer to commit an unfair labour practice and go scotfree! For example, some of the unfair labour practices on the part of the employer are :

a) "Threatening workmen with discharge or dismissal if they join any union". It is common knowledge that no employer will directly threaten any worker. He will have his own stooges and musclemen. Even some of the unions like the RMMS may perform that function. Therefore it will become next to impossible to prove such a thing against an employer.

b) "To organise employer-sponsored trade union ". Which employer will say that he organised RMMS in the textile industry ? Such provisions are simply eyewash.

c) " To encourage or discourage membership in any trade union by discrimination against any

workmen ...".Which employer will say that he discriminated against his workmen ? He will always argue that the alleged discriminatory promotion or demotion is based on a realistic assessment of the merits and demerits of the employee.

d) " To abolish the work of a regualr nature being done by workmen and to give such work to contractors as a measure of breaking a strike ". But in almost all cases giving the work to contractors precedes the strike. Therefore, this provision will not apply.

It will be easy for the employers to slip out of the provisions of unfair labour practices while the workers will be caught in the trap.

The first unfair labour practice on the part of the employees is :

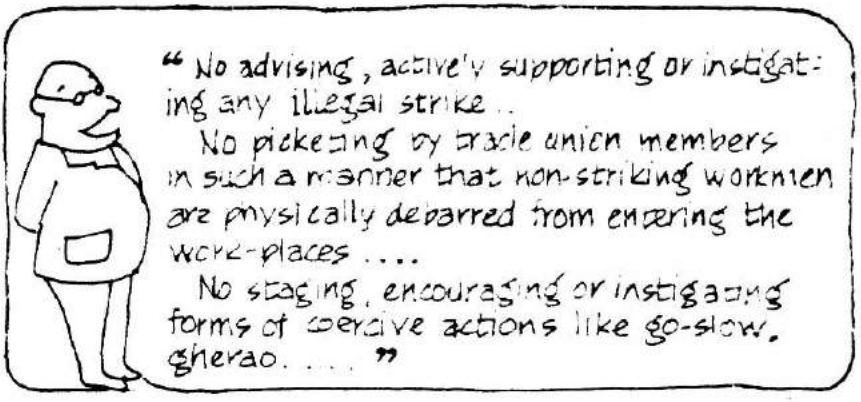
a) " To advise or actively support or instigate any strike deemed to be illegal under this Act." There is hardly any strike which is not illegal, especially after ESMA under which a strike in almost all organised sectors can be banned. Hence all trade unions and trade union workers who organise a strike will become guilty of unfair labour practice.

The courts used to take a lenient view towards the illegal strikes because they are normally justified. Now the courts will completely lose their discretion and will have to consider every illegal strike as an unfair labour practice.

b) "...for a trade union or its members to picket in such a manner that non-striking workmen are physically debarred from entering the workplaces." No management will find it difficult to produce 'evidence' that some workers have been physically prevented from entering the factory. There will always be some blacklegs among the workers besides police and management personnel.

c)" To stage, encourage or instigate such forms of coercive actions as wilful 'go-slow', squatting on the work premises after working hours or 'gherao' of any of the members of the managerial or other staff."

d) "To stage demonstrations at the residences of the employers or the managerial staff."



These last two illustrations are self-evident. They will rob the workers of their weapons of struggle and intimidate them into submission to the employers. If the workers go against these provisions, they will lose the recognition of their union. Besides, the offence is punishable with imprisonment which may extend upto six months or with a fine upto Rs. 1,000/- or both.

S. 36B which has to be added to the IDA by way of amendment says:

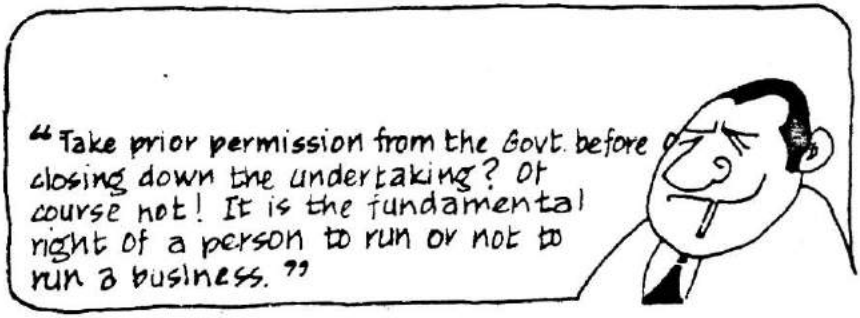
"Where the appropriate government is satisfied in relation to any industrial establishment or undertakings under the control of that government that adequate provisions exist for the investigation and settlement of industrial disputes in respect of workmen employed in such establishments or undertakings, it may, by notification in the official gazzette, exempt, conditionally or unconditionally, such establishments or undertakings or class of establishments or undertakings from all or any of the provisions of this Act."

The implication of this section is sinister. It clothes the government with almost arbitrary power to exempt factories and establishments from the purview of the IDA. The Government may choose to retain the provisions banning strikes and imposing punishments on the workers. At the same time, the final arbiter in all industrial disputes will be the man chosen by the management. Now the gates are wide open for the government

to make strikes illegal in all public undertakings.

One of the amendments makes it obligatory for an employer to get prior permission from the Government before he closes down an undertaking. But the Constitutional validity of this provison is doubtful. The previous efforts of the Government to enact such laws have been struck down by the Supreme Court on the basis that they interfere with the fundamental right of a person to run or not to run a business. Even though some of the defects of the previous enactment by the present provision, it may yet be struck down by the courts.

One salutary feature of the amendment to the IDA in S.17B. If an employee is re-instated by a lower court and the employer goes in appeal to a higher court, the employer will be bound to pay such workman, pending the case in the higher court, full wages last drawn by him.



2) Hospitals and other Institutions Bill

The Industrial Disputes Amendment Bill has changed the definition of the term' industry' and removed a large number of undertakings from the ambit of that term. All those undertakings taken out from the purview of the IDA come under the Hospitals and other Institutions(Settlementof Disputes)Bill.

This Bill prohibits strikes in hospitals educational institutions, institutions owned or managed by an organisation only f substantially engaged in any charitable, social or philanthropic service, institutions engaged in Khadi and Village Indus-

tries and every institution engaged in any activity relating to the sovereign functions of the government, including all the activities carried on by the departments of the government dealing with research, atomic energy and space.

The Bill is really a retrograde step. All the powers regarding the recognition of trade unions and the resolution of industrial disputes are left in the hands of the management. The managements of such institutions become omnipotent and there will hardly be any interference from the courts of law or from the government.

The authorities for the settlement of disputes under this Act are :
1)The grievance settlement committee, and 2) local consultative councils .

The grievance settlement committee will consist of not less than four and not more than eight members representing both the employer and the workmen in equal proportion. The employer will appoint one person as chairman from amongst his own members of the grievance committee.Apart from the grievance committee, the employer has to appoint a Consultative Council. The Consultative Council will consist of not less than six and not more than 12 members representing both the employer and workmen. Where the employer establishes one consultative council for more than one unit then there will be a local consultative council for each unit separately. The Chairman of the consultative council and local consultative council will be appointed by the employer. It is possible that in such a council the representatives of employers will act unitedly while the representatives of employees will be divided into different factions. Moreover, the Chairman will be the representative of the management and he will be in a position to dominate.

The employer makes regulations for the settlement of disputes. If the dispute is not settled in accordance with the procedure laid down by the employer, a party to an individual dispute may apply to the grievance settlement committee. The grievance settlement committee is empowered to take a

final decision in respect of an individual dispute The committee has to take its decision within two months from the date on which an application for settlement is made. Where the grievance settlement committee fails to pass such a final order in the matter of any individual dispute within two months or where any party to the individual dispute is aggrieved by the final order, the party concerned may refer such dispute f arbitration. The award of the arbitrator will be final.

..... the Govt is afraid that the teachers have a catalytic role to play in society and are thus susceptible to get politicised who in turn can affect their students. Once the students are politically aroused..... they can become a potent force which will smash the present corrupt and vicious system.

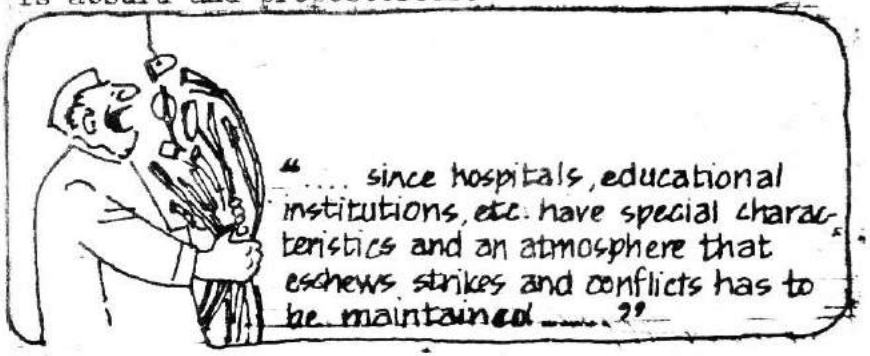
Wherever there is a local consultative council, th industrial dispute will be referred to the local consultative council. If there is no local consultative council, then the matter will be referred to the consultative council. When both fail to take a decision within the stipulated time, the matter will be referred to arbitration.

The Bill has effectively deprived the workers of their fundamental right to work or not to work. Why has the government chosen these institutions for such an authoritarian measure ? One reason can be that the Government is afraid that the teachers have a catalytic role to play in the society and are thus susceptible to get politicised who in turn can affect their students. Once the students are politically aroused and filled with social consciousness, they can become a potent force which will smash the present corrupt and vicious system. It may be noted that every industrial house has got hospitals and educational institutions. They use these institutions as show pieces to display their charity and generosity and to cover up the ruth-

less exploitation and degeneration in which they thrive. If the employees in such institutions are unionised, they will explode the myth around such institutions and expose the misdeeds and malpractices in such instituions. That will ruin the sort of image such industrial houses want to build up.

Besides, there has recently been a series of strikes in hospitals and educational institutions all over India. The unrest in such institutions is mounting. Many of them are smouldering volcanoes. Therefore, the Government has decided to finally tighten the screws on all of them.

In the statement of objects and reasons, the Labour Minister says that since hospitals, educational institutions, etc. have special and distinct characteristics of their own and an atmosphere that eschews strife and conflict has to be maintained therein, these institutions are proposed to be excluded from the definition of the term 'industry'. How do you maintain such an atmosphere? By treating the workmen in such institutions as tools or by winning them over by humane treatment? In many cases they are kept at subsistence level. How can you expect such employees to mould the future generations ? or to look after the sick and the dying ?The statement of the Labour Minister is absurd and preposterous.



3) The Amendment to the Trade Union Act.

The amendment to the Trade Union Act is intended to to further strengthen the control of the Government on the trade union movement. The amendment has created a new term 'trade union dispute'. A trade

union dispute is one within the trade union or between two trade unions. When the Registrar of trade unions apprehend such a dispute, he can interfere and become arbitrator, His findings will be final subject only to an appeal to the Government. The integrity and impartiality of the labour officers have not been very high. They have always shown a propensity to recognise the trade unions of the ruling party even when those unions are totally discredited with the workers. One glaring example is the textile workers in Bombay; the RMMS continues to be the recognised union inspite of the fact that today the RMMS does not represent any workers in the textile industry. Still in certain circumstances, the Government may be forced to recognise a union which not in their good books. In such a situation, the Government and the management can easily coerce some workers to create a 'dispute'. The Registrar can then step in and arbitrate and give an award that those who have been elected as office bearers were not really elected and declare that those who are subservient to the management as the elected office bearers of the union.

This gives an additional weapon in the hands of the Government to foist its own union upon the workers. It has been a longstanding demand of the workers that secret ballot must be held to decide the recognised union. But it was not accepted by the Government inspite of its'democratic' profession. It is left to the discretion of the labour officers to devise methods of verifying majority in a union and it is inevitable that they conclude that the trade union of the ruling party has the largest following.

The amendment to S.21 A of the Trade Union Act really portends ill. According to the Amendment, a person will be disqualified for being an office-bearer of a union if he has been convicted of any offence under the Industrial Disputes Act. The Act makes the participation in an illegal strike an offence. It is known that an illegal strike is impossible. This can make almost all the trade union leaders and workers disqualified for being chosen as office bearers. It is a fact that all trade unions which do not belong to the ruling party

do participate in illegal strikes. Now the choice before the trade union workers is simple: Either they participate in illegal strikes and face the consequences pf being disqualified for trade union activities or betray the workers and sell them to the management. Not only partiipation in an illegal strike but the calling upon ofworkers to strike and the financing of strikes are all offences under the IDA. The implememtation of such an amendment can immobilise and paralyse the whole trade union movement in India.

The amendment punishes a worker for an act which he did in the past when it was not an offence. Even the past offences under the IDA disqualify trade union workers. This part of the amendment directly violates the constitutional guarantee given under Art. 20 of the Constitution that no person will be convicted of an offence except for violation of a law in force at the time of the commision of the offence.The Article further guarantees that nobody will be subjected to a punishment greater than what might have been awarded under the law in force at the time of the commission of the offence. But the Government has thrown overboard all the constitutional norms and guarantees in its haste to clamp dpwn on the workers.

The Government is going to have an unrestrained power under the amendments to the Act. For example, the amendment to the S.10 of the Act.

A certificate of registration of a trade union maybe withdrawn or cancelled by the Registrar if he"is satisfied that the trade union has called for or participated in, any illegal strike." Which union has not participated in an illegal strike ? Probably only the INTUC unions have not.

At present, at least 50% of the office bearers of a union that is registered must be persons who are actually employed in the industry with which the trade union is connected. This limit has now been raised to 75%. The Law Minister says that this is to encourage the internal leadership. But the fact is that the people who are really employed in the industry concerned are sacked once they get active in trade union activities. The management can harass them and hunt them down in many ways. Hence the need for leadership from outside. But now the Government has very cleverly tried to prevent the people from outside from coming into the trade union movement. At this juncture it will weaken the movement considerably.

All the five pieces of legislation dealt with in this booklet must be seen in their totality and interrelationship. They cannot be separated from economic and political factors such as the total failure of the Government to re-orient the Indian economy towards self-reliance and growth, the phenomenon of the rich getting richer and the poor getting poorer, the subservience of the Indian economy to the economics of industrialised nations of which the latest manifestation is the IMF loan. The greater the unrest and dissatisfaction among the people, the more the authoritarian and fascist legislations and measures. The trend shows a syndrome which can lead to violent convulsions in the Indian body politic. The people who stand for democratic rights have reason to be alarmed.

The Committee for the Protection of Democratic Rights (CPDR) came into existence in April 1977, as part of the outburst against emergency rule. It is a Bombay-based organization not affiliated to any political party. Its chief aims have been to create in citizens an awareness of their rights, investigate cases of infringement of rights and support the ongoing struggles of the people for justice and a better life. CPDR has investigated and taken up cases of torture and death in police custody; students and teachers fighting authoritarian measures; workers, peasants and tribals struggling against exploitation, casteist tyranny and slums facing demolition.

CPDR has also tried to enhance the democratic consciousness of the citizens of Bombay through talks, slide shows, films, plays, public meetings, demonstrations and its bulletin RAKSHA.

Throughout its existence CPDR has tried to protest against the arbitrary and undemocratic rights of those in power and safeguard the rights of our people. Faced with the enormity of the task, its efforts have been a small contribution to the movement. It is with the help and support of more people, that such efforts can become more meaningful.

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