

# Authoritarianism in Asia and the effects on trade union rights

Asia Monitor Resource Centre is a Hong Kong based independent non-governmental organisation (NGO) which focuses on Asian labour concerns

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The COVID-19 pandemic has created greater inequality and divisions between the capitalist and working classes globally. In the context of Asia, workers have been devastated by job loss, order cuts, and rigid and punitive lockdown measures, catalysing workers' struggles throughout the region. Trade unions have ramped up their efforts to organise battered workforces, respond to the surge of labour rights violations, hold overseas buyers accountable, and in many cases fill the role of the state (and employers) by providing relief to destitute workers. At the same time, trade unions are facing the expansion of state power that comes with repression of the labour movement, deregulation of labour laws, and undermining basic labour and human rights amid the pandemic.

The struggle from above has taken the form of the consolidation of state central authority that began with measures such as lockdowns, border closures, curfews, and declared states of emergencies in the name of public health. In other words, militarisation in place of spending on actual public health measures such as free testing and sufficient relief that would make it possible for people to stay in their homes. At the same time, using economic downturn as an excuse, states have collaborated with industry and elites by imposing anti-worker austerity budgets and deregulation of labour laws. Recent attacks against worker and trade union rights are part and parcel of the minefield of anti-worker legislation that is sure to cause further job losses, increased informalisation, and worsening working conditions, setting the labour movement back decades. Major anti-worker and anti-union state interventions have triggered massive pushback from the labour movement and civil society. In the following, we will illustrate two notable examples: the Omnibus Law in Indonesia and the new Labour Codes in India, and their discontents.

## Indonesia's Omnibus Law

On 3 November 2020, Indonesian President Joko 'Jokowi' Widodo signed a controversial bill, the 'Omnibus Bill on Job Creation' into law. It amends 81 existing laws related to research and innovation, supporting investment, mining regulation, environmental protection, economic zones, empowerment of small business, land procurement, and labour. Many labour unions, academics, and civil society groups have noted the many procedural flaws in the Bill<sup>1</sup>. It has been described as 'the worst' law to pass since the fall of the authoritarian regime in 1998<sup>2</sup>. The deliberation process was marked by a

lack of transparency and public participation. The draft Bill was not circulated to the public, nor made available from official sources.

The Omnibus Law also gives more power to the central government, creating a roadblock to the country's process of democratisation and decentralisation. According to one Indonesian journalist, 'the 1945 constitution sets the parliament as the supreme authority, but the Bill would effectively give the executive near-absolute power. The president would have absolute executive and legislative power'<sup>3</sup>.

## Greater labour market flexibility on the horizon

Jokowi and his ministers argued that the Bill was badly needed at a time of economic crisis, slumping growth, and increased unemployment, asserting that it would remove red tape, promote investment, and create more jobs. They also promised that it would protect workers, especially contract workers, by requiring outsourcing agencies to register in a centralised online system that would prevent illegal agencies from operating. However, the law also grants the central government the power to exempt business licenses.

The Omnibus Law will promote investment and create jobs at the expense of labour and human rights. As explained in a recent report by Amnesty International, the Omnibus Law undoubtedly erodes basic human rights<sup>4</sup>. For example, it amends some important articles in Law No. 13 of 2003 on Manpower, allowing cuts to severance pay, and flexibility of working hours. This will surely result in longer working hours, requiring workers to perform multiple duties at work, and enable employers to use temporary workers for an indefinite time without proper contracts<sup>5</sup>. Such an environment will be rife for union busting. While temporary workers are still technically allowed to join unions, they are more easily intimidated by employers who could freely sack workers suspected of joining in union activities. Further, under the law it will be more difficult for trade unions to bargain for better wages, severance pay, and other rights. The law contains a formula to increase wages automatically every year but no more than 10 percent. It also decreases the amount of severance pay. Contrary to what proponents of the law claim, labour market flexibility is a major contributor to the poor working conditions in Indonesia where workers already regularly face mass layoffs without compensation, union-busting, wage theft, long working hours, job insecurity, and sexual harassment.

This pro-market, anti-worker legislation will be felt hardest among women workers who are already more likely to face job insecurity. Previously, Law No. 24/2003 limited the use of contract workers to three years; however one survey conducted in 2017 found that many temporary women workers had been working for five years - despite the law<sup>6</sup>. The Omnibus Law allows for indefinite use of contract workers. Contract work is more common in sectors where women are overrepresented, such as garments and electronics manufacturing, and this new provision will make it easier for employers to exploit women workers and deny their benefits. Contract employment also makes women workers more susceptible to sexual harassment as they can be more easily intimidated into silence and complicity. Further, the minimum wage formula in the law discriminates against women as it does not include benefits for dependents.

### Workers defending their rights

From the start, workers fiercely rejected the Omnibus Law. In October 2019 when the Bill was proposed, trade unions began building a coalition to oppose it, holding several rallies in the major industrial cities, Jakarta, Bekasi, Tangerang, and Purwakarta, bringing together thousands of rank-and-file workers, as well as agrarian and urban poor activists.

Ten of the fourteen national confederations called for a nation-wide strike from 6 – 8 October 2020. Peasants unions, anarchist groups, university and secondary school students, fisherfolk, urban poor, and many other social groups joined the strike, triggering a wave of demonstrations that lasted more than two weeks. Hundreds of thousands of protesters poured into streets across the country to demand the government to revoke the law. This huge response arose not just from the law's impact on labour, but also over concerns for environmental protection and land rights.

The response from the government toward the protests has been repressive. Police have used brutal measures to curb the protests, beating, raiding, and arresting 5918 protesters<sup>7</sup>. Despite this, the movement against the Omnibus Law will continue to stage protests to demand that the President revoke the law. Renouncing the protests, the government has encouraged civil society to apply for judicial review in the Constitutional Court<sup>8</sup>. The trade unions are divided on this, however. In 2019, Jokowi raised the retirement age for judges without due public consultation, raising concerns from legal experts about the impartiality of the Court.

### India's new Labour Codes

On 23 September, the Indian ruling party the Bharatiya Janata Party (BJP), passed three bills related to Social Security, Occupational Safety and Health and Working Conditions, and Industrial Relations, consolidating 29 laws. These Labour Codes have been heavily criticised as anti-worker for

a number of reasons including lowering the threshold for businesses to fire workers, curtailing workers' right to strike, an essential component of freedom of association, by requiring 60 days notice before going on strike, and denying the millions of informal workers social security and pensions by limiting the Employees Provident Fund to businesses with 20 or more employees<sup>9</sup>.

These anti-democratic interventions have also played out in several states ruled by the BJP, such as Uttar Pradesh, Madhya Pradesh, and Gujarat that have made recent changes to a number of their labour laws, using the COVID-19 pandemic and the economic crisis as pretexts<sup>10</sup>. One of the changes is the extended working hours from 9 hours per day and 48 hours per week, to 12 hours per day and 72 hours per week<sup>11</sup>. Under the new labour laws, they even enacted a regulation that exempts companies for three years from complying with the labour laws, allowing employers to violate labour rights with impunity. These reforms are attempts to amend dozens of laws that have been enacted over the past few decades<sup>12</sup>.

Trade unions have vehemently rejected these anti-democratic reforms carried out by the central government and states, asserting that they will only serve to increase the flexibility of the labour market, deepen job insecurity, and will worsen working conditions, especially the health and safety of workers. Further, trade unions were not consulted and completely left out of discussions. According to the president of the Indian National Building and Wood Workers Federation (INBCWWF), Rama Chandra Khuntia, "these laws were passed with complete disregard for trade union consultations and to roll back some of the workers' hard-fought victories. This is also reflective of the government's lack of sincere attention to the plight of workers amidst a pandemic"<sup>13</sup>.

Although India has increasingly moved to reform its labour laws since the 1990s, these efforts have been ramped up under the leadership of Prime Minister Narendra Modi. For example, in 2019, the Indian parliament passed The Code of Wages 2019 which consolidated four existing laws, namely the Payment of Wages Act 1936, Minimum Wages Act 1948, Payment of Bonus Act 1965, and Equal Remuneration Act 1976, that was welcomed by industry and criticised by labour unions<sup>14</sup>. The law limits the revision of wages to every five years despite calls from trade unions for yearly revisions. It also weakens the role of union representation in the process of fixing minimum wages<sup>15</sup>. The law triggered a series of protests across the country in June - August 2019 but was enacted nonetheless. Together the reforms in 2019 and 2020, consolidated 44 labour laws at the central government level won through decades of struggle.

### Serving the needs of investors

Observers and economists have long argued that the labour laws in India are outdated<sup>16</sup>. For

Indonesia's Omnibus Law is intended to promote investment and create jobs - but it will do so at the expense of labour and human rights

India's new Labour Codes lower the threshold for businesses to fire workers, curtail the right to strike, and deny social security and pensions to millions of informal workers

employers, the 44 central and hundreds of state level labour laws are too great in number and many are overlapping, creating an obstacle to business expansion. The government also considers existing labour laws impediments to job creation that drive many businesses to operate in the unregulated sector. They argue that reforming labour laws will create more opportunities for workers to enter into the formal sector by making it easier for businesses to navigate regulations and become registered<sup>17</sup>. The informal sector dominates India; national labour force data shows that 93 percent of workers work in these so-called 'unorganised' sectors, of which the majority are underemployed, and have no access to paid leave or social security benefits<sup>18</sup>.

The Hindu-nationalist Modi government has even launched a "Make in India" policy to encourage innovation and attract foreign investment in the manufacturing sector<sup>19</sup>, especially in electronics, medical devices and pharmaceutical industries in a bid to limit the import of Chinese products. India has recently approved deals with five foreign companies including Apple suppliers, Honhai and Wistron. The reform on labour laws is clearly aimed at making this policy a success, as the Indian Minister of Labour, Santosh Kumar Gangwar said, "under these circumstances, these new (labour) codes are bound to make new enterprises investor friendly, increase ease of doing business and make it attractive to invite foreign entities which want to come out of China"<sup>20</sup>. In 2020, India jumped 14 places in the World Bank index for 'ease of doing business' to 63rd position<sup>21</sup>. Labour deregulation is one of several aspects that explain India's ranking increase.

### Trade unions and civil society responses

On 26 November, more than 250 million Indian workers joined in a national strike against the Labour Codes. Ten central trade unions called for the strike. Workers participated across sectors, including in the unorganised sector. According to reports, Kerala, Puducherry, Odisha, Assam and Telangana states were completely shut down while work stoppages occurred in banks, government services, transport, mines, ports, and several other industries. Strikers held sit-ins, rallies, and blocked major roads and train tracks. According to one report, hundreds of thousands of women midday cooks, helpers, childcare and healthcare Anganwadi workers as well as workers in additional government-run schemes also joined the strike<sup>22</sup>.

The central trade unions put forth demands for a minimum income, cash transfers for families earning less than the income tax threshold, food for poor families, a guaranteed number of workdays, pensions for all, and the end of forced early retirements. They also called for the government to

stop privatisations and also withdraw all "anti-farmer laws and anti-worker labour codes."<sup>23</sup>

Farmers also came by tractor from Punjab, Haryana, and Uttar Pradesh to protest in Delhi against a new farm bill that coincides with the Labour Codes. They closed the roads and set up tents to sleep; however, the police responded brutally, and barricaded many roads to prevent them from entering Delhi. For them, the new laws on agriculture will give more powers to corporations to exploit the agricultural sector and destroy farmers' livelihoods<sup>24</sup>. The nearly 200,000 farmers, including women and Dalits, came prepared and remained at Delhi's borders, refusing to move until parliament heeds their demands<sup>25</sup>.

The general strike on 26 November, named the biggest demonstration in history, is the latest in a number of actions in 2020 against attempts by the Modi government to pass the Labour Codes as well as the brutal treatment of migrant workers. In May 2020, big protests took place in Gujarat, Uttar Pradesh, and Madhya Pradesh as well as in Delhi where several trade union leaders were arrested<sup>26</sup>. Prior, a general strike on 8 January with similar demands was said to have broken the record for the world's largest strike.

### Conclusion

These two examples highlight the trend of states responding to the crisis by collaborating with industry and elites in favour of foreign investment and deregulation instead of providing protection and job security to workers. To be sure, this is not a new trend; however the disarming shock of tragic loss of life and livelihood has merely created a golden opportunity for capitalist states to consolidate power.

These examples also illustrate the situation of the informal economy, as South and Southeast Asia are dominated by informal workers who have no access to employment benefits and very limited access to state welfare. Organising the unorganised sectors has long been a challenge to traditional trade unions that represent only nominal portions of the workforce in these sub-regions. The increase in informalisation under the pandemic has presented further challenges to trade unions. Deepened informalisation that will result from these policies is likely to be an important frontier for working class struggle. Trade unions will have to reckon with the material and class divisions among workers in informal and informalising sectors.

The interventions carried out by the Modi and Jokowi governments bear a striking resemblance. In both instances, trade unions were barred from participation in deliberation processes and both were shrouded in autocratic secrecy -- a hallmark of authoritarian rule. Both met trade union and civil society responses with brutal repression. In fact, there are a number of examples from the region in

which states have attached national security, public health, and economic recovery together to put down enmeshed social and trade union movements. Where there have been mass protests leading up the crisis, states have used the pandemic as an excuse to squash social unrest while offering no concessions to movements for example, in Hong Kong and Thailand. In terms of freedom of association and assembly, social gathering restrictions put a halt to industrial actions, which paralysed trade unions but in many cases simply opened the door for more wildcats and riots for example, in Bangladesh and India.

While control measures taken under the guise of public health did serve to strengthen states, they also served to shine light on the cracks in the system such as rising inequality, insufficient welfare, and incessant messaging of profits above people. While central authorities are consolidating power, the stock divide and rule tactics are having the opposite effect, unifying the working class in its demands. It will be important for the labour movement to consider the implications of this and continue to build this momentum to overcome divisions within the working class towards greater solidarity locally and globally.

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The general strike on 26 November was the biggest demonstration in history

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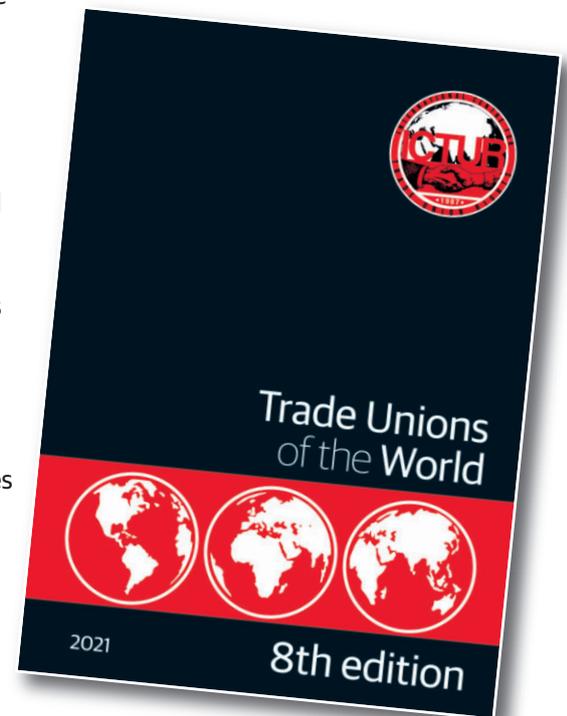
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