



RESEARCH PAPER

Trade Union Repression in India

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Asia Monitor Resource Centre

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By Surendra Pratap

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1. Background

With the advent of globalization and liberalization, there has been a major policy shift in India from import substitution to export-oriented growth and from a mixed economy to corporate-led economic growth. These policies of liberalization are meant to remove all barriers in all possible ways to exploit nature and human labour and to promote easy transfer and the centralization of ownership of natural resources and other means of production in corporate hands. Privatization of the public sector, the opening of the economy to foreign capital, liberalization of trade, the transfer of vast tracts of agriculture land to industrialists by uprooting hundreds of thousands of people, and efforts to amend the labour laws to make hiring and firing smoother and easier are all parts of the policies of liberalization.

The issue of labour law reform has emerged as one of the major focus areas on the corporate agenda. Particularly after 1990, representatives of both national and international capital, pro-liberalization economists, and the national and global media in chorus started decrying existing labour legislation, as if all the problems on earth had been created by these 'rigid labour laws'. The agenda was for total reform, but the major focus targeted crucial sections of the labour laws which provide service security or ensured workers' rights in the workplace, or which put any obligation on management to ensure the well-being of labour, or provided any power to labour for collective bargaining, or provided for routine inspections to ensure the implementation of labour laws.

The labour laws which have been the major targets of reform are:

1. Chapter V-B (sections 25-K to 25-S) of the Industrial Disputes Act 1948, which makes it compulsory for the units with 100 or more workers, to receive prior permission from the government before moving for retrenchment, lay offs or plant closures. It should be noted that prior to 1976, the threshold was 300 or more workers, and after a long struggle by trade unions, the threshold of 100 or more workers was introduced in 1976.
2. Sections 25 B, F and N of the ID act, which provide grounds for the claims of regularisation of the workmen who completed continuous service of 240 working days in the establishment
3. Section 9-A of the ID Act which makes it compulsory for employers to give 21 days' notice to the workmen or to their union before effecting any change in the conditions of service.
4. Contract Labour (R&A) Act 1970, which prohibits employment of contract labour in core activities and in jobs which are perennial in nature; and also provides for regularisation of the workers who are employed as contract labour in such jobs.
5. Trade Union Act 1926 which guarantees rights to form trade unions and for collective bargaining. The Act was amended in 2001. The amendment introduced a provision that a trade union can be registered only when 10 percent (subject to minimum of seven) or 100 workers of the unit are its members. Before the amendment only 7 members were required to register a union

The policy of the special economic zones (SEZs) goes one step further in terms of realizing the corporate agenda on labour law reform. The *SEZ Rules 2006* direct state governments to declare all the activities in the SEZs as 'public utility services'. Under section 22 of the ID Act, 14-days notice is compulsory before employees undertake a strike or the employers a lockout, in any public utility service. The powers of the labour commissioner are also delegated to the development commissioners of SEZs. These rules now look to be the thin edge of the wedge, spurring a major move by state governments to amend the labour laws (or exempt employers from crucial provisions) in general and specifically the laws for SEZs.

The next move worth mentioning is that the federal government of India is coming out with a policy for establishing national manufacturing industrial zones (NMIZ) in which labour laws will be more flexible and all NMIZ units will be declared public utility services on a permanent basis.

For NMIZs, aspects of the labour laws proposed for review are:

1. Employment of women in three shifts;
2. Temporary status of employees;
3. Flexibility to downsize;
4. Contract Labour Abolition Act will not be applicable to units in the NMIZs.
5. Number of hours per shift
6. Social security scheme for all the workers engaged in the NMIZ.
7. The right to join unions to be confined to workers drawing salary below a certain limit.

The labour law structure proposed for NMIZs is very similar to that of the EZs. If these reforms go ahead unopposed, they will have devastating impact on workers and their organizations and possibly on the Indian economy as a whole, since it will virtually turn the whole economy into a special zone economy and the labour laws will become virtually meaningless.

However, even without a major change in the labour laws, the machinery of labour law administration has been made almost defunct and a period of extreme violations of labour laws has started. It has been accompanied by a period of anti-labour judgments. This series of judgments has brought down totally different interpretations of labour laws than those seen in earlier periods. The interpretations of the laws seen in these judgements have actually changed the meaning of labour laws in line with the agenda of labour law reform. Whether it is a case of retrenchment, plant closure or issues of contract and casual labour, the workers are, in general, not getting any relief.

The following example shows clearly the recent approaches of the judiciary. . One subject that comes up frequently in recent Supreme Court judgements is the status of casual labourers employed both on government projects and by private concerns. While the workers demand regularization of their position because of their long service and contribution of work --equal to that of the regular employees -- management deny these

claims. The high courts give varying orders on these cases and the Supreme Court ultimately has to sort them out, though not satisfactorily.¹

In a recent Judgment in the case of Uma Devi on temporary, contractual, casual, daily wage or *ad hoc* employees/workers ('Secretary of State of Karnataka and Others Vs Uma Devi and Others'), delivered by the Constitution Bench of the apex court on April, 10, 2006, it was held that the casual, daily rated, *ad hoc* [or] temporary employees have no right to claim regularization of service.²

The situation has gotten so bad that recently the judiciary made an open self criticism in this regard. Division Bench Justice G S Singhvi and Justice A K Ganguly, in two separate orders, cautioned judges of the Supreme Court and Constitutional courts that "precarious consequences" will visit the nation if they dilute constitutional imperatives to promote the "so-called trends of globalization". Further, Justice Singhvi observed that he had noticed a visible shift generally in the courts' approach in dealing with cases involving the interpretation of social welfare legislation such as the Industrial Disputes Act. Justice Singhvi said in his order, "The attractive mantras of globalization and liberalization are fast becoming the *raison d'être* of the judicial process, and an impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganized workers". Justice Singhvi said a large number of cases end up with the workmen being denied any relief from judges, who readily accept the justification employers give about such "illegal retrenchments."³

In this anti-labour environment, the industries actually do not care for labour laws. Industrialists, both local and foreign, are virtually creating hell for the workers in industrial centres all over India. The problems are not only of wages. The workers are virtually treated as slaves; worse even, they are treated as machines. They do not get time for a toilet break or to drink water; they are abused and physically punished for not achieving inhuman work targets. Women workers are verbally and physically harassed. Workers do not get any time for themselves or their family; even if one's child is ill he/she does not get leave to take him/her to the hospital.

In many factories the employees work 10 to 12 hour shifts seven days a week which coupled with transportation time of a least two hours leaves them with no personal time.. They are thrown out of work again and again without any fault of their own. They keep on moving from one factory to another with intermittent periods of unemployment. The majority of factory workers are employed through contractors and most have no proof of employment, so their PF/ESI (Provident Fund/Employee's State Insurance) contribution is also looted. Finally after squeezing all the juice from their life, they are thrown out of the labour market at the age of 40-45.

This is the overall situation and one in which the state machinery generally works in favour of industrialists and against labour. In these situations only trade unions are able to insure betterment in the working conditions by way of compelling management to provide space for collective bargaining. Hence, we see a new wave of unionization efforts on the one

hand and an all-round attack on trade unions both by management and the state on the other.

In the second half of this report, we present several recent cases of attempts at unionization in both foreign and locally-owned manufacturing facilities. These examples show a systematic disregard for existing labour legislation. The workers who attempt to form a trade union are victimized. If management gets any hint of unionization efforts, 'problem' workers are thrown out in no time. Many times the police as well as local goons are engaged to suppress the 'problem workers'. Wherever the workers succeed in organizing themselves to form trade union, the registration of the union is delayed and management gets time to foil such efforts by victimizing the workers. Many times, management throws out all leading workers and if a collective protest starts, they declare a lockout (a temporary shutdown of the factory) and then an unimaginable repression is unleashed against the workers.

It is interesting to note that in 2009-10, the majority of well publicized cases of workers' struggles were centred on two issues: a) the victimization and repression of trade union organizers; and b) the demand for regularization of casual and contract workers.

2. Legal limitations on Trade Unions

India has ratified neither the ILO convention on Freedom of Association and Protection of the Right to Organize 1948 (C. 87), nor the ILO Right to Organize and Collective Bargaining Convention, 1949 (C. 98). According to the government, ratification of C.87 and C.98 would involve granting certain rights that are prohibited under the statutory rules for government employees, namely the right to strike and criticize openly government policies, the right to accept freely financial contributions, the right to join freely foreign organizations, etc. And since there has been no change in the basic labour policies, the government of India remains unable to ratify these two Conventions.

The right to association encoded in the trade union law of India provides only a limited scope and limited framework. The Police and Armed Forces do not have the right to form a trade union. It is also not applicable in the state of Sikkim, where the registration of trade unions is subject to a police inquiry and requires the permission of the state's Land Revenue Department. One negative comment by the police about a member of the union's executive can be grounds for refusing registration. In fact, anyone in the general public can make an objection against the registration of a particular trade union which will also prevent its registration.

However, with the above exceptions, the workers of India have the right to form trade unions as provided in Trade Union Act 1926 and to practice collective bargaining within the framework and limitations provided in Industrial Disputes Act 1947.

While these laws allow the formation of trade unions, they are completely silent on the issue of recognition of the union by company management, thus severely curtailing the powers and action of the union as a bargaining agent on behalf of workers.. Without a law

on compulsory recognition of trade unions, there is no legal obligation on employers to recognize a union or engage in collective bargaining. Management can refuse to recognise a particular union and refuse to engage in collective bargaining with a union. Or they can choose one union over another for their own benefit. Management is free to recognise both minority and majority trade unions as bargaining agents and is free to make collective agreements with their pocket union (management controlled union) which are then imposed on the workers. Only in a few states, such as Maharashtra, Gujarat, Madhya Pradesh and Rajasthan, are there provisions in the statutes for the recognition of unions which have shown they represent a specific percentage of the workforce.

In India, the right to protest is a fundamental right under Article 19 of the Constitution of India, but the right to strike is not. The right to strike along with the right to lock out (workers) are rights governed by the Industrial Disputes (ID) Act 1947.

Under this act, the conditions which determine (define) whether a strike is legal and justified are laid down, but as can be seen, these conditions drastically limit the freedom and actions of trade unions.

1. Under section 10k of the ID Act, state governments may for securing the public safety or convenience or the maintenance of public order or supplies and services essential to the life of the community or for maintaining employment or maintaining industrial peace, make provisions for prohibiting strikes or lock-outs.
2. Under section 22 of the ID Act, strikes and lockouts in the public utility services are prohibited in terms of : no worker in these services can go on strike in breach of contract : (a) without giving to the employer notice of strike, within six weeks before striking; or (b) within fourteen days of giving such notice; or (c) before the expiry of the date of strike specified in any such notice as aforesaid; or (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
3. Section 23 gives directions for general prohibition of strikes and lockouts during the pendency of conciliation, arbitration and court proceedings and even few days or few months after conclusion of such proceedings; and also during any period in which a settlement or award is in operation.
4. Under section 24 of the ID Act, a strike is declared illegal which is commenced or declared in contravention of section 22 or section 23 (above two points); or continued in contravention of an order; or continuance of a strike in pursuance of an industrial dispute, when dispute is referred to a Board, an arbitrator, a Labour Court etc.

In the first schedule of the Industrial Disputes Act 1947, a list of industries is given which can be declared public utility services. These include transport (other than railways) of passengers or goods by land or water, banking, cement, coal, cotton textiles, foodstuffs, iron and steel, defence establishments, services in hospitals and dispensaries, fire brigade service, etc.

It is clear from the above that a wide range of industries (included in the first schedule of the ID Act) are protected from labour strikes. The compulsory notice period of 14 days and prohibition against a strike during pendency of conciliation talks, makes the strike toothless.

Amending the Trade Union Act

The Trade Unions Act 1926 was amended in 2001 and after the amendment it became more difficult to form trade unions. In the Act of 1926, only seven members were required to register a trade union, but after amendment at least 10 percent of 100 workers, whichever is less, subject to a minimum of 7 workmen engaged or employed in the establishment were required to be the members of the union before it could be registered.

In practice, trade unions are formed and applications are sent for registration secretly without the knowledge of managements. Only when the union is registered, is it made public. If any information is leaked before registration is completed, the leading workers face the worst kind of victimization and all efforts are foiled by management. In these situations, it is highly difficult to register 100 workers, since there is always the fear of losing one's job if the action is discovered. The registration process takes almost two to three months and therefore there are many chances for management to be informed about the unionization efforts.

The amendment also introduces a limitation on the number of outsiders (who are not workers in that particular factory) who can serve as officers of the union: "All office bearers of a registered trade union, except not more than one-third of the total number of office bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the trade union is connected." This limitation on outsiders does not affect the trade unions in any big way, but it shows the motive of the state which wants to completely prohibit outsiders in the executive body of the trade unions. It is better expressed in the amendments done/proposed in labour laws by the state governments for SEZs.

Banning strikes with the Essential Services and Maintenance Act

After 1980, the state started a major initiative to amend some important labour laws. Trade unions all over India launched a series of strikes, demonstrations and rallies of trade unions protesting this initiative. This decade of the 80s thus is often referred to as 'the decade of trade union action'. In response to the union action, the Essential Services Maintenance Act (ESMA) was systematically used to suppress the labour movement. The ESMA was enforced in 1957, 1960 and 1968, then in 1981, it was enacted with a long term perspective, a four-year period initially, extended for another five years to 1990.

Under this act, the federal government may ban strikes in listed essential services including any postal, telegraph or telephone service; any railway service or any other transport service etc.

Various state governments at different times (e.g. Tamil Nadu in 1979, 1981, Maharashtra in 1981) have enacted/invoked ESMA. As the protests against the new economic policies grew, the government re-enacted Essential Services Maintenance Act (ESMA) in 1992. ESMA became a handy instrument to suppress strikes and protests by workers and particularly those launched by public sector employees. The Uttar Pradesh Government used ESMA and the National Security Act (NSA) to halt the Uttar Pradesh Electricity Board Workers' strike in January 2000. Many states, including Uttar Pradesh, Andhra Pradesh and Orissa, included the health services under ESMA and invoked the act against striking doctors. In 2006, ESMA was imposed against striking airport employees who were opposing the privatization process in the Delhi and Mumbai airports.

The most publicized and sensational case involving ESMA took place in Tamilnadu. In 2003, after a general strike of government and public sector employees, the Tamilnadu government invoked ESMA to dismiss 170,000 employees from government service. Later some relief was granted, and in the end - the number of dismissed employees was reduced to 6,074. When granting this relief, the court also delivered a judgment which set the precedent with regard to the right of government employees to the strike, and clearly the court opined that they did not.

Tamilnadu ESMA (TESMA) is very unique in the sense that the "strike" in the Act not only includes the refusal of employees connected with these "essential services" to "continue to work or to accept work assigned", but also a "refusal to work overtime" and "any other conduct which is likely to result in, or results in, cessation or substantial retardation of work in any essential service." TESMA prescribes a punishment of up to three years imprisonment and a 5,000 rupee fine for participants in a strike involving essential services. Under TESMA, an activist who calls for a strike or instigates workers to go on strike, or anyone who provides financial assistance for the conduct of a strike, risks the same penalties as the striking workers.. TESMA includes a large number of public services within the definition of "essential", including those relating to the supply of water and electricity, passenger and goods transport, fire fighting and public health.

In 2011, the Gujarat government imposed ESMA on striking nurses of UN Mehta Institute of Cardiology and Research Center, who were demanding implementation of the Sixth Pay Commission recommendations.

Judicial Precedents Imposing Further Limitations on TU Action

Judgments made by the Supreme Court set legal precedents on the issue and are respected as laws unless and until another judgment comes and sets a different precedent. In recent decades, the Supreme Court has made a number of judgments which have set precedents against the right to strike. Some of the judgements which aroused wide concern follow.

1. In a case of general strike by government employees in Tamil Nadu (TR Rangarajan vs Government of Tamil Nadu, AIR 2003 SC 3032), the Supreme court held: "Now, coming to the question of right to strike whether fundamental, statutory or equitable moral right - in our view, no such right exists with the government employees." And that: "Law

on this subject is well settled and it has been repeatedly held by this court that the employees have no fundamental right to resort to strike..."

2. In 1998, the Supreme Court of India upheld the 1997 verdict of the Kerala High Court directing that Bandhs (general strikes) are illegal and violate the Indian constitution. Kerala High Court had held: "There cannot be any doubt that the fundamental rights of the people as a whole cannot be subservient to the claim of a fundamental right of an individual or only a section of the people." It also stated "No political party or organisation can claim that it is entitled to paralyse the industry and commerce in the centre, State, nation and is entitled to prevent the citizens not in sympathy with its viewpoints from performing their duties... Such a claim would be unreasonable and could not be accepted as a legitimate exercise of a fundamental right by a political party or those comprising it." The Supreme Court was of the view that the *bandhs* basically interfere with the exercise of the fundamental freedoms of other citizens while causing economic loss to the nation. Then again in 2002, the State of Kerala issued an order stating that all general strikes were illegal when they involved a complete shutdown of all activities. Furthermore, organizers of a general strike who cause a shutdown can also be held financially liable for damages caused to an employer. The legality of the Kerala state order was challenged, but it was upheld by the Supreme Court.
3. In 2004, Shiv Sena was asked to pay a fine for organizing a bandh (complete closure of all business) in protest against the Bombay blasts.
4. In 2004, the Calcutta High Court, in 2006 the Kerala High Court and in 2007 the Supreme Court again reiterated the verdict that bandhs are illegal and not constitutional.

It is worth mentioning that the opinion of the Supreme Court on the right to strike was completely different before 1990. It more or less recognized it as a fundamental right. The precedent on the issue was set by Justice Ahmadi in case of *BR Singh vs. Union of India* (1990 AIR 1, 1989 (1) Suppl.SCR 257):

"The right to form associations or unions is a fundamental right under Article 19 (1) (c) of the Constitution. Section 8 of the Trade Unions Act provides for registration of a trade union if all the requirements of the said enactment are fulfilled. The right to form associations and unions and provide for their registration was recognized obviously for conferring certain rights on trade unions. The necessity to form unions is obviously for voicing the demands and grievances of labour. Trade unionists act as mouthpieces of labour." And that "strike in a given situation is only a form of demonstration. There are different modes of demonstrations, e.g., go-slow, sit-in, work-to-rule, absenteeism, etc., and strike is one such mode of demonstration by workers for their rights. The right to demonstrate and, therefore, the right to strike is an important weapon in the armoury of the workers. This right has been recognized by almost all democratic countries. Though not raised to the high pedestal of a fundamental right, it is recognized as a mode of redress for resolving the grievances of workers."

Making SEZs, NMZs immune to TU action

We have already discussed that all the activities in the hundreds of the special economic zones that are being set up around the country are declared public utility services under the Industrial Disputes Act. In addition, the state governments are making major amendments to the labour laws including the Trade Union Act for these SEZs. It is proposed that outsiders must not be allowed in trade unions in SEZs. Moreover, entry into the zones is highly restricted and therefore it becomes very difficult for outside trade union organizers to participate in the set-up of SEZ workers' unions.

The federal government of India is also proposing to set up National Manufacturing Industrial Zones (NMIZs) in line with the SEZs. The SEZs were established to serve the producers of exports, and the NMIZs will serve manufacturing units in general. It is proposed that all NMIZ units will be declared Public Utility Services on a permanent basis. It is also proposed that the right to join unions in NMIZs would be confined to the workers drawing salary below a certain limit.

3. Trade Union Repression: General Scenario

The trade union movement in India comprises of more than 70,000 registered unions, both those politically affiliated and independent, as well as numerous non-registered organizations engaged in promoting and protecting workers' interests.

Trade unions in India largely represent only formal sector workers.

The total workforce employed in different sectors in India (principal and subsidiary employment) is about 456 million, of which the informal sector accounts for about 393.2 million or 86 percent. Out of the 393.2 million unorganized sector workers, agriculture accounted for about 251.7 million are employed in agriculture and the rest, 141.5 million, are employed in non-agriculture sectors. The agriculture sector consists almost entirely of informal workers who are mainly self-employed (65 percent) and the remainders are casual workers (35 percent). The percentage of non-agricultural workers in the informal sector rose from 32 percent to 36 percent between 1999-2000 and 2004-05. The large majority of non-agriculture workers in the informal sector are self-employed (63 percent) and the remainders are more or less equally distributed between the regular salaried and wage workers (17 percent) and casual workers (20 percent). The share of informal jobs in the non-agriculture sector increased to nearly 72 percent in 2004-05, from 68 percent in 1999-2000. Only about 0.4 percent of workers in the informal sector are formal workers, meaning workers who are registered and eligible for social security benefits such as the Provident Fund. In the formal/organized sector, the number of formal workers is about 33.7 million and informal workers about 28.9 million (2004-05). The total employment in the Indian economy increased from 396 million to 456 million between the two rounds of National Sample Survey in 1999-00 and 2004-05. In the formal sector the employment increased from 54.9 million to 62.6 million. However, there was no significant increase in formal employment (33.6 million to 35.0 million). This means that the increase in

employment in the formal sector has largely been informal in nature i.e. without any job security or social security benefits⁴.

The intensity of informalisation of formal sector jobs in India is very clear from the above. It was also shown in Labour Bureau surveys that the slowdown in the economy due to the financial crisis had a far greater impact on contract and casual workers since they can be easily hired and fired.

It is also clear from this that difficulties in forming trade unions arise substantially due to the high level of informalisation of workforce. But it also explains the reasons behind the emergence of a new wave in the workers' movement for unionization. In the formal sector, the unionization of workers is the only effective way to convert informal employment to formal employment.

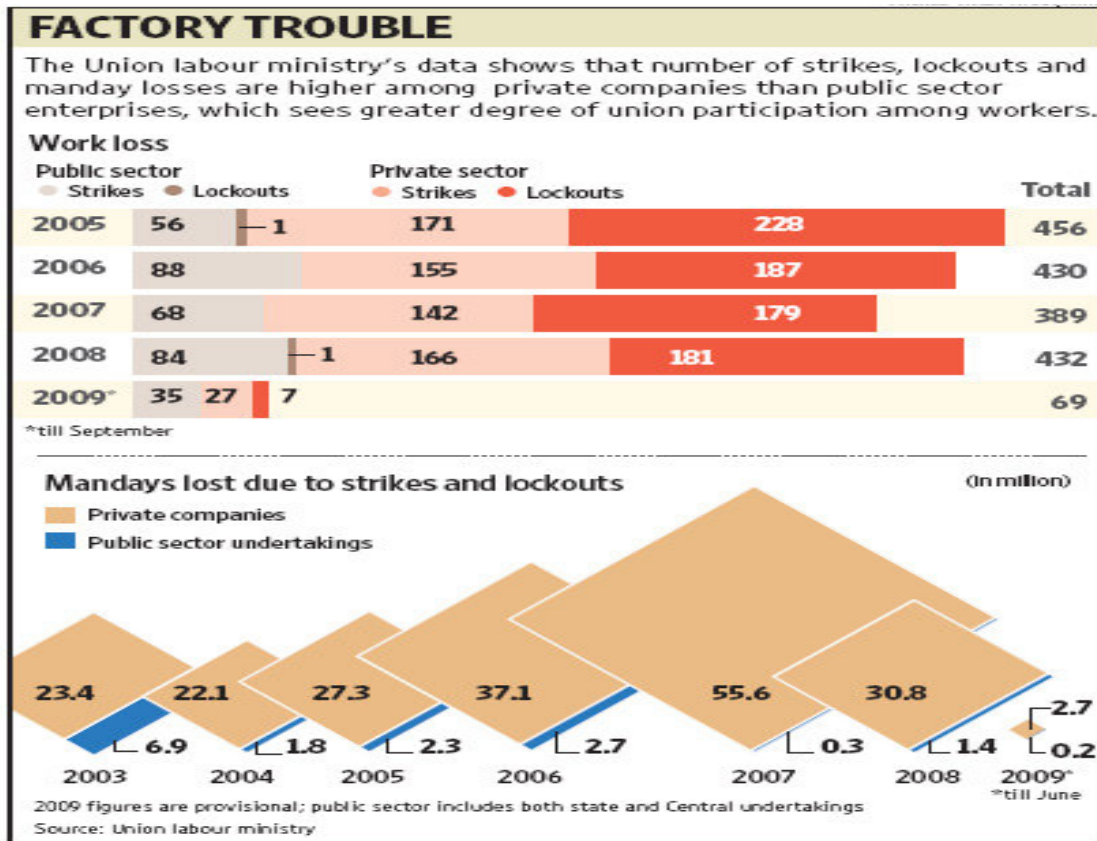
In the data gathered by Ministry of Labour, Government of India (Indian Labour Statistics 2010), indiscipline is cited as the causal factor of 34.8 percent of cases of industrial disputes.. Demands for payment of wages and allowances are cited in 22 percent of cases.. These two categories of industrial disputes largely reflect the sufferings of informal workers and the repression unleashed by factory managements on unionization efforts..

After liberalization, man days lost in the lockouts by management have been far greater than the days lost due to strikes by the workers. This has been a consistent trend, clearly shown in the Labour Bureau statistics in the table below.

Table: Strikes and Lockouts,2002-2005

ITEM	2002	2003	2004	2005
No. of Strikes	295	255	236	227
No. of Workers Involved	900,386	1,010,976	1,903,054	2,722,784
Man-days lost	9,664,537	3,205,950	4,828,737	10,800,686
No. of Lockouts	284	297	241	229
No. of Workers Involved	179,048	804,969	169,167	190,817
Man-days lost	16,921,382	2,70,49,961	19,037,630	18,864,313

Source: Labour Bureau, Government of India; <http://labourbureau.nic.in/idtab.htm>



Source: Maitreyee Handique: The Rise of New Proletariat;
www.livemint.com/2009/12/.../The-rise-of-the-new-proletaria.html

4. The Cases of Trade Union Repression

Now we can discuss here few well publicized cases of trade union repression and workers struggle, to understand the real dynamics at ground level. In any discussion on trade union repression in India the repression unleashed on Honda workers strike in Gurgaon, Haryana in 2005 is always remembered. The main issue behind this strike was also the repression unleashed by management of workers when they attempted to form a trade union.⁵ Honda workers strike appears as a starting point of a new wave of labour movement emerging from below, particularly for unionization of workers, and it also indicated the beginning of a new phase of intense struggle and repression. The cases of trade union repression discussed below clearly reflect on this.

The Hyundai workers' struggle for recognition of union

Hyundai Motor India Limited (HMIL) workers in Chennai have also faced similar situations since they formed a trade union in 2007. Hyundai Motor has around 1,650 permanent workers, 2,000 casual workers, 1,500 apprentices, 1,000 trade apprentices and 1,200 technical trainees. More than 1,300 workers in the company formed a trade union- Hyundai Motor India Employees' Union (HMIEU) in 2007. However, management was not

prepared to recognize the union and a long phase of victimization of union leaders, union members, and supporters in the form of dismissals, suspensions, and transfers followed.. On July 23, 2007, Hyundai signed a wage settlement with the Workers' Committee set up by management rather than the trade union formed by the workers. The workers associated with the union started a sit-in protest against this wage agreement and demanded that management negotiate with union rather than the workers' committee. However, management continued to refuse to recognize the union and argued that it would only negotiate with the Workers' Committee. The struggle continued. In 2008, the company dismissed 67 workers, suspended 34 others and transferred others to its plants in the country. All were members of the union. .

The allegations against them were that they had indulged in violence. Management also repeatedly claimed that there was no union in the company. Later, through the mediation by the state Labour Department, management took back 20 workers unconditionally and another 12 workers were reinstated after submitting apologies. The Labour Department also appointed a committee to decide the fate of the remaining 35 workers. The committee upheld the company's decision, but recommended reinstatement of the workers on humanitarian grounds. However, management was not ready to reinstate the workers and not ready to negotiate with the union.

On April 20, 2009, about 900 workers, all members of the union, went on strike. Conciliation meetings were held, but after a few meetings, management's representatives stopped attending. On May 6, 2009, all 900 striking workers were taken into custody by the police. Thereafter the struggle intensified. The strike received support from trade unions in Chennai and other parts of the country and from workers in Korea. Affiliates of the International Metal Workers Federation organized demonstrations and meetings at Hyundai's headquarters in Korea. The 17-day strike by workers ended on May 7, 2009 after a meeting of workers' representatives, the company management and the labour department in Chennai. The management agreed that it would not come to any wage revision settlement with the workers' committee until May 20, give an item-by-item reply on the 45 demands of workers, and refrain from taking action against workers after they returned to work. The 45 demands included the demand to recognize the employees' union, a wage increase, and explanations for dismissing 65 workers and suspending 34 others.

Despite the apparent climb-down by management, there was a long delay in addressing the demands.. Moreover, the company management, rather than considering the demands of the workers, dismissed four more workers on June 6, 2010. In response the workers again went on strike and almost took over the factory. In all, 400 workers occupied the factory and another 800 gathered outside the gate. The next day police forcibly dispersed the workers and removed them from the factory. About 250 workers were arrested.

The three-day strike ended on June 9, 2010 after an agreement was reached between management and the union. HMIL management agreed to review the cases of the 35 dismissed employees on humanitarian grounds. The review was to have been conducted by

a committee comprising HMIL management, government officials and workers' representatives. HMIL also accepted to reinstate 20 dismissed employees.

However, management continued using delaying tactics and the issues remained unresolved. Decisions on the issues were repeatedly postponed, and as of Sept 13, 2010⁶ had still not been resolved. (Need to update this.)

Not only the workers, but also many multinational companies are watching the developments at Hyundai and waiting for the outcome on the main issue-workers' committee vs. trade union. Most multinational companies prefer dealing with a workers' committee, rather than a trade union. It seems the final outcome in the Hyundai case may to some extent determine the industrial relations scenario in industries in Tamil Nadu and may have implications for industries in the other parts of the country.⁷

The Nokia Workers Strike for Wage Hike and Against Victimization

Nokia in Chennai has been granted SEZ status. In August 2009, the workers at Nokia went on strike. According to a report, the strike started suddenly on 13th August 2009 after announcement of the new pay proposal with a salary hike of only Rs 200 per month. The workers argued that this was equivalent to no hike in salary despite repeated requests. The workers' union had initially demanded a hike in salary in 2008, which was not met. In 2009, citing problems caused by the recession, demands for wage hikes were also denied. The workers went on strike. The strike effectively continued for only two days, but the production of 300,000 handsets was affected. There was a very quick response from the Labour Department pressuring the workers to stop the strike and give time to settle the dispute.⁸ On 14th August, management agreed to talk to the workers regarding their demands and also offered a salary hike of Rs 1400 per month.⁹

It is also interesting to note that trade union wing of ruling DMK party the Labour Progressive Federation (LPF) had formed a trade union in- Nokia Workers' Progressive Union, affiliated to LPF. The strike was a sudden outburst; but the negotiations were done by the LPF. Through those negotiations, a wage pact was finally signed between management and the LPF giving the workers a salary hike of Rs 1500 per month.¹¹

Then there was another strike at the Nokia plant in January 2010. The strike lasted for three days and ended after assurance from the company that the suspended workers would be taken back.

In July 2010, Nokia workers again went on strike. Actually the management was in the process of finalizing a long term wage settlement with the union, but a fraction of the workers were opposed to the proposed settlement. The demand was also to reinstate the suspended workers.

The six-day strike ended after a wage agreement for three years was signed and management agreed to revoke the suspension of the employees.

MRF Workers Struggle for Recognition of Union

Madras Rubber Factory (MRF) workers faced similar victimization and repression after forming a union and asking management to provide space for collective bargaining. Management was not ready to recognize their union- the Madras Rubber Factory United Workers Union (MRFUWU). The MRFUWU also filed complaints with the ILO in 2006 and 2007. On May 9, 2009, workers of the MRF factories in Arakonam, Tamil Nadu, and in Puducherry went on strike demanding salary and wage increases and recognition of their trade union, the MRFUWU, as the legitimate representative of MRF workers. The MRF management responded by locking out all staff from the factories on May 17, 2009.

And with that inauspicious response, the repression started. On May, 20, 2009, police arrested and removed more than 600 striking workers at the MRF plant in Arakonam, as well as those demonstrating outside the factory. Three days later, police arrested nearly 3,000 more striking Arakonam MRF workers. It is interesting to note that a large number of family members of the workers also participated in the protest and they were also camping outside the labour commissioner's office. The police arrested them as well. Various criminal cases were also filed against the workers. In the end, the management dismissed about 150 striking workers.

It is worth mentioning that like Hyundai, MRF management also wanted to deal with some sort of a workers' committee and not a real trade union. In MRF there was already a MRF Arakonam Workers' Welfare Union (AWWU), and management recognized it and was not ready to deal with any group other than this welfare union.¹⁷ The workers alleged that AWWU was actually a management-run union.

On the complaint lodged by MRF workers, the ILO committee on Freedom of Association (CFA) published its conclusions and recommendations in its 348th Report. The recommendations emphasized that the management should recognize the workers' union and engage in collective bargaining. CFA also recommended that the use of a secret ballot as the best way to establish the most representative trade union; and that the government of India take appropriate measures to obtain the employer's recognition of the union for collective bargaining purposes.

Thereafter, the union filed a Writ Petition before the Madras High Court seeking the implementation of the recommendations of the CFA, particularly the recommendation relating to the recognition of the union by the management of the company. The government of Tamil Nadu took a position that there were no central or state laws on the subject of recognition of trade unions. However, it was open to the union undergoing the procedure for recognition laid down under the Code of Discipline which required submitting a petition to the State Evaluation and Implementation Committee.

The employer and the management-operated union also argued that the CFA's recommendations were in no way binding and therefore need not be implemented. Management also argued that it was a matter of absolute discretion for management to

recognize or not recognize any particular union as there are no statutory provisions in this regard.

However, on September 8, 2009, the Madras High Court observed that the MRF workers had tried to establish the legitimacy of their chosen union through a secret ballot in 2006, but the representatives thus chosen were asked to resign by the management. A pro-management union was then given the facility to deduct membership fees from the wages of the workmen. The court also stated that the desirability of having a truly independent and representative union of workmen to represent their cause cannot be lost sight of and the question as to who should be the representative of the workmen is an aspect which has to be decided by the workmen themselves; it cannot be left to the management. The High Court issued an order that the management recognize the MRFUWU and agree to adhere to the ILO recommendations. The MRF workers ended their 125-day strike on 14 September, 2009 and returned to work.¹⁸

Pricol Workers Struggle for Recognition of Union

In case of the workers' struggle in Pricol Ltd., a Coimbatore-based automobile instruments maker, the issue was the same as in Madras Rubber Factory. The management was not ready to recognize the trade union (Kovai Mavatta Pricol Employees' Trade Union) affiliated to AICCTU (All India Central Council of Trade Unions- trade union wing of Communist Party of India-Marxist-Leninist).

The workers of the union were victimized and on September 21, 2009, about 40 workers were terminated. A violent physical confrontation erupted and tragedy struck when the Pricol vice president (human resource) was attacked by workers and died.

Graziano Workers Struggle for Unionization

A similar case happened in Graziano Trasmissioni India Pvt. Ltd (Noida), a subsidiary of multinational Oerlikon, in 2008. In this case the workers faced unimaginable repression and victimization when they started their efforts to register a trade union in the factory. It is interesting to note that it were not the workers who initiated or created the dispute on any issue. They tried to form the union and this was the only act from their side. In further developments generally management was on the offensive and they were on the defensive. It is also interesting to note that mostly management provoked them by its highly unjust actions and they reacted against it, giving management the opportunity to throw some of them out of their jobs.

The first protest of workers started on December 2, 2007 against deductions from wages on the grounds that their entry cards were not properly punched. The workers also raised the demand for a wage agreement. The next day management barred three workers from entering the premises of the company and one worker was terminated. On December 4, 2007, all the workers were thrown out by declaring a lock-out.

A tripartite agreement was eventually reached on January 24, 2008, in presence of labour department officials. But rather than implementing the settlement, management started planning to throw out all the permanent workers. It started this plan by hiring contract workers and by May-June 2008, the number of contract workers hired had reached 400. The company had a capacity to engage only three hundred workers to work the same number of machines at the shop floor and that many permanent workers (including trainees) were already there and there was no declared plan for expansion also. Therefore, it was very clear that the company was determined to throw out all permanent workers and replace them with contract workers.

On May 8, 2008, five Trainee-apprentices were thrown out and they were told they would never get regular employment at the factory. When the workers protested, management replied by suspending 27 more workers. On June 1, 2008, a labour contractor of the company physically attacked the workers. But management filed a police complaint against the workers: Four workers were arrested and 42 were put under Section 107/116 of IPC (first mention, spell out or explain in footnote) with a personal bond of 100,000 rupees. Another 30 employees were locked out on June 2, 2008.

In response to these actions, the workers started a sit-in protest outside the factory gate, but did not go on strike. They put black ribbons around their forehead in protest while on duty and refused to take lunch in the canteen. At the same time, management started putting contract workers in all the positions of workers who had been thrown out. In protest, on 7-8 June 2008, permanent workers refused to do machine setting work. They started organizing demonstrations and sending complaints to higher authorities. They also made representations to Marcello Lamberto, CEO of the segment, Oerlikon Drive Systems when he came to India. Still, those workers who had been dismissed were not reinstated.

Conciliation meetings with mediation by the Labour Department and district administrators were started, but management continued suspending and terminating more workers. In this way the majority of workers were suspended or terminated by the company. Lastly, through the mediation of state labour commissioner a tripartite meeting was held and it was decided that management would reinstate the workers after receiving a written apology from all of them. However, on 22nd September 2008, during the submitting of the apology statement, the workers launched a protest against the content of the statement which had been dictated by management. The protest escalated and there was violent action on both sides. In the course of the action, the CEO of the company was hit. He died later in the hospital.

Criminal charges were filed against the workers and all the workers of the company were dismissed. The police arrested 137 workers and so called 'problem workers' were tortured while in police custody. Out of the 137 workers arrested, 74 were bailed out, but 63 were charged with murder and had to struggle for long time to be released on bail. As of the writing of this report (update?), they are still facing these charges and the case is pending in the court.

It is interesting to note that the workers of Graziano were associated with three national trade unions during the different phases of struggle, i.e., -with the AITUC in first phase, with CITU (first mention, spell out) for a short period, and finally with the HMS in the last phase. Despite their efforts and help from these national trade unions, the Graziano workers were unsuccessful in getting their union registered with the labour department.

The reaction of the state government to this case was to punish all the workers of the region. After the incident the state government took following steps:

1. Set-up of two new police circles for Noida urban area, including one industrial police circle; appointment of a Special Circle Officer, Industries to provide security to Industrialists and a special force was raised for that; the launch of a special helpline to solve the problems of employers within two hours; and bulk arm-licenses (needs explanation) to be given to private security at industries in SEZs.
2. Issue of two GOs (first mention, need to spell out) by the state government, one for Greater Noida and the other for Noida directing that the powers of the Labour commissioner of UP (spell out, Uttar Pradesh?) for these two industrial areas now be vested in the CEOs (Chief Executive Officers) of Noida and G. Noida authority; Relinquishing of the post of Deputy Labour Commissioner (DLC) and as per the order, assigning the the Assistant Labour Commissioners (ALCs) to work directly under these two CEOs of Noida-Greater Noida Authorities for their respective regions.
3. Establishment of a Quick Reaction Team' and 'Industrial relations committee' comprising of CEOs of Noida and Greater Noida authorities and senior district police officers to look into the problems of industrialists, including labour disputes.

The Case of Trade Union Repression in Nestle

Another case of trade union repression worth mentioning is that of Nestle India factory located in Pantnagar, Uttaranchal. Here also management started victimizing the workers after they formed a trade union-Nestlé Mazdoor Sangh (Nestle Workers Union - NWU) in March 2009. Fifty-five workers formed the NWU and submitted an application for its official registration. Nestlé threatened 25 of those workers and forced them to sign a statement, saying they had joined the union under pressure. The management also attempted to force four workers to “voluntarily” resign as part of an effort to prevent the set up of the union.. Three of them refused and were dismissed.

The Nestle workers protested against these actions by management and went on a strike on April 27, 2009. They demanded reinstatement of the unfairly dismissed workers, permanent jobs for more than 400 trainees illegally denied job security, and an end to management interference in the registration of their trade union. With the mediation of the local labour department, an agreement was drafted by the union and management on 1 May, 2009, but the very next day the company suspended four NWU leaders, including the union president. Moreover, the police prevented the employees from protesting at the factory gate.¹⁹

The strike at Nestle India's Pantnagar factory in Uttarakhand lasted 22 days, ending on May 19, 2009 with an agreement with management. With the intervention of the district magistrate, the striking workers and management reached an agreement under which the suspension of four employees was revoked. A committee was also constituted to look in to other demands of the workers and related matters.²⁰

It is worth mentioning that in January 2009, Nestlé India successfully filed injunctions in four courts in three states, banning all union meetings, gatherings, and rallies within 200 metres of its factories in Moga in Punjab State, Samalkha in Haryana State, and Ponda Goa and Bicholim in Goa State. In defiance of the injunction, the Federation of All India Nestlé Employees launched protest actions on April 16, 2009, and demanded that management immediately begin wage negotiations.²¹

Viva Global Workers Struggle for Minimum Wages and Unionisation

The workers of Vivva Global, a garment company in Gurgaon, Haryana, demanded for a wage increment in April 2010 arguing that the state government of Haryana had already increased the minimum wages in January 2010 and workers of other companies in Gurgaon had already got the benefit of the same. The workers were also demanding I-card, PF and ESI card and salary slips.

However, management was not ready to increase their wages and in response the workers stopped work in the factory for two hours every day from April 8 to April 10, 2010. On the third day of the action one worker was dismissed. When the workers strongly protested against this, management called the police and about 15 workers were taken into custody. According to workers on the scene, a manager from another garment company also came there and terrorized the workers. However, the Viva Global management promised to consider the demands of the workers, and third day itself, the workers ended their protest.

It is to be noted that the workers had not yet formed a trade union, but they were protesting collectively. It was only after they had launched their collective action that they contacted the trade union Majdoor Ekta Manch and sought its help in the struggle. Eventually, the company accepted the demands of the workers and after 10-15 days, most of their demands were fulfilled. There were in total 400 male workers and 200 female employees.

But soon after, management started firing out workers one by one and also started outsourcing the work to the other fabricators. In the meantime, the workers' union was successfully registered in May 2010 and negotiations with management also started. But management continued firing out workers one by one. Therefore workers collectively protested against this move. Lastly on August 21, all the contract workers were thrown out. But all the workers including permanent workers started protest demonstration and demanded reinstatement of all contract workers. Then, management locked out the gate of the factory and all the workers were thrown out. Thereafter the repression started. On August 25, 2010, 20-25 local thugs attacked the factory workers protesting at the gate.

They brutally hit the workers from hockey sticks. The workers ran to save their lives. But one worker, Anwar Ansari, was caught and abducted by thugs.

In an interview, Anwar Ansari said that he had been forced into the boot or trunk of a car and taken away. When the car stopped, the thugs blindfolded him before taking him out of the trunk. They then took him to a house and beat him with whatever they had at hand, until they received directions on phone to take him to another place. He was then taken to the jungle where they threatened to kill him. His abductors again received directions on phone. He was put into the trunk of the car again, driven to the Delhi-Gurgaon Border and dumped in the road there.

When Ansari reached his house, the police were also there and took him to the Police Station and then to the hospital. Ansari left the hospital and returned to the place where the sit-in-protest of workers was going on. It was very clear from his accounts that there was collusion between management, the police and the thugs. The workers have registered a case against the management. The sit-in protest is still continuing. Thereafter, the workers filed a complaint against the company in High Court (Chandigarh) and finally the court directed the management to resolve the dispute. Finally in the supervision of Deputy Labour Commissioner Gurgaon, Viva Global signed an agreement with the workers on 29th March 2011 promising to reinstate all workers locked out last August. However, 42 workers were reinstated and 40 workers continue to fight for their reinstatement.²²

Rico Auto Workers Struggle for Unionization and Sunbeam Auto Workers' Struggle for Democratization of Trade Union

Rico Auto Ltd is an Indian multinational company and its production facility at Gurgaon is located at Delhi-Jaipur Highway. There are about 2,500 permanent workers and about 2,000 engaged through labour contractors in the company. Out of the 2,500 permanent workers, only 76 are women.

There were no union activities in the company before 2009. Only in 2009, the workers started their efforts to form a trade union. On August 04, 2009 they successfully organized the workers without the knowledge of the management and secretly filed an application for registration of the union in the office of Registrar of Trade Unions at Chandigarh.

According to workers, in the first week of September 2009, the office of the Registrar of Trade Unions sent their application to the DLC office at Gurgaon for verification. Thereafter, management also got the information about the application and started terrorizing the workers. Therefore, workers decided to come out into the open and face the challenge in a straightforward way.

On September 09, a general meeting of the workers was organized, and it was disclosed to all workers that Rico Auto Employees Union had been formed and the application for registration of the union had already been submitted in the Trade Union Registrar's office at Chandigarh. The meeting was held at about 3pm in the Kamala Nehru Park (less than one kilometre from the factory) so that workers of both closing and opening shifts could attend

the meeting. The meeting lasted about half an hour, and therefore the work in the company was not affected at all. The meeting was attended by about 3,000 workers.

After this meeting management started threatening and also bribing the workers to foil the efforts of unionization. A few workers were threatened with dismissal if they supported the unionization and some others were offered benefits if they opposed the unionization. Therefore, to consolidate its strength the union organized another general meeting of workers on Sunday, September 20, 2009 (a rest day) at Kamala Nehru Park. Almost all the workers of the factory participated in this meeting.

Thereafter, the victimization and repression started. On September 21, 2009, the management closed the gates of the company to all the workers. When the Workers of the first shift reached the company at 6 am, they were informed that they were locked out. About three dozen policemen, 200 security guards and 150 professional wrestlers²³ were deployed at the gate and did not allow the workers to enter in the company. In this way, the company declared and achieved an illegal lock-out, since there had been no strike, as was later reported by the media.

The lock-out was well planned and management had made all preparations before declaring the lock-out. Four days before declaring a lockout, management filed for an injunction in court prohibiting the workers from gathering within 200 meters of the factory, which the court limited to 50 meters.

The workers started protest demonstrations at the company gate against this illegal lock out and demanded they open the gates and let them attend their duties. Reacting to this at about 7 am, the police, wrestlers and security guards of the company launched a brutal attack on workers with *lathis* (bamboo sticks) and hockey sticks. The attack continued for about three hours from 7am to 10 am, with intervals of few minutes. Fifteen to 16 workers were seriously injured and many others also received injuries. But workers were not ready to leave the gate. They started a continuous sit-in protest at the gate.

The next day on September 22, 2009, a similar illegal lockout was declared at Sunbeam Auto Ltd, located just adjacent to Rico Auto Ltd and Sunbeam workers also launched a protest demonstration at the gate.

Sunbeam is a Hero Group company. Sunbeam Management initially formed a works committee to avoid pre-empt the set up of a workers' union. But after the workers started unionization efforts, management itself formed a union, the Sunbeam Auto Shramik Union in 1996, installed pro-management workers as office bearers and got official registration for it also. To maintain it as pro-management union, the company never allowed formal union elections. Discontent grew among the workers and gradually a parallel leadership emerged which started raising demands for formal elections of union officers which was also due in May 2009 according to the rules.

On the other hand, on April 09, 2009, management signed a wage settlement with the existing office bearers of the union and on June 01, 2009, formally recognized the existing

office bearers as the new elected office bearers of the union. The workers opposed this and raised a dispute with the labour department on June 09, 2009. Submitting a letter signed by 450 workers, they claimed that the existing office bearers of the union represented only a minority of the workers. Reacting to this, management suspended 10 workers and terminated one other. A case was also filed by the existing office bearers of the union in civil court against 14 workers (representing parallel leadership) charging for disruption in union activities.

Soon the existing office bearers of trade union also took steps to affiliate the union with Indian National Trade Union Congress (INTUC) trade union wing of ruling political party both in Haryana and in the central government on July 12. In addition, management started compelling the workers to sign a stamp paper (supposed to be a legal document), declaring that the existing office bearers of the union were the only representatives of workers. Between 200 and 250 workers signed it, but thereafter they collectively refused recognition of it. Then on September 22, the workers were barred from entering the factory. The police and bouncers were deployed at the gate. In this way an illegal lockout was declared. However, on October 1, the Haryana state government declared the 'strike' as illegal.

Despite that verdict/declaration, the workers of Sunbeam continued the sit-in protest at the company gate that they had begun on September 22. They were only 100 to 200 meters away from the protesting Rico factory workers. To remove the Sunbeam workers from the gate, even more brutal repression was unleashed by the police, bouncers (wrestlers) and security guards of the company. The attack was launched in the dark at about 9pm. They brutally attacked the workers with bamboo sticks and iron rods as the workers were lying on their beds in tents. They also did not allow the workers to run away; some workers fell down into the drainage, where they were trapped and beaten with bamboo sticks. Some tried to take a refuge in a nearby labour colony but the wrestlers picked them up and continued the onslaught. Twelve workers were seriously injured and more than 50 others also received injuries. Criminal complaints were also filed against 11 workers.

Trade Unions in Gurgaon protested strongly against the repression of the Rico and Sunbeam workers. A Joint Trade Union Council of Gurgaon was formed during the struggle against the Honda workers' repression in 2005. On September 23, 2009, the Joint Trade Union Council organized a rally of Gurgaon workers in Kamla Nehru Park against the repression of Rico and Sunbeam workers. Around 5,000 workers participated in the rally and a memorandum was submitted to the police commissioner. When no action was taken by the authorities, the Joint Council again organized a big rally of Gurgaon workers on September 25, to protest against the repression of Rico and Sunbeam workers. About 10,000 workers participated in the rally and a memorandum was again submitted to the deputy commissioner of Gurgaon.

Thereafter, a big demonstration of Gurgaon workers was planned on October 01, 2009 in front of Rico and Sunbeam Factories where the workers of both factories were maintaining a sit-in protest. Gurdas Dasgupta, member of Parliament and General Secretary of AITUC, the trade union wing of Communist Party of India) and another AITUC leader KL Sachdev

were coming from Delhi to address the meeting. But both were taken into custody by the Haryana police before entering Gurgaon and detained in a police station. When the workers received the news of their detention, the whole issue was diverted. A huge group of Gurgaon workers, originally coming to participate in the demonstration, immediately moved towards the place where AITUC leaders were detained. However, they were stopped on the way by police and then about 10,000 workers from different companies of Gurgaon blocked the roads at Rajeev Chouk in Gurgaon for three hours. Senior police officials arrived at the roadblock and assured them that the leaders would be released soon, and then only the workers vacated the roads. The leaders were released at about 9, but the October 1 demonstration, as originally planned, failed to get organized.

On October 4, a brutal repression was unleashed again on the workers of both companies who were continuing their sit-in protest at the company gates. At about 6am in the morning police, security guards and wrestlers armed with bamboo sticks, iron rods and hockey sticks disrupted the Dharna (sit-in protest) place of Rico workers. They took away the tents, microphones and all other belongings of workers. They also looted all documents of the union and a bag carrying about Rs 50000, contributed by different organizations and individuals in support of the struggle. The police and the wrestlers forcefully loaded 500 to 700 workers into seven to nine vehicles and took them away and detained them in three different police stations (Sector 29, 56 and Sadar) in Gurgaon. They released all the workers gradually except for 14 who were formally arrested. The arrested workers were released on bail on October 5. The workers also reported that the wrestlers were armed with revolvers, and security guards, company contractors and police were also appearing at the residences of the workers and terrorizing their families.

Two hours later on the same day, the Sunbeam workers met with similar repression.. At about 8 am in the morning, the police and wrestlers suddenly launched an attack at the tents of protesting Sunbeam workers. They disrupted the Dharna (sit-in protest) place, destroyed the tents and other belongings in the tents. They brutally hit many of the workers. They forcefully loaded 500 to 700 workers into different vehicles and took them away. Later, all the workers were thrown out of the vehicles about 12 kilometres away at Badshahpur..

In protest against this repression, the workers of more than 25 companies, associated with 18 trade unions of Gurgaon resorted to a one hour tool down in their factories. A demonstration was also organized in front of Rico Auto Ltd, and many trade union leaders, including the leaders of the Bank and Insurance employees union, came to address the meeting and extend their support to the struggling workers of the two factories. This solidarity action of the Gurgaon workers boosted the morals of Rico and Sunbeam workers. But the management of the two factories reacted furiously and expanded the scope of their repressive action even further.

At around 2 pm on October 7th, the police started threatening the Rico workers. On October 08, the grandfather and brother of Puspendra, an executive member of the trade union, were arrested by police and taken from their home. On the same day Police officers (SP and DSP) came with a force, beat the workers and threatened to end the sit-in-protest

or face the worse. According to workers, the police officers also suggested forming workers' committee and forget about trade union. It is also worth mentioning that the workers tried to file FIR (First Information Report registered by police) against management for the repeated attacks on the workers and particularly for the incidence of October 04. The police refused to register their FIR. On the other hand, the FIR filed by management against the workers was registered. The workers lastly filed their FIR through court.

The Sunbeam workers were also beaten by police on October 7.. The police hit a worker named Kumaresh so badly that one hand got fractured, and then they arrested him. The FIR was also lodged against nine more workers. The same day, the police arrested one more worker Brijendra Malik at his residence. On October 8, at about 8 am, the police and bouncers disrupted the dharna place and looted all belongings of workers including tents, microphones, cooking facilities, trade union documents and a bag carrying about one lakh rupees (contributions collected in support of struggle).

It is also worth mentioning that all 76 female workers at Rico Auto Ltd participated in the protest and were continuously present during the day at the Dharna (sit-in-protest) place. Despite repeated attacks and threats, the police could not force them to leave the protest. They also received injuries.

The worst came on October 18, when bouncers and security guards of the company brutally attacked the Rico workers protesting at the company gate. Actually, October 17 (clarify month?) was the Diwali festival day, so many workers had left the protest to celebrate the festival with their families and only a small number of workers were left, maintaining the sit-in.. Bouncers engaged by the company hit the workers with iron balls and rods. Worker Ajit Yadav received serious head injuries to and died in the hospital later the same day. Contract worker Nandu also received a serious head wound and after treatment, remained in hospital for many days struggling for his life. Five other workers were seriously injured and admitted to hospital.

After this incident the entire Gurgaon-Mansar industrial belt was boiling and the Joint Trade Union Council gave a call for a general strike in the industrial belt. On October 20, about 100,000 workers from 60 to 80 factories in the area held a one-day solidarity strike and completely stopped all operations in their factories. In particular, workers from Sona Koyo Steering Systems, Hero Honda Motors, Bajaj Motors and Lumax Industries . came out in large numbers to the protest place of the Rico workers, and a big demonstration was organized.

Fearing that the whole of Gurgaon-Manesar would erupt in industrial unrest, the state authorities intervened, and negotiations were started between management and the trade union in presence of high ranking state officials.

It is also to be noted that Rico Auto Ltd supplied crucial parts to Ford and other big auto multinationals. Due to lack of transmission parts supplied by Rico Auto Ltd, Ford had to shut-down its productions in an Oakville plant in Canada for a week, disruption the

production of several thousand vehicles and sending home about 3,000 workers employed in the plant.

Finally, on November 05, a settlement was reached between Rico management and the union and normalcy in the company was restored. In the settlement, the Rico management agreed that it would not interfere in the registration of the workers' trade union.. However, there was no settlement on a wage hike request, and it was said that the matter was with the labour court. The management agreed to take back nine out of 16 suspended workers. The fate of seven other workers was to be decided by a judicial enquiry, still pending at the time of this report. Management refused to pay any wages for the 45-day period of the strike, but did agree to pay one million rupees to the family of the worker who was killed and also to bear the cost of education of his child. Rico also offered employment to one member of his family..

Soon after the Sunbeam problem was also 'resolved' and normalcy was restored, which means the factory gates were opened for the workers to return. However, most of the issues which brought the workers out have yet to be settled.

The wave of strikes that appeared in this period disturbed the corporate and they started pursuing the state for a comprehensive review of the trade union act.²⁴

4. Conclusions

With the rise in informalisation of the workforce in India, workers are increasingly realizing from their own experiences that only by forming trade unions and compelling factory management to provide space for collective bargaining can they convert informal employment to formal employment and insure better wages and working conditions.

In this environment, a new wave in the labour movement in India is emerging from below for unionization. All demands of regularization of the workforce and better wages are now always linked with the larger issue of the formation of a trade union and its recognition. This is also reflected in the rise of independent trade unions in India.

On the other hand, industrialists are not ready to accept trade unions in their factories.. They are unleashing unimaginable repression on workers and trade union leaders when the efforts to form trade unions are uncovered in their factories. Even after the trade unions are formed, managements are not ready to recognize them and deny them space for collective bargaining. Trade union leaders and workers associated with them are facing intense and large scale victimization by managements. Multinationals seems to be at the forefront in exercising repression of trade unions and their members.

From the numerous examples cited in this report, it is clear that the entire machinery of government, the labour departments and police are largely acting in favour of managements and against the workers.

In such an environment, only the united action of trade unions in different industrial centres can guarantee the security of trade union leaders and success of the workers struggles in individual factories. Therefore, from their own experience, the trade unions in different industrial centres are forming joint trade union committees and councils. There are such joint committees and councils in Gurgaon, Faridabad and Rudrapur-Pantnagar of Uttaranchal and other manufacturing centres.. These joint trade union committees ensure collective protest of workers in the entire industrial -region when the workers or trade union leaders of any individual factory face any kind of repression or victimization.

Endnotes

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⁷ *All eyes on panel report on Hyundai workers' dismissal* (Business line, The Hindu , July 12, 2010)

⁸ *Nokia's Chennai workers halt strike to approach labour department* (August 17,2009; http://www.domain-b.com/companies/companies_n/Nokia/20090817_chennai_workers.html)

⁹ *Nokia India agrees to discuss workers' demands* (August 15, 2009; <http://gadgetophilia.com/nokia-india-agrees-to-discuss-workers-demands>)

¹¹ *Nokia signs wage pact with union* (IST, TNN, October 22, 2009; http://infotech.indiatimes.com/Careers/Job_Market/Nokia_signs_wage_pact_with_union/articleshow/msid-5149293,curpg-1.cms)

¹⁷ *Labour unrest at MRF again, Arakonam plant locked out* (http://www.siliconindia.com/shownews/Labour_unrest_at_MRF_again_Arakonam_plant_locked_out_nid-56864.html)

¹⁸ *The MRF Workers case: Madras High Court Judgment on the Recognition of Trade Unions* (http://www.cpiml.org/liberation/year_2009/nov_09/special_feature.html)

¹⁹ *Nestle, govt attempt to end strike* (Business Standard, May 9, 2009; <http://www.business-standard.com/india/news/nestle-govt-attempt-to-end-strike/357555/>)

²⁰ *Strike at Nestle's Pantnagar plant ends* (Business Standard, May 20, 2009; <http://www.business-standard.com/india/news/strike-at-nestles-pantnagar-plant-ends/358657/>)

²¹ *Nestle India obtains permanent ban on workers' freedom of assembly*(http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&uid=default&ID=5795&view_records=1&en=1)

²² Viva Global workers reach agreement, <http://www.cleanclothes.org/urgent-actions/viva-global-workers-reach-agreement>

²³ **Bouncers** are actually wrestlers. There are many professional wrestlers in Akharas (the centers for training wrestlers) in Haryana, Rajasthan and western Uttar Pradesh and thousands of youngsters are trained in these Akharas. Now, with the increasing unemployment in youth on the one hand, and growing industrial unrest on the other, the industrialists are increasingly engaging wrestlers to suppress labour movements, particularly at times when there is unrest. Many times they are also engaged just to terrorize the workers. They are still not engaged on permanent basis, since, according to the workers, they are very expensive, requiring a daily food allowance of about Rs 2000 each.

²⁴ *Labour unrest 'can hurt' foreign investments*. The Hindu Businessline: July 18, 2010