

More rights for labour

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IF the so-called package for labour traditionally announced on May Day every year fails to mention the Industrial Relations Act 2010 this year, then Pakistan may find itself standing out as a country that has no law regulating industrial relations between employers and the trade unions. The IRA 2008, an interim act, expired on April 30, 2010.

An industrial relations act is fundamental to defining, regulating and establishing a framework for productive engagement between employers and workers. In that respect, a parliamentary act on industrial relations deals with issues of trade unionism, collective bargaining, workers' participation in management and the resolution of industrial disputes.

It establishes institutional arrangements to guarantee the most basic rights to labour including the universal freedom of association and of collective bargaining. It is meant to provide a just and workable framework for conciliation, arbitration and adjudication as per internationally accepted norms and standards.

The IRA 2008 replaced the Industrial Relations Ordinance 2002 that was widely criticised for its contentious background as an order supervised by a non-democratic regime. While presenting the bill, the PPP-led government had promised to bring in a new law by April 2010 following a thorough consultation exercise. However, as the bill reaches its term, there has been no formal announcement regarding a new act.

The only tripartite labour conference organised by the government in February 2009 for the purpose hardly stood the merits of a serious consultation process. The disinterest demonstrated by parliament on the issue is disappointing for labour rights advocates, as it entails waste of the space offered by a democratic system for collective welfare and a pro-people progressive order.

Pakistan has a tumultuous history of labour laws reflecting successive political and constitutional crises weathered by the country. In the pre-independence subcontinent, the colonial regime had pursued an elaborate framework for industrial relations permitting the growth of trade unions and a system of collective bargaining within limits.

The Trade Union Act of 1926 allowed unions to be formed freely, and all employees, except those in the service of the armed forces, had the liberty to form industrial, general or enterprise-based unions. The act even extended the right to unionisation to civilian employees in the armed forces. There was no state interference in the governance of unions that were also free to take part in the political process.

Following independence in 1947, Pakistan adopted the framework for industrial relations that it had inherited from colonial India. However, in subsequent years, the state went on to narrow the range of fundamental entitlements to workers on the pretext of domestic 'political realities' and external alignments, including Pakistan's newly crafted role in the Cold War that determined its economic direction.

The industrial order that evolved eventually created space for a militaristic dealing with workers that was fraught with manipulation and incessant state intervention in regulating labour affairs.

'Exclusion' and 'state intervention' have been two consistent features of all industrial regulatory orders pursued by successive governments, whether democratic or military-led. After joining the International Labour Organisation (ILO) in 1947, Pakistan ratified ILO Convention 87, relating to the right of workers to organise, and Convention 98 concerning the right to bargain collectively, in the early 1950s.

However, these ratifications were accompanied by the enforcement of the Pakistan Essential Services (maintenance) Act in 1952, which empowered the government to usurp any rights that these two conventions were to extend to workers.

The Industrial Disputes Ordinance in 1959 listed a large number of major industries as 'public utilities' that stood to lose their fundamental rights at the government's whims. The East Pakistan Trade Unions Act 1965 and the West Pakistan Trade Unions Ordinance 1968 followed a similar pattern.

The exclusionary IRO 1969 was amended several times in 1970, 1972, 1973, 1974, 1979 and 1981 to restrict labour-industrial relations. The IRO 2002 and the IRA 2008 both excluded from its ambit employees of the police, armed forces and services exclusively connected with the armed forces, PIA security staff, wage-earners above pay group V, the Pakistan Security Printing Corporation, government hospitals and education institutions, the self-employed and agricultural workers. These groups constitute 70 per cent of the total labour force of the country.

The IRO 1969 also established structures for policing of the unions through the National Industrial Relation Commission (NIRC). The commission was empowered to act as registrar of trade unions, a labour court, a government advisor and a federation for workers education. The NIRC's role as a body representing state intervention in workers affairs continues to date.

Another provision in successive industrial relations laws is stringent conditions on the right to strike. The IRO 1969 and later laws made strikes conditional on fulfilling cumbersome mandatory procedures, turning it into a taxing option. Multiplicity of unions in the same industry or establishment is another provision pursued by the government that has led to fragmentation within the labour rights movement. The IRA 2008 recognises a 'federation' as an entity with two or more trade unions. With the presence of 7,000-plus trade unions in Pakistan, such a clause is least likely to serve the cause of healthy trade unionism.

One missing element in all labour laws is the access of women, the disabled and minority workers to justice and equal opportunities. No labour law has ever established separate labour courts for women and pursued other provisions for the marginalised.

On April 30, 2010, the IRA 2008 reached its expiration date. Though the government is expected to announce a new act, a fresh bill will serve no purpose if it continues to maintain an exclusionary and interventionist posture seeking to curb the independence of trade unions and compromise workers' interests.

In a deregulated economy where the state has already abdicated its responsibility towards labour and general citizens, an inclusive and rights-based industrial relations order can work as an important way forward to re-establish and strengthen state-society relations.

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