

Sri Lankan government's employment bill aims to abolish workers' basic democratic rights

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Sri Lankan Labour and Foreign Employment Minister Manusha Nanayakkara has presented his “New Employment Act” for approval of the National Labour Advisory Council (NLAC). The NLAC is a tripartite body consisting of labour ministry officials, representatives of employers and selected trade unions.

According to media reports, the bill will be finalised after discussions in the NLAC and then presented to cabinet and parliament. The proposed draft makes clear that the Wickremesinghe government is preparing to abolish the hard-won rights of the working class and open the way for businesses and investors to further intensify their exploitation of the Sri Lankan masses.

The new Act will replace 13 existing labour laws, including the Trade Unions Ordinance (1935), Maternity Benefits Ordinance, Wages Council Ordinance, Factories Ordinance (1942), Industrial Disputes Act (1950), Shops and Offices (Regulation of Employment and Wages) Act (1954) and the Termination of Service Act 1971. These laws, which contained limited democratic and social safeguards, were the result of determined struggles by the working class during British colonial rule and after independence in 1948.

Nanayakkara's proposals are in line with the harsh austerity measures and “labour flexibility” demanded by the International Monetary Fund (IMF). These are now being implemented by President Ranil Wickremesinghe's government in order to impose the burden of the economic crisis on workers and the poor.

The measures in the legislation cover “workplace discipline,” working hours, the formation of new trade unions, the right to strike and other measures to satisfy employers' demands.

* Section 18 of the proposed bill states that an employer can terminate a contract of service with an employee

unilaterally and without compensation in response to any violation of workplace rules, act of misconduct, harassment, and any act causing or creating an immediate danger to anyone in the workplace or public safety. There is no legal provision for an impartial inquiry into the allegations against employees. This means employers can arbitrarily sack any worker as part of an industrial and political witch hunt.

* Section 31 states that the normal working day is 8 hours and the working week 45 hours, but any industry or service specified by a ministerial order can implement a 12-hour working day, including meal breaks, and not pay any overtime.

Under Section 33, employers can demand employees work 16 hours without overtime payment in particular industries or services, with workers only allowed one hour rest periods during this time.

The section also allows nominated industries or businesses to operate 24-hour shifts with payment of a 6-hour overtime allowance and two separate one-hour rest periods. It states that employers can obtain an agreement from employees to undertake these extended work periods during recruitment, or even later.

Extended working days and longer hours without overtime payments already exist in the garment industry, which has fallen into a deep crisis during the past three years. The bill not only provides a legal basis for the brutal exploitation already underway in the sector but provided for the arbitrary prolongation of working hours at any future time.

* Section 57 allows businesses to only pay 50 percent of the basic salary to an employee who cannot work due to epidemics, natural disasters, infrastructure break downs or any unavailability or reduction of orders due to local or global economic conditions. In the first two years of the

COVID-19 pandemic, big business with the support of the unions implemented these practices. Workers received meagre payments, resulting in many failing to have adequate meals. Many also lost their jobs.

*Another clause in the proposed legislation involves the scrapping of existing restrictions that ban women from working from 10 p.m. and after. Companies wanting to employ female workers at night can obtain written approval from the Labour Commissioner to do so for 10 days per month. The new bill would extend the number of night-working days to 15, following “the consent” of a female worker.

* The right to form a trade union has also been restricted. Under existing laws, seven employees in an institution can form a trade union. Under the proposed measures, 100 members must sign a request to establish a union. 25 members are required to give their consent at workplaces which employ less than 100 people. The labour minister has stated, however, that the new law will not affect already existing unions.

* The right to strike has been even more tightly restricted. A secret ballot must be held to ascertain the consent of a majority of members regarding the issue on which a trade union intends to go on strike. No strike can be conducted without informing the trade union registrar, a state official. More than 50 percent of the members entitled to vote must support the proposed strike issue and the vote must be observed by the registrar.

The employer and registrar must be notified in writing 28 days before the intended date of the strike. If these conditions are not met, the proposed strike is illegal.

Another section of the proposed Act empowers the labour minister to secure a court injunction to suspend a strike. The minister can declare any industry or service as essential with more restrictions placed on industrial action in these industries or services.

The minister can decide that any strike is “against the public interest” or endangering the national economy, public safety or livelihood. He has the power to refer the industrial dispute to the Industrial Court, arbitrarily terminating the action.

Man-power supply companies and employment agencies which hire workers are to be legalised. There are already many such companies employing workers in the state and private sectors. Their workers do not have any of the rights of other employees and can be hired and fired at any time.

Amid rising working-class opposition to the new labour laws, trade unions in the free trade zones have been

compelled to organise limited protests. On Tuesday, several unions, including the Free Trade Zones and General Workers Union and the Janatha Vimukthi Peramuna-controlled Inter-Company Employees Union, protested in Colombo, appealing to the government to halt the new measures.

These actions are aimed at dissipating workers’ anger. Apart from calling limited protests and strikes, these unions have refused to fight IMF measures. Instead, they have promoted political illusions that the government can be pressured into changing course. Their role in politically paralysing workers has enabled the Wickremesinghe regime to continue its social attacks, including its planned privatisation of the state-owned sector which will result in the destruction of tens of thousands of jobs.

Labour Minister Nanayakkara submitted his initial draft on the new laws in May, inviting political parties, trade unions, civil groups and employers to submit their proposals.

Socialist Equality Party (SEP) general secretary Deepal Jayasekera categorically rejected this invitation in a letter to the minister. “Your government wants to establish new labour laws to provide unrestricted exploitation of workers by local and foreign investors,” Jayasekera said.

Nanayakkara’s “New Employment Act” draft categorically confirms the SEP general secretary’s warnings.

Workers cannot defend their rights through the trade unions, which have demonstrated an unwavering commitment to the interests of Sri Lankan capitalism and international investors.

The defence of jobs, social conditions and democratic rights is only possible if workers form rank-and-file action committees, independent of the trade union bureaucracies and the capitalist parties.

Only by taking this crucial step, can workers take forward the political struggle necessary to bring down the Wickremesinghe regime and fight for a government of workers and peasants to implement socialist policies. The SEP’s call for the holding of a democratic and socialist congress, based on the delegates from these democratically-controlled action committees, is an essential component of this perspective.



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