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A note on new trends in unionisation in India

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Abstract: This note is an initial exploration into the current phase of unionism in India. It argues that trade unionism in India has entered a new phase where as a strategy of contesting capital it focuses on the formation of broad social coalitions, to leverage pro-worker and pro-poor public policy. The rapid informalisation of the labour market has elicited new organisational players such as the National Centre For Labour (NCL) and the New Trade Union Initiative (NTUI). The note discusses how each has adopted very different strategies for protecting workers' rights in the context of rapidly informalising labour market.

(Keywords: labour markets, unions, informalisation, social coalitions, self-employment, contract labour, homebased-work, industry-wide, enterprise-level, independent, capital, labour, contestation, social movements, regulation, reform)

A note on new trends in unionisation in India

India's trade union movement has been described as being moribund and in decline, locked into old ways of thinking even as the world, and more importantly the labour market around it, has changed dramatically. In this preliminary exploration, I would like to argue that far from being sidelined, the Indian trade union movement has entered a new phase of unionism, where, in response to increasing informalisation of the labour market and the overweening hegemony of capital, trades unions have sought to become a part of and build broad coalitions to achieve public policy goals. As a response of the union movement to informalisation of the labour market, I discuss two relatively new actors in the field of organising unorganised labour – the NCL and the NTUI – and how their organising strategies are based on a upon very different views of the relationship between labour and capital. The note is divided into three sections: Section I discusses the alleged decline of the trades unions; Section II discusses the National Centre of Labour (NCL) and its attempt to bring together organisations that work among unorganised labour; and finally Section III discusses the New Trade Union Initiative (NTUI) as a response to informalisation of the labour market and fragmentation of the union space.

I. Trades Unions: decline and powerlessness or a new phase of unionism?

Given the increasing informalisation of India's labour market (see NCEUS (2007), it is not surprising then that most of the new initiatives in terms of organising labour have been in the realm of informal labour. India's national level trades unions have been accused of being parochial and deciding not to organise the unorganised (see Breman (2001), p.4819) or fickle in their support when they did begin organising (see

Roychowdhury (2003), p.5281¹ or having been sidelined into “decline” in the post-reform period (see Bhattacharjee (2000), p.3763). One indicator of that “decline” Roychowdhury (2003b) has argued is the “diminishing of union leverage over states and employers” (p.44) even in the public sector where they have had to acquiesce to workforce and employment rationalization.

Whereas there can be little doubt that capital has had the upper hand in the post-reform period and that all unions, national and regional, have faced an uphill terrain in terms of organising workers and defending their rights, in our view the “powerlessness” of unions is clearly overdone. An alliance of unions and political parties, particularly unions and parties on the left, has been largely successful in resisting privatization of the public sector and labour law reform. Even though Gillan and Biyanwala (2007) overstate the case when they say that unions successfully resisted disinvestment, what cannot be denied is that unions successfully resisted privatisation (defined as change of ownership) but were not able to resist disinvestment (defined as a sale, through the stock market, of a minority stake in a public sector company).

Equally important, the ability to stall the drive towards privatization must not be read as a victory of narrow sectional or vested interests. With privatization on the backburner, there has been a renaissance of the public sector² and it has become an important contributor to non-tax government revenues (p.32, GOI (2008)). In addition, we feel it is problematic to look at union power without contextualizing it within employment and unemployment trends. And even though the economy has continued to expand in the post-reform period it has been accompanied, as we have already noted, by rising levels of unemployment (see e.g. Ghosh and Chandrasekhar (2006) and Himanshu (2007)), making trade union mobilization that much more difficult.

There can be no denying that national trades unions have been behind the curve as far as organising informal labour is concerned, hampered by confusions about the nature of the labour market, strategy, tactics and in some instances, outright hostility (see Breman e.g. (2001) and Roychowdhury (2003)). But as Gillan and Biyanwala (2007) note most national trades unions are now actively engaged in prioritising “women, casual/contract and ‘unorganised’ sector workers in union discourses, public campaigns, and new organising initiatives” (p.42). In particular as they note, national trades unions associated with left-parties alongside other mass organizations of these parties have begun working with independent unions, NGOs, civil society groups and social movements in an effort to form social coalitions and leverage pro-worker and pro-poor public policy, along lines hoped for in Bhattacharjee (2000). This is not to say that these are always effective or that the history of mutual distrust and acrimony has simply vanished overnight. But it is to recognize that this is a new phase of unionism.

¹ RoyChowdhury (2003) mentions a couple of cases where a union of permanent workers withdrew support for the agitation led by temporary workers’ union at a critical moment even though both had the same parent left-wing national union, CITU.

² On 21st Jan 2008, 7 public-sector firms were among India’s top 20 companies by market capitalisation and 14 in the top 50. This as compared with the end of 2000, when there were 5 in the top 20 (one of which has subsequently been sold) and 8 in the Top50.

These coalitions have had important successes: the passing into law in the tenure of the last parliament of the Right to Information Act, of the National Rural Employment Guarantee Act (NREGA)³ and the Unorganised Workers' Social Security Bill 2008 for provision of social security for the unorganized workforce⁴ and the Scheduled Tribes and Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The limits of this coalition were underlined very sharply by its inability to counter the government strategy of using special economic zones (largely to bypass labour market regulations and taxes) to attract capital.

It is also important to remind ourselves that this is not for the first time that coalitions of this kind would have been attempted. As Heller (1996) and (2000) reminds us, left parties and left unions have worked alongside social movements and communities to organize informal workers in Kerala⁵. With dramatic change in macroeconomic terrain and labour market dynamics, this model is now more extensively used and not always in situations where left unions and parties are in a politically dominant position vis-à-vis other coalition partners. Therefore as we assess the “powerlessness” and “decline” of national unions, it is important to situate this analysis within national and local employment contexts as well as that of worker and social mobilization. Otherwise, one is liable to miss the woods for the trees.

II. Responses to informalisation – the NCL and the state as the locus of struggle

Moving beyond national level trades unions and their response to the continuing informalisation of employment, there are at least three other responses that need to be noted: the SEWA model; the National Centre for Labour (NCL); and the New Trade Union Initiative (NTUI). We intend discussing NTUI in somewhat greater detail but we will briefly touch upon SEWA and the NCL as well. It is however important to note that each these organizations can be clearly seen as responses to the dynamics of labour market evolution in the past two decades⁶ – SEWA's focus on homebased women workers and poor urban self-employed in the informal sector; NCL's focus on self-employment and casual labour in the informal sector and NTUI's focus on contract employment and on bringing together the struggles of the formal and informal workforce. As the NCEUS (2007) has detailed, each of these contractual types are important and growing components of the informal labour market.

SEWA is particularly well known for its focus on self-employed women both a trade union and a promoter of women's cooperatives (see Bhowmik (2005)). SEWA consciously focuses on the poor among self-employed and has promoted cooperatives among women in diverse trades – from homebased workers in manufacturing to women

³ If the coverage of NREGA is expanded to cover all districts in all states and it is implemented fairly and equitably, then there is a reasonable probability that it will soak up the excess labour agriculture is currently saddled with and that should have knock-on effects on both rural non-farm and urban non-farm employment.

⁴ For a discussion on the social security bill for unorganised workers see Kannan (2006).

⁵ To be fair to Breman (2001), he notes that Kerala is an exception to the rule when it comes to national trade unions organising unorganised labour.

⁶ For a detailed discussion on the dynamics of the employment generation in post-reform India see Mohanty (2008)

employed in rag picking and waste collection. From the standpoint of the current note on unionization, Bhowmik's (2005), in his paper on SEWA that also explores the relationship between unions and cooperatives, suggests that the latter are better able to leverage their strengths when they are backed and supported by unions. Bhowmik (2005) would therefore suggest that there are synergies to be exploited in terms of cooperation between unions and cooperatives. In this new phase of unionism these sorts of strategic alliances may be worth exploring.

In the wake of the unwillingness or the inability of national trades unions to organize informal sector workers, workers' interests were represented by sectoral groups such as National Fish Forum (representing fish workers in Kerala, Tamil Nadu and West Bengal), VIKALP (representing, largely in Uttar Pradesh and Uttaranchal, forest workers and those who live off the sale of forest produce), Women's Voice (representing women domestic workers) and National Federation of Construction Labour. In terms of organisational structure these organisations formed a motley bunch, ranging from NGOs to old fashioned unions. The NCL was formed in 1995 as an apex body to bring together these disparate organisations working in the arena of unorganised labour and therefore give its demands greater coherence and weight as well as to improve dialogue and discussion among its various constituents (see Sinha (2004)). National trades unions had no direct involvement in NCL but it was supported by a large number of independent unions operating in the sphere of the organised sector. Through its constituent members, the NCL came to represent more than 625,000 workers across 10 states in India (Roychowdhury 2003).

At the core of the NCL strategy and that of most (though not all) organisations working with informal labour is the belief that, both in terms of fair returns and social security, their interests (of informal labour, that is) are best secured by lobbying and pressurising the state (through grass-roots mobilisation of informal workers and their communities) to guarantee these benefits rather than agitating against or pressurising employers (see Roychowdhury (2003) and Agarwala (2006)). Given the nature of work in the informal economy as well as the nature of capital engaged in it, it is a strategy not without merit and certainly has had some payoffs. Some state governments have set up sectoral welfare boards to provide minimum levels of social security to informal workers in those sectors (e.g., bidi workers in Kerala and construction workers in Tamil Nadu, see Agarwala (2006)). And the NCL (along with its constituent members) has been an important part of the social coalition that has led to the tabling of a bill in the current parliament for provision of social security for the unorganized workforce.

From our standpoint however making the state the locus of informal workers struggles harks back to an earlier period of "paternalistic labour relations system that was premised on the belief that the 'state knew' more about workers' needs than did the workers themselves" (Bhattacharjee (2000), p.3759; also see Bhattacharya (2007)), with the proviso that in the NCL's instance, a grassroots mobilisation of labour might tell the state what to 'know'. In NCL's movement-type strategies there is no way of institutionalising and transferring any of the gains labour might make vis-à-vis the state onto the labour-capital space and impact the quotidian nature of that struggle. Indeed if anything, by

letting capital off the hook in terms of negotiating and bargaining, makes it even more difficult to have a fair distribution of future productivity gains, because it can always point to the state as being the guarantor of labour rights.

That this worry is not idle speculation is underlined by the fact that an important component of labour law reform proposed by capital in India is to transfer the cost of welfare payments and labour force restructuring onto the state (see Bhattacharya (2007), pp124-25). To that extent there is a remarkable congruence of desired outcomes in terms of social security between what NCL, representing informal labour, and what most segments of capital would like. It is in this context that we are very uncomfortable with Agarwala's (2003) definition of informal labour as a "class in itself". It is odd that a group that thinks of itself as a "class in itself" should have such a remarkable congruence with positions of capital. In addition, her definition of the state seems almost completely uninfluenced by the nature of the relationship between capital and labour.⁷

III: Responses to informalisation – the NTUI, contract labour and contesting capital

Almost in exact contra-distinction to NCL strategy of securing and preserving workers' rights through the state is that of the NTUI. As in old fashioned unionism, it believes that workers' rights are best protected in direct struggles with capital both in the workplace and outside. Equally importantly, it is the quality of these struggles that in the ultimate analysis influences the nature of its relationship with the state, which it recognises as an important part of the equation. Another important founding principle is that workers' interests are best protected by unaffiliated unions, i.e., by unions that are not affiliated to political parties⁸.

If NTUI believes in old-fashioned unionism, it is very much a union of its times, belonging squarely in the new phase of unionism. Therefore its position on being unaffiliated does not negate working with or alongside affiliated unions or like-minded political parties, social groups or social movements in furthering working class interests⁹. Indeed, it is deeply conscious of the fact that fragmentation of union space, both horizontally and vertically, is one of the most debilitating characteristics of India's union movement (see Bhattacharjee (2000) and Bhattacharya (2007)). Therefore working class unity – both between unions working towards a common purpose and among organised and unorganised workers – is another important organising principle.

As Bhattacharjee (2001) notes, the 1970s saw, as a result of dissatisfaction with INTUC, the leading national union of the time, the growth of left-wing independent unions at the

⁷ Also see Roychowdhury (2003) for a critique of the NCL.

⁸ "In the context of political and organisational fragmentation, this means, for us, unity of the trade union movement on the basis of independence from government, employers and political parties" (Preamble, NTUI Constitution)

⁹ "An objective basis for building a strategic alliance with movements of women, dalits, adivasis and migrants as well as movements for sustainable environment and human rights exists. Social movements have organisational capacities and structures that complement and enhance the bargaining strength of workers and the ability to transform society in the direction that benefits workers." (NTUI (2006a), p.2). On NTUI as a member of the broad social coalition of pro-labour and pro-poor organizations also see Gillan and Biyanwila (2007)

enterprise level (p.251). In many ways, the formation of the NTUI is the response of some of them to feeling increasingly hamstrung, because of being enterprise-level unions¹⁰, in responding to changed macroeconomic circumstances and the ascendance of capital, increasing product market competition for enterprises and increasing informalisation of the labour market due to excess labour supply. Faced with ascendant capital's response to increasing product market competition - pressure for labour market deregulation and an assault on workers rights - and increasingly limited room to manoeuvre because of their location in the unionisation space, but unwilling to give up their status as unaffiliated independent unions¹¹, a group of them, in both the organised and unorganized sector, came together in 2001 under the banner of the NTUI to work towards the formation of a federation where their collective voice would be greater than the sum of their individual voices and help cope more effectively with the new challenges facing the labour movement.

This process culminated in March 2006 with the founding conference of the NTUI that brought together 200 unions, representing roughly 500,000 workers in both organised and unorganised sectors ranging from engineering and electrical goods, petroleum, chemicals, pharmaceuticals, ready-made garments, and government employees on the one hand to construction workers, fish workers, agricultural workers, forest workers on the other (see NTUI (2006b)).

As is widely recognized, fragmentation of unions and the lack of internal democracy are some of the key weaknesses of the unionisation movement in India¹². The NTUI therefore suggests a single representative union at the workplace chosen on the basis of a secret ballot (Article 3.11 in NTUI (2006)). It also suggests a mechanism through which majority and minority unions in a workplace might merge into a single negotiating entity (NTUI (2001), p.6)). Given that it is envisaged as a federation that works in the interests of federating units, all residuary powers are to remain in the hands of workplace level unions and the federation would be delegated only those powers as would be democratically decided at the workplace (Article 3.15 and 3.16 in NTUI (2006) and NTUI (2001), p.5). In terms of labour market dynamics of course, the biggest challenge has been informalisation of work and therefore the growth of the unorganized workforce. Reflecting this, the NTUI has organising unorganized sector workers at the industry level (Article 3.21 in NTUI (2006)) as one of its foundational objectives.

In terms of organising informal workers, NTUI has chosen to concentrate on contract workers. In India the Contract Labour Act (1970) (CLA), makes the following distinction between types of contract work: contract work where the enterprise or employer is engaged in work of a permanent nature; and contract work in enterprises or with employers where the work is of a casual or temporary nature. The CLA is applicable

¹⁰ "The learning of the defensive struggles in the last few years has been that the line of defence cannot be held within the frame work of existing bargaining structures ... unions have been involved with firm level bargaining and conducting defensive struggles within that bargaining framework" (NTUI (2001), p.3)

¹¹ See NTUI (2006a), p.1 for a discussion on why remaining unaffiliated was important, given the context of the historical evolution of the labour movement.

¹² See Bhattacharjee (2000) for a discussion.

to the former and not the latter. Furthermore, it is applicable only to units employing 20 or more contract workers in a year or a contractor who employs 20 or more workers over the same period of time (NCEUS (2007)). The law stipulates a set of conditions after fulfilling which an enterprise is legally bound to absorb contract workers as permanent employees (see Bhattacharya (2007)). As he notes, in part because it makes the use of contract labour illegal under certain circumstances, reform of the CLA (and some would argue repeal) has been a cornerstone of attempts to liberalise labour law in India.

In the unorganised sector, activities such as stone quarrying, beedi rolling, rice shelling, brick-kilns and construction use contract labour in significant numbers (see NCEUS (2007), p.38). But as Roychowdhury (2003) notes contract labour is also widely used in the organised sector by both public and private sector firms where effectively they are “casual, daily wage labour” (p.5281). And there is at least case study evidence to suggest that multinational firms have used contract workers to break up strikes undertaken by their permanently employed workforce (Roychowdhury (2005)). Therefore contract labour is an important part of the process of “informalisation of the formal sector” as well as casualisation of informal sector work, particularly in the rural non-farm sector. As Mohanty (2008) notes, in 2004/5, casual employment accounted for nearly 28% of total rural non-farm informal employment¹³.

Along with other trades unions, NTUI also stands for the abolition of contract labour. But NTUI argues that in demanding abolition most unions have overlooked the provisions of regulation of contract labour available under the CLA and the usefulness of these in contesting capital. In NTUI’s understanding, this had two clear outcomes in terms of contract labour organisation. “First, by not taking up regulation, the terrain of struggle was not the workplace, and did not directly challenge employment relations within a framework of collective bargaining. As a result, unionizing efforts among contract workers remained weak. Second, consequent to collective bargaining relations remaining weak, wages and working conditions for contract workers did not improve.”(NTUI (2006c), p.1)

Focussing on regulation of contract labour, also allows the NTUI to get around a problem that has bedevilled organising unorganised labour: where to unionise casual and temporary workers, given that they have no stable place of work. This does not necessarily mean that contract workers are necessarily always ready and eager to unionise. Indeed, as Roychowdhury (2003) notes, given their extreme job-insecurity, contract workers as a group tend to be more wary about unionisation. But nonetheless unionisation of contract workers has taken place and, in part, because the NTUI strategy allows it to focus on issues of immediate relevance to them. In terms of regulation of contract work, the NTUI has put forward three basic demands: an 8-hour work day; a fair statutory minimum wage; and equal wage for equal work¹⁴.

¹³ See Table 19 in Mohanty (2008).

¹⁴ In enterprises where the NTUI is active and both tenured and contract workers are employed, a contract worker is paid between a third to one-fourth the wage of a tenured worker. (NTUI (2006c, p.2).

In the post-reform period, the experience of enterprise level unions suggested that firms used increased product market competition as an argument to hold down costs. As a result, unions at these enterprises were always fighting “defensive” battles where it was becoming increasingly difficult to hold on to real wage gains made at the negotiating table. It was therefore felt that only industry level federations would be in a position to tackle the ‘cost pressure’ argument. Therefore the NTUI is committed to promoting industry wide federations of labour. Finally, the presence of agricultural workers in the NTUI is a reflection of the understanding that excess supply of labour in agriculture ultimately spills over into non-agricultural labour markets and affects labour market dynamics¹⁵. It is for similar reasons (i.e. excess supply of labour in agriculture) that the implementation of the NREGA is an important part of its platform. It feels that if properly implemented, it could absorb some of the excess supply of labour in agriculture and thereby positively influence labour market dynamics in non-farm employment.

As far as the NTUI is concerned, it is early days as yet. But if it is able to establish industry-wide federations of labour and a working relationship between organised and unorganised labour in terms of unionisation, it would have made a signal contribution to this new phase of unionism. Be that as it may, the current economic crisis provides the new phase of unionism with both significant opportunities and challenges. The crisis has broken the more than three-decade long hegemony of finance capital and neo-liberal economic policy. It therefore opens up space for this new phase of unionism, with its focus on the formation of broad social coalitions, to leverage pro-worker and pro-poor public policy. On the other hand, just as opportunity knocks, unions, faced with a sharp increase in levels of unemployment as a result of the crisis, are suffering from a serious crunch on financial and organisation resources. The space itself is unlikely to remain open for long and whether or not this new phase of unionism can exploit it will depend on contingent factors. But if it cannot then it will be a pity, because the constitutive elements for a broad-based movement to push back capital and reclaim some of the space lost in the last three to four decades are in place.

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¹⁵ See Section VII in Mohanty (2008) for a discussion.

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