



TALL CHIMNEYS DARK SHADOWS

A Report on the Lives and Struggles of Workers in Bhilai

People's Union for Democratic Rights

Delhi

June 1991

PREFACE

Since September 1990 there had been disturbing reports of industrial tension from the industrial township of Bhilai in Madhya Pradesh. Allegations of victimisation and repression of workers and trade unions on the one hand, and counter allegations of "terror tactics of the trade union mafia" on the other had been making their way into the media. The culmination of this in the mass arrest of workers, and the arrest of the trade union leader Shankar Guha Niyogi on 4th February 1991 finally prompted the People's Union for Democratic Rights (PUDR) to send a team to investigate the situation in Bhilai. The failure of the state government and other institutions for redressal of industrial disputes to respond to the crisis added a sense of urgency to this.

The seven member team comprising of lawyers, academicians and engineers, visited the Durg-Bhilai region between 28th March and 3rd April 1991. The team met three sets of people - workers in different factories and trade union representatives of different affiliations; owners and management representatives of different factories; and government officials like the Deputy Commissioner, the Superintendent of Police, the Assistant Labour Commissioner, the Deputy Director Industries, etc.

The team's attempt was to investigate the working and living conditions of the workers of Durg-Bhilai, the implementation of various labour legislations and their alleged violation, as also the genesis and building -up of the present industrial tension.

CONTENTS

	Page
I Introduction	2
II Contract Labour	4
III Industrial Accidents	13
IV Unionisation	17
V Attacks on Unions	25
VI Conclusion and Beyond	32
VII Appendices	33

INTRODUCTION

1.1

Chattisgarh, a region whose name is encountered for the first time in the works of a folk poet in the year 1487 AD, today covers approximately 135,000 sq. km. and comprises of seven eastern districts of Madhya Pradesh -- Raipur, Bilaspur, Durg, Rajnandgaon, Raigarh, Surguja and Bastar. This region has a distinct socio-cultural and linguistic identity with a significant tribal population. (In 1981 the tribal population was nearly 30% of the 1.4 crore total population of the region.) Chattisgarhi is the common spoken language -- although many tribal groups retain, along with their rich tradition of crafts and culture, their own languages like Halbi, Gondi, Oraon, Maria etc. In towns Hindi is the prevalent medium of communication.

A large part of Chattisgarh (Bilaspur, Raipur, Durg, and Rajnandgaon districts) lies in the valley of the Mahanadi and Sheonath rivers. The land here is suitable for growing rice which accounts for more than half the net sown area. Some of the best rice -- including scores of 'traditional' varieties -- is grown in this valley. Appropriately enough, this region is therefore also known as the "rice bowl of Madhya Pradesh". Agriculture here, however, is essentially rainfed as only 12% of agricultural area is irrigated, and economic life in the past decade or so has come under strain due to persistent drought for several years. As a result there is large-scale out-migration -- both seasonal and now increasingly permanent -- from rural Chattisgarh, particularly Bilaspur.

The outlying regions are hilly and in the east form part of the Chotanagpur plateau (Surguja and Raigarh), and to the south (central and southern Bastar) lead on to the Deccan plateau. This region contains some of the country's richest mineral deposits of iron ore, coal, limestone, tin, copper, dolomite, quartzite, uranium, bauxite and feldspar.

Southern Chattisgarh is richly endowed with forest wealth. (In the case of Bastar, for instance, forest cover accounts for 54% of net area.) This

region also has a far higher proportion of scheduled tribes population i.e. -- 68% to the M.P. average of 35%.

Under the British rule, there was only a cotton mill at Rajnandgaon and one jute mill at Raigarh. But after independence there has been a spurt in mineral exploitation and mineral based industries, and subsequently the setting up of large scale public sector enterprises like the Bhilai Steel Plant at Bhilai, and the Bharat Aluminium Company and National Thermal Power Corporation at Korba. Over the past three decades a second wave of industrialization, through the mushrooming of auxiliaries and ancillaries, and the industrial use of by-products of these giants, has gradually taken place particularly in Durg, Rajnandgaon and Raipur districts.

Despite this, however, Chattisgarh remains one of the most backward regions of the state in terms of the usual socio-economic parameters that account for the quality of life such as per capita income, average level of literacy, rural electrification or availability of primary health facilities.

1.2. BHILAI

Bhilai, an obscure village on the outskirts of Durg till 1959, has become today the industrial nerve centre of Chattisgarh. The Bhilai Steel Plant (BSP) dominates this region covering an area of over 31 sq. km. and employing more than 50,000 workers. (In 1990 this plant produced approximately 30 lakh tons of crude and 25 lakh tons of saleable steel) The urban agglomeration of Durg, Bhilainagar and the adjoining working class hamlets of Jamul, Charoda and Bhilai Kalan are collectively administered under the Special Area Development Authority and cover an area of more than 116 sq. km. In 1981 this area had a total population of around 5 lakhs.

The area has shown a phenomenal population growth over the past 30-40 years as indicated in Table 1.1.

Table 1.1

Population growth in Durg-Bhilai

	Area (Sq. Km.)	1941	1951	1961	1971	1981
Bhilai Kalan	9.12	-	-	-	-	18870
Bhilainagar	89.37	-	-	86116	174370	319450
					(+102.48)	(+83.20)
Charoda	5.52	-	-	-	-	-
Durg	11.80	16766	20249	47114	70754	118579
		(+27.29)	(+20.77)	(+132.67)	(+50.18)	(+67.62)
Jamul	-	-	-	-	-	10969
Durg-Bhilainagar		16766	20249	133230	245124	490274
Urban Agglomeration		(+27.29)	(+20.77)	(+552.96)	(+83.99)	(+99.99)

Note: Figures in brackets denote decennial growth rates

The population of Bhilainagar consists primarily of the permanent workforce of the BSP, their dependents and those servicing them. Around 80% of these permanent workers are the educated and relatively skilled migrants from Kerala, Andhra Pradesh, West Bengal and other parts of the country recruited through the SAIL's (Steel Authority of India Limited) national network. They have evidently been in a far better position to take advantage of the employment opportunities offered by the BSP than the local inhabitants.

Bhilainagar is the only Class I town in Durg district. (In 1981 its population was over 3 lakhs.) Covering an area of over 89.37 sq. km. this is the only town in Durg to be classified as having 'no slum'. Constructed, maintained and administered by the BSP, it consists basically of over 30,000 dwelling units in various categories of housing (according to status of employment), neatly laid out in "sectors" provided with shopping complexes, schools run by the BSP and the M.P. Govt., and the 500-bed BSP Hospital -- one of the best equipped hospitals of Chattisgarh.

The surrounding areas of Jamul, Charoda and Bhilai Kalan present a stark contrast to this picture. Even from the scanty data available from the Town

Directory it is evident that these lack civic amenities and are in no way comparable to Bhilainagar whether in terms of electrification, sanitation, health facilities or road construction, let alone educational facilities. Most of these areas are categorised as "predominantly slum". The growth of population here, where the composition is basically of local Chattisgarhis, most of them industrial workers, can be explained by the nature and process of industrialisation that has been taking place around the BSP since the 60's and at an intensified pace over the past decade.

The BSP has contributed to this firstly, by its own demand for equipment, supplies and maintenance in the course of the large scale operations in its production process; secondly, through the scope it provides to the engineering industry in processing crude steel products; and thirdly, through its sale of a variety of by products including major industrial raw materials like Benzol products, tar products, granulated slag (used in the manufacture of cement) and Ammonium Sulphate (used in the production of fertilizers).

Today at least 120 small and medium scale units are in operation in the Bhilai Industrial Area. Prominent among these are -- a factory of the

2.4. DURATION OF EMPLOYMENT

Almost all the contract workers, with rare exceptions, have been consistently working in the same factory, usually on the same job, since they came to Bhilai. The example of Ambika Singh is perhaps most telling. He began as a casual employee with the Simplex group when it started out with a small workshop on BSP premises in the early 50's, and today he works at their factory in Tedsara, earning Rs. 1100/- per month. Many workers have worked in the same factory and job for so long that they measure this period in terms of the wage they started with. An example is a woman contract worker of the Nagpur Engg. Corpn. who commenced earning at Rs. 2.00, and today earns Rs. 16.50. Most of the workers victimised in the present struggle have also been contract workers on the same shopfloor for at least 3 to 4 years and sometimes for periods as long as 10 to 15 years (see Section 4.3).

2.5. WAGE

Persistent wage discrimination against contract workers exists in almost all factories. In fact, given the low wages being paid to contract workers, and the by and large irrelevance of direct wage employees in terms of numbers, there is no more than a notional benchmark of what wages should be and discrimination itself becomes a misnomer. The contract system thus provides an easy way to increase profits by cutting wagecosts. This is effected in three distinct though interrelated, ways.

2.5.1. Non payment of minimum wages

Until the present struggle which forced a small number of factories to commence payment of the MP minimum wages for unskilled industrial workers, i.e. Rs. 21.80 per day, wages were and still remain below this. While this is universally the case in all factories, a few examples are demonstrative. Jaiswal Steel Enterprises paid wages in the range of Rs. 12 to Rs. 16 per day, the range in Maheshwari Industries was Rs. 15 to Rs. 21.80 per day, Gyan Rerolling had a range of Rs. 14 to Rs. 18 per day, Golcha Chemicals paid Rs. 14, NECO paid between Rs. 12.50 and Rs. 15.00, etc. Even assuming

a somewhat higher wage to permanent or highly skilled workers, our rough calculation of the average monthly wages in the enterprises revealed that most factories paid wages in the range of Rs. 500-650. Even in the case of an extremely profitable group like Simplex the average was a mere Rs. 700/- . These figures, low in themselves, are set off starkly by the wages in the BSP where even unskilled labour is paid a daily wage of Rs. 72/-.

As a consequence of the ongoing struggle some factories, like Chattisgarh Distilleries and Jaiswal Steel Enterprises, have begun paying Rs. 21.80 since April. The Simplex Group has recently had an agreement with the Metal and Engineering Workers Union (affiliated to AITUC), under pressure from the recent strike, to pay a minimum wage of Rs. 35.50 per day. Implementation of this agreement is of course another story, given the multi-layered contracting system discussed earlier (Section 2.3).

Box 2.1

FACTORIES ACT, 1948

Working hours

1. Weekly hours - not more than 48 hours.
2. Daily hours - not more than 9 hours.
3. Intervals for rest - no worker shall work for more than 5 hours before he has had a rest for half an hour.
4. The period of work shall be so arranged that inclusive of rest it shall not spread over more than ten and a half hours in a day.

A simple calculation will make explicit the kind of extra profits earned from the non payment of minimum wages (see Table 2.1). If the wage per day actually paid is Rs. 16/-, then the extra profit accruing to the employer on this account is Rs. 5.80. Assuming a six day week, this adds up to Rs. 34.80 per week per worker. If we further assume that one and half months are lost per year, then the annual total for 46 weeks per worker adds up to a over Rs. 1600.

Alternately, we can do the same exercise in terms of labour hours. Assuming an 8 hour working

day over a six day week, the portion of the day actually paid for, at the minimum legally permissible rate of Rs. 2.73 per hour, is 5.86 hours. This implies an annual unpaid labour of 73.8 days per worker.

For the Simplex group of industries employing 2000 contract workers, this adds upto 1,47,660 days of unpaid labour a year, or a "saving" of Rs. 32,01,600

per annum. Note that this is on the assumption of an eight hour day, six day week, and 46 week year, as well as the payment of Rs. 16/- per day to all the 2000 workers - all of which would add upto an underestimate.

2.5.2. Non or underpayment of overtime

A lower daily wage is of course one aspect of

Table 2.1

The Fruits of Underpayment

EXTRA PROFITS ACCRUING FROM NON PAYMENT OF MINIMUM WAGES

(In money and labour hours per worker)

1.	Unskilled minimum wage	-	Rs. 21.80
	Actually paid	-	Rs. 16.00
	Daily difference	-	Rs. 5.80
	Weekly difference	-	Rs. 34.80
	Annual difference (46 weeks)	-	Rs. 1600.80
2.	Working day permissible	-	8 hours
	Actually paid for	-	5.86 hours
	Unpaid labour time	-	2.14 hours
	Weekly unpaid labour time	-	12.84 hours
	Annual unpaid labour time	-	591 hours or 73.83 days

EXTRA PROFITS ACCRUING FROM UNPAID OVERTIME

(In money and labour hours per worker)

1.	Overtime to be paid per hour	-	Rs. 2.73
	Weekly profit from unpaid overtime	-	Rs. 16.36
	Annual profit from unpaid overtime	-	Rs. 753.48
2.	Alternately, unpaid overtime per day	-	One hour
	Weekly unpaid labour time	-	6 hours
	Annual unpaid labour time	-	276 hours or 34.5 days.

EXTRA PROFITS ACCRUING FROM WAGES NOT BEING COMMENSURATE WITH SKILLS

(In money and labour hours per worker)

1.	Wage difference not paid per day	-	Rs. 3.50
	Annual difference	-	Rs. 966.00
2.	Work time not paid for per day	-	1.28 hours
	Annual unpaid labour time	-	354 hours or 44.23 days

the strategy of cutting wage costs. Another avenue is by extending the work day beyond the permissible 48 hours a week (see Box 2.1) without paying overtime, or paying overtime at a lower rate, or a combination of these. That this is indeed the case is reported directly by the workers, who are made to exceed the work day by 4-5 hours at the least, and are paid overtime for fewer hours, at a lower single overtime rate (i.e. at the same hourly rate as during regular employment). This practice can also be deduced from other indications - the demands by the contract workers' unions for payment of double overtime (i.e. at a rate double the regular hourly rate); the Simplex - ATTUC agreement which accedes to this demand, and the higher rate of accidents in the overtime period. When deadlines approach, contract workers report 16-18 hour work days.

The same calculations for unpaid labour can also be made here (see Table 2.1). Again erring on the side of underestimation, we can assume an unpaid overtime of one additional hour every day per worker - quite a realistic estimate as the long stretches of underpaid overtime would be more than equivalent to this. This adds upto 34 and a half days per worker per year. Alternately, carrying out the same exercise in terms of money wages, we find that the employers' extra profit from this source even at a single overtime rate is Rs. 753.50 per year per worker.

If we now look at the Simplex group of Industries, for 2000 contract workers this adds up to a staggering 69000 days or Rs. 15,06,960 of unpaid overtime per year. The division of this surplus appropriated depends on the relative bargaining positions of the contractors and the management.

2.5.3 Wages not Commensurate with Skill Entailed:

Another means of wage discrimination used by the contractor-management combine is to assign semi-skilled and even skilled work to contract workers employed for unskilled and civil work. A stark instance of this is the employment of a woman by an ACC contractor for civil work at Rs. 16.50 per day, while actually being made to perform production

work for which the direct company workers were paid Rs. 65/-. This, in less dramatic forms, is a standard unfair labour practice in all the private sector companies. A conservative wage difference between skilled and unskilled work of Rs. 3.50 per day gives an annual money wage extraction of Rs. 966/- per worker or 44.23 days of annual unpaid labour per worker (see Table 2. 1). One factory of the Simplex Group - Simplex Casting, alone hires 60-70 workers under contract for civil work. Even if only 25 of them are assigned more skilled work, the unpaid labour from this source adds up to 1108.25 labour days per year (-an extra profit of Rs. 24,150).

2.6. WORKING CONDITIONS

2.6.1. Supervision and Intensification of Work

Scientific management of a mechanised production process, by its very nature, implies that the machine should not be left idle even for a moment. This is so:

(i) Because machinery depreciates not only when in use, but also when not in use i.e. unproductive depreciation.

(ii) If a particular amount of output is desired per year there are two options open to the factory owner - (a) to increase daily hours worked on the same machine, and (b) to buy a new machine. In case of (a), variable costs (raw material, labour etc.) increase proportionately, but fixed costs (building, machines etc.) and accompanying overheads remain unchanged. In case of (b), on the other hand, both variable and fixed costs increase. Clearly, from the point of view of profits, option (a) is more desirable. This argument ignores the possible higher efficiency of a new machine, since in the long run it is always matched by the competitor firms.

(iii) The fear of moral depreciation i.e. technological obsolescence of the machine before the end of its productive life.

Given this, as well as the existence of legal and social limits to the extension of the working day, piece rate is the system par excellence of intensifying labour under factory conditions. This can be

achieved, as we saw earlier, without an accompanying increase in wages, and can be done in one of the following two ways:

(i) By entering into a piece rate contract with a skilled worker, who employs his own assistants. Such a contractor-worker is lured by higher earnings, whereas the increase may actually be illusory since higher wages along with longer hours worked may in fact keep the wage rate unchanged.

(ii) By employing a contractor over a group of machines, or even one machine, who may further subcontract the machine.

Irrespective of which of the two is done, the net result for the contract workers is the same, namely the performance of more intensive labour either by losing rest periods, or through heightened speed of the machinery, or in fact both. Supervision is built into the contract itself, since it is in the interest of the contractor on piece rate to maximise output per labour hour. This leads inevitably not only to higher work tension, but also more hazardous work conditions.

2.6.2. Safety and Compensation

When we looked at wages, we noted the use of labour hired for unskilled work doing semi-skilled or skilled work. While such a worker may at times actually be skilled but employed at a lower wage rate, often the worker may not be sufficiently trained to do such work, or do it without adequate safety equipment, or both. The use of contract workers to do more hazardous work in less safe working conditions, and a complete abdication of responsibility by both the contractor and the principal employer is a significant feature of industrialisation in the region. All this is discussed in greater detail elsewhere in the report (Section 3.2 & 3.3).

2.6.3. Amenities in the Workplace and Welfare

The same callousness and abdication of responsibility is the hall-mark of the management's attitude with regard to workplace amenities and welfare provisions legally due to the workers according to the Contract Labour (Regulation and Abolition) Act 1970. (Excerpts from the relevant sections are given in Appendix II.) Let us begin with

the provision of amenities specifically affecting women workers. Except ACC and BSP, no factory has a creche, leave alone "adequately ventilated rooms" to house it in. Maternity leave and benefits are unheard of, and women in fact conceal their pregnant or lactating status to escape being discriminated against while seeking employment. In fact maternity benefits and creches seem really lofty aims in the face of the fact that most factories don't even provide separate urinals/toilets for women, in the event of their existing at all. Women workers report that even where toilets have been constructed, they are grossly inadequate for the numbers employed. This necessitates long queues, which gives a pretext to the contractor to penalise the worker for playing truant. In the Bhilai Engineering Corporation (BEC), where toilets were constructed only recently, women had to first get a slip from the thekedar, get it signed at the office, and then show it to the chowkidar at the gate, and finally go out to the fields. In the absence of creches, lactating mothers face similar problems. Menstruating women often choose the loss of a day's wages rather than face the harassment of the thekedar or undergo severe discomfort.

Needless to add, practice reduces to irrelevance the provision that female contract workers not be employed before 6.00 am and after 7.00 pm, considering that women regularly work in the night shift, and do overtime upto 2/3 am.

There is also supposed to be the provision for a "sufficient supply of wholesome drinking water for contract workers at convenient places". This facility is provided a little more freely than creches, probably as liberally as separate toilets! In the circumstances, the question of "well ventilated rest rooms" and "annually limewashed canteens" does not even arise.

2.6.4. Women Workers

Though there does not seem to be a gender based wage discrimination for the same work, the preponderance of women in civil work who are then made to do more skilled work does point towards gender based wage differences. There are at least two other ways in which the fundamental right to

equality of opportunity is denied to women the first of which we mentioned earlier, namely the refusal of jobs to pregnant and lactating women by the contractor. The second was revealed by Mr. Arvind Shah - one of the owners of the Simplex group - when he admitted that the Simplex group has eased out women workers, since "they are harassed by men in the factory premises"!

2.6.5. Security of Employment

This is again guaranteed by law through the requirement to issue appointment letters, identity cards and other documents specifying duration, status and terms of employment. In practice, in no factory were contract workers issued any of the above. In Maheshwari Industries, workers told us that they do not even sign the register for wage receipt! It was reported by a majority of the workers we interviewed that, as a matter of routine, workers are made to break their service once every 90 days or are shifted from one unit on paper to another in the same factory.

The absence of records not only makes proof of culpability and responsibility more difficult, but also reduces to nothing the assurance of work security. The threat of an easy hire and fire strategy looms large over the heads of the workers like the sword of Damocles, and is a method perfected by the management-contractor combine to crush labour struggle and unionisation.

2.6.6. Provident Fund

Provident Fund (PF) is reported to be collected from some workers, but is arbitrary and incomplete. The workers were not even clear with whom it was deposited - the contractor or the principal employer. PF offers no additional security to the workers since no proper records about their employment are maintained. Indeed it can be convincingly argued that in many cases the collection of PF renders greater insecurity to the workers, since it is an outflow from current income with an uncertain and risky access to it in the future. In factories where workers are nominally shifted on paper from one unit to another within the same shopfloor or in the case of workers victimised through suspensions, the precarious status of contract workers becomes evi-

dent - PF seems to be completely out of the reckoning.

2.7. THE LAW AND ITS VIOLATION

The practice of contracting and sub-contracting labour described in the earlier sections is not only anti-worker, but is clearly also absolutely illegal. The question to be asked next is why this system continues to persist. We sought an answer to this from some of the enforcement agencies of the government. The DC shrugged away the question by passing the buck on to the ALC's office. He claimed that the labour unrest, the persistence of the contract system, and "law and order" problems exist because the ALC is 38 kilometers away at Raipur. The ALC, on the other hand, claimed that the question is not one of the existence of contract labour, but the violation of minimum wages

Mr. Arvind Shah, however, was more explicit -- his argument comprised of three points:

(i) That since their order, demand and buyers are not permanent, they cannot have a permanent work force.

(ii) That the system is justified because the alternatives makes supervision of quality, quantity and timeliness of delivery very expensive and difficult.

(iii) That they cannot afford to give better work and employment conditions since they will be out-competed not only by other large scale manufacturers, but also by tin-shed single machine units.

The first is evidently a case of false rationalisation. Indeed if it were the case that their production process was not of a perennial nature, Simplex would probably be shutting shop after the completion of every order. In fact the impression conveyed to us by the Delhi office of the Simplex Engg. and Foundry Works Ltd. was diametrically opposite to this. Mr. Sudhir Bawa, a senior sales executive, claimed that there was practically no competition and there existed ample demand for Simplex products. He also informed us that the various units were continuously operating at capacity level.

Let us look more closely at the third argument put forward by Mr Shah. If it is indeed the case that

non-payment of minimum wages and the perpetuation of the illegal and exploitative contract system is necessary for profitable production, what should be the state's response to the continuation of such units/industries? Remember, here we are talking not of living wages, which our constitution delegates to the Directive Principles, but merely the legal minimum wage for unskilled industrial workers - Rs. 21.80 per day. What is it in the pattern of Indian industrial development which renders necessary the underpayment and extraction of unpaid labour for earning profits, in a industrial group the size of Simplex?

The assets of the Simplex group of Industries have been growing at a phenomenal rate, as indicated clearly by their recent proposal for a Rs. 120 crore project, with Chinese collaboration, to set-up

mini-blast furnaces on a turnkey basis. Over the past thirty-five years, their industrial interests have expanded from production of umbrella ribs with two hundred workers in Jabalpur (Annual Survey of Industries, 1957) to the setting up of a mini-steel plant - this "profit miracle" being achieved, by their own admission, necessarily from the extraction of unpaid labour.

In conclusion, the table that follows, sums up succinctly the glaring disparity between reality and the provisions of law. It is based on an interview with a woman worker in the course of which we were shocked to find that almost every statement she made about the conditions of her employment indicated violation of some section of the relevant law!

CHANDRASHILA BAI

The Law and the Reality

Age: 25 years

Worker at Gyan Rerolling Mill

HER EXPERIENCE

LAW

1. She has been working as a contract worker for the past three years.	S.10(2) Prohibition of employment of contract labour (a) when the process, operation or other work is not incidental to, i.e it is necessary for the industry, trade business, manufacture or occupation that is carried on in the establishment. (b) when it is of perennial nature. (c) when it is done ordinarily through regular workmen in that establishment or an establishment similar thereto. [The Contract Labour (Regulation and Abolition) Act. 1970]
2. Employed for civil work. But her work involves lifting of heavy hot iron chunks on her head and working on the shearing machine.	S.34(1) No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury [Factories Act 1948]
3. No safety equipment provided	Violates a number of provisions of Factories Act, 1948
4. Wage till 16.9.90 was Rs. 14/-	MP Minimum Wages Act, Rs 21.80

5. Night shifts.

S.66(b) No women shall be employed except between the hours of 6 a.m. and 7p.m.
[Factories Act, 1948]

6. Working hours were normally 12 hours in a day

S.51. No adult worker shall be required or allowed to work in a factory for more than 48 hours in any week.

S.54. Subject to the provisions of Section 51, no adult worker shall be required or allowed to work in a factory for more than 9 hours in any day.
[Factories Act, 1948]

7. No identity card or appointment letter was issued.

S.76.(i) Every contractor shall issue an employment card in form XIV to each worker within three days of the employment of the worker.

(ii) the card shall be maintained up-to date and any change in particulars shall be entered.

8. Wages not paid during maternity period.

S5.(i) Subject to the provisions of this Act every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wages for the period of her actual absence immediately preceding and including the day of her delivery and for six weeks immediately following that day. The maximum period for which any woman shall be entitled to maternity benefits shall be twelve weeks that is to say six weeks upto and including the day of her delivery and six weeks immediately following that day.

[Maternity Benefit Act, 1961]

9. Common toilet for both men and women. Men and women use the toilet together sitting back to back. Toilet small, dingy and unlit.

S.19. (i) In every factory-

a) sufficient latrine and urinal accommodation of prescribed types be provided conveniently situated and accessible to workers at all times

b) separate enclosed accommodation shall be provided for male and female workers.

c) such accommodation shall be adequately lighted and ventilated.

[Factories Act, 1948]

10. No creches for small children.

S.48 (i) In every factory wherein more than 30 women workers are ordinarily employed there shall be provided and maintained suitable rooms for the use of children.

ii) such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in case of children and infants.

[Factories Act, 1948]

INDUSTRIAL ACCIDENTS

BOX 3.1

Radheshyam worked for ACC as a helper on a truck engaged in loading-unloading operations. He was killed during an accident in the unloading area of the cement plant. The supervisor in an attempt to cover up the incident placed the body on the conveyor belt used to carry coal to the kiln, hoping that the body would be burnt without leaving a trace. But the corpse jammed a hopper on its way to the furnace and was discovered by another worker. No police case was filed. No compensation was paid to the victim's family.

3.1

Workplace accidents in the Durg-Bhilai region are quite frequent. According to the Deputy Director of Industries (DDI), in the year 1989-90, around 900 accidents were reported (see Appendix III), out of which 15 were fatal. He was, however, unable to provide any documented statistics, either of these accidents, action taken or compensation provided. As one would expect, a number of accidents, especially in the smaller private companies, go unreported. In our conversations with the workers, the management, government officials and labour leaders as well as from our study of accident records the following common causes for accidents emerged:

- (a) Safety equipment like helmets, goggles, gloves and shoes for workers and protective guards for exposed and moving parts of machines not provided.
- (b) Safety procedures of doing jobs not followed.
- (c) Untrained workers handling a process or machine which requires specialized skills.

3.2 SAFETY EQUIPMENT

When asked about the first cause, the Simplex management claimed that in their units all the necessary safety equipment is provided to the workers. The workers do not use these often, because they feel uncomfortable. For instance, hot metal chips get into the shoes of workers, thus causing discomfort. As a result workers tend to avoid wearing them. Similarly, the presence of

safety guards on the machines hinders a speedy execution of jobs, as these have to be handled every time a machine is turned off or on. So the workers keep these off permanently, enabling them to be "more efficient and productive" and "make more money".

The way the system works, however, since most workers are contractual, it is the contractors who would benefit from a faster production process and not the workers themselves. It is hard to understand then, why the workers would voluntarily risk harm to their physical being.

The DDI, Mr. Jain, also lays the major part of the blame on the workers, although he admits that the safety equipment provided by the companies is far from adequate, both in terms of numbers and quality.

Most workers that we talked to, who were from a fairly wide cross-section of companies, however, maintained that they have not been given adequate personal safety equipment. They also could not recall ever seeing any safety guards on the machines. Even when some safety equipment is provided, it may not be of a desirable quality. Laxman Singh, a welder who has lost an eye, told us that he was wearing goggles at the time of the accident. The material of the goggles was apparently not sufficiently strong to bear the impact of metal chips and the goggles were shattered, with some of its pieces getting lodged in his eyes. He has been laid off after the accident.

3.3 UNSAFE WORK PROCEDURE

A large number of workers complained that the contractors or supervisors often force them to work at breakneck speeds with little concern for safety. This

rush to complete a job is reported to be an important factor causing accidents and a shockingly large number of incidents resulting in fractured limbs, amputated fingers and even mild electrocution were brought to our notice. The management can conveniently label such accidents as being caused by carelessness on the part of the workers. An eagerly credulous DDI can be a blessing on such occasions.

Section 51 to 66 of the Factories Act prescribe reasonable working hours, holidays, rest periods, regulations pertaining to night shifts, overtime wages etc. Our team discovered that practically none of these obligations are being fulfilled by the employers. Such problems have been discussed elsewhere in this report (see Section 2.5). Here we would just mention some of the relevant aspects. Workers are routinely forced to work continuously for hours together. They are indiscriminately made to work overtime, without proper remuneration. Section 42 to 50 of the Factories Act, which oblige the employers to provide washing facilities, resting facilities, first aid provisions, canteens, drinking water, toilets and creches, are systematically violated causing considerable stress to the workers. It does not take a wizard to notice the link between this stress and the 'carelessness' of the workers which is said to cause accidents.

Certain types of furnaces can only be run safely for 4-5 hours at a stretch. To extract as much production as possible the workers are routinely made to run such furnaces well beyond the stipulated safe limits. A worker reported that, on one such occasion, the pressure inside the furnace increased to dangerously high levels, leading to an explosion in which many were severely injured.

The callous attitude of the employers is starkly evident in one instance when five workers at BEC were made to do a job meant to be done by a crane. They were asked to carry hot, heavy metal plates. These plates slipped and severely injured the workers.

34 UNSKILLED WORKERS PERFORMING SPECIALIZED TASKS

According to Mr. Arvind Shah, it does not

make sense to ask an untrained worker to do a skilled job. Allowing such a worker to operate a machine would result in considerable waste of material. Additionally, there also exists the potential danger of an unskilled worker ruining the machine. This argument rings hollow in face of the fact that, if anything, it is not machines but workers who get ruined (through the loss of limbs) because of a lack of training to work these machines. But then the fragility of human bodies and the ruination of workers could hardly be expected to be the concern of company owners, who after all have their machines and profits to think about!

Another argument put forward was that in the case of an accident, the compensation that would have to be paid to the worker would be far greater than any training costs. This piece of sick logic does not even pass its own test of profiteering above all else.

Even apart from the question of the compensation amount discussed below, an employer certainly realizes that a lot of money can be saved by hiring an unskilled contractual worker as opposed to a skilled one. An unskilled contract worker, who has no documents to prove that she or he works for a certain company, is in no position to demand fair wages or other benefits, much less a compensation in case of an accident. And then there is always a finite probability that an accident could be avoided as long as the contractor/supervisor is around. Mr. Shah went on to describe how the workers and owners are all a part of the same "big happy family" and how much time and money is spent on workers' training in order to minimize the accidents and maximize the brightness of workers' futures.

The DDI admitted to the possibility of untrained workers working on machines or processes they knew little about. According to him, other than for companies dealing with chemicals, there is no law which binds the management to use only appropriately trained persons to do skilled jobs. The law only stipulates a certain minimum age and that the person should be sane.

In speaking with the workers and looking at accident records, one was surprised at how frequently a moulder is asked to work as a fitter or a helper as

a grinder. It is no wonder then, that accident rates are abnormally high in the region.

The rate of substitution of unskilled for skilled workers, is especially high when the management is trying to crush a workers' struggle. In such times when workers are exercising their democratic right to strike, the management in an effort to break these strikes, often tries to hire in as many outsiders as it can lay its hands on. Not surprisingly most such workers are unskilled, but are expected to do skilled jobs.

During a strike in January 1991 at Sangam Forgings (a Simplex unit), Ramchandran was one such substitute worker. He used to work as a domestic help at the Manager's residence and was brought into the plant as a boiler attendant after the strike was called. When asked to tighten a valve, Ramchandran, who knew nothing about boilers, turned the valve in the wrong direction. Hot steam gushed out through the open valve and he suffered 75% burns. Two other workers were also severely burnt.

In another case Daya Ram Sahu, an unskilled worker, was hired by BEC to work on a conveyor belt in November 1990. This was after a number of experienced workers, who supported the Pragatishel Engineering Shramik Sangh (PESS) -- a trade-union taking initiative in the present struggle -- were laid off for union activities. He was later

found dead in a bunker below a broken conveyor belt.

One of the PESS leaders that we met, mentioned that in one of the work areas where contract workers were deployed without any safety masks, the carbon monoxide level was twenty times higher than that which is permissible. The DDI's office is not equipped to monitor the work site environment independently. Consequently, he has to rely on the data made available by the company management. Basing his judgement on this data, the DDI was satisfied with the safety of the general working environment.

One inference that we were able to draw is that most of the potentially hazardous work is systematically assigned to contract workers. As a result almost all accidents that came to our notice involved such workers. This indicates quite strongly how vulnerable contract workers are. They are in no position to demand even the barest minimum protection of any sort, since their livelihood is completely dependent upon the whims of their employers.

3.5. COMPENSATION TO ACCIDENT VICTIMS

The Workmen's Compensation Act clearly and precisely defines the employers' liability in the event of an industrial accident (see Box 3.2). In the

Box 3.2

Workmen's Compensation Act, 1923.

Amount of compensation

Subject to the provisions of this Act the amount of compensation shall be as follows:

(a) Where death results from injury

An amount equal to 40% of the monthly wages of the deceased workman multiplied by the relevant factor from 100 to 200 depending on the worker's age;

or

An amount of Rs.20,000 whichever is more.

(b) Where permanent total disablement results from the injury

An amount equal to 50% of the monthly wages of the injured workman multiplied by the relevant factor

or

An amount of Rs.24,000 whichever is more.

case of contract labour also, the Contract Labour Act lays down quite clearly the ultimate culpability of the principal employer in the event of failure on the part of the contractor to pay adequate compensation.

In our study of the accident cases, we were unable to detect any systematic way of providing compensation for accident victims. The compensation amount was found to be rather arbitrary bearing little correlation to the extent of damage (see Table 3.1). This ranged from nothing at all to a month or half-a-month's pay, and in cases where the disability has been serious the sums received were far below the legally stipulated minimum and normally arrived at through out-of-court settlements. In many cases workers were laid off after an accident even when they were willing and able to resume their work. On many an occasion, employ-

ers have tried to hush up the accident by rushing the victims directly to their villages or by quietly taking them to a friendly doctor. Most often this "ilaj" (ie, expenses for treatment) is the only compensation received.

During the visit of the team, an accident occurred in one of the Simplex units for which, according to workers, the compensation paid was collected by deducting a day's wages from every worker. This was denied by the management, who claimed to have contributed more than handsomely to the compensation package.

In another recent case, a contract worker at the Bhilai Steel Plant hurt his leg while unloading from a truck. The contractor took the worker to a doctor friend, who made an erroneous judgement in the case and unnecessarily amputated the worker's leg. When the word got out, other workers became

Table 3.1

Accidents and Compensation

Company	Worker's Name	Date	Accident Description	Compensation	Current Status
Simplex Engg.	Tameshwar Singh	Jan 1988	Hand slipped Caught in Spandau	Rs.7268 (insurance)	Paralysed waistdown Laid-off
Maheshwari Industries	Manaharan Lal Yadav	May 1989	Iron chips in left eye. Helper working as grinder. No safety equipment provided	None	Laid off though one eye intact.
Simplex Casting Ltd.	Kamal Narain	Oct. 1989	Thumb fractured. Contractor pressing for speed.	Rs. 4966/-	Retired since March 90
Maheshwari Industries	Ram Ji Daharia	Aug. 1984	Left leg injured due to pressure for speed.	None	Permanent disability Laid-off
Bhilai Steel Plant	N.A.	Mar. 1991	Injured leg while unloading, unnecessarily amputated	Rs. 11,000/-	Permanent disability

very agitated and demanded fair compensation. In response, the company announced a payment of Rs. 11000/-. A local newspaper later reported that the money for the compensation came again from non-payment of one day's wages of each worker.

The role of the DDI in helping the workers receive their compensation was, to say the least, inadequate. The workers informed us that the DDI made very infrequent trips to the factories. Even when he did, he usually remained in the office looking at the official records. He did not cross-check these records or talk to workers about safety problems, or even inspect the work site. This story was confirmed by workers from different companies. One of the workers told us that he went to see the DDI after an accident and asked him to look into the matter. The DDI expressed helplessness, saying that factory owners had threatened him with a transfer if he tried to interfere with the functioning of the factory.

3.6

What can be done to make the workplace safer? According to Mr. Shah, everything possible is already being done by Simplex and there is no need for any additional precautions. The DDI in responding to this question, makes an implicit assumption that the management of various industries, for most part, act in good faith. In the few cases where the management is at fault, the DDI felt that, prosecution does not serve any purpose since the penalties levied after a lengthy legal process are very minimal. Thus, all that needs to be done is "inculcating a safety culture in the workers" and "providing various incentives to the companies for improving their safety records". A couple of steps that he intends to take in this direction are holding inter-company competitions and rewarding the safest units, and starting training programmes for workers. It is not surprising that a deliberately innocent portrayal of the management would lead to such sanitized ways of problem solving.

UNIONISATION

4.1

We were told that a majority of the permanent, formally-trained, and diverse workforce of the Bhilai Steel Plant is unionised (predominantly under the Metal Workers Union affiliated to INTUC) although this seemed to us more routine than indicative of active participation. This is possibly because the permanent BSP workers are provided most of their legal entitlements in terms of wages, allowances, safety equipment, and benefits including housing, medical facilities in the BSP Hospital and educational facilities for their children. To grapple with the larger issues facing them, such as an overall reduction of workforce with time (part of the modernization scheme of the BSP by its own admission), would require far greater collective initiative.

In stark contrast to this, is the history of struggle for unionisation, over the past two decades, in the 120 odd medium and small scale private units all

over the Durg-Bhilai region. Though this struggle has become a part of the everyday life of workers it peaked in 1976 (under the leadership of AITUC), in 1981 (under CITU) and in 1989 (again under AITUC). Older workers recall that each movement has been met with severe repression. For instance in 1981, a leader of the CITU P.K. Moitra was implicated in a bomb explosion in a factory and the union was suppressed on this tenuous evidence. (This incident bears an uncanny resemblance to the recent arrest of 15 activists of the Pragatisheel Engineering Shramik Sangh for being allegedly involved in a fire in the godown of the R.K. Industries, Bhilai).

4.2. A NEW INITIATIVE IN TRADE- UNIONISATION:

Coming to the present, four new trade unions have emerged on the scene in the past year. These are the Pragatisheel Engineering Shramik Sangh (PESS), Chattisgarh Shramik Sangh, Chattisgarh Cement Shramik Sangh and Chattisgarh Chemical

Mill Mazdoor Sangh (CCMMS) -- all affiliated to the Chattisgarh Mukti Morcha -- who have drawn within their fold a membership of approximately 10,000 workers in the Durg-Bhilai industrial belt. Most of these workers are from the large number of medium scale enterprises in this area like the units of the Simplex Group of Industries, Chattisgarh Distilleries, Beekay Engg. Corpn., Bhilai Wires Ltd., Bhilai Engg. Corpn., Nagpur Engineering Corpn. Ltd, Gyan Rerolling Mills Ltd., Jaiswal Steel Enterprises Pvt. Ltd., Vishwa Vishal Engg. Ltd., Punjstar Insulation Fibres Ltd. etc.

An immediate factor explaining why workers have joined these unions in such large numbers, could be the successful settlement arrived at by the PESS, on July 26th 1990, in a seemingly impossible struggle of contract workers, in the ACC factory at Jamul. This provided safety equipment and achieved regularisation benefits with Cement Board wages for 77 coal-gypsum loading contract workers out of a total strength of approximately 5,000 workers. The settlement also provided a 20 % (as opposed to the minimum 8.33%) bonus to all ACC workers, on the basis of the profits of ACC in 1989.

More importantly, the demands being articulated by these unions in the present struggle are: (1)abolition of contract labour, (2) a living wage (i.e. not merely the minimum prescribed by the wage boards of respective industries, but a wage commensurate with the living standards of the area, the benchmark being BSP wages); and (3) adequate work safety. The workers feel very strongly about these demands even though they are being dubbed as 'unrealistic' by other trade unions. The more vulnerable workers in the smaller enterprises also seem to be adopting a "watch and wait" stance, till the outcome of the present struggle becomes apparent.

An aspect of this unionisation that struck us was the fact that punitive action was taken against workers in most enterprises even before demand charters were formally submitted or industrial action initiated (i.e. at the stage of accepting membership or the very formation of the union) indicating the very quickly and rigidly drawn "battle-lines".

This is probably because the Chattisgarh Mukti

Morcha (CMM) is identified with a decade-and-a-half old struggle of 8,000 odd contract mine workers in the Dalli-Rajhara captive iron-ores mines of SAIL (150 km away). This struggle achieved for the contract miners benefits comparable to departmentalized workers including -- the BSP daily unskilled wage of Rs.72/- ; casual, festival and medical leave; medical facilities and gratuity. (These benefits are not ordinarily available, though legally due, to contract workers). They have also been successfully resisting mechanization of these mines (for details see Appendix IV).

While this explains the CMM's popular reputation among contract workers in Durg-Bhilai, it might also explain what seems the almost venomous antipathy of the Bhilai industrialists. According to press reports they resolved in a meeting of the Bhilai Industrialists Association, on 30.1.90, not to negotiate with unions associated with the CMM and thus "stop Bhilai from degenerating into a Dalli-Rajhara".

Mr. Arvind Shah told us that Shankar Guha Niyogi, a prominent leader of the CMM, was a CIA agent earning 9 lakhs a month from workers co-operatives in Dalli-Rajhara and more from other dubious sources. (Incidentally five such cooperatives have been superseded by the Registrar of Cooperatives recently, as discussed later in Section 5.6.) According to Mr. Shah, the PESS's method of unionization consists of keeping a President and a Secretary of each unit in its pay (giving them Rs.2500/- and Rs.2000/- respectively). Each of these office bearers in turn keep 4-5 hired goons under them. He claimed that the membership of PESS and its affiliates was acquired through terror tactics.

Similar sentiments were expressed in the press, not only by politicians such as the former Cong-I CM Motilal Vora (25.9.90) and the BJP MP Dhampal Gupta (10.11.90), but even by other trade unions all of whom accuse Niyogi of mafia tactics and siphoning off union funds, and hold him and the activists of the PESS responsible for the deteriorating law and order situation in Bhilai. Niyogi is also variously labelled as a 'Naxalite', 'secessionist' etc.

It is indeed a sad comment on the state of industrial relations, even assuming that these allegations

are true, that it is left to CIA agents to urge implementation of labour laws (as has been done in the PESS demand charter) or to articulate genuine grievances of the workers.

4.3. CHRONOLOGY OF EVENTS

Reports in the press testify to the significant participation of the contract workers of Durg-Bhilai in the programmes organised by the PESS. We outline these below since alleged incidents of repression on workers are clustered around these dates.

1. *17th Sept. 1990* (Vishwakarma Pooja) - First procession and mass meeting organized by the PESS. Articulation of basic demands.
2. *2nd October 1990* -- Gandhi Jayanti rally scheduled at Bhilai was denied permission on grounds of being a threat to law and order. The rally was finally held at Raipur and drew attendance of more than 50,000 CMM supporters.
3. *15th November 1990* -- In a number of enterprises where PESS claimed to have a majority of members, large-scale dismissals had already begun. The unions therefore declared a one day token strike in support of their demand charter, which included among other things
 - i) Abolition of contract labour in these enterprises on grounds of permanent and perennial work.
 - ii) Issue of identity cards, employment cards, wage slips and PF slips etc as per rules.
 - iii) Adequate safety measures and safety equipment.
 - iv) An 8 hour working day in 3 shifts with the first beginning at 6am, followed by the second at 2pm, and the last at 10pm.
 - v) Reinstatement of victimised workers.
 - vi) Recognition of the PESS.
 - vii) Loans for construction or housing allowance.
 - viii) Facilities for treatment at the BSP Hospital. There was no response to these demands and the strike was declared illegal in some enterprises.
4. *9th December 1990* -- At a well attended rally in Bhilai, one of the leading engineering groups --

Simplex -- perceived by the workers as being adamant in its opposition to unionisation despite its capacity to pay reasonable wages and benefits, was given a week's notice by the PESS to negotiate on the above demands.

5. *3rd Jan. 1991* -- PESS declared a strike at the units of the Simplex group. The management refused to negotiate. (The strike was still continuing when this report went to the press.)
6. *4th Feb. 1991* -- Shankar Guha Niyogi arrested in Dalli-Rajhara for non-appearance in connection with 15 bailable criminal offences dating back 5-9 years. (These were pending in Balod and Rajnandgaon sub-divisional and district courts). He was refused bail and detained in Durg Jail till 5th April 1991.
7. *21st Feb. 1991* -- Rally organised by the PESS in Durg to protest Niyogi's arrest.

From our interviews with workers and study of records we concluded that throughout this period (particularly so at the turning points mentioned above) workers have been, and are still being, "persuaded", coerced and threatened by their managements not to articulate their demands at the workplace, not to become members of the PESS and not to attend the CMM rallies or demonstrations. This has been carried out through:

- a) Outright dismissals.
- b) Intimidation by supervisors and contractors inside and outside factory premises.
- c) Attacks on activists by antisocial elements, and
- d) The conversion of this industrial dispute to a law and order problem, then dealt with, in our opinion, in a partisan manner by the police.

We shall deal with cases of the third and fourth categories in a subsequent section. Here we turn to a few illustrative examples to show the kind of coercion that has been widespread during the current struggle.

4.4. RETRENCHMENT

We give in Tables 4.1, 4.2, 4.3 and 4.4 some figures of dismissals in a few enterprises for selected dates around 17th September.

Table 4.1

Retrenchment: Who are the Targets?

JAISWAL STEEL ENTERPRISES PVT. LTD.

(total workforce approx. 500)

Date	Workers dismissed	Company Contract		Skilled Unskilled			Period of Service (in years)				
							< 240 days	1-2	2-5	5-10	10-15
24.09.90	63	0	63	12	51	8	0	24	18	13	
08.10.90	45	0	45	5	40	1	5	17	19	3	

GOLCHA CHEMICALS

(total workforce approx. 150)

Date	Workers dismissed	Company Contract		Skilled Unskilled		Period of Service (in years)				
						< 240 days	1-2	2-4	4-6	6-8
16.10.90	27	0	27	3	24	8	4	12	1	2

GYANRE-ROLLING MILLS

Date	Workers dismissed	Company Contract		Skilled Semi Unskilled skilled			Period of Service (in years)				
							< 240 days	1-2	2-5	5-10	10-15
15.09.90	44	38	6	4	25	15	0	0	44	0	0

SIMPLEX CASTING

Date	Workers dismissed	Company Contract		Skilled Semi Unskilled skilled			Period of Service					
							< 240 days	1-2	2-5	5-10	10-15	15-20
07.09.90	6	0	6	0	6	0	1	0	5	0	0	0
13.09.90	21	0	21	7	13	1	1	1	14	2	1	2
29.09.90	5	0	5	3	2	0	0	5	0	0	0	0
07.10.90	24	0	24	0	20	4	0	7	4	13	0	0
09.10.90	3	0	3	0	3	0	0	0	1	2	0	0
12.10.90	9	0	9	3	5	1	0	0	0	9	0	0

These tables are merely illustrative and are by no means exhaustive. Similar figures are available for other enterprises, more often than not clustered around specific dates. For instance on a single day Maheshwari Industries dismissed 34 workers, General Fabricators 61 and Punjstar Insulation Fibres Ltd. 49. All these dismissals were on dates around 19th December 1990.

The PESS claims that the Simplex group of Industries, which has become the hub centre of industrial tension, has dismissed a large number of workers including at least two hundred and fifty of Simplex Casting in October and two hundred and seventy-five of Simplex Engg and Foundry Unit III, in November (all on 20.11.90). More than three hundred workers each, of Simplex

Urta and Simplex Udyog were also allegedly retrenched on Dec. 22nd following the threat of a strike.

Even by a conservative estimate, assuming that some of these dismissals were routine, total retrenchment in the area over the past 10 months exceeds 700 as intimated in a representation to the Assistant Labour Commissioner. No action has so far been taken by him in this regard.

As can clearly be seen from the table:

- 1) An almost insignificant proportion of the dismissed workers had a period of service less than 240 days. In most cases this was 2-5 years and in some cases even 10 to 15 years.
- 2) Though a majority of dismissed workers are unskilled (of course the nomenclature might well be misplaced since, as shown in the Section 2.4.3, unskilled workers often perform skilled tasks), a sizable section -- 12-15% are skilled and semi-skilled by the management's own admission.
- 3) Usually dismissed workers are contract workers, except in the peculiar case of the Gyan Re-rolling Mill where out of 44 workers retrenched on 15th Sept, 38 are company workers.

The above facts contradict the management's claims that these are routine production-related lay-offs, as a majority of the retrenched workers are those doing permanent, perennial and often semi-skilled work for years. (In any case production-related lay-offs on such a large scale would seem surprising given that, as in the case of the Simplex group of Industries, the management is also at pains to prove that production has not been adversely affected by industrial tension.)

Workers told us that the procedure of retrenchment was also in most cases arbitrary. No notice and in most enterprises no chargesheet was given nor was a service certificate provided. This is clearly an unfair labour practice.

In the case of the Simplex group, it appears that with increasing awareness of workers regarding their trade union rights, the procedure of charge sheeting is now being followed. Common charges have been "refusal to work", "abuse of supervi-

sors and management", "preventing loyal workers from work" and "inciting workers to go on illegal strike". It is not difficult to imagine, how in a situation of industrial tension, events could easily be interpreted in this manner, else misbehaviour on such a mass scale on the part of workers employed for considerable periods of time, cannot be easily understood.

We would add here, that this is not to say that incidents of workers confronting their supervisors or the management at the workplace are unknown. By the workers' own admission there have been heated exchanges between them and representatives of the management on many occasions since the union began its activity, and perhaps even slogan-shouting -- very much a part of the culture of protest by convention -- could be interpreted as abuse. What our investigation revealed however was that every single such incident of complaint against workers was promptly registered as a police case and often culminated in grossly exaggerated charges ('attempt to murder', 'murderous assault', 'willful obstruction', 'breach of peace' etc.). That is, these incidents have been sought to be dealt with by due process of law even if in a biased manner. This process has, however, been markedly absent in the proportionately far larger number of cases of workers' complaints of being assaulted, terrorized or abused in which the local thana has refused even to register F.I.R.s.

Chargesheeting a worker implies an enquiry, which means a number of trips for him to the ALC's office at Raipur (38 km away), something which would put no mean burden on a retrenched contract worker. (There is no labour officer in Bhilai despite it being a major industrial centre). More importantly, workers complained that the intermediary appointed in the enquiry, on most occasions, was a supervisor of the company, a fact that some of them have objected to in writing but with no response.

When we enquired about legal aid facilities, we were shown a large number of letters written to the ALC by two workers, one requesting assistance for travel to Raipur, and the second for the stipulated legal aid (Rs. 100/-) which the labour court can sanction to financially handicapped workers(as per

State Govt. Order No. 714/5004/XVI dated 3.1.64). Neither had elicited any reply. In all our interviews we found that workers faced with labour disputes or charged with various offences were forced to rely on their own meagre resources despite the DC's claim that legal aid had been forthcoming to "deserving cases", as screened by the District Legal Aid Cell.

4.5. COERCION AT THE WORKPLACE

According to the workers, the entirely illegal practice of forcing them to sign on blank paper, or on bonds promising not to join the PESS has been quite common in various companies such as the Gyan Re-rolling Mill, Nagpur Engg. Co. and Chattisgarh Distilleries. They claimed that such attempts have been strongly opposed and resisted by workers of the Simplex group.

In Nagpur Engineering Co., sympathisers and members of the PESS were forced to accept a lower bonus -- again a completely unfair labour practice.

The devious manner in which economic coercion is practised is made clear in the case of Bhilai Wires Ltd. On the allegation that some workers, sympathetic to the PESS, had not reported for duty in their respective shifts on 15.11.90, 7 days wages were deducted in December 1990. However, actually the workers were stopped at the gate and were not allowed to enter the factory premises on that day on the grounds of their being PESS members. In a contradictory move, the management also issued a press release on 16.11.90 claiming record attendance the previous day.

A surprisingly large number of chargesheets have also been served in this company during this period to lay-off semi-skilled workers. The chargesheets claim that the workers have not fulfilled their "quotas of production" though neither this quota, nor the amount it has fallen short by has been specified in any document. It is also worth noting that a semi-skilled contract worker with either a contractor or a supervisor above him in the production hierarchy, would have little say in the quantum of production in any case. The danger of such

unsubstantiated charges need not be emphasised.

4.6. THE PRESENT INDUSTRIAL IMPASSE

With over 20 enterprises having resorted to fairly large-scale dismissals (upto even 20% of their workforce) there is a situation almost akin to a lock-out and retrenched workers have been demonstrating outside their respective factory premises demanding reinstatement and fulfillment of their demands. Technically however workers have struck work only in the six units of the Simplex group of industries at Urla (Raipur Distt.), Tedesera (Rajnandgaon Distt.) and Jamul (Durg Distt.). These include units of Simplex Casting, Simplex Udyog, Simplex Engg. and Foundry Works and Sangam Forgings.

4.6.1. The Simplex Group of Industries

It would be useful to look briefly at the growth of Simplex's assets over the past three decades. Established in 1941 at Jabalpur where it was involved in manufacture of truck bodies, Simplex started its operations in Bhilai on a rather modest scale in 1951. A small workshop with two machines was set up within the BSP premises to manufacture spare parts for the plant. The annual turnover at that time was around a lakh of rupees. Another Simplex workshop set up in Bhopal, to produce spare parts for BHEL, was subsequently wound up and the one in Jabalpur changed hands.

According to their representative at the Delhi office, Simplex has seen remarkable growth since then. At present there are six units in operation. There are three fabrication shops in Bhilai and Rajnandgaon, each of which has the capability of fabricating a single piece of fifty tonnes. There are two casting units -- the Cast Iron Foundry in Bhilai which can produce a thirty tonne single piece and the Steel Casting Foundry in Raipur with the capability of producing a twenty tonne piece.

These units take on fabrication and turnkey projects which include providing equipment for steel and power plants, railways, oilfields, petrochemical and fertiliser companies. The six units are spread over sixty hectares of land and employ 230 machines, which alone are worth Rs.30 crores. The

total annual turnover is around Rs.80 crores.

Given the above facts it is difficult to agree with the management's perception of the workers' demands being unreasonable and of their own incapacity to fulfill them.

4.6.2. Resolution of the dispute

With Simplex's refusal to negotiate, the industrial situation has been in a stalemate since the beginning of the strike. According to the management, the PESS has only a minority of workers with it and that they are creating terror in the industrial area by (a) their daily gate meetings and processions, (b) preventing loyal workers from joining work, (c) abusing the management, and (d) intimidating workers by muscle power. The management has also constantly been urging police intervention which as mentioned earlier has been uncharacteristically prompt. It is also claimed that production has not been affected by the strike.

Striking workers, on the other hand, claim that a majority of the Simplex workers (approximately 80%) are with them, and that this includes a majority of the skilled workers. They also allege that the management is bringing in unskilled workers to break the strike, thus increasing the incidence of accidents and reducing quality of production. They claim that production has been affected and that Simplex is able to hold out only because of the assistance it is getting from other industrialists in fulfilling quotas and through the protection of the BSP to whom it supplies a significant proportion of its products.

During our investigations we visited the industrial areas and apart from questioning workers on these aspects also observed several gate meetings and processions. Speeches and slogans supporting the strike and criticising the management were of course a part of this, with security guards and a few constables looking on, on most occasions. On one occasion, we also witnessed a group of non-striking workers entering the premises in a procession, however, both groups merely resorted to slogan shouting. During our visit, we did not hear of or witness, workers, representatives of management, material or vehicles being obstructed while enter-

ing or leaving factory premises. By and large, our impression was that the striking workers are voicing quite widely felt aspirations of the contract labour and are carrying on a struggle well within the bounds of democratic protest. An interesting indication of the popularity of this movement is the widespread participation of women, for most of whom this is the first experience of unionisation despite their periods of service being comparable with male workers.

The Simplex management has been taking contradictory positions on different occasions on the question of recognising trade unions in its factories.

1. When the strike had just begun one of the owners -- Hirabhai Shah -- claimed in a press conference in Bhilai that workers and management were "one happy family" in the Simplex units, and that there was "no need for a trade union". He also quoted the company's collaborations with the Soviet Union and China to prove its socialist credentials. At that juncture the Simplex group had not recognised any trade union.
2. When called by the ALC for conciliation with the PESS, the Simplex management did not appear on five occasions.
3. When the team spoke to Mr. Arvind Shah on 30th March 1991, however, he claimed that the company had recognised the AITUC union five years ago, and that this union had almost 100% membership. Press reports on the other hand claimed that the Simplex group recognised the AITUC union on 15th March 1991.
4. During the visit of the team the Simplex management entered into an agreement with the AITUC on a part of the demands raised by the striking workers. The PESS was not informed or consulted about the same. This agreement involves a revised wage structure, some benefits and allowances, safety equipment, double overtime and regularisation of workers with a service of more than 240 days for those "who are willing to fill in a bond of acceptance".
The agreement first and foremost gives the lie

to the management's claim that all these benefits, allowances etc were being provided already. More importantly, however, the industrial dispute remains for all practical purposes unresolved by the ALC's own admission, since workers of the PESS do not accept the agreement on the grounds that it fails to address their basic demands (i.e. abolition of contract labour, a living wage, recognition of their union and reinstatement of victimised workers). They also feel that the attitude adopted by Simplex in refusing to negotiate with the striking workers does not create the environment and conditions to believe that it will actually implement even the agreement it has arrived at.

A word here regarding the M.P. Industrial Relations Act may not be out of place. This Act is closely modelled on the Bombay Industrial Relations Act, the scrapping of which was one of the major demands of the textile strike of 1981-82. Apart from the usual categories of 'registered union', 'recognised union', and 'representative union' (industry wise) this Act also involves a more ambiguously defined 'approved union'. This multiplicity of categories, and most importantly, the introduction of a category which can be conveniently interpreted by the management in its own interest, gives it ample opportunity to create, foster and manipulate inter-union rivalry and provides 'legitimate' ways not to address grievances of workers by picking and choosing unions to negotiate with.

4.7. ROLE OF THE ASSISTANT LABOUR COMMISSIONER

Since the perceptions of labour and management in an industrial dispute are often diametrically opposite, the role of the ALC, both as a government appointee responsible for implementing labour laws and an intermediary resolving the dispute, is paramount in arriving at a just, speedy and viable settlement.

We were shocked to find that there is no labour officer in the Bhilai-nagar-Durg area despite its large industrial workforce. The area has not had a labour officer since the beginning of the present crisis and we discovered that the post had not been filled for a considerable length of time prior to that.

Such neglect of industrial disputes could lead, as in this case, to their becoming "law and order" problems. The Deputy Commissioner when questioned on this informed us that he had written to the State Government asking for the setting up of an ALC's office specifically for Bhilai. He had till then not received any reply.

It was fairly evident from the state of the poorly-equipped office of the ALC (Raipur), under whose jurisdiction Bhilai falls, that labour is not much of a priority with the government. The ALC, Mr Pandey, complained that when he had joined in his present capacity, his office lacked even basic facilities like a typewriter and drinking water. He also told us that his jeep is so old (a 1956 model) that it can barely travel 4 km without a breakdown, let alone the 38 km to Bhilai! In the circumstances, he said, it was impossible to visit Bhilai regularly.

Regarding his role in settling industrial disputes he expressed an overall helplessness, quoting a case where doctors who ran private practices obtained a stay order and effectively scuttled the implementation of minimum wages for their assistants ("compounders"). To substantiate this point, he also informed us that, as a part of the austerity measures put into force recently, he had received verbal instructions from authorities to permit less than minimum wages to be paid in EGS, IRDP and other rural employment schemes. Under these circumstances he felt unable to implement labour legislations.

In the context of the present dispute, he agreed that the demands of the workers were not without basis, but felt that he done everything within his power to bring the Simplex management to the negotiating table. (We recall here that no action was taken against the management despite non-appearance on five occasions.) As regards the agreement finally arrived at, he admitted that, for all practical purposes, it would not resolve the present dispute. The explanation which he offered for this was that the PESS could not take part in the negotiations, since it had given its demands in on "plain paper" rather than on the prescribed proforma, as had been done by the AITUC union. When it was pointed out that this contradicted with the fact of the manage-

ment having been called for negotiations on earlier occasions, he could not offer a convincing explanation. He had apparently also not consulted the Registrar of Trade Unions or considered any stipulated criteria (such as membership in the individual enterprise, in the industry or in the area as a

whole) in settling the issue of recognition of a trade union. On the whole, our impression was that, the ALC seemed to have neither sufficient infrastructure, nor independence nor even initiative to implement labour legislations in any meaningful and effective manner.

ATTACKS ON UNIONS

5.1

The preceding sections clearly show the completely constitutional and legal character of the workers' demands and struggle. They are fighting essentially for changes towards the implementation of various existing industrial and labour laws. These labour disputes, which need to be resolved democratically, instead elicit two types of responses, both illegal, from the management and administration -- victimisation of workers in the factory through unfair labour practices, and the conversion of the labour dispute into a law and order problem by the police, who then indiscriminately use preventive arrests and unleash a wave of terror. Throwing all notion of legality to the winds, management orchestrates this terrorisation of workers through anti-social elements.

5.2. INSTANCES OF REPRESSION

We first give an account of the events in Gyan Rerolling Mill following unionisation as narrated to us by Chandrashila Bai -- a woman union activist. Her story of what ensued has all the ingredients of a masala hindi film, which we will reproduce in full.

"On 14th September 1990 we filled up the PESS membership form. On the 15th, they sent us back from the morning shift, and asked us to come instead at 8 pm. When we did that, Kamlesh Tiwary (a partner) and two outsiders locked the factory gates, not allowing anyone to move out, or come in. He then called us in one by one, and threatened women with rape and men with physical violence if they did not sign on blank paper, and promise to return the PESS membership slip. Two workers, Dashrath Patel and Lachuram Dhariya, were beaten

up because they asked why they were being made to sign blank papers. At 1.00 or 1.30 am. we were given tea, for the first time in three years, and subsequently made to work until 2 pm.

"The next day some goondas stabbed Jagdish Verma (a secretary of the PESS) four times from behind as he was leaving the union office and I was told that if we didn't return the membership card of PESS we would be thrown into the kiln." (Report lodged in Jamul Thana).

"17th September was a holiday because of Vishwakarma Pooja. On the 18th, at about 8.30 or 9.30 pm, an electrician and fitter of the company came dead drunk to my house and threatened me with rape and murder if I did not quit union activities. (Report lodged in Jamul Thana). After this, they did not take us back for work in the factory. We then started holding demonstrations at the gate in protest against this victimisation. On the morning, of 22nd Sept. Kamlesh Tiwary provoked us by intentionally driving his scooter over Panchami Bai's foot. We caught hold of the handle of the scooter, upon which Kamlesh Tiwary rushed in to get an iron rod, which he raised against us shouting "I have already murdered 8 people in Allahabad. I have no hesitation in adding two or three more to that list.

"In the ensuing confusion, the management claimed that we had injured Chowkidar Dwivedi. When we went to the thana to lodge a complaint against Kamlesh Tiwary, we found that we were charged with injuring Dwivedi though he himself admitted his injury was two or three days old. Section 340 of the IPC (Wrongful Confinement) was leveled against six of us- Dukhiya Bai, Harish-

ankar Verma, Sher Singh, Raje Singh, Mahesh Sharma, and myself.

"Even now two goondas Akhal and Saroj regularly threaten and intimidate men and women workers and warn us against joining the PESS. They threatened to strip one woman worker naked and photograph her if she did not stop taking part in union activity. But what other way exists for us? As women earlier we never participated nor saw sisters participate in union programmes. But now we have all decided that this is the only way to fight for our long-standing demands"

It becomes evident from the experience of workers at Gyan Rolling.

1. that the first spate of repression follows an attempt basically to unionise;
2. that there is a clear nexus between the goondas, and the management;
3. that the police is partisan in that it only files cases against/arrests workers, but never the second party, i.e. the management;
4. that both the management and the police provoke the situation so as to render it a law and order problem;
5. that women become special targets for threats of sexual violence.

The same pattern is repeated in almost all the other enterprises where the PESS has attempted to strike roots as we see in the following examples.

1. *Chattisgarh Distilleries* On the 17th of September (Vishwakarma Pooja) a rally had been organised by the PESS listing their demands which included an appeal to stop intimidation of the workers. That morning 40-45 workers, 90% of whom were women, were called to the factory at an early hour to offer prayers. They were then locked into the production hall for the entire day till 6 pm, guarded by goondas armed with iron rods, swords etc. They could hear the slogans being raised outside in the rally, but were threatened when they attempted to raise their voices in response. A complaint was lodged at the Jamul Thana, which predictably evinced no response.
2. The next rally was attempted to be organised on

the 2nd of October, permission for which was refused by the police, which is ironic indeed considering that fully armed Shiv Sainiks were allowed to take out a rally on the same day.

3. On the 15th of November, a call was given for a token strike, which again included the demand to stop terror tactics to break the lawful process of unionisation.

On the 9th of Nov. 57 men and 7 women were arrested from Jamul and Chhavni areas, and taken to the jail. They were immediately followed by a large number of workers, who started raising slogans against this arbitrary violation of all norms of the use of Section 151 of the Criminal Penal Code (Arrest to Prevent the Commission of Cognisable Offences). The women were released, but the men were booked and kept in jail for seven days. The police lathicharged the workers outside the jail, and one of the jail officials dragged Shyamvati Bai by her hair. When Dukhiya Bai protested against this, she was thrown with immense force against the jail wall.

On the 13th of Nov, 7 women and 2 men were picked up by 4 policemen and 2 other unidentified men in a jeep from the Jamul Camp. They were charged under Section 151 of the CrPC.

On the morning of the 15th of November 313 workers were picked up from their houses and factory gates at 5.30 am. and charged with Sections 107, 116 and 151 of the CrPC. Nine of them were women -- Jaam Bai, Shyamvati Verma, Neera Bai, Janaki Bai, Tulsi Bai, Nandini Bai, Subavan Bai, Surupan Bai and Puruyan Bai. They were locked up for seven days. They were refused bail even after giving personal bonds, as these bonds were not treated as legal and valid documents.

4. On the 7th of Nov in an extremely gruesome incident, Rabindra Shukla -- a worker in Chattisgarh Distilleries and the Vice President of CCMMS -- was stabbed by goondas. He survived though he had been abandoned for dead by the goondas. The police has made no attempts to trace the culprits.
5. ACC : Manik Thekedar had retrenched 56 con-

tract workers of ACC on the 4th of Sept. On the 29th of December, they were called for reconciliation by the Thekedar at the factory gate. Constable Gajpal of the Jamul Thana confronted them at the gate and asked with whose permission they had come. Upon being told that no permission was required to assemble at the factory gates in the absence of prohibitory orders, he became extremely aggressive and enquired of Kaushalya Bai, a female worker and trade union activist, whether she would sleep with a man who did not desire her. Finally the workers were lathicharged and subsequently one woman and 36 men were arrested under Section 151 of the CrPC.

6. In what is a clear instance of the completely unlawful use of Section 151 of the CrPC, Kaushalya Bai's husband, Puluram Yadav, who is a goatherd and is completely unconnected with the union, was arrested under Section 151 on 13th Jan. 1991. On two occasions his bail application was refused on the grounds that the personal bond certificates were insufficient and invalid. He was finally released after 19 days on the 2nd of February 1991. Constable Gajpal of Jamul Thana, who had arrested him, hit him continuously on that day and repeated, "This will teach your wife the fruits of 'neta giri'".
7. In yet another such case, two workers who were writing slogans on the walls, were arrested by a constable of Jamul Thana under Section 151 of the CrPC and were kept in Durg Jail for seven days. Surely writing "Ham Majdoor Hain Bhai Bhai, Ladke Lenge Pai Pai" in broad daylight on the walls of the workers' houses does not cause apprehension of breach of peace?
8. Krishna Devangan was way laid and robbed on his way to work by 8-10 anti-social elements who attempted to stab him. Raj Kumar another worker who went to report this incident to the police, was threatened with arrest unless he paid the policemen at Jamul Thana.
9. *Jaiswal Steel Enterprises Pvt. Ltd.*: In late December of 1990, supervisors CPS Yadav and Mangal went to the houses of Sagani Bai and Teejan Bai and threatened them with physical violence if they did not discontinue union activi-

ties with PESS. This was reported in the Jamul Thana with no follow up.

On the 25th of January 1991, about 200 workers had collected at the factory gate early in the morning. Thana-Incharge (TI) Salam, Constable Gajpal and 20 police men from Jamul Thana, and supervisors CPS Yadav and Vijay Babu were at the gate. Gajpal pulled Kanti Bai's saree, abused her, and threatened her that saying that women like her could "only be made to submit in one way". A complaint was made against him to the magistrate on the same day.

10. *Chattisgarh Distilleries*: The workers who were members of the CCMMS went to Durg for a rally on 21st February 1991, after informing the factory management. When they went to work on 22nd Feb, twenty odd policemen were there, led by TI Salam and Constables Banjare and Gajpal. They were accompanied by Gajraj, an excise officer at the distillery. Gajraj shouted out "Don't allow these people to enter". The police, along with the management, physically stopped the workers from entering and started hitting the workers with lathis. Upon hearing the commotion a large number of the workers inside rushed out, and refused to continue work unless the other workers were allowed entry. The police then resorted to a lathicharge on the 250 workers, which was totally unprovoked as the workers were completely peaceful. Importantly, the lathicharge was carried out at the instance of the excise officer Gajraj, who proclaimed that "*Uniongiri Karte hai, abhi salon ko maja chakhate hai! Maro salo ko!*" (They want to make a union! We'll teach them a lesson -- hit them!). Ganga Bai (30 years), who has been a contract employee of the company for the past six years, had gone and sat next to the window at the factory gate. In a completely uncalled for and vicious attack, Constable Banjare attacked her with his stick. She fell unconscious and then he broke her hand. Apart from her being grievously hurt, twelve or thirteen other workers were also injured. A report was attempted to be lodged against Banjare at the Jamul Thana, albeit unsuccessfully. The magistrate too refused to lodge the complaint, since he

then the police had contacted him and alleged that a group of boys had attacked Banjare.

Later in the night Ramnath (20 years) and Gulab (19 years) two young workers at the Chattisgarh Distilleries were picked up by the police for having allegedly attacked the police during the incidents mentioned above. They were kept in jail for 15/16 days, and subsequently let out on bail.

11. *R.K. Industries*: In a somewhat different case, the godown of R.K. Industries was burnt, allegedly by 15 workers in a conspiracy hatched by the CMM and Niyogi. (The "enquiry" which led to their conclusions of guilt took not over an hour after the fire started.) Subsequently, Dr. Devidas, the editor of *Bhilai Times*, published documents proving that the management had got the godown insured against fire, theft etc just a fortnight prior to the fire. From this he concluded that it may infact be a case of falsely implicating workers (akin to the PK Moitra bomb case of 1981). Within a few days of the publication of this report, Dr. Devidas was attacked and stabbed by a liquor contractor.

5.3. HOW A LABOUR DISPUTE BECOMES A LAW AND ORDER PROBLEM

Why should a labour dispute be converted into a law and order problem? The DC told us that the absence of a representative of the labour commissioners' office in Durg-Bhilai, creates a situation where industrial disputes cannot be prevented or resolved speedily, so that the law and order situation deteriorates.

The Superintendent of Police (SP), Mr. S.P. Singh, though very cryptic, was more direct in his opinion. He contended that the assessment of what is, or can potentially become, a law and order problem can only be made by the "man in the field". With reference to alleged abuse of Section 151 and other sections of the IPC/CrPC, he reiterated that the "man in the field" knows what discretion should be used and not the SP in his office or the law makers thousands of miles away. The only statement on which he was willing to be quoted was fraught with meaning. "Every person should know one's own

boundaries."

Both the arguments of the DC and the SP really steer clear of the basic question. Even if, we assume that the workers are agitating for a completely illegal set of demands, or are motivated by "CIA agents" (by no means our position), as long as the means of protest are peaceful, why does the police need to be involved? Surely the law on industrial disputes is very clear -- the solution of an illegal workers' demand which is peacefully agitated for, is through the ALC. The law is equally well established that a police officer has no right or jurisdiction to arrest a person on the ground that he is likely to commit a breach of the peace or disturb public tranquility, as such a person cannot be said to be designing any cognisable offence (A.I.R. 1965 All.1961).

Furthermore, what constitutes apprehension of breach of peace? Is painting slogans which are by no means scurrilous sufficient to apprehend breach of peace? Does being married to a union activist constitute a breach of peace? And is this breach of peace so imminent that in gross violation of all procedure workers be arrested and detained on grounds of "perusal" of personal bonds? The arrests of large numbers of workers (313 on one occasion and 64 on another) on specific dates on which protests have been organised by the workers indicates less a desire to maintain peace and more an effort to aid management in pre-empting the action planned by the workers.

Finally, what is it in the discretionary ability of the "man in the field" which makes him particularly and singularly apprehensive of only the workers -- consistently arresting, lathi charging and abusing one party in the dispute and taking no action against the management at all, even where clear evidence exists of sponsored attacks and provocation through goondas, supervisors etc.

5.4. NOT PREVENTIVE ACTION BUT PUNITIVE DETENTION

The preceding section deals essentially with the conversion of a labour dispute into a law and order problem. Let us now look at the modus operandi by which this is executed by the judiciary

BOX 5.1

The relevant sections of the CrPC, read as follows:

Section 106: Security for Keeping the Peace on Conviction.

Section 107: Security for Keeping the Peace in Other Cases.

Clause 1: When an executive magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility and is of opinion that there is a sufficient ground for proceeding, he may, in the manner hereinafter provided, require such persons to show cause why he should not be ordered to execute a bond (with or without surety) for keeping the peace for such period, not exceeding one year, as the magistrate thinks fit.

Section 116: Inquiry as to the Truth of Information.

Section 151: Arrest to Prevent the Commission of Cognisable Offences.

Clause 1: A police officer knowing of the design to commit any cognisable offence may arrest, without orders from a magistrate, and without a warrant, the person so designing if it appears to such officer that the commission of the offence cannot otherwise be prevented.

Clause 2: No person arrested under sub section 1 shall be detained in custody for a period exceeding 24 hours from the time of his arrest, unless his further

and administration.

The most oft used sections of the CrPC as we have already reported are 107, 116, and 151. A look at the procedure and code of these sections therefore becomes imperative (see Box 5.1).

Section 151 of the CrPC is now almost a century old, having existed in nearly the same form in the Code of Criminal Procedure 1898. Only Sub-Section 2 has now been added under the 1973 Code. (See Box 5.1)

It is very clearly specified in the Code that an officer acting under this Section must regulate his procedure in accordance with Sections 56 and 57 of the CrPC. The authority of the police under Section 151 is indeed very limited and it is an exceptional power to prevent the commission of cognisable offences. It is, therefore, not even remotely analogous to the power of Preventive Detention.

Further, when there is absolutely no apprehension of breach of the peace or no information in writing in regard to an apprehended commission of a cognisable offence, the proceedings against a

person either under Section 151, or Section 107 read with Section 151 cannot be initiated. If undertaken, it would be a clear abuse of the process of law. (1977 CIR {Cri} 120 Punj; 1974 PunjL.J. {Cri} 1; 1979 Current Law Times {Cri} 199; 1975 ILR H.P. 763)

The executive magistrates seem to have concurred with the police in the indiscriminate and motivated use of Section 151. With rare exceptions, in no case did the magistrates examining the extraordinarily large numbers of workers charged with above sections seem to have the slightest doubt that these workers were determined to either commit cognisable offences i.e. serious offences such as manslaughter, murder, etc. or a breach of the peace. The "offences" actually were, as seen earlier, assembling at a factory gate when illegally dismissed; wearing black badges to work; attempting to participate in a rally for which permission had been granted; painting slogans of solidarity on the walls of their own houses; or simply being married to a trade union activist.

We repeat these instances to underline the fact

of these being well within the ambit of the workers' legitimate avenues of protest (apart from matrimony!). This clearly implies that the only definition of "the peace and public tranquility" acceptable to the administration is the total absence of protest and that Section 151 is being used as a punitive weapon, for the purpose of satisfying the industrial powers that be and assisting them in their illegal attempts at frustrating legitimate collective bargaining demands. We recall here that as far back as 1950, the Orissa High Court found fault with the arrest of a person under Section 151 CrPC on the grounds that he belonged to the Communist Party, and that this party has a programme to commit some offences in general (A.I.R. 1950 Orissa 107).

A further scrutiny of the arrests made under this Section in the recent past all over the country show the convenient and wilful departure from the procedures laid down by the courts. Long ago, in 1936, in the Case of Nazir Ahmed vs. King Emperor it was laid down that when a statute provides for a certain thing to be done in a certain manner, it shall be done in that manner or not at all. (A.I.R. 1936 P.C. 253)

We find that not only are those arrested under Section 151 detained well over the 24 hours stipulated by law, but are also being asked to execute security bonds or bail bonds for appearance in the court. There is no authority under the provisions of the court to require a person so arrested to execute a bail bond for his/her release. This is contrary to the very concept of preventive arrest which is not to treat the person under arrest as a substantive offender, enforcing completely illegal journeys to the court as if to secure an order of discharge or acquittal. The law is very clear on this matter, with no scope for doubt or definitional vagueness. Additionally, no person can be detained in jail custody in purported exercise of powers under Section 151, either by the order of a sub-divisional magistrate or for that matter any other magistrate (A.I.R. 1957 All. 1961; 1964 DLJ 847; A.I.R. 1968 Patna 22). Even the Madhya Pradesh High Court has held that the Magistrate cannot ask for interim security and detention in custody without commencing the requisite enquiry (1984 Cr.L.J.1616).

We found that even when the workers provided

personal bonds, with surety being demanded almost as a rule, these were systematically declared "invalid" and "not legal". This had two important implications -- firstly, as stated earlier, the detention period of those arrested often exceeded well beyond the statutory limit of twenty four hours, at times by as much as a fortnight. Secondly, even upon a worker's release, he/she was asked to report to the police station at least once a week often resulting in the loss of the day's wage.

It is therefore apparent that the objects, ends and means of the law are being ignored and frustrated, and Section 151 CrPC has become a charter to prevent collective bargaining associations and legitimate efforts to improve the working and living conditions of the workers.

5.5. SUPERCESSION OF THE LABOUR COOPERATIVES IN DALLI-RAJHARA

In this Section we shall deal with another major step taken by the administration, which it is claimed, is entirely independent of the events in Bhilai. However, in terms of both its nature and timing, it has had a direct impact on the situation and can be clearly seen as an attack on the workers' movement.

Around 80% of the miners in the Dalli-Rajhara captive iron-ore mines of the BSP have successfully eliminated contractors by organising themselves into 22 co-operative societies. These miners have been supporting the Bhilai workers actively during the current struggle through grain collection for retrenched workers and medical assistance through the Shaheed Hospital run by their union. As would be evident this kind of solidarity can be crucial and even critical to the struggle of industrial workers in strike and retrenchment situations.

As has happened earlier in 1981 and 1986 when workers were protesting against the mechanisation of the Dalli-Rajhara mines, five of these societies were superseded by the Registrar of Co-operative Societies in December 1990, at the peak of the struggle in Simplex, Bhilai.

Two of these societies were superseded on grounds of having failed to hold elections within the

stipulated term. This term, originally three years, had been amended to five by the previous state government and subsequently reverted back to three during the BJP regime. Neither of these societies had exceeded the five year limit for holding elections and in fact one of them was waiting for a response from the Registrar to their written request to hold elections.

The remaining three societies were superseded on account of financial irregularities which in-

cluded payment of wages at a rate higher than the contract agreement specified, but equivalent to the rate actually agreed to by the BSP. The other important charge of irregularity was the use of co-operative funds to educate the children of the miners! Neither of these need any comment.

This supercession and taking over of assets by the Registrar has resulted in immense hardship to around 3,000 workers who have not been paid wages since 4.12.90.

CONCLUSION AND BEYOND

Over the past three decades the Durg-Bhilai area, in the predominantly backward region of Chattisgarh, has experienced rapid industrialisation. At the centre of this process has been the Bhilai Steel Plant (BSP), a public sector enterprise. The other large scale enterprise in the area is Tata's ACC. Over 120 medium and small scale private industries, whose inputs and/or outputs have direct linkages with the BSP or ACC, have mushroomed around them. The combined workforce of the BSP and ACC is around 60,000 while the livelihood of another 90,000 workers depends on the surrounding industries.

While valuable local resources like land, water, minerals, electricity and of course labour power are being utilised by these industries, a majority of the Chattisgarhi people continue to face ever worsening droughts and living conditions that force them to outmigrate. This kind of 'development' is epitomised by the sharp contrast between the living and working conditions of the permanent BSP workforce made up of trained workers from all parts of the country and that of the local Chattisgarhis employed almost universally as contract labour by other industries in Durg-Bhilai.

These contract workers face constant insecurity of employment, are grossly underpaid and are forced to work in extremely hazardous and stressful conditions. In fact the phenomenal increases in assets that industrial houses in this region have registered seem closely linked with the perpetuation of these deprived conditions of life and work of their workforce and a complete disregard for labour laws.

The government agencies responsible for the enforcement of labour laws are at best indifferent to the workers' plight, and at worst identify themselves completely with the managements' point of

view. Thus the onus of ensuring the implementation of labour laws lies with the worker.

Even when these workers, unable to seek justice individually, take the path of collective action, the barriers are formidable - problematic formulations of legislations; victimisation and attacks by the management; indiscriminate arrests and lathicharges by monovisioned police and an unsympathetic judiciary claiming to "maintain law and order" by putting down all forms of protest. The impunity with which the laws regarding employment conditions are violated is matched by the violence and illegality with which the workers' movement is sought to be crushed.

Madhya Pradesh has seen governments of three different political parties over the last two decades. Each of these claims to have its own superior version of the dream of development and the good life. Yet for the workers of Chattisgarh things have been no different. In 1977, when the Janata Party was in power, 11 miners were killed in police firing at Dalli-Rajhara. During the Congress regime, in 1982, textile workers of Rajnandgaon agitating for safer working conditions were fired upon. The present BJP government which came in on promises of a "clean" administration and the slogan of "Ram, Roti aur Insaaf" has shown if anything, even greater collusion with the industrialists and a blatant disregard for law.

What the powers that be choose to ignore is that the laws enshrined in the various statute books are meaningless until given life and strength through the movement of the workers to enforce them, to change them. The workers attempt to make law an instrument in their struggle against indignity and oppression, and in spite of the odds, or because of them, the struggle goes on.

APPENDICES

Appendix-I

The Contract Labour (Regulation and Abolition) Act, 1970

1. Applies to every establishment which employs more than 20 workers as contract labour.
2. Shall not apply to establishments in which work is intermittent or casual. Work shall not be deemed to be of intermittent nature if:
 - (a) it is performed for more than 120 days in 12 months.
 - (b) it is of seasonal character for more than 60 days.

3. Prohibition

Employment of contract labour is prohibited when:

- (a) the process, operation or other work is necessary for the industry (is not incidental).
- (b) the work is of perennial nature.
- (c) the work is ordinarily done through regular workmen.
- (d) it is sufficient to employ considerable number of wholetime workmen.

Benefits

The following benefits are due to contract labour under the law:

- 1) Canteens.
- 2) Rest-rooms - when the contract labour is required to halt at night.
- 3) Sufficient supply of clean drinking water
- 4) Bathrooms etc.

If the benefits are not provided by the contractors then the responsibility lies with the principal employer.

Contractors

No contractor can execute any work without a valid license. The license is not transferable.

[Sub-contractors or piece-wagers, are equally responsible for obtaining a license.]

Wages and Benefits

1. Shall not be less than the minimum wages prescribed.
2. In cases where the contract workers perform the same or similar kind of work as the workmen employed by the principal employer of the establishment, the wage-rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same.
3. Every establishment where 20 or more women are employed as contract labour shall be provided with a playroom and sleeping room for children.
4. No female worker shall be employed before 6 am. or after 7 pm.

Registers and Records

1. Every contractor shall issue an employment card to each worker within 3 days of his/her employment.
2. The card shall be maintained upto date and any change in particulars shall be entered.
3. On termination of employment for any reason the contractor shall issue to the workman whose services have been terminated, a service certificate.
4. Every contractor shall maintain the following
 - a) A Muster Roll, a Register of Wages, a Register of Deductions, a Register of Fines, a Register of Advances and wage slips.
 - b) A Register of overtime.
5. Every contractor shall issue wage slips at least a day before the disbursement of wages.
6. Every contractor shall display an abstract of the Act and Rules.

**Amenities and Benefits under
The Contract Labour (Regulation and Abolition) Act 1970**

Section 25 (vi)

- a) In every establishment where 20 or more women are ordinarily employed as contract labour, there shall be provided two rooms of reasonable dimensions for the use of their children under the age of six years;
- b) One of such rooms shall be used as a play room for children and other as a bed room for the children;
- c) The contractor shall supply adequate number of toys and games in the play room and sufficient number of cots and beddings in the sleeping room;
- d) The standard of construction and maintenance of the creches shall be such as may be specified in this behalf by the Chief Labour Commissioner (Central).

Section 41 Rest-Rooms

- (3) Separate rooms shall be provided for women employees
- (4) Effective and suitable provision shall be made in every room for securing and maintaining adequate ventilation by the circulation of fresh air and there shall also be provided and maintained sufficient and suitable natural or artificial lighting.
- (5) The rest-room or rooms or other suitable alternative accommodation shall be of such dimension so as to provide at least a floor area of 1.1 sq meter for each person making

use of the rest room.

Section 43 (Canteens)

- (1) The Canteen shall consist of at least a dining hall, kitchen, store-room, pantry and washing places separately for workers and for utensils.
- (2) (i) The Canteen shall be sufficiently lighted at all times when any person has access to it.
(ii) The floor shall be made of smooth and impervious material and the inside walls shall be lime-washed or colour-washed at least once in a year. The inside walls of the kitchen shall be lime-washed every four months.

Section 44

- (2) The floor area of the dining-hall, excluding the area occupied by the service counter and any furniture shall be not less than one square meter per diner to be accommodated.

Section 51

Latrines shall be provided in every establishment falling within the purview of the Act on the following scale, namely-

- a) where females are employed, there shall be at least one latrine for every 25 females
- b) where males are employed, there shall be at least one latrine for every 25 males

Section 55(i)

The latrines and urinals shall be conveniently situated and accessible to workers at all times at the establishment

Appendix-III

Major accidents in the Bhilai Industrial Area

(as reported in the media)

Date	Nature of the Accident
25.04.90	A supervisor died in the BSP coke oven.
04.08.90	One worker burnt to death by molten iron in BSP.
14.09.90	One woman died, three injured in an accident at Joratarai factory.
04.10.90	Three workers seriously injured in a blast in Simplex Casting.
29.10.90	Fire at BSP. Damage worth Rs.2 lakh.
06.11.90	An unskilled worker Dayaram died in BEC when a conveyor belt snapped.
08.01.91	Three workers severely burnt in a boiler blast in Tedesera.
05.02.91	One person died and fourteen were severely burnt in a blast in an Urla re-rolling mill.

Appendix-IV

Chattisgarh Mines Shramik Sangh

The Chattisgarh Mines Shramik Sangh (CMSS) emerged in the Dalli Rajhara iron-ore mines, captive to the Bhilai Steel Plant, in the southern part of Durg district. From the beginning, the mines have operated on a dual system of partial manual operation and partial mechanisation. CMSS was born in 1977 out of a spontaneous revolt of the manual mine workers against the glaring disparities between the living and working conditions of the manual mine workers and those of the mechanized mines. While the latter were regular workers of the Bhilai Steel Plant, the manual mines were worked through the contractors and the workers enjoyed none of the facilities which the regular worker had.

CMSS fought its first major battles, in the midst of very severe state repression on the issue of houses and housing allowances for the contract workers. Through its struggles, the average daily wages for the piece-rate manual workers rose from the pre-1977 Rs.4 per day to Rs. 72 in 1989-90. Since 1979, the union has been engaged in a running battle with the Bhilai Steel Plant to save jobs. In an industrial climate highly favourable to rationalisation and reduction in labour force, the union has held at bay BSP's plans to mechanize the manually worked mines, as mechanisation will mean the retrenchment of at least 8,000 manual contract workers and the wiping out of the entire township of Dalli-Rajhara (population approx. 1 lakh). At the same time it has consistently fought for abolition of the contract system and the regularisation of contractual workers under a technological mix more suitable to the needs of the country than blind mechanisation.

The second striking point about the union's activities is that the CMSS has gone beyond mere workplace organization and has developed an organic link with the total lives of the workers. It successfully led a women-based anti-alcoholism campaign among the workers. It has strengthened the working of workers' co-operatives societies that have successfully bid for mine tenders. Other achievements include setting-up of several schools in working class areas, a health programme and a hospital. All these activities have been organized and built up by the workers themselves.

The workers belonging to the CMSS are mostly first generation workers, with strong links in the villages. It is through these links that the union has become involved in several rural actions for social justice. The most important of these were in (a) Bohranbhedhi, involving an issue of corruption in a grain bank and (b) Nadia where a mahant tried to appropriate the village land held under trust by a temple. (It is in fact under cases dating back to these events that Shankar Guha Niyogi was arrested on 4th Feb.1991) Because of a combination of such activities the CMSS has developed an organizational flag in red and green, symbolising the worker-peasant alliance. This has been adopted by all organizational affiliates.

Some available PUDR reports:

1. Inside the Family	A report on Democratic Rights of Women	Rs. 3/-
2. Justice Denied	A Critique of the Mishra Commission Report on the Riots in November 1984	Rs. 2/-
3. Army Atrocities in Naga Areas		Rs. 2/-
4. Sadda Hak, Ethey Rakh	A report on Refugee Women Workers of Delhi	Rs. 2/-
5. Waiting and Waging	A Tale of Life, Death and Justice	Re. 1/-
6. Gentlemen Farmers of Terai	A Report on the Struggle for Land and State Repression in Nainital	Rs. 3/-
7. Civil Rights Under NTR Regime		Rs. 2/-
8. Invisible Crimes	A Report on Custodial Deaths 1980-89	Rs. 3/-
9. United We Terrorise	Political Parties and the use of the Anti-Terrorist Act	Rs. 3/-
10. Custodial Rape		Rs. 3/-
11. Koel ke Kinare	Agrarian Conflict in Palamu	Rs. 3/-
12. Disputed Passages	A Report on Law, Reservations and Agitations	Rs. 5/-
13. Restless Frontier	A Report on Army, Assam and Its People	Rs. 10/-
14. The Story of Hadmatiya	Adivasi Struggles in South Rajasthan	Rs. 3/-

Continued from Back Cover

cases we lost in the highest court relates to workers laid off in a sick textile mill where they had not been paid their wages for many months and the arrears and dues were never paid. The factory incidentally was called Hope Textile Ltd. (1987). PUDR also brought out a report on the famous textile strike in Bombay (*ONE YEAR OF A STRUGGLE: Bombay Textile Strike, 1983*).

In addition to specific cases of this kind PUDR also brought out a comprehensive report on the lives and struggles of labour in the unorganised sector (*ANONYMOUS STRUGGLES: A Report on Unorganised Labour, 1983*). Although most of PUDR work relates to workers who have no unions in the first place or belong to small local fledgling unions, PUDR has also taken up cases of workers affiliated to major central unions like, AITUC, CITU, HMS and IFTU.

The Supreme Court judgement on the PUDR petition concerning Asiad '82 construction workers is a landmark judgement where the court granted *locus standi* to public minded citizens and organisations. But the same best reflects the limitations of PUDR interventions on behalf of workers. The court had also directed the government to pay minimum wages to the 2.5 lakh workers but by then the workers had left. The *locus standi* too is currently proving more useful as an instrument of inter-corporate rivalry than for people's struggles.

PUDR continues its efforts to stretch these limits. The magnitude of the task ahead makes PUDR's efforts small in comparison. PUDR appeals to all who think that it should continue its work to help, by popularising its reports which are also its major source of funds.

PUDR AND WORKERS STRUGG'

People's Union for Democratic Rights (originally as PUCL & DR in 1977) has been taking up the issues of workers rights ever since its inception. As it happened most of the workers who relate to miners and workers in the unorganised sector. Within the organised sector issues of workers of industries on the decline, such as cotton textiles, have also been taken up. This perhaps is a reflection of the nature of industrial development and the locale of our workers struggle.

PUDR has protested against legislations that sought to curtail the rights of workers which include the Essential Service Maintenance Act (ESMA), the Hospital and Other Institutions Bill (*CLAMPING DOWN ON WORKING CLASS RIGHTS 1982*), and the amendment to the Central Industrial Security Force Act (*FEWER RIGHTS, MORE BULLETS 1983*).

In Delhi PUDR has taken up the issue of working and living conditions of workers in numerous small undertakings in and around the industrial areas of the capital. They include an investigation into the well-known incident of firing on workers in Faridabad industrial area (*FARIDABAD INCIDENTS, 1979*), murder of a trade union leader in Modinagar (*MODINAGAR MURDER, 1981*), repressive measures by a private management in a small rubber factory in Samaypur Badli (*UNPLANNED INDUSTRIAL GROWTH AND WORKERS' RIGHTS 1987*), attack on a meeting of Delhi General Mazdoor Front (*SINGALPUR: Attack on Workers, 1989*), death of a worker due to an explosion in an iron melting furnace in one of the small factories of Okhla industrial area (1989), denial of minimum wages to the construction workers in the prestigious Jawaharlal Nehru University (1989), the saga of refugee women workers (*SADDA HAK, ETHEY RAKH: Refugee Women Workers of Delhi, 1989*), the struggle for right to unionisation in Appu Ghar (*APPU GHAR, 1990*), conditions of quarry workers in Mehrauli (1982-83) and brick kiln workers around Loni (1990)

The repression on iron ore miners of Dalli Rajhara was one of the first occasions when PUDR took up the case of mines (*CHHATISGARH: Repression on Miners Movement, 1981*). Much later, in 1989, PUDR brought out a leaflet on their continuing struggle (*CHHATISGARH MINERS, 1989*). In 1984, PUDR along with PUCL (M.P.) investigated the police firing on textile workers in Rajnandgaon. In a sense the present report is part of PUDR's involvement with the struggling workers of the region.

In addition, PUDR investigated the conditions of manganese ore miners (*ENQUIRY INTO THE POLICE FIRING AT BHARVELI MINES, 1982*; in co-ordination with CPDR and PUCL), miners of a unique experiment in coal mine in south Bihar (*SAHARJORI: Abandoned Miners of Santhal Parganas, 1983*). In the Supreme Court, PUDR has taken up cases of victimisation of union leaders in magnesite mines of Pithoragarh, U.P. (1986), contract labour in Meghatuburu iron ore mines of south Bihar (1983). In 1983 PUDR also held a convention on Mines, Mechanisation and People.

Other cases taken up by PUDR include 100 terminated workers of Bokaro Steel Plant (1984), 100 retrenched workers of irrigation department at Rohtas, Bihar (1984), retrenched workers of a television company, Televista (1984), dismissed employees of Delhi Transport Corporation, DTC (1989). One of the

Continued on reverse

Published by: - Harish Dhawan, Secretary PUDR,
J-157, R.B. Enclave, Paschim Vihar, New Delhi 110063

For Copies: Ms. Sudesh Vaid, D-2, Staff Quarters I.P. College, Sharnath Marg, Delhi 110054

Suggested Contribution: Rs. 8,

Printed at: