

Sri Lanka: Federation of Labour expresses concern over Colombo Port City Bill

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Ceylon Federation of Labour (CFL) in a statement yesterday expressed its reservations over the proposed Colombo Port City Bill.

CFL General Secretary T.M.R. Rasheed in the statement said that CFL was perturbed by the attempt being made to exempt companies operating in the Port City from the provisions of the Termination of Employment of Workmen (Special Provisions) Act No. 45 of 1971 (TEWA). Following is the full text of the CFL statement.

“The Colombo Port City Bill establishes an all-powerful Colombo Port City Economic Commission (CPCEC) in the newly extended territory of Sri Lanka known as the Port City. The economic policy it seeks to pursue is directed first and foremost to the attraction to Sri Lanka in a major way of big foreign capital.

The CPCEC would administer the territory through exemptions and the power to modify laws would render them nugatory in the Port City. It will in effect be a separate government with its own legal, economic, administrative and political system functioning independently from the rest of the country.

“What is worse is that there is provision for the Commission during the first five years, probably extendable if we look at past history, to permit companies operating outside the Port City area to become part of it and enjoy the benefits of the Bill. Laws which are or can be made inapplicable by the Bill or the Commission are those which private Capital, especially foreign, regards as being fetters on their super profit seeking activities. They include laws covering labour, citizenship, banking, exchange control, Inland Revenue Act, the Customs ordinance and the Monetary Law Act, all of which can be made inapplicable, modified or provided with exemption by the Commission. The right of unhindered exploitation of local labour and local resources; the right to take away their proceeds and when there is no more to be got to take away their capital. All this and more to mobilise foreign capital for economic development of Sri Lanka!

“The Bill provides for a reduction in environmental safeguards, freedom from taxes, provisions for freehold sale of land to foreigners/foreign companies through a Land Grant by Government of the area to the CPCEC, openings for money laundering through lax regulation for offshore companies and banking and for casinos and gaming. It allows loosely defined ‘businesses of strategic importance’ to be identified by CPCEC and given tax and other benefits for forty years on approval by Cabinet, not Parliament. It also requires all Government institutions, including courts, to give priority to Port City work, hampering day-to-day requirements of our citizens, whose future access to resources will also be impacted by provision of water, electricity and garbage disposal facilities to meet Port City needs.”

Policy of Hire and Fire

"The Ceylon Federation of Labour (CFL) is particularly perturbed by the attempt being made to exempt such companies from the provisions of the Termination of Employment of Workmen (Special Provisions) Act No.45 of 1971 (TEWA). As the organisation that successfully thwarted the attempt of the J.R. Government of 1978 to deprive workers of the Free Trade Zones of labour law protection through the Greater Colombo Economic Commission Bill, the CFL is alarmed by the attempt of the present Government to follow the footsteps of J.R. Jayawardena and deny employees security of employment by singling out the TEWA for exemption. It is worth remembering that of the many protective labour laws operative in Sri Lanka, the TEWA is the singular piece of legislation for whose repeal, employers, the trade chambers and international lending institutions have been persistently agitating.

"The TEWA was enacted at the behest of the JCTUO in which the CFL played no mean role by the SLFP-LSSP-CP United Front Government to counter the intentional termination of workmen on the grounds of lack of raw materials and business losses. Under its provisions, no employer was allowed to terminate any workman without (a) the prior consent in writing of the workman or (b) the prior written approval of the Commissioner-General of Labour, except on disciplinary grounds.

"The provisions of TEWA taken in its entirety ensured security of service of employee by curtailing the employer's right to terminate at his/her will and pleasure. The protection it affords against non-disciplinary termination is laudable. The critics of this protective net for workman have tried to make out that this is unique to Sri Lanka. It is not so. In fact, the International Labour Organization (ILO), as far back as 1963, adopted Recommendation 119, laying down the basic criteria related to the requirement of a valid reason for terminating the employment of an employee. It suggested periods of notice, income assurance through severance allowance etc. and provided for the right of appeal against termination to bodies empowered to award appropriate relief when termination was not justified and for a certificate of service. This position was greatly strengthened in 1982 with ILO Convention 158 and Recommendation 166. Today, most countries offer legislative protection against unjustified dismissals, lay-offs and retrenchment in one form or other. In most countries, the authorities must be notified in advance of workplace reductions. Several countries require prior approval for dismissals, for whatever reason, by an authority external to the undertaking.

"TEWA is essential from the standpoint of workers as it provides some relief in the present environment where employment is vulnerable to market forces and increased external trade through liberalisation of trade and investment. The present employment climate is such that the unilateral discretion of employers to dismiss employees must indeed be subject to neutral review.

"This vital piece of labour protective legislation has come under threat in the territory coming under the CPCEC and to companies outside approved by it. Should this Bill be enacted, we will be going back to an era when 'hire and fire' ruled employer-employee relationships. Investors appear to enjoy such an environment and the very fact that TEWA is the sole labour law listed as being amenable to exemptions in Schedule II of the Bill suggests that the move has been made to placate their interests. Thus, will begin a pincer movement against the labour laws of the country. The labour laws thus imperilled determine the status of labour and govern employer-employee relations in Sri Lanka, define and protect labour rights of remuneration both in employment and in retirement, as well as rights of labour organisations; protect the workers security and safety and enshrine his right to leisure and to human working conditions; and so on. All this the achievement of industrial and political struggle of the working class is under threat or can be jettisoned by the Commission as useless lumber, needlessly obstructing the way of foreign capital on the road to the unconditional exploitation of Sri Lanka's labour and resources."

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