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Modernizing the Colonial Labor Subject in India

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Valerian DeSousa,
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Abstract: In his article "Modernizing the Colonial Labor Subject in India" Valerian DeSousa discusses how the colonial project in India sought to counter the labor movement's evolving anti-colonial consciousness through law, the primary signifier of British dominance. DeSousa argues that colonial labor law was an instrument of "governmentality," a way of deploying the authority of the state, both in India and in Africa where the law encoded meanings of property and subjectivity. In India, labor law was the means to "reconstruct" the "traditional" worker and to constitute a "modern" and "efficient" labor subject to fit into the new industrial vision taking shape. How was modernity translated in the Indian context? Paradoxically, while the industrial exhibition became the metaphor for modernity for the metropolitan center, colonial rule "undermodernized" Indian skilled workers and constructed them as "static" and unchanging. By looking at the discourses that contextualized labor law in the colonial era, DeSousa examines the restrictive techniques employed to limit the potential of the labor movement and participation in modernity. The "conferral" of modernity and the discourses that celebrated it were embedded in Orientalist frameworks that were unquestioned.

Valerian DeSOUSA

Modernizing the Colonial Labor Subject in India

In 1907, the colonial Government of British India appointed a commission to inquire into the conditions of textile labor following riots by workers in Bombay (today Mumbai) who were protesting harsh working conditions. The commission, consisting almost exclusively of representatives from government and business, found workers "incapable of prolonged and intense effort," with a "natural inclination (to work) in a leisurely manner," and a "strong disinclination ... to submit to discipline" (*Report of the Indian Factory Labour Commission 1908* 20-21). These conclusions were derived from a construction of the worker as an "agriculturalist," a position drawn from a deeply entrenched ideological field based on knowledge produced by the Orientalists of the late eighteenth century that saw India and Indians as rooted in a timeless and undifferentiated past. In order to transform the "agriculturalist" into an "efficient" worker, the Commission recommended far reaching changes to the existing regime of production through new technologies of labor management. The Commission's recommendations along with other studies and reports on labor, became the basis of a series of labor laws that were enacted between 1911 and 1936 and saw the arrival of the "modern" labor subject.

This was not the first time the government had attempted to structure conditions of labor: in 1881 the government passed the first Factories Act which was amended ten years later. However, both these legislative interventions were limited by the imperatives of a despotic regime of production that sought to maintain harsh conditions of work on the grounds that Indian workers were incapable of entering the world of the "modern": the Indian worker was analogous to the eternal and timeless Hindu, steeped in an inescapable traditional past. However, it was only when workers made their interests known through strikes and other forms of protest in the last decade of the nineteenth century that they became the subject and object of study, leading to these legislative interventions that reconstituted the subjectivity of the Indian worker. I argue that the law was an instrument of governmentality that deployed the power and authority of the colonial state in a way that reshaped the economic and political processes central to colonialism, encoding new meanings of workers' relationship to their work, to employers, and to the colonial state. Law became the means of reforming a pre-modern laborer into a "modern" industrial worker that fit into the vision of empire. Here, I examine five laws that were enacted during this period. The first of these laws, the Factories Act, brought into existence a labor subject which was the initial step toward reforming the worker. Subsequent laws can be grouped into two types, welfare and rights laws, and these continued the process of transforming the worker as subject in law. The Workmen's Compensation Act of 1923 translated the meta-discourse on welfare as efficiency into changes at the level of work practices by naming employers as responsible for new modes of safety and discipline at the workplace thereby compelling them to institute changes that would alter the habits of workers. The Trade Unions Act of 1926 while seemingly enacted to protect the right of workers to combination, sought to bring about a certain predictability in workers' actions. The Trade Disputes Act of 1929 complemented the Trade Unions Act by restricting the right to strike and limiting the form and activities of unions. The last of these laws, the Payment of Wages Act of 1936 sought to optimize worker discipline by restricting the employers' right to penalize workers to acts that corrected "inefficient" behavior affecting production. This law also introduced a new ideology in relations between capital and labor — the cash wage — that put an end to the "traditional" relationship between employers and worker thereby inserting the worker into the discursive space of work as a monetary transaction between labor and capital. Taken together these laws constituted a new labor subject, a "modern" industrial worker.

I do not mean to suggest that the interpellation of this subject was unproblematic: subjectivity is over-determined and formed through a complex negotiation between colonizer and colonized, capitalist and working class, traditionalist and reformist. This subjectivity was framed by an ambiguity rather than certainty and should be thought of as provisional. Subjectivity is conferred on individuals in various ways as individuals occupy a multiplicity of subject positions. If a particular ideological value is shared by the various positions it is reinforced as the individual traverses various ideological spaces; if on the other hand ideological positions contradict one another, the individual maintains continuity by

negotiating the power relations of the different discourses and social practices which imply a changing/shifting subjectivity produced within relations of power and the struggle between discourses (see Hall). In India, the process of constituting a new labor subject was within the context of the formation of the colonial subject. The latter process started soon after the East India Company's accession to Diwani in 1765. This act, which effectively established Company rule over large parts of the country, empowered the Company to collect revenue at its own rates in order to finance investment in trade (see Sarkar). Collecting revenue was not an easy task because property practices varied with local custom and traditions. In order to function effectively, the British had to gain access to local knowledges, which included the study of languages, customs and traditions. By the late eighteenth century these studies had grown into an intellectual discipline, Orientalism, that produced texts with information not just to assess and collect taxes or maintain law and order, but knowledge about every aspect of social life in India so that it could be ordered and classified and made amenable to British administration. Britain thus established itself as viewing subject with India as object and native informant (Srivastava 49). The Orientalists saw in India's amorphous and chaotic past a golden age that had to be replaced by the new rational order of British rule. The *Calcutta Review* noted that "India ... the emporium of the 'gorgeous east' ... the fabled land of gold is now enveloped in a Cimmerian darkness of ignorance and superstition. The sun has set upon her and traveled westward" (Anonymous 251). While the past was romanticized, the present needed reforming and colonial rule was couched in the language of the civilizing mission. And nowhere was the need for reform more urgent than in the systems of education that existed during early colonial rule. Prior to the British presence in India there were a variety of formal educational institutions that addressed the needs of specific caste groups or occupational needs (see Shukla 402-03). The East India Company first assumed responsibility for education in 1813 with a policy that promoted a hybrid system based on the study of both Oriental culture and Western science. At this time, there were three positions that British officials held on the colonial mission. On the one hand, the Orientalists saw much to be retrieved from Indian culture and advocated promoting indigenous systems of learning and knowledge. They argued in favor of the study of Sanskrit, Persian, Hindi, and other Indigenous languages, and sought to minimize the impact of British culture on everyday life in India. The missionaries, on the other hand, saw Indian culture and practices as barbaric and primitive, practices such as *sutee*, the caste system, infanticide and argued for the need for reform by promoting Western learning and the conversion of Indians to Christianity. The Utilitarians advocated the teaching of Western science because this would ensure the "rational" development of Indian society and would advance India's material interests (see, e.g., Bearce). These conflicting positions were eventually resolved in the 1835 *Minute on Education* by Thomas Macaulay (who served on the Supreme Council of India) in which he advocated an educational system that taught European science and literature in the English. Macaulay wrote that an English-based educational system would make the "poor" and "rude" Indian into a class of persons "Indian in blood and color, but English in taste, in opinions, in morals, and in intellect" (Macaulay qtd. in de Bary 601). That is, the objective was to transform the Indian and make him/her a colonial subject albeit an imperfect one who could only be a shadow of the master. This approach formed the basis for the educational policy laid out by Governor-General William Bentinck the same year.

Despite the claim that the above system of education conceptualized by Macaulay was intended to bring about the social and moral rejuvenation of Indian society, it was perhaps most successful in creating a class of an indigenous elite who, having been schooled in British education, served the empire as magistrates, treasurers, accountants, and civil servants. They saw themselves as having broken away from tradition and reconstituted their identities as modern (Hosagrahar 37). The reconstitution of the subject through education was of course determined complexly and the outcome was neither guaranteed nor certain. The educational ideal was influenced by liberal economic and political doctrine, paternalism, and evangelism. Further, its effect was not monolithic and it produced clerks and administrators, as well as political leaders, professionals, and intellectuals. While its inner agenda was the moral improvement and the training of the Natives to become good colonial subjects, it socialized many into colonial values, as well as turned many against it (Kumar 45-48). The statement of principles was broad enough to be applied in a range of ways. Further, the country was too large and varied to be able to apply these principles with any uniformity (see Whitehead). However incomplete or uncertain, the fos-

tering of English education had consequences and led to the erosion of traditional culture and consciousness and reshaped Indian subjectivity. The development of the Anglo-Indian labor law has to be seen as part of this process of reconstituting Indian subjectivity because it regulated the economic, political, and social relations between individuals and groups. The logic behind the development of the Anglo-Indian law can be understood in terms of what Max Weber called the rationalization of law to secure certainty of result, i.e., law established "order," "regularity," and "uniformity." Weber saw legal thought as revolving around the axes of rationality / irrationality and formal / substantive systems. Formal rational law was specific to the West and was very much rooted in capitalism's need for unity, order and consistency. The British sought to rationalize indigenous law, based as it was on local custom and tradition in order to govern effectively. This rational government was attained by creating a "modern," unified legal system with rules based on universalistic norms where rights and obligations were assigned to specific transactions irrespective of traditional or inherited status. These rules were administered by a hierarchy of courts staffed by professionals, organized bureaucratically, and employing "rational" procedures (Galanter 15-17). By establishing a unified and predictable legal system the British were able to justify their rule in India. Law was constructed as a necessary part of the process that gave India order and stability in place of the chaos and anarchy that had reigned. Colonialism was seen as good for India because it re-shaped the country on models of good government and law derived from the Western world.

The transformation of indigenous law took place in two stages. In 1772, the first Governor General of India, Warren Hastings who inherited the mantle of Robert Clive, expanded the government's judicial functions and identified and isolated what would later become the authoritative sources of law to be used in the courts. The Regulating Act of 1773 provided for the establishment of the Supreme Court at Calcutta in 1774, the center of British political power, with the power and authority to exercise all civil, criminal, admiralty, and ecclesiastical jurisdiction over Bengal, Bihar, Orissa, and later, Banares. The Madras and Bombay Supreme Courts with similar power and authority were created in 1800 and 1822, respectively. The second phase — which began around 1860 and lasted until independence in 1947 — was one of extensive codification of the law and rationalization of the system of courts. The sources of law became more fixed and rigid and legislation became the dominant way of modifying the law (Bannerji 13-18). The British did attempt to develop a hybrid legal system incorporating local practices into British legal doctrine. The Law Commission recommended in 1879 that while English law be the basis for codification "its materials should be recast ... [with] due regard ... to native habits and modes of thought...that uniformity in legislation should be aimed at, but that special and local customs should be treated considerately" (qtd. in Keene 389). This reinterpretation, however, was based on British norms and philosophy. Even when "due regard" was given to "native habits and modes of thought" the insistence on uniformity, which was alien to Hindu tradition, undermined customary law. Instead, the British established Orthodox Brahmanic laws as authoritative, elevating them over the lesser bodies of customary law. Further, the incorporation of indigenous law was inconsistent in intent and effect. The public side of the law sought to subordinate the rule of Indian "status" to that of "British contract" in order to free the individual in a world of market relations. The personal side of the law, on the other hand used traditional ascriptive status, such as caste, religion and family, as the basis of individual rights (Washbrook 653). Consequently, the Anglo-Indian law, which insisted on certainty and consistency, came to replace indigenous law which was founded on principles of expansive judicial discretion (see Baxi). As Anglo-Indian law, institutions, and practices replaced indigenous law, it brought the entire social, political, and economic world under its commands. By unifying the various social practices, it altered the relationships that individuals and groups traditionally held with each other thereby redefining their subject positions. Law, which was now the primary signifier of British dominance and rule, thus came to reconstitute Indian subjectivity.

It remains one of the ironies of colonial rule that the British were compelled to intervene in labor affairs given that colonial policy destroyed systematically existing manufacturing. As David Washbrook has argued, India was a vital part of British modernization, a course that reversed India's progress and led to its peasantization and traditionalization. The liberal economist J.A. Hobson noted that British colonization of India was based on "the profitable use of hired labour of inferior races ... in developing the resources of their own lands under white control for white man's profit" (249). By the middle of

the nineteenth century, colonial economic policies had ravaged indigenous manufacturing and led to the impoverishment of millions. After the Crown assumed control of governing India from the East India Company in 1857 following the first major insurrection against colonial rule, British development policy was designed to infuse British capital into India to develop resources that would spur industrialization in the metropolitan center. The justification for the extraction of profits was grounded in the logic that India would receive in return law and order, security from external aggression, and an impartial system of justice. Despite the government's indifference to industrial development, a modern capitalist factory system developed from the middle of the nineteenth century — the first cotton textile mill was started in Bombay in 1854 by Cawasji Davar and the first jute mill in Calcutta in 1855 was financed by British capital — owing to the initiatives of an emerging class of capitalists, both British and Indian.

The government's land tenure and taxation policies, which favored the landlords and money lenders, gave rise to a class of poor and landless peasants who turned increasingly to the emerging centers of industrial activity to secure their livelihood. The emergence of this industrial proletariat drew the interest of the government both because of their potential to undermine colonial power and because of the need to regulate the conditions under which production was carried out in order to secure the results for capital and the state. The first generation of factory workers maintained their connections with their villages hoping to eventually return when they earned what they thought would be enough to release them from their indebtedness and poverty. The factory experience, they believed, was temporary and a way of freeing them from rural poverty (Chatterji 31-34). However, the continuing impoverishment of the countryside forced a slow flight from the villages to the emerging industrial centers — especially Calcutta and Bombay — where they were absorbed and proletarianized and the factory became a way of life for what could now be identified as an industrial proletariat (see Gadgil). The experience of industrial work and urban living was harsh with low wages, long hours, and appalling work and living conditions (see Kelman; Mukhtar). With the emergence of an industrial working class the colonial government initiated in a limited way the production of knowledge of this class. This would later lead to numerous studies and commissions of inquiry that constituted the knowledge that formed the basis of the laws. While the formation of the industrial working class drew the interest of the government, the pressure to enact factory legislation came from two groups. On the one hand, the textile industry in Lancashire was concerned that unchecked exploitation of Indian workers constituted an unfair advantage to capital in India and urged the colonial government to enact factory legislation. On the other hand, reformers in Britain and India jolted by the appalling conditions of work described in a report published in 1872 by Major Moore, Chief Inspector of the Cotton Department, urged the government to regulate working conditions. The government, under pressure from local business, did not take any action until a philanthropist from Bombay, S.S. Bengali started an agitation for factory legislation. The government responded by forming a commission to investigate the conditions of work in the textile mills in Bombay. The report, published in 1875, concluded that despite the harsh working conditions — long hours, no fixed holidays, the use of child labor, and dangerous machinery — the conditions of work were not oppressive because they were "natural," i.e., they were suited to the undisciplined ways of the workers (Anstey 296-97).

The justification for the despotic form of capitalist production was rooted in the construction of the worker as pre-modern and not worthy of the protections given to British workers at the time. The government did eventually pass the first Factories Act in 1881 that prohibited the employment of children under the age of seven and limited the hours of work to nine for children between the ages of seven and eleven. However, under pressure from business interests, adult women and men were excluded from coverage; it was only when the Act was amended in 1891 that adults were constituted as labor subjects. Section 2(2) of the amendment of 1891 stated that a "person who works in a factory ... in a manufacturing process ... in cleaning any part of the factory used for any manufacturing process ... or in any kind of work whatsoever incidental to or connected with the manufacturing process...shall be deemed to be employed within the meaning of the Act" (Kydd 160-61). That is, the act defined into existence a labor subject as someone engaged in manufacturing and entitled to the protection of the law. This hailing of the worker conferred a subjectivity which located the worker within the discursive space created by the law. Thus the adult worker was interpellated as a labor subject. Further, while

the labor subject constituted in law was not differentiated on the basis of caste or religion, the subjectivity conferred was in no uncertain terms gendered and addressed to the male worker. That is, the law interpellated a male subject. While this gendering can be traced to the policies of the colonial government, Indian men were complicit because it secured their place in the patriarchal economy of power and authority. While patriarchal inequality was a part of India before colonial rule, the British reconstituted this patriarchy in a way that benefitted them to include urban middle-class males, nationalists, and certain land-holding groups in the countryside (see Mani). This held true in the world of work where the modernization of industry was a gendered process where men were reformed into modern workers while women's roles in the social economy were defined as primarily mothers in order to ensure the reproduction of patriarchal ideology and of labor power. During early industrialization, the conditions of employment were dangerous for women who were hesitant to participate in these occupations. The modernization and rationalization of industry led to a further decline in women's participation as mechanization marginalized women who had limited skills and mobility when compared to men. As industrial production expanded, women's roles were confined to the domestic sphere and the notion of the family wage was taken to be the male's wage with women's earnings "supplementary" (Kumar 90).

In consequence, males were brought into the sphere of colonial capitalism. The problem with imposing a capitalist mode of production is to ensure the real subordination of labor so that capital can extract both absolute and relative surplus value. Factory law assists this process because it compulsorily regulates the working day ensuring a "certainty in the result" and in the process creating a more "efficient" working class (Marx 446-47). However, as history has shown, workers are not passive spectators in their subordination and seek to define the terms on which this takes place. This was true of labor in India and the period from the turn of the century marked a decisive change in which workers as a class now embodied a "modern" consciousness of a class for itself. Working conditions had worsened with the introduction of electric lighting that extended the working day, and in 1905 mill workers in Bombay rioted. In response, the Government of India appointed a commission in 1907 that recommended drastic changes in working conditions in order to promote the "efficiency" of the worker. The discursive basis for this strategy was the construction of the worker as "agriculturalist" who was "bound by strong ties to the land and to the village" (*Report of the Indian Factory Labour Commission 1908* 18). While earlier reports spoke of the worker as incapable of entering the world of the modern, this new discourse reflected a new concern with efficiency and therefore the need for a corrective strategy to transform the "agriculturalist" into an "efficient" subject based on a Western model of shorter hours of work, strong discipline, and greater care to the health and body of the worker. The report concluded that "where the hours are short and the supervision is good, the operatives can be trained to adopt fairly regular and steady habits of working; where the hours are long and the discipline of the factory is bad, the workers will idle through the time ... but that tendency can, we consider, be corrected to some extent by the maintenance of proper discipline, and ... by working the factory for reasonable hours only" (21-22). The report also suggested ways to rationalize work practices by having shorter but more frequent rest periods so that the "hands" could be kept "much more steadily at work," and in improvements in ventilation and lighting in order to enhance the productive capacity of workers (58-63). While most employers opposed the changes, arguing that traditional "customs" were too deeply inscribed in the "habits" of workers, the more prescient agreed that such change was needed so that "labour remains more concentrated and steady" (61). The government accepted the recommendations of the commission and amended the Factory Act in 1911. Mr. Robertson, who introduced the measure in the Imperial Legislative Council said the purpose of the bill was "the building up of a highly trained operative class by the work of whose hands the manufacturing wealth of this country will increase" (*Gazette of India* 1911 30-31). The bill was significant because it extended the definition of factory bringing a larger range of workers under its coverage, and for the first time restricted the hours of work of male adults to twelve a day, and instituting a mandatory half-hour rest period. The bill set the stage for the extensive interventions that were to come after the war.

India's contribution to the war effort and increasing calls from nationalists and Indian capitalists for self-sufficiency forced the government to rethink its industrial development policy and a commission was appointed in 1916 to suggest ways to promote industrial development. On the one hand ris-

ing prices and shortages led to an increasing militancy on the part of labor whose consciousness embodied a distinct anti-colonial position. The war also revealed the crisis of imperialism and diminished the idea of the invincibility of colonial domination (see Kumar). The commission recommended that government take an active role in labor affairs to create a class of workers more suited to the new industrial conditions. The commission concluded that labor, content with a "low standard of comfort" could be made more efficient by a "general policy of betterment" which included educating workers' children to develop a new generation of wage worker, the setting up of Improvement Trusts to provide housing in mill areas, and general welfare measure such as facilities for recreation and sport to improve health and increase "interest in life" (*Indian Industrial Commission* 179-91). The Commission's recommendations suggested a change in the discursive strategy: the Indian worker, constructed as "traditional" was now seen as capable of entering that space of the "modern." The acceptance that low levels of efficiency were due to the debilitating conditions of work, once thought of as being adequate, was now required for the new regime of production inspired by scientific-management which promoted the most economic use of energy by the worker. A.T. Weston, Deputy Director of Industries in Bengal, recommended that employers promote adequate working conditions such as proper ventilation and lighting, safety for machinery, sanitary measures, and provisions for eating and drinking in order to develop a more "contented and loyal workforce" (27). Equally important was the need to pay attention to the technical aspects of production such as factory site, layout, design, machinery, power plant, and fuel supply with a view to adapt the machine — in the broad sense of the production process — to the worker, and both to the work at hand (Weston 1-27). The more far sighted employers had of course recognized this: in Bombay, the industrialist Tata had established in his three mills co-operative credit societies, co-operative stores, cheap grain shops, free reading rooms, night schools, programs for medical care and sport, crèches for female employees, a sickness benefit fund, compensation for work related accidents, a savings bank for workers, and a works committee to promote dialogue between workers and management (Rutnagar 502). These measures were not humanitarian: the Governor of Bombay, Sir Leslie Wilson, noted at the inauguration of a hospital for workers built by the industrialist Sir N. Wadia, that welfare measures were "a sure source of profit to ... industry" (Rutnagar 510). The disruption and fear caused by periodic worker protests also led middle-class Indians to direct their attention to the conditions of the urban poor and numerous voluntary welfare organizations were formed in cities and towns around the country. These reformist measures were however inspired by a class paternalism rooted in a fear and contempt for the masses that sought to ameliorate the harsh conditions rather than assert workers' rights. Thus, when the government intervened after the war, it was in the context of a widespread reformist movement inspired by a paternalism and fear of the working poor.

The end of the war signaled renewed industrial unrest as Indian support for the war had raised expectations of political reform that did not materialize. There were waves of strikes throughout the country in 1919 and 1920 which forced employers to reduce working hours in Bombay, Ahmedabad, and Kanpur. The Governor General signaled his intention to intervene when addressing the Council of States when he spoke of the need to give "adequate protection" and "legal status" to unions (*The Council of States Debates* 1921 13). The first of these interventions was an amendment to the Factories Act in 1922 that extended coverage of the law and reduced the working day to ten hours. In 1923, the government enacted the Workmen's Compensation Act that required employers' to compensate workers for work related injuries under certain conditions. The Workmen's Compensation Act underscored the legislative concept of the modern colonized labor subject. C.A. Innes, the member of Commerce and Industry who introduced the Bill for the Government in the Legislative assembly, noted that "we do not regard this measure a philanthropic measure; on the contrary, we regard it as a sound investment ... we hope also that the Bill will tend to increase the efficiency of Indian labour. A sense of security always makes a man do better work ... if this Bill increases the attractions of industrial life, it will remove obstacles to efficiency" (*Council of States Debates* 1922 473). The bill was expansive in its scope and covered workers in factories, mines, railways, the building trades, seamen, sewage workers, and telegraphic services. While the law introduced the important principle of holding employers' liable for compensation, this benefit was contingent on certain behaviors: thus compensation would not be paid for accidents occurring if the worker had "willfully disobeyed" an order or rule

framed for "securing the safety" of the worker", or had "willfully removed or disregarded any safety guard or device" (*Gazette of India* 1922 312). That is, compensation was contingent on disciplined modern behaviors that conformed to the demands of the workplace to earn the right to compensation. It must be noted that this notion of a "modern" worker was overdetermined by race. Even though the bills was modeled on the lines of similar legislation in Britain, the Indian version did not grant Indian workers proportionate compensation because it was an "Indian Bill" which took into account Indian conditions such as "illiteracy" of the worker and "carelessness of the operative" (*The Council of States Debates* 1922 468).

The next step in the government's efforts to reform the worker was by developing a system of "responsible" unionism. The colonial government and employers had an interest in having an identifiable and accountable body of workers with whom to negotiate and a union to enforce any agreements. A formal union would also ensure a clearly framed set of demands and an orderly conduct of disputes eliminating what the Bombay Industrial Disputes Committee called "the multiplicity, and sometimes the extravagance, of claims put forward" (Mukhtar 108). Employers and the provincial government's were concerned that the strike waves of 1919/1920 were "leaderless" and without an "organized" set of demands (*The Indian Year Book* 1926 468). To address these problems the government formulated a strategy to grant unions legal status and in doing so compel a certain "responsible" conduct and behavior. The Trade Union's Act was introduced in the Legislative Assembly in January 1925 and the Industries member, Sir B. Mitra, who characterized the bill as a "permissive measure," promised unions protection for "legitimate" actions. Unions who registered under the Act would be granted immunity from civil and criminal prosecution so long as they complied with two important conditions, viz., that unions not use their funds for political activities and to help other unions (*Gazette of India* 1922 202). These restrictions led to a passionate debate in which a dissenting member of the Select Committee spoke against the unfairness of allowing employers to engage in political activities to advance their interests while denying this right to unions. A labor sympathizer, N.M. Joshi tried to expand this restrictive clause to allow unions to spend their funds on any labor dispute, a motion that was rejected because of government's concern that the limited money of workers would be "frittered away" (*The Council of States Debates* 1926 213). That is, while the bill was ostensibly a measure to protect unions, it was designed to foster an apolitical union movement unable to contest the power of capital and the state. Besides constraining and containing unions, the law also established systems of surveillance by requiring registered unions to provide a statement of the names, occupations, and addresses of its officials, and a copy of the union rules. Unions were required to state the objectives of the organization and the purposes on which the funds would be spent and to have their accounts audited annually. The Registrar of Unions, who was charged with enforcing the Act, could cancel the registration of any union that did not follow these requirements.

This legislation was complemented by the Trade Disputes Act of 1929 that restricted the right of workers to strike. The political context of this bill are significant: the Simon Commission appointed to address long promised constitutional change was boycotted by all the nationalist groups as it did not have an Indian member. This led to the growth of many radical and revolutionary groups and a spate of strikes in 1928 and 1929 in the railways and cotton and jute industries. Further, by 1928 the communists had made significant inroads into the union movement which changed the nature of organization and protest and raised the specter of an Soviet style insurrection. This political consciousness was seen in the session of the Congress Party in Calcutta in 1928 when more than 30,000 workers took over the session for more than two hours and passed resolutions for complete and immediate independence from colonial rule and for socio-economic reforms in favor of the working class (Sen 97). This radicalization of the workers led the government to enact the Government Safety Bill that allowed for the deportation of two British communist organizers and the arrest of thirty-one union leaders on ground that they had conspired with the Communist International and "incited antagonism" between capital and labor (Philips 258). The Trade Disputes Act of 1929 was an attempt to suppress worker protest and consisted of three parts. The first provided for the formation of Boards of Conciliation and Courts Enquiry where the government could refer an existing or anticipated dispute to a Court for a resolution. Further, workers in public utility services were only allowed to strike if they provided fourteen days advance notice which effectively took away their right to strike. Finally, the law introduced

the idea of an illegal strike as one whose object was "other than the furtherance of a trade dispute within the trade or industry in which the workers are engaged ... and designed or calculated to inflict severe, general and prolonged hardship upon the community (*The Council of States Debates* 1929 2704). This prevented general and sympathy strikes and empowered the government to declare any political strike as illegal. The draconian nature of the bill was condemned by many sections of the country with newspapers noting that the passage of the bill was designed to put an end to all labor organization and to enslave labor to capital (Sen 292). The colonial government thus betrayed its vision of the "modern" worker as one who would embody an ideology that obeyed the demands of the new rationalized regime of production in a compliant and obedient way. Having so constituted the subject the government was now prepared to intervene to bring to end one of the last vestiges of the "traditionalism" in the humble worker, the space that defined that labor contract as an exchange of labor power for a cash wage.

The origins of the Payment of Wages Act lie in existing practices of fining workers. Employers typically imposed harsh fines for "bad work" or "lack of discipline" or withheld wages as a disciplinary measure. In order to put an end to these practices the government enacted the Payment of Wages Act in 1936 that ended the arbitrary power to punish workers. Punishment was now meant to be corrective, a way to reconstitute work habits toward an efficiency that was in keeping with the new rationalized regime of production. The bill was designed to correct inefficient behavior that interrupted the production process. Mr. Witherington, who introduced the bill in the Legislative Assembly spoke of the need to impose fines for "unpunctuality" because it interfered with the "smooth running of the factory" and needed to be deterred with "a penalty which will work regularly and automatically" (*The Council of States Debates* 1936 386). Employers could only fine workers for behaviors that were construed as inefficient work habits such as "wandering," taking unauthorized leave, or damage and loss caused by "neglect" (*Gazette of India* 1935 83). Further, in order to act as a corrective to behavior and not as a purely punitive measure, the bill eliminated excessive and capricious fining by limiting the amount a worker could be fined to 1/32 of a rupee. The money collected had to be placed in a fund to be used for worker welfare so that that act of fining was to be an impersonal corrective of behavior and not a punitive measure to benefit the employer. In doing this, the government took the moral high ground declaring that the law had the "humane task of securing to the humble workman the prompt and full payment of the wages he has earned" (*The Council of States Debates* 1935 1001). However, far from being a humane law, it constituted the subject within the ideological sphere of the strict cash wage. It was common practice for employers to pay workers in kind as well as cash. The idea of the cash wage was meant to put an end to the "traditional" relationship between employer and worker — a practice seen as anachronistic in the modern industrial setting. The minister for Industries and Labour, D.W. Mitchell, said that "it is better that the workman should receive his daily bread regularly than he should have an occasional feast" (*The Council of States Debates* 1935 1001). In insisting on the notion of the cash wage, workers were inserted into a discourse that constructed a modern wage laborer who exchanged labor power for money. The bill also introduced the idea of regularity of payment requiring that wages be paid no later than ten days after the end of the month. This regularity inscribed in workers' consciousness the ideology of the modern mode of production based on a regular cycle of work and remuneration much like the regularity and consistency of the rationalized process of production.

The Payment of Wages Act completed the cycle of reform and control initiated by the Factories Act. These laws were an attempt to reconstitute the worker from a "traditional" laborer into a "modern" industrial worker under a system of colonial capitalism. The labor subject so constituted in law was recast in the mold of an efficient and disciplined worker obedient to the demands of the workplace and the existing political regime. The laws sought to directly structure the situation of workers and control worker behavior and political expression. In taking a direct role in labor affairs work discipline and organization became a matter of public regulation (Morris 128). This law was also the last legislative intervention by the colonial government.

In 1935, the Government of India Act initiated political reforms that led to the formation of Congress governments in the provinces. In 1939, the Congress government of Bombay passed the Industrial Disputes Act that further curtailed workers' rights and introduced mandatory arbitration into labor

disputes. The bill also gave the government the power to declare a strike illegal if unions did not exhaust the government provided machineries for dispute resolution. Recognition of unions was contingent on their accepting the process of arbitration process in government appointed legal bodies. The law became the basis of the Industrial Disputes Act legislated in 1947 in independent India. Thus, the Congress government inherited the ideological principles of colonial labor legislation and used these with perhaps greater effect to create a labor subject in free India within the same discursive space of a modern colonial ideology, testifying to the power of the "arrival" of modernity.

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