Labour Market Reforms

Table of Content

1. Labour Market in India: Current Scenario ............................................................................. 2
2. Regulation of Labour Market in India .................................................................................. 2
   2.1. Important Legislations ........................................................................................................ 2
3. Why reforms are required ....................................................................................................... 2
   3.1. Benefits limited to Organised Sector only ........................................................................ 3
   3.2. Multiplicity, Complexity and Rigidities ............................................................................ 3
   3.3. Ease of Doing Business is affected .................................................................................. 3
   3.4. Jobless Growth .................................................................................................................. 3
   3.5. Skill Development ............................................................................................................. 3
   3.6. Global Competitiveness .................................................................................................... 3
4. What reforms are required? ..................................................................................................... 4
   4.1. Views of Central trade Unions ......................................................................................... 4
   4.2. Views of Employers .......................................................................................................... 4
   4.3. Views of State Government ............................................................................................... 4
   4.4. Views of Central Government .......................................................................................... 4
   4.6. Other Experts’ Opinions ................................................................................................... 5
5. Recent Steps taken by the Governments .............................................................................. 5
   5.1. Central Government .......................................................................................................... 5
   5.2. State Governments ............................................................................................................ 6
6. Conclusion ................................................................................................................................ 6
1. Labour Market in India: Current Scenario

India has witnessed an impressive GDP growth rate post reform period of the 1990s. It has brought important changes in employment conditions in the country.

At present, overwhelmingly large percentage of workers (about 92 per cent) is engaged in informal employment that has low earnings with limited or no social protection. The labour-force participation rate is comparatively low in India largely because lower female participation.

Since labour laws are enforced by states, there is significant variation in their enforcement from state to state and from sector to sector.

2. Regulation of Labour Market in India

India has large number of labour laws catering to different aspects of labour namely minimum wages, compensation, disputes resolution, social security, working conditions etc. These laws and regulations derive their aspirations from the provisions listed in the Indian Constitution.

- Labour listed in Concurrent List of seventh schedule: Both the Central and State Governments are competent to enact legislations. As a result, a large number of labour laws have been enacted catering to different aspects of labour.
- Fundamental Rights
  - Article 16 extends a right of "equality of opportunity" for employment or appointment under the state.
  - Article 19(1)(c) gives everyone a specific right "to form associations or unions"
  - Article 23 prohibits all trafficking and forced labour
  - Article 24 regulates child labour
- Directive Principles of State Policy
  - Article 41: Right to work, and to public assistance in cases of unemployment
  - Article 42: Provision for just and humane conditions of work and maternity relief.
  - Article 43: Secure work, living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities
  - Article 43A: secure the participation of workers in the management of industries

2.1. Important Legislations

At present, there are 44 labour related statutes enacted by the Central Government and many more enacted by state governments. Some of the important legislations are:

- Minimum Wages Act, 1948
- Industries (Regulation and Development) Act of 1951
- Industrial Disputes Act, 1947
- Factories Act of 1948
- Contract labour Act 1970
- Trade Unions Act 1926

3. Why reforms are required

The Review and updation of labour laws should be a continuous process in order to bring them in tune with the emerging needs of the economy. Some major reasons are -
3.1. Benefits limited to Organised Sector only

These labour laws apply to organised sector which employs only 8 to 9 percent of workforce leaving vast majority of Indian workforce remain unregulated. The workers under unorganised sector have limited rights and are faced deplorable working conditions.

3.2. Multiplicity, Complexity and Rigidities

The multiplicity of labour laws and difficulty in coping with them are the impediment to industrial development in India. Many of the laws are obsolete and are required to be reviewed to align them with current economic situation. Some of such laws and provisions are discussed below:

- **Industrial Disputes Act (IDA).** This Act requires firms employing more than 100 workers to seek permission from their respective state governments to retrench or lay off workers. This permission is seldom granted.
- **Industrial Employment (Standing Orders) Act** makes job description modifications and interplant transfers within a firm (with more than 100 workers in some states and more than 50 in others) very difficult and virtually impossible.
- **The Trade Union Act** allows formation of trade union in firms having more than any seven workers provides right to strike. The multiplicity of unions becomes a potentially difficult situation for employers to manage.
- **Contract Labour Act** regulates and restricts the use of contract labour. It is argued that it limits the substitutability between permanent and contract workers, and thereby restricts an important channel through which, the firms can reduce costs. For certain tasks, the use of contract labour is prohibited.

3.3. Ease of Doing Business is affected

Employers contend that labour laws in India are excessively pro-worker in the organized sector. There is too much of inspection, and industries are looked upon with suspicion when comes to enforcing labour laws.

The legal provisions of job security and institutional factors like the pressure of trade unions make adjustment of the workforce of enterprises difficult, and discourage organised sector enterprises from expansion. The small size of labour-intensive firms prevents them from reaping economies of scale, thereby lowering India’s comparative advantage in labour-intensive manufacturing.

Studies show states with relatively easier labour regulations have experienced higher growth of labour intensive industries and their overall employment than have other states.

3.4. Jobless Growth

Several economists, industry associations believe deceleration in employment growth in India is due to inflexibility in the labour market. The existing labour laws designed to protect employment and do not encourage employability. They are a major cause for greater acceptance of capital-intensive methods in the organized sector and affect the sector’s long run demand for labour.

3.5. Skill Development

The industries play crucial role in skill development. However, these laws discourage firms from employing a large number of permanent workers and steer them towards employing more casual or contract workers. In such temporary workers, firms show no inclination to invest for skill development and training. To encourage apprenticeship in India, labour market need to be reformed legally and institutionally both.

3.6. Global Competitiveness

The Restrictive labour regulations prevent firms from making the required adjustments to their inputs in response to shocks to demand and technology. It makes them difficult to compete with firms in countries where labour market rigidity is not a problem.

These regulations constrain the firms by curtailing their size and depriving them of significant potential economies of scale. Thus, Indian manufacturing firms, especially in labour-intensive industries such as textiles and apparel, are seriously disadvantaged relative to their counterparts in China, Bangladesh, and Vietnam etc. where labour markets are much more flexible.
4. What reforms are required?

The major stakeholders recommending reforms are trade unions, industry bodies, and central and state governments. The trade unionists view flexibilization in labour markets as a strategy for profit maximizing of the firms and reducing their bargaining power without generating sufficient employment opportunities. On the other hand, the employer’s view flexibility in labour markets as a pre-requisite for promoting economic growth and generating jobs. The recommendations of all the stakeholders of labour market as discussed below:

4.1. Views of Central trade Unions

- **Simplification of laws**: Instead of having too many labour laws, these should be rationalized in 5-6 groups and codified properly.
- **Universal Application**: Labour laws should be applied universally and there should not be categorization like applicable to 5-10 or 20 employees
- **Right to Strike**: The provision of strike should be incorporated in labour laws, though it may be the last resort.
- **Protection to migrant workers**: There should be a law for migrant labours. Migrant workers are not provided even minimum wages and they should be protected.
- **Abolition of contract labour**: The system of contract labour/casual labour in Government departments should be abolished. Also, it should not be allowed where job is permanent.
- **Separate independent judicial system**: Due to already overburdening of judicial system, a separate independent judicial system for labour issues may be created.
- **National level Minimum wage**: There should be fixation of National level Minimum Wage for simplicity and to avoid disputes.
- **Self-Certification**: The concept of self-certification by employers should be abandoned.

4.2. Views of Employers

- **Separate law for small sector**: There should be a single, simplified and comprehensive Act for the small scale sector as compliance to labour laws for small units is cumbersome.
- **Obsolete laws**: Many laws like the Industrial Disputes Act 1947 have become archaic in the present scenario.
- **Contract Labour**: Every industry has different needs and it may not be possible to keep every worker on muster roll with demand for labour changing with business cycle. So, Contract labour system cannot be abolished though it should be ensured that the contract labour is not exploited.
- **Equality of labour**: Equating the wages of contract labour with that of regular worker will not be appropriate, as the quality and skill of both may be different.

4.3. Views of State Government

- **Inter State Council**: Many labours migrate from one State to another but no record is maintained anywhere. An Inter State Council should be setup to look into their issues.
- **Single Law**: One law should take care of both organized and unorganized class of workers.
- **Inadequate enforcement machinery**: Enforcement of labour laws is difficult since the number of laws and industrial units have increased manifold while labour enforcement machinery has not expanded commensurately.
- **Inadequate penalty**: The fines imposed under labour laws are not sufficiently deterrent as the quantum of fines has not been revised over time. Sometimes it becomes more profitable to violate the labour laws rather than to implement it.
- **Digitization of the Employment Exchanges**: digital sharing of data on registered job seekers should be made mandatory for all Employment Exchanges.
- **Insurance mechanism**: An insurance scheme should be started for the retrenched workers from the time the industry commenced operations, so that workers were not put to hardship later.
4.4. Views of Central Government

- **Awareness campaign** about labour regulations for the benefit of small scale entrepreneurs.
- **Simplification**: clubbing of laws in groups and also suggested that the multiplicity of provisions in different laws should be avoided
- **Incentive based system**: Moving from a regulatory system to an incentive based system on implementation of labour laws with incentives being linked to compliance with labour laws
- **Central Organisation**: Setting up a common body at the Central level for interpretation of labour laws which should be binding for all concerned.
- **Ease of Doing Business**: The Labour laws should be such that they help in business growth and do not become a hindrance to growth of economy.
- **Restriction on trade Union**: There should be some reasonable restriction regarding number of trade unions within an organization by stipulating that the union should have at least 10% of the total strength of workers

4.5. Major Recommendations of Working Group on Labour Laws for 12th FYP

- **Protecting Interest of Workers in the Unorganised Sector**: They should be provided with minimum living wage, improved regulatory activities, basic social security and labour welfare schemes and improved health and safety facilities.
- **Recommendations for Improving Enforcement of Labour Laws**: Increased manpower, improved infrastructure is essential for effective implementation of labour laws
- **All India Service for labour administration**: It will provide professional experts in the field of labour administration.
- **Dispute resolution**: Regular Lok Adalats could enable faster disposal of cases
- **Online Single window system**: for making compliance as user friendly, simple

4.6. Other Experts’ Opinions

- **Shift Labour to ‘State List’**: The State Governments have limited space to enact labour laws to address their own requirements - promoting investment and employment generation. By shifting Labour to state list, the State Governments will have more economic independence to and promote federalism.
- **Multiple unions within a firm** should be disallowed as they can lead to messy situations resulting in huge productivity losses.
- The penal provisions in all these laws need to be revisited and the penalty of imprisonment, wherever it appears, should be converted into pecuniary fines. This will help investors to invest freely and without any fear.

5. Recent Steps taken by the Governments

5.1. Central Government

- **Dedicated Shram Suvidha Portal**: That would allot Labour Identification Number (LIN) to units and allow them to file online compliance for 16 out of 44 labour laws
- **Random Inspection Scheme**: To eliminate human discretion in selection of units for Inspection, and uploading of Inspection Reports within 72 hours of inspection mandatory
- **Universal Account Number**: Enables 4.17 crore employees to have their Provident Fund account portable, hassle-free and universally accessible
- **Apprentice Protsahan Yojana**: Government will support manufacturing units mainly and other establishments by reimbursing 50% of the stipend paid to apprentices during first two years of their training
• Revamped Rashtriya Swasthya Bima Yojana: Introducing a Smart Card for the workers in the unorganized sector seeded with details of two more social security schemes
• The National Career Service is being implemented as a mission mode project to provide various job-related services information on skills development courses, internships etc.
• The Apprentice Act 1961 was amended to make it more responsive to industry and youth

5.2. State Governments

Rajasthan State Government

- Amendment to Industrial Act: Companies can retrench up to 300 employees, up from 100 without seeking government permission.
- Tougher to register labour unions: Now, it requires membership of 30 per cent of the total workforce for a union to obtain recognition.
- Amendment to Contract Labour Act: The law will now be applicable only to companies that employ more than 50 workers against the previous 20.
- Amendment to Factories Act: Its applicability has been limited to firms with higher number of workers employed.

6. Conclusion

A radical legislative intervention in labour market will be impossible without developing a broad-based and holistic national labour policy. Hence, the government of India should first focus on developing a consensus on national policy framework rather than continuing with an ad hoc approach to amend a few provisions of labour laws to please the industry. While addressing the issue of simplifying and codifying the Labour Laws and for ensuring ease of compliance to promote an enabling business environment, the overall interests of Labour like wages, employment, social security, working environment, health and safety etc. should be duly addressed.