

## Changes in labour laws by some states

Uttar Pradesh, Madhya Pradesh and Gujarat have announced relaxations in the application of many labour laws for businesses over the next two to three years.

### Reason for changes given by States

The covid-19 pandemic has impacted economic activities and industrial activities badly. Because of which the workers welfare has also got a hit. To bring the economic activities back on track, new industrial investments opportunities will have to be created and old industrial activities need to be given a boost.

It has become a necessity to provide temporary reprieve from labour laws for new industrial investment, for establishing new industries, and for existing industries in the current situation

“The idea is that in the present circumstances, where we need to provide employment to workers who have migrated back to the state and to protect the existing employment, some flexibility has to be given to business and industry

State governments have witnessed a severe shortage in revenue after the national lockdown because businesses are shut. Many migrant workers in states such as Madhya Pradesh and Uttar Pradesh have returned. States have begun easing labour laws to attract investment.

### Arguments against the move

It will lead to slave-like conditions for workers as it will give a free hand to businesses to operate the way they wish and boost hire and fire rules at a time job security and wage security issues are facing a bigger challenge.

The changes give industries more flexibility in hiring and firing employees, determining their wages, and reduce their liabilities in terms of providing employee benefits.

Most employment will effectively turn informal and bring down the wage rate sharply. And there is no way for any worker to even seek grievance redressal.

From the perspective of the workers, the government has completely turned its stand from asking firms not to fire workers and pay full salaries at the start of the lockdown, to stripping workers of their bargaining power now.

This move and the resulting fall in wages will further depress the overall demand in the economy, thus hurting the recovery process.

### Arguments in favour of move

Some economists welcomed the move for clearing structural bottlenecks, possibly leading to greater investment, creating employment opportunities for migrant workers returning home, and positioning India to be able to take advantage of **disruptions in global supply chains**. Several companies expressed their interest in leaving China and are looking for other investment destinations, including India so as to reduce their dependency on China after the outbreak of the coronavirus.

Most of our labour laws are relevant only to the organized sector. Even the major focus of the Trade Unions both at Centre and in the State is on the problems relating to the organized sector workers only.

To be sure, 90% of India's workforce, which is employed in the informal sector, won't be affected by these changes. These apply to those who are in the organised workforce and registered firms.

Stringent labour laws that apply to firms employing over 100 employees act as an incentive for smaller firms to stay small so they can escape the rules.

Some economists blame the Stringent labour laws for the existence of a gigantic informal sector. They point out that most firms try to escape the labour laws by either hiring more contract labour or going for capital-intensive manufacturing.

The increasing incidence of contract labour has been a salient feature of the post-liberalisation era.

The changes give markets a much freer hand to regulate labour demand and supply, and enhance productivity and size. They aim to increase competitiveness of firms and improve exports, while increasing labour demand.

Critics have long argued that many of these laws actually work against the interests of labour, and revoking some of those laws will allow private industry to flourish, thereby giving workers more choice and benefits.

### **President Approval**

Since labour is on the concurrent list under the Seventh Schedule of the Indian Constitution, both the centre and the states can make laws under this subject.

As this will override provisions of some Central laws, it will require the assent of the President or, in effect, the assent of the Central government.

## **Why are Indian Labour Laws often criticized ?**

### **Multiple Labour Laws**

In India, labour is a concurrent subject in the Constitution of India implying that both the Union and the State Governments are competent to legislate on labour matters and administer the same.

According to recent estimates, there are around 40 Central Labour Laws in the country in addition to around 100 state laws. Besides their jurisdiction, labour laws cater to different aspects of labour namely, industrial relations, occupational health, safety, employment, conditions of employment, wages, compensation to workmen who suffer injuries, contract labour, women labour and child labour, industrial disputes, employees' social security, regulating the working conditions of specific categories of workmen such as plantation labour, beedi workers etc.

Further, there are great variations in the definitions of words and expressions used in various labour laws. Even the basic terms like 'employed person' and 'wages' have been defined differently in different labour laws. The definition of establishment, workmen, factories, etc. also vary under various Laws and Acts leading to confusion.

### **Old and outdated**

Labour laws in India are perceived by trade and industry circles as complex, archaic and not conducive to promoting the interests of the industry. Many laws are old and outdated, with a few almost a century old. Consequently, they have lost their relevance with the changing times.

During the period, 2000 to 2019 the Indian economy grew at an average rate of 7-8 per cent but employment growth was rather sluggish

This is for a variety of reasons but most important is India's obsession with an archaic labour policy that is keeping investors away, hindering employment growth and making Indian enterprises uncompetitive.

To avoid the rigorous labour policies, companies are either shifting their manufacturing bases to foreign countries or turning capital intensive, reducing their manpower needs. Besides swelling unemployment, these measures are also pushing people to the informal sector.

Most of the labour laws were enacted 40-70 years back, to address the then needs of regulating the manufacturing sector. Today, service sector has taken the lead with 55% share in the GDP. Labour Laws need to be reoriented to address the emerging needs of the service sector and the new technology intensive manufacturing sector.

Archaic and multiple labour laws seriously impede the ease of doing business of Indian companies and limit their growth potential and employment generation capability.

It is well accepted that survival of workers depends upon survival of industry. Therefore, creation of conditions and environment conducive not only for survival but further growth of industry is the need of the hour.

### **Compliance burden**

Almost every Act requires the employer to mandatorily meet various statutory compliances and maintain records, submit returns, registers, etc. under various Acts. There is lot of duplication and overlapping of these paper work formalities. This is a significant compliance burden, especially for MSMEs.

Most MSMEs are self-owned and employ very few workers. Therefore, meeting the compliance burden under the large number of labour laws in the country is a big challenge for them. They are also not in a position to bear heavy compliance cost by way of filing multiple returns etc. They have been seeking exemption to this sector from some of the major labour laws

So far the applicability of labour laws is concerned the MSME sector is treated at par with large scale enterprises with similar rigorous provisions in the legislations. Whereas, MSME enterprises should be subjected to few simple and less cumbersome labour laws which make compliance easier.

### **Entry and Exit Barriers in right-sizing the workforce and in closing down the industrial establishment**

In the market economy of today, average self-life of a product is less than 6 months. Companies are under pressure to innovate, redesign and technologically upgrade the products to suit consumers' choices which is not possible without restructuring and rightsizing.

Industrial Disputes Act provides for obtaining a prior permission of the Government for lay-off, retrenchment or closure where the industry employees more than 100 workers. Firms very rarely get government permission in this regard. This promotes industrial sickness and hampers industry's initiative to be competitive and face global challenges. Entry and exit barriers for firms must be removed for their competitiveness. Due to these serious policy flaws, India is losing investments to its neighboring countries.

### **Strikes and Lock-outs**

India is perhaps the only country, where the requirement of strike notice is absent barring public utility service. This does not give adequate time to the parties to take pre-emptive steps and avert the situation through negotiations. A reasonable period of notice of strike is, therefore, essential under ID Act.

Further, to democratize the functioning of trade unions, the Strike Ballot should be supported by at least 75% of the workers working in the enterprise.

### **Trade Unions Act, 1926**

There are countries like Japan and Australia where 'one enterprise one union' is a benchmark. On the contrary, in India, we have multiple unions in one enterprise, promoting inter and intra union rivalry adversely affecting production, productivity, industrial relations.

TUA allows any seven employees in a company to form a labour union. As the unions have the right to strike and represent workers in legal disputes, they have been subject to political interference and mafia nexus.

### **The Factories Act, 1948**

The Factories Act, 1948 applies to a manufacturing unit employing 10 workers if the work is being done with the aid of power, or employing 20 workers without the aid of power. This limit was fixed more than 60 years back, and since then many safe and hazard free technologies/processes have been developed and are being used. Yet, even smaller units employing as low as 10 workers are subjected to the same elaborate and harsh provisions of the Factories Act, 1948. In order to escape the rigorous provisions of the legislation, many times the small manufacturing units employ less than the threshold limit and employment is directly affected.

### **Payment of Bonus Act**

Bonus should be strictly linked to productivity and profitability. Therefore, section 10 (Payment of minimum bonus- Employer is bound to pay 8.33% of the salary or wage as bonus whether profit earned or not) and 11 (Payment of maximum bonus-20% of Salary & Wages) of the Payment of Bonus Act, 1965 should be deleted.

### **Introduction of Fixed Term Employment**

Fixed term employment is needed to execute time bound projects and short term contracts where the manpower employed could be dispensed with on the completion of the project.

### **Penal provisions**

Penal provisions in all these laws need to be revisited and the penalty of imprisonment, wherever it appears, should be converted into fines. This will help investors to invest freely and without any fear.

### **Organised and Unorganised sector**

Currently, there are 40 labour laws under the purview of Central Government and more than 100 under State Governments, which deal with a host of labour issues. Unfortunately, The outdated and inflexible nature of labour laws protects only 7-8 percent of the organised sector workers employed at the cost of 93 per cent unorganised sector workers. Most of the 10-12 million youth joining labour force every year, are forced to join informal economy, where the working conditions are pathetic and earnings are also very low.

The entire labour laws should therefore be simplified, clubbed together wherever possible and made less cumbersome to make the environment more employment friendly.

India is a labour surplus country with 47 million unemployed below the age of 24 years and 10-12 million youths joining the labour market every year. To avoid the growing unemployment, India strongly needs labour intensive and labour friendly industries.

### **States with flexible labour regulation show faster employment growth than others.**

Various studies showed output and employment growth in labour-intensive industries to be slower in states with more rigid labour laws vis-a-vis others.

After dismantling of the license raj, during liberalisation, industries located in states with pro-employer labour market regulations grew more quickly than the pro-worker labour law states.

### **Labour law reforms in India**

Too many labour laws both in Central and State government have resulted in many bottlenecks, which has affected industry's growth and investment. India's labour laws are extremely rigid and discourage industrial employers to hire. Rather, it encourages hiring of contractual labour without social security benefits.

Central Government has undertaken the exercise of rationalisation of the 29 Labour Acts by framing 4 labour codes in line with the recommendations of second National Commission on Labour (2002).

1. Code on Wages, (4 Labour Laws merged)
2. Code on Industrial Relations, (3 Labour Laws merged)
3. Code on Social Security (9 Labour Laws merged) and
4. Code on occupational safety, health and working conditions. (13 Labour Laws merged)

Of these four codes, Parliament has passed Code on Wages Bill, 2019. Remaining three codes are yet to be cleared.

The proposed codification will also make the existing labour laws in sync with the emerging economic scenario; reduce the complexity by providing uniform definitions and reduction in multiple authorities under various Acts and bring transparency and accountability in enforcement of labour laws.

This in turn would lead to ease of compliance, catalyzing the setting up of manufacturing units including boosting Labour intensive industries such as agriculture and manufacturing exports. This would lead to enhancement in employment opportunities as well as its formalization along with ensuring safety, social security and welfare of workers.