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Labour Reforms In India:Need And The Progress Made So Far

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Abstract

As labour is a subject matter of the concurrent list, labour market issues in India are governed by 45 central government laws and more than 100 state statutes. Many of these laws cross each other. With a plethora of rules to be followed ,operating a manufacturing unit in India is a task in itself. Also complying with these provisions is a costly exercise both in terms of time and money .To prevent themselves from falling into the ambit of these laws many firms make sure that they do not cross the threshold limit specified in different acts by opening separate units rather than operating as a single unit .This has also started the trend of contractual labour.By indulging into such practices they might ensure flexible operations without getting entangled in litigation,etc but these methods of operations are economically inefficient for the country as a whole as it does not let an enterprise benefit from returns to scale.Also in a populous country like ours if capital intensive techniques are being used just to circumvent these laws then it is a serious problem which demands intervention.The present paper focuses on emphasizing the need for labour reforms and summarizes the progress that has been made so far in this respect-be it initiatives of the states or the centre and offers some suggestions which might be beneficial in policy formation.

Introduction

Labor laws in India cover almost all aspects of employer-employee interactions such as - hiring and firing ,attendance logs , wages and benefits, working conditions, grievance redressal,inspections ,etc . The intention behind creating these laws was that it would ensure job security for the workers which could act as a motivator to perform better but instead they proved to be a hindrance in their path to get employed in the first place itself. Among all these laws regulating the labour market ,the ones that regulate the firing of employees and the closure of manufacturing units are the most debated upon. They have been criticized by both the World Bank and the IMF in their respective reports and also by various researchers working in the area(see table 1)

A world bank report gives the following summary of the studies done on the labour reforms in India overtime and their findings.

STUDY	FINDINGS
Besley and Burgess 2004	<ul style="list-style-type: none">-States with less flexible labor regulations had lower output, productivity, investment, and employment in formal manufacturing than they would have had if their regulations were not so rigid.-Output in informal manufacturing increased in the same states.
Sharma 2009	<ul style="list-style-type: none">-After deregulation, the number of informal establishments declined by 25 percent in states with more flexible labor laws, compared with states with more rigid regulations.
Ahsan and Pagés 2009	<ul style="list-style-type: none">- States that increased labor law rigidity above the level stipulated in the IDA experienced declines in registered manufacturing and output relative to states that did not implement such changes.- Rigid regulations for settling disputes reduced output more than the IDA provisions on layoffs.-West Bengal has lost more than 620,000 manufacturing jobs because of its restrictive regulations in these two

	aspects of the law alone. Andhra Pradesh and Tamil Nadu have created more than 130,000 formal manufacturing jobs, thanks to improvements in their dispute resolution regulations.
Dougherty 2008	<ul style="list-style-type: none"> -The most common area of reform was contract labor; the least common were changes in rules governing inspections. - Overall, the degree of reform was modest: no state has introduced more than 28 reforms out of a possible 50 reform subjects measured. - States with higher labor reform indexes had greater job turnover rates—vital for technological change and economic growth.
Goldar 2011	States with higher labor reform indexes tended to have greater employment elasticity and a higher growth of organized employment in manufacturing compared with states that introduced few reforms.

data.worldbank.org

Also a comparison with china would make very clear what India has lost by delaying the labour reforms.

PARTICULARS		2013	1980
CHINA	GROWTH RATE	7.7	7.8
	GDP	9,240,270,452,047.0	189,400,991,348.9
INDIA	GROWTH RATE	6.9	6.7
	GDP	1,875,141,481,990.8	189,594,121,351.9

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Beginning with almost the same GDP in 1980s, China's GDP is many more times than India's. This is a direct consequence of the sluggish pace at which we have approached labour reforms.

The above tables makes it clear that labour reforms are the need of the hour and significant benefits wait to be reaped in case we go ahead with them. If we were

to quantify the benefits that we would get by labour reforms then the Goldman Sachs statement in March 2014 would come handy. It said that 40 million new manufacturing jobs would be created in a decade if states follow flexible labour laws like in Gujarat. In a bull scenario, the figure could go up to 110 million workers over the next decade. If this happens then the number of jobs that India would create would be larger than that of the US, China, Russia, and Brazil combined.

The Gujrat Model

The Gujarat government has been commended in the above statement by Goldman Sachs because it amended the Industrial Disputes Act in 2004 to allow any company in the SEZ, without any threshold on the number of workers, to lay off workers without government's sanction. But as compensation, the workers got three times the compensation provided in the central government Act i.e. wages equivalent to 45 days of work every year.

This provision will now get extended to special investment zones like the Delhi Mumbai Industrial Corridor (DMIC), NIMZ, export-oriented industrial establishments and economic zones like garment parks. This is a clause in the labour laws (Gujarat Amendment) Bill, 2015, which the state has sent for the Centre's approval. The other provisions of the bill include-

- increasing the wages equivalent to 45 days of work as compensation in case of layoff in the above mentioned areas without government sanction to 60 days.
- a nominated government official will be allowed to apply for compensation of a worker in case of a fatal injury or partial disability occurred at workplace.
- a compulsory certification-cum-consolidated annual return scheme for factories instead of a large no of filing requirements along with exemption from inspections. However, to ensure checks and balances, regular audit of such industries would be done.
- the period of raising complaints in case of retrenchment has been reduced to one year against 3 years at present.

The case of Rajasthan and Madhya Pradesh

The other states of India, apart from Gujarat, that have recently done labour reforms are Rajasthan and Madhya Pradesh. Unlike Gujarat, they have increased the limit for the number of workers an industry must have to be able to retrench without prior official permission (under the Industrial Disputes Act) from the present 100 to 300.

Other laws that the Rajasthan government has amended are the Factories Act, the Apprentices Act and the Contract Labour Act. Some of the changes include-

- introduction of a time limit of three years for raising industrial disputes.
- instead of 15% of workers, now 30% of workers in a factory will be required to form a union.
- more flexibility to companies on compensation, compliance and infrastructure requirement.

The M.P government had proposed amendment to at least 20 labour laws including Factories Act and Shops and Establishments Act.

While the Rajasthan government's changes have already received President's assent, the President's approval to Madhya Pradesh's bill is pending. The central government has rejected some of the changes proposed by the M.P. government like- Micro industries to be exempted from application of 7 central laws, total number of working hours in a week to be increased to 72 from 60, no trade unions in micro industries, employer to deposit Rs 25,000 in Child Welfare Fund if found guilty of employing child labour and changes pertaining to prosecution and inspection.

Centre's Steps

The above was with regard to the states but the centre is also not leaving any stone unturned to make one of its flagship program, the "Make in India" campaign a success. For this far-reaching amendments have been proposed to the Factories Act, 1948; Apprentices Act, 1961; and Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Bill, 2011. The Factories Act, 1948 has been introduced in the Lok Sabha for discussion. While the bills pertaining to the other two Acts are awaiting only the consent of the President for turning into laws.

Changes in the Factories Act, 1948

- Removal of the restriction on women from working on certain machines in motion and near cotton-openers. It also proposes to empower the state government to allow women to work during night hours in a factory.
- Extension of liability to the designer, importer, supplier or manufacturer of any substance used in a factory and not just of an article.
- Introduction of provisions for enhanced safety of workers.
- A factory with more than 75 workers should provide separate shelters or restrooms for male and female workers, a reduction from the earlier 150.
- Increasing the maximum number of overtime hours allowed to a worker and relaxing the provisions regarding entitlement of workers to paid leave.
- Raising the penalties for some offences.

Changes in the Apprentices Act, 1961

- The definition of workers in the act has been changed to include workers employed through a contractor. Earlier workers with only regular contract were considered for determining the number of workers in an enterprise.
- Minimum age for apprenticeship in designated trades related to hazardous industries shall be 18 years.
- An establishment operating in four or more states will be regulated by the central government.
- Now students from non-engineering back-ground too can go for apprenticeship.
- Employers have been given the power which earlier rested with Central Apprenticeship Council to unilaterally decide the daily (and weekly) working hours of an apprentice.
- Employers now have full freedom to formulate their own policies regarding recruitment of apprentices.
- Employer contravening the Act is now only liable to pay a monetary penalty and cannot be put behind the bar under any circumstances.

Changes in The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Bill, 2011

The threshold for determining “small establishments” has been increased from 19 to 40 workers and consolidated submission of returns for seven additional labour legislations has been allowed.

Apart from these, a ‘Labour Code on Industrial Relations’ is proposed to be made after amalgamation of following Labour Laws:-The Trade Unions Act, 1926;The Industrial Employment (Standing Orders) Act, 1946 and The Industrial Disputes Act, 1947 .This draft is under construction .

Suggestions

National Labour Policy

The number of laws governing a single aspect of production i.e. labour are many in number and vary across states. It would be better if the provisions of all these different laws are clubbed into one law by the Centre and the states can use the central law as a base and modify it according to their peculiar needs. The 'Labour Code on Industrial Relations' is a step in this direction.

Minimum Set of Protection for All

The labour laws apply only to organized labour, moreover they are being made flexible. In order to provide some sort of security to the workers, who technically fall in the definition of unorganized labour, more provisions, like the one in the apprentices act, to include labour employed through a contractor in determining the number of workers in an enterprise should be included in the amended acts.

Uniformity Across Sectors

Most of the labour laws don't apply to the services sector therefore that sector is seeing more growth than others. It is the responsibility of the government to provide level playing field for every economic activity that a person might wish to pursue. So necessary changes in the laws be made to resolve this issue.

Linking laws to productivity

This would be much more rational as well as prove to be an incentive to the workers to perform better.

Mental Revolution

Participation of the workers in decision making, informal meetings, etc should be encouraged in order to build a positive attitude among the workers and the management. This would reduce chances of strikes, litigation and in the long run requirement of any labour law because the two groups would develop a healthy understanding and would not indulge in activities that would harm the other.

Conclusion

The above changes that have taken place and others which are in the pipeline would ensure that operating a manufacturing enterprise in India becomes a hassle free task and the sector attracts investments from both the domestic and foreign players. This in turn would increase the contribution of manufacturing sector in the employment and output of the country, a much needed shift. Moreover, the new government wants states to take the lead in initiating second generation reforms and in this particular case, the initiatives were indeed taken by the states. More states are ready to join the league with their unique offerings. This will set the stage for a new era of competitive federalism in our country which if practiced in a healthy manner would lead India to unprecedented growth levels, not just in numbers but in every aspect of human life.

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