

Opinion

Are labour law reforms the panacea to the investment problem?

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Uttar Pradesh recently diluted its labour laws to provide flexibility to business and industry. However, from a global perspective, there is little evidence that relaxing labour laws alone will attract investment

With over 40 Central labour laws and 200 State-enacted laws and amendments, India is not an easy place to set up or run a business. In a major change, the Uttar Pradesh government has decided to exempt businesses from all but three labour laws for three years through an ordinance. Other States have followed UP's lead.

The UP government mentions that this reform is expected to provide employment to workers who have migrated back to the State, while protecting existing employment and providing flexibility to business and industry. Labour law experts, on the other hand, believe that the ordinance will lead to dilution of worker rights and pave the way for exploitation of workers in an already stressed environment.

The UP ordinance is based on the premise that certain “essential laws” shall be retained while suspending the other labour laws. The “essential laws” which continue to operate are Workmen’s Compensation Act, 1923, The Bonded Labour System (Abolition) Act, 1976, and The Building and other Construction Workers’ (Regulation of Employment and Conditions of Service) Act, 1996. The provisions regarding time limit for payment as contained in Section 5 of the Payment of Wages Act, 1936 as also labour laws relating to children and women shall also continue.

The reform argument

Those in favour of these changes believe that lifting of many of these laws will relieve the industry from cumbersome regulatory compliances. Many argue that India’s labour laws rarely serve the purpose of protecting workers, but rather act as an instrument to harass businesses.

Calling it the Inspector Raj, scholars argue that these laws provide armour to labour inspectors (and sometimes union leaders) to engage in extortionate behaviour.

Second, much of India's large workforce was never protected by the labour laws in the first place. Flexibilisation of work in the formal economy has contributed to the growth of informality across countries, and India is no different. As markets became more competitive, companies have resorted to flexible work arrangements such as subcontracting, temporary or casual work, reducing dependence on the "organised workforce". Further, the social contract between workers and enterprises is fast changing, driven in part by technology, resulting in gig work.

Third, the ordinance retains the most important laws and the suspension is only temporary. More importantly, the ordinance protects the rights of vulnerable sections, i.e., women and children. Similarly, provisions for payment of wages and compensation in case of accidents and death are retained. Hence, while the suspension of laws seeks to promote economic growth by reducing unproductive compliance and hurdles to the employers, the basic and fundamental interests of the workmen and vulnerable sections are protected.

Fourth, reverse migration of labour from industrialized states back to their homelands is expected to create a glut of labour. As fears around mounting unemployment rise, it is imperative for the government to create a large number of new jobs. Relaxing labour laws is expected to encourage local industry to hire more.

Finally, India has been keen to attract companies that want to shift from China by developing large pools of land and considering other incentives. The Prime Minister as well as other leaders have stated that

India must use this as an opportunity to attract MNCs and investment in the manufacturing sector. These labour reforms are intended as a positive signal to attract such investment.

The argument against dilution

However, it is not difficult to see that lifting of these laws can dilute worker rights and increase the chasm between workers and employers. Many of the worker rights came into force after continued worker struggle. These changes undo decades of small wins accumulated by workers and without consultation with relevant labour bodies. Such an approach can spark resentment leading to increased worker agitation and activism.

Second, labour laws provide statutory protections by prescribing certain acts or abolishing/prohibiting certain practices and provide for consequences in case of their contravention. The extant laws deter employers from exploiting workmen by enhancing bargaining power for workers' representatives.

Lifting of statutory protections such as compulsory provision of minimum wages, insurance and other social security, right to form unions, etc., may result in diluting the status of workmen and their ability to protest against exploitative practices. Companies which are attracted by such a flexible labour regime are likely to be far from responsible employers.

Third, there is limited evidence that relaxing labour laws alone will increase employment. It has been argued that though labour reforms have been tried across some States and also in Special Economic Zones, but this has not resulted in a significant rise in employment.

Fourthly, some knowledgeable industry commentators have clarified that the problems of industry with the extant legal framework relate primarily to the provisions for lay-offs, retrenchment and closure and the administrative implementation of labour laws. Hence wholesale removal of so many labour laws is unnecessary.

Finally, contrary to the popular narrative, while India rates 58th out of 140 countries in the WEF's Global Competitiveness Index, it ranks 33rd on the flexibility of labour markets. In comparison, China ranks 62nd on labour markets, though it is 28th overall. Clearly, lack of competitive labour markets is not the main factor driving India's poor competitiveness and there is little evidence that relaxing labour laws alone will attract overseas investment, especially from the companies that are looking to leave China.

On balance, a better, although perhaps more complex, approach would be to complete the process of creating a comprehensive integrated legal framework for labour — light on compliance and administrative requirements but ensuring protection of worker rights — that had already been initiated by the present government. This would help attract the right kind of investments and avoid possible exploitation of workers at the same time.

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