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Labour Reforms in India: Issues & Challenges

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Abstract

This paper provides a critique of slow pace of labour reforms in India and consequences of rigidities in labour market, archaic labour laws and glaring skill deficit. The country has failed to reap demographic dividends as a consequence of policy paralysis so far as labour reforms are concerned. Sporadic changes in labour laws have been ineffectual in attracting foreign investors or provide an impetus to domestic entrepreneurs interested in expanding manufacturing facilities. The paper presents an incisive account of emerging issues and challenges that pose roadblocks for labour reforms in India and imperatives for enhancing labour productivity and lowering labour cost without compromising international labour standards.

Keywords: Labour Market, Labour Reforms, India

Introduction

Labour reforms have often been associated with competitiveness. However, attempts at reforming Indian labour market have been rather slow. Even the globalization and liberalization process that began in India in 1991 impacted labour market in limited manner. No wonder, India missed the opportunity of being manufacturing hub of the world due to rigidities in labour market, archaic labour laws and glaring skill deficit. In last twenty-five years, the government of India has tried to bring in sporadic changes in labour laws aimed at labour flexibilization. Nevertheless, labour market in India remains pokerfaced when it comes to attracting foreign direct investments especially in labour-intensive sectors such as leather goods, textiles (apparel, accessories, etc.), gems and jewelry, sports goods, weapons and ammunitions, furniture, rubber products, fabricated metal products etc. It is imperative that labour reforms are viewed in a holistic manner so that India is able to gain demographic dividends by becoming manufacturing destination of the world owing to higher labour productivity, flexible labour market practices and lower labour cost without compromising on labour standards.

Indian labour market is spoiled by over-arching complexities of archaic labour laws, unmindful bureaucratic control and corrupt inspectorate having unlimited abilities to exploit the

susceptible factory owners at the cost of welfare of the workers. Hence, labour market liberalization is urgent need of the day. It is imperative that labour laws are progressive, bureaucratic control is substituted by transparent governance and self-reporting and disclosure as well as voluntary adoption of labour standards take over the flawed system of factory inspections and compliances. It goes without saying that labour market liberalization is likely to augment employment flexibility, skill development and job creation on a wide scale. However, free market evangelists put excessive emphasis on the amendments in labour laws enabling the employers to hire, fire and regulate the terms and conditions of employment of the working population according to exigencies of emerging market scenarios. Such extreme position is not only misplaced but also a major roadblock in converting labour reforms as foundation of competitiveness in manufacturing and service sectors.

Debates on Labour Reforms

A large section of scholars have opined that labour market regulations add to production costs, restrict flexibility and efficiency, stifle competition, hinder economic growth and impair urgently required market adjustments (Bhattacharya, 2007). An obvious inference from such a broad position is undesirability of any regulatory framework to govern employee-employer relations especially in labour surplus economies of the developing world so that the latter have a free hand in handling recruitment, compensation, separation and all other employment related issues without any consideration for labour standards prevalent across the developed countries. Further, labour standards are viewed as luxury which should come by only as a result of significant improvement in economies (Bhattacharya, 2007).

Ironically, regulatory framework of Indian labour market meant for protecting the interests of workers in organized sector is presented as a necessary evil resulting in loss of employment. Fallón and Lucas (1991, 1993) observed that labour demand in organized sector declined by 17.5% after introduction of the controversial chapter VB in the Industrial Disputes Act in 1976. This change made it mandatory for the companies employing 300 or more workers to seek permission from the government before closing down the unit or retrenching/terminating the employees. In 1984, the number of workers for the purpose of this clause was further reduced to 100. Reduction of demand in the organized sector inevitably freed large section of skilled manpower to seek employment in unorganized sector thereby pushing the semi-skilled and unskilled workforce to the brink. Moreover, many companies found a way out to bypass the provisions of chapter VB of Industrial Disputes Act by employing lesser than 300 workers (or later on less than 100 workers) and getting things done by contract labour. A good number of leaders from Chambers and Commerce in UttarPradesh, Bihar, Jharkhand, Delhi and Haryana talked about such practices in private conversations with the author although none of them were ready to issue formal statements on this matter. Hence, empirical evidences indicating short shrift meted out to clauses relating to termination of employees are far less available irrespective of the ground realities.

Time and again, proponents of labour reforms have emphasized the need for upholding managerial prerogative by revoking the '*draconian*' (from the perspective of employers) labour laws and restraining the inspectors thriving on them. Besley and Burgess (2004) have not

minced any words in suggesting that Indian provinces which took a pro-labour stance witnessed lower output, lower employment and lower investment in manufacturing sector during 1958-1992. However, empirical studies conducted by Fallón and Lucas as well as Besley and Burgess are flawed on several counts. Both the studies have over-emphasized the restrictive clause regarding closure of units and retrenchment/termination of employment as given in chapter VB of Industrial Disputes Act. Several scholars in India have come up with empirical evidences which either disprove the findings of Fallón and Lucas/Besley and Burgess or provide data indicating that lower productivity, joblessness and investment slowdown were caused by factors other than amendments in the Industrial Disputes Act (Bhalotra, 1998; Dutta Roy, 2002; Dutta Roy, 2004; Bhattacharjea, 2006). Not only have they highlighted the inherent weaknesses in tools and techniques of empirical survey adopted by Fallón and Lucas/Besley and Burgess but also unfolded severe limitations of the data-sources which happen to be the foundation of inferences made by the latter.

Another school of thought audaciously led by Bibek Debroy advocates rationalization of archaic labour laws and flexibilization of labour market through empowerment of workers and rigorous skill development in as opposed to '*free labour market*' of neo-liberals who wish to uphold managerial prerogative at any cost and provide unrestrained powers in the hands of employers so far as hiring, compensating and firing workers are concerned. It is true that Indian labour market is highly regulated and characterized by compliance-oriented mind-set since independence, the government of India as well as provincial governments in the country appear to be in sync with emerging needs of labour reforms so as to keep pace with globalization and integration of labour market, capital market and commodity market. Hence, pressure of compliance and fear of inspectors have diminished during last 25 years. Interestingly, government itself has become one of the largest employers of contract labour disregarding the Contract Labour Act. No wonder, private companies are even more enthusiastic about employing contract labour for their core operations which otherwise would have been rather impossible had the government been serious about compliance of labour laws. Even the courts have become rational in pronouncing judgments on industrial disputes –a stance different from one prior to 1991 when judges generally took pro-labour position while deciding cases of conflicts between workers and management.

While the government of India has softened its stance on labour laws, it is not ready as yet to completely hand over the control of terms and conditions of employment to the employers based on voluntary contract between the two parties sans any state regulations. There is clarity of thought on this matter as observed in the study of Planning Commission (2001): 'The reasons why labour markets need to be regulated by law to a much greater extent than goods markets are well known. Workers are not commodities; they are human beings and citizens, and individual workers are also the weaker party in any employer-employee relationship. These considerations justify legislation aimed at protecting the rights of labour in a number of areas e.g. to form unions for purposes of collective bargaining, laying down minimum obligations which employers must meet with regard to social benefits, health and safety of workers, provision of special facilities for women workers, establishing grievance redressal mechanisms,

etc. This is accepted practice in both developed and developing countries, though of course the nature of the law varies considerably across countries.'

The government of India is equally concerned with the issue of protecting the interest of workers and that of the management. This view is consolidated by the following observation quoted from the study of Planning Commission (2001): 'There is no doubt that we need labour legislation to protect legitimate labour interests, but the resulting legal framework must ensure a reasonable balance between the objective of protecting the legitimate rights of employees and the equally important objective of providing a framework which would encourage efficiency and create incentives to expand total employment. The laws, as well as the way they are implemented, must allow employers to create a structure of incentives which encourage labour productivity. This includes the flexibility to restructure and adjust the labour force to adapt to changing technology and changing market conditions. The need for such flexibility has increased because liberalisation and globalisation put a premium on flexibility.'

Roadblocks in Labour Market Reforms

Archaic labour laws are the greatest roadblocks in realization of an industry-friendly labour market in India. Labour laws continue to keep the workers' entitlements intact whereas protective shield of the industry which guarded the domestic industry players from competition has disappeared after 1991. Globalization and liberalization unleashed in 1991 allowed international players in Indian market thereby fundamentally changing the business and trade ecosystem. It is essential to have labour laws in sync with emerging trends such as casualization of labour, third-party employment, etc. At the same time, it is equally important to ensure that basic rights of the workers are protected and labour standards are implemented across industries and formal as well as informal sectors.

Significant skill shortage across the country has almost a crippling impact on Indian labour market. More than archaic labour laws, this factor makes the labour market quite unattractive especially for foreign direct investment. Even the large domestic players as well as entrepreneurs in micro-small and medium enterprises face the brunt of unavailability of skilled manpower. A study of Planning Commission (2001) indicated that only 10.1% of the male workers and 6.3% of female workers possessed specific marketable skills in the rural areas while only 19.6% of male workers and 11.2% of female workers had requisite skills in urban areas. Further, only 5% of the Indian labour force in the age bracket 20-24 has vocational skills whereas the percentage in industrial countries is much higher, varying between 60% and 80% (Planning Commission, 2001). In terms of vocational skills, India fares worse than some of the developing countries such as Mexico where the percentage of youth having vocational training is 28% (Planning Commission, 2001).

Lack of a holistic labour policy is a major obstacle in the way of developing a liberal labour market which can contribute towards making a competitive manufacturing and service industry eco-systems in the country. There has been a good number of study groups, reports, consultative meetings, etc. However, a holistic national labour policy is elusive. Instead, the government has been involved in piecemeal reforms in labour laws from time to time. In

addition, there are references of labour issues in National Manufacturing Policy, National Policy on child Labour, National Policy on Skill Development, National Employment Policy, National Policy on HIV/AIDS and World of Work, National Policy on Safety, Health and Environment at Workplace, etc. Last traces of a 'labour policy' are found in the draft of 3rd Five Year Plan document which is quite dated. Such directionless and ad hoc efforts have done no good to liberalize the labour market in line with global trends.

Imperatives for India

Change in the archaic labour laws has been central theme of labour reforms discourse in India. Planning Commission (2001) has captured the essence of this debate in the following words: 'A comprehensive review of all these laws is definitely needed. They need to be simplified and brought in line with contemporary economic realities, including especially current international practice. At times, the problem is not so much with the law itself as with the lengthy almost interminable nature of legal proceedings which contribute greatly to the cost of hiring labour and the associated "hassle factor". There are also problems with the enforcement machinery i.e. the various inspectors responsible for enforcing the law. Complaints are frequently voiced by industry that this machinery uses the extensive powers at its disposal to harass employers with a view to extract bribes, a process which imposes especially heavy costs on small entrepreneurs. Equally, an opposite view is expressed by trade unions that the labour enforcement machinery needs to be further strengthened in the interest of better enforcement of labour laws.'

It is important to eliminate absurdities, dualities and ambiguities from existing labour laws so that industry is in a better position to leverage full potential of labour market in the country without any fear of the law. Rather, labour laws should foster an enabling environment so far as employment practices are concerned. Sooner we overcome 'compliance mindset' (a consequence of labour law rigidities), better is our chances enhancing global competitiveness in manufacturing as well as service sector. It is high time that the government should focus on coalescing all the existing labour laws into one unified piece of legislation with specific sections covering labour-management relations, wages, social security, safety at workplace, welfare provisions, terms and condition of employment, recognition of trade unions, provisions regarding collective bargaining, and above all, enforcement of international labour standards. Such a legislative marvel will be a model for provincial governments. It is likely that the provincial governments may adopt the central legislation or come up with identical ones with little variation in order to accommodate regional specificities. Moreover, such a legislation will be effective only if it is universally applicable –covering all the workers in formal as well as informal sectors.

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 on labour issues rather than continuing with an ad hoc approach to amend a few provisions of labour laws to please the industry. Since a lot of studies, consultations, and reforms have been done during last twenty

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