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Labour Market Issues and Development

Abstract

In spite of labour laws been widely studied for almost a decade and various recommendations to re-invent/evolve labour laws in the current wake of globalization, the issues pertaining to welfare of labour and flexibility of the firms to grow in sync with market conditions for better industrial relations, persists even today. For the past six to seven years it has been argued (especially by employers) that labour laws in India are excessively pro-worker in the organized sector and this has led to serious rigidities that has resulted in adverse consequences in terms of performance of this sector as well as the operation of the labour markets. There have been recommendations by the government to reform labour laws in India by highlighting the need for flexibility in Indian labour laws that would give appropriate flexibility to the industry that is essential to compete in international markets. But the attitude has mainly been towards skill enhancement and focus on flexible labour markets rather than assessment of proper enforcement of the laws, assessment of the situation of different categories of employers and coverage of the social protection system.

Keywords: *Liberalisation, Globalisation, Flexibility, Reform, Labour Law, Rigidity*

Introduction

The dominant issue is the inflexibility of the labour market supposed to have been caused by labour regulations. Reforms in the labour market aimed at increasing flexibility of labour use by bringing about changes in legislative framework has been a subject of debate for over 20 years now. The intensity of the debate, however, increased with economic reforms of the 1990s.

It has been argued in this context that the Indian labour market is highly regulated causing rigidities in the adjustment in the use of labour in enterprises, which result in high direct transaction costs, reduce efficiency in production and make it difficult for them to successfully operate in a competitive environment. These rigidities also tend to discourage investment, both domestic and foreign, expansion in output and increase in employment. It is, therefore, considered necessary that 'reforms' be brought about in the labour market through changes in the legislative framework for labour regulation, not only to encourage investment and growth of output, but also for expansion of employment in industry. For the past six to seven years it has been argued (especially by employers) that labour laws in India are excessively pro-worker in the organized sector and this has led to serious rigidities that has resulted in adverse consequences in terms of performance of this sector as well as the operation of the labour markets.

The main issue has been slow employment growth despite increasing GDP growth termed as 'jobless growth' the arguments for which are that the existing labour laws are less employment friendly and biased towards the organized labour force, they protect employment and do not encourage employment or employability, they give scope for illegitimate demands of the Trade Unions and 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. The employer's view flexibility in labour markets as a pre-requisite for promoting economic growth and

generating jobs, whereas, the trade unionists view flexibilisation in labour markets as a strategy for profit maximizing of the firms and reducing their bargaining power without generating sufficient employment opportunities. For them insecurity has been the major cause of concern. In the wake of labour market flexibility post economic liberalization, which is believed to enhance competitiveness in an environment of rapidly changing markets and technologies, the government is in a dilemma as most of the labour laws and social protection laws has been labour friendly.

Issues in the labour regulations in India

Historical backdrop

There is no doubt that the measures to regulate employment of labour laws, rules and conventions, have their origin in India in the recognition of unequal power balance between labour and capital. The motivation to protect labour has been further strengthened by ideas of equity and social justice that the national movement for Independence espoused and which were finally also enshrined in the Indian Constitution (Singh, 2003).

Establishment of International Labour Organisation (ILO) in 1919 was a landmark event in the annals of labour history internationally, mandating the necessity of labour legislations to protect the interests of workers. It has developed conventions and recommendations on labour standards for facilitating improvements in labour conditions, which have been adopted by its member countries including India. Along with the birth of ILO, the All India Trade Unions Congress (AITUC) also came into existence in India in 1920, which spearheaded the movement for legislation to alleviate the conditions of workers. Since then, the trade union movements in the country have played an important role in sharpening the scope and content of regulatory measures.

Labour regulations in India

The need to legislate to protect the interest of workers and also to ensure the smooth process of production in enterprises was recognised by the British rulers of India. Major laws have been enacted for improving the condition of employment and protecting the overall welfare of industrial workers are taken after Independence in India. There seemed to be a clear recognition and understanding that humane treatment, well-being and security make the workforce more efficient and productive and it is, therefore, in the interest of the industry to provide good working conditions, social security against the risks at work and in life and an assurance that a worker will not be removed from job unfairly or without adequate notice and compensation.

Challenge to labour regulations in recent years

Areas of disagreement seem to have widened as well as got sharpened. Industry now finds several regulatory provisions highly restrictive adversely affecting growth of industry and employment; and, demands changes in laws enabling more flexible use of labour (CII-World Bank, 2002). Unions have resisted any such move and, in fact, protested against the relaxation in practices of labour use that, they observe, has been allowed to employers in recent years (ShyamSundar, 2005)

It appears that the serious divergence in views on labour regulation has arisen out of the compulsions of competition accompanying economic liberalisation and globalisation (Sharma, 2006; ShyamSundar, 2006; Ahmad and Pages, 2006). And in so far as economic reforms have led to higher economic growth and greater prosperity and to the extent certain measures of labour regulation pose obstacles to sustain this process, there is obviously a case for reforms in labour regulation. What would these reforms constitute, however, depends on the provisions and laws that are identified and established to be adversely affecting investment, growth, and employment.

Important labour regulations and their coverage

There are a large number of statutes, laws and rules that make up the regulatory framework both at the central as well as state level in India. We focus here mainly on ten important labour regulations relating to four broad areas of employment: conditions of work, wages, social security, and industrial relations including job security). There are a large number of laws covering each of these aspects and examination here is confined only to the following: Minimum Wages Act (1948) and Payment of Wages Act (1936) in respect of wages; Factories Act (1948) and Shops and Commercial Establishments Act (1953) in respect of working conditions; Employees State Insurance Act (1948), Employees' Provident Fund Act (1952) and Workmen's Compensation Act (1923), for social security; and, Industrial Disputes Act (1947) and Contract Labour (Regulation and Abolition) Act (1970) for industrial relations.

Regulations on wages and earnings

The most important legislation on fixation of wages is the Minimum Wages Act 1948. Industry wise wage boards and committees were often used in the past for wage fixation in the organized sector. This practise, however, has now been virtually given up. The Minimum Wages Act (MWA) requires the appropriate government, central or state, to fix the minimum wages for certain types of employment.

Regulations of conditions of work

On conditions of work, the Factories Act is the basic legislation prescribing the physical conditions of work at workplace, hours of work, rest and holidays and safety, and so on. The Act prescribes such conditions, which could be considered to be minimum necessary for human being for safeguard of their health, efficiency and safety at work.

Social security regulations

Coming to the provisions of social security, an important regulation is the Employees State Insurance Act (ESIA) providing comprehensive protection against the risk of accidents and injury at work, sickness, maternity, and old age. The ESI covers both workers and their families. There are two types of insurance benefits provided under the scheme.

Job security and industrial relations regulations

The aspects of labour regulation which have proved most contentious relate to job security and forms of labour use. In this respect, the focus has primarily been on two pieces of legislation, namely the IDA and the Contract Labour Act (CLA).

Debate on labour market reforms in india

Focus of the labour regulations debate

Of the four broad groups of labour regulations discussed earlier, the debate on labour market reforms appears to be narrowly focused on two sets of issues. The first set of issues relates to the question of rigidity or the inflexibility of the Indian labour markets in general, and the other set of issues relates to the job security provisions of the labour regulations.

Rigidity in labour markets in india: regulatory process and changing practices

On the one hand, it has been argued in this context that the Indian labour market is highly regulated causing rigidities in the adjustment in the use of labour in enterprises which result in high direct and transaction costs, reduce efficiency in production and make it difficult for them to successfully operate in a competitive environment (ShyamSundar, 2005).

The governments both at the centre and in the states have been more liberal in respect of other aspects of labour regulation also in recent years. In fact, they do not seem to be very keen on carrying a 'pro-labour' image that governments in the past seemed to be proud of. Though no significant changes in labour laws have taken place, changes in implementation practices to make labour regulation more 'enterprise-friendly' have taken place (Nagaraj, 2004).

At the state level, governments competing with each other to lure investments have resorted to the mechanism of making changes in the regulatory framework through amendments to the central labour laws and the use of executive orders. Overall industrial relations' situation appears to have progressively improved in recent years. The number of industrial disputes, work stoppages, workers involved and person-days lost in them have declined. A general weakening of the trade union movement in India in the years since the early 1980s has also been widely reported (Ghose, 1994; Nagaraj, 1994; Datt, 2003; ShyamSundar, 2004; Nagaraj, 2004; Anant, 2006; Reddy, 2007).

Further there is a noticeable change in the arguments of trade union on the issue of reforms in the labour markets. The trade unions' resistance to labour flexibility measure has mellowed. Ozaki (1999) notes that the trade unions have come to realise the need for flexibility in the face of global competition and have to some extent granted that flexibility could lead to more jobs in this situation.

It may be noted that the discussion on the rigidity or inflexibility has been related to the labour markets that cater to the organised sector of the economy. Organised sector employment accounts for only about 7 to 10 per cent of the total workforce, depending on the measure used, and in a sense, the literature on the rigidity of labour markets indirectly concedes that labour market rigidity due to labour regulations is not a significant factor by the very fact that a large proportion of the workforce is not covered by labour regulations.

Job security provisions and inflexibility in labour adjustment

Job security or job security-led labour market inflexibility is perhaps the most contentious of all issues related to the discourse on labour market reforms.

Problems with the labour regulatory mechanism

Too many laws

A repeated comment on the labour regulations in India is that there are too many labour laws. Quoting the Report of the Commission on Review of Administrative Laws, Debroy (2005) notes that in all there may be up to 2500 central laws and as many as 30,000 state-level laws in India. An issue in the debate of reforms in the legislative framework, including the debate on labour regulations reform, is that there are too many laws and there is a need for rationalisation, elimination of multiplicity and overlap in laws.

Limited Coverage of Labour Regulations

The most important limitation of the existing labour regulation lies in its limited coverage. Most laws apply only to relatively bigger establishments employing beyond a certain number, usually 10 workers.

A rational and fair agenda for reforms

There is no doubt that the system of labour regulation in Indian industry requires a change. A change is needed not only to facilitate a smooth process of labour use and adjustment to meet the requirements of competitive efficiency in the wake of economic liberalisation and

globalisation, but primarily because many of the premises and assumptions underlying the existing regulations have changed, as a result of sweeping changes in technologies and production systems and character and composition of entrepreneurial and working classes. Most important, the existing regulations have left most of the Indian workers outside their purview, besides not being very effective in providing the stipulated benefits even to those covered by them. Nonetheless, they create an impression that the Indian labour market is rendered highly inflexible by labour regulations.

Reform in labour regulations should, therefore, not only focus on deregulation to reduce protection of workers in the existing regulated sectors and employment, but should aim at reducing dualism in the regulatory regime.

The next category of changes is required in respect of the multiplicity of laws and provisions and concepts and definitions and unnecessary details in prescriptions as pointed out earlier. These features of various laws tend to create rigidities in labour use. Probably the most important, area of reforms in labour regulation relates to the provision of minimum conditions of work and social security to the workers not covered by the existing labour regulations.

The SNCL recommended enactment of a law for unorganised sector workers. These proposals need to be carefully considered and seen as part of labour reforms in the direction of reducing dualism in the regulatory framework of the Indian labour market.

Need for flexibility in labour markets and labour laws

Eyck (2003) states three basic theories for perceived need for flexibility in labour markets. The first one emphasizes on the need for labour force to change according to the market fluctuations which happens because of increase in specialized products that requires firms to quickly change the size, composition, and at times the location of the workforce. The second emphasizes on lowering the labour costs and increasing productivity because of rising

competitiveness. The third is the political economy perspective which advocates free markets where there would be no government intervention and interference of trade unionism. He says that this kind of new employment relations and occupations have the potential to generate more employment and also make available a range of opportunities to both workers and employers.

Sharma (2006) states that there is a 'strong' argument for labour market regulation to enhance investment and employment which would bring about equality in the labour market and provide for flexibility in free entry and exit. He says that because of excessive institutional interventions markets do not clear and make wages 'sticky' which affects the freedom of employers to adjust the quantities of resources leading to unemployment.

Sundar (2005) opines that employers view flexibility in the labour markets as essential because in this era of economic liberalization and growing competition between firms and countries, production should be organized to suit the changing market conditions. This would promote economic growth and also generate jobs. He mentions that the Second National Commission on Labour also advocates the need for flexibility in the labour markets saying that it would promote 'competitiveness' and 'efficiency' in the current wake of globalization and rapid technological progress.

According to Dr. Rangarajan (2006), in order to achieve faster growth rate emphasis should be laid on labour intensive sectors by skill development of the labour force and flexibility of labour laws. Flexibility in labour laws has also been advocated by the Planning Commission Deputy Chairman Mr. Montek Singh Ahluwalia. According to him flexibility in labour laws would attract more investment and would be able to create more jobs albeit ruling out the hire and fire policy.

Labour laws that are of current concern

As we have seen above, bringing in flexibility in the labour market and hence flexibility in labour laws is therefore, an important matter in any agenda on structural reforms. The main accusation against the labour laws is that in the absence of flexible labour markets in the organized sector growth in output is not leading to a proportionate growth in employment hence the employers are going for more capital intensive production processes because of labour becoming a fixed input. Hence though the labour laws are meant to protect the jobs of the workers, the scope for creation of more job opportunities in future is being lost. Therefore India's comparative advantage of enormous labour abundance is not being adequately utilized because of the high wage lands created by the labour legislation in the organized sector (Debroy, 2001). There is a lack of consensus amongst the employers and workers which is being an impediment to any proposed changes in the labour laws.

Government and other recommendations

In the prolonged situation of 'jobless growth' and current wake of labour unrest, the government had come up with certain recommendations to reform labour laws, first in 2001 in its Report on Task Force on Employment Opportunities, by the Planning Commission of India and again in 2002 when the Second National Commission on Labour (SNCL) had come up with its recommendations. The task force points out the various problem areas in the labour legislation where immediate reforms were needed. Though the SNCL had come up with certain recommendations taking into broader interests of the employers and the workers into consideration, its recommendation to use contract labour in non-core activities and also to some extent in core activities first of all creating a distinction between core and non-core activities instead of perennial and non-perennial activities was vehemently opposed by trade unionists and also employers to a smaller extent. First of all the trade unionists do not believe that greater flexibility in the labour market would lead to employment generation, they are of the opinion that even if jobs are created they will be of poorer quality. They fear that it would

also affect their bargaining power in the organized sector. The employers, on the other side have also expressed their disagreements with some of the recommendations. Another major issue put forward by many economists and policy makers is the multiplicity of labour laws. Unification and harmonization of the labour laws has been highly recommended by Debroy (2001, 2005).

The social security concerns

In the wake of international competitiveness and the need for flexibility in labour markets, it becomes increasingly essential to accommodate social security concerns in reform movements. In fact Ghai (2002) points out to a certain correlation between the degree of economic progress in a country and the development of its national security system wherein those countries with a higher per capita income and larger proportion of working population in the formal sector had more social security due to state subsidized schemes. In the developing world, majority of the population is bereft of even basic social security. For instance in India, social security covers only 6 per cent of the workforce that belongs to the organized sector. The remaining 94 per cent that is in the unorganized sector and those who are self employed has very limited social security.

In the organized sector the main social security programmes include Workmen's Compensation Act, 1923 for accidents in the place of work, Employees' State Insurance Act, 1948 for health benefits, Maternity Benefit Act, 1961 for expectant women workers and retirement benefits like Payment of Gratuity Act, 1972 and Employees' Provident Fund Act, 1952. But inspite of a wide coverage the schemes lack appropriate planning, inappropriate coverage, the applicability depends on wage ceilings, number of employees in an establishment, type of establishment, etc. Sharma and Mamgain (2001) opine that Indian Labour Market cannot be called rigid since they attribute the decline in employment in manufacturing to the structural and technological characteristics of the industrial growth.

Although they say that stringent job security measures in the organized manufacturing may be one of the reasons but according to them it cannot be the sole reason for the decline. Hence irrespective of the impact of 'rigid' labour legislation to employment, they opine that a degree of protection to labour would lead to inflexibility of labour adjustment that is required for restructuring of the enterprises to adjust to competitiveness. Several issues regarding social security comes into picture that need attention.

Conclusion

In the context of above discussions, there are many things needed to be looked upon. The first is that of the whole question of whether improving the status of the organized sector manufacturing by reforming the labour laws would practically make a difference to the growth of employment considering that labour in the organized sector forms only 6 per cent of the total labour force the rest being in the unorganized sector. Secondly, whole debate on whether rigidity of the labour laws is hindering growth of the manufacturing sector and hence employment generation in this sector seems vague if large scale flouting or violations of labour laws are taken into consideration. Again, even though steps involving greater flexibility in labour laws making it easier to implement greater flexibility in the labour market are taken leading to creation of greater employment opportunities, one need to know whether this would lead to long term generation of employment creation or would it result in just a short term planning. And above all any step should take into account the interests of both the employers and the workers with greater emphasis on social protection of workers. Emphasis should first and foremost be laid on decent work practices along with proper implementation of minimum wages in both formal and informal sectors which call for commitment from the employer's side as well. Another important issue is the enforcement of labour laws which is of particular concern. So any alternative framing of labour laws need to reconsider and assess

these aspects before moving forward with the conception of ‘rigid labour laws and its hindrance to employment growth’.

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