

New labour laws will improve India's ease of doing business ranking

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Labour laws are one of the most complex and hotly debated issues in India. A labour surplus economy, such as India, should be protective of its workers but laws solely guided by this principle makes it difficult for businesses to operate. This hinders expansion of the business causing limited employment opportunities, effectively making both parties, i.e. employer and employee worse off. In India, labour is a subject of the concurrent list and hence has both central and state governed laws. The earlier labour laws were archaic and in need of serious update that the new labour legislation by Centre has provided.

As most of the earlier central labour laws were based on the size of firms, they created a perverse incentive structure wherein firms preferred to remain small. For instance, the Industrial Disputes Act (IDA), 1947 (Chapter VB) mandated firms with more than 100 employees to get permission from the Government before retrenchment of employees, while firms with less than 100 employees were exempted from the need to get this permission.

Given the transaction costs inherent in complying with such regulations, naturally a large majority of firms preferred to stay below the threshold of 100 employees. Similarly, firms avoided coming under the Factories Act by keeping their number of workers below 20 (10 without power).

Economic Survey 2018-19 mentions that dwarfs (i.e., firms that are both small and older than 10 years), dominate the Indian economy, holding back job creation and productivity. While dwarfs account for half of all the firms in organized manufacturing by number, their share in employment is only 14.1 percent and slightly less than 8 percent in Net Value Added. Small size of firms means that the firms cannot take advantage from economies of scale, which is key to competitive markets such as exports.

Another outcome of such threshold was the segmentation of labour market between formal and informal. Because producers tend to own small sized firms, a large part of workforce remained outside the formal employment system. It is pertinent to note that the basic purpose of labour regulation is to provide social security to employees, however in the earlier regime most labour laws protected workers in the minority formal sector having relatively stronger bargaining power while leaving out workers in the informal sector. Moreover, gig and platform workers were not covered under any of the earlier labour laws.

The four Labour Codes provide greater autonomy to the employers. The threshold for firm size applicable under most acts has been revised up which will encourage firms to grow bigger. For instance, the threshold for requiring prior government approval for retrenchment and layoffs has been increased from 100 to 300 workers. Also, other definitions like that of a factory has been revised upward to 20 workers (from 10) for premises where the manufacturing process is carried out using power, and 40 workers (from 20) for premises where it is carried out without using power.

For contract workers, Code will apply to establishments or contractors employing 50 or more workers (on any day in the last one year), up from 20 in the previous regime. The new labour laws also include the gig economy and platform workers along with aggregators such as ride sharing services, food and grocery delivery services, content & media services, and e-marketplaces. The scope of Employees

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Provident Fund Organisation (EPFO) has also been widened and now all institutions which have 20 or more workers will be covered. Consequently, more of the workforce will be covered by this social security legislation. Moreover, in order to make hiring easier, the new law prescribes a single licence for staffing firms to hire contract workers across different locations instead of the erstwhile regime of multiple location-specific licences.

The inter-state migrants' definition has been modified to include any person who moves on his own to another state and obtains employment. There is also a provision for certain benefits for inter-state migrant workers. These include option to avail the benefits of the public distribution system either in the native state or the state of employment, availability of benefits available under the building and other construction cess fund in the state of employment, availability of benefits available under the building and other construction cess fund in the state of employment, and insurance and provident fund benefits available to other workers in the same establishment.

The new labour codes go a great mile to reflect the current structure of the economy and includes more firms and employees under its ambit along with making the legal architecture much simpler, reducing the compliance cost of the firms. This was the need of the hour and will further our aim of improving the ease of doing business and increased competitiveness at global level.