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LABOUR LAW REFORMS

Will they kickstart economy?

Regulation as per ILO standards actually makes labour more productive and attractive. It is a fallacy that the bills now passed will help attract investors to India

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The Lok Sabha has just passed three bills dealing with codifying the plethora of labour laws in the country. Though this was long overdue and the debate over labour reforms has been raging for decades now, one needs to see if the view that it will stimulate India's declining economy is grounded in reality.

Labour being on the Concurrent List and with a confusing array of 300+ laws dealing with it, reforms were overdue. Labour laws, like laws in several other areas, are essentially a colonial legacy. Some of our laws and operational directives that flow from it were made in a particular context and are fundamentally driven by a 'trust deficit' and a 'policing mindset'. They were designed with a view that the law is not being made to facilitate compliance but to prevent non-compliance. People lose out the essence that regulation is about encouraging compliance and not about demanding a penalty for non-compliance. Instead of supportive supervision from the State/system, what we have is a 'police raj' waiting to catch people violating the law. The notion of protecting jobs also vests a lot of power in the hands of the regulator with very little accountability demanded from them. The enforcement mechanisms are clouded with opacity and open the door to corruption.

India is a State with weak governance mechanisms and poor accountability frameworks for the executive. It is alleged that corruption in the labour department disheartens industrialists and disincentivises investment, so as a solution the laws themselves need to be done away with. While this could be one way of viewing the situation, what needs to be done is to ensure greater transparency in the framing and implementation of the law, decriminalising offences, encouraging compliance and linking any State support to MSMEs through stimulus packages and tax incentives to conditional protection of the labour deployed in the enterprise.

The narrative of the last few years and especially of the past few months portrays labour as 'the problem statement' and the subsequent amendments by states, beginning with Uttar Pradesh, draw their inspiration from this thinking. Labour should be seen as stakeholders and part of the 'solution framework' and not treated as expendable entities or equated to consumable resources. Existing labour laws are primarily about protecting jobs and not about protecting people. And this neither benefits the industry nor the labour force.

Kickstarting the economy cannot be reduced to the unidimensional and simplistic approach of diluting the labour law standards and assuming that it will make enterprises competitive. The 2014 World Bank Enterprise Survey of India showed that less than 5% of firms identified labour regulation as a primary obstacle to their operations. Niti Aayog's own report mentions that among many Indian states, labour regulation does not feature as the biggest primary obstacle for firms. In fact, it is corruption which is the number one barrier for the private sector to thrive.

Other myths that are doing the rounds to justify the reforms contemplated are that investments will go up with the easing of the labour laws; Chinese companies will translocate to India; and high labour costs and complex labour laws are a barrier faced by Indian enterprises. The research reports of the International Labour Organisation (ILO) clearly indicate that there is no basis to the belief that capital chases lower labour regulation standards. In fact, research reports mention that core labour standards of the ILO produce better human capital, greater efficiency through the labour cost-productivity nexus, and more social and political stability via freedom of association and collective bargaining. These standards are the ones that attract FDI and are correlated with a productive and healthy economy.

Labour costs are steadily falling, and the Annual Survey of Industries data shows that this share was 28.5 in 1980–81, 21.4 in 1990–91, 15.5 in 2000–01, 10.3 in 2010–11 and 12.3 in 2015–16. One also needs to keep in mind that the hourly minimum wage in China is three times more than in India ($1.73 compared to $0.61). The underlying point is that labour is already very cheap in India and other factors that reduce India's competitiveness have to be first addressed if investments are to be attracted.

Stimulating the Indian economy needs an ecosystem approach. A healthy economy needs the foundation of engaged citizenry, good governance, visionary leadership, political stability, a practical way forward driven by evidence rather than mere emotion. One can no longer promote mediocrity, inefficiency and lack of accountability amongst labour in the enterprise or amongst the regulators. What is needed is to see labour as co-creators of wealth and move towards compassionate capitalism. What our lawmakers have to ensure is that the health, working conditions and a fair compensation is assured to the labour class while not restricting firms from choosing, retaining or firing talent. Reforms that address unemployment during contingencies and social entitlements like pensions will also help in bringing more people into the formal sector and benefit both labour and industry.

The Covid-19 crisis presents us with the opportunity to pause and try to appreciate what the future of work could look like a few years from now. Our policymakers could have taken on a futuristic mindset and framed the laws to facilitate economic growth then, instead of responding with band-aid solutions for today alone.

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