

## ARCHAIC LABOR LAWS: HURDLES TO INDIA'S MANUFACTURING PROSPECTS

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### INTRODUCTION

The industrial sector, with its forward and backward connections and high employment potential, holds the key to a nation's economic development. India has made some progress toward self-sufficiency in the production of a range of capital and basic goods since gaining its independence. By shifting the majority of the workforce away from low-paying agriculture, growth in the manufacturing sector has the potential to lift a large portion of the Indian population above the poverty line. India would become more prosperous and stable as a result, bringing in more business. India is a rising manufacturing power that should not be ignored, that much is clear. India is on track to become a prominent manufacturing global hub in the near future and is expected to export goods approximately worth \$1 trillion by 2030. The manufacturing sector contributes significantly to the Indian economy, accounting for 17% of the GDP and employing over 27.3 million people.

While the complex nature of labor laws adds to the cost of compliance generally and hinders manufacturing activity, the biggest barrier to manufacturing enterprises in the globalization era is their limited ability to vary the size of the workforce in response to shifts in the market environment. As a result, the main focus of this article is on aspects of labor laws that have an impact on employee relations and the operations of the manufacturing sector. The issue of labor flexibility is one of particular importance in this situation. Although there is a great amount of written material on Indian labor law and associated topics, much of it is of a highly fragmented nature, comprised of very short articles and notes on the very wide range of matters covered in India's voluminous array of employment, social security, and labor laws.<sup>1</sup>

Flexibility is essential for a vibrant labor market in the neo-classical economic framework. In contrast explores what happens when supply and demand are equal in an unfettered equilibrium, Government action to increase job security could have the unfavorable Pareto effect of making the unemployment situation worse. The legitimacy of labor laws, on the other

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<sup>1</sup>Indian Legal Periodicals, Vols. 1- 49, The Indian Law Institute, 1962- 2011.

hand, is universally acknowledged as a means of protecting workers' interests. The best regulations strike a balance between protecting workers' interests and the employer's need for labor market flexibility.

## **LABOR LAWS AND REGULATIONS IN INDIA**

Workers around the world fought for their rightfully earned privileges and for their lives, which led to the development of labor law. To better their living conditions and defend themselves, they got into fights. In the legal profession, labor law occupies a distinct position and is a dynamic field. It includes particular elements designed with employees in mind. India's labor laws resemble those of advanced industrial societies in some ways. Many laws regulate social security, workplace health, and safety, as well as other issues including minimal employment criteria. But even among those who are officially covered by the country's labor laws, a very small percentage of workers in India actually see the law in action.

For instance, The Trade Unions Act passed in 1926, is one of the country's earliest labor laws. Trade unions have been helped to legitimize their existence and operations by the early passage of the Trade Unions Act and the constitutional guarantee of freedom of association. In Indian industrial enterprises, a lack of standing orders is one of the most frequent causes of conflict between management and workers. The Industrial Employment (Standing Orders) Act of 1946 was passed in response to this issue to regulate the terms of hiring, firing, disciplinary action, holidays, and other benefits for employees in industrial undertakings. A progressive piece of social legislation from 1947 called the Industrial Disputes Act set out to enhance industrial workers' working conditions. This Act's main goal is to lessen conflict between labor and management while ensuring the highest level of economic and social justice. There are approximately 45 other laws and regulations regarding labor and also The Government of India has recently started implementing significant labor law reforms across the nation as per the recommendations of the 2nd National Commission of Labor.

It is necessary, of course, to recognize that social, economic, political, and cultural contexts will inevitably have a heavy bearing on how labor laws are received, adapted, and given effect in particular socio-economic contexts, but it is also important to recognize that such laws are introduced usually not to replicate or reproduce existing social and economic relations, but at least in part to replace or alter them. For example, Indian labor law has been labeled 'progressive', and identified as one of the country's most important institutions. Yet, on the

other hand, more recently Indian labor law has been described as mired in old-fashioned, out-of-touch regulation, as 'bizarre', and the industrial relations system that it regulates as 'absurd'. Indeed the complaints about the quality and effects of Indian labor law are extensive, to say the least. There are said to be too many laws. The law is said to lack uniformity, be overly detailed, be inconsistent, ambiguous, and poorly coordinated in policy terms. The whole system is said to be over-regulated, and at the same time to be largely ineffective.

### **CHALLENGES WITH THE EXISTING LAWS**

India has incredibly complex labor laws. Depending on how many workers there are, the laws alter. The Industrial Disputes Act, which prohibits firing any employee in a manufacturing company with 100 or more employees under any circumstances without the government's prior approval—which is rarely granted—is the worst of the laws. Even though the industry is in financial trouble, the law must be followed. Investors are therefore reluctant to invest in this industry. As a result, Indian companies continue to be, on average, quite small. clauses in the Industrial Dispute Act. • If an establishment particularly an industrial, engages more than 50 people, it must notify the relevant government 60 days before the industry closes, outlining the reasons for the closure. In 1982, the number of days of notice was raised to 90. • Prior approval from the relevant government is required for layoffs, retrenchments, and closure if the industrial establishment employs more than 300 people. In 1982, the cap was decreased to 100. The IDA Act's Chapter V-B contains the two provisions mentioned above, which are understood to cause rigidity in the labor market. These provisions merely state that it is forbidden to hire and fire people at will because, in the case of factories employing more than 100 people, the permission of the labor commissioner must be obtained before firing even one employee. Furthermore, because the subject is covered by a concurrent list, the states have added additional restrictions that make layoffs, retrenchments, and closures even more challenging.

The results are:

- Reduced labor output;
- lower productivity;
- reluctance to hire;
- lower investments;
- lower overall industrial performance

- Indian investment by foreigners is discouraged

In addition to Chapter V-B, Section 9-A raises suspicion. this paragraph. claims that you are changing the pay, benefits, and working hours. You must give a worker at least a 21-minute break each day and a day off, days prior notice. Consequently, if you urgently need to redeploy the workers. You can't do that unless you meet specific deadlines. The commercial is forbidden by this technological innovation and restructuring. Making a delicate balance is a difficult task for the governments (central/state). because it is argued that there should be a balance between industry welfare and labor welfare. It will provide once these conditions (Chapter V-B and Section 9-A) are satisfied. Industrialists have free reign to "hire and fire," stealing the protection. the current work environment for laborers. industrial reorganization is permitted. and advancement in technology. With good intentions, the government has made an effort to cover the majority during the years of planning and drafting numerous documents, and demands of the workers. Labor laws still need to be minimally implemented on the ground level. The new labor codes attempt to address most issues, but there are still some challenges that continue to exist. Additionally, since the Centre, their implementation must be observed.

## LACUNAS OF CODES

### Code on Wages, 2019

**Problem:** State governments are prohibited from setting minimum wages below the floor rate. Continuing Issue is that all state governments set their minimum wages solely above the legally required floor price. The government should establish a binding minimum wage rate rather than a binding floor wage to prevent parallel wage rates.

### Code on Social Security, 2020

**Problem:** The law only covers employees of firms with a minimum number of workers (for instance, 10 or 20), and only these establishments are eligible for benefits like pensions and health insurance. As a result, a significant portion of workers is left out of the plan. The other group of workers, which consists of those engaged in the unorganized sector where a minimum of 10 employees is required, as well as independent contractors, are left to be covered by other discretionary programs as and when the government informs them.

### **Code on Occupational Safety, Health and Working Conditions, 2020**

- It makes provisions on the working conditions of just a select group of professionals, such as stating that journalists cannot work more than 144 hours in four weeks and noting that those who work in sales promotions are entitled to supplementary leave. Other employees might view this as discriminatory.
- Charitable or non-profit businesses are not covered by this code.

### **LAWS AND REGULATIONS AFFECTING THE FLEXIBILITY OF THE LABOR INDUSTRY IN INDIA**

India's labour laws, like those in many countries, have evolved. But in the past decade or so, there have been several pieces of legislation that are holding back its manufacturing prospects. The labour laws in India are cumbersome, rigid, and often archaic, making it difficult to attract investment and foster job creation.

The Industrial Employment (Standing Orders) Act of 1946, the Industrial Disputes Act of 1947, and the Trade Unions Act of 1926 are the statutes that are pertinent to industrial relations. The Contract Labor (Regulation and Abolition) Act of 1947, which appears to have changed the landscape of regulations governing labor flexibility, must be added to this. Several clauses in other laws, such as the ones listed below, also affect labor relations. Section 59 of the Factories Act of 1948, Rule 25 of the Minimum Wages (Central) Rules of 1950, and Section 19 of the Employees State Insurance Act of 1948, which established the unemployment allowance program in 2005, all govern overtime pay.

In terms of labour law, India divides its workforce into two major categories: industrial and non-industrial. The Industrial Disputes Act (IDA) of 1947 regulates the industrial sector while the Shops & Establishments Act regulates non-industrial establishments. In addition to these two acts, the Trade Unions Act 1926 and Minimum Wages Act 1948 also govern employment relations in India. These laws often make it difficult for businesses to hire or let go of employees as they require prior government approval and/or third-party mediation before termination or layoffs can take place. This affects companies' ability to adjust their workforce size according to market conditions or customer demand. Moreover, inflexible working hours and strict job classifications prevent employers from creating positions based on necessity or expertise, hindering companies' efforts to keep up with changing business requirements.

## EFFECTS OF THE EXISTING LAWS ON ECONOMIC GROWTH

India's labor laws have become archaic and are damaging the country's potential to become a global manufacturing giant. They have created a difficult situation for businesses, restricting their operations and making it hard to modernize labor processes.

### **These existing laws have had several direct effects on India's economic growth:**

**Limited foreign direct investment:** Companies operating in India are less likely to receive foreign direct investment if they must adhere to stringent labor laws. This means less capital is entering the country, weakening the Indian economy overall.

**The increased cost of operations:** Businesses are facing higher costs due to high minimum wages and expensive hiring/firing procedures. In addition, productivity is affected when employees cannot be laid off due to inflexible laws or trade union demands for benefits and perks that companies cannot afford.

**Slow innovation:** With high operational costs and limited access to funds, there is less pressure for innovation in India's manufacturing sector than in its more successful competitors such as China.

**Diminished global competitiveness:** All of these factors combined lead to a weakened competitive edge on the international stage in terms of cost, quality, and performance of products compared to other countries' manufacturers.

Archaic labor laws hinder India's potential as a leading manufacturing hub, impacting its economic development as well as hindering businesses' ability to remain competitive on a global scale.

## EXAMINING LABOR LAWS ABROAD: INDIA VS OTHERS

The labour laws of India are complex and often differ from country to country. It is important to understand them thoroughly before establishing any connections with businesses in India. In this article, we will explore the labour laws of India, including rights for workers, safety regulations, roles of employers and employees, and other requirements for businesses. It is essential to keep in mind that labour regulation in different countries is not only shaped by different levels of state involvement but also by diverse cultural approaches and institutional

settings. Labour laws in India are largely informed by cultural factors such as respect for authority, patriarchy, and caste-based hierarchies. For example, the Indian Constitution's protection of trade union rights does not necessarily apply to public employees, as government staff are considered to be representatives of the State and thus subject to different rules.

On the contrary, European labour law is rooted in democratic principles and a higher level of state intervention, creating a framework that seeks to protect workers from exploitation. Compared to India's decentralized system which relies on enforcement mechanisms by employers or central government entities such as the Labour Court, European legislation focuses on providing social protection through collective bargaining with unions, benefits for part-time workers, and other forms of workplace regulation. As a result of this more centralized approach to regulation, workers' rights in Europe are more strongly protected.

In our analysis, we focus on these regulations' salient characteristics while emphasizing the ways in which our policies diverge from accepted worldwide standards. The review is based on the document "Detailed Description of Employment Protection Legislation, 2014–15" in the OECD's EPL Database, data on national labour laws from the European Trade Union Institute's website (ETUI), and, when applicable, the relevant national laws (Trade Union and Labour Relations Adjustment Act 1997, Malaysia and Labour Uniform Act, Trade Unions Act 1959, Korea; Trade Union and Labour Relations (Consolidation) Act 1992, UK; Trade Unions Act 1959).

Labours have access to some type of unemployment insurance in all significant industrialized nations as well as many developing nations, which provides them with financial support during times when they are out of work. Beneficiaries of the support are able to temporarily maintain their current level of living while hunting for new job prospects and pursuing training to increase their employability. On the basis of data from the ILO publication titled "Comparative analysis of unemployment and employment insurance experiences in Asia and Globally," we also provide a summary of the key aspects of unemployment insurance in developed and rising nations.

## CHALLENGES FACED IN UPDATING LABOR LAWS

The current labour laws of India have become outdated and can cause companies to lose time and money. This is because the laws are strict, inflexible, and have not been updated. Many challenges arise when trying to reform existing labour laws in India.

**LIMITED REPRESENTATION:** The labour force in India is highly fragmented and there is a limited representation of workers in India's industrial relations system. This makes it difficult to bring about any meaningful changes in labour laws.

**GOVERNMENT PROCRASTINATION:** The Indian government has been slow to take action on updating labor laws. Many of the proposed changes and amendments are still not implemented, leaving companies struggling with archaic labor laws for the foreseeable future.

**OPPOSITION FROM UNIONS:** Unions tend to be resistant to changes in the existing labor laws, as they benefit from keeping things as they are. This resistance can impede progress when it comes to reforming labor laws and making them more conducive for businesses. Overall, modernizing the existing labor law infrastructure is essential if India wants its manufacturing sector to remain competitive at a global level. Without collaboration and understanding between all stakeholders involved, it will be very hard to implement any meaningful reforms that could alleviate these challenges and realize India's manufacturing potential.

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## THE WAY FORWARD: SUGGESTED POLICY CHANGES

With outdated labor laws hobbling India's manufacturing capabilities, what is the way forward? If India wants to compete with developed countries in the manufacturing sector, it needs to make significant changes to its labor laws. Here are a few suggested policy changes that could help India unlock its manufacturing potential:



**FLEXIBLE LABOR LAWS:** Labour laws need to be reformed so that businesses can easily hire and fire workers without running into legal hassles. This will encourage businesses to set up their operations in India, as they can respond quickly to changing market demands without worrying about administration and paperwork.

**REIMBURSEMENT OF EMPLOYMENT COSTS:** The government should offer incentives such as reimbursements for recruitment costs, wages and other employment costs. This will encourage businesses to employ more people, thereby helping increase India's industrial growth and reduce unemployment.

**BETTER WORKPLACE SAFETY STANDARDS:** The government should introduce stricter safety standards in the workplace, ensuring that employers adhere to minimum safety standards. This would improve working conditions in factories, thereby increasing productivity and boosting the economy. These changes would help ensure that India can compete with other countries in the manufacturing sector and help it gain a foothold in global markets.

## CONCLUSION

In conclusion, India's growth potential as an emerging manufacturing powerhouse is limited by its antiquated labor laws that hinder the flexibility and productivity of its labor force. To capitalize on the favorable conditions for FDI, the government must introduce reforms that promote labor mobility and reduce red tape, to entice foreign companies to invest in the country and create much-needed jobs. The government must also actively involve stakeholders in the process of developing new labor laws, and take steps to ensure that the rights of its citizens are protected from exploitation. There is no substitute for a vibrant workforce in any economy and India's prospects as a manufacturing destination depend heavily on its ability to stay competitive and up-to-date with the latest labor regulations.

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