Labour Regulation in India: Emerging Perspective for Reforms

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1. Some Important Characteristics of the Indian Labour Market

• A very differentiated and segmented labour market with wide variations across sectors, occupations, region, gender, location (rural/urban) etc.
• Unbalanced pattern of growth: about half of workers engaged in agriculture, contributing to just 13% in GDP; 13% employed in manufacturing and contributes to 16% of GDP; services employ 27%, but contributes close to 60% of GDP.
• Large percentage of informal workers (93%), with low earnings, no social protection and low levels of education and skills.
• Female LFPR not only very low, but engaged much more in informal and low-paid activities.
• Considerable exclusion in access to good (formal) jobs in terms of regions, education, occupations and social groups.
• Thus, significant labour market segmentation in terms of various types of labour markets
2. **Some Recent Labour Market Outcomes**

- Slow transfer of workers from agriculture to non-agriculture
- Increasing informalisation and contractualisation and shrinkage in collective bargaining; even in formal sector, majority of workers are of informal/flexible categories
- Increasing labour market inequalities.
  - widening wage differentials between groups and sectors
  - widening gap between per worker earnings in agriculture and non-agriculture
  - Increasing share of capital and declining share of wages
- Modern sector also shows striking inequality, with significant increase in contract and other flexible categories of workers
  - rising inequality in remuneration of production and managerial workers: ratio constant at 2 until late 1990s, but sharply rose thereafter and now stands around 4.5

But some good news:
- Since mid 2000s, diversification of agriculture to non-agriculture has accelerated, and informalisation seems to have halted.
- Significant increase in real wages and labour productivity and decline in absolute poverty since 2000s.
3. **Legal Framework for Labour Market Regulation**

- Labour market largely unregulated, and covers mainly formal sector
- Labour in concurrent list of Indian Constitution and both central and state governments enact labour laws
  - About 44 central labour laws and over 150 state labour laws
- Mainly four types of labour laws
  - laws relating to conditions of work
  - laws on wages and remuneration
  - laws on social security
  - laws on industrial relations and employment security
- Scope of labour laws limited by specific provisions regarding applicability: thresholds defined by criteria, such as types of employment, size of enterprise etc.
- Thus, divide of formal and informal sector created by legislative structure itself, although some laws applied to informal sector also.
- As a whole, overall coverage of labour laws very limited (only 10-12% of workers); only laws relating to wages have somewhat larger coverage, although in recent years, both central and state governments have tried to cover larger number of informal workers, mostly relating to social security.
4. Institutional Framework of Industrial Relations


- With increasing growth of flexible categories of workers, these labour laws apply to only about 7% of all workers; in case of laws relating to industries, a miniscule proportion of about 2% of all workers.

- However, deregulation and flexibility central issues in debate for labour reforms.

- ‘Rigidity’- some provisions particularly in Industrial Disputes Act, Industrial Employment Act and Contract Labour Act seen as restricting investment, growth and employment.

- Various governments and industries have been emphasizing need of labour market flexibility.
5. **Labour Regulation and Employment**

- Heated debate about the impact of so-called rigidity of labour laws and its impact on employment growth and its structure;
- Empirical basis rather weak; divergent research findings and empirical trends;
- Increasingly felt that no conclusive evidence about labour laws restricting investment and employment as well as informalisation of workforce.
  - various surveys (including by World Bank) show that infrastructural bottlenecks, availability of land and ease of doing business (procedures, red-tapism, tax policies etc.) much more important than labour laws
  - employment in manufacturing grew in midst of rigid labour laws
- But at the same time, labour laws regime suffers from some important limitations:
  - numerous laws and considerable ambiguities in definitions; judicial nightmare and hence heavy litigation.
  - Some unreasonable provisions regulating closure of sick enterprises
  - Sharpens dualism between formal and informal sectors as well as within formal sector.
- In practice, however, considerable flexibility in labour market; at firm levels several changes in laws, procedures and practices in various states over years towards greater flexibility.
5. Labour Regulation and Employment Contd...

- Increase in informalisation and contractualisation of workers largely for reducing labour costs as well as avoiding compliance of labour laws and transaction costs associated with inefficient labour inspection machinery.
- Decline in clout of trade unions and erosion in workers’ rights and failure to organise informal workers.
  - Less strikes, more lockouts – increase in employer militancy
- Changes in governments’ attitudes from pro-labour to pro-industry
- Changes in public perception – sympathetic to somewhat hostile; Changes in the attitude of judiciary also: right to strike, right to permanancy, not basic.
- As a whole, labour may not be losing much in terms of economic benefits but in terms of participation and rights, has certainly lost vis-à-vis industry.
- Labour unrest in many sectors leading to dissatisfaction, high rates of absenteeism and worker turnover discouraging firms to invest in workers, adversely affecting firm productivity and competitiveness.
6. Recent Measures Towards Labour Reforms

- Present Government rather pro-active in labour market reforms in the wake of emphasis on manufactured growth.
- The declared objectives of labour reforms: security of workers, enhancing employment, improving ‘ease of doing business’ and transparency and efficiency in enforcement.
- Some reforms undertaken by central and state governments (eg. Rajasthan, Gujarat), broadly cover legislative and regulatory reforms, and labour governance regime; several other reforms underway.
- Legislative reforms broadly aim at providing exemptions from furnishing returns and maintaining registers; simplified procedure for 16 Labour Acts instead of 9 Acts; increasing the threshold of prior permission to 300 workers instead of 100 in ID Act; raising the limit of workers for trade union registration, increasing level of minimum wages and its coverage and increasing level of retrenchment benefits.
6. Recent Labour Reforms Contd..

• Other ongoing legislative initiatives include simplification and rationalization of labour laws by evolving labour codes and amalgamating numerous labour laws and exemptions to small factories from various provisions of laws.

• These new initiatives largely aim at uniform definitions, facilitation in business environment, change in prosecution and penal provisions, uniform and speedy grievance redressal mechanism, encourage maintenance of records and returns electronically; flexibility in wage employment while expanding social security.

• Other proposed Amendments include changes in Child Labour Act 1986; Payments of Bonus Act 1965; and Minimum Wages Act enhancing its applicability; amendments to contract labour Act to facilitate contract work.

• As a whole, the new and proposed measures try to improve the so-called business environment by providing flexibility in hiring and firing of workers by raising the threshold limit of state permission and raising somewhat coverage of social security and welfare measures, in addition to improving the labour inspection machinery through technology.
7. Labour Reforms: Need of a Fair and Composite Deal

- Certainly the archaic labour laws regime and its enforcement system need reform.
- The guiding principle has to be growth in both quantity and quality of employment and balancing the interests of enterprises and workers.
- While the ongoing measures attempt to enhance security of workers to some extent, efforts seem in to be more towards facilitating the use of flexible labour and reducing further the already weak collective bargaining system (increase in the threshold of trade Union recognition)
- Some important elements of reforms in labour regulation machinery may be:
  - Simplification, rationalisation and consolidation of labour laws which are important both in the interest of workers and enterprises. This is very time consuming but the ongoing exercise is largely in right direction.
  - In spite of weak empirical evidence, provision relating to prior state permission for closures is not rational; the threshold of number of workers also irrational;
  - But it needs to be accompanied by a much higher separation benefits and evolving a fair and transparent system and machinery of adjudication
  - Strengthening collective bargaining system (multiplicity of unions? Elected Workers’ Council?)
7. Labour Reforms Contd......

• In view of emerging pattern of production requirements, use of contract workers may be allowed where requirements justified but discourage its use just for denying worker the benefits to which he is entitled to; important to provide contract workers same wages and other non-wage benefits as regular workers and making them portable; both contractor and principal employer should be jointly responsible for effective implementation of these measures.

• For reducing sharp dualism in the labour market, it is necessary to ensure a humanly acceptable working conditions as well a universal package of social security taking care of old age, sickness, accident etc. Unemployment insurance scheme should also be gradually evolved.
  - Scattered measures have been taken by several state governments, but need is to evolve a minimum social protection floor including a Statutory National Minimum Wage.

• The social security measures, should not rely only on enterprises but a partnership with state wherever necessary should be done, particularly in case of small enterprises. India growing over 7% per annum and workers deserve to get benefits of growth in order to make it inclusive and even sustainable.

• Reforms in the labour market regulation regime should focus on both enterprises and workers and it needs to be a fair and composite deal for the both.
THANK YOU