

## THE PATH TO LABOUR REFORMS

In an economy like India, having a large work force, it is important to improve employment and employability, streamline labour issues and develop adequate means to absorb the labour in the economy. Industry has been clamouring for core labour law reforms for past several years. For example, there are close to 44 central labour laws and over 100 state labour laws, enacted 4 to 8 decades back which are archaic and do not address the concerns of a globalised economy like India! As per the latest comparable figures available with ILO, the mandays lost in India were a staggering 23.34 lakh as compared with 1.7 lakh in UK and 7.4 lakh in US with Russia at a low of only 10,000.

The Labour Ministry has taken steps for codification of existing Central labour laws into 4 Codes: Labour Code on Wages, Labour Code on Industrial Relations, Labour Code on Social Security & Welfare and Labour Code on Occupational Safety, Health & Working Conditions.

We suggest the following changes in labour laws so as to provide an impetus to manufacturing sector!

- Of the four codes, the one on wages has been introduced in the Lok Sabha and is under examination. The other three codes are at the pre-legislative consultation stage and should be completed urgently.
- Separately, *National Policy for Domestic Workers* needs to be brought in at the earliest to recognize their rights and promote better working conditions.
- The companies on their own should lay down SOPs for all segments of business. While the company management can take administrative decisions based on the exigencies and business scenario, it should be ensured that hiring and firing should always lie within the laid down SOPs and should not be exercised outside the ambit.
- The companies should also maintain reasonable pay parity between the superior and subordinates.
- In case of unorganised sectors or very small units which do not have any trade union representation, a Government driven mechanism should be devised to ensure that the workers at such set-ups, because of not being fully literate and not having any representation, are not deprived of the basic wages and benefits.

### THE PRELUDE TO LABOUR REFORMS

- ◆ In an economy like India, having a large work force, it is important to improve employment and employability.
- ◆ While labour welfare is one of the utmost priority, the aspects of productivity and efficiency have also to be looked at. Industry has been clamouring for core labour law reforms for past several years.

### LABOUR UNREST AND PLAUSIBLE SOLUTIONS

- ◆ Industrial Relations paradigm in India had dramatically changed following the adaptation of free market policy in the early nineties. This is apparent from the figures of Union Government's Labour Bureau, which exhibits drastic decline of industrial disputes from 3049 in 1979 to 370 in 2011 and further to 109 in 2016.
- ◆ However, there has been limited unrest in the recent years related to wages, indiscipline, service conditions and contractualisation of work.
- ◆ There is a need for comprehensive review of labour laws, which should be an instrument for promoting harmonious industrial relations, investment and employment generation.

### THE PRESENT STATUS OF LABOUR LAWS IN INDIA

- ◆ Article 246 of the Indian constitution puts the issues related to labour and labour welfare under the concurrent list.
- ◆ The by-product of this is, there are close to 44 central labour laws and over 100 state labour laws, enacted 4 to 8 decades back which are archaic and do not address the concerns of the globalised economy. For example, the procedural systems such as securing registration/license and maintenance of registers and records (in physical forms) and submission of information under various labour laws are cumbersome and even repetitive. Employers hence seek liberalisation of inspection and labour administration system (governance reforms).
- ◆ As per the existing regulations, companies can get embroiled in a series of complicated disputes with their workers and officials that involve regulations set by authorities at different levels of Government and can lead to long, drawn-out adjudication in various parts of the legal system.
- ◆ Further, the Contract Labour (Regulation and Abolition) Act, 1970 (the Contract Labour Act) does not allow user enterprises to use contract labour at will to tackle uncertain demand for their products.
- ◆ Another core issue is the absence of a central law providing for a mechanism to determine the collective bargaining agent. For example, in India, right to protest is a fundamental right under Article 19 of the Constitution of India but, right to strike is not a fundamental right rather, a legal right with statutory restriction attached in the Industrial Dispute Act, 1947.

### Trend in Industrial Disputes

Year	strikes	lockouts	Total	Mandays lost
2012	133	185	318	12936795
2013	103	155	258	12645371
2014	119	168	287	11095370
2015 (P)	106	22	128	3063130
2016 (P)	93	16	109	2035738

Source: Labour Bureau, SBI Research

**WHY LABOUR REFORMS?**

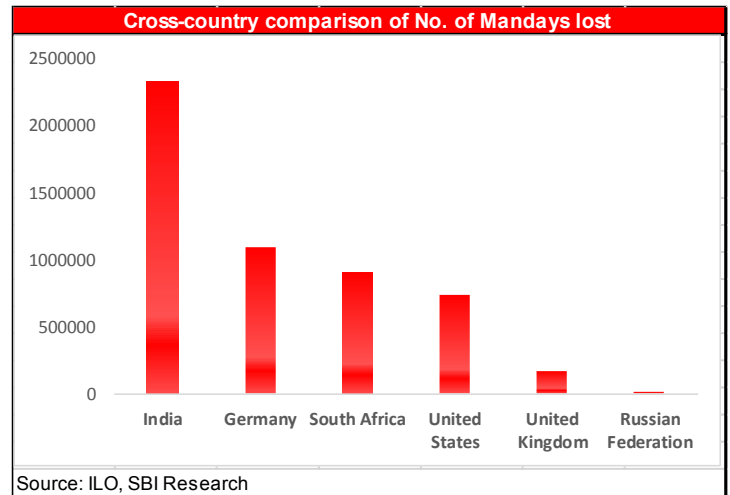
- ◆ The investors look out for stability and sustainability. The land and labour resources are critical for them to firm up their investment plans. Though, the cases of industrial disputes in the country have come down, they are far more when compared to other countries. As per the latest comparable figures available with ILO, the mandays lost in India were a staggering 23.34 lakh as compared with 1.7 lakh in UK and 7.4 lakh in US with Russia at a low of only 10,000.
- ◆ In case of collective dismissal also, there are many countries where approval of administration is not required before dismissal. In the given list of countries, barring India and Srilanka, in no other country approval is required for collective dismissal.

**INITIATIVES TAKEN TILL DATE ARE MINISCULE**

- ◆ The Industrial Disputes Act (IDA), the key piece of legislation that lies at the heart of the debate on labour laws and rigidity in India, where it is necessary for firms employing more than 100 workers to obtain the permission of state governments in order to retrench or lay off workers. That bar has now been raised to 300 workers.
- ◆ With a rather liberal eligibility condition of seven members for formation of a trade union and given the splintered nature of Indian society and polity, there was an unbearable multiplicity of trade unions resulting in intra-union splits. It took exactly 75 years to cure this malady! In 2001, the law was amended to raise the eligibility conditions for the formation of trade unions.
- ◆ Government had introduced preventive measures to avoid unrest in future by incorporating Section 9C in the Industrial Disputes Act, 1947 on September 15, 2010 for setting up of one or more Grievance Redressal Committees with equal representation from employers and workmen, in every industrial establishment employing twenty or more workmen for the resolution of disputes arising out of individual grievances.
- ◆ Recognizing the high cost of compliance with existing labour regulations and the complexity generated by various labour laws at the central and state levels, the central government has recently introduced policies to make compliance easier and more effective. They are also simplifying and rationalizing the large and often overlapping number of labour laws.

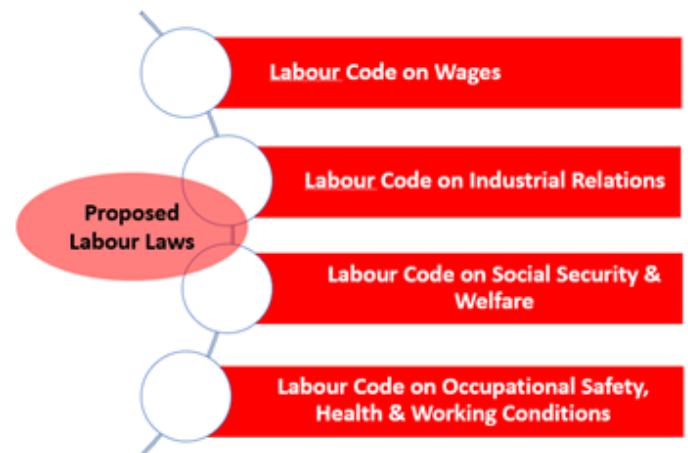
**LABOUR LAWS: PROPOSED CHANGES BEGINNING 2014**

- ◆ As per the recommendations of the 2nd National Commission on labour, Ministry has now taken steps for codification of existing Central labour laws into 4 Codes by simplifying, amalgamating and rationalizing the relevant provisions of the Central Labour laws. These codes are : (1) Labour Code on Wages (2) Labour Code on Industrial Relations (3) Labour Code on Social Security & Welfare & (4) Labour Code on Occupational Safety, Health & Working Conditions.
- ◆ These measures include moving licensing and compliance processes online, simplifying procedures and permitting self certification in larger number of areas.



Cross Country Comparison Labour Regulations Related to Consultations and Notifications Prior to collective dismissal						
Country	Prior consultations with trade unions required	Notification to Public Administration Required	Notification to the workers' Representative Required	Approval by public administration or judicial bodies required	Consent of workers' representatives	Employers obligations to consider alternatives to dismissal
<b>ASIA</b>						
Bangladesh	No	Yes	Yes	No	No	No
China	Yes	Yes	Yes	No	No	Yes
India	Yes	Yes	Yes	Yes	Yes	Yes
Indonesia	Yes	No	Yes	No	No	Yes
Philippines	No	Yes	No	No	No	No
Malaysia	No	Yes	No	No	No	No
Sri Lanka	No	Yes	No	Yes	No	No
Thailand	No	Yes	No	No	No	No
Vietnam	Yes	Yes	Yes	No	Yes	Yes
<b>EUROPE</b>						
France	Yes	Yes	Yes	No	No	Yes
Germany	Yes	Yes	Yes	No	No	Yes
Russia	Yes	Yes	Yes	No	No	Yes
UK	Yes	Yes	Yes	No	No	Yes
<b>LATIN AMERICA</b>						
Brazil	-	-	-	-	-	-
<b>NORTH AMERICA</b>						
USA	No	Yes	Yes	No	No	No
<b>AFRICA</b>						
South Africa	Yes	No	Yes	No	No	Yes
Tanzania	Yes	No	Yes	No	No	Yes
Uganda	No	Yes	Yes	No	No	No

Source: ILO, SBI Research



- ◆ One of the Government's key initiatives is to rationalize existing central labour laws into four codes, namely wages, safety and working conditions, industrial relations, and social security and welfare.

#### PROPOSED ROADMAP

- ◆ Of the four codes, the one on wages has been introduced in the Lok Sabha and is under examination. The other three codes are at the pre-legislative consultation stage and should be completed urgently.
- ◆ We believe the following steps may be taken from both State and Central legislation to take the labour reforms forward.
  - Separately, *National Policy for Domestic Workers* needs to be brought in at the earliest to recognize their rights and promote better working conditions.
  - Separately, the companies on their own should lay down SOPs for all segments of business. While the company management can take administrative decisions based on the exigencies and business scenario, it should be ensured that hiring and firing should always lie within the laid down SOPs and should not be exercised outside the ambit.
  - The companies should also maintain reasonable pay parity between the superior and subordinates. The concept of variable pay should be clearly defined and not left in the hands of management.
  - In case of unorganised sectors or very small units which do not have any trade union representation, a Government driven mechanism should be devised to ensure that the workers at such set-ups, because of not being fully literate and not having any representation, are not deprived of the basic wages and benefits. The Government is giving several benefits in the form of subventions, lower interest rates etc for small units. These units should, therefore, be made responsible towards workers also. This would eventually increase the efficiency of the system.

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