



LABOUR LEGISLATION IN INDIA – A CRITICAL REVIEW OF CHOSEN ENACTMENTS AND THE WAY FORWARD

Dr. Shreshth Chhabra¹ and Dr. Vivek S. Kushwah²

¹Renaissance University, Indore.

²Director - School of Management, IPS Academy, Indore.

ABSTRACT

The paper presents a critical analysis of act regarding health and safety, welfare, leaves and social security. In India, number of labour legislations has been enacted to promote the condition of the labour. Many researchers found that Indian labour laws need overhauling and reforms to make the current industries more competitive and attract fresh investment. The issues raised call for reforms in labour laws. We are looking forward to 'inclusive growth', which may not be possible without updating laws and simplification of procedures. Government should not only play the role of 'regulator' rather it should be 'facilitator'.

KEYWORDS: Labour, welfare, law, re-look.

INTRODUCTION

The paper presents a critical analysis of act regarding health and safety, welfare, leaves and social security. Mahatma Gandhi once said "A nation may do without its millionaires and without its capitalists but a nation can never do without its labour. Labour is far superior to capital because it is less dependent on capital than the latter is on labour". (Satyanarayana, Nd). In India, number of labour legislations has been enacted to promote the condition of the labour. At present, there are 44 labour related statutes enacted by the Central Government dealing with minimum wages, accidental and social security benefits, occupational safety and health, conditions of employment, disciplinary action, formation of trade unions, industrial relations, etc. Government's attention is also focused on promotion of welfare and providing social security to the labour force. These objectives are sought to be achieved through implementation of various labour laws, which regulate the terms and conditions of service and employment of workers (Ministry of labour and employment, 2011).

LABOUR WELFARE REGIME –

A critical analysis of various labour enactments governing labour welfare revealed that concept of labour welfare is embodied in the constitution of India and various acts carry its essence. Factories act, 1948 is the principal act governing the service conditions and employment in terms of health and safety norms, welfare, provision of work hours and leaves. Working for long hours has proven to have negative impact on workers psychological and physical health. It also decreases the attention and the worker becomes more prone to accident and other problems. Hence the provision for working hours and leaves has been introduced to break the monotony and relax workers of the work related strain. Weekly and annual leaves provide the much needed break to the workers and they get time off to look into themselves, their family and social engagements and come refreshed to the work. Health and safety of workers is of prime importance to all the



parties concerned because it's the matter of life and death. A healthy workforce would have several advantages to offer like less absenteeism, more productive, less cost to company in terms of compensation, legal hassles and negative image in employment market which would make hiring and retaining workforce more difficult. Employment of contractual labour is governed by contractual labour act in which the contractor is the main benefactor and then the principal employer.

Social security legislations in India comprises of mainly five enactments – Workmen's compensation Act, 1923, The employees' state Insurance Act, 1948, The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, The Maternity Benefits Act, 1961 and the Payment of Gratuity Act, 1972. Social security measures which are mostly contributory in nature ensure the availability of benefits during the non-productive age due to disability, death and retirement. Such measures not only provide the much needed support during the time of need but give the worker and the family to pass the rest of life with dignity. The terms like worker, wages etc have been differently defined under different laws (Mallick, 2009).

However many researchers found that Indian labour laws need overhauling and reforms to make the current industries more competitive and attract fresh investment.

The need to re-look -

Several researches carried out by individuals, national & international institutions have raised the issues on Indian labour laws being archaic, have brought in rigidities in the labour market, issues rather subject matters are shattered in bits & pieces over different act like ESIC also covers maternity benefits, wages etc, different acts similar information but different formats, (Debroy, 2001), women participation in the workforce (Jamwal and Gupta, 2010), varying degree of implementation in different organizations (Sheoran, 2013), laws not been very effective in providing the stipulated benefits even to workers covered by them (Jha, Golder and Panda, 2012) and may have actually hurt them (Basu, 2005), much variation across States (Debroy, 2012), laws being excessively pro-workers (Datta & Sil, 2007), adverse affect of labor on firm size (Hasan & Jandoc, 2012), lack of incentives for non- violation (Punj, 2011) and problems with its implementation (Balakrishnan, 2009)

The issues raised above call for reforms in labour laws. Reforming laws will bring in more employment & would shift unorganized to organized, as our employment elasticity of GDP is 0.15. (Sabbarwal, 2005). Labor reforms are considered to be one of the most politically-difficult reforms that need to be implemented in India, but there are areas in which useful progress can be made. For example, the less controversial labor reforms (such as unifying and harmonization of statutes, and reducing the procedural and transaction costs) can be carried out with relative ease, and the irrelevant laws can be eliminated or simplified. For the more contentious regulations, it might perhaps be useful to move them fully to the state list. Allowing the firms flexibility in conditions under which workers can be reassigned to other tasks; or allowing for provisions for the speedy resolution of worker-management disputes might also be easier to carry out. To make the changes in labor market regulations politically more acceptable the Chinese experience might offer some useful lessons for India. The large scale labor market reforms and the large restructuring of public sector enterprises in China were carried out simultaneously and the sequencing of related reforms, such as social security, pension reforms etc., was calibrated carefully. Importantly the local and provincial governments were allowed to carry out the reforms as they deemed appropriate. It served two purposes, first the programs could be tailored to the needs of specific geographical areas and industries; and second, opposition, if any, was localized and could be addressed at that level rather than it derailing the whole process (Gupta and Kumar, 2010)

The way forward –

It is suggested that the laws should be rationalized i.e. being made more consistent with the context, should be merged wherever they deal with similar provisions like laws relating to health, safety and welfare of workers (permanent or contractual) should be brought under Factories Act or similar act like working/employment conditions act. With creation of merged act the return required will be simplified in

the sense that single format may suffice requirement under various act or at least to start with the information to be supplied should be made through singular formats or merging of many formats into one simple one.

Rather than putting up all facilities at one go they should be classified under three categories – critical, essential and desirable. It is also suggested to use IT for making the information available through single format to all the departments concerned. Government should bring more clarity in labour laws by appropriately wording and defining it like core and non – core activities in contract labour act and singular definitions of terms throughout all laws. The debate on policy should focus on the efficient design of regulations and institutions, rather than on “less regulation versus more regulation”. Government should also try to strengthen the enforcement machinery by adding more of physical and organizational resources. By no means do we tend to suggest that compliance means creating panic. It should be educating both to workers and companies and willful partnership. The penalty clause under labour laws hardly acts as a deterrent for non – compliance. Either it should be to impose severe fines as seen in Ontario laws, where penalty for a contravention is the prescribed amount multiplied by the number of employees affected by the contravention and increases with every contravention. (Ontario ministry of labour, 2013). or move away from the penalty mindset and have an incentive system for compliance. Research showed that in general sanction strategy may work as deterrence but in context of organisation, incentives work well when desired outcome is linked to reward (Tyler, 2006). Such incentives can be company of the year recognition, preferred government supplier status, promotion by government in international and national expo, best practices case study, tax benefit on the amount spends on compliance and so on.

CONCLUSION –

Welfare activities are beneficial to all the parties concerned – for workers it would mean a better life for themselves and their family, for employers it would mean satisfied, efficient, healthy, loyal and productive workforce and for government it would mean peaceful industrial climate which would attract investment and promotion of interest of workers and companies. Since we are looking forward to ‘inclusive growth’, which may not be possible without updating laws and simplification of procedures. Government should not only play the role of ‘regulator’ rather it should be ‘facilitator’.

REFERENCES –

- Balakrishnan K. G (2009).Dr. B.R. Ambedkar Foundation lecture on Constitutional values and the promotion of labour welfare. available from <http://ambedkarfoundation.nic.in/html/lec-bal.pdf>. accessed on 26/08/2013.
- Basu K (2005).Labor Laws and Labor Welfare in the Context of the Indian Experience. available from <http://www.arts.cornell.edu/econ/CAE/05-17.pdf>.accessed on 25/07/2012.
- Datta R C and Sil M (2007).Contemporary Issues on Labour Law Reform in India: An Overview. Tata Institute Of Social Sciences, Mumbai.
- Debroy B (2001).Why we need law reform. INDIA 2000 A symposium on the year that was available from <http://www.india-seminar.com/2001/497/497%20bibek%20debroy.htm>.accessed on 10/12/2011.
- Debroy B (2012). India’s Segmented Labour Markets. Inter-State Differences, and the Scope for Labour Reforms. Economic freedom of states of India,Academic Foundation, New Delhi pp- 75-82.
- Gupta P and Kumar U (2010). Performance of Indian Manufacturing in the Post Reform Period. Available from https://mpira.ub.uni-muenchen.de/24898/1/MPRA_paper_24898.pdf.Accessed on 20/10/2018.
- Hasan R and Jandoc K R (2012).Labor Regulations and the Firm Size Distribution in Indian Manufacturing. available from http://indianeconomy.columbia.edu/sites/default/files/paper_4-hasan.pdf. accessed on 27/12/2013.
- Jamwal R and Gupta D (2010).Work participation of females and emerging labour laws in India. Asia-Pacific Journal of social sciences. II (1).pp-161-172.

- Jha P, Golder S and Panda S (2012). Labour Market Regulations and Economic Outcomes: Some Capital Lessons and Minor Messages. National Seminar on 'Globalisation, Labour Markets and Employment Relations in India. Mumbai. 9-10 July.
- Mallick M R (2009). Labour and Industrial Law manual. New Delhi: Professional book publishers.
- Ministry of Labour and Employment (2011). Introduction. available from <http://labour.nic.in/upload/uploadfiles/files/Aboutus/About%20us.pdf>. accessed on 15/01/2012.
- Ontario ministry of labour (2013). Employment Standards Act. 2000. available from http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_00e41_e.htm. accessed on 26/08/2013.
- Punj S (2011). Labouring over reforms. available from <http://businesstoday.intoday.in/story/government-steps-on-labour-law-reforms/1/16189.html>. accessed on 16/08/2013.
- Sabharwal M (2005). Assuage labour pains through reforms. available from <http://www.financialexpress.com/news/assuage-labour-pains-through-reforms/133048/0>. accessed on 25/12/2012.
- Satyanarayana (Nd). Gandhi's Vision and Technique of Conflict Resolution. available from <http://www.mkgandhi.org/articles/vision.htm>. accessed on 23/6/2013.
- Sheoran A K (2013). Implementation of Factories Act, 1948 in Haryana – A Comparative Study of Three Industries. IOSR Journal of Business and Management (IOSR-JBM).9(6).pp- 104-110
- Tyler T R (2006). Why People Obey the Law. New Jersey - Princeton University Press