

# Enhancing productivity through Labour Reforms for Economic Development



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*Capacity to uplift and develop people lives depends on economic development. The labour policy of a country should, while ensuring basic rights and protections for working people, also contribute to the creation of an environment conducive to economic development and wealth creation. Creation of an enabling environment is a prerequisite for the promotion of sustainable enterprises. This paper reveals the importance of a vibrant economy to have a labour relations regulatory frame work which is consistent with the needs of the world of work.*

**Keywords:** Labour Reforms, Productivity, Sustainable Enterprises

## 1. Introduction

Every system of industrial relations is a normative system regulating employment relations. A society needs a normative ordering of human relations without whom there could be conflicts and chaos. Industrial relations systems set the parameters for such relations through legal and illegal norms and sanctions. However the extent to which emphasis is given and placed on legal norms and sanctions carry from system to system.

Blackstone in his commentaries defines the employment relationship as being the third most important relationships next to husband and wife and parent and child. It is obvious that people working together must cooperate with each other if they are to gain the maximum to themselves and each other.

Labour relations in any country should necessarily be part of a development strategy. It determines the shape and content of the Labour Laws and relations system. The contributions of this system cannot be considered in isolation, but as a part of country's overall development strategy which seeks to achieve balanced socio economic development. Sustainable development involves responding to the needs of society without compromising the needs of future generations.

Creation of an enabling environment is a prerequisite for the promotion of sustainable enterprises. We need to have laws and regulations that compliment promotion of sustainable enterprises. One of the weaknesses in the regulatory framework is that we have a macro –level approach in the regulatory framework when in fact the center of gravity of labour relations is the workplace. In essence, the emphasis has been on the law and not on sound relations at the workplace.

There is a need for labour reforms. There are many good reasons for it. Firstly it is important for a vibrant economy to have a labour relations regulatory framework which is consistent with the needs of the world of work. Secondly, it is important that the laws are not complex, but simple and clearly understood by stakeholders. This also helps in more compliance.

Thirdly, we need to acknowledge that labour is an asset to be nurtured. It is not just a cost but a competitive advantage. In this context we need to ensure that the labour regulatory framework compliments this view. We need to acknowledge that today, human resources management and development policies and practices are inextricably intertwined with labour relations.

How do we enhance productivity through labour law reforms? Another significant feature of labour law and relations is that it has been a system that is not conducive to productivity improvement. The living standards in advanced economies are essentially founded in their manufacturing productivity achieved over a period of about 125 years. They are now seeking to repeat their success in the area of service productivity.

Labour productivity matters are key to economic development. Gains in productivity lead to more goods and services being produced, which contributes to lower prices benefiting consumers and down-stream firms. Productive firms are more competitive, increasing returns, profits and employment. Productive employees enjoy better working conditions and earn more. More profit and income leads to higher tax returns, which boosts the capacity of governments to deliver services. All of which lead to a reduction in poverty. The large differences in national income per capita mostly reflect differences in labour productivity. Indeed, the Organization for Economic Cooperation and Development (2015, The Future of Productivity) suggests productivity will be the main driver of economic growth and well-being over the next 50 years. Similarly, the International Labour Organization (2016, World Employment Social Outlook) argues that a one percentage point increase in the contribution of labour productivity to Gross Domestic Product per capita growth reduces poverty by around 0.18 percentage points. Analyzing labour productivity at the sector level many economies are experiencing a slowdown in productivity. Some of the general reasons put forward for this are the fallout from the global financial crisis, less innovation, a boost in the supply of labour based on population growth and migration, and stagnating wages leading to lower demand and a reduced motivation for productivity improvements. However, it is important to go beyond these general explanations to consider the changes occurring to productivity at the sector level. A sector level analysis shows staggering differences between industries. For example, agriculture, which still employs the largest share of workers in low and middle-income countries, exhibits no employment growth, but shows particularly high productivity growth. This is likely due, at least in part,

to the rise in agricultural prices. Financial services on the other hand have high employment growth, but negative productivity growth. Donor and development agencies must consider which industrial sectors to focus their business environment reforms on: those where growth is high or those where growth is low? While data on past performance is only one consideration, it is important to ask why productivity is low in one sector and not in another. This question can only be answered on a case-by-case basis. Keeping in mind the differences in industry performance between countries, it is crucial to use up-to-dated local industry data for such an assessment.

### 1. What Influences Productivity?

Many business environment factors influence productivity. This Policy Brief focuses on a subset of several 'framework conditions' that are both workforce and productivity related. These conditions encompass the legal framework and collective agreements among public and private stakeholders, as well as their implementation through policies, institutions and processes.

While donors may wish to focus on 'strong' drivers, this may not guarantee success. For example, while relevant, high quality training, innovation, employee engagement initiatives, and safety measures often have a positive influence on labour productivity, it is necessary to address the factors that hinder productivity improvements in a given context. Whether or not a positive impact can be generated also depends on the implementation design. Labour productivity drivers can be addressed by single firms or by a group of firms (e.g., through their business associations), or by public policy, legal and regulatory reforms. However, this is a complex task and it is important to ensure reforms create an equal playing field for all firms. Reforms should boost competition through improvements in productivity.

Success factors in donor interventions. The main success factors identified are:

- Longer and more customized interventions;
- Good partnerships with key market actors; and
- Market system development approaches.
- The main constraints to success are
- Insufficient access to beneficiaries;
- Low levels of trust among market stakeholders;
- The difficulty of scaling up and influencing
- Broader policy

### 2. Why We Need Labour Reforms

- **Productivity Across all Sectors:** A large share of India's workforce is employed in low productivity activities with low levels of remuneration. This is especially true of the informal sector where wages can be one twentieth of those in firms producing the same goods or services but in the formal sector.
- **Protection and Social Security:** A large number of workers that are engaged in the unorganized sector are not covered by labour regulations and social security. This dualistic nature of the labour market in India may be a result of the complex and large number of labour laws that make compliance very costly. In 2016, there were 44 labour laws under the statute of the central government. More than 100 laws fall under the jurisdiction of state governments. The multiplicity and complexity of laws makes compliance and enforcement difficult.
- **Skills:** According to the India Skill Report 2018, only 47 per cent of those coming out of higher educational institutions are employable
- **Employment Data:** We currently lack timely and periodic estimates of the work force. This lack of data prevents us from rigorously monitoring the employment situation and assessing the impact of various interventions to create jobs.

### 3. Significance of Labour Reforms for Sustained Economic growth and Employment Generation

- **Enhance Skills and Apprenticeships:** The Labour Market Information System (LMIS) is important for identifying skill shortages, training needs and employment created. The LMIS should be made functional urgently. Ensure the wider use of apprenticeship programmes by all enterprises. This may require an enhancement of the stipend amount paid by the government for sharing the costs of apprenticeships with employers.
- **Labour Law Reforms:** Complete the codification of labour laws at the earliest. Simplify and modify labour laws applicable to the formal sector to introduce an optimum combination of flexibility and security. Make the compliance of working conditions regulations more effective and transparent. The National Policy for Domestic Worker needs to be brought in at the earliest to recognize their rights and promote better working conditions.
- **Enhance Female Labour Force Participation:** Ensure the implementation of and employers' adherence to the recently passed Maternity Benefit (Amendment) Act, 2017, and the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act. It is also important to ensure implementation of these legislations in the informal sector. Ensure that skills training programmes and apprenticeships include women.
- **Ease Industrial Relations to Encourage Formalization:** Increase severance pay, in line with global best practices. Overhaul the labour dispute resolution system to resolve disputes quickly, efficiently, fairly and at low cost. Strengthen labour courts/tribunals for timely dispute resolution and set a time frame for different disputes.

- **Wages:** Make compliance with the national floor level minimum wage mandatory. Expand the Minimum Wages Act, 1948, to cover all jobs. Enforce the payment of wages through cheque or Aadhaar-enabled payments for all.
- **Working Conditions and Social Security:** Enact a comprehensive occupational health and safety legislation based on risk assessment, employer-worker co-operation, and effective educational, remedial and sanctioning. Workers housing on site will help to improve global competitiveness of Indian industry, along with enhancing workers' welfare. Enhance occupational safety and health (OSH) in the informal sector through capacity building and targeted programmes. Ensure compulsory registration of all establishments to ensure better monitoring of occupational safety as well as recreation and sanitation facilities. Enhance transparency in the labour inspection system by allowing online complaints and putting in place a standardized and clear mechanism.
- 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. These measures include moving licensing and compliance processes online, simplifying procedures and permitting self-certification in larger number of areas. One of the government's key initiatives is to rationalize 38 central labour laws into four codes, namely wages, safety and working conditions, industrial relations, and social security and welfare. 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.

#### 4. Approaches towards Productivity

This section examines three independent approaches to productivity enhancement and how they interact with economic transformation. These include (i) shifting resources (i.e. labour) to sectors with more productive processes, (ii) shifting resources to more productive firms and (iii) improving productivity within firms.

This section often refers to the term 'reallocation of resources'. A traditional theoretical description of the term posits that macroeconomic resource allocation can be undertaken through two distinct market systems. The first is the command system while the second is the market system. Direct allocation (or reallocation) of resources (between sectors or between firms) is strongly associated with centrally controlled markets where resource allocation is controlled by a central government. Market allocation of resources hinges on the theory that resources will be channeled towards their most efficient (or profitable) use by market players (i.e. firms). Reality is more complex than this binary dichotomy as in most countries there is often no single system in play. Although most countries include some principles of market allocation, there are often strong directional pushes to channel resources towards strategic sectors. The modalities of resource allocation differ and are often used in conjunction with one another. Examples include the use of incentives (or disincentives) such as taxes or subsidies to allocate resources towards specific sectors, or the implementation of industrial development policy which favors particular sectors over others. This section is an attempt to illustrate different ways of enhancing productivity by relating each way to a different level of the economy: the macro level (shifting resources between sectors), the meso level (shifting resources within sectors) and the micro level (shifting resources within individual firms). It provides the conceptual underpinning on which the remaining sections will build when exploring policy and donor interventions used to improve productivity.

The impact of micro-, meso-, and macro-economic determinants on firm productivity growth from an evolutionary and systemic perspective is that in small and medium-sized enterprises this period is characterized by strong employment and productivity growth. In this context, increases in productivity are explained better by innovation rather than falling employment. The microeconomic dimension is tackled by resorting to innovation results (product and process), which in turn are estimated through innovation efforts. The meso dimension is considered in terms of each firm's position in the competitive space; that is, whether each firm's productivity level is below or above the sector average. The macro determinant of changes in productivity considered here is the expansion of domestic demand, estimated by the sectoral apparent consumption. The results show that the micro and meso dimensions contribute to explaining firm-level productivity growth. Innovation results, estimated through innovation efforts and linkages, explain productivity growth. The firm's position in the competitive space shows a U-shaped relationship with productivity growth.

#### 5. Review of Literature

**5.1 Moving resources across sectors with different productivity** In developing countries, where large gaps in labour productivity are a reality, the key to driving growth and development are the shifts in labour flows from low productivity to high-productivity activities. Essentially, this means that one of the key drivers of growth is the capacity to move resources from areas of an economy that are underproductive to areas (or rather, sectors) of an economy that have higher productivity levels (McMillan and Rodrik, 2011). Productivity gaps exist between economic sectors (such as agriculture and manufacturing) as well as between firms within the same sector. The traditional interpretation has been the dichotomy in productivity between traditional and modern sectors, i.e. low labour productivity in agriculture (Dercon and Gollin, 2014). However more recent literature has shown that productivity gaps also exist within modern sectors like manufacturing (McMillan et al., 2014). There is evidence that industrialization is an important driver of growth – most countries that grew rapidly, from the 1950s onwards, were those that showed signs of rapid industrialisation, first in Western Europe and subsequently in East Asia – although a small group of countries like Saudi Arabia could show increased growth thanks to booms in natural resources such as oil (Rodrik, 2013a). For example, concentrating on the

manufacturing sector (as representative of a ‘modern’ sector) may be an important part of the productivity-enhancement process. Data covering 118 countries (Rodrik, 2013a; Rodrik, 2013b) show that within the formal manufacturing sector there is a labour productivity convergence over time. Countries where the productivity levels of manufacturing are low have shown faster productivity growth rates (within the sector), converging at about 2% a year towards the same productivity levels as those seen in higher productivity countries. It is, however, important to note that such convergence is not common across all sectors – and is actually less likely outside the manufacturing sector. At the aggregate national level, this convergence does not scale up to catch-ups in labour productivity due to the limited significance of manufacturing in most developing countries (Rodrik, 2013b). These productivity gaps, although larger in developing countries than in high-income countries, can also be an important source of growth. The productivity gaps represent inefficiencies in the allocations of resources, which hamper labour productivity, but the reallocation of resources through structural change can help an economy to grow. Where structural change has occurred, high growth rates often result from these changes, but the type of structural change is important, as differences in growth rates in Asia (high growth) and Latin America and Africa (low growth rates) can attest to.

Sectoral and aggregate labour productivity data from 38 countries between 1990 and 2005, covering a range of countries in different income brackets and across all continents (from Malawi to the US), show that there are large productivity gaps between sectors in developing countries. What is interesting to note is the time-sensitivity of the impact of structural changes i.e. reallocating resources to more productive sectors. The 1990 to 1999 period saw negative productivity changes in Africa due to structural changes (McMillan, 2013; McMillan and Rodrik, 2011); however data for 2000 to 2010 show the reverse situation in Africa. So structural changes have contributed positively to productivity growth while the reverse is true for Latin American and high-income countries (McMillan et al., 2014). This change has likely come about because of several factors in the period 2000-2010 that made structural changes more conducive to productivity growth in the African context. These factors include: • the adjustment to structural reforms that countries were still going through during the period • significant increases in commodity prices (buoying expansion in the services sector) • greater political stability (i.e. fewer civil wars) • greater government accountability. Diversification across sectors, a result of resource reallocation between sectors, is shown to be strongly linked to per capita income. Higher levels of economic diversification tend to be strongly associated with higher levels of per capita income (Imbs and Wacziarg, 2003). Results from Africa (Hammouda et al., 2010) show that export diversification has resulted in increases in total factor productivity (TFP). As countries grow, their level of diversification increases as they expand into more sectors, although at the highest levels of income there are also hints that countries begin to re-specialize (Rodrik, 2013a). These results are in partial contrast to the idea that countries should specialize and engage in trade through the production of goods in which they have a comparative advantage (Rodrik, 2013a). However, it is also important to note that export diversification also plays a role in promoting productivity. Countries where primary resources make up a large proportion of exports – due to revealed comparative advantages in primary products – have lower productivity levels than countries that have higher shares of value-added products in their export basket (McMillan et al., 2014). What this essentially means is that there is some tension between the concept of specialization and diversification as a route to productivity enhancement and therefore to economic growth. This tension calls into play the debate between Justin Lin and Ha-Joon Chang (2009) about comparative versus competitive advantage – in other words, do countries make their own success by diversifying into new sectors or should they focus on what they are already good at? The theory highlighted in this section does not swing the argument towards one route, but instead highlights the fact that common to both approaches is the issue of productivity enhancement through the reallocation of resources towards where they provide the best gains.

**5.2** Moving resources to higher productivity firms the second method of raising productivity is to ‘reallocate’ resources to more productive firms. Productivity differences can arise between firms within sectors. These differences can occur for a range of reasons, such as different uses of labour (labour and employment practices as well as different labour skill mixes), different capital intensity of production or even different positions within a value chain (either domestic or international). Firm entry and exit into the market can improve productivity, i.e. as more productive firms enter a sector, less productive firms exit. Evidence from Sweden suggests that new firms have higher productivity levels (Andersson, 2007), whereas in Taiwan new firms have lower productivity levels than incumbents but those that ‘survive’ tend to rapidly catch up to productivity levels in incumbent firms, while exiting firms tend to be less productive (Aw et al., 2001). Evidence from developed (i.e. high-income) markets shows that productivity enhancements occur through the reallocation of resources from less efficient to more efficient firms, an effect that becomes stronger over the medium- to long-term horizon, although the impact does vary between countries. Of interest is also the fact that firm net entry into a market also has a positive contribution to productivity (Bartelsman et al., 2013). At a theoretical level, research from Hsieh and Klenow (2009) shows that the reallocation of resources between firms can raise productivity.

## **6. Initiatives of the Government towards Codification of Labour Laws for Productivity**

Recognizing the long felt need of industry and the workers both in the formal as well as informal sector, similarly in order to duly meet the changing requirements of the employees and workers in the large, medium and the small enterprises the present Government has initiated a comprehensive process of labour reforms by undertaking the exercise of codification of large number of existing labour legislations in 4 major Labour Codes by way of amalgamation and rationalization of the core features of the various labour legislations in these codes namely

- Labour code on wages

- Labour code on Industrial Relations
- Labour code on social security and
- Labour code on occupational security and Health

As part of legislative reforms of labour laws, the Centre has started the process of codification and amalgamation of 44 Central Labour laws into four codes in order to simplify them. The four codes will pertain to labour, industrial relations, social security and welfare and safety and working conditions. As part of the codes being developed for wages, the Centre might issue directions to the State Government in respect of wage fixation—a power that now exclusively vests with the State.

### 6.1 Code on Wages Bill – A Brief Introduction

The Code on Wages Bill is the first out of the following four labour codes which are – Wages, Social Security, Industrial Relations, and Occupational Safety and Working Conditions (OSHWC). When these four labour codes will be passed, they will combine the existing 44 labour laws and ease the pain of employers who are currently maintaining separate compliance for each of the laws. Currently, though, these labour codes will not include the ESI Act, EPF Act and SHOP Act.

The Code on Wages Bill replaces the following four laws:

- Payment of Wages Act, 1936
- Minimum Wages Act, 1948
- Payment of Bonus Act, 1965
- Equal Remuneration Act, 1976

### What was the need of the Code on Wages Bill?

There were some major reasons why this Code was introduced, which are as follows:

- Some of our country's labour laws were made a long time ago. Some even before the Independence, such as the Payment of Wages Act, 1936. As a result, they are quite obsolete in today's age. It was necessary to update these labour laws to make India rank better in the world's ease of business rankings. Some irrelevant laws have also been removed from these Codes.
- The earlier Acts only covered 40% of the total employment workforce. This was because the Acts covered only specific schedules and salary ranges. The new Code though will cover all employees and workers. It will benefit close to over 50 crore workers.
- Different old Acts have different definitions for the same thing. Example, the definition of Wage had 12 different variants across all labour laws. This makes it difficult to get appropriate results in court cases and leads to many litigations. So this Code would resolve this issue and cease all confusions.
- Our country currently has almost 2000 types of minimum wages. Some from the Central Government and some from the State Governments. This makes compliance difficult. The new Code will reduce this number to almost 300, to further improve compliance of labour laws.

The deviations of the Wage Bill from the earlier bill are as follows:

- Under Section 6 of the bill, it has been mentioned that any person who is an employee under wages and works for an establishment, whether it be skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work, will be considered as an employee. So other than members of the Armed Forces, every other worker will be considered as an employee.
- A single definition for Wages has been given which replaces all other previous definitions of wages. If the payment by employer is made in terms of basic pay, dearness allowance and retaining allowance, then it will be considered as Wages. But the following things will not be taken under Wages – any bonus, house rent allowance, amenities allowance, travelling concessions, pension or provident fund contribution, overtime allowance, gratuity or commission.
- The definition of a Worker has also been given. Apprentice, Armed Forces, police officials, managerial or administrative ranking employees and employees drawing over Rs 15,000 as salary every month – all shall not be categorized under Worker.
- The fixation of Minimum Wages shall depend on not only the skill category and geographical location of workers but also conditions like the temperature, humidity and hazard level of the work. It shall not depend on the schedule though. The State Government will have to, as far as possible, keep the no. of minimum rates of wages at a minimum.
- Central Government will fix a floor wage and the other State Governments cannot fix a minimum wage below the floor wage.
- All wage payments will happen by either cheque or bank transfers. No payment will happen via cash.
- The grievance period for employees was earlier six months but now extends to three years. Additionally, an Inspector-cum-Facilitator will replace an Inspector.

### 6.2 Code on Industrial Relations

Ever since India introduced market reforms in the 1990s, a long list of international organizations, investors and general critics of government regulation have demanded further measures with regard to the labour market and industrial relations system (IRS).

Firstly because the introduction of labour market reforms is complementary to the liberalization of the Indian economy – the benefits of the latter can only fully be reaped if the former is also completed.

Secondly, the general perception is that India's labour laws and labour inspection system are quite tough and significantly restrict the freedom of employers to respond to rapidly changing business conditions. Specifically, Chapter V-B of the Industrial Disputes Act, 1947 (the ID Act) requires industrial establishments employing 100 or more workers to seek prior permission from the government before retrenching workers or closing down their establishments, and governments are hesitant to sanction retrenchment or closure for fear of political unpopularity as these measures will result in at least short-term unemployment.

Similarly, 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

Third, the labour laws are archaic (enacted decades ago) and numerous (reportedly 44 Central labour laws), lack consistency (differing definitions of same terms in different laws, such as "workman" or "wages") and are not in sync with current competitive economic environment (all conveniently clubbed under the term "core" labour law reforms).

At the same time, employers have also vociferously complained against the labour inspection and procedural system as being "harassment" (hence the pejorative term, inspector raj). Labour inspections are far too frequent and inspectors are corrupt and have a persecutory mindset.

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 liberalization of inspection and labour administration system (governance reforms).

The government and its associated think-tanks have attacked existing labour institutions such as labour laws by arguing that they protect the minuscule organised sector, often at the cost of the vast masses of workers in the unorganized sector and they do not aid in employment generation.

This is a direct attack on trade unions and labour laws which have stood the test of time. While it infuriated trade unions it also raised the expectations of grand delivery of welfare benefits by the government to unorganized labour. This will prove to be a double disaster as we see later.

At first, the government has been perceived as being very keen to introduce business-friendly reforms. It has relied on a certain set of research studies which argue that pro-worker labour laws promote unemployment and informality and support reforms of labour laws to provide labour flexibility to the employers.

The methodology and the line of thinking that underlies these studies have been widely used despite severe criticisms by several academics. For instance, one study by P. Sarkar and S. Deakin shows exactly the opposite: that pro-worker labour laws are in fact associated with low unemployment and that labour market regulation is rather a response to shocks in labour market; that labour market regulation is not as bad as it made out to be.

Second, while India's unorganized sector has been placed upfront as a justification to advance wide-ranging labour law reforms, the government has done precious little to address their interests. The unorganised Sector Workers' Social Security Act of 2008 is a damp squib as it merely "roped in" existing welfare schemes and did not offer anything new. The proposed Social Security Code is a huge and welcome promise but, as trade unions have argued, it does not answer many critical questions regarding EPF and ESI.

Third, since the government is in a hurry to primarily introduce business-friendly reforms, the Indian government has historically not created a perception that it is keen to listen to the voices of trade unions. As a result, the government has nourished an adversarial position with regard to trade unions. On their part, the unions perceive that the government is far too friendly with business bodies.

Fourth, instead of undertaking the right reforms over labour inspection processes such as rationalizing and creating a transparent inspection system to tackle corruption and harassment, the government has succumbed and subscribed to the "wholesale damning of the inspection system" by endorsing descriptions of it as having a 'Raj' mentality.

The vilification of the labour inspection system flies in the face of empirical realities. Labour law enforcement agencies have chronically suffered from a scarcity of resources. Issues around labour law enforcement merited a discussion at the national tripartite body, the Indian Labour Conference, in its 41st session held in 2017. Violations have allegedly intensified in the post-reform period. Further, they are not in consonance with the ILO Convention on Labour Inspection which India has ratified.

Fifth, the government released, as though in a hurry, ill-drafted, poorly conceived and incomplete draft codes. For example, the first draft on 'Labour Code on Industrial Relations' (released in April 2015) did not contain clauses relating to the recognition of trade unions for collective bargaining, which has been a historic deficit. Further, it banned outsiders in registered trade unions, which runs against the historic tradition of outside leadership in India and is allowed under the ILO Convention on Freedom of Association and Protection of the Right to Organise. Later, the government corrected these problematic errors. Nevertheless, these vital slips send strong adverse signals to the trade unions at large.

It should have sent right signals to the working class at large by addressing their core concerns and issues, such as recognition and compulsory registration of trade unions and strengthening of the labour justice system by making suitable amendments in the relevant Central labour laws. In addition, it could have reformed the working of the EPF Organisation and ESI Corporation to extend better medical services and ensuring speedier settlement of social security settlements. If the government could amend the Central labour laws to afford "labour flexibility" to India Inc in a hurry, why could it not amend the same laws to legalise the long pending and legitimate labour rights? A whopping proportion

of contract (68.4%) and casual (94%) workers do not have formal job contracts, and this does not bother policymakers. Even the proposed labour codes do not address this fundamental labour market deficit.

Finally, the surgical strike measures of demonetization and the Goods and Services Tax have had the side-effects of harming job-creating economic activities. There is a clear public perception that there is a job crisis, though PR management by the government is ongoing through the release of pay-roll data. The rising incidence of vulnerable jobs like contract, casual, fixed term jobs and the disturbing age differential between standard and non-standard workers have further dented faith in the labour policies of the government. Many regional labour law reforms have removed chunks of workers out of the purview of basic labour laws like the Factories Act, 1948 or the Contract Labour (Regulation and Abolition) Act, 1970, thus ensuring the creation of non-standard jobs. The competition for investment is also leading to competitive labour flexibility policies of various state governments which in turn leads to a race to the bottom over labour standards.

With regard to labour law reforms, therefore, there is a huge perception management failure on the part of the government, even as economic conditions have not been helpful to sound labour market functioning. The increasing dissociation of trade unions from the affiliated or sympathetic political parties has made management of the industrial relations system quite difficult and even embarrassing.

### 6.3 Code on Social Security

The Union Ministry of Labour & Employment has proposed a preliminary draft of Labour Code on March 16, 2017 to provide social security cover to the entire workforce in the country including self-employed and agricultural workers.

- The Code on Social Security & Welfare 2017 seeks to simplify, rationalize, consolidate, and amend the laws relating to social security of workforce so as to make them less complex for easier comprehension, implementation and enforcement.
- Preliminary draft of the Code on Social Security & Welfare has been prepared by amalgamating all existing Labour Laws related to Social Security (total 15 Labour Laws including EPF Act, ESI Act, Maternity Benefit Act, Payment of Gratuity Act, Employees Compensation Act, Unorganised Social Security Act, and various Welfare Cess /Fund Acts).
- Comments/suggestions of all concerned stakeholders/other members of the public are invited on this draft Code for consideration in the Ministry of Labour & Employment within one month time from the date of issuance.

#### Important Features of Draft Code

This is for the first time that the ministry has formulated a code to cover agricultural workers along with self-employed people and target to provide social security benefits to 45 crore workers.

The Code shall apply to

- Workers that are employed by any entity;
- Worker who may also be the owner or the proprietor of an entity or a self-employed unit;
- International workers; and
- Indian citizen, working outside the territory of India, who opts to become a member of social security schemes.
- The code will apply to every working person in the country will be covered under the social security code whether she belongs to the organised sector or the unorganised sector.
- It will also cover any factory, any mine, any plantation, any shop, charitable organisations and all establishments or households employing casual, part-time, fixed-term, informal, apprentice, domestic and home-based workers.
- Besides, factories employing even a single worker will have to contribute towards social security benefits, as per the proposal.
- Even the households employing domestic help will have contribute towards schemes including provident fund and gratuity for the worker.
- All such establishments or factories will be liable to pay compensation if they fail to contribute towards the social security schemes of the workers.
- As per the code, the total contribution to be made by employers towards Employees' Provident Fund and Employees' State Insurance Scheme is proposed to be capped at 30% of the workers' income.
- According to the proposed code, self-employed workers will contribute 20% of their monthly income towards provident fund, pension and other related schemes.
- Self-employed workers will also include a person who takes land on share cropping or any other form of rent and tills the same using his own or family members' labour.

### 6.4 Labour Code on Occupational Security and Health

In March 2018 the Ministry of Labour and employment released the Draft Labour code on occupational Safety, Health and working conditions. According to the National Commission on Labour, the ministry has been taking steps for simplification, amalgamation and rationalization of central labor laws. These include periodic medical inspections, mandatory registration of workplaces and surprise checks of employees. While preparing the preliminary draft on Code on occupational safety, Health and Working Conditions, 2018, the ministry took into consideration thirteen labour laws relating to safety, and health

standards, health and working conditions, welfare provisions for the employees and leave and hours of work. In the draft, workers from different sectors have been classified. The draft laid out guidelines for construction workers plantation labour, contractual labour, beedi and cigar workers, cine and cinema theatre workers and working journalists and motor transport workers.

The draft says that the responsibility of maintaining health and working conditions of employees in relation to cleanliness and hygiene. Ventilation, temperature, humidity, dust and noxious free environment, provision of potable drinking water, adequate lightning etc. rest of the employer. It is mandatory for all type of companies to constitute a safety committee and notify it about the spread of diseases, if any, and also about any hazardous circumstances at the workplace.

As for the work hours, the draft says that no worker shall be required or allowed to work for – (i) more than forty eight hours in a week; (ii) nine hours in a day subject to hours of work specified in clause (i); (iii) the period of work in each day shall be so fixed that no period shall exceed five hours and there shall be half an hour or interval after each such period.

The draft also gives guidelines regarding the registration for companies. However it states that offices attached to the state or Central government are exempt from this registration process. The draft also suggests setting up a National occupational Safety and Health Advisory Board to advise the government on matters pertaining to the code. The secretary of the labour minister will be its chairman and representatives of all stakeholders will be its members. The board will also conduct regular health and occupational hazard surveys at workplaces.

Overall, it is definitely another positive move by the Central Government on simplification and furthering the idea of “ease of doing business in India” without compromising the spirit of the existing legislation. The Trade Unions are raising objections on certain aspects with reference to this code, while the employers’ forums are demanding for raising the threshold limit for applicability of the Code. I hope, the Central Govt would suitably handle and address all the stakeholders’ concerns before the code is finally notified in the official gazette. The next challenge would be for the State Governments to frame Rules.

## 7. Conclusion

Labour reform is a tedious process but once implemented, it will be beneficial for industries and ultimately help in job creation. As a country with sizable youth population, we should strive to create a conducive atmosphere for industries for better employment generation. The labour reforms including the code on occupational safety will reduce hassles and paper works for industries, and in a way improve productivity. Labour productivity is an important economic indicator that is closely linked to economic growth, competitiveness, and living standards. Labour productivity represents the total volume of output (measured in terms of Gross Domestic Product, GDP) produced per unit of labour (measured in terms of the number of employed persons) during a given time reference period. The indicator allows data users to assess GDP-to-labour input levels and growth rates over time, thus providing general information about the efficiency and quality of human capital in the production process for a given economic and social context. Multiplicity of laws and strict regulations in the industry may arrest productivity. Thus it is expedient to reform the existing labour laws with novel benchmarking for better and improved productivity level.

Given its usefulness in conveying valuable information on a country’s labour market situation, labour productivity growth was one of the indicators selected to measure progress towards the achievement of the Millennium Development Goals (MDGs), under Goal 1 (Eradicate poverty and hunger), and it is included as one of the indicators to measure progress towards the achievement of the Sustainable Development Goals (SDG), under Goal 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all).

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