Will Diluting Labour Laws in India in Indian States Attract more Private Investment?*

Jayati Ghosh

The class war waged by employers in India has never been so blatant, nor has the openly partisan behaviour of the executive and judiciary. What began ostensibly as a public health exercise to prevent the spread of a virus infection has turned into an all-out war against India's working people. The abruptly announced and poorly-planned decision for national lockdown has created an economy on the verge of complete collapse and even greater public health risks.

Now we have an economy in shambles and a virus still on the rampage, and belatedly realise that we have no option but to learn to live with it. But since the period of lockdown was not effectively used to make the required medical preparations, like significant increases in protective equipment, health infrastructure and personnel, infections continue to rise and we are more vulnerable than before.

Meanwhile, hundreds of millions of livelihoods have been destroyed. The human tragedies workers across both urban and rural India losing their lives, health, means of survival and dignity for no fault of their own continue to multiply. But even six weeks into the lockdown, almost nothing has been done to provide them minimum protection. Denied the opportunity to earn their own livelihood, migrant workers have been confined, mostly without access to food or compensatory income, and prevented from travelling back to their homes, except in desperate conditions on foot. Even now, the permission to travel back home is heavily rationed and treated as a major gift of the state—and one that is easily denied to those unable to pay the commercial fares being charged by the Railways or on specious grounds like having an Aadhaar card with a local address. The obscenity of such betrayal and denial of the most basic human rights of migrant workers in particular will not be easily forgotten: this will have prolonged and far-reaching consequences for the social contract, which bodes ill for India's future development.

Now, more insult and injury are piled onto these ongoing ones. Obviously, the lockdown has also affected profits, since most industries simply could not function over this period. Indeed, micro and small enterprises are mostly facing an existential crisis from which many will not recover at all. But it is mostly the voice of larger private corporates that governments at various levels have chosen to hear. What are they asking for? Financial bailouts, for sure, along with tax concessions and subsidies to help them tide over this period of losses. But also, further erosion of already weak labour laws, that they claim have been inhibiting investment.

Some state governments—notably the BJP-ruled states of Uttar Pradesh, Madhya Pradesh and Gujarat, and most recently Assam—have responded with alacrity. UP was first off the block, announcing that for the next three years, only a few labour laws (the Building and Other Construction Workers Act, 1996; Workmen Compensation Act, 1923; Bonded Labour System (Abolition) Act, 1976; and Section 5 of the Payment of Wages Act, 1936 that provides the right to receive timely wages), will apply in the state. In addition, provisions related to children and women in the labour laws would apparently continue—but all other labour laws will no longer operate. This affects a huge range of worker protections: for example, laws relating to, occupational safety, health and working conditions of workers, settling industrial disputes and those related to trade unions, contract labourers, and migrant workers.

Consider what this means: no requirements to provide any ventilation in worksites, toilets for workers, periodic breaks in the working day, ability to sit, weekly holidays, provision for food during workdays that can now go up to 72 hours per week. No need for employers to follow basic safety norms in factories, or ensure minimal working conditions, or to compensate workers for industrial accidents. And when conditions become completely impossible and inhumane, workers cannot organise to improve them, as trade union activity and the right to organise are also suppressed. The other states have brought in similar changes, with a few variations in scope and time period.

The purpose of these extraordinary harsh anti-worker measures is apparently to attract foreign investment to these states, in the mistaken belief that multinational companies that had earlier chosen China as a base will shift to India in the post-pandemic world. Unfortunately, this project is not just ethically vile but economically stupid. It is doomed from the start, because the argument that weakening labour protection attracts more private investment is both analytically flawed and empirically invalid.

Much recent research has revealed the fallacies in logic and the poor empirical basis of such arguments, so if they are still taken seriously, that only reflects the power of employers' lobbies. Some argue that labour laws are anyway poorly implemented, so it's all right to abolish them. This is akin to saying that if traffic rules are not followed, we can simply dump them altogether and allow road chaos and accidents to occur freely.

In any case, it's absurd to suggest that high labour costs are holding back private investment in India. India already has one of the cheapest and most exploited labour forces in the world. Labour costs account for a relatively small proportion of total industrial costs in India. According to the Annual Survey of Industries, in 2017-18, wages to workers were less than 3 per cent of total input costs for India as a whole; in UP, they came to 2.6 per cent, and in Gujarat and MP only 2 per cent. A study by an official agency of the Government of India of earlier labour reforms in Rajasthan, Andhra Pradesh, Haryana and UP that were designed to achieve greater labour market flexibility, found that these amendments did not succeed in attracting big investments, or boost industrialization or job creation.

This should be obvious even on the most cursory look. After all, for four decades wages in India have been consistently much lower than in China and labour protection has been much worse. Yet India has not attracted even a small fraction of the FDI flowing into China, despite liberalising rules and providing various other concessions. Even now, as companies seek to move out of China, they are looking to countries like Vietnam and Thailand, both of which have higher wages and more effective and comprehensive worker protection than India.

Companies base their investment decisions on many things: decent infrastructure, efficient logistics, a vibrant domestic market, transparent official procedures. They also prefer a healthy, educated, productive workforce. And it is such a workforce (rather than a poorly-paid, badly fed, unhealthy set of people working in terrible exploitative conditions) that delivers higher productivity and therefore lower unit wage costs, which are generally seen as relevant for "competitiveness".

In addition, suppressing wage incomes and damaging workers' protection reduces their ability to demand goods and services, which will further reduce aggregate demand during this downswing. So companies will have little incentive to invest in producing for the domestic market and may not be able to operate at efficient scales of production.

The low road to industrialisation has never led to development success. Instead, it has typically condemned countries to being stuck in a low-level equilibrium characterised by poverty, lack of diversification and tremendous inequality. It will be tragic if, at this crucial juncture, India actively chooses that foolish route.

*** This article was originally published in the Bloomberg-Quint on May 11, 2020.**