

Regionalization of Labour Reform Process

The Fabian strategy

The President of India signed a revised set of labour laws from Rajasthan into state law. The Rajasthan government has revised the Factories Act, the Industrial Disputes Act and the Contract Labour Act. The President used Article 254(2) of the Indian Constitution which has been rarely evoked—an article that permits state law that conflicts with federal law to override the latter if it obtains the assent of Head of the State. This reflects the regionalized labour policy reform adopted by the Centre to circumvent any national-level unionized protests, thereby averting initiation of any social dialogue and bargaining process.

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The President of India signed the amendments in the revised set of Labour laws—the Industrial Disputes Act, 1947 the Contract Labour (Regulation and Abolition) Act, 1970 and the Factories Act, 1948 by the Rajasthan government. The quick and positive response on these critical labour law reforms is in stark contrast to the endorsement given by the President in 1999 to the amendments made to the Trade Unions Act, 1926 by the West Bengal government in 1983. The recent move by the Centre clearly shows that the NDA government at the centre means business. The Presidential assent is technically by the Constitutional figurehead but in real political terms it reflects the labour policy orientation of the government at the centre.

Labour law reforms especially those involving critical issues such as hiring and retrenchment and contract labour law liberalization if introduced at the national level would be met with popular criticism and lead to mobilization of workers in terms of strikes and protests. If there is an avenue to avoid this policy distraction and yet achieve the same even at the regional level, it is pragmatic of the centre to pass the labour law and governance revision process to the respective state governments. However, this is not the first time this strategy has been followed. Of course, there is a difference in the sense that this time around, the regional governments have undertaken the critical reform measures which are hard enough to create tremendous opposition.

Reform policy 2014-15

The regional labour law reform processes would only provoke localized protests and depending on the strength of the trade union movement and the political equations, these protests remained localized as it happened in Rajasthan. A few thousand protests at the state level whose government brings into effect the amendment at best-this is the Fabian strategy (originating from the Fabian strategy of warfare) used in reform processes by the state. Also, the NDA government is quite aware of the number deficits in passing the law in the Upper House. This is why the regionalization of labour law reforms kicks in.

The Rajasthan government's success story is more likely to be imitated by other states as well. Haryana is closely following the heels. Madhya Pradesh has passed some ordinances and has submitted them to the President for his assent and later these will be submitted for law making when the Legislative Assembly session will begin. The Central and the State governments have often invoked the Essential Services Maintenance Ordinance to blunt the strikes even in the non-essential services say like teaching. The Union Ministry of Labour and Employment has almost shown a green flag to these state reform initiatives by putting the ball squarely in the states' courts. The juggernaut of regionalization of labour law reforms appears to gathering steam. Protests and agitations by the trade unions have so far failed to make an impact either at the state or the national level. There will be competitive race towards labour flexibility regime, a race to the bottom, if you like.

What could be the best and pragmatic strategy for the trade unions in this context? Quite significantly, reports indicate that Bhartiya Mazdoor Sangh (BMS), the so-called labour wing of the BJP government, has opted out of the joint strike call given by all the central trade unions to protest against the reforms in the coal sector. Is this an ominous sign of the things to come? So far BMS had reflected its working class character by siding with the dominant trade union movement. The major trade unions must change their stance from creating differing labour standards towards engaging with the central government by using the existing social dialogue institutions. They could bargain with considerable level of country-wide mobilization threats for a much better reform package than what they get at the state level.

The pragmatic and optimal bargaining solution that could be reached – given that the trade unions have successfully defended the breach by the government in the post-reform period for more than two decades – is to offer limited concessions and extract much greater pay-offs in return for the workers at the national level so that there exists standardization in the labour standards across the states. It is remarkable that India offers the lowest severance pay package as compared to many including China, Sri Lanka in Asia. Income security has never made to a topic of the reform or protest agenda.

Reform policy 2014-15

In the worst-case scenario, if a hazardous guess could be made on limiting the prior permission clause to 1976 levels of 300 employment mark in the Industrial Disputes Act the central trade unions would have at the national level extracted a more generous severance package than what has been offered by the Rajasthan government. This way, other states would have had to follow the reform package initiated by Rajasthan. Social dialogue is always stronger at the central level. Further, the trade unions must demand in return for a stronger governance system and a severe penal system if the central government has to live up to the promise of the Prime Minister's pronouncements that reforms is people-oriented. The extremely poor penal regime and high fatal accidents' incidence is something that should shame the governance in the country. So far the reforms initiatives seem to be one-sided and poised at regional level. So, the central trade unions must re-initiate social dialogue at the national level and be pragmatic for better and optimal solutions.