Presentation at SSAI Panel Discussion: 'Assessing Modi's Track Record Eighteen Months On'
Jens Lerche

# Making India? The Labour Law Reforms of Narendra Modi's Government

*Jens Lerche (19.11.2015)*

Shortly after his 2014 election victory Narendra Modi issued an invitation to global business. Speaking from one of Delhi's much loved historical buildings he declared: "From the ramparts of the Red Fort, I would like to call people of the world to 'come, make in India'" (International Business News 2014). This was a reflection of his electoral mandate. Modi and the BJP swept to power on the claims that *he* was the man to modernise India, to restore fast-paced economic growth, to cut red tape and make the economy business-friendly.

The corporate sector backed him to the hilt and he has delivered. The Modi government *is* business-friendly. Within a year in power it embarked on several major initiatives seeking to break down barriers for business. One important area of reform was labour law.

Successive Indian governments have argued, backed by the World Bank, that India has one of the most rigid labour markets in the world, and that reforming the labour laws would lead to a major economic growth spurt. This, in turn, they claim would benefit labourers as more jobs - and more *proper* jobs - would become available; and welfare for all would improve.

The previous Congress governments also tried to implement labour reforms but they baulked in the face of the political opposition (Roychowdhury 2015). Modi and the BJP, though, have been more bold. Labour unions and activists see his labour law reforms as the most serious attack on their rights for generations. Remarkably, all the major Unions, including the one affiliated to the BJP, called a one-day general strike against the reforms this autumn. But this opposition has not yet weakened Modi's resolve to press ahead.

The reforms going through parliament right now are controversial for three main reasons:

1) They make it easier to lay off workers. To date only factories employing less than 100 workers can make workers redundant without asking for government permission. The reforms would allow for dismissals without such permission for factories employing up to 300 workers.

2) They deregulate many more small factories. Factories with under 10 workers are already in the informal sector in the sense that they are exempt from most labour laws. The upper limit for informal factories will now be raised to 20 workers and factories below this threshold will be exempt from 14 labour laws, which worryingly include laws dealing with occupational safety, health and welfare of workers.

3) They make it more difficult for trade unions to be officially recognised as a union representing workers in a factory. Such recognition is required to represent and bargain on behalf of the workers. Unions will now have to show that their membership covers 30% of the total workforce. This is up from 15%, a 100% increase.

There are other changes as well. Social security for informal workers will be privatised, more overtime will be allowed, night shifts for women will be allowed, the number of outside experts allowed in a union will be reduced, and so on. In addition, Rajasthan, Gujarat and other mainly BJP-ruled state governments are also pursuing similar reforms at state level (Secki 2015, Saha 2015, Mishra 2015).

The general direction of the reforms is clear: increased deregulation and informalisation, weakening of unions, increased rights of management to control the size of the workforce as it sees fit; and increasing working hours.

That said, most labourers have worse problems than this: for most labourers the labour laws have never provided any safeguards at all. A staggering 72% of the working population in the non-agricultural sectors are in informalised work (92% if agriculture is included). By this, what is commonly meant is that they have no labour contract, no employment rights and no access to social security. Most have no rights to organise in a Union. They are paid much less than the formal workers, most often two thirds to as little as a quarter of what formal workers are paid. The rather basic labour laws that are supposed to protect informalised workers – such as the Minimum Wages Act, the Migrant Workmen Act, the Unorganised Workers Social Security Act – are simply not implemented or 'policed' (NCEUS 2007).

The informal workers are found in the huge informal sector but also in the formal sector. Astonishingly, fifty-eight per cent of all labour in the formal sector is informalised. Thirty-four per cent of formal sector workers are not even employed directly by the factory but work for a labour contractor who supplies workers to factories (Institute for Human Development 2014). They tend to be circular migrant labourers, with homes in far-flung villages and with no citizen rights such as access to government-subsidised food in the towns. Add to this very long working days – for example, in the Delhi garment industry, 10-12 hours in the slack season and 15-16 hours in the peak season – as well as pay below the stipulated minimum wage (Mezzadri & Srivastava 2015). To be informalised, to be outside the realm of labour laws, is no dance on roses.

There are two arguments for watering down labour laws. The first is that such reforms would actually lead to more workers being formalised. This is based on the view that companies have been 'forced' to informalise their labourers, as the safeguards for the formally employed are too costly and act like a straitjacket; if regulations were pared down formal employment would increase (World Bank 2015). But the first outcome of the present reforms is actually the opposite: we have seen a significant increase of informalisation with all factories employing 10-20 workers becoming informalised. And it is also not clear why employers would stop informalising labour unless formalised labour became just as cheap – and hence their conditions and pay became just as poor – as informalised ones. It is hard to see how worsening the conditions of formalised workers would benefit informalised labour.

The other argument is that deregulation would unleash further economic growth. Companies would invest more willingly if they would not risk being stuck with too many employees on their books. To many this may sound plausible. But is it? – Might it not simply lead to a new wave of replacing formal workers with informalised contract workers?

Moreover, is the dismissal protection really a major problem for India's growth? Labour law scholars Deakin and Haldar (2015) show that although dismissal protection in India may be high, China’s dismissal laws are stricter, after they were tightened in 2007. And other middle-income countries are also tightening, not loosening their labour law. So, contrary to what is assumed in the Indian debate, India’s labour law changes go *against* present labour laws trends among its main competitors. Countries like China have strengthened their labour laws in order to *improve* the conditions and rights of their citizens.

For many, the ultimate proof that the government prescriptions for economic growth will work lies in Modi’s track record in Gujarat. When he was Chief Minister there, and liberalised the economy, the state did experience high levels of economic growth. But not as high as its neighbouring state, Maharashtra, which did not follow a similar extreme deregulation strategy. So there are other ways of growing the economy.

There is a good deal of ideology involved here. The idea that the economy does best if markets are freed from state interference belongs to the period of extreme market radicalism of the 1980s and early 1990s. Since then the international consensus has moved towards a focus on the role that institutions play for growth. Internationally respected figures such as Joseph Stiglitz argue that a market with no social control mechanisms, thus enabling big business to do what it wants, does not in itself create growth. What is needed is an *institutional set-up* geared towards growth, including geared towards making labour more productive. Deakin and Heldar (using Germany as a case in point) show that this may or may not include strong labour market regulations; what matters is that the whole institutional package that is applied. To enable companies to make *more money* by cheapening labour and restricting union activities is not sufficient to *create growth*; there also have to be incentives for companies to *invest*, and to invest in jobs and in training on the job for workers to make them more productive.

Modi’s government states that it wants new jobs to be generated and that it wants to uplift the poor. The question is ‘how?’ For now it argues that the informal sector has ‘great potential for generating new jobs’ (Livemint 9/9/15). It is correct that informalised job growth has tended to outstrip the growth of formalised jobs in India. But the 69% of the Indian population who are classified as ‘poor and vulnerable’ (in 2009–10) are disproportionally found in the informalised economy (Kannan 2012). It is not clear how continued informalisation is the best way of improving their livelihoods, conditions and life chances.

## References

Deakin, Simon and Haldar, Antara 2015, ‘How Should India Reform Its Labour Laws?’, *University of Cambridge Faculty of Law Research Paper* No. 25/2015.

Institute for Human Development 2014, *India Labour and Employment Report 2014.* New Delhi: Academic Foundation/

International Business News. 15/8/2014. PM Narendra Modi Invites the World to Manufacture in India: 'We Have the Power'. http://www.ibtimes.co.uk/pm-narendra-modi-invites-world-manufacture-india-we-have-power-1461243

Kannan, K.P., 2012, ‘How Inclusive is Inclusive Growth in India?, *Indian Journal of Labour Economics*, 55(1) 33-60.

Presentation at SSAI Panel Discussion: ‘Assessing Modi’s Track Record Eighteen Months On’

Jens Lerche

Livemint: Narendra Modi govt puts job creation on priority list. 9/92015 http://www.livemint.com/Politics/NDfWK9kNFdiymn9wPav0AL/Job-creation-is-NDAs-key-priority-says-Modi.html

Mezzadri, Alessandra and Ravi Srivastava, 2015, *Labour regimes in the Indian garment sector: capital-labour relations, social reproduction and labour standards in the National Capital Region.* Report, CDPR https://www.soas.ac.uk/cdpr/publications/reports/file106927.pdf

NCEUS [National Commission for Enterprises in the Unorganised Sector] 2007. *Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector*, New Delhi: NCEUS, Government of India.

Mishra, Sudhanshu, 2015, ‘Why Rajasthan’s Labour Laws are a Peek Into India’s Bleak Future’, *Catchnews* http://www.catchnews.com/india-news/why-rajasthan-s-labour-laws-are-a-peek-into-india-s-bleak-future-1441109807.html

Roychowdhury, Anamitra, 2015, Will the Recent Changes in Labour Laws usher in ‘Acche Din’ for the Working Class? *Mainstream*, 53(16).

Saha, Bibhas, 2015, ‘Guest post: India Tackles Archaic Labour Laws’ *Financial Times*, 25.02.2015 http://blogs.ft.com/beyond-brics/2015/02/25/guest-post-india-tackles-archaic-labour-laws/

World Bank 2013: World Development Report 2014. https://openknowledge.worldbank.org/bitstream/handle/10986/16092/9780821399033_fm.pdf?sequence=43