

Reforming Labour Legislation on Working Conditions for Competitive Advantage: An Empirical Study

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Sixty years have passed since India gained its independence, but it is still a large agrarian economy with 3/5th of workforce employed in agriculture and produces about 1/4th of gross domestic product (GDP). Since the liberalization of Indian economy, the reform in respect of labour has been the slowest. Labour legislation on working conditions needs to be equitable, more responsive and more inclusive and which facilitates in making Indian firms more competitive. The challenge is of combining greater flexibility with the need to maximize security for all particularly labour, argues the author.

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Globalization & Competitiveness

Globalization has facilitated the integration of world economy thereby making geographical boundaries only of political relevance. Globalization is considered to be a major force behind liberalization and privatization of hitherto closed or somewhat closed economies primarily in the developing world. Since it is the firms and not nations that compete in the market the onus of gaining and sustaining competitiveness lies on the firms. The increased competition has forced firms to reduce their operating costs in order to reduce price of their products and services. Thus, it has become imperative for firms to control their costs especially at present time due to global meltdown fuelled by economic slowdown. Under such a compelling business scenario, Indian firms are looking at ways for cutting down their costs especially the labour cost. This is because labour cost constitutes a major component of operating and consequently product costs of firms.

Competitiveness is a complex term which requires firms, government and

mechanisms to be readjusted and reoriented for ensuring long-term success. At the micro level, the labour reform seeks to improve working conditions of the workforce on one hand and frees employers from the shackle of cumbersome and archaic legal system on the other. The trade unions should act as facilitators and play the role of a resource person to bring about greater awareness amongst workforce about the working condition regulations, motivate and guide workers towards greater cooperation for improving the productivity and competitiveness of the firm so that all its stakeholders including the employees, management, suppliers, customers and society can be benefited. At the macro level, reform of the working condition regulations seeks to bring the key stakeholders of the firm, that is, workers, trade unions and management closer and move towards the path of success across the different sectors of the industry. This will result in creation and/or development of a business-conducive environment in the country with win-win approach. The creation of a business-conducive environment will help in attracting more and more foreign direct investment (FDI) necessary for spearheading socio-economic development of the country. Commentators may argue that such a scenario is too idealistic and cannot be realized in practice given the past experiences. It may be argued that the very object of working condition regulations or as a matter of fact any other labour legislation is a piece of social welfare measure. If the laws are not serving its intended purpose either to business or to labour, then its existence is questionable or debatable. India has to make its legal

environment such as working condition regulations growth inducing so that employers, workers, and the society gains.

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Over the past one decade there has been increasing globalization of Indian economy, which has necessitated increasing the competitiveness of Indian industry through human resources in general and workers in particular. There has been an increasing demand from the industry for reform in labour legislation in order to increase efficiency, effectiveness, competitiveness and productivity of Indian workers so as to face the onslaught of global competition, especially from China. In general, the Indian labour legislations are partly archaic and have outlived their utility in a globalizing world. However, reforming labour legislation is a very touchy issue and there are conflicting interest groups involved, which has resulted in lack of initiative of the government to make necessary amendments. Much has been talked but little seems to have been done.

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Review of Literature

Literature survey indicates that there is a widespread concern at the present

level of effectiveness of labour legislation on working conditions in view of global business competitiveness. Peru-Pirrotte (1996) observed that labour legislation is quickly evolving in order to take into account the impacts of technologies on working conditions and on human resources within firms. Traditional law, protecting the worker, is modernized in order to be more pre-occupied by today's employer's requirements and constraints concerning the hiring, redundancy, working hour's management and wage earner's status. Pierre and Scarpetta (2006) drawing from harmonized surveys of firms around the world compared employer's responses with actual labour legislation and found that employer's concerns about labour regulations are closely related to the relative stringency of labour laws. Medium and large firms, as well as innovating firms, were those most negatively affected by onerous labour regulations. In the Indian context, research conducted by Upadhyaya (2003) in Garment & Hosiery industry of Noida points out that although The Factories Act, 1948 makes very elaborate and unambiguous provisions regarding the minimum welfare (also health and safety) standards to be followed, but laying down the standards alone is not enough. It is also to be ensured that these provisions are actually implemented. He found that facilities for first aid, washing, canteen, refreshment/tea, annual holidays, and intervals of rest were satisfactory; ambulance and lunch room facility were found to be inadequate in terms of implementation, provisions relating to welfare officer and storing and drying clothing were not found to be implemented even in a

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single unit covered under the study, none of the selected units had any provision for appointment on compassionate ground, majority of the respondents were working for more than 9 hours a day (average 10 hours of working per day). Interestingly, no child labour was employed. A research made by Ramesh Babu (2004) in Business Process Outsourcing (BPO) industry found that the continued stress and strain at work lead to circumstances where the women workers cannot carry on due to atypical timings of work especially that of shift work. Noronha and d'Cruz (2008) found that 75% of the call centre employees joining union can be attributed to improving pay and conditions, followed by information/advice about employee rights (67%) and believe in trade unions (38%). 65% of the call centre/BPO employees cited working times as being very important in prompting to join a trade union. Two-thirds of respondents reported that they were either 'very' or 'quite pressurized' as a result of their work on a normal day. 87% of these respondents cited 'having to meet targets' as the greatest source of work pressure. 51% reported of having not enough breaks while 48% of the respondents found hardly enough time to take care of family/personal matters. Thus, the problems of working conditions pertain to long working hours, forced

overtime without remuneration, inadequate breaks, high work pressures and lack of work-life balance.

Bhavani and Bhanumurthy (2007) in their study observed that the economic policy reforms of 1991 were expected to instil competitive forces in the Indian industry. They emphasized that it is essential to revamp complex and comprehensive labour legislation to further competition. Papola and Pais (2007) resonates the same sentiments when they argue that reforming labour laws has become necessary to make Indian industry efficient, cost effective and internationally competitive in the face of globalization. Sahu (2008) says that besides rationalization of labour laws, emphasis must be given on the improvement of labour administrative machinery.

However, Gill (1999) took the traditional view and observed that trade unionism is influenced by growth of capitalism with its own specificities, the mediation of the state and initiatives by the trade union movement. The author further argues that at the moment trade unions are not displaying capacity to meet the challenge of attempt to review labour legislation, therefore bold and new initiatives are needed to enable them to play their historical role to build just and humane society for working people. However, Lucio Baccaro (2008) concluded in his study that there has been a considerable decline in unionization over the past two decades. Union density declined in almost all the 51 countries considered in the study. The decline was dramatic in Central and Eastern European countries,

where levels had initially been very high.

Advocate Kumar (2009) observes that “it is true that existing labour laws in India cannot be changed or removed by a fiat as it could be easily done in China but the fact lies that unless the laws are changed drastically, it would not be possible to obtain desired results. Continuing to ‘protect’ a small aristocracy of industrial labour means hurting the prospects of prosperity for the mass of India’s labour. It is time to repeal this imperial legacy.” Thus, reforming labour legislation on working conditions is imperative for us in order to meet the demands of modern industrializing society. Pradhan (2005) observed that creating an environment that reduces the cost of doing business can help attract FDI into India. He argues that creating a legal environment that is conducive to entrepreneurship and growth is vital.

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The reasons for concern on working condition regulations are as varied as the stakeholders are. Different stakeholders like workers, both blue collar and white collar, trade unions, employer’s associations and officials of labour department have different perceptions on working condition regulations and hence have different object of reforming the same. The

concept of working conditions is flexible and elastic and differs widely with times, regions, industry, country, social values and customs, the degree of industrialization, general socio-economic development of people and political ideologies prevailing at a particular moment. The Factories Act, 1948 and The Delhi Shops and Establishment Act, 1954 make very elaborate and unambiguous provisions regarding the minimum standards of safety, health and welfare to be followed by the organizations.

However, laying down the standards alone is not enough, as it is to be implemented in letter and spirit. Furthermore, with passage of time, drastic changes in technology, general economic and business environment has taken place. The present study was conducted to ascertain how far the provisions of Factories Act, 1948 and The Delhi Shops and Establishment Act, 1954 have been achieved. It also examines the scope for reforming the legislations in order to meet the standards of working conditions required in any civilized society from the perspectives of factory workers, call centre agents and trade unions and identifying opportunities for giving impetus to competitiveness of business organization by making the legislations less cumbersome, business oriented and less prone to labour politics, from the perspectives of business associations and government.

Objectives of the Study

The purpose of the present study is to describe, analyze, understand and draw inferences on the need for reforming labour legislation on working condi-

tions for competitive advantage. More specifically, the study aims to achieve the following objectives:

- To study and review various legal provisions relating to working conditions in Factories and Shops/Establishments.
- To examine the current trends in labour jurisprudence in India.
- Assessing the impact of LPG (Liberalization, Privatization and Globalization) on legal perspectives of business organizations in enhancing competitive advantage.
- To suggest appropriate reforms in labour legislations relating to working conditions in contemporary business environment.

Research Methodology

This study looks into the perceptions of workers, call centre agents, trade unions, business/employer's associations, and labour department of government of NCT of Delhi. The perspectives of workers and call centre agents revolve around nine essential constructs viz. working posture, nature of industry, hours of work, safety measures, accident prevention measures, safety culture, safety training and participation, worker's perception on statutory inspections, and workers perception on reforming working condition regulations. The perspectives of trade unions and business associations revolve around the present state of working conditions, role of labour legislation in ensuring appropriate working conditions for the workers, role of inspec-

tors in improving the working conditions, frequency and manner of inspections, perceived role of statutory inspectors as resource person for the industry as a whole in terms of building awareness, training, providing guidance and suggestions for improving working conditions, misuse of statutory power by inspectors in collusion with employers affecting productivity, role of government in working conditions, hours of work, flexi-work system, need for separate labour legislation on working condition for small, medium and large sectors, participative decision making on working conditions, perception on working condition regulations as impediment to attaining competitive advantage by firms, and finally the issue of reforming working conditions regulations to make it more contemporary need based, business and growth oriented and competition friendly. Finally, the perception of the labour department (factory inspectorate and shops and establishments inspectorate) on present level of compliance of working condition regulations, effectiveness of inspections in ensuring adequate working conditions, measures to educate workers / agents on working condition regulations, emergent areas of emerging or newer risks at workplace to be addressed through legislation, and opinion on reforming working condition regulations.

Given above mentioned dimensions, the views of trade unions, employer's associations, government and practitioners through secondary sources were examined before finalizing the research questions. The study relied upon primary data and is collected through questionnaire, interview guide, discussions and observations. Purposive random sampling was employed. For the sur-

vey method, the sample size was 338 respondents, consisting of 291 workers of 13 different factories in pharmaceutical, textiles, beverages, refrigeration and air-conditioning, consumer, confectionary, auto-components and engineering products, 82 call centre agents from a leading Call Centre company, 5 office bearers of five national federation of trade unions, 25 state-level trade unions, 1 national-level call centre employees union, 11 business associations, 4 personnel of Factory Inspectorate and 1 personnel of Shop & Establishment Inspectorate of Government of NCT of Delhi. SPSS software using statistical tools like mean, standard deviation, t-test, coefficient of correlation, and chi-square test were utilized.

Findings

Workers in a new economy industry like pharmaceutical group have better perception than those in non-pharmaceutical group on various dimensions of working condition viz. safety measures availability, accident prevention measures, safety culture, safety training and participation, health measures available and perception on working condition regulations and inspections as compared to traditional industry. However, increased work pressure leads to unsafe work practices amongst workers and not call centre agents. Workers and call centre agents appreciate the vitality of regular inspection but for different reasons. Workers of pharmaceutical group holds that inspection is helpful in identifying workplace hazards (value-additive) while workers of non-pharmaceutical group and call centre agents find inspections routine (non value-additive) (Tables 1- 4).

Table 1: Comparison of Working Conditions between Two Groups of Companies (Pharmaceutical & Non-Pharmaceutical)

S. No.	Dimensions	Pharmaceutical (N=129)		Non-Pharmaceutical (N=80)		t-Value
		Mean	SD	Mean	SD	
1	Hours of Work	3.59	1.19	2.10	1.46	8.07**
2	Safety Measures Available	4.39	0.34	4.30	0.60	1.27**
3	Accident Prevention Measures	3.91	0.59	3.79	0.55	1.51**
4	Safety Culture	4.22	0.33	4.10	0.35	2.46**
5	Safety Training & Participation	4.40	0.25	4.16	0.50	4.57**
6	Health Measures Available	4.38	0.56	3.68	0.55	8.82**
7	Perception on Working Condition Regulations & Inspections	4.32	0.33	3.97	0.54	5.73**

** Significant at 0.01 level

Table 2: Distribution by Company on Vitality of Regular Inspections

Description	Pharmaceutical	Non-Pharmaceutical	Total
	N = 129	N = 80	N = 209
Identify hazards in the workplace	92 {71.3}	17 {21.3}	109 {52.5}
Keep the organization looking good	18 {14.0}	52 {65.0}	70 {33.5}
Aid communication	19 {14.7}	11 {13.8}	30 {14.4}

Chi-Square Value = 62.18, significant at 0.01 level

Note: Figures in brackets are in percentages

Both trade unions and business associations perceive that working condition regulations have been partially successful in protecting the interest of workers, trade unions and management. Trade unions perceive deterioration in working conditions while business association perceive improvement in working conditions since liberalization, privatization and globalization of Indian economy in 1991. Both trade unions and business associations do not favour flexi-work system.

However, half of the respondent employers favour flexi-work system also. Trade unions want more statutory inspections to be carried out and educating workers about their legal rights is necessary while business associations want a complete change in the character of working condition regulations keeping in view latest developments in technology, flexibility and dynamic scenario of competitiveness. Trade unions hold that corruption and bureaucracy amongst statutory inspec-

Table 3: Mean & Standard Deviation of Dimensions by Type of Company with Respect to Perception of Workers on Reforming Working Regulations

S. No.	Perception Dimension	Pharmaceutical (N=129)		Non-Pharmaceutical (N=80)		t-Value
		Mean	SD	Mean	SD	
1	The implementation of legislation is satisfactory	4.15	0.88	3.79	0.63	3.20 (NS)
2	Legislation kept pace with changing needs of working class	4.34	0.76	3.54	0.78	7.39**
3	Statutory inspectors facilitate in effective implementation of safety measures	4.37	0.67	4.25	0.99	1.06 (NS)
4	Satisfied with quality of implementation of welfare schemes	4.20	0.86	4.41	0.79	1.78 (NS)
5	Statutory inspectors cause dislocation of work as & when they visit us	4.20	0.99	3.24	0.95	6.94**

** Significant at 0.01 level
 NS = Not Significant

Table 4 : Relationship (Coefficient of Correlation) Among Various Dimensions of Working Conditions (N = 82)

	Dimension 1	Dimension 2	Dimension 3	Dimension 4	Dimension 5	Dimension 6	Dimension 7
Dimension 1	1.0000	0.1757	0.3012	0.2949	0.0070	0.0406	0.1238
Dimension 2	0.1757	1.0000	0.6300	0.5959	0.7130	0.6151	0.5923
Dimension 3	0.3012	0.6300	1.0000	0.5489	0.5632	0.5507	0.4011
Dimension 4	0.2949	0.5959	0.5489	1.0000	0.5689	0.5100	0.6875
Dimension 5	0.0070	0.7130	0.5632	0.5691	1.0000	0.6646	0.5779
Dimension 6	0.0406	0.6151	0.5507	0.5100	0.6646	1.0000	0.3753
Dimension 7	0.1238	0.5923	0.4011	0.6875	0.5779	0.3753	1.0000

Dimension 1 Hours of Work
 Dimension 2 Safety Measures Available
 Dimension 3 Accident Prevention Measures
 Dimension 4 Safety Culture
 Dimension 5 Safety Training and Participation
 Dimension 6 Health Measures Available
 Dimension 7 Perceptions on Working Conditions Regulations & Inspections

tors are impediments to effective implementation of working condition regulations whereas business associations perceive lack of awareness of legal rights amongst workers to be the impediment. While surprisingly trade unions are satisfied with present level of emphasis on working conditions business association's

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finds lack of government emphasis on working condition. Trade unions perceive that the reason of lower number of court/adjudication cases on working condition is due to the fact that all stakeholders are satisfied with working conditions. On the other hand, business associations find lack of proper understanding of the significance of working condition amongst all stakeholders to be reason behind lower number of court/adjudication cases.

Labour department argues that most of the employers in organized sectors are complying with working conditions provisions stipulated in The Factories Act, 1948. However, employers in unorganized sectors, constituting small firms, have failed to comply with health, safety and welfare provisions provided in the said act.

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Labour department states that customers of the firms play a pivotal role in ensuring compliance and improving working conditions. This is because increasingly buyers/customers want production of goods by workers working in adequate working condition and with a legally compliant note. Now-a-days inspector's at-

titude has changed from 'prosecution' to 'education'. The inspectorate strongly advocates for deletion of minimum stipulation of 10 workers working in any premises or precincts thereof to be considered as a factory in pursuance of section 2 (m) of the Factories Act, 1948. Vibration is still not recognized as a health hazard under the Factories Act, 1948. Therefore, legislation must provide for provisions governing vibration treating it as a health hazard and integral part of working conditions. The number of factory inspectors is much lesser than the number of factories (1: 615 for organized sector). The inspectorate pointed out that the trade unions seldom make complaints on working conditions to the inspectorate. This results in indifference to working condition regulations. The inspectorate suggests that The American Model on OSH can be emulated by us. Once a factory is found to comply with the provisions of the act at the time of granting factory license, then as an incentive to the employers, immunity from further checking by factory inspectors can be granted. This will seek to motivate employers to maintain and improve working conditions of their own.

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The shops and establishment inspectorate contends that lack of registration has adversely affected the effective implementation of the Delhi Shops and Establishments Act of 1954. As on date, the inspectorate is not undertaking any suo-motto inspections. Inspections are generally undertaken as a result of com-

plaints received from employees of shops and commercial establishments. The inspectorate is of the view that given rampant unemployment especially in current economic recession scenario, effective implementation of the act is difficult given that supply of manpower far exceeds its demand. Provision for mitigating risks to employee's health on account of stress should be expressly provided for in the said act. Further, in order to ensure better compliance by employers, deterrent punishment of fine of Rs. 25, 000/- should be provided for against the present meagre fine of Rs. 250.

Both trade unions and business associations favour reforming working conditions regulations to make it more contemporary need based, business and growth oriented and competition friendly. The Factory Inspectorate strongly believes that The Factories Act, 1948 is not an impediment in attaining or sustaining competitive advantage by firms. The Factories Act exists in developed countries like USA and UK, but nowhere is it an impediment to competitive advantage of the firms. The inspectorate contends that Delhi Shops and Establishments Act, 1954 is not an impediments to attaining or sustaining competitiveness by the firms. They argue that the recent economic downturn of American economy indicates that competitiveness of firms cannot be unregulated or unrestricted otherwise frauds and malicious failures will continue to trouble corporate world and national economy as well.

Many commentators argue that the enforcement of the labour legislation in

India is a bigger problem in the present judicial system. Unfortunately, the legal and judicial system has been unable to keep pace with the needs of a growing population of workers and the increasing complexities of the industrial sector. In *Bharat Forge Ltd. Vs. Uttam Manohar Nakate* (1985), Supreme Court of India, 2005, the Supreme Court's final judgment was based on the interpretation of laws that have not changed. The judicial system could have arrived at this common sense at any stage of the proceedings (after all, the facts of the case were not really in dispute, Nakate always accepted the fact that he was sleeping). Therefore, one should not be impressed by the fact that the judicial system eventually got the judgment right. Furthermore, as per the latest available estimates, pending cases number 28 million, and are growing at the rate of 8% a year, imply an additional of more than 2 million pending cases a year.

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Recommendations

For Workers and Call Centre Agents: Workers should in so far as possible work in sitting position. Working in standing position creates discomfort and leads to a poor perception of working conditions and related regulations. Workers should not resort to unsafe work practices lest accident and even death could result. They should not be overwhelmed

by work pressure and should obey all safety and health instructions of their superiors and as documented in manuals in their own interest. Management should ensure that excessive work pressures are avoided and if it is inevitable then adequate training and close monitoring should be resorted to. Although both legally and morally employers are responsible for the safety of the workers at workplace, workers must consider themselves most important for ensuring their very own safety. Unless they are conscious about self-safety, even the best safety measures such as personal protective equipments can only help to a limited extent.

Workers understand their crucial role in improving competitiveness of their firms and at the same time emphasize the motivational aspect of working conditions. Their needs, aspirations and requirements must be fulfilled by appropriately reforming working condition regulations. Unless their needs, aspirations and requirements are met, the intended purpose of working condition regulations is hardly being fulfilled.

For Trade Unions: Trade unions should work towards improving working conditions and compliance of working condition regulations in tandem with both employers and inspectorate in a spirit of trust and collaboration. This will help to reduce or eliminate the employer's tendency to collude with corrupt inspectors and help in betterment of the working conditions for the workers. This will also pave the way for attitudinal change from one being focused on employment relations arising from workplace to the conditions of the workplace itself.

Trade unions should improve the frequency and closeness of their interactions with workers to stay abreast with the needs, aspirations and realities of worker's perceptions and problems in respect of working conditions. This is especially important because while workers and employers find present status of working conditions to be satisfactory but trade unions feels otherwise. This calls for more intense partnership between trade union leaders and workers for who they profess to be advocating for adequate working conditions. Otherwise, they will be alienated amongst the working population and soon will find no place for them. Trade unions also need to come out of the shackles of historic mindset which believes that employers are the adversaries of the working class.

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In this globally competitive era, they need to shift from 'conflict' to 'cooperation' framework in letter and spirit. Then only they will continue to justify their role and will be important for both the workers and the employers. Trade unions must strive to understand the business complexities, technology and changing patterns of organization and should interpret competitiveness of the firms in that perspective. Merely pointing accusing fingers at the employers will neither help

anybody nor further the cause of the firm. Their role should be to assist management in identifying and overcoming challenges in global business environment and render a helping hand to improve worker productivity, which is the stepping stone of firm level competitiveness.

Rather than looking up to government for help in improving working conditions, they should themselves embark upon various educational and training programmes for building awareness of rights, duties and liabilities amongst the workers in relation to working condition regulations. Relying too much upon a third party like government will only increase their vulnerability to political manoeuvring. They should build pressures on employers through process of mutual dialogue and a demanding workforce which is committed to productivity and adequate working conditions. Trade unions must recognize the significance of working conditions and must spread it amongst workers and government agencies. They must press upon strengthening of those provisions of working condition regulations that help in realizing better working conditions and elimination of those provisions which fails to serve the purpose of none or still worse impede competitiveness of the firms. Developing and nurturing cooperation, collaboration and trust with employers will help them to achieve both better working conditions as well as competitiveness of the firm which is essential for survival of all stakeholders.

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For Business/Business Associations: Business associations should now come out of the traditional mould of distrust and conflict which has been ruling the roost of employer-trade union relationship for long. They should now forge partnership with trade unions and workers for improving productivity and competitiveness of workforce and eventually their firms. Changes in legislative provisions in terms of reforming working condition regulations would undoubtedly provide them relief from archaic and restrictive provisions but without trust, collaboration and mutuality the objectives of the firm cannot be achieved successfully. Today firm's success depends upon the commitment and capability of its workforce and therefore collaboration and cooperation will go a long way in improving individual and firm performance. This would also reduce their dependence on third party like government and its numerous bureaucratic agencies that they often complain against.

Although business associations accept that there is wide-spread corruption amongst statutory inspectorates what they need to understand is that unless they stop bribing inspectors for escaping legal provisions with impunity, this problem will continue to haunt especially the honest and upright employers in the future also. Employers should themselves implement the legally stipulated measures of safety, health and welfare and refuse to bribe corrupt inspectors.

Employers often have the means and measures to ensure that their workers have access and full knowledge of vari-

ous rights, duties and obligations under working condition regulations. This will reduce dependence of workers on third parties such government and/or trade unions. Since business associations appreciate that there is a lack of proper emphasis on working conditions, they should themselves provide for means and measures of accommodating workers participation and involvement in decisions related to working conditions. This will probably come when they treat workers as equally important partner and have a non-adverse attitude towards them, especially the trade unions. Such a gesture on the part of the employers will build trust and aid strategic imperatives of the firm due to enhanced level of commitment and ownership amongst the workers. Additionally, these should be forthcoming as regards initiating and implementing safety, health and welfare measures are concerned quite voluntarily. Business associations should themselves act as a regulatory body for their members so that employers are persuaded to improve working conditions in their respective firms. They may also constitute a neutral audit team to inspect and suggest means and measures of improvement at the workplace. They should ensure that member employers upload status of compliance of working condition regulations in the website voluntarily.

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For Government: Government is one of the most crucial actors of working condition regulations both as the law maker and the law enforcer. Both the employers and trade unions rely upon its support to achieve their respective but often contradictory goals. This makes the job of government even tougher as balancing the two traditional adversaries is quite difficult. However, we make the following recommendations for the government.

- Government must invest in concerted media and other publicity mechanisms in a planned, systematic and continuous manner to ensure that due awareness on working conditions is being built which will help workers as well as employers to know their respective rights and obligations under The Factories Act, 1948 and The Delhi Shops and Establishment Act, 1954.
- The position of Certifying Surgeon must be dispensed with immediately and a pool of Medical Officers should be engaged on full time basis for rendering a host of medical assistance and services to the workers employed in factories, shops and other commercial establishment. A tie-up with Employees State Insurance Corporation's dispensaries and hospitals can provide the doctor's pool as enumerated above at a marginal cost to the government.
- The labour enforcement machinery is grossly inadequate to cope with the multitude of labour laws and the various establishments that require sur-

veillance. The enforcement strategy will be to reduce the burden on the existing machinery and to encourage employers and other stakeholders like trade unions to proactively participate in the implementation of this strategy on a voluntary compliance basis. For this purpose, stipulation of worker strength should be reduced suitably (say 200) to ensure appointment of welfare (or safety officer) in almost all the factories and they should be designated as "Resident Factory Inspector". These resident factory inspectors should upload compliance status of working condition regulations in their firm's website on voluntary basis.

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- In this global business era, government must foresee its role as facilitators and enablers rather than interventionist. This will help government and its various agencies to focus on areas important for improving working conditions rather than being bogged down with in-fighting between employers and trade unions. This will also help the government to give proper focus on working condition regulations also rather than merely concerned with industrial relations only.
- Multiplicity of forms/returns to be done away with and combined returns to be introduced. Both trade unions and business associations agree that multiplicity forms is at best a drag on time, efforts and resources of a firm which can be better utilized into productive activities. Often these forms are not even properly scrutinized but simply dumped into record rooms as a matter of record.
- It is recommended that a firm found complying with working condition regulations at the time of grant of license or subsequently for three years should be granted immunity from further inspections. Different authorities, employers and trade unions can coordinate to arrive at an inspection schedule that is mutually convenient. This will help in increasing accountability of trade unions also in addition to employers in matters of working conditions and prevent illegal gratifications of corrupt statutory inspectors. All deficiencies and shortcomings must be noted on the inspection book clearly in a positive environment, rather than the practice of informing later, with due signatures of management and trade union representatives along with the concerned inspectors. Trade unions can then pursue with employer for the required improvement duly assisted by the inspector, as needed.
- The inspectors must be trained so that they act as resource person for the industry as a whole and make educational efforts for improving knowledge about statutory provisions amongst both workers and employers. The training and guidance to inspectors is necessary so as to do

away with the punitive or rent seeking behaviours.

- Central Factory Rules must be formulated by the central government in order to bring uniformity and simplicity in procedure, process and documentation. This is crucial as now-a-days many multinational as well as domestic firms are setting-up their factories in more than one state.
- Government must setup training centres on occupational safety and health at every district and such centres should provide a wide spectrum of training, retraining and refresher training to workers, trade unions, employers and inspecting staff on various issues, aspects, problems and new developments in respect of working conditions. Attending training programmes at the centres should be made compulsory by instituting suitable provision in The Factories Act, 1948 and The Delhi Shops and Establishment Act, 1954.
- In the case of organizations having ISO/TS 16949/GMP etc. certifications, inspections could be done once in three years, thus placing reliance on self-certification. Since most of the quality certifications consider working conditions before certifying, therefore reliance upon such international or national certifications can be made.
- Registration of shops and establishments must be revived and made compulsory at the earliest. The procedure for making and obtaining registration must be simple and online. Similarly, the application for and grant of factory license including renewals thereof should be online.
- Adequate number of qualified and separate inspecting staff under The Delhi Shops and Establishment Act, 1954 must be created so as to ensure effective implementation of the working conditions in shops and commercial establishments. Further, the inspectorate must be headed by a full time and independent Chief Inspector of Shops and Establishment in order to bring desired improvements in enforcement.
- Punishment and fine as a deterrent under The Delhi Shops and Establishment Act, 1954 must be enhanced to a reasonable level on the pattern of The Factories Act, 1948.

Engagement of women in night shifts should be allowed in all the industries subject to satisfactory safeguards.

For Law Making Bodies: The law making bodies assume paramount importance not because of their law making ability but their role in balancing the

needs and expectations of various stakeholders of the working condition regulations viz. workers, call centre agents, trade unions, business association and the inspectorates of the government. This is definitely a challenging task given balancing equity with efficiency.

Our law makers must look beyond the “income-employment” security paradigm which seems to have made employment or terms of employment more important than the conditions of employment.

Our law makers must look beyond the “income-employment” security paradigm which seems to have made employment or terms of employment more important than the conditions of employment. Working conditions, where employees spend 80% of their waking life, cannot be less important than wages and other benefits. It is in this context, that reforming working condition regulations assumes paramount importance.

Some of the crucial recommendations for law making bodies in respect of working condition regulations are as follows:

- The Factories Act, 1948 must be amended to remove obsolete and dysfunctional provisions which serve purpose of none of the stakeholders. Also, all ILO conventions on safety, health and welfare must be incorporated in the amended acts. Further, working condition regulations must be very simple and easy to understand and implement which meets the required and desirable aspects of safety, health and welfare needs of a modern India.
- Section 2 (m) of The Factories Act, 1948 must be amended to remove stipulation of 10 workers as a qualifying ground for consideration of a premise or precincts therefore as a factory. This will help to extend the benefits of the law to unorganized sectors of the industry.
- Appellate mechanism and complaints on corruption against inspecting staff must be incorporated in The Factories Act, 1948. This will act as a deterrent to corrupt inspectors.
- Vibration and stress must be recognized as health and safety hazard and accordingly provisions must be inserted in the working condition regulations of the Factories Act, 1948 and the Delhi Shops and Establishment Act, 1954. Also, more elaborate safety provisions must be inserted in the Delhi Shops and Establishment Act, 1954.
- Training and education on provisions pertaining to working conditions must be compulsorily provided to the workers by the management and earmarking of managerial personnel who are directly responsible for safety, health and welfare of the workers and call centre agents must be made and given refresher training.
- Workers working in hazardous processes must be rotated periodically

(say every 6 months) to prevent or minimize occurrences of occupational diseases.

Audit of working conditions must be laid down in the statute book which shall be conducted by a reputed and independent body having specialized knowledge of a particular industry and well aware of safety, health and welfare aspects.

- Like other professions, certifications by the government for being qualified to look after safety, health and welfare can also be made in the same pattern as that of 'Energy Auditors' (Bureau of Energy Efficiency, under Ministry of Power).
- Provisions on working conditions for benefit of call centre employees must be provided for in the Information Technology Act of 2000.
- The working condition regulations must contain a provision that it needs to be completely reviewed after every 10 years. This will help in keeping the labour legislation on working conditions both relevant and upto date. Review should be made on the basis of survey carried out by a special commission being headed by "Safety and Health Commissioner" taking field data from different types and kinds of factories and establishment and incorporating reasonable suggestions of trade unions, business associations and inspectorates.

The impact of customer's requirements on compliances of working condi-

tion regulation on the actual condition and improvement initiatives by the employers can also be studied. This may highlight whether business has greater impact than legal stipulations on maintaining or improving adequate working conditions in factories, shops and commercial establishments.

Conclusions

All the stakeholders of working condition regulations viz. workers, call centre agents, trade unions and business associations are in favour of reforming labour legislation on working condition but for varying reasons. Workers and call centre agents want better safety, health and welfare measures that can take care of their contemporary needs and aspirations. Trade unions want to make the working condition regulations even stricter while business association want to rationalize them for improving competitiveness of their firms. This implies that it is essentially a struggle between equity and efficiency. Trade unions perceive deterioration in working conditions and therefore want that labour legislation on working condition to be strengthened whereas business associations perceive an improvement in working conditions and therefore want it's rationalization for making it competition friendly. Liberalization, privatization and globalization of Indian economy since 1991 has focused only on industry thereby making to suddenly face global competition while still keeping the workforce under traditional over protective working condition regulations which has created a disequilibrium in the economic system. From the

empirical evidence, workers (both factory workers and call centre agents) are satisfied with working conditions. Therefore, it is a challenging proposition for the government and law making bodies to strike a balance between equity and efficiency. They need to reform or rationalize the labour legislation on working conditions in such a way that interest of workers and employers as a class on one hand and business enterprise and competition on the other hand are balanced to the maximum extent.

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