



Labour Codes and Decent Jobs in India's Manufacturing Sector: A Theoretical Perspective

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Abstract

The dynamics of global industrial production in the post-Fordist era has escalated contractual jobs in India's organised manufacturing sector as confirmed by Annual Survey of Industries data. Sustainable Development Goal 8 seeks to generate Decent Work to make economic growth inclusive, sustainable, and fair. However, making a concrete progress towards this goal requires the policy makers in labour surplus countries particularly in India to use innovative industrial policies so that interests of labour. The recent episode of swift compression of the erstwhile labour legislations into four labour codes appear a cosmetic change only in this regard. This paper examines whether these new labour codes would enable the growth of decent work in this sector .

Keywords: Regulation, Contractualisation, Inclusion, Manufacturing, Fordism **JEL Classification:** H56, I28, L50

1. Introduction

In the post-Fordist era, the dynamics of global industrial production have impacted the global labour market adversely through informalisation of work. The informal jobs have increased not just in the informal sector but also in the formal sector (Mehrotra et al., 2014). While a production system has consolidated the hegemony of capital further, the value added of the labour intensive industries has not grown much as compared to the technology intensive industries (Singh, 2023). The production system has entered the stage where industrial automation and artificial intelligence are used increasingly to ensure that profit shares do not decline. The growing informalisation will subject the workforce to high level of exploitation. This has been acknowledged in the Sustainable Development Goal 8.

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The target 8.2 of the SDG on decent work agenda, encourages all countries to achieve higher levels of economic productivity by pushing for industrial diversification, technological innovations by laying more focus on high-value added and labour-intensive sectors. However, the governments have largely turned less sensitive to the plight of workers. In Indian context, it has become even harsher. The spectacles of the mass exodus of migrant workers barefoot from the urban areas in before the COVID induced lockdowns in the year 2020 hints at the gravity of harsh work conditions. But nevertheless, some states even amended labour laws to protect the interests of industrialists¹.

COVID-19 took heavy toll on informal workers which once again reminds the policy makers of their vulnerability. Their sufferings could have been undermined had there been better and adequate provisions of social protection or emergency doles by the state instituted for them (Singh, 2021). Was it due to the fact that the Indian state has surrendered to the dictate of the market economy?

This seems to be the case as the state apparatus couldn't bring any respite to the affected workers since informal workers don't have any entitlements and rights in India's labour market. This is reflected in the wealth inequality in India where top 1 percent of Indian population holds 40.6 percent and the bottom 50 per cent holds merely 3 percent of the total wealth of the country (Mahendru, 2023). We argue that mere compression of all erstwhile central labour laws into four labour codes alone wouldn't ensure decent work conditions unless anti-labour stance of the Post-Fordism is reformed.

The paper is structured into five sections. Section 2, analyses the distinctions in Labour Codes from the erstwhile labour legislations from the perspective of decent work. Section 3, dwells on the research methodology and data used for this paper. Section 4, discusses the declining job security in India's labour market during the transition to the Post-Fordism. Section 5 discusses plausibility and effectiveness of the labour codes to promote decent work in India's manufacturing sector.

.Section 6, concludes the paper.

2. Labour Legislations and Decent Work: Theoretical Background

The stagnation of India's organised manufacturing sector for many decades has prompted many academicians and researchers alike to argue for revitalizing labour market of India (Ghose, 2005; Roy, 2004; Panagariya, 2008). They see that the solution for all ills in the manufacturing sector lies in abolishing provisions of economic security for workers. The labour laws are perceived to be the only harsh rigidities that have withheld the manufacturing performance. They claim that growth of output and employment will increase if labour market rigidities are relaxed or removed. The champions of flexible labour market have interpreted industrial data in their own ways to justify the use of contractual labour. These research studies have recommended the use of non-permanent workers for enhancing productivity and generating employment. However, adopting such an approach across the sectors could lead to labour unrest and chaos in the economy.

On the basis of empirical evidence, Fallon and Lucas (1993) argued that strict labour laws posed the biggest hurdle for economic growth and employment growth in the organised manufacturing sector. Estimating a dynamic demand for labour for India and Zimbabwe, they observed that strict job regulations reduced demand for labour across industries. There was a decline of 17.5 per cent and 25.2 per cent respectively in weighted average long run demand for employees. The greatest fall in demand for labour was noticed in private sector firms with more than 300 workers and weak trade union

representation. In order to avoid these regulations for permanent workers, the employers hired more casual or contractual workers.

Besley and Burgess (2002) also made a similar argument in this connection. They argued that the manufacturing sector must be developed and diversified for achieving a desirable structural change in an economy. The economic policy plays a key role to this effect so as to enhance growth and ensure poverty reduction. Countries like Malaysia, Thailand, and Indonesia are good examples of successful manufacturing. They argued that labour market regulations determine shape, size, and pace of growth of the manufacturing sector.

Dougherty (2008) also finds fault with labour laws. He studied the impact of Employment Protection Laws (EPL) and other labour laws on employment dynamics in India's organised sector in terms of EPL index. The index incorporates reforms in various Acts that prevail in the country. He has found that overall employment growth has followed the trends in economic growth during 1998-2005 as per the NSSO data. In fact, growth of employment shot up during the 2000s than that in the 1980s. However, most of the employment growth took place in the unorganised sector by virtue of contractual workers growth of 10% p.a.

These research studies recommend enhancing labour flexibility for improving the performance of the manufacturing sector in all respects. However, these findings seem to have ignored the macroeconomic picture of the Indian economy within which the labour market functions. In India's labour market is highly segmented and very dualistic. The huge size of workforce in India shapes labour supply curve to be very elastic. The labour legislations have lost their jaws and sharpness since introduction of 'pro-business' reforms² of mid-1980s (Panagariya, 2008). Moreover, empirical studies often fail to capture the qualitative aspects of the labour market. In India's case, the use of contract workers can't just be justified for economic efficiency given the spirit of social justice in the Indian Constitution (Tripura et al., 2023).

From the perspective of the spirit of Indian Constitution, these labour legislations are embodiments of the Fundamental Rights and the Directive Principles³ pave the way for creating a welfare state in India. The labour legislations are based on these principles and attempted to incorporate this spirit of constitution in different enactments. As the directive principles of state policy has entrusted the responsibility of implementing the programmes and policies laid down in the constitution as announced in the Constituent Assembly a series of Labour Legislations were enacted. They were brought in to protect the interest of labour from exploitation by the employers and put in place better working conditions with social security provisions

²Panagariya(2008): The reforms of mid-1980s that were introduced in India were termed as 'pro business' reforms.

³Article 38,41,42,43,43A promise welfare and social justice to all citizens;securing right to work;removing the child labour from hazardous industries;just and humane conditions of work and maternity relief;securing decent standard of life and leisure to all workers; and participation of workers in the management of under takings

In a country where the society is riddled with graded inequality all thanks to the stinking pattern of labour division of caste hierarchy, economic inclusion will further drive people from inclusion through informalisation of work. For the namesake, Indian state is usually termed as a welfarist state even though its achievements were not satisfactory even before the decade of 1990s. It worked for the poor through poverty alleviation programmes although at low pace due to shortsighted policy interventions for a labour absorbing structural transformation.

In retrospect, we observe that most of these programmes focused on either short term concerns or they were at best populist schemes. The core issues like human resource development unlike the policy augmented human capital formation of the East Asian countries didn't receive much policy attention. India's low ranking in human development index (HDI) tells the whole story⁴. India is an outlier among all industrialising countries with special reference to the East Asian region that has developed due to policies of development state. Instead of dismantling institutions of governance, weakening the public education system, corporatisation of healthcare, and selling off public sector enterprises (profit making ones) across the board, all policy focus should have been to leverage the existing industrial capacity to enhance productive capacity and build up human capital formation.

Economic development can be enhanced if the fundamental strength of the economy are strong which lies in human development and productive capacity. Even though India's economic development increased post-independence period, it was lower in vis-à-vis the East Asian countries. Siddiqui and ur Rehman (2017) argue that human development boosted total factor productivity in nine select economies of the regions. This has become very clear from the experience of countries in this region. Unlike the western European countries, their economic growth and prosperity had resulted from the proper utilisation of human resources. The low human capital formation in the poor youth disabled them get absorbed in the formal sector. Was it due to misplaced focus of the economic reforms on transferring public wealth to the private corporates through disinvestment and privatisation?

⁴As per the UNDP report, 2022 India ranks 132 in human development achievements which is quite low

Economic reforms of the early 1990s seem to have followed a wrong track which looks like the infamous enclosure movement⁵ of early 16th century. This movement was aimed at ejecting farmers and peasants from the agriculture and forcing them to migrate to the towns in search of livelihoods. In India's context, the forces of capitalism under kept reined through state capitalism until 1991 but only to harm overall prosperity of the country. The bureaucratic constraints did not allow any kind of freshness to the economic growth. However, conspiracy of the market economy against the welfare state worldwide did not spare India either. The economic reforms have consolidated the capitalist class in India with rising concentration of wealth in their hands.

3. Research Methodology and Data

In this paper we have attempted to examine the status and dynamics of decent work in India's organised manufacturing sector in the post economic reforms era since the early 1990s. We have used firm level data published by the Annual Survey of Industries for the period 1999-2019 to find out the trends in contractual jobs. The raw data was cleaned using the STATA for different cross-sections. The data has a separate category of contract workers upto five digit level, firm level. We have defined contractualisation as contract workers divided by the total workers. Since these jobs do not carry any social security for workers, they are anti-thesis of decent work agenda. However, we could not test the impact of labour codes empirically as the ASI data is not available for the period after 2019.

4. Post-Fordism and the Trends in Industrial Employment

Post-Fordism emerged to weaken the labour market institutions by removing permanent workers from the industrial production worldwide. It has achieved its goals although at the cost of notorious levels

informalisation of jobs only to face resistance globally from the working classes(Harvey, 2016) . However,the Decent work agenda has become vociferous in the aftermath of the global financial crisis of 2008. It is characterised by jobs that are productive and ensure income security besides providing employment security as well as social protection. It also calls for adequate freedom for labour to organise and actively participate in employment relations. Alternatively, it is more about paying policy attention to the labour exploitation in the global production system.

⁵Hunt and Lautzenheiser (2015) elaborated that common lands was enclosed by influential landlords to increase their land ownership.This land became the source of rented income for the absentee landlords in the Western Europe during the transition from Feudalism to Capitalism

Very much like the global trends in industrial employment,informality of manufacturing sector jobs has increased in India too after 1991.However, the pattern of industrial transition has progressed quite contrary to the aspirations of the labour market that is characterised by demographic dividend for the time being. The small size, low growth of organised manufacturing, and growing industrial automation has driven capital intensity have collectively dampened the demand for labour in the manufacturing sector. Contractualisation of workforce in organised manufacturing has manifestations of both these trends although it doesn't count much for socio-economic inclusion in Indian context(Singh, 2020).

The issue of decent work holds immense importance in the Indian context for various reasons. Its roots can be traced if we reflect upon the political economy of India's development with special reference to the paradigm shifts in policy framework on three occasions:1950-1990, 1985-2013, and 2014 onwards.The first phase laid out the foundations of modern industrialisation and set in the development process on planned economy way although the economy couldn't accomplish industrial revolution kind of success.If one looks at the industrial data,the share of industrial sector in total output and total employment is way below the world average(Singh, 2023).Could it be related to the geographical and cultural theories of development as analysed in the existing literature(Acemoglu and Robinson, 2019)? It may not be related to the geographical factors. However, in some ways it can be more about the culture or social hierarchy that characterises India's socio economic structure(Thorat and Newman, 2007; Mandal, 2010).

Nevertheless,the importance of human capital for industrial growth can't be under mined.Even as there was a lot of policy focus on industrialisation during the first two five year plans(1950-60),human capital formation didn't receive similar attention.The diluted policy attention towards human resource development raises a pointing finger on suitability and sustainability of industrial development for labour absorbing structural transformation

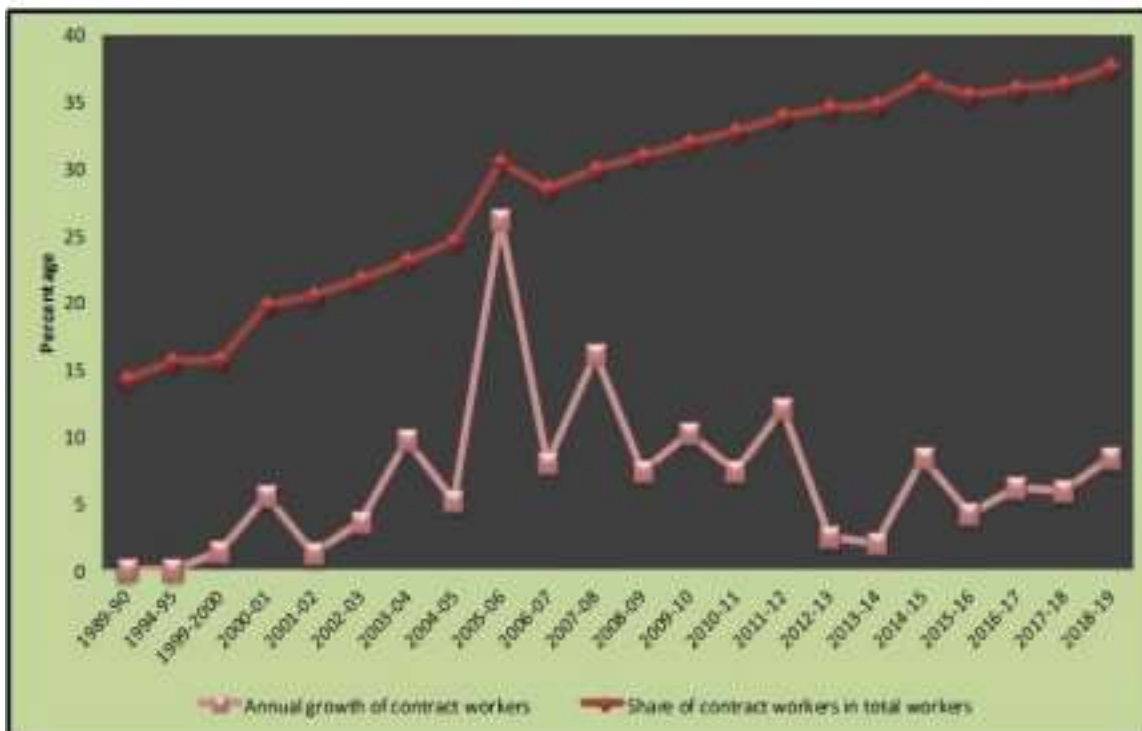


Figure 1: Contractualisation in the manufacturing sector,(1989-2019)

Source:Authors estimates based on ASI data

in the country(Mehrotra et al., 2015; Mehrotra and Acharya, 2017).However, there was a lot of concern for entitlements of labour in the policy design. It was mainly due to welfarist states all over the world until 1973 thanks to commitments of members to the ILO resolutions for labour welfare.No sooner had the neo-liberalism began its arrival,the states in individual countries started backing out from the working class. The days of tri-partitite resolutions of industrial relations were numbered by the decade of 1990s.That's how, the workers' interests didn't matter much to the policy makers. In other words, roughly 450million workers have no value in their eyes.How could the policy makers or legislators afford to ignore them?

This may be attributable to the socio-economic structure of Indian society wherein class interests are supplemented by caste interests.Industrial capital andland ownership are distributed along on the lines of social hierarchy.Whereas the capitalists' class belong to the social elites of India,the labour class hails from the low castes.As the interests of capitalists matter more worldwide,the post-Fordist era evolved to protect them.So, Indian capitalists have directly benefitted from thechanging world economic order towards market economy. On the contrary,the working class which is largely constituted by the low social groups(SCs, STs,and OBCs) has been subjected to informalisation of work.

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Table 1: Annual average growth of contract workers(%),1999-2019

Industry	1999-200	2004-0	2009-1	2014-1
	4	9	4	9
<i>Low tech industries</i>				
Food products & Beverages	5	9	2	2
Tobacco products	82	2	-14	-14
Textiles	2	11	3	3

Apparels,Dressing & Dyeing offur	29	46	3	3
Tanning and dressing leather	17	9	18	18
Wood & products	37	24	7	7
Paper & paper products	14	10	2	2
Publishing,Printing & recorded	32	18	15	15
Furniture & mfg	8	17	9	8
<i>Medium tech industries</i>				
Coke & refined petro	21	34	-4	4
Basic Metals	2	29	5	11
Rubber & plastics	24	23	17	1
Other non-metalic products	5	27	8	12
Fabricated metal products	25	24	8	2
<i>High tech industries</i>				
Chemicals& Chemical products	12	15	14	3
Office,accounting, and computer	34	41	4	8
Machinery Equipments	11	36	4	18
Electrical equipts	11	47	12	2
Medical, precision and optical	29	17	1	2
Motor Vehicles, trailors	27	40	15	10
Other Transport Equipts	-9	28	10	7
All Org Mfg Industries	12	17	5	8

Source:(Singh, 2023)

In the manufacturing sector, contractualisation is a major form of informalisation as revealed by Table1.The key feature of contractualisation is that it has happened in not just capital intensive industries, but also in the labour intensive industries. It may be argued that exploitation of labour has increased due to anti-labour technological progress in the post-Fordist production regime from 1985 onwards. More precisely,the pro-business liberalisation reforms were nothing but the first milestone of post-Fordism in India.However, this era can be divided into two sub-periods:1985-2013 and from 2014 onwards.This sub division of time period has

been done to see the difference in the focus of policy makers towards market led growth.

While both these sub-periods are not good for quality of manufacturing jobs, the last period(2014 onwards) has become a phase of nightmares for industrial workers. The government has completely backed out the labour. The swift disinvestment of scores of public sector undertakings, radical merger and amalgamation of public sector banks, privatisation of railways, highways, ports, and airports etc. was a strategic policy intervention to eliminate trade unions (Rodgers et al., 2007). How to understand these developments from the perspective of decent work? What kind of rights will be guaranteed under the labour codes if the organised manufacturing remains small and the industrial regulation doesn't take care of the interests of workers? In this respect, the labour codes have not addressed the mandate of a decent work agenda.

The existing literature reveals that private corporates-the biggest beneficiaries of market economy-mainly belonged to India's elite social groups (Thorat and Sadana, 2009). The entrenched and growing inequality in distribution of wealth, land, and income across social groups validates this viewpoint. In the guise of economic reforms, social inclusion process, that was underway since the inception of economic planning since 1950 although at a slow pace, came to a grinding halt. The stalling of social inclusion stands for corresponding economic exclusion also.

This took a fierce form since 2014 with foreclosure of the Planning Commission and auction of the PSUs as well as the economic infrastructure abruptly. The policy makers made certain policy interventions few years ago for formalising the informal employment⁶. Even as the policy makers claim to have expanded formal employment due to such interventions, these have been refuted by various studies (Mehrotra, 2022). However, the amendments to labour regulations, foreclosure of economic planning and extreme level of privatisation⁷, and policy measures that have been taken for expanding formalising the informal employment looks contradictory greater economic inclusion in future. We argue that blaming the labour legislations for poor performance of manufacturing performance deflects the policy discourse from the core issues of political economy of development process.

5. What's New in the Labour Codes for Decent Work?

While the labour intensive industries generate largest share of employment in India's manufacturing sector, labour legislations pose little resistance to their growth and expansion. The legislations are entrusted to promote social equity and justice to correct unequal distribution of industrial value added between industrialists and workers. They are in sync with the mandate of I.L.O. to safeguard workers against adverse work conditions and to help them improve their living standards.

In the past twenty five years (1991-20015) the problem of desirable growth of high paid employment has not come forth as a large proportion of the labour force is still engaged in low productivity and low income level informal sector⁸. The wage growth has been lower than labour productivity growth and thus the share of wages in value added has declined. (Sidhu, 2007). The trends of job growth are not very encouraging given the gigantic size of the workforce in the economy. ⁶Policy measures extending the converge of EPFO, ESIC to informal workers and implementing Goods and Services Tax

⁷Privatisation of economic infrastructure and profit making public sector enterprises

The unorganised manufacturing sector constitutes 99 per cent of all establishments operating and contributes to 81 per cent of total employment. However, despite the policy shift of the past three decades, its size has not diminished since 1989. This sector ballooned due to industrial reservation policy and multiple employment protection legislations(EPL) for the organised manufacturing sector. So, unless appropriate industrial policy is framed to expand the organised manufacturing sector, the new labour codes will not deliver much to generate decent work in the labour intensive industries .

Although the new labour codes have simplified the multiple labour laws for industries, their effectiveness on the concerns of the labour intensive industries will depend on the dynamics of implementation⁹. The growth of the public sector provides opportunities for working out new concepts of labour relations and the association of labour in management in industry. Economic progress of a country is bound up with industrial peace. Industrial relations are, therefore, not a matter between employers and employees alone, but vital concern of the community which may be expressed in measures for the protection of its larger interests.

The policy makers argue that the new four Labour Codes will benefit entire workforce irrespective of the legal status of the employers. The pension and medical benefits will be extended to even the informal workers. Similarly, the Minimum Wages Code 2019 will ensure the right to minimum wages for all workers i.e. 50 crore workers and it will be reviewed every five years. The differential in minimum wages between male and female workers has been done away with. As regards, determination of minimum wages, skill level and geographical factors will get weightage.

⁸NCEUS(2009): It defines that a sector comprising unincorporated private enterprises which produce goods and services

⁹The NDA government has repealed 29 Labour Laws and made 4 Labour Codes. The Wage Code has subsumed four existing 4 laws, the Social Security Code has subsumed 9 laws, the Occupational Safety has subsumed 13 laws, Industrial Relations Code has amalgamated 3 laws

The Social Security Code, 2020¹⁰ has been created for extend social security benefits to workers in the unorganised sector. This code has emerged from the ashes of 9 Labour Laws to secure the right of workers for insurance, pension, gratuity, maternity benefit etc. It applies to the central government employees and has a comprehensive legal framework for claiming social security. Among other benefits, the ESIC will cover workers of all sectors and coverage such hospitals will be increased from 566 to all the 740 districts of the country. The Occupational, Safety, Health and Working Conditions Code, 2020¹¹ has the thrust to bring most of the informal sector workers under social security benefits. However, industrial growth has become highly capital intensive and the public sector has already disappeared largely.

In this context, merely bragging of development in election campaigns and rallies is accepted as development itself in the so-called new India. The politicians have glorified and justified dismantling of old processes of development that were based on the constitutional guarantees and provisions as steered by the planning commission. The fast track sale of PSUs, state owned economic infrastructure, highways, ports, airports, and even the railways-the lifeline of common man. Of course, their marketing used attractive slogans and jargon. Despite all criticism and opposition in the parliament and in responsible handles of social media, these sectors and assets were sold to the crony capitalists. All this was done in the name of market efficiency though. The government didn't spare a thought to the loss of revenue and capital assets in the long term.

¹⁰Among its provisions, the creation of social security fund for informal workers, payment of gratuity for fixed term employees, social

security to fixed term employees at par with regular employees, Adhar based Universal Account Number for ESIC and EPFO, and employers with 20 workers to advertise job vacancies online etc.

¹¹It enables the Inter-State Migrant Workers to get benefits of all social security schemes by getting registered on the national portal as migrant workers and need not be appointed by a contractor as mandated by the Inter-State Migrant Workers Act, 1979. The employers will issue appointment letters to all migrant workers and will get a travelling allowance annually for visiting their native places. Also they will be provided free health check ups annually. Work conditions have been eased in many other respects also. The Maternity Benefit Act was amended in 2017 to increase the paid Maternity leave for women workers from 12 to 26 weeks and ensure mandatory crèche facility in all establishments having 50 or more workers. Women have been given the right to work

The experience of the developed countries with industrialisation underlines the significance of both the economic planning and industrial policy (Mehrotra, 2020). The phasing out of the planning commission wasn't a correct policy decision if the policy makers were serious about pulling the manufacturing sector out of stagnation (Mehrotra, 2019). The key hurdles for raising the decent work relate to small size, lower productivity, declining content of labour in the manufacturing value added. The creation of new labour codes have reduced

the labour laws in number only but ignored the real issues of India's labour market. So, this version of labour reforms is only a cosmetic change for political mileage.

6. The way forward

India's labour market has got impacted by the dynamics of global industrial production which has manifested into informalisation of work. While it is fuelled by industrial automation and artificial intelligence in pursuit of profits, recourse to such technological innovation will put pressure on human labour. Sustainable Development Goals have recognised this eventuality in its goals particularly through its Decent Work Agenda.

The vulnerability of labour was highlighted by the COVID19 pandemic in all aspects which took a heavy toll on informal workers. Their sufferings multiplied in absence of measures of social protection. Against this backdrop, the need for social security is the minimum support that labour has to be given. However, compressing multiple labour laws into four labour codes alone wouldn't ensure decent work conditions unless anti-labour stance of the Post-Fordism is reformed.

Some studies have vilified labour market rigidity for poor performance of the manufacturing sector although that is not proven. On the contrary, it is factors like small size of manufacturing sector, declining labour content in industrial value added, and absence of appropriate industrial policies that have withheld the sector. The decent work agenda can be honoured if the value added of labour intensive industries grows at faster pace.

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