

Indian Government's Stimulus Package: Opportunity for Widespread Reforms

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Summary

The Indian government has attempted to use the pandemic-created crisis in the economy to introduce much-needed reforms in many sectors. Attached to the recently announced stimulus package are many relaxations and amendments to archaic and outdated provisions in laws pertaining to land, agriculture, labour and micro and small Industries. These reforms appear poised to enable the economic recovery to be sustainable over the long-term.

Introduction

The Indian government seems to be utilising the stimulus package designed to overcome the debilitating effects of COVID-19 as a window to usher in long-standing reforms. Exceptional times call for exceptional measures and the government has seized the opportunity to weave into the package designed to kick-start the economy, a roadmap for broad-based reforms. If such measures are dovetailed with a spectrum of reforms, the regeneration process becomes more self-sustaining over the long-term. The 1991 reform package was instrumental in doing just that though it was biased towards the demand-side of the economy.

The present crisis situation in the economy has forced the central and state governments to think about the need for broader reforms. The two most vital pillars of the Indian economic engine are labour and agriculture. Both these sectors have been crying for a change. Whilst there has been talk of undertaking such reforms, nothing concrete has materialised on the ground. However, to the credit of the state governments, they have managed to take baby steps which may well induce the Union government to provide the necessary legal and political backing to set in motion a major reform process in both these sectors.

Labour Reforms to Boost Investment

Maybe as a felt-need, but the groundswell of reforms in the labour sector emanating from about half a dozen states have been exceptional. Madhya Pradesh, Uttar Pradesh and Gujarat have introduced ordinances to suspend most of the labour laws which were not only archaic, but also often stifled industrial growth. India's labour law regime comprises a plethora of about 150 different legislations which often are contradictory in application and never capable of full compliance. On the doorstep of these laws lies the entire blame for industrial clusters in Uttar Pradesh and Bihar getting destroyed with Kanpur, a one-time bustling industrial hub, now virtually lying in ruins. Before they set up shop, industry and entrepreneurs look for flexibility in labour engagement and a consistent policy regime. All

the companies who are seeking to start enterprises afresh in any of the states are seeking these two guarantees from the governments. It was the lack of these very factors which hindered investment and technological upgradation. Politically, labour has been a very sensitive subject. Governments have been loathed to interfere with the provisions for fear of union and political backlash. This is despite the realisation that such archaic laws were doing untold harm to the growth of business and large scale employment itself, due to the imbalance between the excessive cost of 'permanent' labour and uncertainty attached to underpaid 'contractual' labour. The fact that governments have now waded into these areas will send very strong signals to indicate that the party in power is able to undertake 'big bang' reforms which require a huge amount of political will.

The Madhya Pradesh government leads the way in easing license norms for contract workers. According to a government notification issued on 5 May 2020, 11 categories of industries will be exempt from the Madhya Pradesh Industrial Relations Act of 1961. The major industries exempted are textile, cement, leather, iron and steel, sugar, electricity and electrical goods, public motor transport and engineering. The validity of the licenses for such industries was one year. It has now been modified to be "for the period as applied for" under the Contract Labour Regulation and Abolition Act 1973. Contractors who were procuring labour for these industries had to procure multiple licenses for different companies and seek changes to the licenses whenever the number of workers underwent a change besides seeking renewal every year. This change has made manpower agencies heave a major sigh of relief. The state has suspended the applicability of the major provisions of the Industrial Disputes Act 1947 for new manufacturing units which will come up in the next 1,000 days. The flexibility provided is that these companies will no longer be required to seek government permission to lay off workers, which used to be entangled in a nightmare of red tapism. They will merely be required to apply for government permission for retrenchment or closure of firms and provide retrenchment compensation.¹ Additionally, for existing enterprises, there will, henceforth, be no recognition given to trade unions and employer bodies to do collective bargaining.

The Uttar Pradesh government has also proposed to exempt firms from all the labour laws barring safety-related norms and minimum wage provisions. Its ordinance, which is awaiting presidential approval, states, "[A]ll factories and establishments engaged in manufacturing process shall be exempt from the operation of all labour laws for a period of three years." The ordinance implies that no welfare provisions under the Factories Act or the Building and Other Construction Workers Act will apply. Since the Industrial Disputes Act will become redundant, it implies that, for the three-year period, the earlier means to settle disputes will not be available. There will also be no right to form unions or go on strike. However, minimum wage protection will still be available. Workers' salaries will be paid directly into bank accounts that will be registered in an online portal. Acting along similar lines, Gujarat has exempted new industrial establishments from all labour laws barring the Minimum Wages Act, Industrial Safety Rules and Employees Compensation Act.

¹ Lay off in labour law parlance refers to a temporary denial of employment due to transitory factors. Retrenchment is permanent when the person is being removed by his employer for reasons other than a punishment.

The Union government is working in close coordination with state governments to usher in labour law reforms to boost investment. The Union Labour Ministry has, however, assured that laws in respect of minimum wages, safety and security measures, child and bonded labour will remain in force. The plight of migrant labour during the present COVID-19 pandemic has driven home the need to protect the welfare provisions of contractual labour and end distinction between permanent and contract workers. Unfortunately, while the former category was the recipient of excessive security provisions, the latter had none. It is reported that the difference in wages received by these two categories doing the same work was almost three times. Such artificial categorisations have proven to be detrimental to expansion of employment. If retrenchment, with adequate compensation, is made legal, there will be lesser incentive to employ casual or contract labour and may lead to a more rational equilibrium in the wage structure. In the longer term, India cannot depend upon the labour reform process being driven only by the states. Since there is better acceptability of the problem at the state level, it is incumbent upon the central government to ensure that migrant or contract labour is provided the protection that a modern and progressive labour law regime can provide. This will also give employers the confidence of knowing that the labour market is flexible and hiring will not be fraught with avoidable complications. It will reduce the so called 'Inspector Raj' and incentivise firms to hire more, knowing that they have the discretion to temporarily lay off workers if the market conditions so demand. This is a huge benefit as recently even large and normally known to be law abiding companies like Wipro and Capgemini received notices from the Pune Labour Commissioner's office for benching employees.²

Agriculture and Marketing to Aid Farm Community

Agriculture reforms have also been the buzzword for long despite the fact that agriculture still absorbs the largest workforce in the country. In the current lockdown period, not only have the supplies of essential perishable agricultural supplies, including milk and vegetables, been maintained, but supplies have also been forthcoming at reasonable prices. State governments such as Punjab have done a remarkable job in procuring the *rabi* (wheat) crop directly from farmers and, seamlessly tying up with the Food Corporation of India, moved the grains to deficient states. Punjab was the first state to dismantle the Agriculture Produce Marketing Committee (APMC) Act provisions to permit direct transactions between farmers and registered purchasers, outside of the *mandi* (market) platform. This exercise has succeeded in ensuring that the farmer receives in hand the minimum support price of ₹1,925 (\$36.5) for 100 kilogrammes of wheat. States such as Tamil Nadu, Karnataka, Haryana, Uttar Pradesh, Bihar and Madhya Pradesh have also amended the APMC Act to permit sales from the farmers' own outlets. Warehouses and cold storages have been designated sales platforms (*mandis*) for fruits and vegetables. Rajasthan has designated primary agriculture cooperative societies as wholesale markets. Himachal Pradesh, Uttarakhand and Gujarat have also allowed direct marketing without a licence.

² <https://timesofindia.indiatimes.com/business/india-business/wipro-gets-labour-dept-notice-over-benching-staff-salary-cuts/articleshow/75636593.cms>.

Procurement should not be limited to agriculture produce marketing committees only. It should be feasible for any large buyer (processor, retail group or exporter) to register and buy directly from farmers in any part of the country. This will ensure that there is competition for the APMCs as a consequence of which the farmer will receive a better price and the buyer, a reasonable price. In view of the fact that the farmers have received a good price in the last season and since the forecast is for a normal monsoon, there appears to be good off take for seeds, fertilisers and pesticides. This indicates a good agriculture output in 2020-21. The reform process would not be complete unless it covers agri-marketing and the public distribution system (PDS) also. The PDS needs to be so designed as to facilitate a beneficiary to collect his entitlement of food grains from any part of the country.

The central government has introduced several modules in its electronic *mandi* – eNAM (National Agriculture Market) to enable the direct marketing of produce through farmer groups and cooperatives. eNAM is an online trading platform for agricultural commodities. The market facilitates farmers, traders and buyers to trade in commodities online. Recent experience has been that it has helped in better price discovery and facilitates smooth marketing of their produce. This exercise is gaining acceptance in other states too with farmer producer organisations being permitted to undertake e-marketing of their produce through eNAM.

Land Procurement Made Easy

Land is a state subject. There has been a concerted effort to attract investment by states governments by freeing up the process for private investors acquiring agricultural land. Earlier, agricultural land could be allotted only through designated state agencies. The process to get government permission, and actually get the land allotted, could take anything up to three years. The government of Karnataka has recently amended its Land Reforms Act 1961 such that industries can now directly buy land from farmers. They will merely be required to seek permission from government. However, if the district administration does not deny permission within 30 days of the application being made, it will deem to have been granted. This major reform has been introduced with the passing of the Karnataka Land Reforms (Amendment) Act 2020. Tamil Nadu, Andhra Pradesh and Telangana have also introduced similar provisions to facilitate direct acquisition of agricultural land by corporates for industrial purposes. This is a major facility which will attract investments and add to the ease of doing business. States now need to take the next step of easing permissions for land use conversion. This will not only encourage willing farmers to easily dispose of their land but also enable them to get a better price for it.

The next stage in this process would be to ensure clear titling of land. In the absence of clear titles, there is endless litigation thereby distorting the land market. Clear titles also serve to facilitate access to credit. States must complete, at the earliest, the process of electronic maintenance of land records. Karnataka had commenced a process of digitising land records but it is nowhere near being complete. This project has been languishing for long. Indian agriculture's biggest bane has been fragmented and sub-divided holdings. Certain corporate agencies have undertaken procurement directly from farmers but the attempt has not met with much success due to the presence of state and private middle agents. Considering the

uneconomic size of these holdings, the states must create an environment to facilitate easy marketing of their produce by small farmers. While various agencies have made recommendations along these lines the implementation on ground has been insufficient.

Re-categorisation of Enterprises to Facilitate Growth

The maximum loss of employment and livelihood due to COVID-19 has been in the micro small and medium enterprise (MSME) sector. While the government has introduced a fairly large stimulus package for the sector, it has introduced some major changes in the categorisation of the units also to enable growth. The categories of micro, small and medium have been redefined raising the investment threshold of each category. The limit for micro has been increased to ₹50 million (S\$1 million) from ₹10 million (S\$200,000); medium to ₹500 million (S\$10 million) from ₹100 million (S\$2 million); and medium to ₹1 billion (S\$20 million) from ₹200 million (S\$4 million). Under the new definition, a micro unit will have an investment up to ₹10 million (S\$200,000) and turnover up to ₹50 million (S\$1 million). The earlier limits served as deterrence to these categories from growing larger in the fear of losing their benefits. The distinction between manufacturing and service sectors has also been removed. This new categorisation will enhance employment and enable MSME sector units to access credit with greater ease.

The fairly comprehensive set of reforms which has been set in motion does portend bold changes over a wide gamut. The government has used the opportunity to achieve economic competitiveness and not shut itself out from the global economy, while seeking to achieve self-reliance. The attempt has been to ensure fairly widespread reforms and not be limited to incremental efforts only.

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