Industrial Relations Situation in India: A Report

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Introduction

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Introduction

Labour forms an important part of any economic activity and since earliest times there has been some sort of competition between labour and capital for superiority. Systematic collectivization was a natural fall out of the struggle between the labour and capital. It was long believed that collectivization of workers followed the business cycle. However, geographical idiosyncrasies have been observed in such patterns of collectivization. For example, Africa has been plagued by serious issues like war, extreme poverty, hunger, AIDS epidemic; political turmoil, colonization and presence of largescale unaccounted informal sector (see Phelan, 2006; Visser, 2003). Unions in Asia have relatively less socio-economic influence in the policy level decisions in comparison to their European counterparts. Asia offers all possible combinations of factors like globalization, structural change in employment, decreasing share of public employment, increasing mobility of both capital and labour, problem of immigration and in general resistance to unions by employers (see Das, 2000; Kuruvilla, Das, Kwon, and Kwon, 2002; Lee, 2005). Europe too has its idiosyncrasies. Common explanations for trade union decline have been the decreasing share of public employment, work force diversity, shift towards the service sector, increasing mobility of labour degeneration of sectoral bargaining, the erosion of Ghent system and change in attitude towards unions (Addison, Bryson, Teixeria, and Pahnke, 2011; Blaschke, 2000; Bockerman and Uusitalo, 2006; Schnabel and Wagner, 2007). Governments and international agencies like the ILO intervene to ensure that minimum standards are maintained. Thus, labour policy is the result of the economic activity, the role played by the respective governments, the legal institutions, the collective bargaining institutions, the historical influences and the cultural influences.

Labour falls under the concurrent list of the seventh entry of the constitution of India. Both the central government and the respective state governments can enact adequate legislations for the welfare of the labour. As far as the labour policies are concerned, India which was following the logic of industrial peace and logic of income protection, leap frogged into the logic of competition (Frenkel and Kuruvilla, 2002) post the economic liberalization. In addition to this distinct shift in the logics, the participation of labour has also undergone manifold change. While India still is predominantly an agrarian country, enough policy level measures are being taken to focus on the development of other sectors. India is also a peculiar case where economy has shifted from agrarian to services and now focus is on the manufacturing contrary to the examples of the developed economies, details of which been dealt with in the section II of this report.

This report is divided into four broad sections. The section I gives a brief understanding Industrial

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Relations scenario in India, followed by some of the historical aspects related to the growth of industrial relations and labour policy (II). The section III highlights the contemporary praxis of the labour policy and the final section (IV) delves into the future aspects of the labour policy in India.

I. Industrial relations in India

Industrial relations in India is mostly tripartite in nature as government plays a vital role in labour administration apart from the workers, trade union and management. Though with the evolution of service sector, particularly the growth of IT industry, the nature of relationship is changing towards bipartite as this sector is not covered by union. The following section describes the changing role of actors of industrial relations.

Trade Union

Trade unionism in India developed as a part of the broader nationalist movement and struggle for independence with active support from the political leaders. Millen (1968) predicts that if the trade unions are spawned or assisted by nationalist or other movements — as most unions in the underdeveloped countries have been — they will continue for many years to be associated, in some way or another, with a broad political front or movement, instead of building integrated organizations of their own. Despite the best effort by the colonial rulers, India experienced the impact of Industrial revolution. The first cotton mill was set up at Bombay (now Mumbai) in 1853 followed by the establishment of jute mill in Calcutta (now Kolkota) in 1855. Industrialization led to migration of the people from rural to urban areas. The maximization of production and availability of cheap labour unaware about their rights, combined with laissez-faire attitude of government led to exploitation of labour. Long working hours, unhygienic work condition, lack of health and safety measures, and overcrowding made the life of the workers deplorable both inside and outside the factory. Indian workers were required to work continuously, often for 18 hours from 4 AM to 10 PM. Workers united themselves against such exploitation at the Express Mills at Nagpur, which experienced the first organized strike in 1877. The workers demanded a complete day rest every Saturday, half an hour rest interval, working hour from 6:30 AM to sunset, payment of wages not later than 15th of the month and payment to injured workers till recovery. In a comprehensive review of the growth of industrial relations in India Bhattacharjee (2001) categorized the development into four phases. The first phase of post-independence era (1950 to mid-1960s) was the period of state-led industrialization with an impost-substitution strategy leading to the growth of large scale public sector and employment in the organized economy. The government guided and controlled the labour movement with a paternalistic labour relations system. The second phase (mid-1960s to 1979) is associated with the period of industrial stagnation, unequal terms of trade between agriculture and industry, impact of two oil price shocks, reduced employment and lowered labour productivity. The increasing number of inter union rivalry also led to the increase in the number of disputes (strikes and lockouts), the number of workers involved in these disputes, as well as the number of mandays lost due to these disputes, increased phenomenally between 1966 to 1974. The third phase (1980-1991) which experienced the balance of payment crisis and massive IMF loan leading to macroeconomic changes. Proliferation of independent unions shifted their goals from rights to interest. The fourth phase (1992-2000) which led to the economic reforms and structural adjustment helped in improving the employment across sectors. The consequence was also seen in terms of industrial relations reforms particularly leading to greater employment flexibility, a movement towards greater decentralization in bargaining (especially in the public sector enterprises) and lesser governmental intervention in the bargaining process, fewer strikes, and a possible halt to the cleavages within the union movement.

Kuruvilla and Erickson (2002) characterized Indian Industrial relation prior to 1991 (pre-liberalization period) as a regime of highly conflictual labour relations with increased number of strikes, intense interunion rivalry, greater control of industrial conflict through a plethora of protective legislations. But the

import substitution strategy coupled with the protectionism has resulted in growth of inefficient firms and lack of mechanism to choose sole bargaining agent had constrained the employer to negotiate cost control strategy and workforce reduction. The boon of liberalization also had the bane of shedding of excess labour in the form of voluntary separation schemes (VRS). The liberalization led to the development of government-business coalition compared to the previous government-labour coalition. Post liberalization period experienced a sharp decline in the number of strikes which reflects the fact that unions have shed their image of rivalry and have adopted the path of cooperation (Figure 1) whereas the increase in the number of lock-out indicates the growth of employer militancy. However, the overall disputes follows a declining trend (Figure 2) while the mandays lost and workers involved in the disputes continue to be fluctuating.

Recession in 2008 led to massive job loss among the industrial workers particularly in the tertiary sector. The government was forced to adopt a deregulated system post-liberalization. The recession era has led to a growth of non-standard or precarious employment, downsizing, the decline in trade union power and influence, inequity, deregulation and consequential work intensification. Simultaneously, the need for union was felt even in information technology (IT) industry particularly after the industry was hit by recession and mass downsizing. Majority of the IT professionals are not aware about their rights

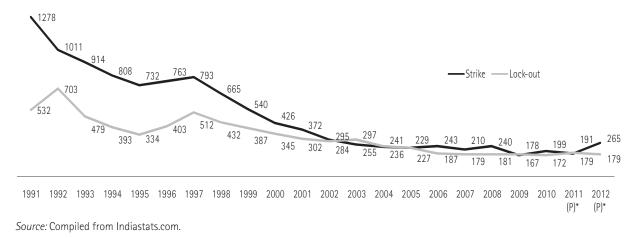
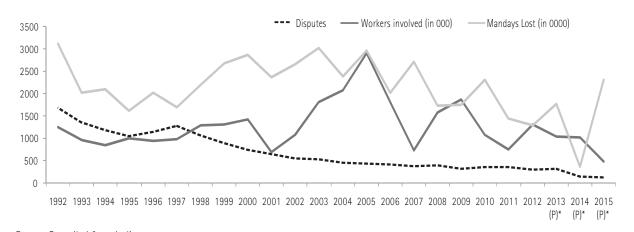


Figure 1. Trends of strikes and lock-out in India (*Provisional)



Source: Compiled from Indiastats.com.

Figure 2. Trends of disputes, mandays lost and workers involved (*Provisional)

and coverage under the law. A group of IT Enabled Services (ITES) professionals have come forward to form the first trade union in this sector — Union for ITES Professionals (UNITES). Headquartered in Bangalore, this new set-up has founder members drawn from HSBC, ABN AMRO India, Sitel, Wipro Spectramind, and Teledata Informatics working in Bangalore, Hyderabad, Delhi, Tiruvananthapuram, Kochi and Mumbai (The Hindu, Jan. 26, 2006).

Management

Management is said to possess control power (Masialmani, 1992), or ownership power (Finkelstein, 1992), position power (Fielder, 1967), or structural power (Finkelstein, 1992) like right to hire and fire. Management has become more powerful as trade unions have lost the track and pace of growth. The open market system has helped management to get better control over the workforce. Though the straightjacket legal system has not facilitated the free hire and fire of labour, yet management has adopted strategies like downsizing, subcontracting and outsourcing as the tools of restructuring in a liberalized era. Massive casualisation and appointment of more contract labour has not only increased insecurity among workers, but also pushed them away from trade unions and legal benefits. Downsizing the workforce has weakened the trade unions as they lost members, indirectly adding more power to management. Outsourcing the production process to subsidiary units has reduced large-scale mass production, and weakened the organizing capacity of workers. It has helped in the emergence of unionless small production units, and indirectly helped the management to have better control over the workforce. Management in such units is unable to face outside competition, leading to a tradeoff with trade unions. The situation has forced them to work hand in glove with the unions to run the business successfully. But in this process, trade unions have rather sacrificed their demands by accepting wage cuts. This also ensured discipline at the workplace by giving an upper hand to the management. Thus, management is in a better position and acting as the most powerful force in the present industrial relations scenario.

Union management relationship

In India, the nature of the relationship between trade union and management is rooted in adversarialism (Ramaswamy, 1999). Management has followed strategies like sub-contracting, voluntary retirement, and relocation of low-cost sites in continuance of this adversarialism, while labor resisted voluntary retirement, and demanded better retirement packages. It was hypothesized that a cooperative industrial relations climate would lead to better union-management relationship. But it is not always true as expected (Mahadevan, 2001). Even today, the employer's approach to a worker is that of a master to a servant (Mital, 2001). Employers in general are feudalistic, and organizational structures are stratified in nature (Venkata Ratnam, 2001).

Government

During the pre-independence era British government was taking care of the interest of the business while ignoring the labour rights. However, immediately after independence, the government leaving behind its policy of 'laisseze faire' approach tried to protect the workers and their union through different legislation. The socialist philosophy of the Indian government led to the growth of the public sector undertakings. Government intervention in labour matters increased the dependence of the private sector on it while in the public sector actually dominated the industrial relations, granting little autonomy for enterprise management (Venkata Ratnam, 2001). However, the current industrial relations situation is mostly a byproduct of liberalisation and the actors approach to adjust to the new market condition which is different from the past. Government, which was playing a dominant role earlier, has sidelined itself, trying to facilitate bipartitism through modification of the legal system. However, the government could not provide a mechanism in the form of labour laws to make collective bargaining mandatory, and there was no method to choose a representative union with which management should bargain except few state laws facilitating the recognition. Taking advantage of the market situation and the apathetic attitude of the government, management has tried its best to bypass the union and streamline their function. Management

Table 1. Summary of role and status of actors in various eras of industrial relations

Actors	Pre-Independence Era	Early Independence Era	Pre-Liberalization Era	Post-Liberalization Era
Worker	Exhausted with exploitation, poor working conditions and long working hours.	Became protected with a pro-labour policy of the government.	Not rights conscious, docile and dependent on unions.	Emergence of knowledge worker at one hand and employment of massive casual and contract labour on the other, increased job insecurity.
Management	The most powerful and exploitative.	Burdened with restrictions of labour laws (chapter V-B of I.D. Act) and forced to adopt tripartism.	Preferred bipartite agreement and simultaneously tried to avoid unions.	Became powerful with free trade regime to get control over labour but lost control over business due to open market system.
Union	Though unionism was declared as criminal activity, got recognition with Trade Union Act-1926. Struggling to prove worth and was dependent on parental attitude of management.	Became powerful with support of government and legal system. Militant, politicized, and dependent on external leadership, and govt. agent.	Union rivalry, lack of mature leadership and professional growth. Leaders seeking personal favour from management.	Lost glory with decreasing membership, lack of support from government and the organizations, question of survival for unions.
Government	Laisseze-faire approach towards both labour and management.	The controlling authority of Industrial Relations with state pluralism and promoting tripartism.	Shift of labour law and policy from center to state for sectional interest.	Succumbed to the forces of international trade and unable to continue its prolabor stand.

takes care of individual needs through better HR policies and practices, and tries to keep workers away from unions. The government continues to try for a consensus between workers, and employers' representatives through the Indian Labour Conference. While workers were driven by the whims and compulsions of employers; governments were unable to deal with grave socio-economic consequences of falling employment levels; unions and workers became the victim of the new economic order (Sheth, 2001). The recent endeavors by the government to ease the process of compliance by proposing several labour codes and employer friendly measure such as increase in the overtime hours, allowing employment of contract labour, ease of hire and fire, relaxing the operations of small scale enterprise. But protection of workers' interest is yet to realize as the growth of informal and non-regular forms of employment which are outside the ambit of legal system poses a challenge to the government. A comparative perspective of the role of actors of industrial relations in different phases is summarized in Table 1.

II. The historical aspects of the labour policy

George Santyana has famously said, "Those who cannot remember the past are condemned to repeat it." This statement is a testimony of the importance of history. India has got a long and illustrious history with respect to the labour policy which includes the aspects of trade unionism, collective bargaining, and the liberalization. There is a complex interconnection between politics and trade unionism in India. India was faced with the challenge of choosing between free collective bargaining and state-controlled collective bargaining and India opted for the latter. As a nation state India was for socialism and the labour readily embraced it, however the unresolved core issue still remained in terms of the conflict between the needs and aspirations of the labour vis a vis that of India as a country. The problem with organized labour which seems to carry on till today is that it is too minuscule part of the total labour, and besides it is fragmented into a lot of unions; the traditional AITUC became fragmented into AITUC, INTUC, HMS and UTUC between 1947-49 (Ornati, 1957). Post-independence, India was faced with improving productivity and attaining self-sufficiency; against this back-drop strife would lead to impediments in achieving this goal.

Hence the emphasis on state-controlled bargaining and avoiding strikes or lock outs to the maximum extent possible. This system had limitations in terms of staggering delays and the opportunistic behaviour of aggrieved parties (Ornati, 1957). Keeping in mind the various short comings and conditions of the labour the government did constitute two national labour commissions. This report would be focusing on the relatively more significant recommendations of the report of the two national commissions of labour and then the liberalization and its effects. The first national labour commission set up in 1966 under the chairmanship of Justice Gajendragadkar, submitted their report in 1969. The commission noted the distinct shift away from agrarian employment to other sectors and this shift to urbanization had thrown up challenges of providing adequate housing, transport, civic amenities and proper distribution of the gains/resources. They also noted the existence of labour legislations sans adequate enforcement for which certain recommendations such as appointment of welfare officers was made. Among other things, they also noted the problem of employment for 'sons of soil' and provision of employment to the individuals whose lands were acquired for development purposes. Almost on similar lines the second national commission on labour was set up under Ravindra Varma as the chairman in 1999, which submitted their report in 2002. Among other things they examined the call for rationalization of labour legislations, provisions for flexibility, to come up with a unified legislation for minimum protection of the workers working in unorganized sector. One of the noteworthy recommendation that they made was to strengthen the collective bargaining institution of India by making provisions for trade union recognition. It is to be noted that till today there is no central legislation which talks about union recognition exceptions being few states namely Maharahstra, Bihar, West Bengal and Gujarat. Liberalization opened the flood gates of globalization for the labour. The governments resorted to soft methods of labour reforms to keep heed to the clamour of labour reforms by disinvesting instead of privatizing from the public sector undertakings, reducing the interest rates of provident funds, liberalizing the labour inspection regime, special concessions to the units in the special economic zones (Sundar, 2010). In addition to the opposition of India to the ILO convention on the right to strike, the philosophical shift in the mindset of judiciary which was much more protective of the labour in the preliberalization era delivered some significant judgements post liberalization related to the contract labour, the right to strike which has hampered the interests of the workers and trade unions in general. The Supreme Court of India has reaffirmed the independence of the executive in case of privatization, been critical of the employees right to protest/strike, imposed restraints on public protests (referred to as bandhs), endorsed the usage of the controversial Essential Services Maintenance Act and also reversing earlier judgements on making the contract labour permanent (Sundar, 2010; Dhal and Venkat Ratnam, 2017).

III. The current scenario of labour policies

Some interesting facts about India — as of 2016, work related migration of an estimated 9 million people has taken place (Economic survey, 2016). It is no secret that India is the second most populated country of the world at a little over 1.2 billion at the same time it is also one of the youngest countries in the world. To elaborate on this, approximately half of the population is under the age of 26, by 2025 an estimated 20% of working age population would be living in India (Thompson Reuters, 2016). Some more interesting statistics are presented in Table 2 in the form of distribution of male and female workers above age of 15 as per National Industry Classification of 2008 per 1000 workers.

It is to be noted that agriculture, manufacturing and education related industries are dominated by women as compared to their male counterparts. The overall labour force participation rate stands at 52.5% marginally improved from 50.9%, as per the latest employment survey. Unemployment situation has deteriorated slightly at 4.9% as of 2014-15 as compared to the earlier 4.7% and 3.8% in the previous employment surveys (source Ministry of labour and employment, GOI). In spite of all of these efforts and statistics, the collectivization or presence of the trade unions is chequered. As of 2012, as per various

Table 2. Distribution of per thousand workers (both male and female) above the age of 15 in the major industries

NIC Classification			Male
А	Agriculture, Forestry and Fishing	604	572
В	Mining and Quarrying	3	5
С	Manufacturing	106	76
D	Electricity, Gas, Steam and Air Conditioning Supply	1	3
Е	Water Supply; Sewerage, Waste, Management and Remediation Activities	2	2
F	Construction	88	129
G	Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles	40	70
Н	Transportation and Storage	4	46
I	Accommodation and Food Service Activities	10	11
J	Information and Communication	6	3
K	Financial and Insurance Activities	6	4
L	Real Estate Activities	0	1
M	Professional, Scientific and Technical Activities	4	3
N	Administrative and Support Service Activities	10	12
0	Public Administration and Defence; Compulsory Social Security	6	11
Р	Education	62	27
Q	Human Health and Social Work Activities	18	6
R	Arts, Entertainment and Recreation	1	2
S	Other Service Activities	12	13
T	Activities of Households as Employers; Undifferentiated Goods and Services Producing Activities of Households For Own Use	18	3
U	Activities of Extraterritorial Organizations and Bodies	0	0

government estimates there are about 16,000 registered trade unions in India with a membership of close to 9 million (Ministry of labour and employment, ON678). Historically there have been multiplicities of labour legislations due to the concurrent nature of the subject. Another important historical influence is that unlike in the West or the developed economies, India is characterized by multiplicity of trade unions. The five major trade union federations in India are the Indian National Trade Union Congress (INTUC), the All India Trade Union Congress (AITUC), the Hind Mazdoor Sabha (HMS), Centre of Indian Trade Unions (CITU) and the Bharatiya Mazdoor Sangh (BMS). There are a host of other small and big trade unions. Table 3 presents the membership figures of the major trade union federations and the latest claims. Though we don't have the exact figures on sectoral distribution of unions, per Das (2008) and Sheth (1993) higher levels of unionization were observed among blue collared workers in manufacturing, mining, and railways. While the major national federations have a large presence in manufacturing and PSUs, there was hardly any effort put by them in organizing the workers in the emerging sectors such as Information

Table 3. Membership of major trade union federations

Trade Union Federation	2002 (in million)	2013 (in million)
INTUC	3.954	33.3
BMS	6.216	17.1
AITUC	3.442	14.2
CITU	2.678	5.7
HMS	3.338	9.1

Source: 2002 figures are from Das 2008 and 2013 figures are from Menon 2013.

Technology and Information Technology enabled Services (IT and ITeS) with few exceptions. Apart from these regional and national federations, there is a large-scale presence of the enterprise trade unions.

Official estimates of industrial disputes (both strikes and lockouts) have shown a decreasing trend with the estimate being as low as 46 for the year 2016 which was 154 and 343 in the years 2015 and 2014 respectively (Ministry of labour, 14940), which really raises doubts concerns over the claims of over protective labour legislations of India. The current situation can be summed as increased usage of contract labour, rapid and manifold outsourcing, job freeze in the public sector and the private sector, the reform measures by stealth where the central government is passing on the onus of labour reforms on the respective state governments, illegal closures, prolonged lock outs, reduction in workforce by giving out golden handshakes or voluntary retirement and rapid automation are some of the current trends as far as the labour are concerned in India (Bardhan, 2002; Sundar, 2008, 2010). It is pertinent to mention that the share of contract labour in the employment which was about 14% in 1994-95, was at 26% in 2005, is also showing an increasing trend indicating a distinct shift in informal aspects of employment rather than the formal employments.

From the view point of the social security, legislations for payment of wages, minimum wages, payment of gratuity, payment of bonus have been enacted in India. Owing to the demonetization, the current government has also passed an ordinance to ensure the payment of wages through electronic means. This step reportedly would ensure compliance and tracking the flouting of some of the existing legislations. As far as the welfare of the workers is concerned, the current government has ensured that the individual worker is protected from some of the vagaries irrespective of whether the worker belongs to the organized sector or the unorganized sector. In addition to the employees' state insurance corporation and the employees' provident fund for the former, for the latter the government has come up with the 'Rashtriya Swasthya Bima Yojna' under which an estimated 30 million families have benefitted. Taking cognizance of the increasing number of women workers as a part of the workforce, the current government has also amended the Maternity Benefit Legislation under which the duration of leave has been increased from 12 weeks to 26 weeks, which has been widely appreciated by all the relevant stakeholders.

IV. The future

The recent economic survey talked about a revolutionary concept of a Universal Basic Income. This step is mainly as a redistribution of the wealth. Close to a 1,000 state-sponsored schemes are clearly not effective in poverty alleviation. The UBI has three components namely universality, unconditionality and agency. The idea of UBI is premised on guaranteed minimum income and equated with one of the basic rights for an individual. UBI is aimed at achieving the social justice as well as the poverty alleviation. In spite of some of the arguments against such a concept like disincentivizing work, independence of work

and income and arguments of meritocracy, time is indeed ripe to think and deliberate on such a concept. The complexities in navigating the legal tangle of labour laws of India is an open secret, which is also demonstrated by the 146th rank that India has achieved in the doing business report of world bank. On its part while the government has largely moved away from an inspection regime to a regime of self-certification for many issues, the government also has an ambitious project of codifying existing labour legislations into four broad codes to reduce the complexities. To leverage the demographic dividend, the government is concerned with creating adequate job opportunities. Some of the noteworthy efforts are the "Make In India" campaign, under which many multinational companies such as Apple are being encouraged to set up their facilities in India. In addition the current government is also turning to the entrepreneurial route in order to stimulate the creation of job opportunities under the 'Stand up India, Start up India' campaign. The economic survey of 2016-17 also points out the potential of sectors such as the garments and the leather which are labour intensive and have a potential to create huge jobs.

Traditionally, industrial relations were the concern of three principal actors: workers and their unions, managers/employers, and the government. Post-liberalization, consumers and the community have begun to assert themselves and play a significant role. When the rights of consumers and the community are affected, the rights of workers/unions and managers/employers are relegated. The judiciary is also guided by the prioritization of larger public good rather than the narrow self-interest of a minority. Workers and unions, in particular, are asked to assert their rights without impinging on the rights of others, particularly the consumers and the community. Consumer courts have also affirmed the supremacy of consumer rights over the labour rights. Trade unions resorting to industrial action, such as strikes, and bandhs, which disrupt public services are asked to compensate for the loss. Telecom unions in Orissa and Mathadi workers in Maharastra were asked to pay for the damage for disrupting the public utility services. The government is also in the process of simplifying the labour laws and trying to make it employer friendly. The government has already proposed bills to merge 44 laws into four codes for ensuring ease of doing business in India. The labour code on Industrial Relations Bill 2015 propose to integrate three laws-Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; and Industrial Disputes Act, 1947 into a single Labour Code. The employers with up to 300 workmen won't be required to take the permission from the government for retrenchment, lay-off and closure. The union needs to have a minimum support of 30% of the workers for its creation. The labour code on wages would be an amalgamation of the Minimum Wages Act, 1948, the Payment of Wages Act, 1936, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. The other two codes are on social security and welfare, and safety and working conditions. These reforms will support the much-demanded hire and fire policy, but government must ensure the reform in the social security on a priority before implementation of such changes.

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