IN EVERY ISSUE

06 Do we need Ombudsmen for our HR System?

The author in this study makes a case for consideration that when the internal discipline management framework is losing its relevance, it is perhaps time to give a rethought on entire HR framework of discipline and grievance management. If organization really considers its employees as internal customers, why not like various service industries, develops internal grievance redressal system and above that an appellate authority like Ombudsman. An article by Indranil Banerjee.

12 Effective delegation - It's an art or a skill?

On the basis of the study and analysis conducted with leaders across different industries, the author comes out with the simplistic approach to effective delegation which largely rests over two levers - People and Processes and if managed through a continued intervention, would help in developing the leaders for the next line and also advance towards engagement of the employees at a completely different level. An article by Vikas Khokha.

15 Labour Reforms: From recent past to wish list of future

Though the Govt. has been making strides with the objective of building an environment of ease of doing business, but still lot is required to be done for moving from complexity to simplicity.

An article by Archana Balasubramanian.

COVERAGE FEATURE

19-45 New Age Labour Relations

The era of informed workforce vs informed leaders

Prepare workforce for the change and invest in building relationship
By Emmanuel David

Transparency and consistency are the key drivers
By Dr. S K Raijada

Workers are educated and understand business scenario
By Vijay Deshpande

Time to focus more on EQ and Spiritual Quotient
By Prof. Surendra Nath

Modern HR needs to move beyond rhetoric
By Rajesh Kargeti

New Age Labour Relations - Do’s & Don’ts
By Govindaraju NS

HR to develop a work culture of win-win for both
By Vikas Sharma

It is now from ER to employee engagement
By Zubin Zack

Trade unions need to change its approach
By S.K.K.Warrier

Towards more meaningful communication and participation
By B.S. Dagar
Fixed Term Employment- Much ADO nothing

The government has extended the facility of hiring workers on fixed-term employment to all sectors to improve the ease of doing business, meeting the announcement made in the Union Budget. Now come to the other aspect of it. It is totally a half-hearted attempt to bring about changes in the labour laws, which may not help in getting the desired result of easing the business. An article by H.L. Kumar.

Life Competencies for Growth and Success

Author: Devendra Agochiya
The Sleeping Tigers
Author: Rana Som
Connected or Disconnected
Authors: Micke Darmell & Kapil Rampal

Employment of temporary for years would be unfair labour practice: J&K HC

As Alok Industries goes to bankruptcy, 12k employees set to lose jobs

Amount recovered from factory employees against canteen food will attract GST: AAR

Senior not responsible of junior committing suicide for doing extra work under compulsion: MP HC
There is no doubt that fast evolving business climate in terms of performance, productivity and profits is going to dictate the norms of new age labour relations. There are demonstrative changes in the behaviour, thought process and approach of present day employees with stark evidence of impatience and frustration due to rising disparity between the classes. The physical and behavioural characteristics of internal stakeholders are affecting strategies of organisations in terms of employee relations.

How important is the harmonious employees relationship environment for the organisations, need not to be spelled. The challenge is to create a progressive work environment with enhanced integration of workforce. More crucial is how to further nurture this relationship with this tech savvy new age workforce which is entirely in a new avtar from last generation? To unfold this, we need to understand the wide difference between the business realities and employees’ perception and their expectations. There are self contradictions in this dynamics. While business complexities have given rise to huge number of temp/outsourced employees forming a bigger chunk of work force because of keeping the card of flexibility available all the time in their hands, such large workforce is highly impacted negatively with the sense of job insecurity. With the deep penetration of sense of job insecurity, comparative low wages and differential treatment responsible for creating a work climate of suspicion and mistrust, organisations expect high level of engagement, bonding, motivation and loyalty from such workforce. Is it humanly possible? The question remains unanswered.

It is also seen that younger workforce is less interested in relying on third party, may it be the union or the Govt. They prefer to deal and resolve their issues individually within the organisation unless highly influenced by outside political factors or because of growing feeling of a push towards wall by management policies and arbitrary actions. The recent IT/ITES workforce union formation after about two decade of emergence of this growing sector is the living example of psychology of new age workforce. As frustration level grows, self control decreases and result is the possible violent actions.

To manage new age labour relations HR has to move from conventional approach to a pragmatic and balanced approach totally different from the earlier style of handling ER through discipline and punishment. They need to work in three areas- compliance, ethical governance and power balance. Excellent ER is the final product of sound people policies and processes that enhances individual dignity and respect by recognising their contribution to business growth. It is the responsibility of the HR professionals to make the younger workforce more mature so that they understand and appreciate the business realities with creating fine balance in rights and responsibilities.

This issue carries cover story on this theme where readers will be enriched with the thoughts and experience of industry stalwarts who have gained expertise in maintaining ER .BM has been successful in catching up with this distinct breed of professionals to disseminate, what they have earned, for the next gen HR.

If you like it let us know. If not, well, let us know that too.

Happy Reading!

Anil Kaushik

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anilkaushik

anilkaushik
**Appreciation**

I want to place on record my appreciation for your March issue on AI in HR. I really liked the compilation of the articles and want to commend you on your ability to get resource persons to address the contemporary issues.

Anand Pillai

**Irreplacable**

100% agree with editor’s note. How can AI replace the human touch in Human Resources, we manage human being and not machines. Only support can be taken for appraisals and selections but the complete process cannot be manged with AI.

Deepak Behl

**uncertain**

This is about the article of Mr. Rudra Misra in March 2018 issue. In my view, concept of HR is grossly misapplied to Personnel Management practices of earlier days. Human element in industry shall not be regarded as any other factor of production, because it is vested with ‘Mind’ with distinctive qualities of ingenuity, reactive, responsive, creativity etc. That does not mean all human beings are equally resourceful, just as the whole heap of dust in a gold mine does not contain gold. The Manager shall identify people with resourceful talent and develop them.

Narayana Lakshmi Chintalapati

**Synonymous**

Being ethical makes good business sense. All stake holders benefit. Also helps to build brand image like for Tatas. Brand is synonymous with ethics.

Aubrey Rebello

**Change in jobs**

In my view, mundane repetitive jobs will be replaced. However jobs with more of human computing will not be impacted... every revolution generates more jobs... let’s see from Industrial revolution to IT to digital revolution. Well, from a study perspective, I don’t think any such study has been conducted.

Dharmesh Parmar
The Indian government has been making strides by bringing about reforms and amendments to various labour/human resource legislations and attempting to harmonize a hitherto archaic and unattended system. 2014 onwards we saw a sea of changes which can be characterised as follows:

Upliftment of vulnerable parts of society

Women and children have been largely benefitted by the amendments suggested in the past few years. The two major achievements having come from the much talked about amendment to the Maternity Benefit Act and the Child Labour Prohibition Act. Consequently even the ESIC has been amended to be aligned with the same in 2017, where a commissioning mother and adopting mother are included in insured women.

With the increase in paid maternity leave to 26 weeks from 12 weeks as it existed prior to the amendment, India has risen to rank above most of the developed countries below only the Scandinavian countries that have the most extensive maternity (and paternity) benefits.

The Maternity Benefit Act also prescribes provision of crèche facilities by corporates (however there is no clarity on the working of this yet).

As regards protection of children, the minor population has been further divided into those who are guaranteed the right of education and adolescents. Further industry classification has been simplified. The definition of Child has been amended to include anyone under the age of...
14 and who have been accorded rights under the Right to Education Act. It has been now prohibited to employ children in any firm/establishment with the only exception of a family business. However no definition of family business has been provided nor are working hours regulated for children in family business. Adolescents can be employed provided the working conditions are fulfilled. The working hours are limited to 6 hours in a day with 1 hours rest in intervals of 3 hours of work. Adolescents cannot work beyond the prescribed 6 hours. Adolescents are prohibited from working in hazardous occupations. The list of hazardous occupations has been reduced to mines and explosive substances. The penalty for employing child labour has been enhanced to 2 years imprisonment with a higher monetary penalty of INR 50,000.

Updates having economic impact on corporates and organized sector workers

In the last 4 years the government has taken bold measures to increase minimum wages, the eligibility for bonus, entitlement of PF and other measures thereby providing relief to a large number of low wage workers who were earlier out of the purview of the benefits. A snapshot of the key extensions and limits accorded are listed below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Law</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>Provident Fund</td>
<td>Extension of exclusion to employee earning INR 15000 and above compared to INR 6500 and above prior to amendment</td>
</tr>
<tr>
<td>2015</td>
<td>Payment of Bonus</td>
<td>The eligibility of employees extended to employees earning upto INR 21,000 from the earlier INR 10,000. Bonus limit doubled to INR 7000 or minimum wages whichever is higher from INR 3500 previously.</td>
</tr>
<tr>
<td>2016</td>
<td>Employees State Insurance</td>
<td>Exemption to employees below daily wage of INR 137</td>
</tr>
<tr>
<td>2017</td>
<td>Payment of Wages</td>
<td>Wage ceiling limits enhanced to INR 24000 from INR 18000.</td>
</tr>
<tr>
<td>2018</td>
<td>Payment of Gratuity</td>
<td>No ceiling for central government employees as compared to the previous limit of INR 10 lakhs. Extended to the limit of 20 lakhs for private sector employees.</td>
</tr>
</tbody>
</table>

The above measures have definitely substantially provided relief to the organized sector workers and others in employment. However, these have operated to substantially increase the cost of employment for the businesses and particularly adversely affect the small and medium sectors. Businesses however, have been compensated through other measures that seek to smoothen the compliance process as captured below.

Revamping Welfare Legislations

Welfare legislations were revamped and directives issued to welfare organisations such as EPFO and ESIC to ensure that legislative intent/government initiates were supported. One of the path breaking measures is the creation of a UAN for each enrolled member with EPFO.

Universal Account Number (UAN) as on 12.12.2017 was allotted to organized sector workers making their EPF Accounts portable, benefitting 12,26,13,675 Workers and Aadhar Seeding completed. This also allowed workers immediate access to their PF accounts reducing disputes and delays in recovery of EPF.

Recent Changes

2018 has opened with a bang and we have witnessed two key changes being ushered in. The Payment of Gratuity Act has been amended to benefit Central Government employees and rules in relation to crèche for mine workers has been promulgated.

The Government of India has amended the schedule under the Industrial Employment (Standing Orders) Act, 1946 and various provisions towards the Industrial Employment (Standing Orders) Central Rules, 1946. Notification to this effect is published in the official gazette dated 16th March 2018.

As per the amendment "Fixed Term Employment" has now been introduced irrespective of the industry of work. The amendment also directs that no employer of an industrial establishment shall convert the posts of the permanent workmen existing in his industrial establishment on the date of commencement of the Industrial Employment (Standing Orders) Central (Amendment) Rules, 2018 as conducting survey, awareness generation and evaluation studies.

As regards workers in the unorganised sector the following key changes were made in 2017:

- Housing Subsidy to Beedi, Cine and Non-Coal Mine Workers has been increased from Rs. 40,000/ to Rs. 1,50,000. The press reported that 15,705 Houses have been sanctioned at an expenditure of Rs. 25.5 crore.

- Implementation of Revamped Bonded Labour rehabilitation Scheme: As on December 15, 2017 an amount of Rs.664.50 Lakhs was reported to have been released for the rehabilitation of 6413 bonded labourers. Additionally, an amount of Rs. 107.25 Lakhs was said to be released in 2017-18 for the purpose of conducting survey, awareness generation and evaluation studies.
fixed term employment thereafter.

The hours of work, wages, allowances etc. shall not be less than that of permanent workman and all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even if his period of employment does not extend to the qualifying period of employment required in the statute.

**Ease of doing business**

In order to promote the Start-Up ecosystem in the country and for incentivizing the entrepreneurs in setting up new start-up ventures and thus catalyze the creation of employment opportunities through them, the Ministry of Labour and Employment has vide a direction dated 12 January 2016 (“Direction”) issued an advisory to the States/UTs/Central Labour Enforcement Agencies for a compliance regime based on self-certification and regulating the inspections under various Labour Laws. It was in fact advised that if such start-ups furnish online self-declaration for compliance of four labour laws mentioned (viz. Building and Construction Workers Act, Inter State Migrant Workers Act, Payment of Gratuity Act and Contract Labour Act) for the first year from the date of starting the start-up, no inspection under these labour laws, wherever applicable, will take place. From the second year onwards, up to 3 years from the setting up of the units, such start-ups are required to furnish self-certified returns (as is being done under Shram Suvidha Portal under these Acts for the central sphere) and would be inspected only when credible and verifiable complaint of violation is filed in writing and approval has been obtained from at least one level senior to the inspecting officer.

*The catch however is that upon completion of the three-year window period, start-ups could still be prosecuted for any non-compliance during the first three years of their operations.*

**Shram Suvidha Portal**

The Shram Suvidha Portal links four major offices of the Labour Ministry like EPF Organisation, Employees State Insurance Corporation (ESIC), Directorate General of Mines Safety and Chief Labour Commissioner. It allows employers to file a self-certified and simplified, single online annual return for them. The employers are provided a Unique Labour Identification Number (LIN) for this, and more than 18 lakh units have already availed of this. Employers are expected to file returns under various Acts. Now, they have been allowed to file a single unified annual return for nine labour laws.

**Other Digital Measures**

- **PENCIL** : An online portal was launched on 26.09.2017 for better monitoring & reporting system to ensure effective implementation of the provisions of the amended Child Labour (Prohibition & Regulation) Act, 1986 and National Child Labour Project (NCLP) Scheme. As on date District Nodal Officers from 431 districts out of 710 districts of the country have registered on the portal. Further all operational project Societies of NCLP are registered on the portal for better implementation of NCLP scheme aimed at educational rehabilitation of child and adolescent labour.
- **EPFO upgraded** : Employees Enrolment Campaign(EEC) of EPFO was launched by the Government in January, 2017 to enroll left out employees and provide incentives to employers in the form of waiver of administrative charges, nominal damages @ Rupee 1/- annum and waiver of employees share if not deducted. In this drive, close to 1.01 crore additional employees have been enrolled with EPFO between January, 2017 to June, 2017.
- **Online Claim Receipt & other Services** : Employers can now pay their contributions online without any hassle and amount is credited to members’ accounts within 4 days. In addition, online facility allows for change in name, DOB, gender etc.
- **Launch of “Digital Jeevan Praman Patra” introduced for convenience of Pensioners.**
- **Online Processing of cases through E-Court Management System.**
- **All 120 EPFO offices have migrated to the consolidated database at the National Data Centre for seamless interface across the country.**

**Truth behind the Scenes**

At an all-India level, 77% of households do not have even a single regular-wage/salaried family member. At the all-India level, only 47.8% of the population above 15 years of age has employment. The unorganized sector in India contributes to over 80% of the workforce and the laws outlined above only deal with 20% of the workforce. In this situation a thrust is required for ensuring the welfare and social security of the unorganized sector.
While India has jumped 33 points in the "ease of doing business" parameter as published by World Bank in 2018 to come to 103rd position, it’s quite saddening to note that India was ranked 4 in the World Slavery Index in 2017. Labour laws are so intrinsically linked with human rights ecosystem of a country that good labour reform needs to be all inclusive. The long-term structural weaknesses of India’s economic reform have been the inability to expand the market for jobs in sync with its demographic growth. Many of these new-age slaves are women and children, the most vulnerable sections on the frontline of economic slowdown and poverty. According to UNDP, India will see a severe job shortage in the next 35 years, the number of the country’s modern slaves is likely to boom.

**Issues**

Indian labour legal ecosystem is complicated for two reasons - Labour is both a Central and State subject. Certain welfare legislation such as Shops and Establishments is state driven, whereas, health insurance, provident fund and pensions are centre driven. To add to the confusion, there are over 44 central legislations and over 100 state legislations. Before a business is commenced, employers are scrambling with compliance issues - registrations, licenses and payments. While a lot has been done to smoothen this process as stated above in the Ease of Doing Business section, it still leaves a lot to be desired. Compliance with labour laws and labour welfare is the back-bone of society. It is imperative that laws are easy to follow and compliance simple to incentivize people for ensuring adherence to these laws.

None of the measures above deal with the quintessential aspect of any legislative framework - namely enforcement of the legislations. Contraventions by employers go unnoticed and even where challenges are made, it is impossible to conclude the same efficiently. The current conciliatory process is laughable to say the least and extremely bureaucratized.

The very institutions that are required to provide service of labour welfare compliance become the red tape slowing down processes and causing corporates to lose interest in the system.

**Simplification as a Solution**

In light of the existing complexities given the unfettered growth of legislative dictats coupled with (possibly) the largest work force in the world, India’s solution is in simplicity.

One identification number for each employee linked to PAN Card and the same being used across the board by all organisations to provide welfare benefits.

Further codification of the laws in the manner provided below is recommended (includes recommendations by FICCI) by consolidation of laws with commonality of intent :

- Code governing Terms and Conditions of Employment
  - Industrial Disputes Act, 1947
  - Industrial Employment (Standing Orders) Act, 1946
  - Trade Unions Act, 1926
  - Removal of contract act applications to labour agreements governed as above

- Code for Wages
  - Minimum Wages Act
  - Payment of Wages Act
  - Payment of Bonus Act

- Code for Labour Welfare
  - Factories Act
  - Shops and Establishments and other such Acts
  - Maternity Benefit Act - as a complete code in itself without reference to ESIC
  - Employees Compensation Act
  - Contract Labour Regulation Act

- Social Security and Pension Code
  - Employees Provident Funds and Miscellaneous Provisions Act, 1952
  - Employees State Insurance Act, 1948
  - Payment of Gratuity Act, 1972

Additionally overlapping definitions of industry, workmen, wage and salary should be removed and one uniform definition to be adopted across the codes.

**Conclusion**

India is headed in the right direction but more zeal to bring about fundamental changes is required. The Labour Code which seeks to unify the various wage related laws and industrial relations has been moved in Parliament but is yet to be passed. The important thing is to avoid passing of piecemeal legislations that make the legal environment complex for businesses and to adopt a holistic approach. The approach should be inclusive and bring into mainstream the various unorganized sectors and improve working conditions for the vulnerable sections so that we rise in the human rights index. On another note, ease of doing business in India has come with a cost to the businesses and is therefore not welcome. Changes have to be truly sustainable for businesses with enough time being given for implementation. A case in point being the Maternity Benefit Act, which imposes unreasonable levels of costs in employing women in so far as businesses are concerned. This amendment almost operates as a disincentive for employing women. The government needs to take on welfare measures on its own shoulders instead of requiring business to bear all the burden. After all a low profit economy will only have adverse effect in the long term.

All in all a simple law will be an efficient law. While simplifying the following questions need to be answered :

- a) Are all categories of workmen covered in these laws
- b) What is the cost to business of implementing the law
- c) What is the effect of profit

Of course each of these considerations needs to be weighed against one another.

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