

Call to action on Labour Law changes in India

Position

We are deeply disturbed by the recent moves by some Indian State Governments to suspend many existing labour laws and worker protection provisions for periods of up to three years¹. These changes have the potential to seriously undermine workers' rights with a direct impact on vulnerable workers, and are likely to bring employers and workers into conflict. In such circumstances no one will benefit, and India's risks its reputation. These changes must be challenged. India has endorsed the UN Guiding Principles on Business and Human Rights reaffirming the Government's responsibility to protect workers and ensure a clear expectation of business to respect the rights of workers and not seek to take advantage of circumstances however unprecedented.

While we recognize that the global pandemic has had a significant impact on many businesses and national economies, as well as individuals and families, removing the state's support for workers is not the right solution for workers or for businesses. Therefore there is a heightened role for leading responsible business sourcing from India to individually and collectively register their concern and ensure that standards in their supply chains are not lowered in the circumstances. This will require enhanced Human Rights due diligence, supplier engagement and joint action to register concerns at state and national level.

Our Understanding

Two state governments (Uttar Pradesh and Madhya Pradesh) have passed ordinances to suspend most of the labour laws in all new production units for a period of three years.² These include laws relating to basic consultation with workers through representative bodies such as trade unions, contract workers, industrial disputes, occupational safety and health and working conditions.³

¹<https://www.cnbctv18.com/economy/up-govt-exempts-industries-from-all-labour-laws-for-3-years-5870231.htm>; <https://timesofindia.indiatimes.com/city/ahmedabad/govt-clears-ordinance-for-labour-reforms/articleshow/75610882.cms>

² This refers to all manufacturing units registered or established after the suspension of these laws.

³ Suspended laws include the Minimum Wages Act, the Equal Remuneration Act, the Trade Unions Act, the Industrial Employment (Standing Orders) Act, the Industrial Disputes Act, the Factories Act, the Contract Labour Act, the Inter-State Migrant Workmen Act, the Employees' Provident Funds and

Six Indian states have also announced an extension of working hours from 48 hours a week to 72 hours a week.⁴ This violates ILO convention C001 on Hours of Work, which was the first ILO convention adopted almost 100 years ago (and ratified by India in 1921). Of the six states, some will now not pay workers the original double overtime wage they would have received for working over 8 hours per day.

These suspensions and changes will harm workers by removing their ability to exercise key rights and protections that link to conditions for Decent Work. This includes the fundamental human right^[C001] to form or join a trade union as well as additional rights including:

- the right to consultation via bipartite committees like the works committees,
- the right to tripartite consultation under the Minimum Wages Act,
- the right to raise industrial disputes and take them for eventual resolution,
- the right to strike,
- the right to be informed of changes in the conditions of employment,
- the right to natural justice in case of termination and
- the right to call for the abolition of contract labour.

In basic terms this would mean that any changes made to workers lives during the COVID-19 pandemic are not consulted on in any shape or form.

Suspension of these laws violates the Universal Declaration of Human Rights, core ILO conventions and India's commitment to ensure decent work. If an employer takes advantage of such provision they would likely be in violation of the ETI's Base Code and member codes of conduct.

Call to Action

India is an important and influential country in both the value and dynamism of its own economy and as a key partner in global trade. It is a sourcing destination as well as a market for many global brands, who are accountable to customers and investors globally.

Specifically we are aware that a large number of ETI members source goods from these states, including garments, leather products, metal and glassware, cosmetic jewellery, rugs and artisanal products. While it is the responsibility of business to conduct appropriate human rights due diligence within their supply chains, so as to identify, prevent and mitigate risks, governments must provide the enabling environment for this to happen. In this situation the state itself is lowering the standards and/or reducing the level of protection for workers.

Miscellaneous Provisions Act, the Employees' State Insurance Act and the Unorganized Workers' Social Security Act.

ETI Proposes the following actions for discussion and joint agreement:

1. Ensure that there is a clear understanding of the risk to workers in the changes being proposed by senior management at commercial level.
2. Contact relevant suppliers who are operating in or may be sourcing from the relevant regions in India and convey the following:
 - a. That the changes are in contravention with national and international standards
 - b. That companies code of conduct and/or the ETI Base Code sets a higher standard for suppliers and must be respected whatever local policy or law indicates.
 - c. That the supplier must engage with the buyer to confirm that “normal” standards will be respected
 - d. That the buyer will engage with the supplier to fully understand what adjustments may need to be made in sourcing due to the impact of COVID-19 to maintain supply while avoiding heightened risk for workers
3. Jointly with ETI to communicate to the state governments and the Indian government to indicate the conflict between these provision and international standards that are demanded by international standards and global supply chains
4. To work collaboratively to consider other actions to influence respect for the rights of workers in the relevant Indian states.

ETI's Approach

The Ethical Trading Initiative (ETI) is a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe. Our vision is a world where all workers are free from exploitation and discrimination, and enjoy conditions of freedom, security and equity.

The ETI's approach to responsible business in complex global supply chains, is closely based on the UN Guiding Principles on Business and Human Rights, which set out the Protect, Respect and Remedy framework. In this States should protect human rights; businesses should respect those rights; and both should work to provide remedy when rights are violated.

In line with the ETI Base Code, and the responsibilities of Business identified in the UNGPs we remind members of their responsibilities to:

1. Respect, and in this instance, defend fundamental human and labour rights in their own operations and throughout their supply chains;
2. Strive to support and ensure that their suppliers respect those rights even where national or state law does not require them to do so;
3. Enhance their own human rights due diligence to ensure that they are not associated with (and do not become associated with) any business enterprise that seeks to reduce the rights of workers in line with these provisions;
4. In this particularly egregious case, engage with export business associations, trade unions and civil society organisations as well as ETI to play an active part in collaboratively advocating for the reversal of these changes to the law.

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