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Indian states suspend labor laws

By Sascha Matuszak

The Indian state of Uttar Pradesh has suspended most labor laws[1] for three years in an attempt to attract investment and employ migrant workers currently unemployed due to the COVID-19 pandemic. The suspensions relate to laws covering minimum wage, unions, dispute settlement, and safety and health. The suspension will not, however, affect certain other statutes, including several statutes governing building and construction workers and employee compensation.

According to the state government, it is imperative that businesses be "exempted from the existing labor laws in the state ... for a period of three years" to benefit existing industries, set up new infrastructure and encourage new investment.

Risk of forced labor conditions

The ordinance could very well backfire, said Sarah Carpenter, manager of business and human rights at Assent Compliance, as multinational companies back away from the potential risk of labor violations.

"This is a significant reduction of labor laws not seen elsewhere," she said. "Multinational companies active in India, those that are sourcing from Uttar Pradesh, could flex their leverage to impact public policy."

Carpenter mentioned the possibility of high-profile meetings and even departures to influence policy. Any response by multinational corporations is a function of the pressures they face. A consumer-facing company, for example, may be more willing to take action to avoid forced labor conditions and other violations, while some manufacturers may determine that it may be more effective to remain in the state and have a more meaningful human rights impact through engagement.

Compliance costs may also grow as companies take action to avoid violating international labor commitments, which may also be a factor for companies deciding how to respond to the suspension. The COVID-19 pandemic has also made it much more difficult to conduct audits. Audits are a useful snapshot of a relationship with a partner, and they can be effective if conducted regularly and over time. But with people maintaining social distancing and using remote options to conduct audits, their efficacy drops dramatically. Instead, Carpenter recommends creating trusted relationships with partner companies.

A problem arises, however, when one considers that domestic Indian companies with no international partnerships may take advantage of the ordinance to increase margins while larger companies with internal obligations are confined to international codes of conduct. The risk is that larger companies will try and surreptitiously subcontract to smaller companies to take advantage of the potential for increased profits.