Ease of Doing Business – what does it conceal?

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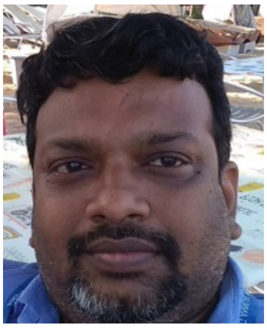
India has risen rapidly in the World Bank's Ease of Doing Business (EODB) rankings in the past five years. This rise has occurred alongside widespread deregulation, which has eroded environmental protections and seen attempts to introduce labour and land laws that favour corporations. Troublingly, as it has risen in the EODB ranking, India has slipped in other key development indicators.



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India is now a poster boy for the World Bank's much-criticised *Doing Business Report* (DBR), and its associated country rankings index (EODB) (see *Observer* Winter 2018). The country has drastically improved its place in the EODB index, rising from the 142nd position in 2014 to 63rd in 2019, a 79-place jump in just five years. It has been ranked among the top 10 improvers for the last three years.

The DBR, first published in 2003, is a flagship report of the World Bank, which ranks nations according to a set of indicators that the Bank contends reflect the ease of doing business. The index measures the procedures, time taken and costs involved in a number of processes that the Bank considers essential for business, signaling to investors countries' 'ease of doing business'. This system was set up under the assumption that the resulting rankings would pressure governments to introduce business-friendly laws.

Since its inception, the DBR has recorded over 3,500 reforms globally in 10 areas of business regulation and reported a peak in reform activity worldwide in 2017-18, with 128 economies undertaking a record of 314 reforms. The report recorded 21 reforms in India this year, leading to an improvement of its rank by 14 positions. While the report considers only those reforms related to its indicators, various governments make additional changes to ease business regulations. India, for example, scrapped 1,000 pieces of legislation and passed more than 7,000 reforms in recent years as disclosed in parliament in July 2017.

Questions about DBR's methodology

In 2014, India's minister of corporate affairs, in an answer to parliament, expressed concerns about the indicators used in the DBR, its methodology, and sample size. In India, only the city of Mumbai and its regulations were used to calculate its DBR score, despite the huge variety of regulations across the country. This critique, along with others, including from China, followed the findings of an independent review panel in 2013, who recommended the EODB ranking be discontinued.

The World Bank's legal unit also expressed concerns in 2013 about the policy preferences under index indicators, noting that the methodology ignored the benefits of regulations. Then, in January 2018, the World Bank's chief economist, Paul Romer, acknowledged that "political motivation" of Bank staff may have contributed to in a change in Chile's ranking under the socialist President Michelle Bachelet. Romer resigned following the remarks, but questions over how a change in DBR methodology may have swung country rankings remain, including in the case of India.

In 2018, the International Trade Union Confederation (ITUC) came out strongly against targeting labour regulations as part of the DBR, noting that the "employing workers" indicator was an attack on labour rights.

The Indian experience – deregulation rules the day

The Indian experience provides a disturbing example of how the DBR ranking operates in countries. One of the first assaults on peoples' rights in India came from reforms proposed to land laws. Indian groups, particularly *Adivasi* (indigenous people) communities and *dalits* (marginalised communities), fought the land acquisition laws imposed by British colonial masters in 1894, which were primarily designed for colonial exploitation. In independent India, similar laws were used to displace people for development projects including dams and mines. Years of struggle led to the creation of new legislation, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act in 2013. The legislation provided for just and fair compensation and mandatory consent of 70 per cent for acquiring land for public-private-partnership (PPP) projects, and 80 per cent for acquiring land for private companies.

Indian businesses wanted some provisions of the bill changed, including the 70 per cent consent clause and the need for social impact assessments, as they delay land acquisition. A new ordinance was introduced in 2013 to avoid some of these clauses to ease land acquisition for industry. However, the bill was opposed by a united opposition joining hands with farmer organisations and peoples' movements, and the government failed to pass it.

The next assault after the land laws was on environmental regulations. Environment impact assessments for construction were watered down, and *post facto* clearance for illegal projects was allowed – such as forest clearances for mines in biodiversity rich forests. Coastal zone regulations were weakened, opening the coastlines for real estate, ports and tourism. Informally, regulations were eroded, as is evident from the country's National Board for Wildlife (NBWL), which was charged with allowing forest land in protected areas to be diverted for industry since 2014 by approving 682 of the 687 projects (99.8 per cent) that came up for scrutiny. The Prime Minister's office set up a project monitoring group (PMG), which promised fast tracking of approvals for projects if the investment is over India Rupees (Rs.) 1,000 Crore (around $150 million) in case of domestic investments and Rs. 500 Crore ($75 million) in case of foreign direct investment (FDI) projects.

According to a parliamentary answer in 2018, PMG accepted 902 projects with anticipated investments of Rs. 37.66 Lakh Crore (approximately $538 billion, exceeding the budget of India). This included 3,417 issues identified on 675 projects worth 28.14 Lakh Crore ($402 billion), which have been resolved, and 227 projects with anticipated

Photo: Simone D. McCourtie / World Bank

Accounting charts. Mumbai, India.

investment of Rs. 9.52 Lakh Crore ($136 billion) that are currently under consideration. The lax approval of projects aimed at improving India's EODB rankings have thus come with a detrimental environmental impact.

ITUC criticism of the EODB indicators has been proved right in the case of India. The government sought to consolidate 44 laws relating to labour into four labour codes, leading to union protests. These are being brought in the name of "reducing the complexity in compliance due to multiplicity of labour laws and facilitate setting up of enterprises and thus creating the environment for development of business and industry in the country."

Based on the code bill on wages passed in July 2019, the central government announced a National Floor Minimum wage of Rs. 178/per day (i.e. Rs. 5,414/month, or $77). The trade unions are demanding an increase in the minimum wage to Rs. 18,000/month ($257) as recommended by the 7th Pay Commission. The current minimum floor is more of a starvation level wage rather than a minimum wage where workers can live in dignity.

The Industrial Relations Code Bill has been introduced in parliament this year. It grants fixed-term employment, allows executive decisions on whether companies can retrench workers without government approval, and makes striking virtually impossible, by imposing high penalties on workers. The bill has been rejected by trade unions of all shades, including the ones affiliated to the ruling party.

Ten central trade unions and several independent federations had earlier gone on strike in January, with more than 150 million workers demanding genuine consultations over reforms of labour laws and a halt to pro-employer labour law amendments. The Centre of Indian Trade Unions in a press statement denounced the labour reforms as imposing "sub human conditions on workers in their anxiety for 'Ease of Doing Business' for corporate bosses."

India's current focus to improve its EODB ranking by deregulating its environmental standards and labour protection, and reducing taxation, has left the poor and vulnerable behind.

Taxes forgone – people lose and corporates gain

The country's obsession with reaching the top 50 in the DBR has not just affected land, environment and labour, but also taxes. The corporate tax was reduced from 30 per cent to 22 per cent this year, while new manufacturing companies get a further reduction of corporate tax to 15 per cent, meaning a loss of Rs.1.45 Lakh Crore ($20.7 billion) to the state exchequer. This is apart from one Lakh Crore (about $14 billion) of revenue forgone due to deductions/exemptions under income tax in year 2018-19. The contradictions become clear when the minimum floor wage for workers was just increased to Rs. 24 a year.

International finance institutions have been pushing some of these reforms, both through and outside of the DBR. For example, global financial services giant Morgan Stanley, in a 2016 report, argued for the need to address issues related to land, labour, tax and overall ease of doing business, in order to sustain India's growth levels, and World Bank President David Malpas recently lauded the new measures and called for further reforms for India to be competitive. The push is also coming from Indian corporations, which have demanded further reforms in land acquisition, implementation of fixed-term employment and relaxation of labour laws, as articulated by the president of PHD Chamber of Commerce and Industry. The Confederation of Indian Industry has asked for the government to address issues in agriculture, education, health care, labour reforms, environment regulations and land reforms, demanding land aggregation and private sector investment in agriculture as well.

Mind the gap: As India's DBR ranking rises, other development indicators slip

Indian's current focus to improve its EODB ranking by deregulating its environmental standards and labour protections, and reducing taxation, has left the poor and vulnerable behind. The jump in this year's DBR ranking coincided with Indian industrial production dipping. India's improvement in the ranking was also made possible through measures to bring in an insolvency framework. The DBR noted that debit recovery tribunals have reduced non-performing loans by 28 per cent and lowered interest rates on larger loans. The Insolvency and Bankruptcy Code (IBC) brought about a change in the ranking in the Resolving Insolvency indicator from 108 to 52. The introduction of IBC resulted in the resolution of Non-Performing Assets (NPAs), but at a cost. The brunt was borne by public sector banks, which lost Rs 1.75 Lakh Crore ($25 billion) in just 97 cases of resolution. Indian banks are largely deposit driven and this has resulted in huge losses. According to rating agency CRISIL and trade association ASSOCHAM, the lenders took a 57 per cent haircut in 94 large accounts worth 1.75 Lakh Crore ($25 billion) which were resolved in FY 2018-19. They managed to recover only Rs. 75,000 Crore, which amounts to only 43 per cent of the admitted claims.

Prof Prabat Patnaik, an acclaimed economist and Professor Emeritus at Jawaharlal Nehru University, stated that 75 per cent of the NPAs came from corporations, of which 75 per cent exist because they have used loans for a purpose for which they were not given. The current NPAs in India stand at Rs. 9.38 Lakh Crore ($134 billion). According to data from TransUnion Cibil, as of December 2018, over 11,000 companies had willfully defaulted on amounts worth over Rs. 1.61 Lakh Crore ($23 billion).

The tax cuts and other benefits to corporations were granted under the assumption that this would result in trickle-down investment to create jobs and stimulate the economy. However, a look at the last four years shows a different trend. According to a study by Santosh Mehrotra and Jajati K. Parida of the Centre of Sustainable Employment at Azim Premji University, total employment dropped by 9 million – from 474 million to 465 million between 2011-12 and 2017-18 for the first time in Indian history. The report calculated a high unemployment rate of 8.8 per cent in 2017-18 up from 3 per cent in 2011-12. The high rates of growth have not translated into jobs. This is coupled with informality of labour and a gender wage gap. According to the *State of Employment 2019* report by Oxfam India, women on average are paid 34 per cent less than male workers doing the same task.

Meanwhile, net foreign direct investment decreased from $31.2 billion in 2014 to $30.7 billion in 2018-19. This is also true for portfolio investments which plummeted from $4.8 billion in 2014 to $618 million in 2018. Indian GDP, which was growing at 7.4 per cent per annum, has been revised to 6.1 per cent by the IMF in the 2019 *World Economic Outlook*. Some commentators have attributed the slower growth to some of the economic measures taken by the country, including the introduction of a Goods and Service Tax (GST), which was scored positively by the DBR. Prof Jayathi Ghosh from Jawaharlal Nehru University however, points out that the GST has destroyed the informal activity of small and medium enterprises.

The revenue that could have been used for improving people's lives has been diverted to corporations. India slipped to 102nd position out of 117 countries in 2019 down from 55th position in 2014 in the Global Hunger Index. The same report mentions that the share of wasting among children in India rose from 6.5 per cent in the 2008-2012 period to 20.8 per cent in 2014-2018, with less than 10 per cent of children having a minimum acceptable diet. The medical journal *Lancet* ranked India's health care access and quality index at 145th worldwide in 2016. In fact, India spends more on tax concessions and relief for corporations than it spends on education and health. This is the true cost of India's EODB policy push.

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