



A BRIEF PRESENTATION ON INDIA'S LABOUR/EMPLOYMENT LAWS

Japanese Chamber of Commerce & Industry, Bangalore (JCCIB)
Sub Committee on Tax and Labour



Solicitors & Advocates

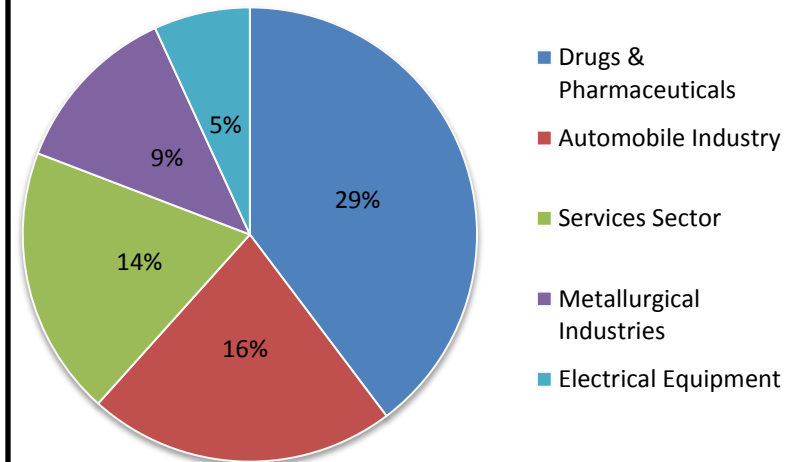
Bangalore, 11 December 2013

INDIA IS AN ATTRACTIVE MARKET; IT IS ALSO UNIQUE

- India has overtaken China as the most attractive investment destination (Source: Ernst & Young's 2013 survey)
- About 7.5% FDI in last 12 years from Japan, which is 4th largest FDI investor in India

- Almost 65% of India's population falls in the "working age" (15 to 64 years)
- Between 2010 & 2040, 25% of addition to world's working population will be in India
- Estimated average age of population in 2020: 29 yrs (India), 37 yrs (China), 45 yrs (USA), 48 yrs (Japan)

Industry-wise Japanese FDI



Source:
[http://dipp.nic.in/English/Investor/Japan_Desk/
FDI_Synopsis_Japan_28February2013.pdf](http://dipp.nic.in/English/Investor/Japan_Desk/FDI_Synopsis_Japan_28February2013.pdf)

LABOUR LAWS ARE VERY IMPORTANT FOR FOREIGN EMPLOYERS IN INDIA



YOUR SUCCESS IN INDIA DEPENDS ON HOW WELL YOU
UNDERSTAND ITS OPERATING ENVIRONMENT AND ADAPT TO IT

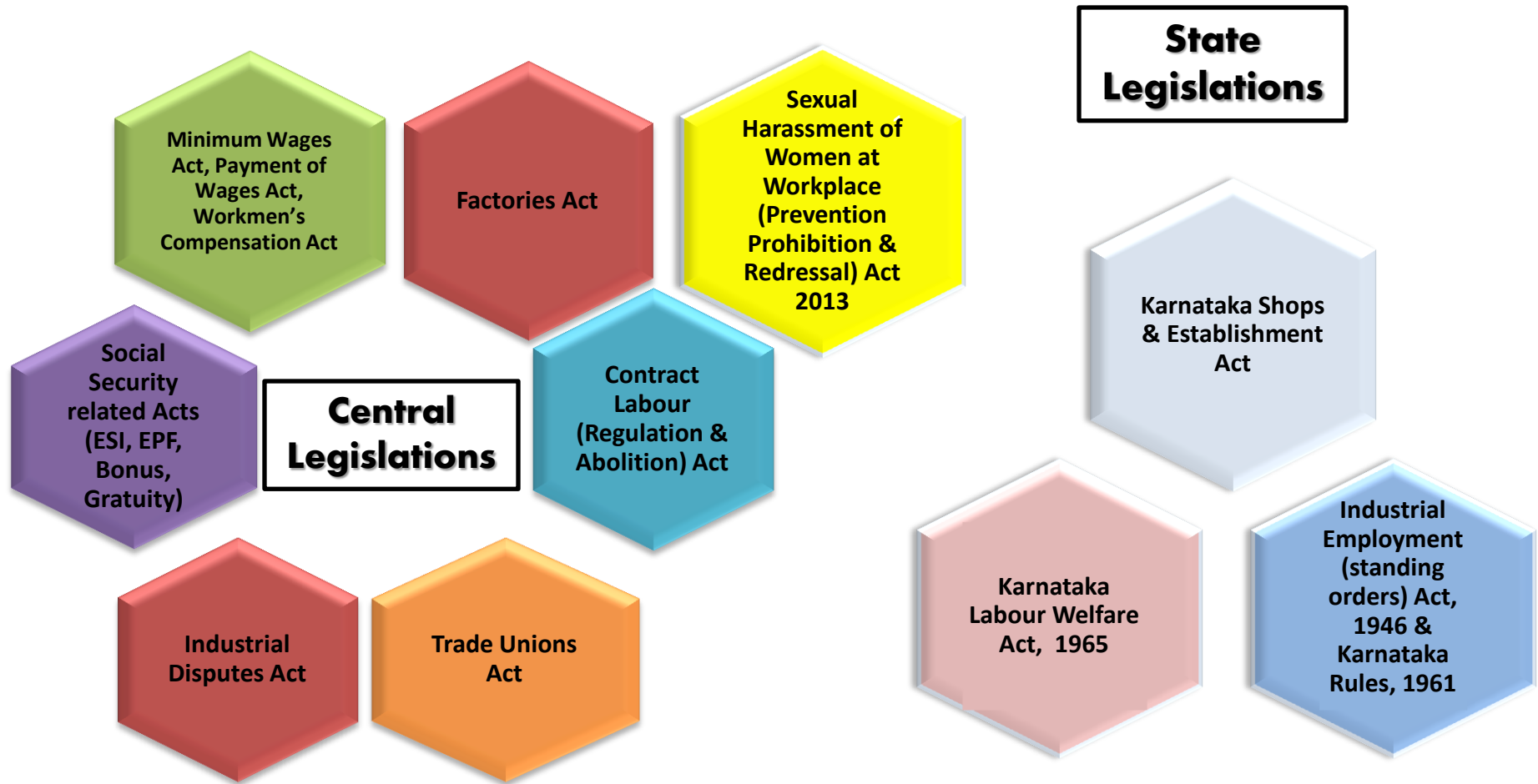
WHY ARE INVESTORS WARY OF INDIA'S LABOUR & EMPLOYMENT LAWS?

“Workmen” vs.
“Non-workmen”



- Principle of “*Employment at will*” not accepted in India
- Therefore:
 - Employers have only limited freedom to close down factories, dismiss employees etc.
 - Laying off workers possible only if certain conditions are met and adequate compensation is paid
 - Termination of services of managerial staff (non “Workmen”) must comply with terms of their appointment letter or employment contract
- Lots of paperwork required to comply with labour laws in India

NATIONAL ACTS & STATE-SPECIFIC PROVISIONS



Non-compliance =
risk of financial penalties, imprisonment of Directors/
CEOs/ CFOs and even cancellation of licenses

Periodic compliance audits by a 3rd party can
help reduce your risk of non-compliance

APPLICABILITY OF SOME LABOUR LAWS BASED ON NUMBER OF EMPLOYEES IN INDIA

Twenty or more persons

The Contract Labour
(Regulation and
Abolition) Act,
1970

The Employees'
Provident Funds &
Misc. Provisions
Act, 1952

Payment of Bonus
Act, 1965

Ten or more persons

Factories Act, 1948

The Employees'
State Insurance Act,
1948

The Payment of
Gratuity Act, 1972

The Payment of
Gratuity Act, 1972

General

The
Payment
of Wages
Act, 1936

The
Minimum
Wages
Act, 1948

The
Industrial
Disputes
Act, 1947

Workmen's
Compensation Act,
1923

Karnataka Shops
&
Commercial Estab
Act, 1961

Karnataka Labour
Welfare
Fund,
1965

REDUCING RISK OF NON-COMPLIANCE, DAMAGE TO REPUTATION & BUSINESS DISRUPTION

- Being aware of implications of “Workmen” and “non-Workmen”
- Knowing the pros and cons of having a Union
- Ensuring that appointment letters and employment contracts adhere to applicable laws and specify terms clearly and unambiguously
- Where to use fixed term contracts for employees
- Explaining terms & conditions to potential employees before getting them to sign the contract
- Having an Employees’ Manual and updating it periodically
- Handle employment issues strategically



LABOUR ISSUES FACED BY SOME COMPANIES IN INDIA

- From our studies on labour unrest over the years, including strikes and lockouts, we conclude that the possible reasons for such unrest are as follows:-
 - Wages hikes
 - Retrenchment of labour
 - Reinstatement of dismissed workers
 - Management's decisions to go for contract labours without giving them permanent job security and denying fair wages
 - Demand for recognition of labour union.



FOOD FOR THOUGHT.....

- *Pay attention to employee concerns and address the same promptly*
- *Periodic compliance audits*

Thank you!

*If you have specific questions about labour/ employment or other laws, please write to me: shuva.mandal@foxmandal.com
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