
THE IMPACT OF NEW LABOUR CODE IN INDIA

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ABSTRACT

India's new labour code represents a substantial change to the country's labour environment, with the goal of modernising and streamlining labour laws. India's new labour code represents a substantial change to the country's labour environment. This study looks at the new code's complex effects on important parties, such as companies, employees, and the overall economy. By examining changes in industrial relations, employment laws, and social security provisions, the study identifies both the possible advantages—like easier business dealings, better worker protection, and more flexibility in the labour market—and the disadvantages—like worries about job security, wage inequality, and compliance burdens for small businesses. This research paper explains about the historical evolution of new labour code and its impact in India.

Keywords: Labour code- impact- employees- employers- implementation

Introduction:

The new labour Law Codes, a historic reform intended to streamline and modernise the nation's intricate regulatory system, have brought about a radical change in the Indian labour environment. These reforms mark a substantial shift from the fragmented and frequently onerous legal framework that has governed India's workforce for decades. They were implemented by combining 29 central labour laws into four comprehensive codes: the Code on Wages (2019), the Industrial Relations Code (2020), the Social Security Code (2020), and the Occupational Safety, Health and Working Conditions Code (2020).

While protecting workers' rights, the main goals of these reforms are to make conducting business easier, attract in foreign investment, and encourage sustainable economic growth. The new regulations seek to achieve an appropriate harmony between worker welfare and financial autonomy by enhancing social security systems, simplifying compliance procedures, and overhauling employer-employee interactions.

In addition to discussing the historical evolution of labour law in India and the new labour reforms, this research paper critically evaluates the effects of these reforms on a range of stakeholders, including companies, employees, and legislators.

Historical evolution:

The evolution of labour legislation can be divided into three periods: the colonial state prior to independence, the welfare state from the 1980s onwards, and the neoliberal state starting in the 1990s. Prior to independence, the early 20th century offered few advantages in terms of social security and employment laws. The Workmen's Compensation Act of 1923, which provided compensation for workplace injuries; the Trade Union Act of 1926, which shielded registered unions from lawsuits; the Factory Act of 1934, which established minimum safety and work hours; and the Payment of Wages Act of 1936 were all significant regulatory measures. After Great Britain established a Royal Commission on Labour in India, numerous labour regulating measures were implemented. The Commission, which was established in 1929, aimed to connect industrial employment circumstances.

The independence movement caused political upheaval, which led to the creation of the Indian welfare state. On October 31, 1920, the All India Trade Union Congress (AITUC), the nation's

first trade union federation, was founded. One could argue that the post-World War II realisation of the need for a more equitable economic and political order, the influence of the ILO, of which India was a founding member, and the progressive influences within the Indian National Congress also had an impact on the policy on labour regulation in independent India. The Indian Constitution's fundamental rights, which served as the cornerstone for later laws governing labour relations, are clear examples of these early impacts. These progressive laws included the Minimum Wages Act, the Industrial Disputes Act, the Contract Labour Act, and welfare programs for both the organised sector (the Employees State Insurance and the Provident Fund) and certain groups of workers in the unorganised sector (the Beedi Workers Act and the Plantation Labour Act). One may argue that Indian policymaking starting in the 1980s was impacted by the global growth of neo-liberal political and economic ideology. Although the 1990 Structural Adjustment Programme, which was imposed on an Indian state that was experiencing a serious balance of payments crisis, was the direct source of neoliberal policy measures, the liberalisation policies of the 1980s, especially in the banking sector, laid the groundwork for them.

Economic regulation was likely affected first by the removal of restrictions on top executives' salaries, modifications to laws governing monopoly capital, adjustments to the licence raj, which gave the government authority over private capital investments, and the successful repeal of the Sick Industrial Companies Act (SICA), which allowed employees to take over management of sick businesses. A precursor to the more contemporary measures against job security, the Voluntary Retirement Scheme (VRS), which trade unions viewed as anything but voluntary, assisted in closing manufacturing in metropolitan areas to make space for real estate development.

As an instance, the First National Commission suggested reducing working hours from 48 to 40 hours per week as the economy grew. In contrast, the Second Commission suggested easing restrictions on overtime hours, doubling the current ceilings, to allow for more flexibility in responding to market demands. Although both Commissions advocated for the implementation of a national minimum wage, the First Commission explicitly suggested regional minimum wages that took into account the varying cost of living and wage levels, updated the minimum wage every three years, and linked all workers—even those earning more than the minimum wage—to inflation; the Second Commission recommended a uniform National Minimum Wage, with revision every 5 years, and inflation linkage mandated only for the Minimum Wage

fixation. The Second Commission recommended a 51% ballot majority for a legal strike notice in an attempt to make strikes more difficult, while the First Commission acknowledged that workers lost out when disputes went to court and suggested a shift to collective bargaining as the method of dispute resolution with mandatory factory level union registration. The Second Commission's recommendation to raise the threshold to 300 workers for the application of Chapter VB restrictions under the Industrial Disputes Act for restrictions on retrenchment, layoffs, and factory closures further demonstrated the clear shift towards more liberalised labour laws. The country's recently enacted labour codes heavily referenced the Second Commission.¹

Four Codes of Labour law:

In order to promote labour welfare through "universalisation of wages and social security, ensuring safe and healthy workplace, formalisation of employment, higher female labour force participation, skill development of workers, portability of benefits for migrant workers," among other means, India has passed four new labour codes. With a focus on ease of doing business, the Labour Codes, which have not yet been notified, replace over 29 central laws in an effort to modernise and streamline India's labour regulations.

Code on Wages, 2019 (Wages Code)

The Minimum Wages Act, the Equal Remuneration Act, the Payment of Wages Act, and the Payment of Bonus Act are all superseded by the Wages Code.

Though many fundamental features of the law are quite comparable to the current rules, the Wages Code aims to bring uniformity across all previous laws. A standard definition of "wages," the definition of "employees" to include management and supervisory staff, and the requirement that employers pay wages and other benefits to all "employees" on time are some of the major changes.

Employers must now make sure that allowances' CTC breakdown doesn't above 50% of earnings. Any excess of this proportion is now considered part of the wages, which has an

¹ Ushering thin welfare regimes at the cost of thick labour jurisprudence: A tale of new labour codes in India Mani Mohan, Mathew Babu, Sony Pellissery et Kavya Bharadkar, p. 38-49, available at <https://doi.org/10.4000/rdctss.2633>

effect on how "wages" are calculated, including retrenchment, gratuities, etc. Overtime compensation is implemented, and it must be at least double the regular salary.

The Code on Industrial Relations Code, 2020 (IR Code)

The rules pertaining to trade unions, working conditions at industrial establishments and undertakings, and issues involving industrial disputes will all be consolidated and amended by the IR Code. In an effort to promote gender parity, the Industrial Disputes Act has changed the term "worker" from "workman" to "worker," and the monthly wage cap for supervisory roles has been raised from Rs. 10,000 to Rs. 18,000 per month.

A worker hired under a signed contract for a certain amount of time is known as a "fixed term employee." In terms of work hours, pay, benefits, and other considerations, a fixed term employee will be treated on an equal footing with a permanent employee performing the same or comparable work. Even if the employment period does not extend to the qualifying period of employment required by the statute, a fixed-term worker is still eligible for all statutory benefits available to a permanent worker proportionately according to the period of service rendered by him. This includes receiving a gratuity if he serves for a year. Retrenchment clauses won't be applicable, nevertheless.

A significant modification has been made to Standing Orders, which now apply to enterprises with 300 or more employees (as opposed to 100 employees under the IESO Act). Similar increases in the threshold of workers are observed in companies, mines, and plantations with 300 or more employees, where closure, layoffs, or retrenchments will require prior government approval.

The Code on Social Security, 2020 (SS Code):

The SS Code is a combination of nine fundamental labour legislation that deal with employee social security. In addition to rationalising existing definitions, new ones have been added. Contract labour, contractor, confinement, dependent, employee (including workers hired by contractors), employer, employment injury, exempted employee, factory, family, fixed-term employment, interstate migrant worker (including self-employed workers from another state), self-employed worker, social security organisation (EPF Board, ESIC, National Social Security Board for Unorganised Workers, State Unorganised Workers' Social Security Board, State

Building and other Construction Workers' Welfare any other Board by Gov), Unorganised sector / unorganised worker and Wages.

The unorganised sector is now covered and represented. Gig workers—those who work outside of the conventional employer-employee relationship—are one of the new categories. Platform work/platform workers (workers who access organisations or individuals through an online platform and provide services or solve specific problems engaged in additional categories of services or activities as may be notified by the government) and home-based workers (people who produce goods or services for an employer in their home or other premises of their choosing other than the employer's workplace, for remuneration, regardless of whether the employer provides the equipment, materials, or other inputs).

One of the most significant modifications to the current legislation concerns the unorganised sector. The categories of gig workers, platform workers, and home-based and self-employed workers are introduced by the SS Code. Social security funds for health and maternity benefits, old age protection, education, life and disability insurance, and other benefits must be established by the central government. The State Government is responsible for establishing social security programs for PF, employment injury benefits, housing, child education programs, worker skill enhancement, burial aid, and assisted living facilities for the elderly. Workers must register, which will require them to be at least 16 years old or older as determined by the Central Government; submit their self-declaration electronically or in another format with the information the Central Government specifies; and submit supporting documentation, such as their Aadhaar number.

A digital middleman or marketplace that connects a buyer or service user with a vendor or service provider is known as an aggregator. The Central Government, State Governments, and aggregators may all contribute to the funding of programs for gig and platform workers. A list of aggregators is included in Schedule 7 of the Code. These include e-marketplaces, ride-sharing services, food and grocery delivery services, and content and media services. Any contribution by an aggregator may be made at a rate between 1% and 2% of the aggregators' yearly turnover, as determined by the government. The contribution cannot be more than 5% of what an aggregator pays or owes platform and gig workers.

Code on Occupational Safety, Health and Working Conditions, 2020 (OSHC Code)

Important laws like the outdated Factories Act and the Contract Labour Act, among others, are

among the 13 Acts that the OSHWC Code replaces and unifies. These days, an employer has certain responsibilities, such as providing a formal letter of appointment to each employee who has been hired by the company and making sure that there are no workplace hazards that could injure or aggravate occupational diseases in the employees.

The threshold for what constitutes a factor has been raised to encompass locations where manufacturing processes are conducted and where more than: (i) 20 workers are employed if the manufacturing process uses power, or (ii) 40 workers if it does not.

The previous barrier of 20 contract workers was raised to include enterprises or contractors with 50 or more employees, as well as manpower supply companies with 50 or more contract workers. Contract labour is not permitted in core activities unless: (i) the establishment's regular operations require that the activity be completed by a contractor; (ii) the activities are such that full-time employees are not needed for the majority of the day; or (iii) there is an abrupt increase in the volume of work in the core activity that must be finished within a certain amount of time. The proper government has the authority to determine whether an establishment activity qualifies as a core activity.

The following is a list of non-core activities for which ban will not apply: (i) sanitation workers; (ii) security services; and (iii) any intermittent activity, even if it is an establishment's core operation. The Code also uniformly describes topics like overtime, leave, and work hours.²

Impact of the Four Labour Codes:

India's labour laws have been greatly simplified by the new labour rules, which also bring uniformity to the legal system. By establishing a floor wage that is applicable across the country, the regulations aim to better govern the unorganised sector while guaranteeing a number of benefits and rights to both organised and unorganised workers. Additionally, it will provide interstate migratory workers with social security benefits. They will be able to obtain these benefits across state lines with the creation of a National Database of Unorganised Workers. But the act makes unions weaker, which worries both unions and employees. Through better industrial relations and a centralised social security system, the regulations seek

² Analysing the new labour codes: Impact on employee work hours, leave and overtime, Debjani Aich, available at, https://economictimes.indiatimes.com/small-biz/sme-sector/analysing-the-new-labour-codes/articleshow/117138406.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

to make conducting business easier and possibly reduce compliance costs. Additionally, the act benefits employers by offering a more flexible framework for layoffs.³

Overall, the labour codes will substantially impact industrial and labour relations in the country.

Compensation restructuring

Although raising the base pay might be wise, most businesses might not be eager to do it right now because it will affect employees' take-home pay. Furthermore, voluntary programs that connect benefits to basic pay, such as superannuation, NPS, or legacy pension schemes, will be significantly impacted by raising the basic salary. House Rent Allowance and Conveyance Allowance are the two main components that businesses are aiming to boost wherever compensation restructuring is taking place. It's interesting to note that many businesses might not be seeking to alter their pay scale. Once more, this suggests that a number of businesses are still ill-equipped to reduce the associated possible effect.

Impact on gratuity and leave encashment

Perhaps the biggest impact will be on gratuities, where most businesses anticipate a huge impact on their profit and loss. Accordingly, the final "wage" is utilised to account for all of the years of service, since the fundamental structure of the formula for gratuity payout stays the same at 15 days' last drawn wages. The impact is really considerable, and it appears that it will also affect previous service. Although some businesses are looking into ways to lessen the impact by updating existing gratuity schemes, this could not be feasible if the benefit offered is the bare minimum required by law.

Impact on provident fund

The status quo of 12% of basic salary will be maintained, with around half of the organisations not planning any immediate changes to PF contributions. The majority of businesses are reluctant to make full-wage contributions because they believe that the salary ceiling for EPF contributions may still remain after labour codes. This is yet another reason why businesses are reluctant to raise workers' base pay when feasible. The reasoning is similar to the

³ What are the Four Labour Code Reforms, Their Impact and Implementation?, available at <https://www.bennett.edu.in>

interpretation of the Supreme Court's historic 2019 ruling on the inclusion of allowances, in which businesses continued to contribute based on basic income because it exceeded the INR 15,000 wage cap.

It is evident that the new wage definition is likely to have a significant financial impact, particularly on the cost of retirement and long-term benefits, even though the government has yet to provide further clarity, particularly regarding the treatment of various components that will form part of the wage definition. Although there is no way to completely prevent the financial impact, businesses are encouraged to consider their choices in order to lessen the burden. Restructuring compensation and modernising benefit plans are two strategies that could lessen the effects.⁴

Simplification and Consolidation of Laws: A Double-Edged Sword

The Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020 are the four comprehensive codes that incorporate India's 29 current labour laws. The goal of this consolidation is to streamline the regulatory environment and increase accessibility for both employers and workers.

Employers may gain from this simplification, but there are also new difficulties:

1. Uniform definitions: The rules provide consistent meanings for important phrases such as "wages," which helps lessen uncertainty and legal conflicts.
2. Simplified compliance: Employers may find it simpler to comprehend and apply labour laws if there are fewer legislation to deal with.

It is predicted that the burden of administration on businesses will be lessened by the consolidation of labour laws:

1. Single registration: Employers will no longer require several registrations under various regulations, but rather only one registration.

⁴ Ritobrata Sarkar, Labour code impact – How prepared is India Inc, October 17, 2022, available at <https://www.wtwco.com/en-in/insights/2022/10/labour-code-impact-how-prepared-is-india-inc>

2. Simplified reporting: Employers are expected to file fewer returns and assessments as a result of the new codes.

3. Digital compliance: The regulations place a strong emphasis on using technology to comply, which may help firms by streamlining procedures.

Employers need to understand that even if administrative processes may be made simpler, there are still strict compliance requirements and harsh consequences for noncompliance. Employers must thoroughly examine the new codes, evaluate how they affect existing procedures, and create plans to guarantee compliance while preserving operational effectiveness in order to successfully adopt these changes.

Possibility of Lower Compliance Costs and Better Business Ease

The goal of combining 29 central labour regulations into 4 codes is to make it easier for employers to comply: By standardising wage-related laws across industries, the 2019 Code on Wages may simplify administrative procedures. Benefit administration may be streamlined by the 2020 Code on Social Security, which unites nine social security statutes. By increasing the threshold for requiring standing orders from 100 to 300 workers, the Industrial Relations Code, 2020 lessens the regulatory burden on smaller businesses. Under the Occupational Safety, Health and Working Conditions Code of 2020, a single license and registration take the place of several licenses and registrations.

Flexibility in Hiring and Firing:

Analysis of Provisions for Fixed-Term Employment

Significant modifications to hiring and firing procedures are brought about by the Industrial Relations Code of 2020:

Employers may recruit people for set periods of time with certain responsibilities of permanent employment since it legally recognises fixed-term employment. These workers are also entitled to the same benefits as permanent employees, including gratuities. Larger businesses now have more leeway because the government's approval threshold for layoffs, retrenchments, and closures has been increased from 100 to 300 employees. These clauses seek to safeguard workers while giving employers more flexibility with their personnel. Critics counter that this

could result in job instability.

Analysis of Fixed-Term Employment Provisions

The Industrial Relations Code, 2020 introduces significant changes to hiring and firing practices:

- It legally recognizes fixed-term employment, allowing employers to hire for specific time periods with certain obligations of permanent employment.
- Fixed-term employees are entitled to the same benefits as permanent workers, including gratuity.
- The threshold for requiring government permission for layoffs, retrenchment, and closures has been raised from 100 to 300 workers, giving larger establishments more flexibility.

These provisions aim to provide employers with greater workforce flexibility while ensuring worker protections. However, critics argue that this may lead to job insecurity. The new codes establish a clearer legal framework for fixed-term and contractual employment:

In contrast to earlier limitations in certain jurisdictions, fixed-term contracts are now specifically permitted for permanent tasks. – Fixed-term, gig, and platform workers are all eligible for social security payments under the 2020 Code on Social Security. Even if typical qualifying periods are not met, employers are still required to offer fixed-term employees benefits commensurate with their length of service. This approach aims to strike a compromise between worker protection and employer flexibility. However, ensuring compliance across various work arrangements may present implementation issues.

Enhanced Social Security Provisions

The 2020 Code on Social Security adds a number of new clauses that broaden social security coverage but could possibly raise employer costs: Gig and platform workers are now officially recognised and eligible for social security benefits, to which their employers may be required to make contributions. Even for short-term contracts, fixed-term employees are now eligible for prorated gratuities.

Universal social security: Employer contributions may be required as part of the government's goal to provide social security to all workers, even those in the unorganised sector. In order to accommodate these increased social security responsibilities, employers will need to review their budgets and pay plans. The financial impact may be significant, particularly for companies with a large workforce or those relying heavily on contractual or gig workers.

Administrative Changes and Processes

Significant administrative changes for employers are brought about by India's new labour laws: The Occupational Safety, Health, and Working Conditions Code, 2020 simplifies compliance requirements by combining 13 existing legislation. This code's coverage has been expanded to include establishments with ten or more employees. All employees must have appointment letters from their employers, formally establishing their working connections. In order to advise the government on workplace safety issues, the code requires the establishment of a National Occupational Safety and Health Advisory Board.

Occupational Safety, Health, and Working Conditions: Prioritizing Safety, Managing Costs

Although the new rule may result in higher expenses for enterprises, it places a stronger emphasis on worker safety: Employers are required to offer and maintain health and safety facilities for workers at no cost. According to the regulation, firms must provide free yearly health exams to employees in specific dangerous jobs. Employers are required to select safety officers according to the number of employees, which could raise staff expenses. Welfare amenities including sufficient lighting, ventilation, and drinking water must be provided by employers.

Enhanced Safety Standards and Employer Responsibilities

Employers are now required to notify the appropriate authorities of workplace accidents and occupational disorders within predetermined times, according to the new labour codes. Employers must guarantee that workers are not exposed to risks and give them safety training. With employer approval and safety precautions in place, the code permits women to perform night shifts (from 7 PM to 6 AM). Employers are required to take steps to keep the workplace hygienic and tidy while preventing congestion.

Compliance Requirements and Penalties for Non-Compliance

Key compliance requirements under the new codes include:

1. Paying wages on time: According to the 2019 Code on salaries, all workers must get paid within the allotted time frames, which vary depending on the wage period (daily, weekly, fortnightly, or monthly).
2. Appropriate registration and record keeping: In accordance with the regulations, employers are required to keep current records of their workers, pay, leave, and other employment-related data.
3. Safety measure implementation: Employers are required by the Occupational Safety, Health and Working Conditions Code, 2020, to maintain a safe workplace and carry out routine safety audits.
4. Social Security contributions: Gig and platform workers are now covered under the 2020 Code on Social Security, which mandates that employers make the necessary obligations.
5. Issuance of appointment letters : Employers must provide all employees with appointment letters detailing their terms of employment.

Dispute Resolution and Grievance Redressal

The new labor codes introduce revised mechanisms for dispute resolution and grievance redressal:

Grievance Redressal Committee: Every industrial firm with 20 or more employees is required by the Industrial Relations Code, 2020, to create a Grievance Redressal Committee. At the organisational level, this committee is responsible for settling conflicts between employers and employees.

Conciliation and Arbitration: Conciliation is emphasised as the main means of resolving disputes in the Industrial Relations Code, 2020. In order to speed up the settlement of labour disputes, it establishes a two-member Industrial Tribunal.

Time-bound Resolution: The protocols set forth precise deadlines for resolving conflicts. For

example, the conciliation officer has 45 days from the start of the proceedings to wrap them up.

Compounding of Offenses : The new codes allow for the compounding of certain offences, enabling employers to settle violations by paying a prescribed amount, thus avoiding prolonged legal proceedings.

Appellate Authority : The codes provide for the establishment of appellate authorities to hear appeals against decisions made by various authorities under the codes.

These dispute resolution mechanisms aim to promote faster and more efficient resolution of labor disputes, potentially reducing the burden on the judicial system. However, their effectiveness will depend on proper implementation and the capacity of the newly established bodies to handle disputes efficiently.

Impact on Payroll Processes

Many businesses will need to make major adjustments to their payroll procedures in order to comply with the new labour rules. Employers will need to reorganise their compensation packages in order to comply with the updated definition of salaries, which includes a 50% cap on allowances. Higher provident fund contributions and gratuity payments could arise from this, which could raise businesses' overall labour expenses. To guarantee compliance with the new wage structure rules, businesses will need to examine and upgrade existing payroll systems. This entails changing allowance arrangements, modifying basic wage calculations, and possibly raising social security contributions.

Potential Penalties for Non-Compliance

To enhance enforcement, the new labour laws impose more severe penalties for noncompliance. Although particular punishments differ based on the type and seriousness of the infraction, repeat offenders typically face fines and sometimes even jail time. According to the 2019 Code on Wages, for example, nonpayment or unauthorised wage deductions can result in fines of between ₹10,000 and ₹1,00,000. In addition to fines, repeat offenders may face up to three months in imprisonment. Penalties for unlawful strikes or lockouts under the Industrial Relations Code, 2020, include fines of up to ₹1,00,000 and possible imprisonment of up to one month.

Judicial precedents :

Delhi Transport Corporation v. DTC Mazdoor Congress (1991 AIR 101): It is a landmark judgment in Indian labor law, particularly concerning collective bargaining rights and the protection of workers against arbitrary dismissal. This judgment reinforced the importance of collective bargaining and fair treatment of workers, influencing provisions in the Industrial Relations Code, 2020. The Code emphasizes:

Worker Representation: Strengthening the role of trade unions in negotiations.

Dispute Resolution: Establishing mechanisms for resolving industrial disputes.

Protection Against Arbitrary Dismissal: Ensuring that termination procedures are fair and transparent.

Bharat Forge Co. Ltd. v. Uttam Manohar Nakate (2005) 2 SCC 489: Discussed fair disciplinary actions, relevant to workplace safety and compliance under the new codes.

This case underscores the importance of:

Adherence to Procedures: Employers must follow fair and transparent disciplinary procedures.

Workplace Discipline: Ensuring compliance with safety norms and behavioral standards is critical for a safe working environment.

Proportionality in Punishment: While maintaining discipline, employers must ensure that the punishment is proportionate to the misconduct.

Conclusion

The implementation of the four new labour codes has significantly improved India's labour rules. A more equitable and efficient employment market is one of the long-term benefits of proactive adaptation. However, understanding the nuances of the new standards and implementing robust compliance mechanisms are essential for success. Companies who take the initiative to implement these changes will have a greater chance of success, foster positive employer-employee relationships, and contribute to a more efficient and competitive economy. By consolidating the 29 labour legislation into four codes, it will be very helpful for both the

employer and employee and also for the legal scholars, students and practitioners to refer the particular labour legislation, it simplifies and modernizing labour laws while promoting welfare and economic growth.

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