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Impact of New Labour Codes on Workers

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The new labour codes promised labour market reform but suffer major shortcomings, including on limited collective bargaining, flawed minimum wages, gender inequities, and inadequate social security. These require significant rethinking to align with international labour standards.

Introduction

After India began economic liberalisation in 1991, there was a growing demand for comprehensive labour reforms, often referred to as second-generation reforms, from the late 1990s and early 2000s. However, despite extensive debate, there was little concrete action until 2017, when the Central government introduced four labour Codes in Parliament.

These labour codes cover four broad categories-wages, industrial relations, social security, and occupational safety and healthy working conditions. They merged 29 existing labour laws and were passed by Parliament in 2019 and 2020, but were notified only on 21 November 2025. In what follows, we discuss the possible repercussions of these codes.

Code on Industrial Relations 2020

Provides flexibility in hiring: This Code raises the threshold for seeking prior permission for lay?offs, retrenchments, and closures from industrial establishments with 100 or more workers to those with 300 or more workers, marking a significant change in the regulatory framework.

Historically, we have found that a very high share of organised sector firms is clustered just below 100 workers, disproportionately so. This adjustment could encourage firms to replace permanent workers with fixed-term workers, even if they are employed on the same terms and conditions as permanent workers (as we discuss later). This is likely to be especially true for small and medium-sized formal enterprises, which make up the majority of firms in India.

Encourages unitary trade union practices: The Code introduces the concept of a "sole negotiating union" for conducting negotiations with the employer. If there is only one trade union present in an industrial establishment, the employer is obligated to recognise it as the sole negotiating union for the workers. However, when multiple trade unions exist, the trade union that garners the support of at least 51% of the workers on the muster roll, as verified by prescribed methods, will be recognised as the negotiating union by the central or state government.

> Clarifications are needed to define the distinctions between floor wage and minimum wage, as well as to provide a clear understanding of the purpose and criteria for establishing the floor wage.

Trade union membership and union density in India's enterprise sector are generally low compared to total employment-more than 98% of workers did not belong to any trade union as of 2010, and collective bargaining coverage was limited. Most enterprises in India, especially small and medium ones, do not have trade unions at all-which suggests that the number of firms with even a single union is small.

If a single major trade union holds more than 51% of the membership, smaller unions may effectively become obsolete because the employer will no longer recognise them. This means they might find it challenging to grow. Typically, trade unions require time to establish themselves within an organisation. The larger trade union, acting as the sole bargaining agent, may monopolise trade union rights even if it fails to adequately protect workers' rights.

Imposes regulations on strikes and lockouts: Strikes or lockouts must be initiated by providing a 14-day notice, and they should commence "within 60 days" from the date of notice. Strikes or lockouts are prohibited "during" the pendency of conciliation proceedings, which occur before a conciliation officer and continue through proceedings in the tribunal. Strikes or lockouts are also prohibited "during" the pendency of arbitration or when a settlement or award is in operation. The Code prescribes severe penalties for violations, including fines of up to Rs 10,000 and imprisonment for up to one month.

In such a regulatory context, legal strikes become exceedingly challenging to execute. The obligation to provide notice triggers state intervention, and once the state intervenes, a strike may become legally infeasible. These stringent provisions significantly limit the ability of workers and employers to engage in strikes and lockouts.

Legalises fixed-term employment: This move could lead to a shift away from permanent employment. Under fixed-term employment (FTE), workers are employed on the basis of written contracts for a fixed period. This provision extends beyond the textile and garment sector, where it was previously applicable.

The positive aspect is that it formalises existing employment practices, clarifying the terms of employment, and ensuring that FTE workers receive wages, allowances, and benefits at least equivalent to those of permanent employees performing similar work. FTE workers are also entitled to statutory benefits in proportion to their length of service, even if they do not meet the qualifying period required for permanent employees. This legal validation provides job security and access to various benefits, including social security. This makes FTE similar to permanent employment.

Read the first piece by Atul Sood in this two part series on labour codes here

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However, there is a downside to this provision. It could contribute to the erosion of regular employment, which has been on the decline in India, both in the formal and informal sectors. The labour market in India has exhibited inherent flexibility, leading to increased informalisation of the workforce over the past three decades.

The share of contract labour has risen steadily, with contract workers in organised manufacturing increasing from 12% in 1990-91 to 33.6% in 2013-14. The share of contract workers' wages as a proportion of the total wage has also increased significantly. Consequently, more than 90% of the workforce is engaged in the informal sector. The introduction of FTE may further accelerate this trend, potentially diminishing the concept of regular employment.

Makes standing orders optional: The Code on Industrial Relations mandates that all industrial establishments with a workforce of at least 300 employees must prepare standing orders covering various employment-related matters listed in a Schedule to the Code. The central government will provide model standing orders on these matters, and industrial establishments are required to base their standing orders on these models.

This provision represents a significant change by increasing the threshold from 100 to 300 workers. In establishments with up to 299 workers, if certified standing orders are not in place, it could have implications for the terms and conditions of employment for those workers. This change may impact the rights and protections afforded to employees in smaller establishments where certified standing orders were previously required for establishments with at least 100 workers.

Code on Wages 2019

Floor Wage: The Code on Wages 2019 outlines the concept of a floor wage, which the central government will establish by considering the living standards of workers. This floor wage may vary for different geographical areas. Before setting the floor wage, the central government may seek advice from the Central Advisory Board and consult with state governments. The minimum wages determined by central or state governments must be higher than the floor wage, and they cannot reduce existing minimum wages if they are already higher.

However, the Rules do not provide a clear rationale for the floor wage or specify how it differs from the minimum wage. Clarifications are needed to define the distinctions between floor wage and minimum wage, as well as to provide a clear understanding of the purpose and criteria for establishing the floor wage.

Fixing minimum wage: Minimum wage is a dynamic concept. But there must also be a provision for revising the "basic" component of minimum wage. This aspect is missing in the Rule. A new section should be introduced to provide the mechanism to redefine the "basic" part based on the periodic survey on family budget expenditure.

Consumption patterns change over time. Certain products lose their relevance whereas certain new products come into existence. The consumption basket should change accordingly. A family budget expenditure survey should happen every five years and "basic" must be

revised accordingly. Otherwise, revising minimum wages only through periodic dearness allowance (DA) adjustments will not be sufficient to maintain their sustainability over time.

Inspectors-cum-facilitators: The Code introduces the concept of inspectors-cum-facilitators and outlines their responsibilities and authority. These officials are tasked with a dual role-offering compliance guidance to both employers and employees and conducting inspections.

Further, the Code permits the relevant government to establish an inspection scheme, which may incorporate web-based inspection procedures. Within this inspection framework, the typical inspection schedule for each inspector-cum-facilitator is designed to be determined through randomisation in regular situations.

> Dividing urban areas into sub-categories such as metropolitan and non-metropolitan should be avoided. It will unnecessarily complicate the scenario.

However, the proposed arrangements make certain assumptions that run contrary to the principles of labour inspection norms set forth by the International Labour Organization (ILO), particularly those outlined in Convention 81. Ideally, inspectors/facilitators should possess the inherent authority to inspect any establishment if they deem it necessary, and the inspection mechanism should not be weakened under any circumstances.

In any case, the number of inspectors for labour in India is way below any ILO norm, and practically meaningless. Having one inspector for over 20,000 workers becomes practically infructuous.

In any case, labour inspectors hardly cover the unorganised segment of any sector of the economy. When inspectors can cover unorganised units, they may intervene if a law explicitly applies regardless of size or registration (for example, the Minimum Wages Act); a complaint is filed; the establishment crosses employment thresholds; or the activity is covered by a specific law. Examples include small workshops; roadside eateries; home-based units; small contractors; and domestic work (to a limited extent, depending on state rules).

Concerns over calorie calculation: The determination of minimum wages hinges significantly on the calorie requirement. In the Code on Wages 2019, the specified energy requirement is set at 2,700 K calories. According to the convention, the standard working-class family comprises a spouse and two children in addition to the earning worker, totalling three adult consumption units.

However, standard working-class families should be equivalent to 3.5 consumption units, not just three. The current calculation is based on the values of 1+.8+.6+.6 = 3. It should be revised to 1+1+.75+.75 = 3.5 to eliminate gender discrimination, as reflected in the lower consumption rate (.8 instead of 1) assigned to the female adult member of the family. Additionally, the calorie requirement for children should be increased to at least .75, as children need greater caloric intake during their growth and development stages.

Relative importance of non-food items: The existing practice is that non-food consumption is taken as a dependent on food expenditure. Food consumption is given paramount importance in the consumption basket and non-food consumption is taken as a residual and derivative. Non-food consumption is taken as 25% of food consumption.

However, the consumption pattern has undergone significant changes over the years and non-food items are presently important in their own right and no longer are derivative demand. The quantum of non-food items should be determined independently. With the increase in income, the importance of non-food items has increased.

Spread over and urban-rural categorisation: The Code on Wages Rules 2019 proposes that the number of hours of work that shall constitute a normal working day, inclusive of a period of rest, should not exceed 12 hours. If this is implemented, there is a possibility that certain employers would take advantage of such an expanded window and reduce three shifts to two shifts.

Given the exploitative nature of Indian employers and labour market imbalances where supply far exceeds demand, hours of work, including spread-over, should not exceed more than ten and half hours. Twelve hours will detain the workers unnecessarily and provide scope for rampant misuse. Already, in a number of instances, three shifts have been converted into two shifts for all practical purposes.

Code on Wages Rules 2019 suggests that the Central government shall divide the geographical area concerned into three categories-metropolitan, non-metropolitan, and rural. So far, the practice was to divide regions into rural and urban categories. Dividing urban

areas into sub-categories such as metropolitan and non-metropolitan should be avoided. It will unnecessarily complicate the scenario. Other data and information are collected based only on the urban-rural classification.

Social Security Code 2020

The Social Security Code 2020 consolidates existing legislation without explicitly incorporating the universalisation of social security as a legislative right. While there are hints at this concept, the Code only touches on it tangentially and does not fully embrace the idea.

For instance, the proposed definition of a "factory" in the Code still retains the threshold limits of 10 workers with regard to provident funds, health, maternity benefits, and gratuity. Many factories in the small and medium-sized enterprise (SME) category employ fewer than 10 permanent workers. This means that unorganised sector workers, particularly those in smaller enterprises, still fall outside the scope of social security provisions.

The Social Security Code has missed an opportunity to use social security provisions as a means to formalise the workforce. One of the authors has already spelt out how universal social security can be provided to the majority of workers within 10 years (see Mehrotra 2022; Mehrotra 2024).

It is disappointing that the Code does not emphasise the role of employers in providing social security to their workers. While the state has a responsibility in this regard, the primary responsibility should still lie with employers, especially considering that they benefit from the productivity of their workers. The state can provide the basic framework, but labour market relations should be encouraged at the micro level. Unfortunately, the Code does not delve into these aspects.

In the end, the Social Security Code is essentially just a compilation of existing laws, rather than a cohesive and integrated framework. While it hinted at progress, it fell short of meeting the expectations it raised.

For instance, the provision of maternity benefits only applies to women employed in establishments with 10 or more workers, which effectively excludes a large number of women workers in the informal sector. This exclusion goes against the principles outlined in the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), which prioritises the universalisation of social security entitlements. Unfortunately, the Social Security Code did not do enough to achieve this objective, and India has not yet ratified Convention 102.

Occupational Safety Health Working Conditions Code 2020

The Code covers establishments with 10 or more workers. It excludes establishments with less than 10 workers. This raises the question of whether workers in smaller establishments should be covered by health and safety laws. It has been argued that the application of labour laws based on the number of employees is desirable to reduce the compliance burden on infant industries and to promote their economic growth. To promote the growth of smaller establishments, some states have amended their labour laws to increase the threshold of their application.

> In any case, the number of inspectors for labour in India is way below any ILO norm, and practically meaningless. Having one inspector for over 20,000 workers becomes practically infructuous.

For instance, Rajasthan has increased the threshold of applicability of the Factories Act, of 1948, from 10 workers to 20 workers, and from 20 workers to 40 workers. Note that a similar amendment was proposed in the Factories (Amendment) Bill, 2014, which lapsed with the dissolution of the 16th Lok Sabha. These elements are being brought back in the new proposed Code.

Occupational health and safety and working conditions of the basic minimum standard are something which should be universally provided to all workers irrespective of their numbers in any particular establishment. This is also mandatory under the ILO Occupational Safety and Health Convention, 1981 (No. 155). However, India is yet to ratify this Convention.

The Code introduces provisions related to welfare facilities, health and safety standards, and work hours for workers, but it does not specify these standards. Instead, it grants the appropriate government the authority to notify them. The existing Acts that the Code subsumes, such as those governing factories, mines, and beedi workers, already specify certain standards. For instance, these Acts prescribe a maximum of nine work hours per day and 48 work hours per week, along with provisions for amenities like drinking water, washrooms, and first aid facilities.

The question arises as to whether the Code should explicitly outline minimum requirements for these matters, such as work hours, safety standards, and working conditions (for example, provisions for washrooms and drinking water), rather than leaving them for subsequent government notifications. This raises a debate about whether the Code should provide a comprehensive framework for these aspects or continue with the current approach of delegating authority to the government to define and update such standards as needed.

Conclusions

The formulation of labour codes provided the government an opportunity to address fundamental issues in the Indian labour market. However, the Codes have notable shortcomings in various aspects. These include ensuring minimum job security, facilitating trade union participation in collective bargaining, determining minimum wages, addressing gender discrimination in calorie entitlement, and achieving universalisation of social security and occupational safety and health.

To make the Codes more balanced, robust, and aligned with current labour market realities in India and abroad, further deliberations and fine-tuning are required. In their current forms, the Codes fall significantly short of meeting these aspirations.

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