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Changing Paradigm of the Labour Laws in India: A legal Analysis

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Abstract: With the evolving landscape of labour laws in India, examining the recent shifts and their implications through a legal lens becomes necessary to study the changes brought by the new legislation. The new labour reforms aim at creating more job opportunities, providing safety and bringing transparency. There are about 200 state legislations and 40 central legislations, which frequently provide colluding jurisdictions, prompting revisions to integrate all of those laws under the umbrella of four labour codes. These codes provide several new clauses addressing the problems of laid-off workers and Unorganized workers.¹ India, with its complex socio-economic fabric and diverse workforce, has undergone significant transformations in its approach to regulating labour relations. The interstate workers have also been provided with the provisions of the Public Distribution System. This work elucidates approaches of the legislature to create a legal framework for dealing with these unique circumstances of labour. It explores whether the standards of international labour law could account for such an arrangement and provides that this is true, and to what degree. The author attempts to analyze the increased awareness and utilization of new labour codes in line with the existing labour legislations for improved assessment of existing labour law principles.

Keywords: Labour Laws; India; Reforms; Workers' Rights; Analysis

1. Introduction

Labour laws in India have historically served as a cornerstone of socio-economic policy, aiming to balance the interests of employers and employees while fostering industrial growth and ensuring social justice. Rooted in a legacy of colonial-era legislation and subsequent post-independence reforms, India's labour regulatory framework has evolved significantly over the decades. However, recent years have witnessed a notable shift in the approach towards labour regulation, characterized by efforts to streamline and consolidate existing laws, enhance flexibility in employment practices, and promote ease of doing business.

The new provisions in these combined statutes represent a liberalization and dynamic modification of labour law standards. The codes include several labour-related requirements, such as classification of workers, payday, holidays, and wage rates.² The retrenchment clause will be no longer applicable to establishments with less than 300 workers.³ The layoffs, closures, and retrenchments are dealt with specifically in the codes. Additionally, it also recognizes the necessity to give notice of a strike within 14 days, as well as the prohibition on strikes in specific circumstances. It has also lowered the percentage of workers in exclusive bargaining units to 51%.⁴

Further, the Code on Social Security stands as a pivotal enactment aimed at modernizing and expanding the social security net for workers across various sectors. The code has expanded the scope of the term

¹ Code on Social Security, 2020, ss. 154, 155, 156.

² The Code on Wages, 2019.

³ Industrial Relations Code, 2020.

⁴ *Ibid.*

‘employees’ by including interstate migrant workers, platform workers, gig workers, people employed in the film business, etc. in its definition.⁵ It consolidates and rationalizes existing laws related to social security, including retirement, employment, and social security benefits for both organized and unorganized labourers. The Code introduces progressive reforms such as the portability of social security benefits, coverage for gig and platform workers, and the establishment of a social security fund to provide a safety net for workers in the unorganised sector. It represents a significant step towards the evolving needs by assigning the authority to the government to create laws for the provident fund, job injury benefits, housing, and kid-focused educational programmes.⁶

The enactment of the Code for Occupational Health, Safety, and Working Conditions marks another significant milestone in India’s regulatory framework, particularly concerning workplace safety and welfare. This Code substitutes 13 various labour law acts. The primary goal of the legislation is to enhance workplace safety, protect the health of workers, and improve working conditions across diverse sectors of the economy. Moreover, the meaning of “factory” has been expanded under this law.⁷ The said provisions will apply to all contractors with more than 50 employees. It emphasizes preventive measures, risk assessments, and safety protocols to mitigate potential harm to workers, promoting a culture of occupational safety and well-being. Additionally, the legislation introduces provisions for welfare amenities such as canteens, restrooms, and creches, restrictions on maximum working hours of 8 hours a day catering to the holistic needs of workers and enhancing their quality of life.

2. Need for Reforms in Labour Laws

The need for labour law reforms in India stems from various factors and challenges within the country’s labour market and regulatory framework. India’s labour laws were historically fragmented and complex, with multiple laws and regulations governing various aspects of labour relations, including wages, working conditions, industrial disputes, social security, and occupational health and safety. This multiplicity of laws often leads to confusion, compliance burdens, and regulatory arbitrage, particularly for businesses operating across multiple jurisdictions. The rigidity of certain provisions, coupled with cumbersome procedures for dispute resolution and enforcement, undermines flexibility in employment practices, stifling innovation, productivity, and job creation

Moreover, with the advent of globalization, technological advancements, and changing patterns of employment, there is a growing recognition of the need to adapt labour laws to address emerging challenges such as informalization of labour, precarious employment arrangements, and disparities in access to social security. The proliferation of outdated regulations and compliance burdens imposes undue hardships on businesses, particularly small and medium enterprises (SMEs), leading to inefficiencies, informality, and disincentives for formal job creation. This complexity made it challenging for both employers and employees to understand and comply with the rules. It is evident that complicated processes lead to legal snags that result in corruption and worker exploitation. Perhaps the simplification would close the gaps and ensure the economics and business. The prior laws did not apply to a sizable portion of the workers in the unorganised sector; hence, new policies were required. Additionally, there was a problem with the contract Labourers’ lack of access to fixed-term work.⁸ The female workers in the unorganized sector, who mainly worked in low-wage jobs, lacked legal health and safety protections. The procedures and regulations governing employee bargaining were ineffective.

⁵ Code on Social Security, 2020, s. 2(26).

⁶ Code on social security, 2020, ss. 154, 155, 156.

⁷ The occupational safety, health and working conditions Code, 2020, s. 2(w).

⁸ Notification GSR 235(E), Ministry of Labour and Employment. 16 March 2018. <https://labour.gov.in/sites/default/files/FTE%20Final%20Notification.pdf>.

The fundamental issues in various provisions led the 2nd National Commission on Labour (2002) to suggest the codification of labour laws and legislative modifications to policies.

3. Benefits of the Labour Law Reforms

Labour law reforms in India were introduced with several objectives in mind, and they are expected to bring various benefits to different stakeholders in the labour market and the economy as a whole.

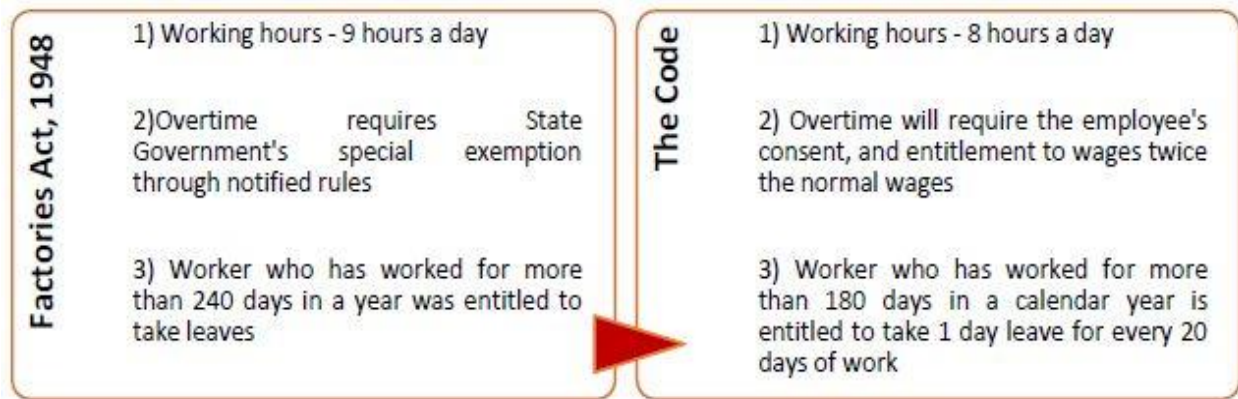
- Simplifying and rationalizing labour laws can improve business operations in India, particularly for small and medium-sized enterprises (SMEs). Reduced regulatory burdens and compliance costs can boost entrepreneurship and foreign investment.
- Labour law reforms aimed at extending social security benefits and improving working conditions for informal sector workers can help bring more workers into the formal labour market. This can lead to increased tax revenue for the government and better protection for workers.
- By making labour regulations more flexible, employers may be more willing to hire additional workers, leading to increased employment opportunities. This can be particularly important in addressing India's unemployment challenges.
- Greater flexibility in hiring and firing can help businesses adapt to changing market conditions more effectively. This can be especially beneficial in industries with fluctuating demand.
- Streamlining labour dispute resolution mechanisms can reduce the backlog of cases and provide quicker resolutions for both employers and employees. This can improve the overall efficiency of the labour justice system.
- Reforms that promote gender equality and safety in the workplace can encourage more women to participate in the workforce, contributing to economic growth and empowerment.
- Extending social security benefits to a broader section of the workforce can provide financial security to workers, especially those in the informal sector, during times of illness, disability, or retirement.
- Labour law reforms may incentivize employers to hire more workers in the formal sector, which can lead to better compliance with labour standards, minimum wage laws, and other regulations.
- Labour law reforms can help reduce the divide between formal and informal labour markets, creating a fairer and more equitable labour market for all workers.
- Labour law reforms may encourage investments in skills development and training as businesses seek to hire and retain a skilled workforce.

4. Key Issues in Labour Law Reforms in India

The emergence of new labour law reforms in India has brought to the forefront a host of key issues that warrant careful consideration and analysis. Though the reforms aim to streamline regulations and promote ease of doing business, concerns have been raised regarding the potential erosion of worker rights, job security, and social protection measures. Additionally, the informalization of labour and the prevalence of precarious employment arrangements pose significant challenges in extending social security coverage and ensuring decent work conditions for all workers.

Moreover, the word 'Labour' is included in the Concurrent List in the Seventh Schedule of the Constitution of India, which means that both the Union and State Legislatures may enact legislation on it. Due to this, these actions are now more complex in nature. The previous Labour Laws have been streamlined and

rationalized to produce the new Labour law Codes. Several laws have differing definitions of common terms such as “appropriate government”, “worker”, “employee”, “establishment”, and “wages”, resulting in varied interpretations (International Labour Organisation,2017).



Another prominent is the balance between flexibility and protection in employment relations. Some argue that labour law reforms may favour employers’ interests at the expense of workers’ rights. While reforms aim to extend social security benefits to workers in the informal sector, there are challenges in identifying and registering such workers. Ensuring that these benefits reach the intended beneficiaries is a complex issue. While reforms address contract labour, ensuring that these workers receive fair wages, benefits, and job security remains another issue. Contract workers may face exploitation and insecurity.

Despite efforts to streamline the labour dispute resolution processes, there can still be significant delays in resolving labour disputes, leading to legal uncertainties for both employers and employees. Ensuring effective enforcement and compliance with labour laws is a critical issue. Weak enforcement mechanisms and inadequate monitoring can lead to violations of labour standards. There is always a risk of unintended consequences when implementing significant policy changes. These consequences may not become evident until the reforms have been in place for some time. Labour law reforms can be a politically sensitive issue, and public opinion can influence the direction and implementation of reforms.

5. Findings

There are benefits and drawbacks to the new labour code, and only time will tell if it was a success. India is a developing nation that has seen the necessity for similar changes to its labour laws. The International Labour Organization (ILO) has advocated for labour policies based on the four pillars of action, which encompass fundamental principles and strategies for promoting decent work and sustainable development. These four pillars are (International Labour Organisation, 2019)

Pillar 1:

This pillar emphasizes the importance of promoting full, productive, and freely chosen employment opportunities for all individuals, including women, youth, persons with disabilities, and marginalized groups. Labour policies under this pillar focus on creating an enabling environment for job creation, entrepreneurship, skills development, and labour market inclusion, thereby reducing unemployment and underemployment.

Pillar 2:

The second pillar underscores the need to establish comprehensive social protection systems that provide adequate and accessible coverage for all workers and their families throughout their life cycle. This includes

measures such as social insurance, social assistance, and universal health coverage, designed to safeguard against risks such as unemployment, illness, disability, old age, and poverty.

Pillar 3:

Social dialogue constitutes the third pillar and entails the active engagement of governments, employers, and workers' organizations in constructive dialogue and negotiation processes to address labour-related issues, promote industrial peace, and foster inclusive decision-making. Social dialogue enables stakeholders to collaboratively develop and implement policies through collective bargaining, tripartite consultations, and participatory mechanisms, that reflect their diverse interests and perspectives.

Pillar 4:

The fourth pillar revolves around the promotion and protection of fundamental principles and rights at work, encompassing freedom of association, collective bargaining, elimination of forced labour, child labour eradication, and non-discrimination in employment. Labour policies under this pillar aim to uphold human rights, labour standards, and decent working conditions, ensuring that workers enjoy dignity, equality, and justice in the workplace. The New India vision and the nation's budget are in accord and balance with the changes brought by the new labour codes. It will provide both short-term and long-term opportunities and promote entrepreneurship. The integration of these pillars into national development strategies and legislative frameworks will advance the ILO's mandate of promoting social justice and decent work for all.

6. Suggestions

An exclusive Labour Pay Commission can be established to guarantee approximate labour wages and other payments without impeding industrial expansion and productivity. Women should be provided social security to change the orthodox mentality of society and promote women's participation in the labour market. Women should be provided legal safety in the Labour market. Secured regulations should be implemented to help the workers and to save them from being defrauded.

Maternity and paternity leave should be offered to all sectors for both women and men. Similarly, peoples' right to work should be secured. There is a dire need to introduce a special law for the protection of women working in rural India. Special provisions should be introduced for migrant labourers, providing them access to housing facilities. In addition to MGNREGA, an organization to promote employment amongst urban residents is necessary as a large number of the impoverished lack jobs in urban areas.

The future trends and developments in labour regulation, such as digitalization and the gig economy, should also be considered while making the decision and advocating for labour laws. The inclusion of case studies can further offer concrete illustrations of how labour law reforms manifest in practice, providing valuable insights into their real-world impact on businesses, workers, and other stakeholders. Additionally, conducting a comparative analysis with the labour laws of other countries can provide a broader perspective on India's regulatory framework, highlighting areas for improvement and best practices.

7. Conclusions

The changing paradigm of labour laws in India reflects a dynamic evolution driven by a myriad of factors, including economic globalization, technological advancements, and shifting socio-political dynamics. The historical trajectory of labour laws in India, from colonial-era regulations to post-independence reforms, illustrates a continual effort to balance the interests of employers and employees while promoting social justice and economic development. However, the recent wave of reforms, exemplified by the introduction of the Labour Codes, represents a significant departure from traditional regulatory approaches. While the

reforms hold the promise of greater efficiency and competitiveness, they also raise concerns regarding their impact on workers' rights, job security, and social protection. The expanding population and the fact that the majority of labourers in India work in the unorganized sector implies that the labour reforms of 2020 need to be implemented. This is particularly true for migratory workers, for whom maintaining their health and safety is crucial. Labour laws must be changed to implement the provisions for migrant workers specifically, as well as new rules for women's safety and security, a new work culture, and a reduction in working hours, further promoting women's participation in the establishments. It's important to note that while labour law reforms have the potential to bring about positive changes, they also raise concerns and require careful implementation to ensure that they strike the right balance between the interests of employers and workers. Additionally, monitoring the impact of these reforms on the ground is crucial to make necessary adjustments as needed.

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