

**NEW LABOUR CODES OF INDIA: A TRANSFORMATIVE SHIFT IN
EMPLOYMENT REGULATION AND WORKER PROTECTION**

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Abstract

In a historic move for labour law, India on 21st November 2025 enacted four new consolidated labour laws that replaced 29 separate labour laws in India that were created over an eight decade span. These new labour laws represent the largest single overhaul of labour law since India gained independence in 1947. The four new codes are: Wages Code; Labour Code on Industrial Relations; Labour Code on Social Security; and Labour Code on Occupational Safety, Health & Working Conditions. The new codes will establish standard definitions of terms, extend protective coverage to workers in the gig economy, improve the compliance process for employers and seek to create a balance between giving employers greater flexibility while providing workers greater access to social protection. This paper will examine what these new codes mean to labour landscape of India. In this paper we will review the significant changes that occur through the new codes regarding the determination of wages, the regulation of collective bargaining, the social security system and workplace health and safety. The paper will also address some of the major concerns related to the implementation of the new codes higher thresholds for layoffs/retrenchments, restrictions on strikes, lower levels of coverage of the informal sector and the differences between the promises made by the legislation and the ability of the administration to implement those provisions. Using published notices studies on labour law reform and international labour standards as benchmarks for comparison, this paper will assess whether new labour codes of India provide real reforms or simply provide a formalized way to continue business friendly deregulation.

Keywords: Organised Sector, Unorganised Sector, Gig Workers, Social Security and Strike

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I. Introduction

On 21st November 2025, India entered a new stage in its labour law reforms. The Government of India implemented the four labour codes which have been in effect since that date.⁴ The four codes combine twenty nine labour laws into four broad codes. The purpose of consolidating these laws is to reduce the complexity of compliance for employers and update some of the outdated provisions of colonial era laws.

The four codes include the Code on Wages, 2019;⁵ the Industrial Relations Code, 2020;⁶ the Code on Social Security, 2020;⁷ and the Occupational Safety, Health and Working Conditions Code, 2020.⁸ Each of the codes includes several prior laws and include some very substantial policy changes to those prior laws.

There is much debate surrounding this reform. The government is framing the reform as an attempt at modernizing the labour law framework of India. Business organizations are welcoming the reduction in the regulatory burden on business. However trade unions are condemning the reform as a weakening of rights of workers. In order to evaluate the potential of the codes to achieve the stated goals by the government this paper will explore the content of the codes their promises, mechanisms and constraints. This paper is divided in eight sections. Section II will provide background information regarding the history of labour regulations in India. Sections III to VI will analyze the substance of the provisions of each code. Section VII will provide analysis of the constraints on implementing the codes. Section VIII will contain conclusions.

II. Historical Context and Rationale

A. The PreReform Landscape

Labour laws in India evolved separately with no coherent integration. Most of labour laws are from British colonial times such as the Factories Act 1948, the Minimum Wages Act 1948

⁴Ministry of Lab. & Emp't, Gov't Announces Implementation of Four Labour Codes to Simplify and Streamline Labour Laws, Press Info. Bureau (Nov. 21, 2025), <https://labour.gov.in/sites/default/files/pib2192463.pdf>.

⁵The Code on Wages, 2019, No. 29 of 2019, India Code (2019).

⁶The Industrial Relations Code, 2020, No. 35 of 2020, India Code (2020).

⁷The Code on Social Security, 2020, No. 36 of 2020, India Code (2020).

⁸The Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, India Code (2020).

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and the Contract Labour Act 1970. The Payment of Bonus Act 1965 was an additional act and together they led to overlapping definitions of terms, different thresholds for compliance and multiple registrations being needed. This made it complicated and expensive for businesses to comply with the system of labour law but most especially small and medium sized enterprises.

In 2002, the Second National Commission on Labour identified this problem recommending that the many existing labour laws be integrated into a smaller number of codes or comprehensive frameworks for regulating employment.⁹ In 2011 former Prime Minister of India Shri. Manmohan Singh added that the rigidity of labour laws had contributed to less foreign direct investment in India in labour intensive sectors.¹⁰

B. The Shift towards Neo Liberalism

The pace at which the new economic agenda was pushed by neo liberal economic policies. This is due to influence that the Ease of Doing Business Rankings of the World Bank have on directions of countries with respect to reforms i.e. where countries are ranked lower they work on improving the rights of workers.¹¹ The current Prime Minister of India Shri. Narendra Modi directly pursued higher ranking status so that India could be considered a manufacturing hub.¹²

There were also political preconditions for the reform. The BJP gathered majority single party control over both the houses of parliament in 2014 and 2019 elections. Therefore they did not need to compromise with any other political parties on what laws were needed to pass legislation to make the changes that were desired to pursue a new economic agenda. The 2020 pandemic further enabled the government to implement the changes it desired to implement. Trade unions were unable to effectively organize any demonstration during lockdowns and in September of 2020 the government passed three codes. The Wage Code had previously been passed into law in August of 2019 however because the wage code required states to create their own regulations before it could take effect there was an

⁹Second Nat'l Comm'n on Lab., Report of the Second National Commission on Labour, Vol. I & II (2002), <http://www.prsindia.org/uploads/media/1237548159/NLCII-report.pdf>.

¹⁰Manmohan Singh, Prime Minister, Address at 40th Indian Labour Conference (Dec. 13, 2005), <https://archiepmo.nic.in/drmanmohansingh/speech-details.php?nodeid=236>.

¹¹World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies 57-65 (2020).

¹²Narendra Modi, Prime Minister, quoted in Ease of Doing Business Will Ultimately Lead to Ease of Living: PM Modi, Times of India (Nov. 19, 2018).

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implementation delay that lasted for five years. In November of 2025 the state notified that the wage code would go into effect.

C. Stated Objectives

The government has identified a number of reform objectives. First to simplify by consolidating laws. Second all workers should be covered by a minimum wage and by social insurance. Third that compliance with legal obligations is made easier for employers through digital means. Fourth the codes are also intended to provide protections for emerging types of work arrangements like gig employment. Fifth that women have equal rights of access to workplaces. How well the codes achieve those objectives will depend upon the specific content of the provisions of codes. The next few sections will review what the codes actually establish.

III. Code on Wages, 2019

A. Uniform Definition of Wages

A single definition of wages has been introduced by the Wage Code and it will be applied uniformly under all labour legislation. The term wages includes (a) Basic Pay (b) Dearness Allowance and (c) Retaining Allowance whereas the term does not include House Rent Allowance, Conveyance, Overtime, Bonus, Gratuity or Retrenchment Compensation. The most significant addition in the Wage Code is that not more than 50 percent of total remuneration of an employee may be excluded from the definition of wages.¹³ If the amount of total remuneration which is excluded from the definition of wages exceeds 50 percent then the excess must be added back into wages for purposes of calculating Provident Fund, Gratuity and Bonus entitlements among other things. As such employers will need to rearrange the salaries of employees so as to meet this new requirement.

Uniformity of the definition of wages will provide several very useful functions. First it will prevent employers from manipulating the allowances portion of the remuneration of employees so as to artificially increase the amount of remuneration which is excluded from the definition of wages. Second uniformity of the definition of wages will ensure that employers calculate statutory benefit entitlements fairly. Third prior to the enactment of the

¹³The Code on Wages, 2019, § 2(y), No. 29 of 2019, India Code (2019).

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Wage Code there were many differing definitions of wages being utilized under the various labour laws of India and these differing definitions provided employers with opportunities to create arbitrage advantages.

B. National Floor Wage

The Code establishes a minimum nationwide wage.¹⁴ The central government determines this base wage (floor wage) which all state governments will have to exceed with their own wages. The base wage is established at a level that reflects a basic living costs of an individual and can vary by geographic region. The purpose of the base wage is to ensure there is no race to the bottom where states compete with each other to attract investment and therefore establish low wages. While the establishment of a base wage does provide a safety net however several aspects of the system are still unknown. For example the central government has yet to notify the floor wage rate nor has it specified how the base wage will be calculated.

Critics from academia also express serious concern about the Code. Critics stated the recommendation made by the Anoop Satpathy Committee in 2018 for the minimum wage to be Rs 375 per day. Critics argue that if the floor wage is significantly less than Rs 375 per day then the base wage could functionally replace minimum wage rates instead of increasing them.¹⁵ Furthermore critics believe that many states will likely utilize the base wage as a benchmark when determining their own wage levels which would result in states setting their wage rates at a lower level than what they otherwise may have been.

C. Universal Minimum Wage Coverage

The Code extends a universal minimum wage protection to all employees. In contrast previous to this Code the Minimum Wages Act covered only scheduled employment and about 30 percent of workers were protected under that act. This new scheme will extend to all employees by virtue of their status as an employee in any industry or skill category.

¹⁴Id. § 9.

¹⁵Santosh Mehrotra & Kingshuk Sarkar, Impact of India's New Labour Codes on Workers 4, IZA Pol'y Paper No. 218 (Dec. 2025).

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Expanding the coverage of the Minimum Wages Act to all employees has been a significant development. Statutory minimum wages are now extended to workers in the unorganized sectors, domestic workers, agricultural laborers and app based workers. Universal coverage for all employees consistent with international labour standards.

D. Gender Equality in Wages

Gender based discrimination is prohibited in regard to wages by Section 3.¹⁶ Transgender individuals are specifically included within this prohibition. In addition to requiring that employers pay men and women for equal work for work of a similar nature. Section 3 requires that employers provide equal pay for conveyance allowance and house rent allowance. In addition the Code requires that at least 1/3 of all the members of both the Central and State Advisory Boards be women. Thus the views of women will have to be considered when wages are determined.

E. Payment Timelines and Compliance

The Code sets out very specific time frames for payments to employees specifically daily wages are due on a daily basis, weekly wages prior to a public holiday, fortnightly wages within two working days, monthly wages by the 7th of the month after payment date.¹⁷ Upon an employee terminating employment or resigning from employment all outstanding wages must be paid within two working days.

The use of electronic payment is also now legally recognised in relation to wages as well as the keeping of digital wage records. While this will significantly improve the process of ensuring that employers comply with their obligations, it does assume that all employees have access to digital technology; many rural and informal workers do not have such access.

F. Inspector cum Facilitator Model

Inspectors under The Code become inspector facilitator. They will now provide compliance information as well as enforcement information. Online inspections are allowed. Routine inspections are done randomly.

¹⁶Id. § 3.

¹⁷Id. § 17.

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The model is expected to reduce harassment by changing the enforcement model of first time offenses from punitive to a facilitative. First offense violators can be fined for subsequent offenses which would be contrary to the enforcement model of ILO in relation to enforcement and therefore reduces deterrence. The Code also contravenes ILO Convention 81st inspection standards. The inspectors need to be able to assign their own discretion to inspect any facility however they cannot do so with the random assignment model.

IV. Industrial Relations Code, 2020

A. Increased Retrenchment Threshold

The Code increased the number of workers needed to obtain government approval for retrenchment, lay offs and closures from 100 to 300 workers.¹⁸ As a result the establishment of those who have less than 300 workers is exempted from needing approval to close down their business or to retrench their staff. In manufacturing alone this impacts 44% of the total number of organized manufacturing workers and 90% of all businesses.

Experts believe this is going to create new opportunities for businesses to expand by reducing regulatory barriers. They suggest that prior to this increase in numbers many businesses stayed under the 100 worker mark so as to avoid regulations. Opponents believe that increasing the numbers increases the ability of employers to hire and fire at will without regard to job security of employees especially in the case of medium sized employers.¹⁹

The Code has also reduced the amount of time an employer has to provide severance pay for employees. Prior to this code many states provided severance pay in the form of one week of pay per year of service. The Code provides only two weeks of severance pay regardless of how long an employee worked for the employer. As a result employers are saving substantial amounts of money on the cost of laying off employees.

B. Trade Union Recognition

A new code will establish a single representative for unions across India with a single person becoming the exclusive negotiating representative if that union represents more than 50

¹⁸The Industrial Relations Code, 2020, § 77, No. 35 of 2020, India Code (2020).

¹⁹Anamitra Roychowdhury & Kingshuk Sarkar, Labour Reforms in a Neo-liberal Setting: Lessons from India, 12 Global Lab. J. 60 (2021).

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percent of the workers within an establishment.²⁰ A multi union negotiation council is established when no single union represents more than 50 percent of the workers. Each union represented on the council must represent at least 20 percent of the workers.

This is a significant shift away from previous union tradition of India of allowing multiple unions to exist and be recognized. Under this new system bargaining power is concentrated in the hands of the largest unions and smaller unions are likely to be marginalized and unable to grow beyond their 20 percent representation threshold.

Union density in private sector of India is currently extremely low with over 98 percent of Indian workers not belonging to a union. Additionally most establishments in the private sector do not have any unions. Therefore the recognition process under the new code primarily applies to the organized sector of the economy in which unions already exist.

C. Restrictions on Strikes

The Code lays down very rigid strike rules.²¹ Prior to the Code the provision of fourteen days prior notice for a strike was confined to public utility companies. Now it applies to all business operations. Striking is prohibited while in the process of conciliation or arbitration. Therefore it is extremely difficult to legally conduct a strike. State intervention is automatically triggered when the fourteen day notice period commences. As soon as conciliation commences strikes become illegal. In addition there is no time limit for conciliation or arbitration. If fifty percent or more of the employees take a mass casual leave this will be considered a strike. Violation of the provisions may result in fines of up to ten thousand rupees and/or imprisonment for one month.

The abovementioned provisions have a decisive effect in favour of employers. For collective bargaining to be effective there needs to be a credible threat of a work stoppage. The Code has eliminated this leverage for trade unions. The trade unions describe this as an attack on the most basic rights of workers.

D. FixedTerm Employment

²⁰Id. § 14.

²¹Id. § 62.

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Fixed term employment is now formally recognized by the Code.²² Therefore fixed term employees have written contracts for a predetermined period of time, receive pay and benefits comparable to permanent employees performing the same duties and are entitled to statutory entitlements based upon their service in proportion to that service.

This provision has two effects. First as it recognizes and establishes protections for what was previously an informal practice this gives fixed term employees access to social security and gratuity. Second this may ultimately lead to an erosion of permanent employment as employers will be able to hire employees with fixed term employment contracts and merely not renew them when they expire.

In contrast many countries have regulations which significantly limit or restrict the renewal of fixed term contracts as well as the cumulative duration of fixed term contracts. The Code does not provide for such regulations in India creating the possibility for permanent temporariness.

E. Reskilling Fund

A new idea introduced by the Code is a Worker Reskilling Fund.²³ A worker who loses their job will be paid 15 days of their last pay by their former employer into the fund. The money must go into the fund from the date that a worker is retrenched and at most 45 days after they have lost their job. The fund was created so as to allow the worker to transition to another job. The concept is new but it has no clarity on how the fund will work in practice. Who will manage the fund? How will the worker be able to access reskilling opportunities? Can an employer use the money to train the employee internally rather than paying them out? These issues will need to be addressed with administrative rules.

F. Standing Orders

An employer is required to have standing orders by law. If the employer has an establishment that employs 300 or more people. The number of employees a company needs to employ to be required to produce standing orders has been reduced from 100 to 300. In effect this means that many companies will be exempted from having to comply with many of the

²²Id. § 2(zg).

²³Id. § 83.

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formal conditions of employment. Employers who have between 100 and 299 employees are no longer able to take advantage of the previous protections provided to their employees.

V. Code on Social Security, 2020

A. Expanded Definition and Coverage

The Social Security Code has maintained the definition of wages as uniform.²⁴ Uniformity of wages is critical to the calculation of all Social Security obligations including Provident Fund (PF), Employees State Insurance Corporation (ESI) gratuities and maternity benefits. Most employers are now subject to increased statutory obligations as a result of the 50 percent wage definition of wages.

The Social Security Code also increases the geographic area covered by the social security legislation. Benefits under the Employees State Insurance Act can now be accessed anywhere in India whereas prior to the amendment they could only be accessed in areas which had been declared as notified areas. Hazardous occupations must provide ESIC benefits regardless of whether there is one or more than one worker employed at that establishment.

B. Gig and Platform Workers

For the first time the Code identifies gig workers and platform workers as such.²⁵ Gig workers engage in work that exists outside of a typical employment relationship. Platform workers utilize digital platforms to obtain services. These classifications may be viewed as including app based drivers, delivery workers and freelancers. The government is able to designate social security schemes for these types of workers. Platforms that are aggregators have obligations similar to employers when they pay between one percent to two percent of their annual revenue up to five percent of the total amount paid to platform workers. However there are still many ambiguities associated with this Code.

What constitutes an aggregator? How do you calculate the revenue of an aggregator? What benefits will the social security schemes offer? The Code has the authority to do so however it is not mandatory. It is actually the designation of a social security scheme and the actual implementation by that scheme which will provide the protections to the workers.

²⁴ The Code on Social Security, 2020, § 2(88), No. 36 of 2020, India Code (2020).

²⁵ Id. § 2(35) & (60).

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C. FixedTerm Employee Gratuity

The gratuity eligibility period has been reduced from five years to one year for all fixed term employees who work continuously for that time.²⁶ This was a significant change for employers increasing their financial obligations in a material way.

Gratuity of one year for an employee earning Rs 30,000 per month would be about Rs 17,308 a liability of Rs 17.3 lakhs if over 100 fixed term employees were employed by that company. All companies will need to provide for this cost as an expense on their balance sheet. The change has a significant impact on many sectors including IT, retail, hospitality and those with seasonal employment.

D. Universal Social Security: Promise and Reality

National and state level social security boards are created by the Code.²⁷ These boards create recommendations on how to cover unorganized, gig and platform workers. The code also requires an Aadhaar linked data base to track workers and that benefits can be carried between states and industries.

Although the Code does not remove the 10 worker threshold for most benefits. Provident fund, ESI, maternity benefit and gratuity is applicable to all establishments with 10 or more workers. This leaves the large unorganized sector out of coverage for these benefits. It is estimated over 80 percent workers of India are not covered under formal social security programs.²⁸

Many critics see this as a missed opportunity and point out that the Code did not create a legislative right to universalize social security. Rather than creating a right to social security based on employment in an establishment, the Code has maintained the same rules as before. Therefore, small businesses and self-employed individuals continue to be left out of social security coverage.

E. Maternity and Crèche Provisions

²⁶Id. § 53.

²⁷ Id. § 45 & 47.

²⁸Mehrotra & Sarkar, *supra* note 14, at 7.

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The Code provides 26 weeks of maternity benefit. This extends to adoption and surrogacy. Women workers receive medical bonus of Rs 3,500 if care is not provided. Nursing breaks are mandatory until the child reaches 15 months.

Crèche facilities become mandatory for establishments with 50 or more workers. This supports women's workforce participation. However, these benefits apply only to establishments with 10+ workers. Unorganised sector women workers receive no maternity protection.

VI. Occupational Safety, Health and Working Conditions Code, 2020

A. Expanded Coverage

The OSHWC Code defines 'establishment' broadly.²⁹ It includes any place where industry, trade, business, manufacturing, or occupation is carried on with 10 or more workers. This covers commercial establishments, IT firms, and service sector operations previously exempt from factory-style regulations.

The Code applies safety standards across sectors. Factories, mines, docks, construction, plantations, motor transport, and beedi work come under uniform regulations. This reduces sectoral fragmentation.

B. Contract Labour Restrictions

The Code redefines contract labour narrowly.³⁰ Workers regularly employed by contractors with periodic increments and social security do not count as contract labour. This reduces principal employers' obligations for high-quality vendor employees.

Contract labour is prohibited in core activities. The Code defines core activity as work for which the establishment is set up. It lists 11 activities explicitly excluded from core: sanitation, security, canteen, loading/unloading, hospitals, schools, courier, construction, gardening, laundry, and transport.

Three exceptions permit contract labour in core activities: (1) if the activity is ordinarily done through contractors; (2) if it does not require full-time workers; (3) in case of sudden

²⁹The Occupational Safety, Health and Working Conditions Code, 2020, § 2(v), No. 37 of 2020, India Code (2020).

³⁰Id. § 2(m).

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workload increases. These exceptions create significant ambiguity. What constitutes 'ordinarily done' or 'sudden increase'? These terms invite litigation.

C. Women's Night Work

Under this Code women can be employed in all occupations which includes night time jobs.³¹ Prior to the Code under the Factories Act, women were prohibited from being employed after 7 pm and before 6 am. In addition to requiring that employers obtain a consent of women prior to employing her at night. The Code sets forth certain safety measures for employers to take regarding women who are employed during night time hours.

In terms of promoting gender equity and creating additional opportunities for women this aspect of the Code is positive. Nonetheless successful implementation will depend upon the regulations of individual states. Pursuant to this Code each state must set forth its own standards of safety for the benefit of female employees. Additionally there are concerns with regard to the consent provision contained in the Code. For example does an employer have to request a woman for consent for each job she may work at night as opposed to only once and if a woman gives her consent to work at night. Is she able to withdraw that consent at some later time. Therefore legal clarification of these issues is necessary.

D. Employer Obligations

Employers will have the responsibility to ensure that their workplace is free from hazards.³² Employers will also be required to adhere to established occupational health and safety (OHS) standards. In addition employers will be responsible for providing an annual health examination at no cost to employees who are 40 years or older. Employers will be held accountable for ensuring that hazardous materials are disposed of safely and in accordance with environmental regulations.

All employers will be required to issue written appointment letters to all new hires prior to commencing work. Each appointment letter must contain the job title of employee, salary, number of working hours per week and description of all applicable social security benefits.

³¹ Id. § 43.

³² Id. § 6.

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This will establish a formal relationship between the employer and employee. Additionally this will provide evidence should there be a need to resolve disputes related to employment.

Facilities will be required to be developed to support employee welfare according to the number of employees at each facility. Drinking water, restrooms, first aid services and crèche services will be among the facilities which may be required to be developed by employers. If an employer has over 500 employees they must develop a safety committee made up of both employer and employee representatives.

E. Working Hours and Overtime

Hours of work in an establishment shall be limited to eight hours a day and forty eight hours a week, no such hours shall exceed twelve hours per day including breaks. Consent by the employee is required for overtime and he or she will have to be paid double the wage. One weekly rest day must be provided to each employee.

This legislation extends rules for factories to include all commercial establishments. Therefore IT and service based companies are subject to maximum working hours. This is a major change. Exemptions may be made. The state may provide exemption from these provisions for a new factory in order to encourage job creation. This presents a challenge to enforcing compliance.

F. Threshold Increases

The Code introduces new criteria for a factory (definition) which will be required of employers with twenty or more workers who have power at work or forty or more workers that do not have power at work. Prior to the Code, ten and twenty workers were sufficient. Contract labour provisions are limited to an establishment employing fifty or more contract workers. Prior to the Code the minimum number of contract workers was twenty. In general raising these thresholds will result in less regulation of workers and will remove protections from workers in smaller establishments. The justification on code for this is that they reduce the compliance burden placed on small businesses. Critics view it as deregulation through manipulating threshold levels.

VII. Critical Analysis: Implementation Challenges

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A. The Rules Gap

The Codes of Wages Act came into effect on 21st November, 2025. Despite this many of the Central and State Rules that will define how these codes will be implemented (how to calculate wages; what a worker has to do in order to register under the Code of Wages; the time by which employers must come into compliance with the new law; and the benefits that workers can expect) have not yet been notified.³³

As a result of these missing rules, it is impossible for employers to fully implement the new law at present. The Government of India has stated that it will notify the remaining rules soon. In the meantime employers are faced with a dual compliance regime. In those areas where the Central or State Rules have not conflicted with the provisions of the Code of Wages the provisions of the pre existing laws will continue to apply. As a result of this dual compliance regime employers are faced with significant uncertainty as they attempt to understand their obligations under the new law. Similarly workers may have no clear understanding of what benefits they are entitled to under the Code of Wages. In light of the fact that the Government of India issued the notice that the new law would go into effect without having completed all of the necessary implementing regulations. It appears that the new law was enacted in a rush.

B. Trade Union Opposition

The ten major labour unions described the proposed codes as "a deceptive fraud."³⁴ On 26th 2025, these unions organized a nation wide strike in protest against the codes. They also burned copies of the codes during demonstrations. Both the Communist Party of India (Marxist) or CPI(M) and the Congress party have expressed support to the protesters opposing the codes.

Workers oppose the codes because of five main reasons. The first is that the government did not consult with the unions when drafting the codes which is a violation of the International Labour Organization (ILO) requirement of tripartism. The second reason is that by raising the

³³BDO India, India Labour Codes 2025: Key Changes & Compliance Guide (Dec. 2, 2025), <https://www.bdo.in/en-gb/insights/alerts-updates/alert-implementation-of-labour-codes-key-provisions-notified-effective-21-november-2025>.

³⁴Explained: Why New Labour Codes Have Triggered Protests and What Unions Are Opposing, Bus. Today (Nov. 23, 2025).

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hiring/firing threshold it makes it easier for employers to fire employees. The third reason is that the codes restrict the right to go on strike thereby eliminating the ability of unions to engage in collective bargaining. The fourth reason is that the codes do not provide adequate social insurance to informally employed workers.³⁵ Finally the fifth reason is that the codes are oriented towards business at the expense of workers.

While the opposition to the codes is similar to the successful movement of farmers that opposed new farm laws. There are many factors that make it much more difficult for workers to resist than it was for the movement of farmers. For example workers are geographically dispersed across different regions of the country, capital flight poses an immediate threat to their livelihoods, union density is very low and religious politics has caused a fragmentation among workers. However resistance continues among workers.

C. Informal Sector Exclusion

The most serious error of codes is with regard to informal sector workers. Approximately 83 percent of Indian workers are employed in an informal capacity. The 10 worker threshold excludes all of these individuals. Additionally, domestic workers, home based workers, agricultural laborers and employees working at small enterprises do not have adequate protection.

The Social Security Code gives the central government authority to develop a program or scheme for unorganized workers. However having the authority does not mean it will be exercised. Funding for any new program or scheme developed under the authority of the code is ambiguous. Registration for such programs and schemes is voluntary and benefits can only be provided on a discretionary basis. The Social Security Code is a long way from providing universal social security as a legislative right.

The Social Security Convention 102 of ILO emphasizes the importance of universalizing social security. India has not ratified this Convention. Therefore the Social Security Code continues to follow the establishment based model of social security i.e. only those who are formally registered as opposed to the rights based model of social security i.e. all citizens.

³⁵Abdul Rahman, Indian Unions Claim Labor Codes Seek to 'Ease Exploitation' in the Name of Business, Peoples Dispatch (Dec. 7, 2025).

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D. Compliance Costs and SME Impact

The regulations are increasing labour costs as a result of statute. The 50 percent wage threshold increases employer pension fund and gratuities contributions. Fixed term employees who have worked with an employer for at least one year will create liability. Employers will be required to provide annual health checks to all employees aged 40 plus. Crèches will require employers to make capital investments.

industry associations have had a mixed reaction to the codes. Large corporate companies have welcomed the clarity in the regulatory environment. However small and medium size enterprises have expressed concerns that they would struggle with the regulatory requirements.³⁶ The association of indian entrepreneurs has asked for transitional relief and flexibility in implementing the code, increased compliance costs could lead to employers adopting automated processes and/or becoming informal.

E. Constitutional Questions

The Codes raise potential violations of constitutional rights. Article 14 is violated by differentially treating workers employed at establishments with differing employee numbers why would a worker employed at an establishment with 299 employees have fewer protections than one at an establishment with 300 employees? Such treatment seems arbitrary.

Article 19(1)(c) which protects the right to associate freely could be violated by restrictions on the right to strike. By requiring notice of fourteen days and by precluding the right to strike when a conciliator has been appointed the Codes appear to eliminate the right to strike. The Delhi High Court has also noted problems associated with the implementation of the Codes. Specifically the court noted that the Industrial Relations Code was implemented before prior legislation was repealed and therefore created confusion between existing and new law.³⁷ Article 21 provides for the right to work i.e. the right to earn a living, as a secure form of employment. As such the flexibility provisions contained in the Codes could

³⁶DLA Piper, New Labour Codes Usher in a New Era of Compliance (Nov. 21, 2025), <https://knowledge.dlapiper.com/dlapiperknowledge/globalemploymentlatestdevelopments/2025/government-of-india-notifies-the-labour-codes-ushers-a-new-era-of-compliances>.

³⁷Critical Examination of India's New Labour Codes, Citizens for Just. & Peace (Dec. 2025), <https://cjp.org.in/critical-examination-of-indias-new-labour-codes/amp/>.

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potentially conflict with Article 21. Therefore it can be anticipated that the Codes will generate constitutional disputes as they continue to be implemented.

F. Federal Implementation Challenges

The subject of labour is one that both the Centre and States have the ability to legislate. As such Labour Codes are created by the Centre as part of a framework for all States. However each State must enact its own rules to apply to those Codes. Thus while the same Code may be enacted at the Centre it can be implemented differently at each State level.

This is evident from some States enacting rules for certain Labour Codes (e.g., Karnataka, Maharashtra and Kerala) whereas other States (e.g., Delhi, West Bengal and Tamil Nadu) have yet to do so. Employers operating across multiple States will need to consider the differing views of various States on how to interpret the same Law which creates an additional layer of complexity for multi State employers to contend with. While there is a unified structure provided by the Centre for the Labour Codes. It ultimately becomes fragmented due to differing State implementations.

VIII. Conclusion

The labour codes enacted by India present an important example of a significant structural reform since the codes combine into one comprehensive code multiple fragmented statutes establish uniform definitions of certain terms, recognize new forms of work, expand the scope of protection for certain employees; and achieve other legitimate accomplishments.

However the codes give precedence to employer flexibility over employee job security. The increased threshold amounts for the application of these codes diminishes the number of employees who are covered by them. The strike provisions in these codes deprive employees of bargaining power and as with previous labour reforms, employees working in the informal economy continue to be excluded from its benefits. Moreover the successful implementation of the codes depends on the issuance of as-yet unnamed regulations. The lack of prior consultation with affected parties has contributed to their growing skepticism about the potential of codes to address the labour problems. While the labour codes have brought about

modernization to the labour law system. It has not led to transformative change. The codes have reduced the complexity of compliance obligations for employers but have not provided for the universalization of rights that would be necessary to protect all employees. Furthermore while the codes formally recognize gig workers as employees they offer no guarantees of protections for such workers. Lastly the codes provide for social security for all employees but establish establishment based eligibility criteria for accessing such programs.

The success of the labour codes will depend on the quality of their implementation. Specifically states must rapidly issue detailed implementing regulations. Additionally states must develop digital platforms to support implementation and build the capacity of state level labour departments. Finally states must ensure that employees understand their rights under the codes and that trade unions have opportunities for meaningful participation in the implementation process. To further enhance the value of the labour codes states should commit to evaluating their effectiveness in achieving their intended goals including (1) whether the statutory floor wage prevents a race to the bottom among employers in terms of wages (2) whether the introduction of fixed term employment arrangements will result in the erosion of regular employment arrangements (3) whether the gig worker schemes established pursuant to the codes provide real security for gig workers and (4) whether the inspector facilitator model will lead to enhanced compliance with the codes.

India now faces a crossroads. The labour codes can either help create a formalized, protected, and productive workforce or they can lead to greater precariousness, informality and exploitation. The difference between these two possible outcomes will depend upon both the quality of administration and the quality of democracy. In particular, the codes provide the legal framework for a new workplace regime. What the new regime will look like whether it will contain dignity for workers or will reproduce existing inequalities will depend on what happens after the codes are implemented, i.e. what kind of implementation occurs and how long it lasts. Implementation rather than consolidation of existing law is the real reform.