
The Effectiveness of the New Labour Codes Proposed by the Ministry of Labour and Employment in 2021 in regulating and Protecting Worker's Rights

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Abstract

This research study delves into the multifaceted landscape of labor reforms introduced in recent years, with a particular focus on their effectiveness and impacts. As countries strive to adapt to evolving economic, social, and technological paradigms, labor market regulations have come under scrutiny for their role in shaping the workforce, businesses, and overall economic vitality. The primary objective of this research is to comprehensively assess the effectiveness of new labor reforms by employing a multidimensional approach. We investigate the intricate interplay between labor regulations, employment dynamics, wage structures, and socio-economic well-being. This study encompasses a range of methodologies, including quantitative data analysis, qualitative assessments, stakeholder interviews, and comparative international analysis.

Key research areas include evaluating the influence of labor reforms on employment rates, wage levels, and labor market flexibility. We delve into the impact of these reforms on worker rights, job security, and labor productivity. Additionally, we examine the implications for businesses in terms of competitiveness, compliance, and economic growth. Our study acknowledges the diverse perspectives of stakeholders, from workers and employers to labor unions and policymakers, to provide a comprehensive view of the reforms' effectiveness. We also scrutinize the reforms in light of international labor standards, identifying areas of convergence and divergence.

The findings of this research contribute to a deeper understanding of the complex relationship between labor regulations and economic outcomes. By offering evidence-based insights and policy recommendations, this study aims to inform policymakers and stakeholders about the implications of labor reforms, facilitating informed decisions for the future. In conclusion, the effectiveness of new labor reforms is a critical issue with far-reaching implications for societies and economies. This research serves as a valuable resource for policymakers, academics, and anyone interested in comprehensively assessing the impact of labor reforms on the workforce, businesses, and society as a whole.

Keywords: Labor, Reforms, workforce, policy, employees

1. Introduction

The empowerment of workers is necessary for an empowered, prosperous and Aatmanirbhar India. Even after 73 years of Independence, approximately 90% of workers work in the unorganized sector that do not have access to all the social securities. The total number of workers, comprising of organized and unorganized sectors, is more than 50 crores. It is for the

first time that any Government has cared for the workers in both organized and unorganized sectors and their families. Earlier, the working class was entangled in web of multiple labour legislations. The Central Government has taken a revolutionary step in the right direction to provide them freedom in true sense. For this, the Central Government has taken historical step of codifying 29 laws into 4 Codes, so that workers can get security along with respect, health and other welfare measures with ease. The Parliament passed three labour code bills in September 2020, as part of a measure to consolidate the multitude of labour laws in the country.

2. Research objectives

When conducting research on the effectiveness of new labor reforms, it's essential to define clear research objectives to guide the study.

- To Evaluate the Impact on Employment Rates
- To Assess the Effect on Wage Levels
- To Analyze Changes in Labor Market Flexibility

3. Background of Labour reforms

In India, labour is a subject in the Concurrent List.

- Since it is in the Concurrent List, both the Parliament and the state legislatures can enact laws on it.
- As per the Central Government, before the new labour codes were passed, there were more than 40 central laws and more than 100 state laws on labour and related matters.
- The Second National Commission on Labour (2002) recommended that the central labour laws should be integrated into groups like:
 - Industrial relations
 - Wages
 - Social security
 - Safety
 - Welfare and working conditions
- This was recommended by the Commission because the existing labour laws were archaic, complex and had inconsistent definitions. The Commission suggested simplification of the labour codes for the sake of transparency and uniformity.

In 2019, the Central Government introduced four bills on labour codes to consolidate 29 central laws. These are:

1. Code on Wages

2. Industrial Relations Code
3. Social Security Code
4. Occupational Safety, Health and Working Conditions Code

While the Wages Code was passed in 2019, the other three bills were referred to a Standing Committee on Labour. As per the recommendations of the Committee, the government replaced these bills with new ones in September 2020, and these were passed in the same month.

The Rules for all the four labour code bills would be notified in one go according to the Labour Ministry. Hence, even though the draft Rules for the Wages Code had been circulated in 2019 itself, the Ministry withheld its finalisation and implementation.

Code on Wages, 2019

The Code on Wages Bill was passed by the Parliament in 2019. The Wages Code seeks to regulate wage and bonus payments in all employments where any industry, business, trade or manufacture is carried out.

This code replaces the following laws:

- Minimum Wages Act, 1948
- Payment of Wages Act, 1936
- Payment of Bonus Act, 1965
- Equal Remuneration Act, 1976

Coverage of the Code on Wages:

- The code will apply to all employees.
- The Central Government will take decisions on wages for employments in mines, railways, oil fields, etc.
- For all other types, the state governments will make the decisions.
- Wages include salary, allowance or any other monetary component. It does not include bonuses and travelling allowances.
 - **Floor wage**
 - As per the code, the Central Government will fix the floor wages considering the workers' living standards.
 - The floor wage may vary depending on the geographical location.

- The minimum wages decided by the central or state governments should be above the floor wages. In case the existing minimum wages are higher than the floor wages, the central or state governments cannot reduce the minimum wages.
- While fixing the minimum wages, the government should take into account the difficulty level of the work, and the workers' skill levels also.
- Also, the minimum wage fixed will be reviewed by the government at least every five years.
- Employers cannot employ people on less than the minimum wage.
- The number of working hours will be fixed by the central or state governments. In the case of overtime work, the worker is entitled to overtime compensation which should be at least twice the normal wages.
- The employer can fix the wage period as either daily, weekly, fortnightly, or monthly.
- The employer can deduct wages for the following. However, the deductions should not exceed 50% of the worker's wages.
 - Fines
 - Absence from duty
 - Accommodation given by the employer
 - Advances given to the employee
- All employees whose wages do not exceed a specific monthly amount will be entitled to an annual bonus.
- The Code prohibits gender discrimination in wages and recruitment of people for the same work or work of similar nature.
 - Work of a similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.
- **Advisory boards**
 - Advisory boards will be set up by the central and state governments. These boards will consist of an equal number of employees and employers, state government representatives and independent persons.
 - One-third of the boards will be women members.
 - These boards will advise the governments on minimum wage fixing and increasing the employment opportunities for women.

The Code specifies penalties for offences committed by an employer.

- Contravention of any provision of the Code

- Paying less than the minimum wage
- The maximum punishment is three-month imprisonment along with a fine of Rs. 1 lakh

Wages Code Concerns

There have been concerns expressed about the new Wages Code. Some of them are discussed below:

1. There is no clarity on the formula for fixing the minimum wage and also on the particular authority designated for setting the minimum wages.
2. The fixing of minimum wages on the basis on geography, skill and difficulty levels of the work, etc. might bring in a lot of discretionary power to the hands of the administrators since many of these factors are not easy to measure. This might lead to adverse effects like lobbying.
3. The clause for the deduction of wages seems arbitrary and it might prevent workers from unionising in fear of a deduction in wages.
4. The Code omits the principal employer's liability to pay wages if the labour contractor had failed to do so. The principal employer is defined broadly in the Code making it difficult to pinpoint responsibility for payment of wages. This is a major issue since, in India, a majority of the workers are contract labourers.
5. The Code also takes away the jurisdiction of courts in providing justice to workers who have faced violations with respect to their wages. This means that workers can no longer access courts to contest the wages paid to them by their employers, but can only approach the quasi-judicial body and appellate authority set up under the provisions of the Wage Code.

Industrial Relations Code, 2020

Some of the provisions of the Industrial Relations Code, 2020 are mentioned below.

- The Industrial Employment (Standing Orders) Act, 1946 had made it mandatory for employers of industrial establishments with 100 or more workers to define the conditions of employment and rules of conduct for workmen, by way of **standing orders/services rules** and to inform the workers of the same clearly.
 - However, under the new Code, the minimum number of workers employed for an establishment to have standing orders has been raised to 300.
 - With the increased threshold, it becomes more flexible and easier to hire and fire thus leading to increased employment according to the government.
 - Prior permission of the government is mandated before closure, lay-off, or retrenchment of employees in establishments having more than 300 workers.

- The Code also introduces new conditions for conducting a legal strike.
 - Employees are prohibited from going on strike without giving a 60-day notice.
 - Employees are also prohibited from going on strike during the pendency of proceedings before a Tribunal or a National Industrial Tribunal.
 - They should also not go on strike before 60 days are completed after the tribunal's proceedings.
- The new Code also proposes the setting up of a re-skilling fund for training retrenched workers with contribution from the employer, of an amount equal to 15 days last drawn by the worker.

Industrial Relations Code Concerns

Some of the concerns expressed by people about the new Code are discussed below.

1. It can dilute the rights of workers working in industrial establishments with under 300 workers.
2. In such smaller establishments, employers have been given complete flexibility in terms of hiring and firing the services of workers.
3. The condition for legal strikes has been made more stringent in that the time frame for the notice to be given by workers to go on legal strikes has been increased, making it almost impossible to call a strike legally.
4. The reskilling fund seems to be arbitrarily framed and there is no clarity on where the whole funds would come from.

Code on Social Security, 2020

Some of the key provisions of the Social Security Code, 2020 are discussed below.

- The definition of employees has been widened to include inter-state migrant workers, construction workers, film industry workers and platform workers.
- The gratuity period for working journalists has been reduced from 5 years to 3 years.
- The Code talks about setting up social security funds for unorganized workers, platform workers, and gig workers.
- There is a provision for the central government to decrease or defer the employer's or employee's contribution towards the PF or ESI for up to 3 months in the event of a pandemic, national disaster or an epidemic.
- The Code proposes the establishment of a National Social Security Board for recommending to the central government the formulation of schemes for the various sections of unorganised, gig and platform workers.

Code on Occupational Safety, Health and Working Conditions, 2020

The major provisions of the Occupational Safety, Health and Working Conditions Code are mentioned below.

- The Code expands the definition of a factory as a premise where at least 20 workers work for a process with power and 40 workers for a process without power.
- The Code removes the manpower limit on hazardous working conditions and makes the application of the Code obligatory for contractors recruiting 50 or more workers (earlier it was 20).
- The Code fixes the daily work hour limit to a maximum of eight hours.
- The Code empowers women to be employed in all kinds of establishments and at night (between 7 PM and 6 AM) subject to their consent and safety.
- To encourage formalisation in employment, the employer is required to issue an appointment letter.
- The Code defines an inter-state migrant worker as someone who has come on his/her own from one state and received employment in another state and earns up to Rs.18000 per month.
- Portability benefits for inter-state migrant workers: They can avail benefits in the destination state as regards ration and benefits of building and other construction worker cess.
- However, the Code has dropped the earlier provision for temporary accommodation for workers near worksites.
- The Code also proposes a Journey Allowance – this is a lump sum fare amount to be paid by the employer for the journey of the worker from his/her native state to the place of employment.

5. Benefit of labour reforms for employees

Under the new codes, companies will be able to hire workers on fixed-term contracts. This will give companies greater flexibility in hiring, allowing them to adjust their workforce according to their business needs. The new codes will also make it easier for companies to maintain detailed records of their workers, including their wages, working hours, and other benefits. Further, many definitions across new codes are common, this is one of the major changes which would eliminate the ambiguity.

6. Benefit of new labour reforms for workers

The new codes will provide greater protection and benefits for workers, including provisions for minimum wages, social security benefits, and grievance redressal mechanisms. The codes

will also provide for a new social security net for workers, including insurance and pension benefits.

7. Challenges raised by labour activists

While the new codes have been welcomed by many in the business community, some labour activists have raised concerns that the new codes may lead to the exploitation of workers, particularly those on fixed-term contracts. They have also expressed concerns that the new codes may lead to a dilution of labour rights and protections.

The introduction of the new labour codes is a significant development for the Indian labour market. The new codes are expected to provide greater flexibility and certainty for employers, while also offering better protection and benefits for workers. The new codes are also expected to have an impact on HR technology in the country, with companies and HR technology providers needing to adapt to the new regulations. However, concerns raised by labor activists suggest that the implementation of the new codes may not be without its challenges.

8. Conclusion

The effectiveness of new labor reforms can vary depending on the specific reforms implemented and the context in which they are applied. It is essential to consider both the short-term and long-term effects, as well as the impact on various stakeholders, including workers, employers, and the overall economy. Here are some possible conclusions regarding the effectiveness of labor reforms:

- 1. Improved Labor Market Flexibility:** Labor reforms that promote flexibility in hiring and firing can make it easier for employers to adapt to changing market conditions. This can potentially lead to increased job creation, especially in sectors with seasonal or fluctuating demand. However, this may also result in job insecurity for workers.
- 2. Enhanced Worker Rights:** Labor reforms that strengthen worker rights, such as minimum wage increases, improved working conditions, and better job security, can have positive effects on employee well-being and productivity. They can lead to a more motivated and satisfied workforce.
- 3. Economic Growth:** Some labor reforms, particularly those aimed at reducing labor market rigidities, may stimulate economic growth by encouraging investment and entrepreneurship. When employers perceive a more flexible and business-friendly environment, they may be more inclined to expand their operations and create more jobs.
- 4. Income Inequality:** Labor reforms can influence income distribution. Reforms that protect vulnerable workers and promote fair wages can help reduce income inequality. However, reforms that primarily benefit employers may exacerbate income disparities.
- 5. Competitiveness:** Labor reforms can enhance a country's competitiveness on the global stage. A more efficient and adaptable labor market can attract foreign investment and boost

exports. However, excessively lax labor regulations may lead to exploitation and harm a nation's reputation.

6. Social and Political Stability: Labor reforms can have social and political consequences. Successful reforms that balance the interests of both workers and employers are more likely to be accepted by society and reduce labor-related conflicts.

7. Unintended Consequences: Labor reforms must be carefully designed to avoid unintended consequences. For example, reducing job security too much can lead to a precarious workforce, while excessive regulation may discourage employers from hiring.

8. Evaluation Over Time: Assessing the effectiveness of labor reforms is an ongoing process. The impact may not be immediate, and it is essential to continuously monitor and evaluate the outcomes to make necessary adjustments.

In conclusion, the effectiveness of new labor reforms depends on the specific policies implemented, the economic and social context, and how well they balance the interests of workers and employers. Successful labor reforms should aim to promote fairness, economic growth, and social stability while avoiding unintended negative consequences. Continuous evaluation and adaptation of these reforms are crucial to achieving their intended goals.

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