**Labour Reforms**

Labour falls under the Concurrent List of the Constitution.

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

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.

Three labour codes namely **Industrial Relations Code Bill, 2020, Code on Social Security Bill, 2020** and **Occupational Safety, Health and Working Conditions Code Bill, 2020** have been introduced in Lok Sabha and passed by Parliament, proposing to simplify the country’s archaic labour laws and give impetus to economic activity without compromising with the workers’ benefits.

These labour codes can have a transformative impact on labour relations in India. Along with the [**‘Code on Wages Act- 2019’,**](https://www.drishtiias.com/daily-updates/daily-news-editorials/code-on-wages-1#:~:text=Code%20on%20Wages%20Act%202019,-The%20new%20wage&text=It%20seeks%20to%20universalizes%20the,legislative%20protection%20of%20minimum%20wage.) these can significantly ease the conduct of business by amalgamating a plethora of Central and State laws on labour.

## Code on Wages, 2019

The [Code on Wages Bill](https://byjus.com/free-ias-prep/code-on-wages-bill-2019/) 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.

### **Salient Features of Code on Wages Bill**

The following are some of the features of the Code on Wages Bill, 2019:

* **Uniform Applicability:** The Wage Code now will ensure uniform applicability of the timely payment of wages. Irrespective of wage ceilings and different industrial sectors when previous laws like the Payment of Wages Act, Minimum Wages Act had placed restrictions.
* **Uniform Definition of Wages:** The definition of ‘wages’ slightly varied across PWA, MWA, PBA and this has resulted in numerous litigations. Therefore, the Wage Code seeks to provide a single uniform definition of ‘wages’ for the purposes of computation and payment of wages to the employees. As per Wage Code, the term ‘wages’ means all remuneration whether, by way of salaries, allowances or otherwise, expressed in terms of money and includes basic pay; dearness allowance; and retaining allowance if any.
* **The distinction between Employee and Worker:** The Wage Code provides separate definitions of ‘worker’ and ‘employee’. The definition of ‘employee’ is broader than that of ‘worker’.
* **Equal Remuneration:** The Wage Code prohibits discrimination on the ground of gender with respect to wages by employers or for purpose of recruitment, with respect to the same or work of similar nature of work.
* **Payment of Bonus:** There is no significant change from PBA and the provisions relating to the payment of bonus are also consistent with the terms of PBA. Earlier, the applicability was limited to employees drawing wages not exceeding INR 21,000 per month. Now, under the Wage Code, the appropriate government is empowered to fix the wage threshold for determining the applicability.

## 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.

**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

* 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.

### **Social Security Code Significance**

**Enhanced coverage:**

* New-age businesses that thrive on e-commerce have created new types of jobs. Some of the workers in these new businesses were not covered under any of the existing laws. The new Social Security Code expands the scope of social security by providing for the registration of all types of workers including gig workers and platform workers.
* The Code has widened coverage by including the unorganised sector, fixed-term employees, inter-state migrant workers, etc., in addition to contract employees.
* The Social Security Code, 2020 brings these workers under the ambit of social security schemes, including life insurance and disability insurance, health and maternity benefits, provident fund and skill up-gradation, etc.

**Taking care of the fixed-term employees:**

* The code expands the scope to cover fixed-term contract workers who will now be eligible for gratuity; whereas earlier only employees that were permanent were covered.
* With the inclusion of ‘expiration of fixed-term employment’, fixed-term contract workers will become eligible for gratuity and this is a welcome move.

**Penal provisions:**

* The strength of implementing a legislation lies in the ease of compliances as well as in the penalties that deter non-compliance. The Code captures it all.
* The Code contains penal provisions in the case of failure to pay gratuity to employees or a failure to pay the contributions.

**Digitisation:**

* As per the Act, all records and returns have to be maintained electronically. Digitisation of data will help in the exchange of information among various stakeholders/funds set up by the Government, will ensure compliance and also facilitate governance.

**Uniform definitions:**

* Uniformity in determining wages for the purpose of social security benefits is another highlight of the code given the ambiguity in the current regulations.
* This has provided a wide definition for wage. Specific exclusions with ceilings have been provided for discouraging inappropriate structuring of salaries to minimise social security benefits.

**Consultative approach:**

* The Code has brought in a facilitating approach by the authorities. Unlike the existing role of inspectors, the Code provides for an enhanced role of inspector-cum-facilitator whereby employers can look for support and advice to enhance compliances.

### **Code on Social Security, 2020 Key Issues**

**Important recommendations of the NCL neglected:**

* The National Commission on Labour (2002) (NCL) had emphasised the need for universal and comprehensive social security coverage to avoid deprivation of basic needs of workers, and recommended the simplification and consolidation of existing laws towards this end.
* The NCL recommended that: (i) the social security system should apply to all establishments, (ii) the existing wage ceilings for coverage should be removed, and (iii) there should be a functional integration of the administration of existing schemes.  Further, every employer and employee may make a single contribution for the provision of all the benefits, with a ceiling prescribed for such contributions.

The code largely retains the existing setup and does not fully implement the NCL recommendations.

* The code continues to retain thresholds based on the size of the establishment for making certain benefits mandatory.  Benefits, such as pension and medical insurance, continue to be mandatory only for establishments with a minimum number of employees (such as 10 or 20 employees). All other categories of workers (i.e., unorganised workers), such as those working in establishments with less than 10 employees and self-employed workers may be covered by discretionary schemes notified by the government. Thus, a large number of workers may continue to be excluded.
* The code continues to treat employees within the same establishment differently based on the amount of wages earned. For instance, provident fund, pension and medical insurance benefits are only mandatory to employees earning above a certain threshold (as may be notified by the government) in eligible establishments.
* The code continues to retain the existing fragmented set up for the delivery of social security benefits. These include: (i) a Central Board of Trustees to administer the EPF, EPS and EDLI Schemes, (ii) an Employees State Insurance Corporation to administer the ESI Scheme, (iii) national and state-level Social Security Boards to administer schemes for unorganised workers, and (iv) cess-based labour welfare boards for construction 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.

### Benefits of Labour Codes

* **Consolidation and simplification of the Complex laws:** The three Codes simplify labour laws by **subsuming 25 central labour laws** that have been on the table for at least 17 years.
  + It will provide a big boost to industry & employment and will reduce multiplicity of definition and multiplicity of authority for businesses.
* **Single Licensing Mechanism:** The codes provide for a single licensing mechanism. It will give fillip to industries by ushering in substantive reform in the licensing mechanism. Currently, industries have to apply for their licence under different laws.
* **Easier Dispute resolution:** The codes also simplify archaic laws dealing with industrial disputes and revamp the adjudication process, which will pave the way for early resolution of disputes.
* **Ease of Doing Business:** According to the industry and some economists such reform shall boost investment and **improve ease of doing business.** It drastically reduces complexity and internal contradictions, increases flexibility & modernizes regulations on safety/working conditions
* **Other benefits for Labour:** The three codes will promote fixed term employment, reduce influence of trade unions and expand the social security net for informal sector workers.

### Concerns with the Labour codes

* **Against the Interests of Employees:** The codes provide the liberty to industrial establishments to **hire and fire their employees at will.**
  + This move might enable companies to introduce arbitrary service conditions for workers.
* **Free Hand to States:** The central government has also attracted criticism that states have been given a **free hand to exempt laws in violation of labour rights.** However, the Union Labour Minister has said the labour issue is in the **Concurrent list** of the Constitution and therefore states have been given the flexibility to make changes as they wish.
* **Affect Industrial Peace:** Industrial Relation Code proposes that workers in factories will have to give a **notice at least 14 days** in advance to employers if they want to go on strike.
  + However, earlier the **Standing Committee on Labour** had recommended against the expansion of the required notice period for strike beyond the **public utility** services like water, electricity, natural gas, telephone and other essential services.
  + Further, Bharatiya Mazdoor Sangh has also opposed the Code, describing it as a clear attempt to diminish the role of trade unions.

### Conclusion

The [**Periodic Labour Force Survey**](https://www.drishtiias.com/daily-updates/daily-news-analysis/periodic-labour-force-survey-2018-19) observes that 71% of regular wage/salaried workers in the non-agriculture sector did not have a written contract, and 50% were without social security cover. The new laws, by simplifying compliance, should create an incentive for workforce formalisation.

The new labour codes will help in increasing the pace of generating good quality jobs to cater to the growing workforce, their rising aspirations and to absorb out-migration of labour from agriculture. This way India can fully be able to capitalize on its inherent labour and skill cost and help a fast economic recovery especially post [**Covid-19.**](https://www.drishtiias.com/daily-updates/daily-news-editorials/covid-19-and-india-1)