

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 6 [2025] | Page 280 – 294

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EVALUATING THE INDIAN LABOUR CODES WITH REFERENCE TO WORKER'S PROTECTION AND IMPLEMENTATION CHALLENGES

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ABSTRACT

The reform of India's labour laws to four labour codes represents a major shift in the labour regulatory framework in India. It is designed to improve the ease of compliance with statutory requirements by providing greater consistency and clarity in the regulatory framework which will enhance the ability of employers and employees to conduct business in India more efficiently than in the past. Additionally, the labour codes are intended to reflect the changes occurring as a result of evolving work relationships and advances made possible through technology. However, the potential impact of the reform on worker protection and labour welfare remains a significant concern for many stakeholders. This article provides an overview of the doctrinal analysis of the labour codes and the extent to which the new regulatory structure achieves its objectives while providing adequate support to workers in the area of work-related rights. This paper conducts an evaluation of the principal structural and substantive changes made by Labour Codes in relation to wage security, job security, access to social security and occupational health & safety with a particular focus on informal, gig and platform workers where statutory recognition does not come with associated enforceable entitlements and mandatory employer obligations. It also highlights a few of the main obstacles to implementing Labour Codes including delays in enforcement, heavy reliance on delegated legislation, inconsistencies in rule-making at the state level and difficulties in administration and coordination due to India's federal system of labour governance.

The analysis deliberates that while the Labour Codes introduce structural coherence and simplify procedures, they may result in the weakening of substantive protections for workers because of the increased scope for managerial discretion, the applicability of thresholds to determine eligibility and the failure to enforce these codes effectively. Therefore, the paper emphasizes that unless the Labour

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Codes are properly implemented using a rights-based interpretive approach, the transformative potential of the Labour Codes will be limited in providing adequate protection for workers and promoting social justice for all through the advancement of labour welfare.

Keywords: Labour Codes, Worker Protection, Wages, Rights, Implementation

Evaluating the Indian Labour Codes with Reference to Worker's Protection and Implementation Challenges

INTRODUCTION

The development of Labour Law in India started with a focus on the underprivileged Employee class. The laws were designed to protect the poor from exploitation caused by the differences in bargaining power between Employers and Employees. The main objectives of the labour laws that were enacted were to promote social justice, industrial harmony and to promote the ideals of the Constitution with respect to the Dignity of Labour. However, as a result of there being so many separate Central and State Labour Statutes, over time there has been confusion created with respect to the implementation of these statutes due to there being so many overlapping provisions, inconsistent implementation of the Statutes and due to lack of access to the Statutes for both the Employee and Employer categories of individuals.²

To that end, the Government of India has introduced an all-encompassing labour law reform strategy that has resulted in consolidating twenty-nine statutes into four separate codes concerning labour that is, the Code on Wages, 2019 which outlines minimum wage standards;³ the Industrial Relations Code, 2020 which sets forth rules regarding collective bargaining;⁴ the Code on Social Security, 2020 which provides for social security benefits for employees;⁵ and the Occupational Safety, Health and Working Conditions Code, 2020 which sets forth provisions that must be complied with related to employee health and safety.⁶ This consolidation was intended to simplify the Labour Regulation process; provide for uniformity throughout different areas of jurisdiction; diminish the Compliance Burden, as well as allow Labour Regulation to adapt over time as employment trends and styles continue to evolve due

² O.P. MALHOTRA & INDRAJIT MALHOTRA, *THE LAW OF INDUSTRIAL DISPUTES* 4, 3–6 (LexisNexis Butterworths Wadhwa 6th ed. 2014).

³ The Code on Wages, 2019, §§ 3–9.

⁴ The Industrial Relations Code, 2020, §§ 5–9, 62–86.

⁵ The Code on Social Security, 2020, §§ 3–9, 109–114.

⁶ The Occupational Safety, Health and Working Conditions Code, 2020, §§ 6–9.

primarily to Globalisation, Technology, as well as, the emergence of new forms of employment typified now by Informality, Gig Work and Platform Work.⁷

The Labour Codes represent a modernising intervention that will balance the welfare of workers with the efficiency of regulatory regimes, as well as support an enhanced ease of doing business; however, as we have seen, the enactment of these codes has led to extensive discussion about the way that labour protections are to be recalibrated through thresholds for application, an expansion of the management's discretion to manage its workers, an excessive reliance on delegated legislation and the implementation of facilitative mechanisms for compliance with the Codes.⁸ Critics argue that this will dilute the editorial liberty of workers regarding their wages, job security, ability to organise collectively, social security and health and safety at the workplace. This is particularly so for gig workers, platform workers and informal workers who are recognised by the Labour Codes but who do not have the benefit of rights that can be enforced against their employers through the obligations created by the Codes.⁹

The regulatory regime developed under the Labour Codes are subject to both the Concerns identified above and also upon their implementation within the context of India's federal structure. Due to Labour being a Concurrent List subject, the Union and State governments are expected to cooperate in the operationalisation of the Codes through their respective rule making and administration abilities.¹⁰ However, there has been a considerable time lag between legislative intent for the Labour Codes and the enforcement of the Codes, especially at the state level and enduring institutional limitations associated with labour administrative capacity have resulted in a very significant gap between the intent of the Legislature in the area of worker welfare and its implementation through the Labour Codes.¹¹

To add to the above, this research deals with an extensive doctrinal analysis of the Indian Labour Codes with a specific focus on their impact on worker protection and the issues related to the implementation of these Codes. This includes an analysis of the structural and substantial impacts of the Codes and the impacts on wage security, job security, social security and occupational health and

⁷ Ministry of Labour & Employment, Government of India, Labour Codes, GOV'T OF INDIA (2020), (Nov. 29, 2025, 10:04 AM), <https://labour.gov.in>.

⁸ Surya Deva, India's New Labour Codes: Towards Labour Flexibility or Rights Dilution?, 63 J. INDIAN L. INST. 1, 12–15 (2021).

⁹ Ritu Dewan et al., Labour Codes and the Challenge of Protecting Gig and Platform Workers in India, 57 ECON. & POL. WKLY. 32, 35–37 (2022).

¹⁰ Indian Const. art. 246; Schedule VII, List III, Entry 22.

¹¹ Shruti Rajagopalan & Anirudh Burman, India's Labour Law Reforms and the Challenge of Federal Implementation, 55 ECON. & POL. WKLY. 61, 63–65 (2020).

safety as well as the federal and administrative barriers to effective enforcement of these laws as well as how the Labour Codes fit into the constitutional framework and framework based on rights.¹² The purpose of this research is to determine whether the modified labour law framework protects workers in relation to achieving its objectives of simplifying and streamlining regulations.

STRUCTURAL AND SUBSTANTIVE CHANGES

With the introduction of the Labour Codes, the existing Framework of labour laws in India has been fundamentally reconfigured in terms of how workers are to be regulated and protected, both in terms of structure and substance. At first glance, the amalgamation of several different (and often disparate) Acts into four Codes appears to be an administrative efficiency, but a more in-depth analysis of the Codes indicates that they do more than improve efficiency; rather they represent a recalibration of the normative foundations upon which workers' rights are built.¹³ This section will examine both the structural reorganisation and substantive modifications made to the rights of workers.

The Labour Codes create a unique set of rules that define how labour relations are treated. Previously, the regulations in most labour legislation were sector specific; however, from now on, they will no longer be specific to a sector, but the Code's two basic components will determine the scope of the labour relations and how many employees are employed in small and medium-sized establishments.¹⁴ The second change to the Labour Codes has been the introduction of excessive reliance upon delegated legislation. For example, all four of the Labour Codes provide broad guidelines set forth by the legislature, however they also provide the means for the Executive to enact rules based upon these guidelines. Labour rights have developed from being guaranteed in law, to being dependent upon rules. The rules will be enforced if they are notified in a timely and equal manner by both the Union and State Executives.¹⁵

Structural changes to the enforcement architecture have also occurred. Historically, the labour inspectorate's function was to conduct routine inspections with punitive consequences; now, it has transitioned to a model that supports compliance by facilitating inspectors as well as self-certification, risk-based inspection and digitised filings. With this new model in place, the State's position as a

¹² B.K. MATHEW, *LABOUR LAW AND SOCIAL JUSTICE IN INDIA* 72–76 (2d ed., Eastern Book Co. 2019).

¹³ Aditya Bhattacharjya, *The Labour Codes and the Changing Normative Framework of Labour Regulation in India*, 58 *ECON. & POL. WKLY.* 41, 44–46 (2023).

¹⁴ K.R. Shyam Sundar & Uma Rani, *Thresholds, Coverage and Exclusion under India's New Labour Codes*, 56 *ECON. & POL. WKLY.* 47, 49–52 (2021).

¹⁵ Anubhav Pandey, *Rule-Making under the Labour Codes and the Question of Enforceability of Labour Rights*, 66 *J. INDIAN L. INST.* 89, 95–98 (2023).

regulator has changed to that of a facilitator. While the goal of this approach is to lessen the burden of compliance on employers, it has lost the proactive enforcement capability that would have helped to protect the most exploited sectors of the economy, which continue to be typified by informal working relationships and asymmetrical power between employers and employees.¹⁶

The Labour Codes go much further than structural changes; they make substantial changes to worker's rights which directly affect the strength of the workers' rights. The Wage Code, 2019 provides a uniform definition of 'wages' that does not include many allowances when calculating wages.¹⁷ The implications of this are significant, because wages are the basis for calculation of contributions to a provident fund, gratuity, overtime pay and bonus payments. By providing an option for employers to recast some components of wages into an allowance, this legislation effectively diminishes the monetary value that is due to low income and informal workers from the Statutes that provide statutory benefits.¹⁸

The Industrial Relations Code, 2020 significantly changes the legal protections against job loss by raising the minimum size of a business (known as the establishment) from which an employer must obtain approval from the government before laying off, terminating or closing down the business.¹⁹ This increased amount of discretion allowed for employers to make business decisions results in a reduction of procedural protections for employees working in medium sized establishments.²⁰ In addition, the limitations placed on striking and the tightening of the procedural process for unions to be recognised, limits the collective bargaining power of employees and makes it more difficult for employees to negotiate employment conditions with their employers.²¹

The Code on Social Security, 2020 establishes gig workers and platform workers as unique types of workers.²² However, there is no enforceable right to social security benefits for these workers. The benefits of these workers are established through schemes, are discretionary in nature and are only available if the aggregator informs them of the scheme and its terms. Aggregators are not required to

¹⁶ Jan Breman, *At Work in the Informal Economy of India: A Perspective from the Bottom Up*, 54 *ECON. & POL. WKLY.* 38, 41–43 (2019).

¹⁷ The Code on Wages, 2019, § 2(y).

¹⁸ Anjana Prakash, *Wage Structuring under the Code on Wages: Implications for Informal and Low-Income Workers*, 57 *INDIAN J. LAB. ECON.* 289, 295–98 (2022).

¹⁹ The Industrial Relations Code, 2020, § 77.

²⁰ *Id.*, §§ 62–63, 14.

²¹ Balwant Singh Mehta, *Collective Bargaining under India's Industrial Relations Code*, 58 *INDIAN J. LAB. ECON.* 511, 518–21 (2021).

²² The Code on Social Security, 2020, §§ 2(35), 2(61).

contribute to any of these schemes. Therefore, there is a significant difference between the legal recognition of a right and the enforceability of that right.²³

The Occupational Safety, Health and Workers' Compensation Codes, 2020 consolidate a number of different types of legislation that address workplace safety and have simplified the processes of getting registered and/or licensed for conducting business in an area;²⁴ however, the applicability of the legislation relies on certain thresholds that ultimately leave out a large percentage of workers in the small business sector who may have needed the most protection from safety hazards.²⁵ The fact that employers can self-certify and that there is less frequent inspection of employer compliance with safety standards makes the opportunity for actual workplace safety much less than that which is provided for in the legislative codification.²⁶

The Labour Codes reflect the shift in the labour law framework away from a rights-based approach and toward an employer flexibility-based approach to regulation. Although the codes have consolidated and simplified the majority of the structure and the process of regulation, it has done so at the expense of providing meaningful substantive protection to workers as a result of the establishment of decimal thresholds for exclusion from regulation, expanded employer discretionary authority to set standards without approval and the reliance on executive rule-making to establish regulations under the codification. The result of these cumulative changes is a labour law framework in which rules recognised as statutory may not necessarily afford to workers the means to enforce those rules.²⁷ This will be especially true for those in groups that are less likely to be members of a trade union, including the gig economy and informal workers, at risk of being identified as precarious and for whom enforcement of their rights may be no longer be possible.²⁸ Therefore, the review of the labour law framework in regard to the Legislative Codes will continue in the discussion of the issues and challenges of protecting and implementing workers' rights.

²³ Arjan de Haan & Rina Agarwala, Social Protection for Platform and Gig Workers in India: Legal Recognition without Enforceability, 66 J. INDIAN L. INST. 367, 372–75 (2023).

²⁴ The Occupational Safety, Health and Working Conditions Code, 2020, §§ 1(4), 3–5.

²⁵ Id. §§ 33, 34.

²⁶ Kamala Sankaran, Occupational Safety and Health under India's New Labour Codes: Exclusions and Thresholds, 55 ECON. & POL. WKLY. 45, 48–50 (2020).

²⁷ V. Balasubramanian, Enforcement Challenges under the New Labour Codes, 45 INDIAN J. LAB. REL. 78, 81–83 (2021).

²⁸ International Labour Organization, India: Assessment of Labour Rights for Informal and Gig Workers, ILO REPORT, 9–10 (2020), (Nov. 30, 2025, 02:18 PM), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_750345.pdf.

WORKER'S PROTECTION UNDER THE LABOUR CODES

The bedrock of Indian labour law is protecting workers under their constitutional rights of dignity, work and livelihood and social justice.²⁹ The Labour Codes incorporate the language of welfare and establish expectations from workers. Ultimately, worker protection will be determined by the ability of workers to realize statutory entitlements into legally enforceable rights.³⁰ The analyses of worker protection as outlined in the Labour Codes will be comparatively evaluated based on four major dimensions: wage security; job security and collective rights; social protection; and occupational health and safety, in addition to references to relevant cases that help provide an understanding of the intent of the laws.

The Code on Wages, 2019 aims to provide minimum wage protection for all forms of employment and gives the Central Government the ability to set a national floor wage rate.³¹ In theory, this legislation extends the coverage of minimum wage laws to a broader range of jobs. However, while the Code extends the coverage of the minimum wage, its effects are influenced by the way 'wages', as defined in the Code, dictate wage fixation methods.³²

The exclusion of many allowances from 'wages' allows employers to manipulate wage structures; as a result, the pay base used to determine statutory benefits like Provident Fund, Gratuity and Bonus can be reduced. The effect on workers' economic security is significant. In the case of *Workmen of Reptakos Brett & Co. Ltd. v. Management*,³³ the Supreme Court stated that wages must provide a standard of living consistent with human dignity and that wage protections are linked to the right to life guaranteed by Article 21 of the Indian Constitution. If the Code allows for an alteration of wage structures, the Code has the potential to violate the constitutional requirement of providing a living wage, particularly for informal and low-income workers.³⁴

The Code has little to no statutory implementation or effective enforcement when it comes to its provisions to regularly increase the minimum wage and provides employers with significant discretion in deciding how employers will determine the minimum wage. In industries with low levels of unionisation and high levels of informality, the Code's reliance on complaints to enforce wage protections severely limits workers' (especially non-unionised workers) access to the minimum wage.

²⁹ Indian Const. arts. 21, 23.

³⁰ V. Kumar, Realising Labour Rights under the New Codes, 53 INDIAN J. LAB. REL. 102, 105–06 (2021).

³¹ Supra note 2, §3.

³² V. Kumar, Labour Law Reforms and Minimum Wage Protection, 54 INDIAN J. LAB. REL. 78, 82–83 (2022).

³³ *Workmen of Reptakos Brett & Co. Ltd. v. Management*, AIR 1969 SC 199 (India).

³⁴ S. Srivastava, Wage Definitions and Labour Reforms, 18 INDIAN J. LAB. STUD. 45, 47–48 (2021).

Along with the impending changes to job security and rights of collective bargaining, the Industrial Relations Code, 2020 significantly alters how the aforementioned changes will take place. One of the major reforms in the Code is that as a result of this legislation's passage, almost all medium-sized companies will no longer be required to obtain prior approval from the government before laying off, terminating or closing their business.³⁵ Consequently, the Company will now have far more flexibility in managing its workforce and will have far fewer protections for workers who are employed in medium-sized businesses.³⁶

In *Olga Tellis v. Bombay Municipal Corporation*,³⁷ the Supreme Court of India has consistently upheld that employment is a fundamental aspect of an individual's right to live. In this case, the Supreme Court ruled that the right to earn a living is guaranteed to every person in the Constitution under Article 21. Consequently, the changes made by the Industrial Relations Code regarding retrenchment protection raise the significant concern of exposing workers to the possibility of being discharged without the ability for the state to exercise control over such actions by employers, increasing the risk of arbitrary terminations for workers.

The Code also made a significant change regarding the recognition of trade unions and, conversely, recognition of unions that were not recognised as having a majority of employees as members and established stricter rules regarding strikes by employees.³⁸ Although these provisions have been implemented in order to create a higher level of business discipline within the workplace, such a move will also serve to reduce the ability of workers to organise and effectively represent themselves in negotiations with employers. In *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*,³⁹ the Supreme Court reiterated the importance of providing a statutory means through which to lessen or eliminate the opportunity for employers to take arbitrary actions towards their employees and create fairness for all employees. By limiting the ability for workers to engage in collective action as a result of the provisions enacted by this Code, this Court has eliminated a critical component of the ability to hold employers accountable for arbitrary actions.

The Code on Social Security, 2020 consolidates existing welfare legislation and now explicitly acknowledges that gig workers and platform workers are a unique category. This acknowledgment

³⁵ Industrial Relations Code, 2020, §25.

³⁶ V.V. Giri, Labour Law Reforms and Industrial Relations in India, 12 J. INDIAN L. & SOC'Y 101, 105–06 (2020).

³⁷ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180, 186 (India).

³⁸ Industrial Relations Code, 2020, §§ 10–12.

³⁹ *Workmen of Meenakshi Mills Ltd. v. Meenakshi Mills Ltd.*, AIR 1960 SC 830, 832–33 (India).

represents a significant difference in the way that previous exclusionary models treat gig workers and platform workers. However, the extent to which these types of workers are protected is very limited. Social benefits for gig and platform workers are provided through schemes that are discretionary in nature and require executive notification to be eligible for any benefits. There are no mandatory contributions required from the aggregators, nor do these workers have any enforceable entitlements once they are established by the Code. The Supreme Court in the case of *Bandhua Mukti Morcha v. Union of India*⁴⁰ recognised a positive obligation on behalf of the State to protect vulnerable workers and to provide for conditions of dignified existence. Applying this analysis, it becomes clear that the discretionary nature of social security schemes within the Code highlights the disconnect between the obligation of the Constitution and the statutory provision for social security schemes. Therefore, social security as identified in the Code is more of a ‘welfare policy choice’, rather than being a justiciable right for non-traditional workers, leaving these workers vulnerable to economic insecurity.⁴¹

Under the Occupational Safety, Health and Working Conditions Code, 2020, an opportunity was created for multiple Laws related to Occupational Safety to be combined and for a simplified process of complying with these laws to be provided through digital registration, self-certification and risk-based inspections.⁴² Although these opportunities, provided by the Code, may greatly enhance the administrative efficiency in these areas, they are significantly limited by the laws’ applicability thresholds and the related enforcement mechanisms for worker protection.⁴³

Further, the exclusion of small establishments from fundamental legal obligations to provide a safe workplace limits the ability of a large portion of the employee population to enjoy a safe workplace, including workers who are employed in high-risk jobs. The Supreme Court of India has reaffirmed in its ruling in *Consumer Education and Research Centre v. Union of India*⁴⁴ that the right to be healthy and have a safe workplace is part of an individual’s right to life under Article 21 of the Constitution. Therefore, the reliance of the OSH Code on employer self-reporting and/or a limited inspection regime creates doubt about the ability of this law to provide for the realisation of this guarantee provided by our Constitution.

⁴⁰ *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802, 810–12 (India).

⁴¹ Sinjini Majumdar, *The Legal and Policy Gaps in Social Security for Gig and Platform Workers under the Code on Social Security*, 2020, 9 Int’l J. Res. Innov. Soc. Sci. 185, 190–93 (2025)

⁴² The Occupational Safety, Health and Working Conditions Code, 2020, §§ 3–5.

⁴³ K. M. Jawahar, *Occupational Safety and Health under India’s New Labour Codes*, 4 INT’L J. HUM. RTS. L. REV. 887, 890–91 (2025),

⁴⁴ *Consumer Education & Research Centre v. Union of India*, (1995) 3 S.C.C. 42 (India).

The Labour Codes reflect a shift from the rights-based welfare approach to labour towards a flexible regulatory framework for labour, while formal statutory recognition of rights has increased, substantive protections have declined through higher thresholds, executive discretion and reduced enforcement oversight. The courts have consistently stated that the enforceability of labour rights is essential in achieving the constitutional mandates of dignity, livelihood and social justice and the disconnect between statutory design and the judicially recognised standard of protection will continue to be an issue under the new regime.

IMPLEMENTATION CHALLENGES

The Labour Codes will not be effective unless they work effectively with the different systems of administration and federal levels throughout India. The goal of the Labour Codes is to unify and simplify the labour law regulations currently in place in India; however, various factors at the structural, institutional and federal levels will affect the enforcement of worker protections and thus limit the codes' success.

One significant concern is that implementation of the Labour Codes relies heavily on subordinate legislation. The Labour Codes establish an overarching legal framework, leaving many of the important issues surrounding operationalisation to be determined by the Central and State Governments through the issuance of rules, schemes and notifications. The majority of operationalisation issues such as wage fixation, social security, health and safety regulations, inspection and dispute resolution will be worked out at the executive level and will have to be based on rules issued by Central and State Government. The lack of rule issuance and delays in the issuance of rules have resulted in limited or no enforcement of the Labour Codes and created uncertainty for both employers and workers, which undermines the enforceability of labour rights that are provided for in law.⁴⁵

Implementing the Labour Codes is additionally complicated by India's federal structure, since Labour is a Concurrent List subject that necessitates an integrated legislative and administrative response from both Union and State authorities.⁴⁶ The Codes' intention is to create uniformity; however, they provide substantial room for State discretion in determining rules and implementing schemes. The resulting differences in compliance standards, thresholds for applicability, inspection frameworks and social

⁴⁵ Sonal Rawal & Hiral Shukla, *Labour Law Reforms in India Through the Four Labour Codes: A Critical Appraisal of Implications for Workers' Rights*, 17 INT'L EDUC. & RES. J. 1, 6–7 (2025).

⁴⁶ V. VIDYA SAGAR, *CONSTITUTIONAL LAW OF INDIA* 45-46 (LexisNexis India 3d ed. 2020).

security arrangements create considerable variability between jurisdictions and result in adverse consequences for worker protection, particularly for inter-State Migrant Workers and those working in the informal sector.⁴⁷

In addition to these issues, the inability to execute administrative capacity limits is another hurdle. At the both the Central and State level, Labour departments experience shortages of trained personnel, shortage of necessary infrastructure and limited chance of Technology Integration into their operating environments. Although there is an increasing shift toward Digital Registrations, Online Compliance, Electronic Grievances and other similar initiatives, this transition has not been accompanied by adequate efforts to develop the necessary capacity, particularly for informal workers who typically do not have access to or knowledge of digital technologies.⁴⁸ As such, the enforcement mechanisms' accessibility and effectiveness are restricted for a substantial portion of the overall workforce.⁴⁹

The Labour Codes introduce further complications with regard to facilitative-compliance mechanisms. Self-certification, inspector-cum-facilitators and risk-based inspections diminish direct state oversight and encourage more reliance on employers to achieve compliance. In addition to reducing regulatory oversight and promoting voluntary compliance, this mechanism places less emphasis on proactive enforcement of compliance requirements for those sectors experiencing informality, subcontracting or asymmetrical bargaining power.⁵⁰ Lost opportunities to create proactive enforcement through direct inspections create environments conducive to under-reporting of violations and limit accountability.

The challenges of implementing the Labour Codes are more pronounced for informal, gig and platform labourers. While the Labour Codes provide for the formal classification of this type of labour, the absence of clearly defined employer identification, contribution mechanisms and enforcement responsibilities limits the ability to effectively deliver social security benefits to those workers.⁵¹ Additionally, the absence of a comprehensive database regarding workers in this category, as well as the need for coordination among government agencies and clarity regarding the role of aggregators, will impede effective enforcement of the Labour Codes.⁵² Consequently, while the Labour Codes

⁴⁷ S. KUMAR & R. SHARMA, *LABOUR LAW IN INDIA* 102-104 (Eastern Book Company, 2d ed. 2021).

⁴⁸ A. SHARMA, *INFORMAL WORKERS AND DIGITAL LABOUR COMPLIANCE* 34-36 (Cambridge University Press, 1st ed. 2020).

⁴⁹ Rituparna Basu, *Implementation Challenges of Labour Codes for Informal Workers*, 15 *INDIAN J. LABOUR REL.* 101, 105-106 (2023).

⁵⁰ P. K. SINGH, *INFORMAL SECTOR AND LABOUR ENFORCEMENT* 52-55 (Cambridge University Press, 1st ed. 2021).

⁵¹ M. R. KAPOOR, *GIG AND PLATFORM WORKERS IN INDIA* 67-69 (Oxford University Press, 1st ed. 2022).

⁵² A. S. RAO, *DIGITAL LABOUR MANAGEMENT AND SOCIAL SECURITY* 45-48 (Springer India, 1st ed. 2021).

provide for statutory recognition of these types of workers, their lack of enforcement has not translated into meaningful protection for these workers.

Accountability and oversight also appear to be a major concern. Without a clear statutory timeline or mandatory review mechanism, the extensive delegation of policy decisions to the executive creates a lack of transparency and diminishes the democratic oversight of the Labour Codes.⁵³ The lack of consistency between states concerning implementation of the Labour Codes, coupled with ongoing delays in the issuance of rules and regulations, means that states are still experiencing significant regulatory uncertainty due to a lack of available corrective mechanisms. As a result, there is significant loss of confidence in the labour governance framework and the welfare-oriented objectives of the Labour Codes are diminished.⁵⁴

Thus, there is a large disparity between the intention of Federal legislation in the Labour Codes and the way that the Labour Codes are being enforced and implemented in practice. This disparity between intention and enforcement of the Labour Codes can be attributed to a variety of factors including a lack of adequate administrative capacity (both central and state) to properly administer and enforce the Labour Codes, reliance by the federal government upon states to implement and enforce the Codes of the Labour Codes and lack of adequate enforcement mechanisms to hold states accountable for their implementation of the Labour Codes. If these issues are not adequately addressed through coordinated federal action and the development of enforceable frameworks, it is likely that the Labour Codes will not achieve their stated objectives of promoting labour welfare and regulatory efficiency.

SUGGESTIONS AND WAY FORWARD

There is a need for a shift from the essentially facilitative framework currently enshrined in the Labour Codes to an all-encompassing right based and implementation-focused approach. The following suggestions are designed to assist in addressing the challenges posed by the difference between the intentions of the legislature and the practical application and enforcement of the Laws.

- a. To effectuate the Labour Codes in an optimal manner, all four Labour Codes must be notified in accordance with statutory timelines for the establishment and implementation of Subordinate legislation at the Union and State Governments. In the absence of such timelines,

⁵³ Ministry of Labour & Employment, Delegation of Powers and Oversight under Labour Codes, GOVERNMENT OF INDIA (2022), (Dec. 02, 2025, 03:40 PM), https://labour.gov.in/sites/default/files/Delegation_OversightLabourCodes.pdf.

⁵⁴ P. K. DAS, INTER-STATE IMPLEMENTATION CHALLENGES OF LABOUR CODES 78-81 (Oxford University Press, 1st ed. 2021).

core worker protections will remain unimplementable; therefore, a Central Monitoring Mechanism may be established to identify and track rule notification and ensure the establishment of uniform implementation progress across all States, lessening the uncertainty associated with the enforcement and implementation of the Codes.

- b. Federal fragmentation can be minimized with the imposition of national minimum wage standards, social security coverage, occupational safety and grievance redressal procedures by the Union Government as binding standards which must be followed by all states. Although individual states will still have the ability to increase these protections as per their own local laws and regulations; establishing this minimum standard(s) for all states ensures that workers from all states have access to the same level of protection. By preventing the reduction of protections due to the federal fragmentation of labour protection legislation; the minimum standard(s) will also enable greater equality among all workers in the areas of migrant workers, informal workers, etc.
- c. Robust administrative institutions are necessary to enforce effective compliance with labour law. Strengthening labour departments through hiring additional staff, providing specialized training and utilizing technology are critical elements of creating an effective environment for compliance with labour laws. Capacity-building initiatives should emphasise developing digital-complaint systems, establishing occupational health safety standards and providing mechanisms for handling employee complaints. In addition, informal workers should receive additional support and assistance from labour departments since they typically lack knowledge of compliance issues and technology required to access digital-complaint systems.
- d. The facilitative compliance systems that have been established in many jurisdictions may provide a greater level of ease in compliance; however, these mechanisms must be accompanied by strong enforcement mechanisms. The compliance-inspection framework should include mandatory inspections at reasonable intervals for regularly identified sectors as well as provide mechanisms for public reporting of compliance results and accountability of compliance officers. The combination of facilitation and deterrent-type arrangements is essential to prevent a proliferation of regulatory capture and maintain an accurate level of compliance.
- e. The statutory recognition for gig, platform and informal workers must be made as enforceable entitlements. The mechanisms must be clear for worker registration, contributions collected and delivery of benefits. The role of intermediaries and aggregators must also be clearly defined

to allow for an accountable system. Data collection from various departments will also provide critical support in the effective delivery of social security benefits to all of these workers.

- f. Accessible and efficient grievance redressal mechanisms are essential to protect worker rights. In addition to the Labour Codes, the grievance redressal process must include streamlined, worker-friendly procedures for filing complaints, multilingual digital/electronic platforms for filing and responding to complaints and offline, local assistance centres. Dispute resolution must take place in a time-bound fashion (i.e., no more than 30 days) and must be affordable. This is especially important for vulnerable workers.
- g. The use of subordinate legislation by regulation has significantly increased the need for transparency and accountability in rule-making processes. Therefore, all draft rules/scheme should go out for public consultation prior to approval and there should be periodic reviews to assess their impact on worker welfare. In addition, clear reporting obligations and oversight mechanisms in place will build trust in the regulatory framework and ensure that the overall objectives of the policy align with the welfare of workers.
- h. In order for the implementation of the Labour Codes to be successful, there needs to be cooperative federalism and not fragmented or piecemeal approaches to implementation. Institutions which facilitate regular meetings between the Union and State Governments should be created to assist in developing complementary approaches to the implementation of the Labour Codes, sharing best practices and resolving jurisdictional conflicts. A collaborative approach will ensure that uniform enforcement is achieved, whilst still respecting the need for federal diversity.
- i. The Labour Codes can only be applied in accordance with a 'Rights-Based Approach' which gives priority to the worker's dignity, security and welfare. When interpreting and applying the Labour Codes, regulatory authorities must do so with a view to advancing substantive Labour Rights, rather than just ensuring procedural compliance. The Rights-Based Approach is critical to achieving the fundamental objectives of the Labour Law Reforms, which are to promote social justice.

CONCLUSION

The introduction of four Labour Codes containing certain major features will represent India's legislative attempt to modernise its labour laws and adjust to the ever-changing nature of employment. The Labour Codes provide the ability to combine a number of current statutes into a single statutory

structure and thereby increase the effectiveness of labour regulation, facilitate the ease of doing business in India and provide a comprehensive framework for labour management and governance. In addition, the Labour Codes represent a major shift from previous laws in terms of the transition from worker protection to greater labour flexibility, creating serious concerns about the enforceability of labour rights and the sufficiency of labour rights.⁵⁵

The paper demonstrates that although the Labour Codes introduce structural simplification and formal recognition of new work formats, the actual impact on the protection of workers is uneven. There are still significant barriers to wage security, job stability, occupational health and safety and access to social security. These barriers are primarily due to limited enforcement mechanisms and the wide-ranging discretion available to executives.⁵⁶ While formal recognition of informal, gig and platform workers represents progress, formal implementation frameworks have not yet been developed for many of these workers, leaving them without clear entitlements and typically unprotected from unscrupulous employers developing unfair and unsafe working conditions.

The challenges faced by the Labour Codes are both transitional and structural, as analysed in detail, including extensive use of subordinate legislation, delayed notifications of rules, fragmentation of state-level implementation of the rules and limited administrative capacity, making it difficult to achieve labour welfare objectives. Regulatory systems that support compliance may be more efficient, but they also weaken both proactive enforcement and accountability of the system for the benefit of the most vulnerable segment of the labour force.

To be effective and efficient in terms of moving from the formal consolidation of the Labour Laws to the substantive protection of workers' rights, the Labour Codes must be implemented in a coordinated fashion across the federal government, provide a solid foundation for strengthening institutional capacity, enable the establishment of enforceable social security mechanisms and be implemented with a rights-based framework for all of those who support their use. Therefore, to fully realise the constitutional and social justice goals of labour law reform, worker welfare must be central to both legislative design and the practical enforcement of the labour law. The successful implementation of the Labour Codes will require effective implementation and continuous consideration of how to modernise the labour codes while retaining the most important elements of protecting the rights of workers.

⁵⁵ Sonal Rawal & Hiral Shukla, *Labour Law Reforms in India Through the Four Labour Codes: A Critical Appraisal of Implications for Workers' Rights*, 11 INT'L EDUC. & RES. J. 45, 48 (2025).

⁵⁶ Kokila Beriya, *Analysing the Impact of New Labour Code on Workers Safety in India: A Comparative Study of Old Acts and OSHWC Code*, 2020, 6 INT'L J. LAW MGMT. & HUM. 2106, 2110 (2023).