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THE STRUCTURAL GAPS THE NEW LABOUR CODES AIM TO REPAIR

The Labour Codes of 2025 mark the greatest overhaul of Indian labour law in many decades. They do not merely consolidate existing legislation but tackle three systemic distortions that have underpinned labour litigation, compliance uncertainty, and disparities in worker protections for decades. By achieving definitional unity, extending social security, and modernizing industrial regulation, the Codes transform the configuration of the labour regime for employers and workers alike.

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1. FRAGMENTED DEFINITIONS – UNIFORMITY, BUT WITH TRADE-OFFS:

For decades, Indian labour legislation has been tied up in varied definitions and overlapping definitions of "wages", "employee", "establishment" and other similar foundational words. Each statute independently had its own defined and enforced formula, leading to an incoherent patchwork of applications and differing interpretations. This fragmentation was problematic for employers attempting to design pay structures. However, it also resulted in conflicts across laws to require frequent judicial interventions.

The new Codes remedy this disorganized patent by creating a uniform definition - particularly a single national definition of wages - and removing the antiquated "scheduled employment" definition. Although definitional uniformity increases clarity, it will come with stricter compliance, such as minimum basic wages instead of being a form of total wage that must be 50% of total compensation. This clarity provides comfort to employers despite some loss of process flexibility available in previously structured compensation.

2. THE SOCIAL SECURITY VACUUM – INCLUSION OF THE NEW WORKFORCE

The labour laws in India used to apply to a factory-centric workforce, thus leaving out gig workers, platform workers, freelancers, fixed-term employees, hybrid earners, etc., disregarding them and their legal existence. Consequently, millions working in nascent, digital and service-based economies are operating outside social-security coverage.

The Social Security Code reorients from employment-based protections to worker-centred protections. The new categories of workers - gig, platform, fixed-term, and unorganised- are now clearly defined under the law for the first time. Their recognition, therefore, constitutes a structural correction reconciling labour law as an institution with a more reality-appropriate workforce in India.

3. INDUSTRIAL RIGIDITY – STRIKING THE BALANCE BETWEEN FLEXIBILITY AND WORKER PROTECTION

The old model for regulation relied on inflexible thresholds for industry permissions, excessive and detailed oversight, and cumbersome delays. Many firms engaged deliberately in small business activities to avoid triggering loss of permissions in these regulations, and this hindered the realisation of job creation and economic growth.

The Industrial Relations Code moves thresholds for retrenchment permissions up, establishes consolidated returns and licenses process, and increases employer discretion in workforce planning. While more operational flexibility is introduced to firms, trade unions would suggest that it does dilute job security and individual worker ability to bargain collectively. Codes attempt a recalibration - more flexibility for an employer and a procedural safeguard for the worker.

II. ESSENTIAL INSIGHTS ON THE NEW LABOUR CODES

Across the domain of wages, industrial relations, safety governance and social security, the Codes impose significant amendments that will alter current compliance structures. The issues of heightened HR compliance demand expedited action and verify the operational changes that are going to have to be front-of-mind for employers during this transitional period.

A. Wage Standardisation & Payroll Overhaul (Code on Wages, 2019).

- **One standard definition of “Wages”** : The code gives the very first definition of ‘wages’ that now applies to all legislation on wages. Earlier, PF, ESI, Bonus Act, Gratuity Act, all have different and also confusing definitions. Now all benefits will have the same definition of wages; PF, ESI, bonus, gratuity, overtime. This gets rid of the disputes where the employer will use different components to minimize benefits. It also standardizes payroll calculations across all sectors. The change provides clarity and minimizes legal disputes.
- **Allowances Cannot Exceed 50% of Salary** : The definition of wage also provides that where the allowances exceed 50% of the total pay, then the excess will be deemed to form part of wages. This means that basic wages must now form at least 50% of total pay. Employers can no longer shift most of the total pay into allowances so as to reduce PF or gratuity. This automatically increases the parameter on which PF, ESI and gratuity is calculated, thus social security benefits of employees are enhanced. The payroll systems all over the country must adapt to this.
- **Minimum Wages for All Employees** : The code eliminates the previous category of ‘scheduled employments’ which was the one that restricted minimum wages on the basis of that employment sector. Now, every worker in every sector, without exception, is entitled to the minimum wages as per the government.
- **National Floor Wage** : Powers given to the central government to set a national floor wage. The states will be required to set their minimum wage above this floor. This allows the elimination of very low wage rates and helps to minimize wide disparities among various states. It gives a uniform base level of wage protection across the states and reduces disparity. States can choose to set their minimums higher, but never lower. The floor wage works as a maximum limit of protection for all workers.
- **Women’s Representation in Wage Advisory Boards** : The Code states that both the Central and State Advisory Boards must have adequate representation of women. These Boards advise the government on minimum wages, levels of skills, working hours, and other issues related to wages. Having women members allows the incorporation of women lived experiences and issues while making wage decisions. This enhances fairness, inclusiveness, and representation in the process. It also enhances the credibility of the set wages and ensures that different points of view are considered in the policy making process.

B. Flexibility vs Worker Protection (Industrial Relations Code, 2020)

- **Fixed-Term workers get full benefits** : The definition of fixed-term employment states that these workers are to be provided all the benefits that permanent employees are entitled to. This includes PF, ESI, maternity benefits, and among others, proportionate gratuity, even if the employment is for a short period of time. They cannot be treated differently only because their contract is for a fixed period. This protects workers in project based or seasonal jobs.
- **Standing Orders only for 300+ employees** : The minimum number of employees required to have Standing Orders increased from 100 to 300 employees. Standing Orders outline rules regarding behaviour, roles, suspensions, and the processes for termination and all other forms of dismissal. Factories and other establishments with fewer than 300 employees are no longer required to develop these complex documents. This lessens the burden of compliance for mid-sized companies. Major businesses will still have to keep formalized systems in place in the interest of accountability and equity.
- **Retrenchment/Closure Permission Needed Only Above 300 Workers** : The number of employees has been increased required to obtain government authorization for layoffs, retrenchment, or closure of the factory. Factories with fewer than 300 employees can make these decisions without government authorization. Previously the limit was 100 employees, which has made growth difficult. This amendment allows employers more freedom to control and coordinate their enterprise. Larger units with 300+ employees still have the system of requiring government permission, which maintains the protective system of a large workforce.

C. Safety, Documentation & Workplace Governance (OSH Code, 2020)

- **Written Appointment Letters for All Workers** : Employers are required to issue a written appointment letter to each worker at the time of joining the organization. This includes contract, temporary, and informal sector employees. The letter outlines the employee's duties, remuneration, hours of work, and other conditions of employment. This removes the possibility of unresolvable disputes, enhances protection for workers without any employment documentation, and increases overall workplace visibility and efficiency in evaluation and conflict resolution.
- **Women Allowed Night Shifts with Safety Measures** : Women now have the right to work night shifts as long as the employer has safety protocols in place. These protocols consist of safe transport arrangements, adequate building illumination, presence of security personnel, operational surveillance cameras, and the woman's agreement. This regulation eliminates the previous legislative restrictions on women working night shifts and increases the potential job availability while still ensuring protective measures in the workplace. Employers must comply with all the provisions before rostering women to night shifts.

- **One Common Registration and Licence:** The OSH code consolidates numerous existing registrations and licenses under one unified system. Employers are now able to obtain one registration and one license to replace the previous requirement of obtaining several approvals under different legislative frameworks. The system is beneficial for new companies and for established industries working in multiple states. It offers employers a more streamlined approach to compliance.

D. Social Protection for New-Age Labour Models (Social Security Code, 2020)

- **Gig and platform workers are now officially recognised :** The Code gives legal definitions for “gig workers” and “platform workers” for the first time. Gig workers are those that work outside the conventional employer – employee relationship. Platform workers are those that utilize applications for their work like food delivery and taxi dispatch applications. Previously, these workers did not fall under the protection of any labour law. This is no longer the case as they will now be eligible for protective laws and entitlements under welfare measures and social security funds. This lays the groundwork for other benefits like accident insurance and health care assistance.
- **Gratuity for Fixed Term Employees Without 5 Year Rule :** The code specifies that gratuity must be paid even if the 5-year period is not completed if the employee is on a fixed-term contract. These employees with at least one year of service are entitled to proportionality gratuity for the time worked. This is clear because fixed-term employment is for a number of months to a number of years. They are not to be treated differently only because their contract is of a shorter duration. This addresses the law's disconnect in relation to modern project employment and contract employment.
- **Work-related injury now covers commuting accidents :** The definition of "employment injury" has been expanded. It now includes not only injuries occurring within the workplace or during work related travel but also accidents that happen while commuting from an employee's residence to the workplace for duty, or while returning home after performing duties. Such incidents are now deemed to have arisen “out of and in the course of employment” for the purpose of employee compensation. This update reflects the modern work environment by recognizing the increasing mobility of employees between home and work.
- **Minor Offences Decriminalised; Only Serious Violations Treated as Crimes :** The Code eliminates the penalization for a number of minor or technical compliance failings. In place of imprisonment, there will be fines or penalties in the form of compound interest for lower-tier offences. This reduces the enforcement of laws based on fear and helps to shift the focus of enforcement in a constructive direction. It also eliminates caps on enforcement of minor criminal offences while focusing the enforcement of imprisonment on the more serious offences.

III. CONTRACT WORKERS: ENHANCED PROTECTIONS UNDER THE NEW CODES

The new labour laws also increase the regulatory mix of contract workers. Salary is now uniformly defined to all groups of workers and therefore limiting inequities and limiting chances to re-structure compensation.

Although assuring that outsourcing is not so cumbersome and it reduces the amount of dispute, enhanced isolation of “core” and “non-core” activities offers further precision in implementation of contract workers. Improved safety standards and consistent licensing as well as digital onboarding systems are also benefiting both the main employers and contractors through accountability and transparency.

All these reforms together give comparatively more stable rights to the contract workers and help the industry comply.

IV. WOMEN WORKERS: ENHANCED PROTECTIONS UNDER THE NEW CODES

The progressive provisions under the new Labour Codes collectively strengthen the women workforce by ensuring equality and safety across all establishments by bringing gender parity. The new Labour Codes significantly strengthen safeguards for women in the workplace by combining equality, safety, and practical support measures. Women must now be represented in the Grievance Redressal Committee (GRC) in proportion to their presence in the workforce, ensuring they have a real voice in internal dispute resolution and greater comfort in raising concerns, especially on issues such as harassment, maternity rights, and workplace safety.

COMPARISON TO PREVIOUS REGIME

CATEGORY	EARLIER REGIME (BEFORE CODES)	NEW LABOUR CODES (AFTER)
Definitions	There were several, contradictory definitions for terms like "wages," "employee," "workman," etc. in various Acts.	Consistency would be ensured by a single definition of "wages" and a common definition throughout all codes.
Compliance Structure	Several registrations, reports, and licenses under various laws; disjointed, paper-based, state-specific filings.	Single registration, single license, integrated returns, and online filing systems are examples of unified digital compliance.
Wage Framework	Only "scheduled employments" were subject to minimum wages; employers were free to significantly alter salaries through allowances.	50% cap on allowances; national floor wage guiding states; universal minimum wage application.
Treatment of New Workforce	Laws concentrated on factory-era employment; gig, platform, fixed-term, and unorganised workers were mainly excluded.	Formally acknowledged and included into social security systems are gig workers, platform workers, fixed-term employees, and unorganised labourers.
HR Documentation	All employees are not required to have formal appointment letters, and documentation procedures are not uniform.	Stricter paperwork standards, computerised records, and required written appointment letters for all employees.
Industrial Flexibility	Scaling was discouraged by strict limits; layoffs and closures needed approval at 100 employees.	Permissions are subject to higher thresholds (300 workers); standing instructions are only applicable areased adaptability in management.

Collective Bargaining & Disputes	Conciliation involved limited authorities, processes often overlapped, and disputes could proceed only through government reference causing delays.	Conciliation automatically begins once a strike notice is issued; introduction of a recognised negotiating union or negotiating council to streamline discussions. If no settlement is reached within 90 days, parties may go directly to the tribunal.
Safety & Health Framework	Inconsistent execution of safety rules across many Acts.	Standardised safety requirements, including for businesses with ten or more employees, a unified OSH code, and gender-inclusive protections.
Contract Labour	Outsourcing conflicts are frequent; there is no clear legal line between "core" and "non-core" tasks.	The OSH Code provides further clarification about the acceptable use of contract employment and distinguishes between core and non-core operations.
Penalties & Enforcement	Many small infractions had criminal consequences, with little compounding.	Minor offences have been decriminalised; compounding is only permitted for first-time infractions; major acts are still illegal.
Migrant Worker Welfare	Benefits differed by state; there was no nationwide mobility.	For migratory workers, digital registration is combined with national mobility.
Social Security Coverage	Commuting injuries were not covered by employee compensation regulations	Accidents whilst commuting are covered

QUICK FACTS

- The OSH framework also recognises transgender persons in the workforce and requires separate, dedicated facilities to ensure dignity, privacy and equal access.
- Minimum wages, timely wage disbursement and equal pay norms now apply alike to workers in both the organized and unorganized sectors.
- Digital registration and portability mechanisms enable migrant workers to access entitlements across state boundaries.
- Motor transport workers, including drivers, as well as “stunt performers” and “dubbing artists”, fall within the definition of audio-visual workers and receive corresponding protections.
- “Working journalists” and “cinema workers” employed in newspaper establishments or agencies are expressly recognized as employees under the IR Code.
- Every employee will be eligible for free annual health check-ups. This helps in early detection of diseases, reduces medical costs for workers, and ensures a healthier workforce as well as improved productivity and well-being. Health check-up promotes preventive healthcare and reduces long-term occupational risks.
- The mandatory 14-day prior notice for calling a strike helps prevent sudden work stoppages and gives both sides time to enter conciliation. This will encourage dialogue, reduce disruption, and increase the chances of resolving disputes before they escalate.

TRANSITION CHALLENGES FOR EMPLOYERS

- **Changes to Payroll Structure :** Employers may require to change salary structures to meet the 50% basic-wage rule, which will impact outflows for PF, gratuity, bonus, and ESI.
- **HR & Compliance Structures :** Employers may require to maintain digital registers according to standardized formats, update standing orders, reallocate contractor information, and amend appointment letters.
- **Digital Capabilities :** HR and compliance teams will need training on the new digital systems around filing and licencing, as well as the registration component associated with each of these processes.
- **Implementation :** Employers need to be prepared for compliance to begin transition preparations immediately reviewing wage structures, updating contracts and appointment letters, aligning HR systems and ensuring readiness for digital registration and compliance processes and internal processes accordingly.

CONCLUSION: APPROACHING A UNIFIED AND MODERN LABOUR FRAMEWORK

While simply consolidation, through the Labour Codes, is by no means a step towards modernisation it is a clear step towards a way of creating a sensible balance and intersection of enhanced worker protections and flexibility for employers.

The reformed employment regime is rendered more transparent, predictable, and more inclusive through a standardisation of language, digitisation of compliance, enhancement of social security coverage and streamlining of regulatory processes.

While employers will require to be proactive in making structural changes during transition, the Codes provide a more cohesive framework that is relatively more modern to the Indian labour market as it settles into a new reality.



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