

# Evaluation of Labour Legislation and Need of Labour Code

## Lesson 15

### KEY CONCEPTS

■ Industrialization ■ Labour Movement ■ Labour rights ■ International Labour Organisation (ILO) ■ Labour legislation ■ Industrial Relations ■ Wages ■ Social Security ■ Occupational Safety, Health and Working Conditions ■ Trade Union

### Learning Objectives

#### To understand:

- The law relating to labour and employment in India
- That industrialization is considered to be one of the key engines to support the economic growth of any country
- The history and emergence of labour laws all over the globe and in India as well
- The need to bring in new legislations to meet the rising labour demands
- The purpose, need and objective of New Labour Codes
- The codification of 29 central legislations into 4 main reforms to be known as New Labour Codes
- The features of new Labour Codes and acts subsumed by Four Labour Codes:
  - Industrial Relations (IR) Code, 2020
  - Occupational, Safety, Health and Working Conditions Code, 2020
  - Social Security Code, 2020
  - Code on Wages, 2019

### Lesson Outline

- Introduction
- History of Labour Laws
- Need to Bring in New Legislations
- Purpose of labour legislation
- Classification of Labour Laws in India
- Objective of New Labour Codes
- Features of new Labour Codes
- Acts Subsumed by the Four Labor Codes
- Reforms Proposed by New Labour Codes
- Code on Social Security, 2020
- Occupational Safety, Health and Working Conditions Code, 2020
- Code on Wages 2019
- Industrial Relations Code, 2020
- Lesson Round-Up
- Glossary
- Test Yourself
- List of Further Readings
- Other References

## REGULATORY FRAMEWORK

- Code on Wages 2019
- Code on Social Security, 2020
- Occupational Safety, Health and Working Conditions Code, 2020
- Industrial Relations Code, 2020

## INTRODUCTION

The law relating to labour and employment in India is primarily known under the broad category of “Industrial Law”. Industrialization is considered to be one of the key engines to support the economic growth of any country. A plethora of labour laws have been established to ensure elevated health, safety, and welfare of workers; to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power; to encourage and facilitate the workers in the organization; to deal with industrial disputes; to enforce social insurance and labour welfare schemes and alike.

Reforms in labour laws are an ongoing process to update the legislative system to address the need of the hour so as to make them more effective, flexible and in sync with emerging economic and industrial scenario. The Second National Commission on Labour has recommended that the existing Labour Laws should be broadly grouped into four or five Labour Codes on functional basis. Accordingly, the Government has taken steps for drafting four Labour Codes on Wages, Industrial Relations, Social Security & Welfare and Occupation Safety, Health and Working Conditions respectively, by simplifying, amalgamating and rationalizing the relevant provisions of the existing Central Labour Laws.

## HISTORY OF LABOUR LAWS

The need for better working conditions, the right to organise, and employer demands to limit employee rights in numerous groups and keep labour costs down led to the development of labour law. When employees band together to demand better pay, or when laws impose expensive requirements like equal opportunity or health and safety standards, employers’ costs may rise. Trade unions and other worker organisations have the potential to become political forces, which some companies may find objectionable. Therefore, the situation of labour law at any one time is both a result of and a component of conflicts between various interests in society.

The labour movement has been instrumental in the enacting of laws protecting labour rights in the 19th and 20th centuries. Labour rights have been integral to the social and economic development since the industrial revolution.

International Labour Organisation (ILO) is one of the first organisations to deal with labour issues. The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I. In Great Britain, the Whitley 4 Commission, a subcommittee of the Reconstruction Commission, recommended in its July 1918 Final Report that “industrial councils” be established throughout the world.

India is the founder member of International Labour Organization (ILO) and has been actively contributing to evolution of global policy on labour welfare. International Labour Organization which came into existence in 1919 and has been a permanent member of the ILO Governing Body since 1922. At present the ILO has 187 Members. A unique feature of the ILO is its tripartite character. At every level in the organization, Governments are associated with the two other social partners, namely, the workers and employers.

Even after 75 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. 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.

### NEED TO BRING IN NEW LEGISLATIONS

Labour is covered under the Concurrent List of the Constitution. Therefore, rules governing labour can be passed by both the Parliament and state legislatures. The resolution of labour disputes, working conditions, social security, and pay are only a few of the labor-related issues that are governed by more than 100 state and 40 federal laws, according to the central government. Labour Reforms also remained untouched during the economic reforms carried out in 1991.

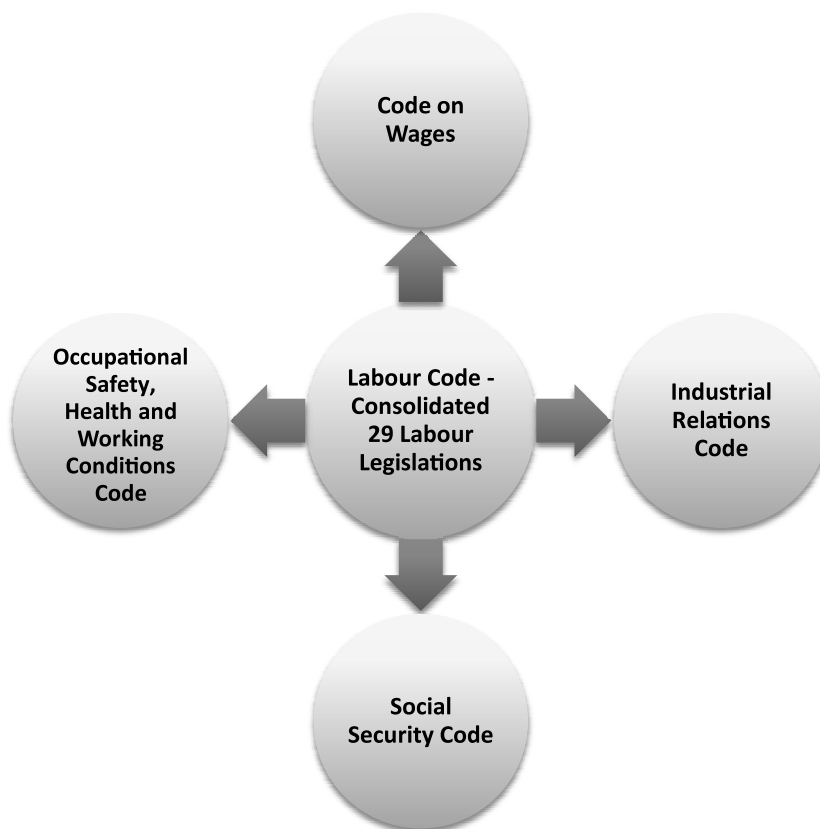
The Second National Commission of Labour had submitted its report in 2002 which said that there was multiplicity of Labour Laws in India and therefore, recommended that at the Central level multiple Labour Laws should be codified in 4 or 5 Labour Codes namely (a) Industrial relations; (b) Wages; (c) Social security; (d) Safety; and (e) Welfare and working conditions. While discussions were held on it, however, no serious initiative was taken in this direction during the time period from 2004 to 2014.

The brainstorming on Labour Codes were fast-tracked when the GST, as One Nation One Tax, was made applicable in the Country with consensus and aligned with motto “Sabka Sath Sabka Vikas aur Sabka Vishwas”.

By taking forward this progressive thinking, the reforms in Labour Laws were also speeded up. Extensive discussions were held before initiation of Labour Reforms by Ministry of Labour and Employment. Initially, as a part of Government’s pre-legislative consultative policy, the Ministry uploaded all the draft Labour Codes on its website for stakeholders and public consultation. During 2015 to 2019, the Ministry organized 9 tripartite discussions in which all the Central Trade Unions, Employers’ Associations and representatives of State Governments were invited to give their opinions/suggestions on Labour reforms. All the four Bills were also examined by the Parliamentary Standing Committee which gave its recommendations to the Government.

In order to codify 29 central legislations, the Ministry of Labour and Employment submitted four labour code bills in 2019. While the Code on Wages, 2019, was approved by Parliament, the Standing Committee on Labour was tasked with handling the three other bills. On all three Bills, the Standing Committee delivered its reports. In September 2020, the government repealed these Bills and enacted new ones. They broadly categorized labour codes into 4 different category-

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



## PURPOSE OF LABOUR LEGISLATION

Labour legislation that is adapted to the economic and social challenges of the modern world of work fulfils three crucial roles:

- it establishes a legal system that facilitates productive individual and collective employment relationships, and therefore a productive economy;
- by providing a framework within which employers, workers and their representatives can interact with regard to work-related issues, it serves as an important vehicle for achieving harmonious industrial relations based on workplace democracy;
- it provides a clear and constant reminder and guarantee of fundamental principles and rights at work which have received broad social acceptance and establishes the processes through which these principles and rights can be implemented and enforced.

## OBJECTIVE OF LABOUR CODES

For the sake of clarity, standardisation in terminology, and consistency in approach, the Commission emphasised the necessity to streamline and unify labour legislation. Consolidating labour laws would also enable more comprehensive labour coverage because separate labour rules apply to different employment classifications and across different thresholds. The four Codes on wages, industrial relations, social security, and occupational safety were introduced in Parliament as a result of NCL's recommendations.

While the Codes do a good job of combining and streamlining existing legislation, there are several areas where they fall short. For instance, the Codes on Social Security and Occupational Safety continue to include

specific provisions from each of the statutes that these Codes replace. For instance, even if the Occupational Safety Code includes provisions on leaves for all employees, sales promotion staff continue to be entitled to additional leave entitlements (such as earned medical leave for 1/18th of the period on duty). Similar to this, even if the definitions of various terms are largely rationalised by the Codes, they are not consistent throughout. For instance, the definition of “contractor” is the same in the Codes on Wages, Occupational Safety, and Social Security but not in the Code on Industrial Relations. Finally, after much discussions only 29 laws have been replaced by the four Codes.

Facilitating employment development while preserving employees’ rights is the main problem of labour reforms. The coverage of small businesses, choosing cut off points for prior approval of layoffs, bolstering labour enforcement, enabling flexible forms of labour, and supporting collective bargaining are important topics of discussion. In addition, as time goes on, it is necessary to update and simplify the labour laws in order to include clauses that can accommodate new kinds of employment (e.g., gig work).

### FEATURES OF LABOUR CODES

1. Most labour rules are applicable to businesses larger than a particular size (typically 10 or above). Thresholds based on company size could ease the burden of compliance for businesses. One would counter that all businesses should be subject to fundamental protections including pay, social security, and working conditions. Such size-based limits are still present in some codes.
2. Simple and accountable system will simplify the processes. One Registration one License, single return for all the Codes.
3. Government approval is required for establishments that employ 100 or more employees to close, lay off, or retrench. It has been suggested that this has made it harder for businesses to leave and has interfered with their capacity to change their staff to meet production demands. This number is increased to 300 by the Industrial Relations Code, and the government is permitted to raise it further by notification.
4. The complexity of labour laws has led to many compliances, which has increased the burden of compliance on businesses. On the other side, the labour enforcement apparatus has been unsuccessful due to weak enforcement, insufficient sanctions, and inspectors’ rent-seeking behaviour. Some of these issues are covered by the Codes.
5. Contract labour is now used more frequently as a result of economic factors and labour compliance requirements. However, fundamental rights like guaranteed salaries have been denied to contract workers. These issues are not entirely addressed by the Codes. Fixed-term employment, however, is a new type of short-term labour that is introduced by the Industrial Relations Code.
6. There are many registered trade unions, but there are no standards by which to “recognise” unions that can formally bargain with employers. Provisions for recognition are created by the Industrial Relations Code.
7. The Codes greatly simplify labour rules, yet there are several areas where they fall short. Additionally, the Code on Social Security has enabling measures to notify programmes for “gig” and “platform” workers; nonetheless, these classifications lack precision.
8. The Codes delegate rule-making authority over a number of significant issues, including the applicability of social security programmes and health and safety regulations. The debate is on whether the legislature or the executive branch should decide these issues.
9. The law forbids discrimination based on gender when it comes to hiring new employees for similar or identical jobs and determining pay. Work of a similar kind is defined as work requiring the same level

of expertise, effort, responsibility, and experience.

10. The advisory boards will be made up of the federal and state governments. Employers, employees (equal in number to employers), independent individuals, and five state government representatives make up the Central Advisory Board. State Advisory Boards will be made up of independent individuals, employers, and workers. Women will make up one-third of both the central and state boards' overall membership. The Boards will give their respective governments advice on matters such as (i) setting minimum wages and (ii) expanding possibilities for women in the workforce.
11. The Code outlines punishments for offences committed by an employer, such as (i) underpaying required wages or (ii) violating any Code requirement. The maximum punishment is three months in prison and a fine of up to one lakh rupees. Penalties varies based on the type of offence.

### ACTS SUBSUMED BY THE FOUR LABOUR CODES

<i>Labour Codes</i>	<i>Acts being subsumed</i>
<b>Code on Wages, 2019</b>	<ul style="list-style-type: none"> <li>● Payment of Wages Act, 1936;</li> <li>● Minimum Wages Act, 1948;</li> <li>● Payment of Bonus Act, 1965; and</li> <li>● Equal Remuneration Act, 1976.</li> </ul>
<b>Occupational Safety, Health and Working Conditions Code, 2019</b>	<ul style="list-style-type: none"> <li>● Factories Act, 1948;</li> <li>● Mines Act, 1952;</li> <li>● Dock Workers (Safety, Health and Welfare) Act, 1986;</li> <li>● Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;</li> <li>● Plantations Labour Act, 1951;</li> <li>● Contract Labour (Regulation and Abolition) Act, 1970;</li> <li>● Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;</li> <li>● Working Journalist and other Newspaper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955;</li> <li>● Working Journalist (Fixation of Rates of Wages) Act, 1958;</li> <li>● Motor Transport Workers Act, 1961;</li> <li>● Sales Promotion Employees (Condition of Service) Act, 1976;</li> <li>● Beedi and Cigar Workers (Conditions of Employment) Act, 1966;</li> <li>● Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981.</li> </ul>

<i>Labour Codes</i>	<i>Acts being subsumed</i>
<b>Industrial Relations Code, 2019</b>	<ul style="list-style-type: none"> <li>● Trade Unions Act, 1926;</li> <li>● Industrial Employment (Standing Orders) Act, 1946, and</li> <li>● Industrial Disputes Act, 1947.</li> </ul>
<b>Code on Social Security, 2019</b>	<ul style="list-style-type: none"> <li>● Employees' Provident Funds and Miscellaneous Provisions Act, 1952;</li> <li>● Employees' State Insurance Act, 1948;</li> <li>● Employees' Compensation Act, 1923;</li> <li>● Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959;</li> <li>● Maternity Benefit Act, 1961;</li> <li>● Payment of Gratuity Act, 1972;</li> <li>● Cine-workers Welfare Fund Act, 1981;</li> <li>● Building and Other Construction Workers' Welfare Cess Act, 1996; and</li> <li>● Unorganised Workers Social Security Act, 2008.</li> </ul>

#### LESSON ROUND-UP

- A plethora of labour laws have been established to ensure elevated health, safety, and welfare of workers; to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power; to encourage and facilitate the workers in the organization; to deal with industrial disputes; to enforce social insurance and labour welfare schemes and alike.
- In line with recommendations of Second National Commission on Labour, the Ministry has taken steps for formulating of four Labour Codes on (i) Wages; (ii) Industrial Relations; (iii) Social Security & Welfare; and (iv) Occupational Safety, Health and Working Conditions by amalgamating, simplifying, and rationalizing the relevant provisions of the existing Central Labour Laws.
- In order to codify 29 central legislation, the Ministry of Labor and Employment submitted four labour code bills in 2019. While the Code on Wages, 2019, was approved by Parliament, the Standing Committee on Labour was tasked with handling the three other bills. On all three Bills, the Standing Committee delivered its reports. In September 2020, the Government enacted new codes. There are following different category of Labour Codes:
  - Code on Wages
  - Industrial Relations Code
  - Social Security Code
  - Occupational Safety, Health and Working Conditions Code.
- Code on Social Security 2020, intends to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors or for matters connected therewith or incidental thereto. To ensure security for all workers, the Central Government has amalgamated 9 Labour Laws into the Social Security Code in order to secure the right of workers for insurance, pension, gratuity, maternity benefit etc.

- Occupational Safety, Health and Working Conditions Code, 2020, intends to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and for matters connected therewith or incidental thereto. The security of interests of workers engaged in factories, mines, plantations, motor transport sector, bidi and cigar workers, contract and migrant workers has been ensured.
- Code on Wages, 2019 intends to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto. Four Labour Laws have been amalgamated into the Minimum Wages Code. Due to this, for the first time, all the workers have got the Right to Minimum Wages.
- Industrial Relations Code, 2020, intends to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto and Industrial employment standing order. By amalgamating 3 Labour Laws into the Industrial Relations Code the Central Government has taken steps for safeguarding the interests of Trade Unions as well as the workers.

### GLOSSARY

**Industrial Law:** Labour laws have been established to ensure elevated health, safety, and welfare of workers; to protect workers against oppressive terms as individual worker is economically weak and has little bargaining power; to encourage and facilitate the workers in the organization; to deal with industrial disputes; to enforce social insurance and labour welfare schemes and alike.

**International Labour Organisation (ILO):** ILO is one of the first organisations to deal with labour issues. The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I. Post-war reconstruction and the protection of labour unions occupied the attention of many nations during and immediately after World War I.

**Social Security:** Social Security for all workers means to secure the right of workers for insurance, pension, gratuity, maternity benefit etc. among other social conducts and requirements.

**Industrial Relations:** Means relation between employee and employer, management and workers. Includes Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters.

### TEST YOURSELF

*(These are meant for re-capitulation only. Answers to these questions are not to be submitted for evaluation)*

1. Explain the emergence of labour laws across the world and in India.
2. What prompted the Government to bring in new labour legislations?
3. What is the need and objective of bringing in new labour codes?
4. Enumerate the features of new Labour Codes.



