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# The Emerging Challenges to Enforcement of Labour Policy and The Law

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## ABSTRACT

The problem of enforcement has become a major concern of labor law in recent years. Cases of infringement are on the rise, or at least increasing awareness of the phenomenon, prompting legislatures and scholars around the world to find innovative solutions. However, clearly labor laws don't make sense if employers don't follow them, and especially if the weakest workers, who need labor laws the most, don't really enjoy them. The goal of this contribution is to review key tools and possible solutions to improve compliance. However, if we see the temporary contract workers not only make up a significant portion of the labor market in developing countries, but their share has also seen a substantial increase in many developed countries. Thus, this growth is generally regarded as a positive development in the labour market. On the other hand, this positive development has its drawbacks. This suggests that the demand for temporary contract workers to accommodate the firms' workforce is actually making them a more vulnerable workforce, if they are not covered by any employment protection laws. And so, it is likely that supply and demand factors could have influenced the development of temporary contract workers.

**Keywords:** Labour Policy, New Indian Labour Codes, Codes on Wages 2019, Code on Social Security 2020, Code on Industrial Relations 2020, Gig Workers, and Platforms Workers, Invisible Labour.

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## Introduction

"Although, dignity of labour should be our national duty, it ought to be a piece of our tendency." Workers and labourers are the members of our society who contribute to the implementation of enormous ideas born from the minds of geniuses. Hence, we elevate such talents and benefit them with money and status. The workers behind the scenes are often overlooked. Their rights, dignity, standard of living and even a better working environment, which are essential for the survival of a human being, are often ignored. Perhaps, from independence to the present day, Indian labour laws have focused on the rights and benefits of workers except for the managerial level employees. Despite this, workers are still exploited by their employers after almost 75 years.

Though, the government, with good intentions, has tried to meet most of the demands of the workers over the years by framing and drafting several labour laws, but their minimal implementation remains a matter of concern at the grassroots level. Hence, the new labour codes attempted to cover most aspects, but challenges remain. It should also be seen what their implementation is? as the Center and the states should cooperate in making rules according to the code and implementing them in their true spirit.

In this new era a concepts have emerged, such as gig economy, platform worker, freelancer, and so on. In such cases, there is no agreement with the business, and the customary manager representative relationship is circumventing, making it inconceivable for labourers to look for review against the business in the occasion of a dispute or exploitation.

On the other hand, invisible labour and gender inequality persist, which is a source of concern as it has an impact on the growth of our economy and, more importantly, the lives of women who are victimized and forced to endure obscene lives. Perhaps, the need of the hour is to protect the rights of inter-state migrant workers affected by the Covid-19 pandemic. Most of them have lost their jobs and homes, and are being forced to return to their villages as they have no other option.

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## What is Labour Policy in Law?

Labour policy includes policies relating to the relationship between employers and employees, and policies relating to the employment, training, and distribution of workers in the labour market. Claiming neutrality in labour matters, the government has often intervened without legal basis on the part of employers. The first direct legislative intervention in labour-management relations came with the Industrial Disputes Inquiry Act (1907), which prohibited strikes and lockouts in public utilities and mines until a dispute was investigated.<sup>1</sup> The act was drafted by W.L. Mackenzie King, who, in 1909,

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<sup>1</sup> [Labour Policy | The Canadian Encyclopedia](#)

became the first full-time labour minister. India has a number of labour laws such as those prohibiting discrimination and child labour, which aim to guarantee fair and humane conditions of work, provide social security, minimum wages, and the right to organize, form trade unions and enforce collective bargaining. Confer the right to do so.<sup>2</sup> Labour law aims to correct the imbalance of power between the employee and the employer; to prevent the employer from dismissing the employee without good reason; to establish and preserve the procedures by which workers are recognized as 'equal' partners in negotiations regarding their working conditions etc.<sup>3</sup>

## Challenges in Labour Policy in Law

Major challenges faced in labour governance systems, for example, weakening of labour ministry mandates, low impact on national policies, poor management practices, inadequate internal structures, weak coordination, inadequate cooperation with social partners.<sup>4</sup>

### (i). *The New Indian Labour Codes*

Thus, the empowerment of workers is essential for a strong, prosperous, and self-sufficient India. Even after 75 years of independence, about 90% of workers work in the unorganized sector which is not accessible to all social securities. The total number of workers, which includes organized and unorganized sectors, is more than 50 crores. Perhaps, this is the first time that any government cared about the workers both in the organized and unorganized sectors and their families. However, earlier the working class was caught in the trap central to many labour laws Government took revolutionary steps right direction to give them freedom and true feelings. Subsequently, for this, the central government has taken a Historic move to codify 29 laws into 4 codes So that workers can get security as well with respect, health, and other government assistance Rest.<sup>5</sup>

Many provisions of labour laws trace their origin till the time of the British Raj. However, while changing, many of them either became ineffective or had no contemporary Relevance. Instead of protecting their interests, these provisions became difficult for the workers for them. The network of laws was such that the worker's four forms have to be filled out to claim a single benefit. Therefore, the present government has repealed useless labour laws. Now 29 labour laws, four have been codified in the Labour Codes.<sup>6</sup>

The new four codes are beneficial for all to ensure the right of workers to minimum wages; the central government has incorporated four laws, nine Laws in Social Security, in the Pay Code in Occupational Safety, thirteen Laws, Health and Working Conditions Code, 2020 and three Laws in the Industrial Relations Code. By bypassing bills for this Parliament, the central government has created a moving toward changing the standard of living for workers fundamentally.

It will have a positive and far-reaching impact on workers and nation-building. These labour reforms will increase the ease of doing business in the country. Employment generation and the production of workers will also increase. The benefits of these four labour codes will be available to workers of both organized and unorganized sectors. Though, employee forecaster Fund (EPF), Employees' Pension Scheme (EPS) and coverage of all types of medical benefits Employee Insurance will be available to all workers volume up.<sup>7</sup>

### (ii). *Code on Wages 2019*

The Code on Wages, 2019 was introduced in Lok Sabha by the Labour Minister, Shri Santosh Gangwar on July 23, 2019. It seeks to regulate wage and bonus payments in all employments where any industry, trade, business or manufacturing is carried on. Outside, the Code replaces the following four laws: (i) the Payment of Wages Act, 1936, (ii) the Minimum Wages Act, 1948, (iii) the Payment of Bonus Act, 1965, and (iv) the Equal Remuneration Act, 1976.

**Coverage:** The Code will apply to all employees. The central government will take salary decisions for jobs like railways, mines and oil fields. For all other jobs, the state governments will decide.

Salary includes salary, allowance, or any other component expressed in monetary terms. It does not include any traveling allowance other than bonus or others payable to the employees.

**Floor Wage:** As per the code, the central government will fix the floor wage keeping in mind the standard of living of the workers. In addition, it may set different minimum wages for different geographic areas. Before fixing the minimum wage, the Central Government may take the advice of the Central Advisory Board and consult the State Governments.

The minimum wage fixed by the central or state governments should be higher than the minimum wage. If the current minimum wage set by the central or state governments is higher than the minimum wage, they cannot reduce the minimum wage.

**Fixing minimum wages:** The Code prohibits employers from paying wages less than the minimum wage. The minimum wages will be notified by the Central or State Governments. This would be based on time, or the number of pieces produced. The minimum wages will be revised and reviewed by the

<sup>2</sup> ibid

<sup>3</sup> [Labour Law: Why we need it? - WageIndicator-Data-Academy.org](#)

<sup>4</sup> [wcms\\_222749.pdf \(ilo.org\)](#)

<sup>5</sup> [Labour\\_Code\\_Eng.pdf](#) p. 3-4

<sup>6</sup> [Labour\\_Code\\_Eng.pdf](#) p. 5-6

<sup>7</sup> [Labour\\_Code\\_Eng.pdf](#) p. 7,8

central or state governments at intervals of not more than five years. While fixing the minimum wage, the central or state governments may take into account the following factors: (i) the skill of the workers, and (ii) the difficulty of the work.<sup>8</sup>

**Overtime:** The central or state government can fix the number of hours that make up a normal working day. If employees work more than a normal working day, they will be entitled to overtime pay, which must be at least twice the normal rate of wages.

**Payment of Wages:** Wages will be paid through (i) coins, (ii) currency notes, (iii) cheques, (iv) deposits in bank accounts, or (v) through electronic mode. The pay period will be determined by the employer either: (i) daily, (ii) weekly, (iii) fortnightly, or (iv) monthly.

**Deduction:** Under the Code, an employee's salary may be deducted on certain grounds: (i) fine, (ii) absence from duty, (iii) accommodation provided by the employer, or (iv) advances made to the employee recovery, among others. These deductions should not exceed 50% of the employee's total salary.<sup>9</sup>

**Fixation of Bonus:** All employees whose salary does not exceed a specific monthly amount notified by the Central or State Government will be entitled to annual bonus. The bonus shall be at least: (i) 8.33% of his salary, or (ii) Rs.100, whichever is higher. In addition, the employer will distribute a portion of the gross profit among the employees. It will be distributed in proportion to the annual salary of an employee. An employee can get a maximum bonus of 20% of his annual salary.

**Gender Discrimination:** The Code prohibits gender discrimination in matters relating to wages and recruitment of employees for similar work or work of similar nature. Work of similar nature is defined as work that requires the same skill, effort, experience and responsibility.

**Advisory Board:** The central and state governments will constitute advisory boards. The Central Advisory Board will consist of: (i) employers, (ii) employees (equal number of employers), (iii) independent persons, and (iv) five representatives of state governments. The State Advisory Board will consist of employers, employees and independent individuals. In addition, one-third of the total members of both the central and state boards will be women. The boards will advise the respective governments on various issues, including: (i) fixing the minimum wage, and (ii) increasing employment opportunities for women.

**Offenses:** The Code specifies punishment for offenses committed by the employer, such as (i) paying less than the wages due, or (ii) for contravening any provision of the Code. The fine varies depending on the nature of the offence, with a maximum fine of three months' imprisonment and a fine of up to one lakh rupees.<sup>10</sup>

### (iii) Code on Social Security 2020

The Indian Parliament, in order to rationalize 44 labour codes in India, consolidated them into four labour codes and enacted them by 2020. The four labour codes are the Code on Wages, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; and the Code on Occupational Safety, Health and Working Conditions, 2020.<sup>11</sup>

- The Social Security Code, 2020 is a code to amend and consolidate the laws relating to social security with the goal of providing social security to all employees and workers in the organized or unorganized or any other sector.
- Social security refers to the safeguards provided to workers to ensure health care and income security in case of certain contingencies like old age, maternity, or accidents.
- The Act subsumes nine Central Labour Acts related to social security.
- It consolidated the Employees' Compensation Act, 1923, the Employees' State Insurance Act, 1948, the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, the Maternity Benefit Act, 1961, Payment of Gratuity Act, 1972, Cine Workers Welfare Fund Act, 1981, The Building and Other Construction Workers Welfare Cess Act, 1996, Unorganized Workers Social Security Act 2008.<sup>12</sup>

### *Key Provisions of Social Security Code 2020*

- The definition of employees has been widened to include inter-state migrant workers, construction workers, film industry workers and stage workers. There is a provision for registration of all three categories of workers – unorganized workers, gig workers and platform workers. Gig workers refer to workers outside the "traditional employer-employee relationship."
- Platform workers are those who are outside the "traditional employer-employee relationship" and access organizations or individuals through online platforms and provide services for payment.<sup>13</sup>
- An unorganized worker is defined as a person who works in the unorganized sector, and includes workers who are not covered by the Industrial Disputes Act, 1947 or other provisions of the Bill (such as provident fund or gratuity). Huh. This also includes self-employed workers.

<sup>8</sup> [The Code on Wages, 2019 \(prsindia.org\)](https://prsindia.org)

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

<sup>11</sup> [Code on Social Security, 2020 Summary. Code on Social Security, 2020 PDF Download \(byjus.com\)](https://byjus.com)

<sup>12</sup> [SS\\_Code\\_Gazette.pdf \(labour.gov.in\)](https://labour.gov.in)

<sup>13</sup> *ibid*

- A social security fund will be created to pay these benefits to the workers and will be funded by the central and state governments and also through CSR funding. Aggregators who are digital intermediaries employing gig workers will have to set aside at least 1-2 per cent of their annual turnover (not more than 5 per cent of the amount payable to workers) for the purpose of this social security fund.
- The government may notify schemes for workers in the unorganized sector (such as home-based and self-employed workers), gig workers and stage workers.
- The Code also provides for the establishment of a 'National Social Security Board'. The functions of the Board include recommending schemes to the central government and monitoring schemes for different types of workers, advising the government on matters relating to the administration of the Code.

### ***Importance of Social Security Code***

This Code is far from being a mere consolidation of the previous legislations. It has increased coverage, benefits all workers in the organized/unorganized sectors, introduced the concept of providing maximum benefits under minimum governance and shows uniformity in approach across the four labour codes.

### ***Extended Coverage:***

- New age businesses that thrive on e-commerce have created new types of jobs. Some of the employees in these new businesses were not covered by any of the existing laws. The new Social Security Code expands the scope of Social Security by providing for registration of all types of workers, including gig workers and platform workers. Its recognition of non-traditional forms of work outside the confines of the traditional employer-employee arrangement is encouraging as there is a global shift towards self-employment, gig and platform work.
- Gig workers will now become eligible for life and disability coverage, maternity benefits, pensions, etc.
- The Code has broadened the coverage to include the unorganized sector, fixed term employees, inter-state migrant workers, etc., apart from contract workers. Hence, in terms of coverage, the scope has been expanded.
- The Social Security Code, 2020 brings these workers under the ambit of social security schemes, which include life insurance and disability insurance, health and maternity benefits, provident fund and skill up-gradation, etc.<sup>14</sup>

### ***Care of fixed term employees:***

- The Code expands the scope to cover fixed-term contract workers who will now be eligible for gratuity; whereas earlier only permanent employees were covered.
- The events giving rise to gratuity are retirement, resignation, death or disability due to accident or disease or termination of contract under fixed term employment or any event notified by the Central Government.
- With the inclusion of 'termination of fixed term employment', fixed term contract employees will become eligible for gratuity and this is a welcome move.

### ***Penal provisions:***

The power of enforcing a law lies in the ease of compliance as well as the penalties that prevent non-compliance. The code captures it all.

The Code contains penal provisions in case of failure to pay gratuity to employees or failure to pay contributions.<sup>15</sup>

### ***Digitization:***

Though, as per the Act, all records and returns have to be maintained electronically. Digitization of data will help in exchange of information between various stakeholders/funds set up by the government, ensure compliance and also facilitate governance.

### ***Similar definitions:***

Uniformity in determining wages for the purpose of Social Security benefits is another highlight of the code given the ambiguity in current rules.

It has provided a broader definition of wages. Specific exclusions have been provided, along with a ceiling, to discourage unfair structuring of pay to reduce Social Security benefits.<sup>16</sup>

<sup>14</sup> *ibid*

<sup>15</sup> [The Code on Social Security, 2020 | V. V. Giri National Labour Institute, Noida, Uttar Pradesh, India \(vvgnli.gov.in\)](https://www.vvgnli.gov.in/)

<sup>16</sup> *ibid*

***Consultative Approach:***

The code has been brought in by the authorities in a convenient approach. In contrast to the current role of inspectors, the Code provides an enhanced role of inspector-cum-facilitator from which employers can seek support and advice to increase compliance.

***Key Issues of Code on Social Security 2020***

- The National Labour Commission (2002) (NCL) had emphasized the need for universal and comprehensive social security coverage to avoid deprivation of basic needs of workers, and recommended simplification and consolidation of existing laws for this purpose.
- The NCL recommended that: (i) the social security system should be applicable to all establishments, (ii) the existing wage ceiling for coverage should be removed, and (iii) there ought to be a functional integration of the administration of existing schemes. Further, each employer and employee can make a single contribution for the provision of all benefits with the prescribed maximum limit for such contribution.
- The code largely retains the existing setup and does not fully implement the NCL recommendations.
- The code continues to maintain thresholds based on the size of the installation to mandate certain benefits. Benefits such as pension and medical insurance are mandatory only for establishments with a minimum number of employees (eg. 10 or 20 employees). Hence, all other categories of workers (i.e., unorganized 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 can be excluded.
- The Code continues to treat employees of the same establishment differently depending on the amount of salary earned. For example, provident fund, pension and medical insurance benefits are mandatory for employees earning more than a certain limit (as may be notified by the government) in eligible establishments.

***The provisions on gig workers and platform workers are not clear:***

The code introduces definitions for gig worker, platform worker and mandates various schemes for all these categories of workers. However, there might be some overspreading between their definitions. With such overlap in definitions, it is unclear how specific plans would apply to these categories of workers.<sup>17</sup>

***Provisions of gratuity for fixed term employees unclear***

The Social Security Code and the Industrial Relations Code, 2020 have different provisions on gratuity for fixed term workers and it is not clear whether a fixed term worker with a contract of less than one year would be entitled to gratuity under this code or no. social security, 2020.

***Compulsory linking of Aadhaar may violate Supreme Court judgment:***

The code mandates an employee or a worker (including an unorganized worker) to provide his Aadhaar number to receive social security benefits. This may violate the Supreme Court's decision in the Puttaswamy case.

In its judgment, the Court had ruled that the Aadhaar card/number can be made mandatory only for expenditure on subsidies, benefits or services from the Consolidated Fund of India. Since certain entitlements like gratuity and provident fund (PF) are funded by employers and employees and not by the Consolidated Fund of India, making Aadhaar mandatory to avail such entitlements may be violated of the decision.<sup>18</sup>

***IV. Code on Occupational Safety, Health and Working Conditions 2020***

The Occupational Safety, Health and Working Conditions Code 2020 (OSH Code) was one of the three bills passed in the Lok Sabha related to labour reforms. It was introduced in the Lok Sabha by the Ministry of Labour and Employment on September 19, 2020.<sup>19</sup>

The OSH Code has incorporated several important laws on the working conditions of labour and consolidated it into a comprehensive Act, which includes, inter alia, the Contract Labour (Regulation and Abolition) Act, 1970, the Factories Act, 1948, etc.

There are certain definitions that are important under the Occupational Safety, Health and Working Conditions Code 2020, some of which have also been amended with reference to the previous Labour Codes:

**Employees-** This has been a constant definition from the 2019 Code. "Employee" is a person employed by an establishment on wages and is required to perform any work skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or otherwise other work.

<sup>17</sup> *ibid*

<sup>18</sup> [Code on Social Security, 2020 Summary, Code on Social Security, 2020 PDF Download \(byjus.com\)](#)

<sup>19</sup> [Occupational Safety, Health and Working Conditions Code 2020 | UPSC \(byjus.com\)](#)

**Employer**– A person who directly or through any person or on behalf of an establishment is called an “employer”. This person/authority has ultimate control over the establishment.

**Installation**- is an “installation” Any place with ten or more workers where any industry, trade, business, manufacture or business is carried on. Thus, a motor transport undertaking, newspaper establishment, audio-video production, building and other construction work or plantation with ten or more workers factory that employs ten or more workers around a mine or port or port where dock work is carried out.

**Contract Labour**- A worker deemed to be employed in relation to an establishment through a contractor without the knowledge of the main employer is called "contract labour" in accordance with the OSH Code.

**Hazardous Process**- Any activity in respect of specific industries, where raw/intermediate/finished/by-products, etc., are not taken into account, may be: harm to the health of the person concerned harm the environment and cause pollution.<sup>20</sup>

**Wages**- expressed as money for work done by an employee including salary, allowances or others such as remuneration, basic pay, dearness allowance, etc., are called “wages” as per OSH code. It does not include:<sup>21</sup>

- Bonus
- Value of accommodation or light, water, medical attendance
- Employer's contribution towards any pension or provident fund
- Conveyance Allowance
- Amount paid to the employed person to meet special expenses
- HRA
- Late Hours
- gratuity

#### ***Key Features of Occupational Safety, Health and Working Condition Codes 2020***

- The Code expands the definition of a factory to premises where at least 20 workers work for a process with electricity and 40 workers work for a process without electricity. The Code sets a maximum daily working hour limit of eight hours. It defines an inter-state migrant worker, who has come by himself from one state and got employment in another state and earns up to Rs, 18000 per month.
- It empowers women to be employed in all types of establishments and at night (between 7 pm and 6 am) subject to their consent and protection.<sup>22</sup>
- The OSH Code removes manpower limits on hazardous working conditions and mandates the application of the code to contractors recruiting 50 or more workers (previously it was 20).
- It ensures that no employee is charged for the maintenance of safety and health at the workplace, including the conduct of medical tests and investigations for the purpose of detection of occupational diseases.
- The OSH Code provides for the constitution of a National Occupational Safety and Health Advisory Board (National Advisory Board) by the Central Government with powers to advise the Central Government.<sup>23</sup>

#### ***v. Code on Industrial Relations 2020***

The Industrial Relations Code, 2020 provides a comprehensive framework to protect workers' rights to form unions, reduce friction between employers and workers, and provide rules for settlement of industrial disputes.

The code has been prepared after amalgamating, simplifying and repealing the following 3 Central Labour Acts:

- The Trade Union Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946
- The Industrial Disputes Act, 1947<sup>24</sup>

<sup>20</sup> [The Occupational Safety, Health & Working Conditions Code, 2020 \(lawrbit.com\)](http://lawrbit.com)

<sup>21</sup> [The Occupational Safety, Health And Working Conditions Code, 2020 \(prsindia.org\)](http://prsindia.org)

<sup>22</sup> *ibid*

<sup>23</sup> *ibid*

<sup>24</sup> [The Industrial Relations Code, 2020 | Lawrbit](http://Lawrbit)

The Code is designed to consolidate and amend the laws regarding conditions of employment and smooth resolution of industrial disputes in trade unions, industrial establishments or undertakings. The code controls the following areas:

- Trade Union Registration
- Cancel Trade Union
- Change in name of Trade Union
- Constitution of Working Committee
- Incorporation of a Registered Trade Union
- Negotiating Union Recognition
- Standing Order Preparation
- Register of Standing Orders
- Establishment of Industrial Tribunal
- Illegal strikes and lockouts
- Retrenchment and Reappointment Process
- Compensation to workers in case of Transfer of Establishment
- Prohibition of Retrenchment
- Closing an Industrial Establishment<sup>25</sup>

### ***Objective***

Code designated to protect the rights of employers and employees to make it easier to do business by providing easy labour reforms.

The objective of the Code is to realize industrial peace and harmony as the ultimate goal in resolving industrial disputes and to further the progress of the industry by bringing about the existence of harmony and cordial relations between employers and workers.<sup>26</sup>

### ***VI. Unorganized Workers, Gig Workers, and Platform Workers***

For the first time in India, the newly passed labour codes provide for social security for unorganized sector workers as well as gig and platform workers. This is the first time that laws in India have defined gig and platform workers.

#### ***Gig workers***

- In general, gig workers are those who are engaged in hourly or part-time jobs in everything from catering events to software development.
- They have a non-standard work arrangement with their employers and share a non-traditional employer-employee relationship.
- The work is usually temporary and is completed within the stipulated time.
- The Social Security Code, 2020 [Section 2(35)] defines a gig worker as ‘an individual who works or participates in a work arrangement and earns from such activities outside the traditional employer-employee relationship.’
- Freelancers, casual workers, independent contractors etc. can fall under the umbrella of gig workers. Even a part-time professor can be classified as a gig worker.

#### ***Platform worker***

- Platform worker refers to a worker working for an organization that directly provides specific services to individuals or organizations using an online platform. Examples of platform workers include Ola or Uber drivers, Swiggy or Zomato delivery agents, etc.
- The Social Security Code defines a platform worker as “a person engaged in or undertaking platform work.”<sup>27</sup>
- Section 2(55) of the Code defines platform work as “a form of employment in which an organization or individual uses an online platform to reach out to other organizations or individuals to solve specific problems or to provide specific services in exchange for payment.”

<sup>25</sup> [The Industrial Relations Code, 2020 - Employee Benefits & Compensation - India \(mondaq.com\)](https://www.mondaq.com/india/employment-law/108888)

<sup>26</sup> *ibid*

<sup>27</sup> [Gig and Platform Workers - Meaning, Significance, Legal Framework Explained \(byjus.com\)](https://www.byjus.com/blog/gig-workers-meaning-significance-legal-framework-explained/)

define it as “doing”.

- This work is also outside the traditional employee-employer relationship.
- The importance of gig and platform workers
- Although a completely new concept for India, gigs and platform workers have become an important part of the economy.<sup>28</sup>
- Despite the lack of limited access to capital for workers, as noted above, for a specific class of workers, in particular, agricultural labour migrants with small holdings with access to vehicular assets, the platform economy is an attractive offer.
- Such workers are able to accumulate wealth which they can invest in agricultural work.
- The pandemic has revealed a very important role that gig and platform workers play in the economy by virtue of their role as delivery drivers and agents. He ensured that basic necessities reach the people at their homes.
- These employees helped keep many platform companies afloat during the pandemic and the resulting economic downturn.
- Due to the rapid pace of urbanization, the region has high growth potential.
- Remittances sent by stage and gig workers are also contributing to the development of rural areas.
- Such work will also encourage students to do non-routine work in the market.
- It will also reduce the burden on employers by helping them avoid taking employees into the traditional employment structure.<sup>29</sup>

#### ***Code on Social Security 2020 Provisions for Gig and Platform Workers***

- The code mandates mandatory registration of both gig and platform workers on the online portal to avail benefits under the code specified by the central government.
- For a worker to be registered, he must fulfill certain conditions, such as:
  - Between 16 to 60 years of age
  - Has worked for at least ninety days during the last twelve years
  - A self-declaration submitted electronically or otherwise in such form and in such manner containing such information as may be prescribed by the Central Government
- Every eligible unorganized worker, gig worker or platform worker shall apply for registration in such form along with such documents including Aadhaar number.
- Code provides Social Security benefits to unorganized workers, including gig and platform workers. Under the code, the central government has the power to make welfare schemes for workers in the unorganized sector:<sup>30</sup>
  - Accident Insurance
  - Life and Disability Cover
  - Old age Protection
  - Health and Maternity Benefits
  - Crèche
  - Any other benefit as the Central Government may decide
- Issues related to the Social Security Code 2020 for Gig Workers
- Some experts have expressed concerns about the new code's impact on gig and platform workers.
- Platform workers can claim benefits provided under the Social Security Code but cannot claim labour rights.<sup>31</sup>
- They are not entitled to go to court for a stable and better salary package or against the algorithms used by the job allotting platforms to them.
- Certain employees may be excluded from the eligibility criteria for claiming benefits.

<sup>28</sup> *ibid*

<sup>29</sup> *ibid*

<sup>30</sup> [Gig Workers And Platform Workers: The Code On Social Security 2020 - Employee Benefits & Compensation - India \(mondaq.com\)](https://www.mondaq.com/india/employment-law/1000000)

<sup>31</sup> *ibid*



- The code lays down the provision of basic welfare measures as a joint responsibility of the central government, platform aggregators and workers. However, it does not specify which stakeholder is responsible for providing the quantum of welfare.
- Some are of the view that there is overlap in the definitions of unorganized, gig and platform workers. It is not clear how specific schemes will be applicable to these categories of workers.
- In some cases, such as the provision of social security for workers in the unorganized sector, there appears to be a conflict of appropriate governments (Centre vs. States).<sup>32</sup>

### ***VII. Invisible Labour and Gender Inequality***

Women say the extra evening; weekend and holiday hours are ignored by co-workers. Burnout is on the rise, The Women in the Workplace 2021 reports. Employers say they highly value this wellbeing and inclusion work – but only a quarter formally recognize it. According to a new study, women are working harder—and burning more—but their efforts are being overlooked.

COVID-19 has seen women doing extra work supporting the well-being, diversity, equality and inclusion of their partners. But it is “invisible” labour - because companies are not recognizing or rewarding it. That’s an important finding from the Women in the Workplace 2021 report by management consultancy McKinsey & Company and women’s campaign group LeanIn.Org. Marianne Cooper, co-author of the report, says, “This mission-critical task is at risk of being relegated to ‘office homework’: essential tasks and activities that benefit the company, but go unrecognized, appreciated is not done, and there is no career advancement.” Yet nearly seven out of 10 companies say the work that employees do to promote diversity, inclusion and equality – opportunity for all – is “very” or “extremely important.”

Women managers cited in the Women in the Workplace report say they are doing this “emotional labour” “after evening hours, on weekends and on vacation” - but it is being taken “without any formal recognition”. The report noted that less than a quarter of companies are substantially recognizing this work in formal appraisals such as performance reviews.

It has been also observed Women in Workplace 2021 also found that women – particularly women of color – are still underrepresented in leadership roles. For every 100 men promoted as managers, only 86 women are promoted. And women of color represent only 4% of “C-suite” leaders -- executive-level managers who usually have the word “chief” in their job titles. Women in Workplace 2021 are based on information from 423 participating organizations with 12 million employees and a survey of more than 65,000 employees. The authors also interviewed women of diverse color, gender and disability identities.

### ***Other Challenges***

- As per the members, a few other potential impediments might emerge:
- No point by point arrangements to manage bosses’ commitments in pandemic-explicit circumstances;
- Concern that raising the cutoff for utilization of necessity of consent to lay off to just 300 specialists isn’t a sufficient change;
- Concerning and managing associations in regions, for example, IT, which don’t have a lot of involvement on this front;
- No exceptional arrangement for government backed retirement of workers in little new businesses, MSMEs;
- No particular strides to assist with expanding open positions.<sup>33</sup>

### **Conclusion**

Finally, we preceded that the efficient use of labour is an important factor in a market economy today and that is this is possible only through a dynamic, pragmatic comprehensive labour policy. Perhaps, our labour policy suffers from 12% of the labour force entirely in the organized sector. Still Salaried employment is a fraction (about 18%) of the total our power Country. Therefore, our labour policy must address the entire labour force; the unorganized sector is facing 88%. In addition, workplace industrial relations, the system should facilitate change, promote flexibility and prepare the workforce Able, adaptive and attuned to respond to the challenges of change. However, since we have reforms have already been made in most other sectors of the economy, Progressive policies in the labour sector are overdue to make our economy really competitive. Thus, it is well said, “If you can’t think of the future, you can’t have it.one”. Perhaps, he will provide a lifeline to the workers affected by COVID-19 by timely and appropriate implementation of the Codes. Most of the provisions of the Codes address past demands and discrepancies, acting as restorative justice for past harm. The code has to be futuristic in approach while providing protection to workers and addressing controversies related to automation and robotics, artificial intelligence-powered workforce and bio-engineering, which could hinder workers’ rights in the coming decades.

<sup>32</sup> *ibid*

<sup>33</sup> [Understanding India's New Labour Codes: Challenges In Implementation - Employee Benefits & Compensation - India \(mondaq.com\)](https://mondaq.com/understanding-india-s-new-labour-codes-challenges-in-implementation-employee-benefits-compensation-india)