



Received: 04.11.2022; Revised: 23.11.2022, Accepted: 02.12.2022, Published Online: 30.12.2022

DOI: 04.36299/oeco.584832

AN OVERVIEW TO LABOUR IN INDIA AND NEW LABOUR CODE

Mr Soumil Goyal

UGC-NET/JRF, Research scholar, Department of Laws, Punjab University.

Dr Isha Goyal

Assistant Professor, Commerce, GCW-14 Panchkula

Abstract

The importance of labour, which may be found in both organised and unorganised sectors, cannot be overestimated; other elements of the economy, such as capital and the market, also play significant roles. In India, a number of laws govern various aspects of the labour market in line with the constitution's duty to, among other things, prevent discrimination and provide equality. These acts or laws address a variety of labour welfare concerns, such as the minimum wage, hourly wage limits, double pay for overtime work, fully compensated sick days and vacations, maternity benefits, provident funds, contractual labour regulations, and insurance programmes. The Indian government recently changed the country's labour laws to better protect workers' social security while also giving them opportunities to earn more money and save for the future. This new labour code, 2022, which also includes the Industrial Relations Code 2020, the Code on Social Security 2020, the Code on Occupational Safety, Health, and Working Conditions Code, 2020, and the Code on Wages 2022, regulates key aspects of labour provision. The New Labour Code, which takes effect on July 1, 2022, is being examined in this essay in light of the expanded definition of labour welfare.

Keynotes: Labour, New Labour Code and Social security

1.1 Introduction

The most crucial element of the economy is labour. In other words, to labour is to work hard at something, to move or perform anything with difficulty and effort. Labour is typically of a hard, physical nature.¹ It can also say that the services performed by workers for wages as distinguished from those rendered by entrepreneurs for profits. It is also asserted that labour is included in human activity

¹Howitt, P. (2002). Looking inside the labor market: a review article. *Journal of economic literature*, 40(1), 125-138..

that produces the goods or services in an economy. Additionally, labour refers to any action requiring effort or exertion, including intellectual or physical work that requires significant and frequently strenuous effort. The final aspect of labour is productive action, notably for financial gain.² Therefore, it may be concluded that a substantial number of people engaged in such activity, particularly those who did so for pay.

1.2 Labour in History

The Latin word labour, the inflectional stem of the noun labour, the noun meaning "labour," "work," or "toil," is where the English noun "labour" comes from. With the exception of the relatively contemporary English connotation of "workers," which derives from the nineteenth century, the Latin noun encompasses practically all of the English senses of labour (including childbirth).³

1.3 Research Methodology

The current research has been initiated on the basis of secondary data for this purpose, and a dimension of the new labour code has been put forth with explanation.

1.4 Objective of Study

To analyse Horoscope of New labour code in India.

Pre Independence

Efforts for the welfare of labour were also made prior to independence. They are as follows:

1. Indian Slavery Act, 1843
2. Societies Registration Act, 1860
3. Co-operative Societies Act, 1912
4. The Trade Unions Act 1926, amended in 2001
5. Indian Trade Unions Act, 1926
6. The Trades Disputes Act, 1929
7. The Payment of Wages Act 1936
8. Weekly Holidays Act 1942
9. Industrial Employment (Standing Orders) Act 1946⁴

1.5 Constitutional Provision for labour:

The dimension of labour was the priority in the minds of the framers of the Constitution. Articles 14-16, 19(1)(c), 23-24, 38, and 41-43A of the Indian Constitution directly address labour rights.

Article 14

States everyone should be equal before the law. Protect Equality of Rights including Labour,

²Lazzarato, M. (1996). Immaterial labor. *Radical thought in Italy: A potential politics*, 1996, 133-47..

³Jeronimo, R. C. (2022). Labor problems in the age of digital platforms: an institutionalist inquiry..

⁴Subramanian, D. (2019). Legislating the labor force: sedentarization and development in India and the United States, 1870–1915. *Comparative Studies in Society and History*, 61(4), 835-863.

Article 15

Prohibits discriminate against citizens.

Article 16

Deals with a right of equality of opportunity for employment or appointment under the state.

Article 19(1)(c)

Provides everyone a specific right to form associations or unions.

Article 23

Prohibits all trafficking and forced labour, while

Article 24

Prohibits child labour under 14 years old in a factory, mine or any other hazardous employment.⁵

Directive Principles of State Policy

Articles 38-39, and 41-43 Provides direction of states to provide welfare major to workers.

Article 38(1)

The state should strive to promote the welfare of the people with a social order in which justice, social, economic and political, shall inform all the institutions of national life.

Article 38(2)

The state should minimise the inequalities in income and based on all other statuses.

Article 41

creates a right to work, which the National Rural Employment Guarantee Act 2005 attempts to put into practice.

Article 42

The state to make provision for securing just and human conditions of work and for maternity relief.

Article 43

Provides workers should have the right to a living wage and conditions of work ensuring a decent standard of life.

Article 43A

Provides that secure the participation of workers in the management of undertakings.

1.6 Post Independence Law For Labour

Several labour provisions were enacted following independence. These are the following:

⁵ Khosla, M. (2020). *India's founding moment: The constitution of a most surprising democracy*. Harvard University Press.

1. Employees' State Insurance Act, 1948
2. Industrial Disputes Act of, 1947
3. The Minimum Wages Act, 1948
4. The Factories Act, 1948
5. The Industries (Regulation and Development) Act, 1951
6. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
7. The Shops and Establishment Act, 1960
8. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952
9. Beedi and Cigar Workers Act, 1966
10. The Payment of Bonus Act, 1965
11. Contract Labour (Regulation and Abolition) Act 1970
12. Payment of Gratuity Act 1972
13. The Equal Remuneration Act 1976
14. The Unorganised Workers' Social Security Act 2008
15. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
16. The Maternity Benefit (Amendment) Act, 2017
17. The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 2019 bans discrimination on the basis of caste including in employment and pursuance of profession or trade
18. The Transgender Persons (Protection of Rights) Act, 2019 bans discrimination on the basis of gender identity in employment
19. Interstate Migrant Workmen Act 1979, It is now replaced by the Occupational Safety, Health and Working Conditions Code, 2020
20. The Code on Wages, 2019
21. The Industrial Relations Code, 2020
22. The Code on Social Security, 2020
23. The Occupational Safety, Health and Working Conditions Code, 2020⁶

According to some, "Indian labour law" refers to legislation governing employment in India. Since labour is a topic on the concurrent list of the Indian Constitution, the federal and state governments in India have historically endeavoured to maintain a high level of protection for employees. However, in practise, this has not always been the case. The Minimum Wages Act of 1948 mandates that businesses pay the government-set minimum wage and cap workweeks at 40 hours (9 hours a day including an hour of break). Because the reward for overtime is 100% of the whole wage, overtime is heavily discouraged. In accordance with the Maternity Benefit (Amendment) Act of 2017, all companies with female employees are required to allow them to take a full six months of paid maternity leave. Additionally, it offers 6 weeks of paid time off in the event of a miscarriage or

⁶George, C. E., Inbaraj, L. R., Rajukutty, S., & de Witte, L. P. (2020). Challenges, experience and coping of health professionals in delivering healthcare in an urban slum in India during the first 40 days of COVID-19 crisis: a mixed method study. *BMJ open*, 10(11), e042171..

medical termination of pregnancy. Employees are provided with the appropriate social security for retirement benefits, medical benefits, and unemployment benefits through the Employees' Provident Fund Organization and the Employees' State Insurance, all of which are administered by law acts. Additionally, employees who qualify for Employees' State Insurance coverage (those making less than Rs. 21000/month) are eligible to 90 days of paid medical leave. Beyond the statutory minimum set of rights, a contract of employment can always stipulate additional rights. Four labour codes were adopted by the Indian parliament in the 2019 and 2020 sessions. 44 current labour laws will be consolidated into these four codes. The Occupational Safety, Health and Working Conditions Code, 2020, The Industrial Relations Code 2020, and The Code on Wages 2019 are among them.

1.7 Organized and Unorganized Sector

In India most of the work working in the unorganised sector (and given the state of other workers, they had mostly been ignored) (Organized Sector). The labour ministry has declared its intention to conduct a census of employees in the unorganised sector and provide each of them a distinct identification. By connecting them to Aadhaar cards, this would provide individuals with social security benefits like health insurance and old-age pensions while also reducing the likelihood of duplication.⁷ However, these can be identified as under:

1. Health and social security benefits are absent.
2. Poor compliance with the law requiring basic safety criteria
3. Metropolitan areas' lack of cheap housing options and essential services.

4. How the law also specifies the salary and benefits (such as lodging, free medical care, and protective clothing) that must be provided by the contractor.

1.8 A New labour Laws 2022

New Labour laws 2022

Labour reforms are a top priority in any nation. A new labour law has been in effect since July 1, 2022, replacing a number of previous laws' provisions to improve their welfare, end the conflict, and provide universal Social Security. Based on talents and regions, the current wage range is (Rs. 18000 to 24000). Separate considerations are given to women and migrant workers. Labour codes make up the majority of the club of four. The following may be the main guidelines of the new:

- ❖ Working hours extended to 12 hours.
- ❖ **Weekly Working Hours:** Maximum 48 hours and it has made optional weekly work for 4, 5 and 6 days structure.
- ❖ **New definition of wages:** Basic Pay 50 percent of CTC and rest includes other House Rent and Over time, Dearness allowances and Retention payment Excluded: Provident Fund Contributions, House Rent allowances, Gratuity and over time.
- ❖ More contribution in Provident and Post Retirement schemes scheme.
- ❖ Modify labor Compensation.

⁷Thinley, J., & Khataria, G. (2022). Causes and Consequences of Child Domestic Labor in India. *Issue 3 Int'l JL Mgmt. & Human.*, 5, 679.

- ❖ **Calculation of Gratuity:** Basic pay and Allowances which are paid to be employee.

New Labour Codes

There are four Primarily Labour codes:

1. Industrial Relations.
2. Occupational safety, health and working conditions (OSH), 2020 and
3. Social security.(4 laws in the Wage Code, 9 laws in the Social Security Code, 13 laws in the Occupational Safety, Health and Working Conditions Code, 2020 and 3 laws in the Industrial Relations Code.)
4. Wages, 2019: Workers in the organized and unorganized sectors will have access to these four labor codes. All employees will now have access to Employees' Provident Fund (EPF), Employees' Pension Scheme (EPS), and coverage for all medical benefits under Employees' Insurance.

1.9 Impact of New labour Laws, 2022

- ❖ Social Security to everyone: The Government can fund the contribution of workers from disadvantaged section.
- ❖ Right to minimum Wage and Review of Minimum wage after Five years.
- ❖ Requirement of minimum service has been removed for payment of gratuity in case of fixed term employees.
- ❖ Equal remuneration for male and female workers.
- ❖ Employees engaged on fixed term to get same social security benefit as permanent employees.
- ❖ Creation of social security fund for providing comprehensive social security to the unorganized sector.
- ❖ Creating a national database of workers of unorganized sector through registration on Portal. Employers employing more than 20 workers to mandatorily report vacancies online.
- ❖ Benefit of pension scheme (EPFO) to all workers of organized, unorganized and self-employed sectors.
- ❖ Aadhaar based Universal Account Number (UAN) to ensure seamless portability.
- ❖ A Universal Account Number (UAN) for ESIC, EPFO and Unorganised Sector workers.

1.10 Migrant Workers

New labour regulations included protections that were required and safeguarded migrant workers in many different ways.:

- ❖ **Cess Fund:** For a worker engaged in building and other construction work in one State and moving to another State, benefit from the Building and other Construction Workers.
- ❖ Free annual health check-up.
- ❖ Helpline facility in every State for resolution of Inter-State Migrant Workers' grievances.

- ❖ National database to be created for the Inter State Migrant Workers. It was earlier of (240 days, now if a worker has worked 180 days, he shall be entitled for one-day leave for every 20 days of work done).
- ❖ Providing of appointment letters.
- ❖ Registration on national Portal for legal identity.
- ❖ Travelling allowances.
- ❖ **Under the One Nation** - One Ration Card, an Inter-State Migrant Worker would get ration facility in the State he is working in and the remaining members of his family would be able to avail of the ration facility in the State where they reside.

1.1 Provisions For women

The new law also provided protection for women's empowerment.

1. Right to women workers to work in all types of establishments.
2. Women have been given the right to work at night with their consent and it has also been ensured that the employer would make adequate arrangements to provide safety and facilities to women workers at night.
3. Maternity Benefit Act was amended in 2017 to increase the paid Maternity leave for women workers from 12 to 26 weeks and ensure mandatory crèche facility in all establishments having 50 or more workers.
4. Financial assistance from the government who lost their job.
5. Immediate resolution of Labor Dispute as per New Industrial relation Code, 2020.⁸

Conclusion:

According to the study, there were many aspects of labour in India during the pre- and post-independence periods that were regulated, including minimum wage, working hours restrictions, double pay for overtime, fully paid vacation days, payment for time off while sick, maternity benefit, provided fund, regulation of contractual labour, and insurance schemes. The existing labour code seems to address both horizontal and vertical components of labour.

References

1. Jauregui, B. (2022). Law fare and security labor: Subjectification and subjugation of police workers in India. *Law & social inquiry*, 47(2), 420-448.
2. Krcmar, C. (2022). Female Labor Workforce and Precarity in India's Construction Sector. In *The Political Economy of Post-COVID Life and Work in the Global South: Pandemic and Precarity* (pp. 69-88). Palgrave Macmillan, Cham.
3. Das, R. K. (2021). The labor movement in India. In *The Labor Movement in India*. De Gruyter.
4. Khan, F. N., Collins, A. M., Nayak, P. K., & Armitage, D. (2018). Women's perspectives of small-scale fisheries and environmental change in Chilika lagoon, India. *Maritime Studies*, 17(2), 145-154.

⁸ Tillin, L. (2022). Does India have subnational welfare regimes? The role of state governments in shaping social policy. *Territory, Politics, Governance*, 10(1), 86-102.

5. Cassan, G., Keniston, D., & Kleineberg, T. (2021). A division of laborers: Identity and efficiency in India (No. w28462). National Bureau of Economic Research.
6. Dist, L., & Ganpat, G. B. (2022). April to June 2022 Issue 42, Vol-11.

Acts

1. New Labor Code, 2022
2. The Bare Acts of Indian Constitution