

The Role of New Labour Laws in Addressing Poverty and Social Welfare



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Abstract

Labour law reform has emerged as a central instrument through which states seek to reconcile the imperatives of economic growth with the constitutional obligations of social protection. India's consolidation of forty-four central labour statutes into four Labour Codes — the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020 — represents the most sweeping transformation of the country's labour architecture since Independence. This paper examines the relationship between these new labour laws and the twin objectives of poverty alleviation and social welfare enhancement. It argues that while the Codes introduce progressive provisions such as universal wage floors, expanded social security coverage, and recognition of gig and platform workers, their potential is significantly circumscribed by the breadth of exemptions, the erosion of workers' collective bargaining power, and the continued exclusion of large segments of the informal economy. Drawing on constitutional principles, comparative labour standards, and empirical evidence of poverty in India, the paper concludes that legislative reform alone is insufficient and must be complemented by robust implementation, administrative capacity, and social dialogue.

Keywords: *Labour Codes 2020, Poverty Alleviation, Social Security, Informal Economy, Minimum Wage, Gig Workers, Industrial Relations, Social Welfare, India*

Introduction

Poverty and precarious labour are structurally intertwined. Across the developing world, the majority of the poor are not unemployed — they are workers trapped in low-wage, unprotected, and informal employment whose earnings are insufficient to lift their households above subsistence. India, with a workforce of approximately 500 million persons and an estimated 90 per cent engaged in informal or unorganised employment, presents this nexus in its starkest form. According to the Periodic Labour Force Survey (PLFS) 2022–23, real wages in several sectors have stagnated, and the COVID-19 pandemic reversed decades of

poverty reduction progress, adding an estimated 56 million persons to the ranks of the poor (Azim Premji University, 2021). Against this backdrop, the Government of India undertook a historic consolidation of labour legislation, enacting four Labour Codes between 2019 and 2020. The stated objectives were threefold: simplification of a labyrinthine statutory framework, extension of protections to previously excluded workers, and improvement of the ease of doing business to stimulate employment generation. Whether these Codes effectively serve the goal of poverty reduction and social welfare is, however, a question that demands rigorous legal and empirical scrutiny.

This paper is organised as follows: Part 2 contextualises poverty and labour in India. Part 3 analyses each Labour Code through the lens of social welfare. Part 4 examines structural tensions and limitations. Part 5 engages in comparative analysis. Part 6 offers conclusions and reform recommendations.

Poverty, Informality, and the Labour Market in India

The Poverty-Labour Nexus

The classical understanding of poverty as a deficit of income fails to capture its multidimensional character. Amartya Sen's capability approach, which has substantially influenced international poverty measurement frameworks including the UNDP's Multidimensional Poverty Index (MPI), conceives poverty as the deprivation of essential human capabilities — health, education, and material living standards. Labour conditions are central to this conception: the quality of employment, its regularity, the wage it generates, and the social protections it carries together determine whether work functions as a pathway out of poverty or merely as a mechanism for survival within it.

India's labour market is characterised by a large and persistent informal sector. The National Commission for Enterprises in the Unorganised Sector (NCEUS, 2007) famously estimated that 836 million Indians — approximately 77 per cent of the population at the time — lived on less than Rs. 20 per day, and that the overwhelming majority of these persons were informal workers. Despite substantial GDP growth in subsequent years, the structure of the labour market has not fundamentally changed: formal employment as a proportion of total employment remains below 20 per cent, and access to social security — provident fund,

gratuity, health insurance, maternity benefits — is largely confined to this minority.

Constitutional Obligations and Directive Principles

The Indian Constitution does not establish a right to work or a right to social security as enforceable fundamental rights, but Articles 38, 39, 41, 42, 43, and 43A of the Directive Principles of State Policy impose substantive obligations on the state to secure a social order in which justice — social, economic, and political — informs all institutions. Article 39(a) mandates that the state direct its policy toward ensuring that all citizens have an adequate means of livelihood; Article 41 obligates the state to make effective provision for the right to work and to public assistance in cases of unemployment, old age, sickness, and disablement; Article 43 envisions a living wage ensuring a decent standard of life for workers.

The Supreme Court has consistently held, beginning with *State of Madras v. V.G. Row* (1952) and reinforced in *Minerva Mills v. Union of India* (1980), that the Directive Principles and Fundamental Rights form a harmonious constitutional ensemble that must be read together. Labour legislation designed to promote social welfare is thus constitutionally mandated and must be evaluated against this normative standard.

The Four Labour Codes: A Social Welfare Analysis

The Code on Wages, 2019

The Code on Wages, 2019, which subsumes the Payment of Wages Act, 1936; the Minimum Wages Act, 1948; the Payment of Bonus Act, 1965; and the Equal Remuneration Act, 1976, is the most directly relevant instrument for poverty reduction. Its most significant innovation is the introduction of a universal floor wage applicable to all workers, irrespective of sector or employment

status — a departure from the previous regime under which only scheduled employment categories were covered by the Minimum Wages Act, leaving vast numbers of workers entirely unprotected.

The Code empowers the Central Government to fix a floor wage, below which no state minimum wage may be set, thereby creating a national wage floor and preventing a race to the bottom among states competing for investment. This represents a meaningful constitutional operationalisation of Article 43's living wage directive. Studies by the International Labour Organisation (ILO) and the National Institute of Labour Economics Research and Development (NILERD) suggest that raising the minimum wage has significant poverty reduction effects, particularly for households in the bottom two income quintiles where labour income constitutes the primary or sole source of earnings.

However, the efficacy of this provision is contingent on enforcement, which has historically been the weakest link in India's labour administration. The Code does not substantially strengthen the inspection regime, and the shift toward a bifurcated system of labour inspectors and facilitators — a concession to the ease of doing business agenda — risks diluting compliance pressure, particularly on small and medium enterprises that employ the majority of informal workers.

The Code on Social Security, 2020

The Code on Social Security, 2020, amalgamating nine statutes including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; the Employees' State Insurance Act, 1948; the Maternity Benefit Act, 1961; and the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, is the centrepiece of the new

framework's social welfare ambitions. Its most progressive element is the explicit extension of social security provisions to gig workers and platform workers — a recognition, long overdue, that the digital economy has generated a new category of worker whose relationship with capital is neither employment nor self-employment in any traditional sense.

Chapter IX of the Code empowers the Central and State Governments to notify schemes for the welfare of gig workers, platform workers, and unorganised workers, covering life and disability cover, health and maternity benefits, old age protection, and education. This is a significant step toward universalising social protection, and it reflects India's obligations under ILO Convention No. 102 (Social Security Minimum Standards) and the Sustainable Development Goal 1.3, which calls for the implementation of nationally appropriate social protection systems.

Critics have rightly observed, however, that the Code's provisions for these new categories are largely aspirational rather than mandatory. The word 'may' dominates the relevant sections, leaving implementation entirely to executive discretion and creating no enforceable entitlement. The constitutional guarantee implicit in Article 41 — the right to public assistance in cases of need — arguably demands more than permissive enabling provisions. Moreover, the Code retains the employer-employee relationship as the primary trigger for social security contributions, leaving the self-employed and home-based workers — disproportionately women — in a continued coverage gap.

The Industrial Relations Code, 2020

The Industrial Relations Code, 2020, consolidating the Trade Unions Act, 1926; the

Industrial Employment (Standing Orders) Act, 1946; and the Industrial Disputes Act, 1947, has generated the most intense controversy from a social welfare perspective. The Code increases the threshold for prior government permission before layoffs, retrenchments, and closures from 100 to 300 workers, effectively exempting the vast majority of Indian establishments from mandatory approval requirements. While presented as a labour flexibility measure to encourage formal employment, the reform undermines the security of employment for millions of workers in the affected establishments and weakens one of the key protections that distinguished formal from informal employment.

The Code also introduces fixed-term employment as a standard category across all sectors, which, while providing formal contract status and proportional social security benefits to fixed-term workers, may accelerate the informalisation of the formal sector by reducing employers' incentives to create permanent positions. The right to organise and bargain collectively — recognised under Articles 19(1)(c) and 23 of the Constitution and ILO Conventions 87 and 98 — is further constrained by stricter recognition requirements for trade unions, with the designation of a sole negotiating union requiring at least 51 per cent membership, a threshold difficult to achieve in a fragmented labour market.

The Occupational Safety, Health and Working Conditions Code, 2020

The OSH Code, 2020, subsumes thirteen statutes and establishes baseline standards for safe and healthy working conditions across establishments employing ten or more workers. Its extension of provisions to interstate migrant workers — a group rendered acutely vulnerable by the reverse migration

crisis during the COVID-19 lockdowns — represents a positive development for social welfare. The Code mandates a journey allowance, displacement allowance, and home travel facility for migrant workers, addressing the particular deprivations associated with geographic dislocation from social support networks.

Nevertheless, the OSH Code's threshold of ten workers excludes the smallest establishments where working conditions are typically worst and workers are most vulnerable. Home-based workers, agricultural workers, and domestic workers — three categories disproportionately composed of women and Dalits — remain largely outside its ambit. The failure to include these categories reflects a structural bias in the codification exercise toward the concerns of organised labour and formal employers, at the expense of the most marginalised workers whose integration into the social protection framework would have the greatest poverty-reducing impact.

Structural Tensions and Limitations The Flexibility-Security Trade-off

The four Labour Codes embody an inherent tension between two policy imperatives: economic flexibility, demanded by employers and business interests as a condition for investment and formal job creation, and employment security, required by workers as a precondition for stable livelihoods and effective poverty reduction. This tension is not unique to India; it is a defining feature of labour market governance globally, theorised in the European literature as the 'flexicurity' dilemma.

The Codes resolve this tension predominantly in favour of flexibility. The raised threshold for closures, the expanded scope of fixed-term employment, the weakening of union

recognition requirements, and the shift from mandatory inspections to compliance-based facilitation all tilt the regulatory balance toward employer discretion. From a poverty reduction standpoint, this is problematic: the empirical literature on labour market institutions consistently finds that workers with stable, protected employment are better able to invest in health, education, and housing — the very dimensions of capability that determine whether families escape intergenerational poverty.

Implementation Deficit and Institutional Capacity

Even the most progressive statutory provisions are rendered ineffective by weak implementation. India's labour administration — comprising state labour departments, inspectorates, and quasi-judicial tribunals — has long been characterised by inadequate staffing, technological backwardness, and susceptibility to capture by employer interests. The Second National Commission on Labour (2002) documented these deficiencies extensively; the subsequent two decades have not seen structural improvement.

The Labour Codes' delegation of virtually all implementation to state governments — a consequence of labour being a Concurrent List subject under the Seventh Schedule of the Constitution — creates an additional layer of variation and risk. States such as Rajasthan, Madhya Pradesh, and Uttar Pradesh had amended their labour laws during the pandemic to exempt establishments from protections, signalling a competitive deregulation dynamic that the floor wage provision of the Wages Code is designed to counteract but may not fully succeed in doing.

Comparative Perspectives

Comparative analysis reveals instructive contrasts. Brazil's consolidation of labour

legislation in the *Consolidação das Leis do Trabalho* (CLT), reformed through the 2017 Labour Reform, similarly privileged flexibility over security and has since been associated with increased labour market informality and wage stagnation among the bottom quintile — a cautionary example for India's reform trajectory.

Conversely, South Korea's progressive extension of social insurance to non-standard workers through the Employment Insurance Act and the National Pension Act, accompanied by a tripartite social dialogue mechanism, achieved meaningful reductions in working poverty without sacrificing employment growth. The key difference was the existence of robust enforcement institutions and a deliberate political commitment to social protection as an anti-poverty strategy, not merely an adjunct to the ease of doing business agenda.

The ILO's Decent Work Agenda, embodied in the 2030 Sustainable Development Goals and reflected in ILO Declaration on Fundamental Principles and Rights at Work (1998), provides a normative framework against which national labour legislation can be benchmarked. On the dimensions of freedom of association, elimination of forced labour, abolition of child labour, and non-discrimination, the Codes make modest progress. On the dimensions of adequate income, security of employment, and social protection, the picture is more ambivalent.

Conclusion and Recommendations

The four Labour Codes represent a complex and ambivalent moment in India's labour law history. They extend the formal coverage of wage protection, social security, and occupational safety to categories of workers previously excluded from the statutory framework — a substantive achievement in a country where the majority of workers have

historically been beyond the reach of labour regulation. The recognition of gig and platform workers as a distinct legal category, the universal wage floor, and the migrant worker protections are genuine advances from a social welfare perspective.

Yet the structural biases of the codification exercise — in favour of employer flexibility, against collective worker voice, and toward permissive rather than mandatory social protection for the most vulnerable — significantly limit the Codes' poverty-reducing potential. The large informal sector that characterises India's labour market will not be transformed by legislation alone; it requires institutional investment in labour administration, a culture of compliance, and political will to enforce protections against powerful employer interests.

Four reform priorities emerge from this analysis. First, the floor wage under the Code on Wages must be set at a level genuinely reflective of a living wage, not merely a statutory minimum, and the mechanism for its periodic revision must be depoliticised through an independent expert body. Second, the social security provisions for gig, platform, and unorganised workers must be converted from permissive to mandatory entitlements, with dedicated and transparent funding mechanisms. Third, the Industrial Relations Code's threshold increases for prior government approval should be reconsidered or accompanied by substantially enhanced severance protections to maintain the practical security of employment for affected workers. Fourth, the inspections regime must be adequately resourced and insulated from political interference, with digital infrastructure leveraged to enable real-time compliance monitoring.

Ultimately, the test of any labour law reform lies not in its legislative architecture but in its

lived effects on the workers it purports to protect. For India's new Labour Codes to fulfil the constitutional promise of social and economic justice, they must be accompanied by the institutional and political commitments that transform statutory text into social reality.

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International Journal of Professional Development

Vol.14, No.2, July-Dec. 2025 ISSN: 2277-517X (Print), 2279-0659 (Online)

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