

THE SHAKY FOUNDATION OF THE LABOUR LAW REFORMS

Relevant for: Developmental Issues | Topic: Government policies & interventions for development in various Sectors and issues arising out of their design & implementation incl. Housing

The National Democratic Alliance [government enacted the Code on Wages](#) in August 2019 and the other three Codes, viz., the Industrial Relations Code, the Occupational Safety, Health and Working Conditions Code and Code on Social Security (CSS) in September 2020. Later, it had framed the draft rules albeit incompletely under all the codes — incompletely because the rules have not covered some aspects of the Codes, e.g. rules regarding recognition of central trade unions have not been framed so far.

Controversies surround the processes of the enactment of codes and the framing of rules. The Government has held only symbolic and partial consultation with the central trade unions. The three codes were passed in Parliament even as the Opposition parties, otherwise insignificant, boycotted the proceedings. The tearing hurry in which the Government carried out the reforms even during the COVID-19 period gave tremendous hope to employers and potential investors. It announced its intentions of implementing the Codes from April 1, 2021 even as State governments were completely unprepared with the rules. Further, the major political parties reallocated their energies to regional elections rather than the implementation of codes. Symbolically, labour law reforms have been affected and the government can boast of it. Since the Government has not shown serious intent to implement the codes, the NDA government effected reforms to boast that it has executed the long-pending reforms; simply put, it is more symbolic rather than a meaningful act.

The central government has deferred the possible date of implementation to October 1, 2021, again tentatively. In the meanwhile, the Supreme Court of India has exerted pressure on both the central and the State governments to implement a 'one nation, one ration card' (ONOR) scheme and register all the unorganised workers under the National Database for Unorganized Workers (NDUW), which was to have been done by July 31, 2021. Government agencies are rushing to comply with both the directives. In ONOR, Aadhaar seeding and the universal availability of an electronic point of sale (EPOS) system are necessary. And for the NDUW, it has to register each of the approximately 400 million workers, a conservative figure.

Perhaps, the Supreme Court passed such an extraordinary perhaps impracticable order following the hesitancy in early 2020 to provide relief to suffering migrant workers following the national lockdown. The governments did not honour the Supreme Court's orders relating to the registration of construction workers for many years. So, it has a bad track record. One is not sure when governments would comply fully and well with the Supreme Court's orders. Unorganised workers including migrant workers will continue to be deprived of their promised and extended entitlements.

The Government said the codes would extend universal minimum wages and social security, enable enhanced industrial safety and the provision of social security to gig workers, among other things. The Industrial Relations Code provides for recognition of trade union(s) by employers, a labour right that eluded workers for seven decades. On the other hand, employers celebrated the extension of tremendous flexibility to them, even those unasked, such as relief from framing standing orders for most firms. But do they enjoy these benefits?

On August 3, 2021, I browsed the Simpliance website (a law portal) to assess the record of

State governments regarding rules under the codes. It was a revelation to find that major States such as Tamil Nadu, Kerala, West Bengal, Maharashtra, Haryana and Delhi have not issued the draft rules under any codes. Karnataka, Gujarat and Jharkhand have framed Rules for the Code on Wages and the Industrial Relations Code. Madhya Pradesh, Chhattisgarh, Uttar Pradesh, Uttarakhand and Punjab have framed rules for all the codes. Even though the Code on Wages was enacted in August 2019, it was only in March 2021 that the central government notified the constitution of an advisory committee. On June 3, 2021 it also announced an expert committee with a tenure of three years to advise it on minimum wages. Then, on July 12, 2021, it announced that the wage index's base year would be shifted from 1965 to 2019 to use the revised wage index to determine minimum wages. The Government seems to be clueless regarding the implementation of minimum wages.

The incidence of major industrial accidents has remained undiminished even during the COVID-19 period. For instance, IndustriAll reported that between May to June, [32 major industrial accidents occurred in India](#), killing 75 workers. The media reported four accidents in Vizag during 2020. Safe in India's annual reports, CRUSHED, for 2019 and 2020, provide a disturbing picture of industrial accidents in the [automobile industry in the Gurgaon region](#). Industrial safety continues to be a grave concern even after the enactment of the Occupational Safety, Health and Working Conditions Code.

According to several research reports, COVID-19 intensified informality, led to the withdrawal of workers from the labour market, reduced earnings, increased unemployment and widened inequality. The non-statutory floor level minimum wage remains a meagre 178 still even as Wholesale Price Index-inflation rates have galloped to 12% in June 2021. The Government's relief measures to workers, especially unorganised and migrant workers and even to the so-called organised sector workers, are too meagre to make any difference. It did not implement the widely endorsed measure of direct benefit transfer at least for low-income families.

Thus, we see two aspects concerning labour market governance in India. One, the Government has failed to provide legal visibility to millions of unorganised and migrant workers, even after decades, and despite direction by the highest court in the land. Two, despite the gazetting of four Codes, age-old laws are in force. Thus, they reflect poorly not only on the governance abilities of the governments but also on the countervailing power of the Opposition parties. Were the labour law reforms rushed with little or no debate and consultation whatsoever, only to remain in the gazette books? Employers and workers cannot enjoy the so-called benefits extended by the codes.

Given the facts mentioned above, the legislative impasse continues; one does not know how long it would be. However, India would score impressively on the ease of doing business exercise by any agency including the World Bank by the mere execution of labour reforms without them being implemented: what else then is needed!

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To reassure Indian Muslims, the PM needs to state that the govt. will not conduct an exercise like NRC

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