

## LEGAL BUT NOT APPROPRIATE

Relevant for: Indian Economy | Topic: Issues Related to Poverty, Inclusion, Employment & Sustainable Development

Over the last few days, many States have made [changes to their labour laws](#). Himachal Pradesh, Rajasthan and Punjab have extended the maximum daily hours of work in a factory from eight/nine to 12, and allowed up to 72 hours a week in overtime. The provision of paying overtime wages at twice the normal rate would apply for working beyond these limits. Gujarat has made a similar change but the wages for overtime will be at the same rate (not double). Uttarakhand has increased the daily limit to 11 hours with overtime limited to 18 hours a week. Haryana has allowed work for 12 hours a day, and up to 60 hours a week, with overtime pay. Madhya Pradesh has made similar changes. These changes have been made through notifications issued by the State governments, and will be applicable for the next three months. M.P. has also suspended most provisions of the Industrial Disputes Act, 1946 (except those related to retrenchment and layoffs) for 1,000 days for State undertakings. In addition, M.P. issued an ordinance to amend two laws. The M.P. Industrial Employment Standing Orders Act will apply to establishments with more than 100 workmen (up from the existing threshold of 50), in line with the Central Act. The ordinance also enables the government to exempt establishments from the provision of another Act that provided for a labour welfare fund.

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The Uttar Pradesh government has approved an ordinance that exempts establishments from all labour laws for three years with some exceptions (safety and security of workers, provisions related to employing women and children, payment of wages on time and above prescribed minimum wages, and no bonded labour). As this will override provisions of some Central laws, it will require the assent of the President or, in effect, the assent of the Central government. The question is, was there sufficient consultation before all these changes were made?

As per the Constitution, legislature has the authority to make laws. Such laws could delegate powers to the government which are in the nature of detailing some requirements. For example, the Factories Act allows State governments to exempt factories from the provisions of the Act during public emergencies for a maximum period of three months. A public emergency is defined as a grave emergency whereby the security of India or any part is threatened by war, external aggression or internal disturbance. Most States have used this provision, presumably interpreting the current situation as an 'internal disturbance'. Haryana has used a provision that allows relaxation of work hours "to deal with an exceptional press of work".

The Constitution also permits Central and State governments to make laws through the issuance of an ordinance when the legislature is not in session. Such a law needs to be ratified by the legislature within six weeks of the beginning of the next session. M.P. and U.P. are using this procedure.

**Also read:** [Now, Maharashtra tweaks labour laws to increase working hours](#)

While the changes made are lawful, we need to see whether it is appropriate to make such far-reaching provisions without scrutiny by the legislature. Usually, any change in an Act follows a rigorous process of public consultation, scrutiny by committees of Parliament, and debates in the House before being approved. The changes described here have not gone through such a process. However, most of these have a three-month time limit, and any extension would need

to be approved by the legislature.

Interestingly, Parliament is consolidating 29 existing laws into four codes dealing with wages, occupational safety and health, industrial relations and social security. The first of these has been enacted, the Standing Committee on Labour has submitted the report on the next two, and is examining the last. The Code on Occupational Safety and Health does not specify the maximum hours of work but empowers the government to do so. The Standing Committee report states that the government agreed to incorporate a provision of maximum eight hours per day with overtime permitted for certain types of industry.

Several regulations have been formulated to tackle COVID-19. There have been over 4,300 notifications by the Central and State governments since the beginning of March. Given the emergency, the government has to take quick action and change the response as the situation evolves. However, that should not be a reason to exclude the processes of consultation with and scrutiny by elected representatives. The legitimacy of state action in a parliamentary democracy comes from the fact that there is constant oversight and check by elected representatives. Parliament and State legislatures should find ways to meet and examine the measures taken by Central and State governments.

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