

Progressive code

Reforms introduced in the three labour codes address basic needs — to revive the economy and tackle barriers in the expansion of firms



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THE ECONOMIC CRISIS created by the pandemic has threatened the long-term business sustainability and livelihood of millions of workers around the world. The situation demands a job-rich approach, backed by stronger employment policies and institutions, better resources, comprehensive social protection systems and international cooperation. The three labour codes, passed by Parliament after years of stakeholder consultations, replace many old laws and could be transformational in their potential impact.

Governments, workers and employers need to play a crucial role in combating the outbreak, ensuring the safety of individuals and the sustainability of businesses and jobs. Reforms that ensure the smooth working of business enterprises and the health and safety of every worker were truly the need of the hour.

Most of the enterprises in India stay small for years in terms of the number of people employed in comparison to the other countries. The compliance burden on establishments has always been a roadblock in creating employment opportunities. The Industrial Relations Code 2020 addresses the matter of expansion of firms by increasing the threshold for retrenchment/closure or lay-off without requiring government approval, from 100 to 300 workers. In 2014, Rajasthan had addressed this by increasing the threshold of taking prior permission of the government before retrenchment. The reform has helped firms to set up larger operations in Rajasthan, that is, with more than 100 employees, and the same amendment was followed by 15 states.

Considering the unpredictable fluctuations of the global market, there are many jobs where employees are required for a few months such as infrastructure projects, textiles and garments, food and agro-processing, etc. An adjustable framework is required for hiring workers that can adapt to the market changes. The contractual employment workforce is quite often exploited with respect to wages, social security, and working conditions as well as welfare facilities.

Fixed Term Employment is an intervention to enable the hiring of employees directly instead of hiring through contractors, which will ensure flexibility. For employees, all statutory entitlements and service conditions equivalent to those of a regular employee have now been made applicable. The Code on Industrial Relations also extends the benefit of gratuity even for an FTE contract of one year, which is five years in the case of regular employees.

Due to the changing nature of work,

there is a strong need to strengthen employment and social protection systems. The inclusion of the gig and platform workers in the Social Security Code 2020 is a step towards strengthening the formal economy. The provision for insurance coverage has been extended to plantation workers, and free annual health check-ups and a bipartite safety committee has been introduced for establishments such as factories, mines and plantation sectors in place of hazardous factories. The ESIC and EPFO requirements will now apply to establishments employing less than 10 and 20 workers respectively on a volunteer basis.

Falling women's workforce participation in India has been a matter of concern for a long time. Female labour force participation is a driver of growth and, therefore, participation rates indicate the potential for a country to grow more rapidly. The new Code ensures the employment of women in night shifts for all types of work.

The Occupational Health, Safety & Working Conditions Code expands the definition of a migrant worker, which includes workers who would be directly employed by the employer besides those employed through a contractor. Further, it has also been made possible that a migrant, who comes on his own to the destination state, can declare himself a migrant worker by registering on an electronic portal based on self-declaration seeded with Aadhaar. Registration on the portal has been simplified and there is no requirement of any other document except Aadhaar. For de-licensing/de-registration, it is mandated to notify registering officers about the closure of their establishment and certify payment of dues to all employed workers, which will ensure that workers will not be exploited even during the closure of the concerned establishment. The introduction of a concept of conducting web-based inspections can be seen as an attempt of matching corporate needs in the digital world.

Under Industrial Relations Code 2020, the provision for a 14-day notice period before strikes and lockdowns would allow both workers and employers to attempt resolving the issues. The codes also promote lifelong learning mechanism through the introduction of a reskilling fund. The lifelong learning opportunity is provided to match the evolving skill sets required for technology and process changes.

CII believes that the reforms introduced in the three labour codes — the Code on Occupational Health & Safety, Social Security Code and Industrial Relations Code — are progressive. Beyond the current recovery, they will help to build a future of work that is safer, fairer, greener and more resilient. The reform measures address basic needs — to revive the economy and tackle barriers in the expansion of firms. Moreover, they promote the employment of women as well as reskilling of the workforce for the deployment of migrants.

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