

# Empirical Research on Reasons for Non-Implementation of Labour Codes

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## Abstract:

The four labor codes of India, namely the code on wages, the industrial relations code, and the occupational safety, health, and working conditions code, represent a significant overtake of the country's labor laws. These codes are set to replace 29 labor laws in India. The main aim of introducing these codes was to ensure that all of them enjoy the benefits of labor laws related to minimum wages and social security and to streamline and modernize the labor regulatory framework, providing clarity and flexibility to both employers and employees. Since labor is a concurrent subject, the Centre and states must frame the rules. Although the Centre notified the codes in September 2020, no state has notified the requisite rules under these codes. Just 12 states have published the draft rules so far. So once all the states are on board, the codes will be implemented. The primary goal of this article is to enlighten the readers regarding the reasons for the non-implementation of these four codes in a few states and the benefits of introducing these four codes in India. At the end of this article, an attempt was made to point out the reasons and flaws in these four labor codes.

**Keywords:** Labor codes, Social Security, Wages Codes, apprenticeship systems, Babylon Code, French Revolution.

## Introduction:

The term labor is a Latin word that means work, especially physical work<sup>1</sup>. The Code on Wages, 2019, is a significant labor reform in India that aims to consolidate and simplify existing labor laws related to wages and bonus payments. It provides a common and standardized framework for regulating wages across various sectors and industries in the country. Labor is a subject that falls under the concurrent list of the seventh schedule of the Constitution which allows both the central and state governments to legislate on labor-related issues<sup>2</sup>. This division of labor laws into central and state categories aims to strike a balance between national standards and regional flexibility. While it allows for adjusting labor regulations to local needs, it has also resulted in a complex and sometimes fragmented regulatory environment. The recent introduction of the four labor codes was a step towards simplifying and rationalizing this labor regulatory landscape by consolidating and harmonizing various labor laws, intending to provide clarity and ease of compliance for employers and employees.

<sup>1</sup> [https://www.oxfordlearnersdictionaries.com/definition/english/labour\\_1](https://www.oxfordlearnersdictionaries.com/definition/english/labour_1)

<sup>2</sup> <https://thewire.in/labour/labour-code-explainer-unions-strike-workers-opposition-parties>

**History and Evolution of Labor Laws:**

The origins of labor laws are indeed diverse and span different parts of the world, influenced by various historical developments and societal changes. European scholars have highlighted the importance of guilds and apprenticeship systems during the medieval period, which laid the groundwork for the concept of labor rights and worker protection. In Asia, labor law roots can be traced back to ancient sources like the Babylon Code from the 18th century BCE and the laws of Manu, emphasizing the historical significance of labor regulations in these regions<sup>3</sup>.

The industrial revolution that unfolded in the 18th century played a pivotal role in the development of labor laws. This period saw the rapid mechanization of industries and a surge in factory-based production. However, this also led to the exploitation of workers, harsh working conditions, and the erosion of labor rights.

As a response to these issues, labor regulations started to emerge, seeking to address the negative impact of industrialization on workers.

Simultaneously, the French Revolution, which occurred in the late 18th century, profoundly influenced societal values and the quest for social justice. The ideals of liberty, equality, and fraternity promoted during the revolution extended to workers' rights, driving the demand for fair labor practices and protections.

While the seeds of labor laws were sown during the 18th century, their widespread acceptance and formalization primarily occurred in the 20th century. This period was marked by social movements, workers' unions, and increased awareness of labor rights. Governments and international bodies began to recognize the need for comprehensive labor laws to ensure fair treatment, safe working conditions, and equitable wages for employees.

In summary, labor laws have evolved over centuries, influenced by regional traditions, historical developments, and societal changes. The Industrial Revolution exposed the vulnerabilities of workers, and the principles of social justice during events like the French Revolution spurred the development of labor regulations. Their comprehensive adoption and acceptance as an integral part of modern legal systems came about in the 20th century, reflecting a global commitment to safeguarding the rights and well-being of workers.

**Evolution of Labor Laws in India:**

The history of labor laws in India can be traced back to the British colonial era when the British administration enacted these laws primarily to serve the interests of British employers and industrialists<sup>4</sup>. For example, the Factories Act of 1883 aimed to raise the costs of Indian labor, favoring British textile magnates. It introduced regulations like the 8-hour workday, overtime wages, abolition of child labor, and

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<sup>3</sup> <https://lawbhoomi.com/history-of-labour-law-in-india/#:~:text=In%20India%2C%20labour%20laws%20were,regulate%20the%20employer%20Employee%20relationship.>

<sup>4</sup> <https://www.iasexpress.net/labour-laws-in-india-purpose-history-ongoing-reforms/>

restrictions on women working at night, which, while beneficial for the labor market, were motivated by vested interests.

After World War I and international discussions on labor reforms, India saw the introduction of the Trade Union Act of 1923 and the Industrial Disputes Act of 1929. These acts sought to regulate the relationship between employees and employers, protecting workers' rights to form unions for collective bargaining and engage in protests like strikes and lockouts.

Amidst economic challenges and the Indian independence movement, the British government established the Royal Commission on Labor in 1929, leading to a series of labor legislations between 1932 and 1937. Key legislations during this period included the Payment of Wages Act of 1936 and the Trade Disputes (Amendment) Act of 1938.

Post-independence, labor laws in India drew inspiration from nationalist leaders, debates in the Constituent Assembly, the Constitution of India, international conventions, and recommendations. The Constitution emphasizes the dignity of human labor and the protection of workers' interests, aligning with fundamental rights and directive principles of state policy.

India's labor laws were also influenced by important human rights conventions and standards from the United Nations, covering the right to work, protection against discrimination, prohibition of child labor, just and humane working conditions, social security, wage protection, grievance redressal, the right to form trade unions, collective bargaining, and participation in management.

The Indian and International Labor Conferences have significantly shaped labor laws. Recommendations from national committees and commissions, such as the First National Commission on Labor (1969) and the Second National Commission on Labor (2002), as well as judicial pronouncements on issues like minimum wages, bonded labor, child labor, and contract labor, have further influenced labor legislation in India.

### **The Wage Codes:**

In India, labor falls under the Concurrent List, allowing both the Parliament and state legislatures to enact laws on the subject. Before the introduction of new labor codes, there were over 40 central laws and more than 100 state laws related to labor.

The Second National Commission on Labour (2002) recommended consolidating central labor laws into categories such as industrial relations, wages, social security, safety, and welfare for clarity and uniformity<sup>5</sup>.

Responding to these recommendations, in 2019, the Central Government introduced four bills to consolidate 29 central laws. The bills were the Code on Wages, Industrial Relations Code, Social Security Code, and Occupational Safety, Health and Working Conditions Code.

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<sup>5</sup> <https://byjus.com/free-ias-prep/labour-reforms/>

While the Wages Code was passed in 2019, the other three were initially referred to a Standing Committee on Labour. Following the committee's recommendations, the government replaced these bills with new ones in September 2020, and all were passed in the same month.

The Labor Ministry decided to notify the rules for all four labor code bills simultaneously. Despite circulating draft rules for the Wages Code in 2019, the Ministry withheld finalization and implementation, ensuring a comprehensive and coordinated approach to the new labor legislation.

### **The Code on Wages,2019:**

The Code on Wages, 2019, passed by the Parliament, aims to regulate wage and bonus payments across various employments. It replaces key labor laws, including the Minimum Wages Act, of 1948, the Payment of Wages Act, of 1936, the Payment of Bonus Act, of 1965, and the Equal Remuneration Act, of 1976. Applicable to all employees, the code empowers the Central Government to decide wages in specific sectors, while state governments handle others. Wages encompass salary and allowances but exclude bonuses and travel allowances. The legislation introduces a floor wage, set by the Central Government, with variations based on geographical locations. Minimum wages, decided by governments, must exceed the floor, considering work difficulty and skill levels. Reviews occur at least every five years. The code restricts employing workers below the minimum wage, stipulates working hours, and mandates overtime compensation. Employers can deduct specific amounts for fines, absence, accommodation, and advances, at most 50%. Annual bonuses are granted to employees below a specified monthly income.

Prohibiting gender discrimination, the code defines similar work parameters and establishes advisory boards for wage recommendations and enhancing women's employment. Penalties, including three-month imprisonment and a Rs. 1 lakh fine, are outlined for code violations.

### **Code on Industrial Relations,2020:**

The new labor code consolidates three existing laws and broadens the definition of a worker to encompass individuals engaged in skilled or unskilled, manual, technical, operational, and clerical capacities. It now includes those in supervisory roles earning less than Rs. 18,000 per month. Introducing a provision for fixed-term employment, the code grants flexibility to employers while ensuring such employees receive equivalent benefits to permanent counterparts.

The establishment's standing orders threshold has increased to 300 workers, facilitating easier hiring and firing. The Industrial Relations Code streamlines business operations for firms with up to 300 workers, allowing lay-offs, retrenchment, and closure without government permission. The establishment of a re-skilling fund for retrenched workers, funded by the employer, is a notable feature. Government initiatives to address worker disputes include a helpline for migrant workers, a national database, and adjustments to leave accumulation criteria.

The code promotes gender equality, permitting women to work at night with employer-provided security and ensuring their consent. In cases of worker injury or death due to workplace accidents, a substantial penalty share is allocated, supplementing the Employee's Compensation. The proposed "Social Security

Fund" for 40 Crore unorganized workers, including GIG and platform workers, aims to achieve universal social security coverage<sup>6</sup>.

### **The Code on Social Security, 2020:**

The Code on Social Security, 2020 marks a significant milestone by extending crucial social security benefits, including maternity leave, disability insurance, gratuity, health insurance, and old age protection, to workers in the unorganized sector, encompassing gig workers, platform workers, contract workers, freelancers, and home-based workers. Notably, it ensures gratuity benefits for fixed-term employees without imposing conditions on minimum service. The code proposes the establishment of a social security fund, funded by contributions from platforms, aggregators, and potentially central and state governments. This comprehensive legislation integrates nine previous regulations related to social security, covering a wide spectrum of workers and streamlining the provision of essential benefits in the unorganized sector.

### **Occupational Safety, Health, and Working Conditions Code:**

The Occupational Safety, Health, and Working Conditions Code is designed to govern and enhance the safety, health, and working conditions of employees across various establishments. Notably, the code extends its reach to encompass a diverse range of workers, including inter-state migrants, sales promotion employees, and audio-visual workers. In a bid to advance gender equality, the code facilitates women workers to engage in night-time employment with their consent.

Moreover, it ensures that inter-state migrant workers can avail of benefits from the Public Distribution System in either their home state or the state of employment. The comprehensive nature of the code is evident in its integration of thirteen labor laws related to safety, health, and working conditions, streamlining regulations for a more inclusive and protective work environment.

### **Changes Brought Between The Earlier Labor Laws and Present Labor Laws:**

The Industrial Relations (IR) Code, 2020 brings about several noteworthy changes in labor regulations. Previously, firms with up to 100 workers were exempt from obtaining government permission to terminate employees, but this threshold has now increased for firms with up to 300 workers, providing greater flexibility for businesses<sup>7</sup>. Additionally, the notice period for strikes has been extended from two weeks to 60 days, allowing for more structured negotiations.

In terms of social security, the unorganized sector, which was previously excluded, can now benefit from the provisions outlined in the Code on Social Security, 2020 (CSS 2020). This expansion ensures a broader safety net for workers in various sectors. Another significant alteration pertains to gratuity eligibility. While workers were previously required to have five years of service, they can now draw gratuity with just one year of service, enhancing the financial protection for employees.

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<sup>6</sup> <https://www.clearias.com/labour-code/>

<sup>7</sup> <https://www.moneycontrol.com/news/business/economy/explained-the-four-labour-codes-and-what-they-mean-for-indias-workforce-6151571.html>

Under the Occupational Safety and Health (OSH) Code, the maximum daily work hours have been extended to 12 hours a day, compared to the previous limit of 9 hours. This modification reflects changes in the evolving work landscape and aims to balance productivity with employee well-being.

Furthermore, the Code of Wages establishes a provision for determining minimum wages by the central government, addressing the absence of such a provision in previous regulations. This move ensures a more standardized and equitable compensation framework for workers across various sectors. Overall, these changes signify a shift towards modernizing and adapting labor laws to better align with the evolving dynamics of the workforce and economic landscape.

### Reasons for Non-Implementation of Labor Codes:

In India, labor falls under the category of a concurrent subject in the Constitution, which means that both the central government and the state governments have the authority to legislate on matters related to labor<sup>8</sup>. The introduction of the four labor codes by the central government, namely the Code on Wages, Industrial Relations Code, Social Security Code, and Occupational Safety, Health, and Working Conditions Code, marked a significant effort to streamline and consolidate various labor laws.

However, for these codes to become effective and enforceable, rules and regulations must be notified and implemented at both the central and state levels. Each state has its own set of labor laws and regulations, and they must align with the provisions outlined in the central labor codes. In this context, the central government had finalized rules under the four codes, providing a framework for their implementation.

However, the codes could not be enforced uniformly across the country because many states had not yet notified or adopted the rules in their respective jurisdictions. The following would be the reasons for the non-implementation of the labor codes:

- 1. State-Specific Labor Laws:** Before implementing the Code on Wages, some states may need to review and amend their existing labor laws to ensure alignment with the new code. This process of legislative changes can take time, involving discussions, debates, and approvals within the state legislative bodies.
- 2. Administrative Preparedness:** Implementing a comprehensive labor code requires administrative preparedness. States need to establish the necessary infrastructure, including offices, personnel, and systems to enforce the new regulations effectively. This can be a resource-intensive and time-consuming process.
- 3. Resource Constraints:** Some states may face resource constraints, both in terms of budget and skilled manpower, which can hinder the prompt implementation of the code. Recruiting and training personnel to handle wage-related matters may take time.
- 4. Political Considerations:** The political climate in each state can influence the implementation of labor laws. Changes in government or political priorities can delay or expedite the process. Political parties may have varying stances on labor reforms, impacting the decision-making timeline.

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<sup>8</sup> [https://www.business-standard.com/article/economy-policy/labour-codes-unlikely-to-be-implemented-this-fiscal-year-report-121091900213\\_1.html](https://www.business-standard.com/article/economy-policy/labour-codes-unlikely-to-be-implemented-this-fiscal-year-report-121091900213_1.html)

5. **Labor Union Opposition:** Labor unions often play a significant role in labor-related decisions. Opposition from unions or their demands for modifications to the code can slow down the implementation process as negotiations and compromises may be required.
6. **Legal Challenges:** Disputes or legal challenges related to the interpretation or application of the code can arise, leading to delays. Courts may need to adjudicate on these matters, adding further time to the implementation process.
7. **Industry and Sectoral Variations:** Different states have varying economic structures and industries. Some states may have a strong presence in certain industries or sectors with unique wage-related issues. Addressing these specific concerns may delay the overall implementation.
8. **Public Awareness and Education:** It's crucial to educate both employers and employees about the new labor regulations. States may invest time and resources in awareness campaigns and training programs to ensure compliance, which can extend the implementation timeline.
9. **Interstate Coordination:** In cases where wage regulations impact workers who migrate between states for employment, coordination between states may be necessary to avoid conflicts or disparities in implementation.
10. **Economic Factors:** Economic conditions and priorities of individual states can also impact the implementation timeline. States facing economic challenges may prioritize other policies over labor law reforms.

### Conclusion:

The implementation of the four Labour Codes in India has encountered significant delays, leaving a substantial number of workers in a state of uncertainty. One major obstacle has been the halt in stakeholder negotiations, where the Labour Ministry engaged in rounds of discussions with industry representatives and trade union leaders over the past two years, without making substantial progress. This impasse has hindered the process of reaching a consensus on the codes' provisions.

Another contributing factor to the delayed implementation is the slow pace of pre-publishing new rules by State Governments in their Official Gazettes, a crucial step for public consultation. Some states, including West Bengal, Meghalaya, and Nagaland, have yet to publish their draft rules on Labour Codes. As of December 13, 2022, only a certain number of states have pre-published draft rules under each code, with a final notification needed for their enforcement.

It is now anticipated that a definitive decision on the implementation date of these Labour Codes may only occur after the Lok Sabha elections in 2024. This cautious approach is possibly influenced by the desire to avoid the controversies and challenges faced by the Farm Laws, emphasizing the importance of a comprehensive and consultative process to ensure the successful adoption and implementation of these significant labor reforms.