CRESTWOOD Publishers

CODIFYING LABOUR WELFARE

An Analysis of India's New Labour Regime

Dr. Nayeem Ahmad Bhat

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FOREWORD

One has a special satisfaction in watching a body of law, at last, come to grips with the intricacy of the world it is destined to control. The codification of the central labour laws in India is one of those few moments at which one can stop and take a close look, especially by anyone who has ever taken the time to seriously consider how the law is protecting, or failing, the people whom it is meant to serve. I approached this volume not only as a legal scholar, but also as someone whose academic and professional journey has been deeply rooted at the intersection of labour, gender, and the lived realities of workers whose voices seldom find place in legal discourse or judicial records. My engagement with issues such as the implementation of POSH law, workplace safety assessments in tier-II cities, and the heightened vulnerability of women workers at construction sites has repeatedly revealed the same uncomfortable truth: even the most carefully drafted legal framework is only as effective as its ability to reach those at the margins. A law that does not extend its protection to the excluded cannot truly claim to be universal.

With that background in mind, I have approached this edited book, *"Codifying Labour Welfare: An Analysis of India's New Labour Regime", with the interest and to some extent with critical* expectation. And I am happy to tell you that Dr. Nayeem Ahmad Bhat and his contributors have done something really worthy. All the four labour codes were finally enforced in November 2025: 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*. This new structure was a consolidation of 29 core statutes that had been built over the course of almost 100 years of legislative activity. The intellectual interest of the exercise is heavy intellectual stuff, and that is what this collection presents.

The thing I like most about this volume is that it does not give the easy answer. It neither glorifies codification as an administrative advance, nor does it reject it as a masqueraded reversal of the rights of workers. Rather, it puts the two possibilities in a state of tension and poses the more difficult question: in whose terms has the law been simplified, and on whose behalf?

The initial chapters follow the long trajectory of Indian labour law through its colonial history to its post- independence form of welfare state, in creating with commendable clarity, why fragmentation occurred and why it was, at least partially, a symptom of the state in earnest attempting to defend an increasingly diverse workforce. This history is vital to the assessment of the codification project, and the book does not skimp on this. Gender treatment in this collection is of particular interest. Being a chairperson of an Internal Complaints Committee and having done

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field research on female safety in construction sites, or rather where labour law can reach at best, I am all too conscious of how easy it is to make gender an afterthought in structural legal reform. This book does not neglect the question. The inclusivity chapter under the new codes specifically questions the topic whether the consolidation exercise has furthered or eroded the gender sensitive protection constructed, usually at a great cost, into previous legislation. There is no easy answer to that question, and the contributors admit gaps which still exist.

In the same way, the chapters on migrant workers, gig and platform labour and the informal economy dwell upon a complex of issues, which I consider that will shape the future of Indian labour law. The codification project officially recognizes such groups of workers in a manner that was not the case with the older statutes. Yet recognition is not synonymous with protection, and a number of authors in this book draw that line with accuracy. The social justice envisioned in the constitution, and echoed throughout the Directive Principles, cannot be realised by means of definitions.

Another highlight is the federalism chapter. The role of Centre State in the labour law has never been easy, the labour is on the Concurrent List not in vain, and the new codes, where the rule making powers are concentrated and the implementation is delegated to states with different administration capacities, pose real dangers of imbalanced results across the country. It is not just a hypothetical issue. My personal experience in various states has demonstrated that even quite effective central structures can have drastically different outcomes based on the institutional will and capacity of a particular place. This analysis is timely and practical.

Another chapter that I would like to mention is the one concerning digitalisation of labour governance that relates to what I have witnessed intimately in the context of POSH compliance and e-governance in general. The shift to digital forms of administration of labour is not just a convenience, it is a governance revolution that alters the visibility to the state, the reach of welfare programs, and the falling out of the system when data connectivity or digital literacy is inaccessible. This is not a technical question but a normative one that the volume approaches, and that approach is very appropriate.

What pervades this volume like a red line is an interest in the constitutional premises of labour welfare, the intuition, enhanced over centuries of judicial interpretation, that the right to dignified work is not a policy choice but a facet of the right to life. It must be so whether one looks at the codes through the eyes of the construction worker, the platform delivery worker, the woman working in a small establishment or the trade union that tries to negotiate on a collective basis.

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Some of the contributors revert to this explanation in other directions, and their combined case is convincing.

Dr. Bhat has gathered a team of various scholars throughout the country, not to mention that many of them are both practitioners and academics, and the outcome is a volume that addresses both the doctrine and the reality of labour law in India. The chapters are independent to be read separately, but they form a consistent and subtle image of the current state of Indian labour law at this critical juncture.

The labour codes are now in force, and implementation has begun. The next step will depend not only on the words of the law, but also on the interpretations of judges, the manner in which the law is administered, the ways workers and employers navigate through it, and how scholars, as represented in this volume, hold it to account. It is this final role critical and engaged scholarship that does not confuse legislative action with legislative success and it is this that this book performs well.

I highly recommend it both to students and practitioners, as well as policymakers and anyone who thinks that the law as it relates to work is one of the most significant things that a society has to get right.

Place: Aligarh
Date: 22nd April, 2026

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Preface

The landscape of labour law in India has undergone a profound transformation in recent years, marking a decisive shift from a fragmented and complex framework of multiple legislations to a consolidated regime embodied in the four Labour Codes. This edited volume, "Codifying Labour Welfare: An Analysis of India's New Labour Welfare Regime," emerges as a timely and critical scholarly engagement with these sweeping reforms, which seek to redefine the contours of labour welfare, industrial relations, and socio-economic justice in contemporary India.

For decades, India's labour law system was characterized by multiplicity, overlap, and inconsistency, often resulting in challenges of compliance, enforcement, and accessibility. The codification process culminating in 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 an ambitious legislative effort to rationalize, simplify, and modernize labour regulations. However, beyond the promise of "ease of doing business," these reforms raise significant questions regarding the protection of workers' rights, the preservation of welfare principles, and the balance between flexibility and security.

This volume seeks to explore these questions through a comprehensive, interdisciplinary, and critical lens. The chapters included herein traverse a wide range of themes from the historical evolution of labour welfare laws to the philosophical underpinnings of codification; from the implications for informal, migrant, gig, and platform workers to the challenges of federal implementation; and from constitutional mandates to global labour standards. Together, they provide a nuanced understanding of the opportunities and limitations inherent in India's new labour regime.

What distinguishes this work is the diversity and depth of its contributors. Eminent academicians, experienced scholars, and dedicated practitioners from across India have brought their expertise to bear on specific dimensions of the labour codes. Each chapter reflects rigorous research, critical insight, and a commitment to advancing scholarly discourse in the field of labour law. The contributors have not only examined the statutory provisions but have also engaged with broader socio-economic realities, thereby situating the labour codes within the lived experiences of workers and institutions.

The structure of the book has been carefully designed to ensure coherence and progression. It begins with foundational discussions on the evolution and philosophy of labour law codification, followed by detailed analyses of individual codes and

thematic concerns such as digitalisation, gender inclusivity, and labour market flexibility. The later chapters address critical issues of enforcement, judicial responses, dispute resolution, and the future trajectory of labour welfare in India. This holistic approach aims to make the volume a valuable resource for academics, students, policymakers, and practitioners alike.

As the editor, I have endeavoured to maintain both academic rigor and thematic consistency throughout the volume. While the contributors were given intellectual autonomy, efforts have been made to ensure that the chapters collectively reflect a balanced and critical perspective. It is hoped that this work will not only contribute to existing scholarship but will also stimulate further research, debate, and policy engagement in the domain of labour law reforms.

Ultimately, the success of any labour law regime must be measured not merely by its legislative elegance or administrative efficiency, but by its ability to uphold dignity, equity, and justice for workers. This volume aspires to engage with that fundamental objective and to provide a platform for meaningful dialogue on the future of labour welfare in India.

Dr. Nayeem Ahmad Bhat

Chief Editor

Acknowledgements

The completion of this edited volume, "Codifying Labour Welfare: An Analysis of India's New Labour Welfare Regime," has been a deeply collaborative and intellectually rewarding journey. It is with immense gratitude that I acknowledge the invaluable contributions of all those who have played a role in bringing this scholarly work to fruition.

At the outset, I extend my heartfelt appreciation to the distinguished contributors of this volume, whose scholarly engagement, intellectual rigor, and commitment have shaped the depth and quality of this work. Each chapter reflects not only academic excellence but also a nuanced understanding of the evolving labour law landscape in India.

I am profoundly grateful to Prof. (Dr.) N. Murugavel, whose chapter on "From Fragmentation to Codification: Evolution of Labour Welfare Laws in India" provides a strong historical and doctrinal foundation for the volume. I sincerely thank Prof. (Dr.) Asha Sundaram for her insightful contribution on "Philosophy and Objectives of Labour Law Codification: Welfare, Flexibility and Formalisation," which critically engages with the underlying principles of the new regime.

My gratitude extends to Prof. (Dr.) B. Rajeswari, who has meticulously examined "The Code on Wages, 2019," and to Prof. (Dr.) P.V. Nagendra Sarma, whose chapter on the Industrial Relations Code, 2020 thoughtfully addresses the balance between workers' rights and industrial harmony. I am equally thankful to Prof. (Dr.) Petikam Sailaja for her analysis of labour codes in the context of the informal economy, highlighting pressing concerns of formalisation and worker protection.

I express my sincere appreciation to Dr. B. Lavaraju for his work on contract labour and fixed-term employment, and to Dr. V. Prabha for her valuable insights into federal dynamics in labour law implementation. I am grateful to Dr. Rangaswamy D. for his comprehensive analysis of the Social Security Code, 2020, which expands the contours of labour welfare in India.

I extend my thanks to Dr. B. Kondala Rao for his important contribution on the digitalisation of labour governance, and to Mrs. N. Umachitra for her constitutional appraisal of labour welfare under the Directive Principles of State Policy. My appreciation also goes to Mrs. O. S. Anitha, whose chapter on gender and labour inclusivity brings critical perspectives to the forefront.

I am thankful to Mr. A. Magesh Kumar for his analysis of the impact of labour codes on migrant, informal, gig, and platform workers, and to Mrs. Kanimozhi V. for her

work on occupational safety and working conditions. I also acknowledge Mrs. Mahimaa Jain for her insightful discussion on collective bargaining and trade unions under the new labour framework.

My sincere thanks are due to Mr. S. Rajaprabu for his examination of enforcement mechanisms, and to Mrs. M. Varalakshmi for her contribution on the role of international labour standards and the International Labour Organization in shaping India's labour reforms. I am equally grateful to Mr. T.S. Venkateshan for his critical assessment of the tension between ease of doing business and worker welfare.

I extend my appreciation to Ms. Bhuvaneswari for her analysis of judicial responses to labour law codification, and to Mrs. K. Sirisha for her work on dispute resolution mechanisms under the labour codes. Finally, I express my gratitude to Mrs. Tancy Sebastian, whose forward-looking chapter on the future of labour welfare in India provides a fitting conclusion to this volume.

I would also like to acknowledge my colleagues and academic fraternity at the School of Law, University of Kashmir, Srinagar, whose encouragement and intellectual environment have greatly contributed to this work.

On a deeply personal note, I express my profound gratitude to my family, whose unwavering support, patience, and understanding have been the cornerstone of this endeavour. Their constant encouragement, sacrifices, and belief in my work have sustained me through the demanding phases of this project. This accomplishment is as much theirs as it is mine. I also extend my heartfelt thanks to my friends, whose moral support and motivation have been a source of strength throughout this journey.

I am grateful to the publishing team for their professionalism and dedication in bringing this manuscript to completion. Their efforts in editing and production have ensured that the work reaches its readers in a refined and accessible form.

Finally, I acknowledge all those who have contributed, directly or indirectly, to the development of labour law scholarship and have inspired this academic pursuit.

This volume stands as a collective intellectual effort, and I remain sincerely indebted to everyone who has been a part of this journey.

Dr. Nayeem Ahmad Bhat

Chief Editor

Summary of the Book

Codifying Labour Welfare: An Analysis of India's New Labour Regime provides a comprehensive and critical examination of India's recent labour law reforms, which mark a significant shift from a fragmented legal framework to a consolidated system of governance. The book analyses the codification of 29 central labour laws into four Labour Codes—namely, the Code on Wages, 2019; the Industrial Relations Code, 2020; the Occupational Safety, Health and Working Conditions Code, 2020; and the Social Security Code, 2020. It explores the rationale, implications, and challenges of this transformation, focusing on its impact on labour welfare, economic growth, and regulatory efficiency.

The book begins by tracing the historical evolution of labour laws in India, highlighting how the earlier regime was characterized by multiplicity, complexity, and inconsistency. Over time, this fragmented structure created compliance burdens for employers and often failed to adequately protect workers, especially those in the unorganised sector. The move towards codification is presented as a response to these challenges, aiming to simplify legal provisions, enhance transparency, and create a more coherent framework for labour regulation.

A key theme of the book is the philosophy underlying the new labour codes. The reforms are rooted in three primary objectives: promoting labour welfare, enhancing flexibility in the labour market, and encouraging formalisation of employment. While the codes attempt to strike a balance among these goals, the book critically examines whether this balance has been effectively achieved. It argues that although the intent is to modernise labour laws and make them more business-friendly, there is an inherent tension between economic efficiency and the protection of workers' rights.

The book offers an in-depth analysis of each of the four labour codes. The Code on Wages, 2019, is examined for its attempt to standardise wage definitions and extend minimum wage protection to a broader category of workers. The Industrial Relations Code, 2020, is discussed in terms of its provisions on trade unions, strikes, and dispute resolution, raising concerns about potential restrictions on collective bargaining. The Occupational Safety, Health and Working Conditions Code, 2020, is evaluated for its emphasis on ensuring safer workplaces and improving working conditions across sectors. Meanwhile, the Social Security Code, 2020, is analysed for its efforts to expand social security benefits to previously excluded groups, including gig workers and platform workers.

A significant portion of the book is dedicated to assessing the impact of these reforms on vulnerable sections of the workforce. It highlights the persistent challenges faced

by migrant workers, informal sector employees, and women workers, questioning whether the new codes adequately address their needs. While the inclusion of gig and platform workers within the ambit of social security is acknowledged as a progressive step, the book points out gaps in implementation and coverage that may limit its effectiveness.

The book also explores the broader institutional and governance challenges associated with the new labour regime. It discusses the role of federalism in labour law implementation, emphasizing the need for effective coordination between the central and state governments. Issues related to enforcement mechanisms, such as labour inspections, compliance procedures, and penalties, are critically analysed, with the observation that weak enforcement could undermine the objectives of the reforms.

Another important aspect covered in the book is the growing role of digitalisation in labour governance. The introduction of online registration systems, electronic compliance mechanisms, and digital record-keeping is seen as a step towards improving transparency and efficiency. However, the book cautions that digitalisation must be accompanied by adequate infrastructure and accessibility to ensure that smaller enterprises and workers are not excluded.

The book further situates India's labour law reforms within a constitutional and international context. It evaluates the alignment of the labour codes with the Directive Principles of State Policy, which mandate the state to ensure social and economic justice for workers. Additionally, it considers the influence of international labour standards, particularly those set by the International Labour Organization (ILO), in shaping India's approach to labour welfare.

In its critical assessment, the book engages with the ongoing debate between ease of doing business and workers' welfare. It argues that while the labour codes are designed to create a more investment-friendly environment, they must not come at the cost of weakening labour protections. The changes in provisions related to contract labour, fixed-term employment, and thresholds for regulatory compliance are examined as indicators of increased labour market flexibility, which may have both positive and negative consequences.

The final chapters of the book focus on the future of labour welfare in India. They identify key gaps in the current framework, including issues related to implementation, awareness, and institutional capacity. The book suggests that the success of the new labour regime will depend not only on the design of the laws but also on their effective execution. It calls for a balanced approach that ensures economic growth while safeguarding the dignity, rights, and welfare of workers.

In conclusion, the book presents a nuanced and balanced perspective on India's labour law codification. It recognises the necessity of reform in a rapidly changing economic landscape but emphasises that true progress can only be achieved if labour welfare remains at the core of policy-making. By combining legal analysis, policy critique, and socio-economic insights, the book contributes to a deeper understanding of the opportunities and challenges associated with India's new labour regime.

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Chapter 1

From Fragmentation to Codification: Evolution of Labour Welfare Laws in India

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1.1 Introduction: The Historical Foundations of Labour Welfare Regulation

Labour welfare law lies at the heart of the modern regulatory state because it mediates one of the basic tensions of industrial society: the dependence of economic growth on organised labour, and the tendency of unregulated labour markets to reproduce hierarchy, insecurity and coercion. In legal theory as well as public policy, labour regulation is therefore not an external constraint on production but one of the institutional conditions that make markets socially sustainable. The regulation of wages, health and safety, social insurance, collective bargaining and dispute settlement has historically been justified not only in terms of humanitarian concern for workers, but also by reference to industrial peace, productivity, public order and the legitimacy of capitalist development itself.[41][45][47]

In India, this regulatory field evolved through a long and uneven trajectory. Colonial legislation introduced a thin protective framework largely confined to factories, mines and transport, and was shaped as much by imperial economic interests and international scrutiny as by any coherent commitment to labour citizenship.[2][3][4][5][6][7][45]

After independence, however, the Constitution and the post-colonial welfare state transformed labour law into a central instrument of social justice. A large body of statutes emerged to regulate wages, industrial relations, occupational safety, social security, gender equality and special categories of vulnerable workers.

Yet this expansion, normatively ambitious though it was, also produced substantial fragmentation: overlapping definitions, multiple inspectors and authorities, varying thresholds of applicability, and a persistent gap between formal legal rights and the lived experience of workers in the informal economy.[1][8][9][10][11][12][13][14][15][16][17][18][19][45][47][48][49]

The contemporary codification project - culminating in the Code on Wages, 2019, the Industrial Relations Code, 2020, the Occupational Safety, Health and Working Conditions Code, 2020, and the Code on Social Security, 2020 - must be understood against this longer historical background.[20][21][22][23][36] It is not merely a legislative tidying-up exercise. Rather, codification marks a shift in the technique of labo8ur governance: from a dense statute-specific regulatory order towards a more integrated, digitised and executive-driven framework that seeks simultaneously to simplify compliance, widen certain forms of formal coverage, and recalibrate the balance between labour protection and labour market flexibility.[20][21][22][23][37][39][40][50][55] At the time of writing, all four codes have been brought into force with effect from 21 November 2025, and the official India Code compilations and early implementation measures already reveal both the promise and the complexity of the new regime.[24][25][26][37][39][56]

This chapter develops the central claim that labour law codification in India represents the culmination of a long historical process shaped by four overlapping forces: colonial industrial regulation, post-independence welfare constitutionalism, liberalisation-era demands for flexibility, and contemporary pressures for administrative simplification. The chapter first explains the meaning and legal significance of labour welfare; it then traces the historical evolution of labour welfare legislation from the colonial period to the post-independence welfare state. The discussion then turns to the problem of fragmentation and the reform debates that produced the codification agenda. Thereafter, the chapter offers a doctrinal analysis of the four labour codes, examines their constitutional and jurisprudential foundations, and evaluates their policy implications for workers, employers, labour administration and industrial relations. Throughout, it argues that codification has changed the form of labour law more decisively than it has resolved the substantive dilemmas of Indian labour governance.

1.2 Concept of Labour Welfare and its Legal Significance

1.2.1 Meaning and Scope of Labour Welfare

The concept of labour welfare is broader than the provision of isolated amenities in the workplace. In labour law theory, it refers to the ensemble of legal and institutional measures designed to secure the worker's physical well-being, economic security, dignity and capacity to participate in social life. At a minimum, labour welfare encompasses fair remuneration, limitations on working time, rest and leave, health and safety protections, compensation for employment injury, maternity protection, social insurance, and collective mechanisms through which workers can negotiate the terms of employment.[41][42][43][47][48][49] In the Indian legal tradition, labour welfare has

also acquired a distributive meaning: it is part of the larger constitutional commitment to social justice and to the mitigation of inequalities generated by class, caste, gender and regional vulnerability.[1][27][30][45]

A useful distinction may be drawn between statutory welfare and voluntary welfare. Statutory welfare consists of obligations created and enforced by law - for example minimum wages, provident fund contributions, crèche facilities, journey allowance for migrant workers, or gratuity upon termination of service.[9][12][15][16][18][20][22][23] Voluntary welfare, by contrast, refers to benefits provided by employers beyond the legal minimum, such as subsidised housing, educational assistance, medical facilities superior to those mandated by law, or workplace counselling programmes. Voluntary welfare may enhance worker well-being, but its normative significance differs from statutory welfare because it remains contingent on managerial policy rather than enforceable legal right. The historical arc of labour law in India has chiefly concerned the gradual conversion of matters once treated as benevolent managerial discretion into legal entitlements rooted in public policy and constitutional principle.[45][47][48][49]

1.2.2 Objectives of Labour Welfare Legislation

The objectives of labour welfare legislation are accordingly multiple. First, welfare regulation seeks to guarantee a floor of fairness in the labour market by preventing wages and conditions from being driven solely by unequal bargaining power.[20][41][42] Secondly, it secures safe and humane working conditions by imposing duties on employers and by recognising that the economic value of labour cannot be dissociated from bodily integrity and health.[8][22][34][35][57] Thirdly, it addresses life-cycle and contingency risks - illness, maternity, disability, old age, death, unemployment or loss of work - through social security mechanisms.[10][12][16][23][31][43] Fourthly, welfare legislation contributes to industrial peace. Predictable rules on wages, standing orders, representation and dispute settlement reduce the costs of conflict and facilitate productive enterprise without normalising arbitrary managerial authority.[11][21][32][47] Finally, welfare law serves a democratic purpose by recognising workers not merely as inputs into production, but as rights-bearing citizens whose labour sustains the constitutional order itself.[1][27][30][33]

1.2.3 Labour Welfare and Social Justice

Seen in this light, labour welfare is best understood as an institutional expression of social justice. The Indian Constitution does not use the phrase "labour welfare" in a narrow sense; instead, it embeds labour-protective commitments across Fundamental Rights and the Directive Principles of State Policy. The abolition of trafficking and forced labour in Article 23, the prohibition of child labour in hazardous employment in Article 24, and the guarantees of equality and dignity under Articles 14, 16 and 21

together create a constitutional environment in which labour exploitation is treated as a public wrong rather than a private bargain.[1][27][28][29][30] The Directive Principles reinforce this orientation: Articles 38, 39, 41, 42, 43 and 43A direct the State to secure an order informed by social justice, to protect health and strength of workers, to ensure equal pay, humane conditions of work, a living wage, and worker participation in management.[1][28][31][45] Labour welfare legislation, whether in its older statute-specific form or in the new codes, must therefore be interpreted not only as sectoral regulation but as a means through which the constitutional promise of a social republic is operationalised in the sphere of work.

1.3 Early Development of Labour Laws during the Colonial Period

1.3.1 Industrialisation in Colonial India

The early development of labour law in colonial India was inseparable from the emergence of industrial capitalism in the late nineteenth century. The growth of textile mills in Bombay and Ahmedabad, jute mills in Bengal, plantations in Assam and South India, railway workshops, and mining enterprises created new concentrations of wage labour under conditions of extreme vulnerability. Long hours, hazardous machinery, poor ventilation, inadequate sanitation, child labour and the recruitment of migrant labour through coercive intermediaries were common features of this early industrial order.[2][3][4][5][45] The colonial state did not initially legislate in response to a generalised concern for worker welfare. Regulation emerged piecemeal, typically where political pressure became difficult to ignore or where international criticism threatened the commercial position of British manufacturers.[41][45]

1.3.2 Early Factory Legislation

The first Factories Act of 1881 is conventionally treated as the opening point of modern labour legislation in India.[2][45] Its scope was narrow and its protections modest: it applied only to limited classes of factories and focused largely on child labour, daily hours and minimal safety provisions. The Factories Act of 1891 strengthened some aspects of regulation by introducing restrictions on the working hours of women and children and by improving inspection mechanisms, while the Act of 1911 expanded the ambit of regulation further as industrial production intensified.[3][4] Yet even these enactments created only a thin protective framework. They did not amount to a comprehensive labour code in any substantive sense; rather, they represented a cautious and selective intervention in the industrial process, calibrated to avoid materially disrupting production or employer control.[45][47]

1.3.3 Colonial Objectives of Labour Legislation

The motivations behind colonial labour legislation were mixed and often instrumental. One strand was humanitarian rhetoric, especially in relation to women and children. Another arose from pressure by Lancashire manufacturers who argued that the absence of restrictions in Indian factories generated unfair competition for British industry. International labour developments after the First World War, including the creation of the International Labour Organization in 1919, also exerted pressure on colonial administrations to demonstrate conformity with minimal civilised standards.[41][45] But these impulses coexisted with a persistent reluctance to interfere deeply in industrial organisation. The objective was not to reconstruct the employment relationship on egalitarian lines, but to preserve industrial productivity, ensure an orderly labour force, and respond to external criticism without altering the basic asymmetry of power between employers and workers.[45]

Even so, late colonial legislation laid important doctrinal foundations for the future welfare state. The Workmen's Compensation Act, 1923 recognised the employer's liability for industrial injury, thereby moving beyond the narrow common-law model of fault and placing employment risk within the domain of social regulation.[5] The Trade Unions Act, 1926 gave a statutory framework to collective worker organisation and conferred limited legal immunities on registered unions.[6] The Payment of Wages Act, 1936 addressed arbitrary wage deductions and delays in payment, issues that had profound significance in a labour market characterised by indebtedness and employer dominance.[7] These measures did not eliminate exploitation, nor did they cover the vast agrarian and informal workforce. Yet they institutionalised the idea that conditions of labour were a legitimate subject of legislation. In that limited but important sense, the colonial period furnished the legal vocabulary from which post-independence labour welfare law would later be expanded and transformed.[45][47]

1.4 Development of Labour Welfare Legislation after Independence

1.4.1 Constitutional Commitment to Labour Welfare

Independence fundamentally altered the normative foundation of labour regulation in India. The Constitution of 1950 located labour welfare within the architecture of the social state. The Preamble's commitment to justice - social, economic and political - and the Directive Principles together rejected the idea that labour could be governed solely through private contract.[1] Articles 38 and 39 require the State to reduce inequalities and to direct policy towards an adequate means of livelihood, equal pay for equal work, and protection against abuse of the health and strength of workers. Article 41 contemplates public assistance in cases of unemployment, old age, sickness and disablement; Article 42 mandates just and humane conditions of work and

maternity relief; Article 43 speaks of a living wage and conditions ensuring a decent standard of life; and Article 43A, inserted later, points towards worker participation in management.[1][28][31] Although most of these provisions are non-justiciable in the strict sense, they have supplied the constitutional grammar through which labour legislation has been framed and interpreted.[27][30][34][35]

1.4.2 Expansion of Labour Legislation in the Post-Independence Period

In the decades following independence, the Indian state constructed an extensive labour welfare regime through numerous specialised statutes. The Factories Act, 1948 provided the general architecture for occupational safety, health and welfare in factories, including provisions on cleanliness, ventilation, hazardous machinery, working hours, annual leave and welfare officers.[8] The Minimum Wages Act, 1948 empowered governments to fix wage floors in scheduled employments, thereby recognising that market wages in low-bargaining-power sectors required public intervention.[9] The Employees' State Insurance Act, 1948 and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 established contributory social insurance for sickness, maternity, employment injury and old age.[10][12] Later enactments such as the Maternity Benefit Act, 1961, the Payment of Bonus Act, 1965, the Payment of Gratuity Act, 1972 and the Equal Remuneration Act, 1976 deepened the welfare dimension of labour law by addressing reproduction, surplus sharing, termination benefits and gender justice.[13][14][16][17]

This post-independence regime was guided by a philosophy of state-led labour protection. It assumed that industrial peace and national development required legally structured employment relations rather than laissez-faire bargaining. The Industrial Disputes Act, 1947 regulated retrenchment, lay-off, closure and dispute settlement through conciliation, adjudication and reference to specialised tribunals.[11] The Contract Labour (Regulation and Abolition) Act, 1970 and the Inter-State Migrant Workmen Act, 1979 responded to the growth of mediated and migrant labour by imposing registration, licensing and welfare obligations on principal employers and contractors.[15][18] The Building and Other Construction Workers legislation of 1996 recognised the distinctive vulnerabilities of a highly mobile and casualised sector and financed welfare benefits through a dedicated cess mechanism.[19] The result was not a seamless welfare order - many workers remained outside effective coverage - but it did produce a doctrinally rich and socially ambitious body of labour legislation compared with the colonial period.[45][47][48][49]

1.4.3 Role of the Judiciary in Expanding Labour Rights

The judiciary played a crucial role in enlarging the meaning of labour welfare within this constitutional framework. In People's Union for Democratic Rights v Union of

India, the Supreme Court held that the extraction of labour for less than the statutory minimum wage could amount to forced labour within the meaning of Article 23, thereby constitutionalising what might otherwise have been treated as a mere statutory violation.[27] In Sanjit Roy v State of Rajasthan, the Court reaffirmed that even persons engaged on famine relief works could not be paid below the minimum wage, underscoring that conditions of poverty do not legitimise coercive underpayment.[29] In Bandhua Mukti Morcha v Union of India, the Court connected bonded labour, humane conditions of work, health and dignity to Article 21 read with the Directive Principles, treating labour exploitation as a constitutional injury requiring affirmative state action.[30]

The Court's labour rights jurisprudence also extended beyond forced labour. In Randhir Singh v Union of India, it treated equal pay for equal work as a constitutional principle flowing from equality norms and the Directive Principles, even though not expressly enacted as a fundamental right.[28] In C.E.S.C. Ltd. v Subhash Chandra Bose and Consumer Education and Research Centre v Union of India, the Court linked occupational health, medical facilities and protection against industrial disease to the right to life under Article 21.[34][35] Read alongside later livelihood jurisprudence such as Olga Tellis, these decisions illustrate how Indian labour law developed through a dialogue between statutes and constitutional adjudication, in which labour welfare was gradually recast as a dimension of citizenship, dignity and distributive justice rather than merely an administrative concern of industrial regulation.[33][34][35]

1.5 The Problem of Fragmentation in Labour Law

1.5.1 Multiplicity of Labour Statutes

The very success of post-independence labour legislation in generating specialised regimes also produced a serious structural problem: fragmentation. By the beginning of the twenty-first century, Indian labour law comprised dozens of central statutes and an even larger body of state rules, notifications and sector-specific instruments. Different laws used different definitions of "employee", "worker", "wages", "appropriate government", "establishment" and "industry". Thresholds of applicability varied significantly, and compliance frequently required separate registers, returns, licences and inspections under parallel enactments.[36][45][47][48][49] The architecture of protection was thus normatively rich but administratively disaggregated.

1.5.2 Regulatory Burden on Employers

For employers - especially those operating across multiple establishments or states - this multiplicity generated substantial compliance costs. It required engagement with several authorities, overlapping inspections, separate procedural time lines and

divergent record-keeping formats. Industry groups and reform advocates argued that such complexity undermined legal certainty, discouraged formalisation and invited discretionary enforcement.[36][37][39][40][46] Even where these claims were overstated, the administrative burden of fragmentation was real. Fragmented labour law did not merely increase the quantity of regulation; it also reduced its intelligibility, making compliance harder to achieve and enforcement harder to monitor.[37][40][45]

1.5.3 Limited Coverage of Informal Sector Workers

More fundamentally, fragmentation contributed to a mismatch between labour law and labour market reality. Much of Indian labour remained informal, home-based, seasonal, migrant, subcontracted or self-employed. Many workers moved between categories that the statute book treated separately or not at all. Informal workers, inter-State migrants, and later platform-based workers often fell through definitional gaps or were excluded by establishment thresholds and enforcement weakness. As scholarship on labour reform has repeatedly noted, the core problem of Indian labour law was not simply rigidity in the formal sector but limited normative and administrative reach across the broader world of work.[45][46][54] The case for consolidation therefore drew force not only from demands for ease of doing business, but also from the recognition that the inherited statute-by-statute model no longer aligned with the structure of employment in a liberalising economy.

1.6 Economic Liberalisation and the Debate on Labour Reform

1.6.1 Impact of Economic Reforms

Economic liberalisation after 1991 transformed both the labour market and the politics of labour law reform. Integration into global value chains, the growth of export-oriented production, technological change, the increasing use of outsourcing and subcontracting, and the expansion of services reshaped the conditions under which labour regulation operated.[45][46] Formal employment did not expand at the pace anticipated by reform narratives, while contractualisation intensified across both manufacturing and services. Labour mobility increased, and the segmentation of the workforce between protected core employees and precarious peripheral workers became more pronounced. The older welfare regime, designed around the standard employment relationship in identifiable establishments, faced mounting pressure from these changes.[46][50][54][55]

1.6.2 Criticism of Existing Labour Laws

In this context, existing labour laws became the subject of sustained criticism from policy makers, business associations and some economists. The dominant reform narrative argued that Indian labour regulation was excessively rigid, particularly in

relation to hiring, retrenchment, closure and multiplicity of procedures; that it discouraged labour-intensive manufacturing; and that it pushed firms towards informality, capital-intensive strategies or strategic under-sizing to remain below statutory thresholds.[36][46] Critics focused especially on industrial relations law, but the broader argument extended to registration requirements, inspections, wage regulation and the complexity of social security compliance.[37][39][40]

1.6.3 Reform Proposals by Policy Commissions

That critique, however, was contested. Papola and Pais famously argued that the labour reform debate was often a case of misplaced focus because the real structure of employment in India already displayed substantial flexibility, achieved less through rigid legal commands than through the vast reach of informal and unprotected work.[46] On this view, the central challenge was not that labour law overprotected workers, but that legal protection reached too small a share of the workforce and was weakly enforced where it did apply. Later scholarship on the labour codes echoed this concern by showing that simplification could become a vehicle for recalibrating the balance of power in favour of managerial flexibility unless accompanied by robust universalisation, effective inspection and worker voice.[50][51][52][53][54][55]

The Second National Commission on Labour provided the most influential institutional blueprint for reform. Its 2002 report recommended grouping labour laws into a small number of broad codes - typically around industrial relations, wages, social security, safety and welfare - so as to reduce duplication, rationalise definitions and modernise administration.[36] The Commission did not propose deregulation simpliciter; rather, it envisaged reorganisation, simplification and a more coherent framework adapted to a changing economy. Yet the political uptake of its recommendations occurred in an era increasingly shaped by the language of competitiveness, investment and ease of doing business. The codification agenda that eventually emerged thus combined two distinct impulses: welfare rationalisation and market-oriented regulatory simplification. The tension between them continues to structure the new labour regime.[36][37][39][50][55]

1.7 Emergence of the Labour Law Codification Agenda

1.7.1 Policy Rationale for Codification

The policy rationale for codification rested on three interlinked claims. First, simplification: multiple statutes governing similar or connected subjects were said to generate confusion, duplicate compliance and uneven interpretation. Secondly, formalisation: a simpler and more standardised legal framework was expected to improve compliance and encourage enterprises to operate within the formal economy. Thirdly, governance modernisation: consolidated laws could be supported by digital

registration, common returns, web-based inspections and a more integrated administrative architecture.[36][37][38][39][40] The official narrative therefore presented codification as simultaneously worker-protective and business-friendly - an attempt to secure universal minimum standards while removing unnecessary procedural complexity.[37][39]

1.7.2 Legislative Strategy for Labour Reform

The legislative strategy adopted by Parliament was to consolidate twenty-nine central labour enactments into four codes: the Code on Wages, 2019; the Industrial Relations Code, 2020; the Occupational Safety, Health and Working Conditions Code, 2020; and the Code on Social Security, 2020.[20][21][22][23][24] This consolidation was finally operationalised from 21 November 2025 through commencement notifications issued by the central government.[24] In form, the change is dramatic. Instead of navigating a patchwork of enactments enacted over nearly a century, the legal subject now encounters four principal codes structured around wages, industrial relations, working conditions, and social security. In substance, however, the picture is more complex. Codification has not simply reproduced the older law in a new container; it has harmonised some definitions, redesigned administrative processes, retained many thresholds, and altered the content of certain entitlements and procedural safeguards.[20][21][22][23][50][55]

Table 1. Consolidation of Major Labour Laws into Four Labour Codes

Labour Code	Major laws consolidated	Core welfare / regulatory theme
Code on Wages, 2019	Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; Equal Remuneration Act, 1976	Wage floors, timely payment, bonus, gender equality
Industrial Relations Code, 2020	Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; Industrial Disputes Act, 1947	Collective bargaining, standing orders, strikes, dispute resolution, retrenchment / closure
OSHWC Code, 2020	Factories Act, 1948; Mines Act, 1952; Contract Labour Act, 1970; Inter-State	Safety, health, welfare and working conditions

	Migrant Workmen Act, 1979; BOCW Act, 1996; other sectoral safety statutes	
Code on Social Security, 2020	Employees' State Insurance Act, 1948; EPF Act, 1952; Maternity Benefit Act, 1961; Payment of Gratuity Act, 1972; Employees' Compensation Act, 1923; BOCW Welfare Cess Act, 1996; others	Social insurance, termination benefits, unorganised and gig-worker schemes

Source: Compiled from the labour codes and Ministry of Labour and Employment materials.[20][21][22][23][37][39]

Table 1 demonstrates that codification did not collapse labour law into a single omnibus enactment; instead, it reorganised the field into four thematic domains. This is analytically important. The chosen domains preserve the traditional pillars of Indian labour law - wages, industrial relations, safety and social security - while seeking to eliminate statutory duplication within each pillar.[20][21][22][23][37] The table also illustrates that consolidation is uneven in implication: the wage code mainly harmonises payment and wage-floor provisions; the industrial relations code directly affects collective bargaining and employment security; the OSHWC Code merges a wide variety of sector-specific safety and welfare statutes; and the social security code attempts the most ambitious extension towards non-standard workers. The consequences of codification therefore differ by domain, and any evaluation must remain sensitive to those differences rather than treating "the labour codes" as a single undifferentiated reform package.

The Code on Wages, 2019

The Code on Wages, 2019 is the clearest illustration of consolidation accompanied by doctrinal reorganisation. It subsumes the Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.[7][9][14][17][20] Its most important innovation is conceptual universalisation: minimum wages are no longer limited to "scheduled employments" but may be fixed for all employees, thereby converting a sector-specific model into a more general floor-setting framework.[20][39][52] Section 9 empowers the central government to fix a floor wage taking into account minimum living standards, with state-level minimum wages not permitted to fall below that floor.[20] This provision seeks to reconcile federal wage setting with a national minimum baseline. The Code also standardises the definition of "wages" by including basic pay, dearness allowance and retaining allowance, while providing that certain excluded components count back into wages if they exceed one-half of total remuneration.[20][52] This definitional harmonisation

matters because wage calculation affects not only minimum wages but also bonus, gratuity, provident fund and other statutory payments across the broader labour law system.[20][23][39]

The Code on Wages also carries forward and reframes the equality norm previously contained in the Equal Remuneration Act. Section 3 prohibits discrimination on the ground of gender in wages and recruitment for the same work or work of a similar nature, subject to statutory restrictions on particular kinds of employment.[20] The retention of this principle within a general wage code is symbolically significant: it locates gender equality within the ordinary structure of wage justice rather than treating it as a separate exceptional domain. At the same time, the Code on Wages illustrates the limits of codificatory universalism. Its effectiveness depends on wage fixation by the appropriate government, updating of rates, enforcement capacity, and meaningful claims procedures. Satpathy, Estupiñan and Malick show that the practical value of the new wage regime will turn on whether the floor wage and minimum wage architecture are used to strengthen, rather than dilute, minimum wage policy and enforcement in low-paid sectors.[52] In other words, universal legal coverage does not by itself guarantee a living wage; the regulatory choice lies in the level, method and enforcement of the statutory floor.[20][39][52]

The Industrial Relations Code, 2020

The Industrial Relations Code, 2020 consolidates the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947.[6][11][21] Its architecture is organised around trade union recognition, standing orders, dispute resolution, strikes and lock-outs, lay-off, retrenchment, closure, and worker re-skilling. Two features merit special doctrinal attention. First, section 14 introduces the concept of a negotiating union or, where no single union commands majority support, a negotiating council. A union supported by fifty-one per cent or more of workers on the muster roll becomes the sole negotiating union; otherwise, a negotiating council is constituted with representation linked to support thresholds.[21] This is an attempt to address the longstanding problem of multiplicity of unions and fragmented collective bargaining. Secondly, the Code broadens the role of model standing orders and applies the standing orders chapter to industrial establishments employing three hundred or more workers, unless a higher threshold is notified.[21]

Yet the Industrial Relations Code is also the site where the tension between simplification and labour market flexibility is most acute. The Code recognises fixed-term employment and states that fixed-term employees are to receive the benefits available to permanent workers on a pro rata basis, including gratuity in conjunction with the Social Security Code.[21][23] On one reading, this reduces the incentive to maintain a second-class category of contract labour deprived of statutory benefits. On

another, it normalises short-duration employment relationships by making them legally cleaner without materially securing continuity of work. The Code also requires notice of strike and lock-out across industrial establishments and retains a stringent framework around dispute pendency and prohibitions on work stoppages.[21][50][51][55] More controversially, chapter X applies prior-permission requirements for lay-off, retrenchment and closure only to establishments employing at least three hundred workers, or such higher number as may be notified.[21] Compared with the earlier regime under the Industrial Disputes Act, this widens managerial discretion for medium-sized establishments. The worker re-skilling fund under section 83 is a notable welfare innovation, but its scale and practical impact remain uncertain when compared with the structural significance of relaxed retrenchment thresholds.[21][55]

The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code, 2020 is the broadest consolidation exercise, subsuming thirteen central enactments including the Factories Act, the Mines Act, the Contract Labour Act, the Inter-State Migrant Workmen Act and the Building and Other Construction Workers Act.[8][15][18][19][22] Its long title declares an intention both to amend and to consolidate laws relating to occupational safety, health and working conditions, thereby combining welfare, safety and labour process regulation within a single text.[22] The Code standardises registration of establishments, imposes core employer duties to provide a workplace free from hazards so far as reasonably practicable, and continues sector-specific provisions for factories, mines, dock work, building and construction work, plantations, motor transport, beedi and cigar work, contract labour and inter-State migrant workers.[22] Section 6 requires employers to provide a safe working environment and, where prescribed, annual health examination free of cost to employees of specified age groups or classes of establishments.[22] Sections 34 onwards replace the older inspection model with an Inspector-cum-Facilitator framework, consistent with the broader governance philosophy of the codes.[22][37][39]

Several aspects of the OSHWC Code warrant special attention from a labour welfare perspective. The Code permits employment of women in all establishments and for all types of work, including beyond traditional hour restrictions, subject to consent and safeguards relating to safety and working conditions.[22] This reflects a shift from protective exclusion to regulated inclusion, although its emancipatory potential depends on whether safeguards are actually implemented rather than used to justify risk transfer. The Code also expands the definition of inter-State migrant worker to include a worker who comes on her own from one state to another and secures employment there, provided the wage threshold is met.[22] This is an important doctrinal move because it partially detaches migrant-worker protection from the older

contractor-centred model. Part II of chapter XI provides for journey allowance, portability of public distribution and cess-related benefits, and helplines for migrant workers.[22] At the same time, the Code retains thresholds: contract labour regulation generally applies where fifty or more contract workers are employed, and migrant-worker provisions apply to establishments employing ten or more inter-State migrant workers.[22] As critics have noted, the existence of a broadened definition does not erase the exclusionary effect of numerical thresholds, especially in highly fragmented labour markets.[53]

The Code on Social Security, 2020

The Code on Social Security, 2020 is perhaps the most ambitious and internally diverse of the four codes. It consolidates nine enactments dealing with provident fund, state insurance, gratuity, maternity benefit, employee compensation, social security for unorganised workers and welfare cess for building workers.[10][12][13][16][19][23] Its architecture preserves the main social security institutions - the Employees' Provident Fund Organisation, the Employees' State Insurance Corporation and the gratuity framework - while also creating a statutory space for schemes concerning unorganised workers, gig workers and platform workers.[23][39] The Code continues the traditional five-year continuous service condition for gratuity, but significantly provides that gratuity is payable upon the termination of the contract period under fixed-term employment and on a pro rata basis for fixed-term employees.[23] This is one of the clearest examples of doctrinal coordination across codes: the Industrial Relations Code legitimises fixed-term employment, while the Social Security Code attempts to mitigate its welfare costs by ensuring at least some continuity of statutory benefits.[21][23]

The most discussed innovation in the Social Security Code is its treatment of the unorganised sector and the platform economy. Chapter IX contemplates schemes for unorganised workers, while sections 113 and 114 require registration of unorganised, gig and platform workers and authorise social security schemes for the latter categories.[23] The Code defines gig workers and platform workers for the first time in central labour legislation and contemplates contributions from aggregators, capped by statutory formulae linked to turnover and payments to workers.[23][39][54] This is normatively important because it acknowledges that labour welfare in a digital economy cannot be confined to traditional employer-employee categories. Yet the recognition it offers is limited. The Code does not treat gig or platform workers as employees by default, nor does it automatically extend the full body of labour rights - minimum wages, collective bargaining rights, or unfair dismissal protections - to them. Their social security remains scheme-based and heavily dependent on executive design, fiscal commitment and administrative registration.[23][39][54] Accordingly, the

Code opens a juridical door without guaranteeing the substance of social citizenship behind it.[43][54]

Taken together, the four codes reveal the mixed character of Indian labour codification. They consolidate and rationalise; they also reallocate regulatory authority. Much depends on delegated legislation, portal-based registration, standard forms, inspection schemes and executive notifications. This gives the new regime adaptability, but it also enhances the role of the executive relative to the legislature and shifts considerable normative detail away from the statute book. The point is not that codification inevitably weakens labour welfare. Rather, codification transforms welfare law from a dispersed but often highly specific set of statutory entitlements into a more centralised framework whose real content is produced through rules, digital systems and administrative practice.[20][21][22][23][37][39][40]

1.8 Institutional and Administrative Implications of Codification

Codification is not only a matter of textual consolidation; it also restructures labour administration. The labour codes repeatedly use the language of registration, common returns, electronic filing, designated portals, inspector-cum-facilitators and unified identifiers. This reflects an administrative turn in labour governance. The Shram Suvidha ecosystem, with its Labour Identification Number (LIN), common registration and unified return architecture, seeks to reduce duplication across agencies and produce an integrated compliance interface between employers and the state.[37][39][40] In governance terms, the codes move from dispersed paper-based administration towards a data-driven model in which registration, reporting and inspection are expected to be traceable, standardised and increasingly digital.[37][40]

The replacement of the traditional "inspector" with the "Inspector-cum-Facilitator" is emblematic of this shift.[20][22][23] Formally, the change signals a departure from purely punitive enforcement towards advice, information and compliance assistance. Such an approach may reduce petty harassment and increase transparency, especially when combined with risk-based or web-based inspection systems.[37][40] But it also raises a familiar regulatory question: when does facilitation become under-enforcement? In labour law, the answer depends on administrative capacity and political economy. A facilitative model can coexist with strong enforcement where there are credible sanctions, adequate staffing, worker access to complaints and transparent escalation pathways. Absent those conditions, the language of facilitation may merely soften the state's supervisory posture without improving compliance outcomes.[45][50][55]

The institutional consequences extend to adjudication as well. The early phase of implementation under the Industrial Relations Code required a Removal of Difficulties Order in December 2025 to ensure continuity of adjudication by existing labour courts and tribunals until new tribunals under the Code became functional; this

was followed by an amendment to section 104 in February 2026 to clarify the continuing functioning of tribunals and statutory authorities under the repealed enactments until corresponding bodies under the Code became operational.[25][26] These measures are significant because they expose the limits of the simplification narrative. Even where the statutory text is consolidated, institutional transition remains legally and administratively complex. Codification, in other words, does not abolish the old system in a single stroke; it manages and reconstitutes it through transitional orders, amendments and administrative adaptation.

For labour administration, the codes therefore promise a more integrated governance framework, but they also demand a qualitatively different kind of state capacity: interoperable digital systems, reliable worker registration, harmonised central and state rules, trained inspectorates, functional tribunals and a capacity to convert data into enforcement rather than merely compliance paperwork. Whether codification yields an effective labour welfare regime will depend less on the elegance of the legislative architecture than on whether this administrative transformation is actually realised in practice.[37][38][39][40]

Table 2. From Fragmented Administration to Code-Based Labour Governance

Regulatory issue	Pre-codification position	Code-based approach	Analytical effect
Definitions	Multiple definitions of wages, worker, employee and establishment across statutes	Greater harmonisation, especially of wage concepts and common institutional terminology	Reduces doctrinal inconsistency, though exclusions remain
Compliance architecture	Separate registers, returns, authorities and inspections under different enactments	Common registration, unified returns, digital portals and inspector-cum-facilitators	Simplifies compliance but makes rights depend on administrative capacity
Licensing / registration	Sector-specific licences and registrations	Electronic registration and, under OSHWC, common licensing pathways	Eases coordination while centralising discretion in rule-based systems

Coverage of non-standard workers	Limited and fragmented treatment of migrant, unorganised and platform labour	Expanded migrant definition; registration and scheme architecture for unorganised, gig and platform workers	Improves legal visibility, but substantive protection remains partial
Adjudication / transition	Act-specific forums with separate statutory anchors	Tribunal continuity and transition managed through code provisions, orders and amendments	Shows that simplification in text can still require complex institutional transition

Source: Compiled from the labour codes, transition notifications and labour administration materials.[20][21][22][23][25][26][37][39][40]

Table 2 shows that the most distinctive feature of codification is administrative redesign. What changes across the codes is not only the content of entitlements but the way the state sees and governs the workplace: through standardised identifiers, electronic registration, unified forms, inspector-cum-facilitators and data-based compliance systems.[37][39][40] The analytical implication is twofold. On the one hand, these mechanisms may reduce inconsistency, transaction costs and opportunities for opaque enforcement. On the other hand, they make labour welfare increasingly dependent on bureaucratic and digital infrastructure. Rights become more portable in theory, but also more conditional upon registration, data quality, portal functionality and administrative responsiveness. Codification thus shifts part of the struggle for labour justice from the text of the statute to the architecture of governance through which the statute is implemented.

1.9 Critical Assessment of Labour Law Codification

Any serious assessment of labour law codification in India must begin by resisting two simplifications. The first is the celebratory claim that consolidation by itself equals reform. The second is the equally sweeping claim that every act of codification necessarily dilutes labour rights. The Indian experience is more uneven. In some domains the codes do simplify and in limited ways expand the reach of labour welfare; in others they preserve exclusions, shift power towards the executive, or recalibrate the employment relationship in a more employer-flexible direction.[20][21][22][23][50][55]

The strengths of codification are real. Harmonised definitions - especially of wages, employee categories and administrative authority - can reduce doctrinal confusion and litigation generated purely by statutory fragmentation.[20][23][37][39] The universal orientation of the Code on Wages is normatively important because it moves beyond

the scheduled-employment logic of the old minimum wage regime.[20][52] The recognition of gig and platform workers in the Social Security Code, however limited, marks an acknowledgement that labour welfare law must address non-standard work arrangements rather than deny their existence.[23][54] The OSHWC Code's inclusion of self-migrating inter-State workers also reflects a more realistic understanding of labour mobility than the contractor-bound logic of the 1979 Act.[18][22] Administrative integration through common registration, unified returns and portal-based compliance can improve transparency and reduce transaction costs if designed and implemented well.[37][39][40] These are not trivial gains; they address genuine defects in the pre-codification regime.

Yet the limitations are equally substantial. First, simplification in form does not necessarily mean simplification in operation. The codes are framework statutes that rely heavily on rules, notifications and administrative systems. For workers and smaller employers alike, the shift from statute-specific detail to code-plus-rules may simply relocate complexity from the Act to subordinate legislation and compliance portals.[37][39] The early post-commencement need for transitional orders and amendments under the Industrial Relations Code demonstrates precisely this point.[25][26] Secondly, numerical thresholds continue to structure access to protection. Contract labour regulation, standing orders, retrenchment safeguards, crèche requirements, and other welfare duties remain tied to establishment size in ways that leave large segments of precarious labour outside full effective coverage.[21][22][23][53][54] In a labour market dominated by small and dispersed enterprises, thresholds are not neutral technical devices; they are distributive rules that determine who counts as governable labour.

Thirdly, codification in industrial relations appears to rebalance legal power in favour of managerial flexibility. The recognition of negotiating unions and councils may reduce inter-union fragmentation and promote more orderly bargaining, but the broader architecture of the Industrial Relations Code tightens restrictions on strikes and raises the threshold for prior governmental permission for lay-off, retrenchment and closure to establishments with three hundred or more workers.[21][50][51][55] From a worker-protective perspective, this is not a minor procedural recalibration: it affects the distribution of exit power in the employment relationship. The state's commitment to industrial peace thus risks being reconstructed as peace through controlled worker action rather than through substantive bargaining equality.[50][55] The worker re-skilling fund is useful, but it is a modest compensatory device when set against the structural significance of easier retrenchment for employers.[21][55]

Fourthly, the extension of social security to gig and platform workers remains more aspirational than determinate. The Social Security Code creates a statutory basis for

registration and schemes, and it contemplates aggregator contributions.[23] But it does not settle basic questions of entitlement design, portability, contribution incidence, claim administration, or the relationship between social security coverage and employment status disputes. As Deepika M.G. and Madhusoodhan M argue, the move towards universalisation is normatively welcome, yet the code's scheme-based model stops short of conferring the denser body of labour rights associated with employee status.[54] There is therefore a danger that recognition becomes classificatory without being redistributive: workers may be named in the statute without receiving a stable bundle of rights equivalent to that enjoyed by employees in standard employment.[23][54]

Fifthly, the gender implications of the codes are mixed. The move in the OSHWC Code to permit women to work in all establishments and at all hours subject to consent and safeguards rejects the older logic of formal exclusion.[22] In principle, this is consistent with equality norms and with the rejection of paternalistic restrictions on women's labour market participation. But equality through formal inclusion can become hollow where transport, security, sanitation, childcare and complaint mechanisms are weak. Similarly, the retention of maternity protection and the coexistence of crèche-related obligations under the social security and safety frameworks do not, by themselves, resolve the broader care burden that structures women's participation in paid labour.[13][22][23] Labour welfare reform that ignores reproductive labour risks reproducing gendered labour market inequalities under the language of formal neutrality.[17][28]

The implementation challenge is perhaps the most serious issue of all. Labour is in the Concurrent List, and the codes require central as well as state-level rulemaking and administrative alignment.[1][37][38] Official materials issued during the run-up to implementation showed that the pre-publication of state rules was uneven and that harmonisation across jurisdictions remained a live concern even as the codes were brought into force.[37][38] This matters because labour rights are often realised not through abstract statutory declaration but through the mundane infrastructure of forms, inspectors, boards, cess collection, identification systems, tribunals and accessible grievance mechanisms. A digital portal does not automatically equal accessibility, especially for informal workers, migrants and workers with limited digital literacy. Registration-based entitlement systems may exclude precisely those workers most in need of protection if documentation, Aadhaar linkage, bank access or language barriers are inadequately addressed.[23][37][39][40]

Comparative and international perspectives sharpen this critique. International labour standards do not prescribe codification as such; what they require are substantive guarantees compatible with decent work, social security, equality, freedom of

association and safe working conditions.[41][42][43] Since 2022, a safe and healthy working environment forms part of the ILO's fundamental principles and rights at work, with Conventions Nos. 155 and 187 occupying renewed significance.[42][57] The OSHWC Code is therefore properly judged not by whether it combines thirteen statutes into one text, but by whether it secures an effectively enforced right to health and safety in Indian workplaces. Likewise, a social security code is normatively meaningful only if it moves towards the social protection floor envisaged in ILO Recommendation No. 202.[43] India has ratified the child labour conventions and several other important instruments, but it has not ratified the core conventions on freedom of association and collective bargaining, a fact that remains relevant when evaluating the industrial relations architecture of the new regime.[44] In comparative perspective, codification may streamline labour law, but the quality of labour welfare is always measured by enforceable substance rather than legislative packaging.[41][42][43]

From a constitutional standpoint, the decisive question is whether codification advances or attenuates the social justice commitments embedded in Articles 14, 21, 23, 24 and the Directive Principles. The answer is necessarily mixed. Universal wage protection, portability-oriented migrant welfare, and the statutory recognition of gig work can be read as efforts to adapt labour law to contemporary labour market forms and thereby preserve its constitutional relevance.[20][22][23][27][30] By contrast, weaker job-security thresholds, scheme-dependent social protection for new worker categories, and facilitative enforcement models may be criticised as falling short of the transformative aspirations that animated post-independence labour jurisprudence.[21][23][30][34][35][50][55] The codes therefore reflect not a straightforward retreat from welfare, but a re-composition of welfare within a governance paradigm that treats flexibility, formalisation and digital administration as co-equal objectives with worker protection.[37][39][40]

The broader policy implication is that India's new labour regime will likely operate unevenly across sectors. Large formal employers may benefit from harmonised definitions, common filings and clearer compliance architecture, while also gaining greater flexibility in workforce restructuring under the Industrial Relations Code.[21][37][39] Workers in the organised sector may retain many pre-existing entitlements, although their bargaining leverage may be affected by changes in strike regulation and exit rules.[21][50][55] Informal, migrant and platform workers may derive some benefit from expanded recognition and scheme architecture, but only if registration, funding and delivery mechanisms become operational at scale.[22][23][39][54] Labour administration may become more coherent, but only if the state treats digitisation as a means of enforcement and inclusion rather than as an end in

itself.[37][40] The practical future of codification therefore turns on whether India can convert legislative consolidation into social institutionalisation.

In this respect, the labour codes should be read less as the completion of reform than as the opening of a new constitutional and policy contest. They establish the basic grammar of a code-based labour regime; they do not settle the meaning of labour welfare within that regime. Courts, governments, labour departments, trade unions, employers, digital platforms and workers themselves will all participate in defining that meaning through litigation, subordinate legislation, collective bargaining, administrative practice and political mobilisation. Codification has reorganised the terrain. Whether it will ultimately deepen social citizenship or normalise a thinner version of labour protection remains an open question - one that can be answered only through the interaction of statutory text with institutional practice.[20][21][22][23][25][26][50][55]

1.10 Conclusion

The movement from fragmentation to codification is one of the most consequential shifts in the history of Indian labour law. It closes a legislative cycle that began with narrow colonial factory regulation, expanded through the post-independence welfare state into a dense network of protective statutes, and was subsequently reworked under the pressures of liberalisation, informality and administrative reform.[2][8][9][10][11][36][45]

The four labour codes are therefore historically intelligible only when seen as the latest stage in a longer struggle over how to reconcile production, protection and constitutional justice in a deeply unequal labour market.[1][20][21][22][23]

The analysis in this chapter suggests that codification has changed the mode of labour governance more decisively than it has resolved the normative dilemmas of labour welfare. It simplifies the legal landscape, harmonises some concepts, and opens doctrinal space for addressing contemporary forms of work such as gig labour and self-migration.[20][22][23][39][54] But it also relies heavily on delegated legislation, retains exclusionary thresholds, recalibrates industrial relations in ways favourable to managerial flexibility, and places substantial weight on digital administration and executive implementation.[21][22][23][25][26][37][40][55] The new labour regime is thus best understood not as the abandonment of welfare, nor as its unambiguous renewal, but as its reconfiguration within a code-based, data-driven and formally integrated regulatory order.

That conclusion links this chapter to the broader transformation of labour governance in India. The contemporary state seeks to govern labour not only through rights-conferring statutes but through portals, identifiers, common filings, standardised procedures and executive rulemaking. The success of this transformation will depend on whether those techniques remain anchored to the constitutional commitment to

dignity, equality and social justice that gave Indian labour welfare law its historical legitimacy in the first place.[1][27][30][34][35][41][42][43]

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Chapter 2

Philosophy and Objectives of Labour Law Codification: Welfare, Flexibility and Formalisation

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2.1 Introduction: Conceptual Foundations of Labour Law Codification

Labour law is among the clearest illustrations of the modern state's dual role as market regulator and constitutional guarantor of social justice. It governs the productive sphere, but it also structures citizenship, dignity and distribution in the workplace. In India, this field developed not through a single coherent enactment but through a long succession of statutes dealing with wages, industrial disputes, trade unions, occupational safety, social insurance, contract labour, migrant labour and sector-specific welfare funds. The result was a layered legal regime animated by protective purposes, yet marked by fragmentation, overlapping institutions, uneven coverage and significant interpretive complexity. Scholarly accounts of Indian labour law have repeatedly shown that its evolution has been shaped by changing political economy: late-colonial factory regulation, post-Independence welfare constitutionalism, developmental industrial relations, and, more recently, liberalisation and global integration.[(1), (41)]

The four labour codes represent the most ambitious attempt to restate this field since Independence. The Code on Wages, 2019, the Code on Social Security, 2020, the Industrial Relations Code, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 consolidate twenty-nine central labour enactments into four thematic statutes. Although enacted between 2019 and 2020, the codes were operationalised only from 21 November 2025, with central rules following in December 2025. This delayed commencement is itself analytically significant. It shows that codification was never merely a drafting exercise; it was a project of legal consolidation, executive rule-making, administrative redesign and federal coordination in a field located in the Concurrent List.[(5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18)]

At the conceptual level, labour law codification must be understood as a response to a familiar but unresolved tension. Labour law seeks, on the one hand, to restrain market exploitation, correct inequality of bargaining power and protect workers against the risks of dependency, precarity and bodily harm. On the other hand, it is increasingly asked to enable productive investment, enterprise adaptability and labour market responsiveness. The language of reform in contemporary India therefore moves simultaneously in three registers: welfare, flexibility and formalisation. The central claim of this chapter is that India's labour law codification does not simply prioritise one of these registers over the others; rather, it attempts to reconcile them within a single legal architecture. Yet the reconciliation is incomplete and contested. Codification strengthens some welfare floors, especially at the level of wages, social security registration and occupational safety administration, while also widening managerial space through threshold changes, streamlined compliance and a more facilitative regulatory idiom.[3], [4], [38]

This chapter provides the philosophical and policy foundations for the detailed code-specific analysis undertaken later in this monograph. It first examines the theoretical traditions that inform labour regulation, then situates Indian reform debates in their historical and economic context, and finally analyses how the new codes institutionalise particular objectives through doctrinal design. Throughout, the chapter argues that codification in India is best understood as a hybrid form of labour governance: neither a purely welfare-statist consolidation nor a straightforward deregulatory project, but a restructuring of the legal field in which protective commitments are increasingly mediated through administrative simplification, digital compliance and differentiated forms of labour market flexibility.[5], [6], [19], [39], [40]

2.2 Theoretical Foundations of Labour Law

2.2.1 Labour Law and the Welfare State

A foundational premise of labour law theory is that employment is not a simple contract between formally equal parties. The wage bargain is typically concluded within relations of dependency, informational asymmetry and unequal economic power. Labour law therefore emerged historically as a counterweight to the commodifying tendencies of the market. Kahn-Freund's classic formulation of labour law as a response to inequality of bargaining power remains deeply influential because it explains why employment requires mandatory norms rather than purely voluntary exchange. A purposive understanding of labour law similarly emphasises that the field is justified by the need to secure workers against subordination and vulnerability while preserving productive coordination.[3], [4]

In welfare-state terms, labour law performs at least three connected functions. First, it establishes minimum floors below which labour cannot be purchased: minimum wages, limits on deductions, working-time protections, safety standards and maternity protections. Secondly, it redistributes risks that individual workers cannot efficiently bear, whether through social insurance, gratuity, employer liability or public welfare schemes. Thirdly, it creates institutions-advisory boards, labour departments, tribunals, conciliators and inspectors-through which the state mediates the employment relationship. These functions are particularly salient in economies like India's, where a large proportion of labour has historically remained informal and outside stable contractual structures.[1], [38], [41]

The Indian Constitution provides the normative grammar for this welfare orientation. Labour welfare is not contained in one self-contained clause; it is constructed through the interaction of equality, freedom and social justice provisions. Articles 14 and 15 prohibit arbitrary and discriminatory state action; Article 19(1)(c) protects the formation of associations; Article 21 has been interpreted to include dignity, livelihood and health; Articles 23 and 24 prohibit forced labour and child labour. These guarantees are reinforced by the Directive Principles, especially Articles 38, 39, 41, 42, 43 and 43A, which direct the state to secure a social order informed by justice, adequate livelihood, humane conditions of work, maternity relief, living wages and worker participation in management. Labour being a subject in the Concurrent List, the constitutional design also anticipates intergovernmental involvement in the construction of welfare norms.[2]

Judicial doctrine has converted these constitutional commitments into a jurisprudence of labour welfare. In People's Union for Democratic Rights v Union of India, the Supreme Court held that payment below the statutory minimum wage may amount to forced labour within the meaning of Article 23 because consent obtained under economic compulsion cannot legitimate sub-minimum remuneration. Sanjit Roy reinforced this position by holding that even workers employed on famine relief works are entitled to minimum wages. In Bandhua Mukti Morcha, the Court linked bonded labour, health, dignity and state obligation, thereby situating labour exploitation within a broader constitutional framework of freedom and social justice. In Consumer Education and Research Centre, the Court treated occupational health and medical care as integral to Article 21 read with the Directive Principles. Municipal Corporation of Delhi v Female Workers (Muster Roll) similarly extended maternity protection to casual workers, underscoring that labour welfare is not exhausted by formal employment status.[21], [22], [23], [25], [26]

2.2.2 Labour Law as Social Protection

Labour law also operates as a key component of social protection. In this sense, it overlaps with public welfare but retains a distinct juridical logic. Social protection through labour law is anchored not only in poverty relief, but also in de-commodification: the idea that access to subsistence, bodily integrity and old-age security should not depend entirely on a worker's bargaining power at a particular moment. Minimum wages protect income adequacy; occupational safety reduces the social cost of injury and disease; social insurance and employer contributions spread risks across firms, sectors and time; and maternity, gratuity and provident fund entitlements recognise that employment generates longer-term claims than day-to-day wages alone.[8], [10], [33], [34], [35]

The social-protection lens is especially important in India because informality has historically prevented labour law from reaching large segments of the workforce. The challenge has never been merely to regulate factory employment; it has been to extend protective norms beyond the standard employment relationship. This is why the vocabulary of "employee", "worker", "unorganised worker", "gig worker" and "platform worker" matters so much in the new codes. Social protection today must address not only industrial workers in classic bilateral employment, but also contract workers, migrant workers, workers in small establishments, self-registered unorganised workers and workers located within digitally intermediated labour platforms. To that extent, the codes signal a shift from welfare centred exclusively on the factory or industrial establishment toward welfare mediated by registration systems, portable identities and scheme-based entitlements.[8], [10], [19], [20], [40]

At the normative level, labour welfare legislation promotes not only subsistence but economic dignity. A worker protected by minimum wages, timely payment, health safeguards and social security is less exposed to coercion, arbitrary dependence and destitution. This insight is strongly consistent with the constitutional emphasis on dignified existence and the ILO's social-protection standards, which frame labour welfare as a component of decent work rather than as a residual charitable function of the state.[2], [24], [32], [33], [35]

2.2.3 Labour Law and Industrial Democracy

A third theoretical strand treats labour law as a framework for industrial democracy. Employment is not only an exchange of labour for wages; it is a site of collective governance in which decisions about work organisation, discipline, restructuring and technological change affect workers' lives in ways that demand voice. Trade unions, collective bargaining, works committees, grievance procedures and participatory institutions are therefore not incidental add-ons to labour law but central devices through which workers act as collective subjects rather than isolated market actors.[38]

Indian constitutional doctrine has recognised some, but not all, dimensions of this democratic ideal. In All India Bank Employees' Association v National Industrial Tribunal, the Supreme Court accepted the right to form associations under Article 19(1)(c) but made clear that this does not automatically constitutionalise every incident of collective bargaining. B.R. Singh nonetheless acknowledged that collective action, including the strike, is an important instrument through which workers press demands in industrial relations. T.K. Rangarajan later held that government employees have no fundamental right to strike, thereby underscoring that industrial democracy in India is legally mediated rather than absolutely guaranteed. The constitutional position is therefore ambivalent: trade unionism is protected as associational freedom, but the forms through which it translates into bargaining power remain subject to legislative design and public-order limitation.[27], [28], [29]

This ambivalence is crucial for understanding the contemporary labour codes. Codification could have been used to deepen industrial democracy by strengthening union recognition, collective bargaining coverage, information rights or workplace participation. Instead, the new regime adopts a more managerial and stability-oriented understanding of industrial relations. It does create mechanisms such as the negotiating union or negotiating council, grievance redressal committees and a unified dispute-resolution framework. But it also narrows some collective levers by broadening strike notice requirements and loosening regulatory controls around retrenchment and standing orders for a significant category of establishments. Industrial democracy, in other words, remains a recognised but carefully bounded value within the architecture of codification.[9], [17], [19], [40]

2.3 Competing Economic Perspectives on Labour Regulation

2.3.1 Classical Economic Critiques of Labour Regulation

Labour law has long been criticised from a classical or neoclassical economic standpoint as a source of labour market rigidity. On this view, stringent dismissal rules, mandatory benefits, union privileges and inspection-heavy compliance systems increase labour costs, discourage formal hiring, reduce firm size expansion and ultimately depress investment and employment generation. In the Indian debate, these arguments became especially influential in relation to the Industrial Disputes Act framework, where prior permission requirements for retrenchment or closure in larger establishments were said to create disincentives for scale and formal-sector growth. The best-known empirical statement of this position is the claim that pro-worker legal changes can hinder output, investment and productivity in registered manufacturing while pushing activity into the informal sector.[36]

Even within economics, however, the rigidity thesis has never been uncontested. Later surveys and reappraisals have shown that the relationship between labour regulation and economic performance is empirically complex, highly sensitive to measurement choices and often over-stated in policy discourse. Labour law can raise costs, but it can also improve productivity by stabilising employment, reducing turnover, encouraging skill formation and preventing a race to the bottom in labour standards. The relevant policy question is therefore not whether labour law imposes any cost-every rights regime does-but whether the net institutional design supports socially sustainable and productive employment. Indian reform debates often moved too quickly from a diagnosis of legal multiplicity to a generalised claim of over-regulation, without sufficiently distinguishing between paperwork burdens, substantive worker protections and failures of enforcement.[1], [37]

2.3.2 Labour Market Flexibility and Globalisation

Globalisation intensified these arguments by altering the structure of labour demand. Liberalisation exposed Indian firms to international competition, while technological change, subcontracting, just-in-time production and global supply chains increased pressure for numerical, functional and temporal flexibility. Employers increasingly sought the ability to vary workforce size, outsource non-core operations, deploy contract labour and use fixed-term arrangements. At the same time, labour markets became more segmented: a smaller protected core coexisted with a large periphery of contract, casual, migrant and home-based labour. The growth of platform-mediated work further unsettled the classical distinction between wage labour and self-employment.[1], [37], [41]

In India, the flexibility debate was therefore never only about efficiency. It was also about the mismatch between a relatively elaborate formal legal regime and an economy in which informality persisted at scale. Employers argued that rigid laws discouraged formalisation and encouraged evasive organisational forms. Trade unions countered that "flexibility" often functioned as a euphemism for diluted protections, easier dismissals and the externalisation of labour costs through contracting and informality. Both claims contain some truth. The persistence of informality does indicate that legal design matters; but it also shows that weak labour standards are not self-correcting, because firms have structural incentives to offload social risks onto workers unless regulation creates enforceable floors.[37], [39], [40], [41]

2.3.3 Balancing Efficiency and Protection

The policy challenge, then, is not to choose abstractly between protection and efficiency, but to design institutions in which the two are mutually supporting. Productive labour markets require predictability, dispute-resolution capacity and

legal clarity; workers require income security, safe conditions, collective voice and social protection against contingency. The more ambitious reform agenda is therefore one of calibrated flexibility: permitting adaptation in hiring and work organisation while preserving non-negotiable floors of welfare and fair procedure. This is also the language in which the Indian state presented codification-simplification of compliance, reduction of multiplicity, promotion of ease of doing business, but without abandoning the welfare commitments embedded in labour legislation.[5], [19]
Whether the codes actually achieve this balance is a separate and more difficult question. Some provisions clearly attempt integration. Fixed-term employment, for example, is designed to give employers temporal flexibility while formally granting such workers parity with permanent employees in core benefits. A common wage definition seeks calculative clarity across statutes while also preventing excessive recharacterisation of wages as allowances. A shift from multiple returns and licences to common electronic compliance reduces transaction costs but may also improve traceability of labour obligations. Yet other provisions redistribute bargaining power more obviously in favour of employers, especially where thresholds are raised or collective action is more tightly regulated. The intellectual significance of codification thus lies in its effort to turn "balanced reform" into legal technique; its political significance lies in the distributive choices embedded in that technique.[7], [8], [9], [10], [19], [20], [40]

2.4 The Concept of Legal Codification

2.4.1 Meaning and Objectives of Codification

Codification, in a legal sense, is more than compilation. A mere compilation reproduces existing enactments in a convenient form; codification re-orders the field by selecting, grouping, redefining and systematising norms under a new organising logic. It usually serves three overlapping purposes: consolidation of dispersed legislation, simplification of legal language and institutional design, and signalling of a new regulatory philosophy. In that respect, codification has historically been used both to rationalise complex bodies of law and to remake them. The labour codes in India belong to this second type. They collect existing laws into thematic clusters, but they also alter definitions, thresholds, compliance techniques and enforcement institutions. They are therefore simultaneously consolidating statutes and reform statutes.
Labour law is especially susceptible to codificatory projects because it tends to grow incrementally. New risks and new categories of workers often generate new statutes-factories, mines, contract labour, migrant work, welfare funds, social insurance, maternity, gratuity, equal remuneration, unorganised workers and so on. Over time

this can produce duplication, sectoral silos and doctrinal incoherence. Codification attempts to restore structure by regrouping laws around common regulatory themes such as wages, industrial relations, social security, and safety and working conditions. That was also the organising logic recommended in India by the Second National Commission on Labour, which proposed that the existing labour laws be broadly grouped into a small number of codes with greater definitional consistency.[6]

2.4.2 Advantages of Codification in Labour Law

The potential advantages of codification in labour law are substantial. The first is intelligibility. When employers, workers, unions and administrators confront dozens of statutes with different definitions, registers, authorities and procedural requirements, rights and duties become difficult to identify. Codification can reduce this opacity by aligning key concepts, merging overlapping institutions and placing related subjects within a single statutory text. The second advantage is compliance rationalisation. If one establishment previously had to navigate multiple registrations, returns, forms and inspectors, a consolidated system can lower transaction costs and potentially increase formal compliance rather than evasion.[5], [19]

The Indian government's own presentation of the codes stresses these benefits. Official materials emphasise that twenty-nine central labour enactments have been rationalised into four codes; multiple sections and rules have been compressed; and a single electronic return, reduced registers and simplified forms are intended to replace the older multiplicity. The transition from a punitive inspector raj model to inspector-cum-facilitators and digital compliance portals is presented as part of the same logic of simplification. In this sense, codification is linked not only to substantive law but to a broader reform of labour administration.[5], [19]

A third advantage is doctrinal clarity. The single definition of "wages", for example, addresses long-standing disputes around wage structuring for statutory calculations. Similarly, the thematic clustering of labour law can make it easier to analyse policy trade-offs: wage protection in one code, collective bargaining and retrenchment in another, social insurance and welfare in a third, and safety and working conditions in a fourth. For scholarship, adjudication and administration, that structure has genuine value. It can also improve accessibility for workers' organisations and smaller employers who previously lacked the capacity to navigate a highly fractured legal field.[7], [19], [20]

2.4.3 Risks and Limitations of Codification

Yet codification also carries serious risks. The most obvious is that the rhetoric of simplification may conceal substantive retrenchment. A code can reduce the number of statutes while also narrowing the range of protected workers, loosening thresholds,

or converting hard rights into scheme-based or delegated entitlements. In labour law, where protective detail often matters enormously, the compression of many statutes into fewer texts may shift normative emphasis from substantive guarantees to administrative manageability. That risk is visible whenever broad statements of welfare coexist with increased executive discretion and reduced parliamentary specification.[39], [40], [41]

A second risk is excessive centralisation. Although labour is constitutionally concurrent, codification may concentrate agenda-setting power in the Union by standardising terms, digitising compliance architectures and expanding delegated rule-making. Uniformity can improve coherence, but it may also attenuate state-level experimentation and create implementation bottlenecks where state capacity is uneven. A third risk lies in transition itself: the repeal of numerous statutes requires clear savings, harmonised rules, trained administrators, digital infrastructure and extensive stakeholder communication. Without these, codification may generate a period of uncertainty in which the promise of clarity is temporarily offset by interpretive confusion.[2], [5], [19], [39]

In short, codification is not intrinsically protective or anti-protective. It is a technique whose normative valence depends on what is consolidated, what is omitted, what is delegated and how enforcement is redesigned. The Indian experience demonstrates this well: codification promises coherence, but the meaning of that coherence must be examined provision by provision and institution by institution.

2.5 Labour Reform Debates in India

2.5.1 Policy Context of Labour Reform

The immediate backdrop to codification was a long-standing perception that Indian labour law had become both over-segmented and under-inclusive. Historically, labour welfare legislation evolved through distinct phases. Colonial factory statutes addressed hours, safety and industrial discipline in limited sectors. The late colonial and early post-colonial period produced laws on trade unions, wage payment, standing orders and industrial disputes. After the Constitution, welfare legislation expanded dramatically through the Minimum Wages Act, the Factories Act, the Employees' State Insurance Act, the Employees' Provident Funds Act, maternity and bonus laws, gratuity, contract labour regulation, inter-State migrant worker protection, building and construction welfare, and eventually social-security legislation for unorganised workers. This expansion reflected an enlarging conception of labour welfare, but it also produced a field made up of temporally layered statutes enacted for different sectors, political moments and regulatory philosophies.[1], [41]

By the early twenty-first century, two features of this inherited regime attracted sustained criticism. First, the coverage of labour law was sharply uneven: a relatively well-defined set of rights existed on paper for organised-sector workers, while huge segments of informal, casual, home-based, migrant and later platform-based labour remained weakly protected. Secondly, the architecture of labour administration was fragmented. Different statutes used different concepts of worker and establishment, prescribed different registers and returns, and engaged different enforcement mechanisms. The state therefore confronted a paradox: it had a dense body of labour legislation, but one whose practical reach was narrower than its normative ambition.[1], [5], [41]

Economic liberalisation intensified the demand for reform. As manufacturing policy, services growth, export competition and global supply chains expanded, employer organisations and reform-minded policymakers argued that the multiplicity of laws increased compliance costs, discouraged scale, reduced labour-intensive manufacturing and impeded formal job creation. Labour law reform became entangled with wider narratives of competitiveness, investment and ease of doing business. At the same time, the persistence of informality and episodes of acute labour vulnerability-especially among migrant and contract workers-made it impossible to frame reform solely as deregulation. The result was a reform discourse in which simplification, welfare inclusion and flexibility were advanced together, albeit from very different political standpoints.[5], [36], [37], [39]

Official documents released after operationalisation make the administrative ambition of codification particularly clear. The Ministry's compliance handbook states that the pre-code regime had generated multiple registrations, licences and returns, and presents codification as reducing 1,228 sections to 480, 1,436 rules to 351 draft rules, 31 returns to a single electronic return, 181 forms to 73 and 84 registers to 8. These numbers are not merely rhetorical. They show that the reform project was deeply concerned with the transactional infrastructure of labour governance rather than only with substantive rights language.[19]

2.5.2 Stakeholder Perspectives

The government perspective on reform consistently emphasised rationalisation, transparency, technology-led compliance and the harmonisation of the needs of workers and industry. Reform was framed not as a withdrawal of welfare but as the creation of a "simple and coherent" labour law framework better suited to a changing economy. Official materials stress universal minimum wages, support for women workers, digital registration, formal recognition of gig and platform workers, and a shift from adversarial inspection to facilitation. The underlying claim is that simpler law can improve both compliance and welfare.[5], [19], [20]

Employer organisations welcomed simplification but were most interested in flexibility. They pressed for reduced procedural burdens, more adaptable hiring models, fewer legal barriers to restructuring, and less discretionary and rent-seeking forms of inspection. This preference is visible in the enthusiasm for common licences, common definitions, electronic compliance, higher thresholds for standing orders and retrenchment permissions, and the recognition of fixed-term employment as a mainstream hiring device. From the employer standpoint, the principal vice of the previous regime was not labour welfare as such, but labour welfare delivered through fragmented and compliance-intensive legislation.[36], [39]

Trade unions and labour-rights advocates approached codification more sceptically. They did not deny that fragmentation was a real problem; rather, they questioned whether simplification was being used as a vehicle for weakening worker protections. Concerns centred on higher thresholds for prior permission to retrench or close, broader restrictions on strikes, the fragility of collective bargaining institutions, heavy reliance on delegated legislation, and the possibility that social-security coverage for unorganised and platform workers would remain scheme-dependent rather than immediately enforceable as a concrete statutory bundle. A recurring critique in the academic literature is therefore that codification mixes real welfare gains with structural shifts that may reduce labour's bargaining power.[39], [40], [41]

2.5.3 Role of Expert Committees

The most important institutional precursor to codification was the Second National Commission on Labour. Its report argued that the existing labour laws should be grouped into a smaller number of broad codes-industrial relations, wages, social security, safety, welfare and working conditions-and recommended greater uniformity in definitions, particularly of the worker. This recommendation has been repeatedly invoked as the intellectual basis for the later labour codes. The significance of the Commission's proposal lies less in any claim of novelty than in its diagnosis that piecemeal labour legislation had become structurally unwieldy and that thematic regrouping was necessary for coherent reform.[6]

At the same time, the Commission's recommendations did not dictate a single normative outcome. Grouping labour laws into codes was compatible with both a protective and a flexibilising programme. The later legislative process therefore mattered enormously. What India eventually adopted was not a neutral expert blueprint, but a politically specific codification in which simplification and welfare were intertwined with a particular model of labour market governance. That is why expert committee lineage explains the structure of the codes, but not their distributive consequences.[6], [39], [40]

2.6 Objectives of Labour Law Codification in India

The most visible feature of India's new labour regime is that it reorganises labour law by objective as much as by subject. The four codes are not simply bundles of predecessor statutes; each is structured around a governing policy ambition. The Code on Wages creates an economy-wide floor for remuneration and wage-related equality. The Code on Social Security consolidates income-security and welfare entitlements around social insurance, gratuity, maternity and new categories of worker registration. The Industrial Relations Code reconstitutes the legal framework for union recognition, disputes, strikes, lay-off, retrenchment and closure. The OSHWC Code integrates safety, welfare, working conditions, registration and licensing rules across a very wide range of establishments. Seen together, the codes indicate that codification in India is thematic, administrative and programmatic at once.[7], [8], [9], [10], [19]

Table 2.1 Legislative Consolidation Under the Four Labour Codes

Labour Code	Principal Statutes Consolidated	Analytical Significance
Code on Wages, 2019	Payment of Wages Act 1936; Minimum Wages Act 1948; Payment of Bonus Act 1965; Equal Remuneration Act 1976	Creates a common wage architecture, universalises minimum-wage logic, and standardises wage calculations and gender equality norms.
Industrial Relations Code, 2020	Trade Unions Act 1926; Industrial Employment (Standing Orders) Act 1946; Industrial Disputes Act 1947	Combines collective representation, employment discipline and industrial adjustment within a single framework, while embedding managed flexibility.

Code on Social Security, 2020	Employees' Compensation Act 1923; Employees' State Insurance Act 1948; Employees' Provident Funds Act 1952; Maternity Benefit Act 1961; Payment of Gratuity Act 1972; Unorganised Workers' Social Security Act 2008; and allied welfare laws	Consolidates contributory and welfare schemes and extends statutory recognition to unorganised, gig and platform workers.
OSHWC Code, 2020	Factories Act 1948; Contract Labour Act 1970; Inter-State Migrant Workmen Act 1979; Building and Other Construction Workers Act 1996; and other safety- and establishment-specific laws	Merges safety, welfare, working conditions, registration and licensing into a single compliance framework across diverse establishments.

Source: Prepared by the author from the four labour codes, the Annual Report 2024-25, the Second National Commission on Labour and the Compliance Handbook for Employers Under the Four Labour Codes[5], [6], [7], [8], [9], [10], [19].

Table 2.1 demonstrates that legislative consolidation is analytically significant because each code collapses a distinct historical lineage of labour regulation into a new thematic container. What had developed piecemeal over decades as separate wage laws, dispute-settlement laws, welfare fund laws and establishment-specific safety statutes is now presented as a more coherent legal field. Yet the table also illustrates that the codes do not erase the underlying policy tensions inherited from the older statutes. The social-insurance logic of provident fund and ESI, the collective-bargaining logic of trade union and dispute law, and the factory-inspection logic of safety law all survive within the codified structure, sometimes uneasily.[5], [6], [19]

2.6.1 Simplification of Labour Legislation

Simplification is the most frequently asserted objective of codification, and it is visible in both form and doctrine. At the level of legislative form, twenty-nine enactments have been reduced to four codes organised around broad themes. At the level of legal technique, the codes attempt some harmonisation of definitions, authorities and compliance mechanisms. The single definition of "wages" is especially important. By specifying included and excluded components and requiring that amounts beyond a 50 per cent allowance threshold be added back for statutory purposes, the Code on Wages seeks to prevent wage structuring from undermining social-security and terminal-benefit calculations. The Ministry's FAQs explicitly

describe this as a single definition applicable across the four codes, thereby reducing one of the most persistent sources of litigation and compliance uncertainty in the older regime.[7], [20]

The Code on Wages is also simplificatory in another respect: it generalises minimum wage protection beyond the earlier scheduled-employment framework. Sections 5 to 9 create the architecture for minimum wages and floor wage fixation, while section 3 prohibits discrimination on the ground of gender in matters of wages and recruitment for the same work or work of a similar nature. This matters conceptually because the code recasts minimum wages from a sectorally enumerated entitlement to a general statutory floor. In doctrinal terms, the wage code becomes the basic instrument through which labour welfare is universalised at the point of remuneration.[7], [11], [15], [19]

Simplification, however, is only partial. The codes do not fully unify the key categories through which protection is distributed. The Code on Wages applies to "employees"; the Industrial Relations Code and the OSHWC Code continue to rely centrally on the category of "worker"; the Code on Social Security overlays these with "employee", "unorganised worker", "gig worker" and "platform worker". Thus, while codification reduces statutory multiplicity, it does not fully eliminate coverage complexity. The result is a layered simplification: easier compliance structures and fewer enactments, but continued doctrinal differentiation in the reach of substantive rights.[8], [9], [10], [40]

2.6.2 Promoting Labour Market Flexibility

A second objective is labour market flexibility. This is most pronounced in the Industrial Relations Code. The code formally recognises fixed-term employment, and official materials emphasise that fixed-term employees are entitled to benefits broadly equivalent to permanent workers, including gratuity on a pro rata basis upon expiry of the fixed term, even without the traditional five-year qualifying period. The legal technique here is revealing: flexibility is not introduced by excluding fixed-term labour from welfare norms, but by combining term-limited employment with a parity principle. In theory, this allows firms to manage variable labour demand without treating fixed-term workers as rightless labour. In practice, however, the availability of fixed-term arrangements may also weaken the incentive to regularise workforces over time.[8], [9], [17], [20]

The flexibility logic is more explicit in the code's threshold provisions. The requirement of standing orders now applies to industrial establishments employing three hundred or more workers, and the regime of prior government permission for lay-off, retrenchment and closure under Chapter X similarly applies to establishments employing not less than three hundred workers, unless a higher number is notified.

The earlier legal model treated these rules as instruments of job security and procedural fairness in larger enterprises. The new threshold recalibrates that balance by shrinking the universe of establishments subject to more stringent oversight. Defenders of the change argue that lower regulatory barriers encourage scale and investment; critics respond that threshold inflation facilitates easier workforce adjustment at precisely the level where formal employment growth is most needed.[9], [30], [36], [37], [40]

The strike and lock-out provisions further reveal the duality of the codified regime. The Industrial Relations Code extends notice requirements in a way that gives greater primacy to orderly dispute resolution and industrial continuity. This is consistent with a legal tradition in which the strike is treated as an important but regulated economic weapon rather than an unrestricted constitutional entitlement. Yet from the perspective of collective bargaining power, broader notice obligations and procedural controls can substantially affect the effectiveness of labour action. Codification thus advances a model of industrial peace shaped more by procedural control and less by expansion of bargaining rights.[9], [17], [27], [28], [29]

Flexibility is also embedded in the OSHWC Code through administrative devices. A common licence for factories, industrial premises engaging contract labour and other regulated activities is intended to simplify establishment-level operations across diverse forms of work organisation. Contract labour remains permissible, subject to regulation, and the code's treatment of core and non-core activities preserves managerial room for outsourcing while retaining formal regulatory supervision. This is important in light of the continuing significance of triangular labour relations in India and the jurisprudence that abolition of contract labour does not automatically entail absorption of contract workers by the principal employer. Codification therefore does not reverse the structural reliance on intermediation; it seeks instead to govern it through a simplified licensing framework.[10], [18], [20], [31]

2.6.3 Formalisation of Employment

The third stated objective is formalisation. In the Indian context, formalisation does not simply mean transferring workers from informal to formal enterprises. It also means making workers visible to the law through records, identifiers, registration systems and standardised obligations. Several code provisions embody this logic. The OSHWC Code requires employers to issue letters of appointment to employees, a seemingly simple but conceptually important device because documentary recognition is often the threshold condition for enforcing wage, social-security or termination claims. The Code on Wages generalises wage floors and payment norms across employees. The Social Security Code creates mechanisms for electronic registration of unorganised workers, gig workers and platform workers, and

contemplates social-security schemes for such categories. Inter-State migrant workers may self-register on a portal, and their regulatory treatment reflects an attempt to detach welfare access from purely employer-initiated documentation.[7], [8], [10], [19], [20]

Formalisation through registration is particularly evident in the Social Security Code. Chapter IX, together with the provisions on national and state boards, is one of the most symbolically significant parts of the new regime because it acknowledges that labour welfare cannot remain confined to standard employees in the organised sector. The code authorises the framing of schemes for unorganised workers, gig workers and platform workers, provides for their electronic registration, and creates the possibility of aggregator contributions within a specified range of turnover, subject to statutory caps. In doctrinal terms, this is a major departure from earlier labour welfare legislation, which largely treated platform work as invisible. At the same time, the protective effect of this recognition depends heavily on the content of schemes, the adequacy of financing and the ease of registration.[8], [16], [19], [20], [40]

Formalisation, however, is not normatively neutral. It creates new possibilities for welfare delivery, portability and data-driven administration, but it can also become exclusionary when access depends on digital literacy, Aadhaar linkage, stable connectivity or accurate self-registration. The movement from invisible labour to recorded labour is therefore a necessary but insufficient condition for labour welfare. A system that registers workers without securing enforceable benefits may improve state knowledge while leaving underlying insecurity intact. The promise of codification lies in making legal identity and social protection more portable; its danger lies in mistaking registration for substantive justice.[5], [8], [19], [40], [41]

2.6.4 Improving Labour Governance

The fourth objective is governance reform. Codification seeks not merely to restate rights, but to re-engineer the institutions through which labour law is administered. The inspector-cum-facilitator is emblematic of this shift. Under the Code on Wages and parallel provisions in the other codes, inspections are linked to advisory functions, web-based allocation and, in principle, greater transparency. The traditional image of labour administration as statute-specific inspection and prosecution is replaced by a model that combines compliance assistance, digital records, risk-based scrutiny and the possibility of improvement notices and compounding. This is an attempt to modernise labour governance for an economy in which paper-heavy and fragmented administration was widely seen as both inefficient and prone to discretionary abuse.[7], [15], [19]

Institutional integration is visible across the codes. The Code on Wages provides for advisory boards, including representation of women, to advise on wage fixation and

related matters. The Code on Social Security establishes National and State Social Security Boards with representation for women and vulnerable groups. The OSHWC Code creates advisory boards concerned with occupational safety and health. The Industrial Relations Code reconfigures dispute-settlement institutions, negotiating unions or councils, works committees, grievance redressal committees and industrial tribunals. What emerges is a governance architecture in which administrative bodies are expected to mediate welfare, compliance and industrial peace in a more systematised way than before.[7], [8], [9], [10], [19]

Table 2.2 Policy Objectives of Labour Law Codification in India

Policy Objective	Key Legal Devices	Analytical Qualification
Simplification of laws	Four thematic codes; common wage definition; reduced returns, forms and registers; single registration/licensing pathways	Reduces transaction costs and legal clutter, but does not eliminate code-specific coverage distinctions.
Labour market flexibility	Fixed-term employment; higher thresholds for standing orders and prior permission; streamlined licensing and compliance	May encourage adaptability and investment, but can weaken job security and collective leverage.
Formalisation	Universal wage floor logic; appointment letters; digital registration of unorganised, gig, platform and migrant workers	Extends legal visibility, but depends on digital access, registration quality and workable schemes.
Governance reform	Inspector-cum-facilitator model; advisory boards; electronic compliance systems; integrated adjudicatory and administrative structures	Can modernise enforcement, but may privilege documentary compliance unless backed by strong field capacity.

Source: Prepared by the author from official policy documents and the operative code provisions[5], [7], [8], [9], [10], [19], [20].

Table 2.2 captures the central point that codification in India is animated by multiple objectives which often reinforce but sometimes cut against each other. Simplification can support welfare by making rights easier to identify; flexibility can support formal employment, but may also weaken security; formalisation can widen coverage, but

may privilege workers who can navigate digital systems; governance reform can reduce compliance costs, but may dilute adversarial enforcement if facilitation becomes a substitute for scrutiny. The analytical task is therefore not to celebrate or condemn codification in the abstract, but to examine how these objectives interact within particular provisions and institutions.[5], [19], [39], [40]

2.7 International Labour Standards and Global Influences

2.7.1 International Labour Organization and Global Labour Governance

Indian labour law has never developed in isolation from international labour norms. The International Labour Organization has historically provided a vocabulary through which labour protection is framed as part of legitimate economic order rather than as an obstacle to development. The ILO's Declaration on Fundamental Principles and Rights at Work, especially after its 2022 amendment, recognises freedom of association and collective bargaining, elimination of forced labour, abolition of child labour, non-discrimination and a safe and healthy working environment as fundamental principles. The significance of this framework for India's labour codes lies less in direct transplantation and more in normative orientation: labour welfare is treated as part of decent work, and decent work is understood as compatible with economic development rather than external to it.[32]

Several components of the codes can be read as partial alignment with global labour standards. The wage code's floor-wage and minimum-wage architecture resonates with the logic of ILO Convention No 131, which emphasises minimum wage fixing with attention to workers' needs and economic factors. The OSHWC Code's emphasis on occupational safety standards, employer duties, welfare facilities and health examinations corresponds to the general orientation of Convention No 155 toward a national framework for workplace safety and health. The Social Security Code's effort to consolidate provident fund, ESI, gratuity, maternity benefits and schemes for unorganised and platform workers aligns in broad terms with the social-protection rationale reflected in Convention No 102, even though the code does not itself guarantee a universal and uniform basket of benefits to all categories of worker.[7], [8], [10], [33], [34], [35]

At the same time, India's engagement with international labour governance remains selective. The codes are best understood as examples of pragmatic convergence rather than full harmonisation. They incorporate language of dignity, safety, non-discrimination and social protection, but they do so through domestic categories shaped by federalism, informality and administrative feasibility. This selective adaptation is unsurprising. International standards provide direction and legitimacy, but domestic labour law must still confront local institutional constraints such as

fragmented employment relations, low union density in many sectors, and the challenge of extending welfare to workers outside stable factory settings.[32], [35], [40]

2.7.2 Comparative Labour Law Perspectives

Comparative experience suggests that codification by itself tells us very little about the politics of labour regulation. In some jurisdictions, codified or consolidated labour legislation coexists with dense worker protections and robust enforcement; in others, simplification has been associated with deregulation, weaker collective institutions or greater employer discretion. The comparative lesson is therefore modest but important: codification is a vehicle, not a destination. Its normative content depends on the distributive choices embedded in the statute and the quality of its institutions.

Seen in that light, India's new regime occupies an intermediate position. It is more ambitious than a mere consolidation statute because it restructures administration, definitions and compliance. But it is less transformative, from a worker-rights perspective, than a model centred on universal social insurance or strong sectoral bargaining. Relative to older welfare-state models, the codes rely more heavily on digitised registration, scheme-based inclusion and procedural regulation. Relative to deregulatory omnibus reforms elsewhere, they retain significant public-law commitments to minimum wages, safety, maternity, gratuity and institutional dispute resolution. Comparative law therefore reinforces the central argument of this chapter: India's labour codes should be read as an attempt to combine welfare guarantees with managerial flexibility and administrative formalisation, rather than as an unambiguous move toward either social democracy or market deregulation.[38], [40]

2.8 Critical Evaluation of the Philosophy of Codification

The real test of codification is whether it meaningfully balances the competing objectives it proclaims. On one reading, the new regime strengthens labour welfare in important ways. The Code on Wages universalises the logic of minimum wage protection and places the floor wage at the centre of wage policy. The Social Security Code formally acknowledges unorganised, gig and platform workers within the statutory vocabulary of labour welfare. The OSHWC Code integrates safety, welfare facilities, appointment letters and inter-State migrant worker protections within a single framework. The Industrial Relations Code, despite its flexibility orientation, grants fixed-term employees parity in several conditions of service and creates a worker re-skilling fund for retrenched workers. These are not negligible reforms. They indicate that codification is not simply a project of labour market deregulation.[7], [8], [9], [10], [19], [20]

Yet the same legal architecture also reveals clear limits. The strongest critique is that the codes place greater weight on orderly administration and managerial flexibility

than on the deepening of collective worker power. The threshold of three hundred workers for standing orders and prior permission to retrench, lay off or close substantially narrows the reach of earlier protective controls. The expanded requirement of strike notice constrains spontaneous collective action and may reduce labour's bargaining leverage in fast-moving industrial disputes. The negotiating union mechanism rationalises representation, but it does not by itself address the structural weakness of collective bargaining in large parts of the Indian economy. In this sense, codification modernises industrial relations without strongly democratizing them.[9], [17], [27], [28], [29], [37], [40]

A second criticism concerns the treatment of vulnerable workers. The Social Security Code's recognition of gig and platform workers is normatively significant, but much of the protection remains mediated through schemes to be framed, financed and administered by governments. Statutory visibility has therefore increased faster than guaranteed entitlement. Aggregator contributions create a financing pathway, but their percentage limits and operational dependence on later schemes mean that the extent of protection remains contingent. Similar concerns apply to unorganised workers more broadly. Registration is essential, but registration alone does not secure income replacement, health insurance, maternity support or old-age protection in any assured and standardised way. The architecture is inclusive in aspiration, but often programmatic rather than immediately rights-conferring in execution.[8], [16], [19], [20], [40]

The constitutional perspective sharpens this critique. Indian labour welfare jurisprudence has repeatedly insisted that labour rights are not matters of administrative grace. People's Union for Democratic Rights and Sanjit Roy establish that statutory wage floors are linked to constitutional protection against forced labour. Bandhua Mukti Morcha treats labour exploitation as a problem of structural subordination requiring state intervention. Olga Tellis recognises livelihood as intrinsic to dignified existence. Consumer Education and Research Centre constitutionalises occupational health, and Female Workers (Muster Roll) extends maternity justice beyond regular employment status. Taken together, these decisions suggest that labour welfare must be assessed not only in terms of regulatory neatness, but in terms of whether law effectively protects those most exposed to coercion, health risk and economic precarity.[21], [22], [23], [24], [25], [26]

At the same time, constitutional doctrine does not erase employer interests. Excel Wear remains a reminder that the freedom to carry on business under Article 19(1)(g) places limits on the degree to which closure and exit can be obstructed. Nor has the Court recognised a fundamental right to strike. The Indian constitutional field therefore does not prescribe a maximalist labour-protective code in every respect. It does, however, require that legislative simplification and business facilitation remain

consistent with basic guarantees of dignity, equality, health and freedom from economic coercion. Codification can alter regulatory technique, but it cannot constitutionally legitimate sub-minimum wages, unsafe work, exclusionary social protection or wholly formalistic compliance.[2], [29], [30]

A third line of criticism relates to centralisation and delegation. The new codes depend heavily on subordinate legislation, schedules, notifications, schemes and digital platforms. This has practical advantages: rules can adapt to changing industries, wage calculations or administrative processes more quickly than statutes. But from the standpoint of democratic accountability, such delegation means that important questions of coverage and benefit design may be resolved outside the principal legislative text. Because labour is on the Concurrent List, implementation also depends on a complex relationship between Union legislation, central rules, state rules and state administrative capacity. Codification therefore risks producing a paradoxical situation in which national uniformity is promised at the level of statutory rhetoric, while actual worker experience remains uneven across states and sectors.[2], [5], [11], [12], [13], [14], [15], [16], [17], [18]

Implementation challenges magnify these concerns. The shift to inspector-cum-facilitator models and digital compliance portals may reduce rent-seeking and lower compliance burdens, but it also risks privileging formal documentation over lived workplace reality. Labour welfare in India has long been undermined not only by bad law, but by weak enforcement, low awareness, evasive employment structuring and the sheer difficulty of regulating informal and dispersed labour processes. Codification can make the law easier to state; it does not automatically make it easier to enforce. The deeper lesson of the historical literature is that formal labour law in India has often had limited purchase over the actual organisation of work. Whether the codes transcend that history remains an open question, especially because comprehensive operationalisation only began in late 2025.[1], [5], [11], [12], [13], [14], [19], [41]

For these reasons, the philosophy of codification should be evaluated with caution. Its strengths are real: thematic clarity, administrative streamlining, universalisation of some wage protections, recognition of new worker categories and a more integrated approach to labour governance. Its limitations are equally real: weaker collective leverage in important respects, possible thinning of substantive protection through thresholds and delegation, heavy reliance on digital formalisation, and uncertain delivery for those workers who most need welfare support. The central normative question is therefore not whether codification is good or bad in the abstract, but whether the new regime can convert a formally coherent legal order into materially improved labour conditions for workers across the organised-informal divide.[5], [7], [8], [9], [10], [39], [40]

2.9 Implications for Labour Governance

The implications of codification for labour governance are systemic. For workers, the new regime promises greater legal visibility, more standardised compliance around wages, stronger documentary foundations for claims, and the possibility of broader social-security inclusion. For employers, it promises fewer overlapping laws, unified calculations, electronic compliance and more predictable administrative interfaces. For labour administration, it replaces a statute-by-statute enforcement culture with an integrated governance model built around portals, common registers, common licences, harmonised definitions and facilitative inspection. These are not simply technical improvements; they alter how labour law is encountered, interpreted and enforced in everyday practice.[7], [8], [10], [19]

Industrial relations institutions are also being transformed. The negotiating union or negotiating council, grievance redressal mechanisms and consolidated tribunal structure indicate a move toward more standardised dispute management. But these institutions operate within a broader framework that also expands employer room for restructuring and channels collective conflict into more controlled procedural forms. Labour governance under the codes is therefore likely to be less fragmented, but also more managerial in tone. It emphasises order, traceability and process, while leaving unresolved the deeper question of whether workers possess sufficient bargaining capacity to shape workplace outcomes within this more ordered framework.[9], [17], [27], [28], [29]

The administrative consequences are equally important. Codification requires new forms of state capacity: interoperable digital systems, multilingual worker interfaces, accurate databases, trained inspectors-cum-facilitators, coordination between labour departments and social-security institutions, and sensitivity to digital exclusion. In a country where labour welfare has often failed at the point of implementation, these governance questions may prove more important than textual design alone. The new labour regime will ultimately be judged less by the elegance of codification than by whether it produces higher wage compliance, safer workplaces, more reliable social-security access and fairer mechanisms of industrial adjustment.[5], [19], [20]

2.10 Conclusion

Labour law codification in India is best understood as a transformation in the grammar of labour governance rather than as a simple clean-up of statutory text. It consolidates a historically fragmented field, but it also reorders the relationship between welfare, flexibility and formalisation. The codes preserve important elements of labour's welfare-state inheritance: universalised wage protection, social-security architecture, safety obligations, maternity and gratuity principles, and public

institutions for industrial dispute resolution. At the same time, they shift the regulatory centre of gravity toward administrative rationalisation, digital compliance and calibrated managerial flexibility. The result is a labour regime that is more legible and more integrated, but not necessarily more egalitarian in all respects.[5], [7], [8], [9], [10], [19]

This chapter has argued that the philosophy of codification lies precisely in this attempted reconciliation of competing objectives. Welfare remains central, but is increasingly delivered through formalisation and governance redesign. Flexibility is accommodated, but usually justified in the language of productivity, investment and orderly industrial relations. Formalisation is presented as inclusion, but it can also become a technology of selective visibility unless backed by enforceable benefits and effective institutions. The constitutional and judicial traditions of labour welfare in India provide the normative benchmark against which these reforms must be measured: dignity, equality, livelihood, health and protection from coercion remain the lodestars of labour regulation, even in a codified and digitised regime.[2], [21], [23], [24], [25]

For the broader argument of this monograph, the significance of Chapter 2 is therefore twofold. First, it shows that the labour codes embody a distinct philosophy of statecraft in which labour welfare is reframed through the idioms of simplification, compliance management and labour market adaptation. Secondly, it provides the conceptual foundation for later chapters, which examine how this philosophy plays out within the doctrinal detail of each code and in the practical realities of implementation. The future of India's new labour regime will depend on whether codification evolves into a genuinely inclusive architecture of labour citizenship-or whether it settles into a thinner model of regulated flexibility with only partial welfare reach.[6], [19], [40]

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Chapter 3

The Code on Wages, 2019: Recasting the Architecture of Wage Protection

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3.1 Introduction: Wage Regulation as the Core of Labour Welfare

Among all labour rights, the right to wages occupies a singular place. It is the most immediate juridical expression of the exchange between labour and capital, but it is also much more than a contractual price. Wages mediate subsistence, household security, social participation, and, ultimately, the constitutional promise of dignity. In labour law theory, wage regulation therefore performs a dual role: it secures the worker's primary economic entitlement, and it disciplines the labour market by imposing limits on inequality, coercion, and opportunistic employer power. In a country such as India, where a substantial share of employment remains informal and vulnerable, wage law is not merely a private-law device for enforcing bargains; it is an instrument of social policy and distributive justice. [1][2]

The Code on Wages, 2019 must be situated within this broader constitutional and regulatory understanding of wages. Its importance lies not simply in legislative consolidation, but in the attempt to reorder the normative architecture of wage protection. The Code brings together four earlier enactments dealing respectively with payment of wages, minimum wages, bonus, and equal remuneration, and does so through a single statutory framework designed to simplify compliance, widen minimum wage coverage, and harmonise the definition of wages. The reform is therefore both technical and political: technical because it rationalises a fragmented legal field; political because it recalibrates the terms on which the State mediates the wage relation. [18][19][20]

That significance has become even sharper after commencement. Although enacted in 2019, the Code was brought into force with effect from 21 November 2025, and the publicly available central rule-making materials now include the draft Code on Wages (Central) Rules, 2025; official transitional clarifications further state that legacy rules continue to operate, to the extent consistent with the Code, until new rules are finally notified. The present moment is thus one of partial legal transition

rather than settled administrative closure. Any analysis of the Wage Code must therefore account not only for the enacted text but also for the governance style it inaugurates: unified legislation, digitised compliance, and an increased role for executive rule-making in operational detail. [18][27][29][30]

The central argument of this chapter is that the Code on Wages, 2019 marks a foundational shift in India's labour welfare regime. It moves wage law away from a statute-specific and sector-fragmented order toward a unified baseline model. Yet its transformative potential remains conditioned by three variables: the adequacy of wage fixation, the capacity of enforcement institutions, and the extent to which universal legal coverage can actually penetrate India's informal labour markets. The Code, in short, recasts the architecture of wage protection, but it does not, by codification alone, resolve the political economy of low-paid work.

3.2 Historical Evolution of Wage Regulation in India

3.2.1 Early Development of Wage Protection Laws

The genealogy of wage protection in India predates Independence and is closely tied to the social dislocations of industrial capitalism under colonial rule. Early industrialisation generated recurrent complaints about arbitrary deductions, delayed wage payments, exploitative intermediation, and the absence of enforceable standards governing payment practices. The Royal Commission on Labour in India drew attention to these conditions, and the earliest major legislative response was the Payment of Wages Act, 1936, which sought primarily to regularise the manner and timing of wage payment rather than to establish a substantive wage floor. [3][4][23]

This early phase is doctrinally important because it reveals the original logic of Indian wage regulation. The law's initial concern was not distributive justice in the full sense, but control over wage abuse: curbing wage theft, limiting deductions, and requiring regularity in payment. The worker was seen less as a bearer of a socio-economic right to a decent minimum and more as a vulnerable payee requiring protection against managerial arbitrariness. The modern law of minimum wages emerged only later, when the State moved from policing payment to shaping wage content.

3.2.2 Post-Independence Expansion of Wage Legislation

After Independence, wage law expanded in tandem with the constitutional commitment to social justice. The Minimum Wages Act, 1948 introduced the idea that the State could and should prescribe a statutory floor below which wages could not fall in specified employments. The Payment of Bonus Act, 1965 added a distinct distributive dimension by linking wage labour to a limited share in surplus, while the Equal Remuneration Act, 1976 embedded anti-discrimination principles into wage

regulation by prohibiting sex-based differentials in remuneration for the same or similar work. Together with the Payment of Wages Act, 1936, these enactments created the four-pillared structure that the Code on Wages would eventually absorb. [4][5][6][7]

Post-Independence wage policy was also shaped by committee and conference norms that sought to define the content of "minimum" wages. The 15th Indian Labour Conference's need-based formula, later reiterated in official wage-policy materials, treated the minimum wage as a social minimum tied to family needs rather than merely individual survival. The 1996 National Floor Level Minimum Wage was a further step, but it remained essentially an executive benchmark without full statutory force. One of the enduring limitations of the pre-Code regime was therefore the coexistence of substantive ambition with legally uneven coverage and administratively weak enforcement. [8][9]

3.2.3 Judicial Development of Wage Rights

If legislation created the framework of wage protection, the judiciary supplied much of its moral vocabulary. In *U. Unichoyi v State of Kerala*, the Supreme Court held that minimum wages were not to be assimilated to fair wages or living wages, and that the employer's capacity to pay could not defeat the legal obligation to pay the statutory minimum. [10] In *Express Newspapers (Private) Ltd v Union of India*, the Court distinguished minimum, fair, and living wages, while recognising that minimum wages had to preserve not merely physical subsistence but the worker's efficiency and basic human functioning. [11]

The doctrine was significantly deepened in *Workmen represented by Secretary v Management of Reptakos Brett & Co Ltd*. There the Court held that minimum wages must take into account, beyond food, clothing, and shelter, the cost of children's education, medical requirements, recreation, festivals, ceremonies, and provision for old age and marriage contingencies, quantified through an additional 25 per cent component. [12] This decision is central to Indian wage jurisprudence because it transformed the legal imagination of wage protection from bare survival to socially meaningful existence.

Equally significant was the Court's use of fundamental rights to constitutionalise minimum wage compliance. In *People's Union for Democratic Rights v Union of India*, payment below the statutory minimum was treated as a form of forced labour contrary to Article 23. [13] *Sanjit Roy v State of Rajasthan* reaffirmed that even workers employed in relief works could not be paid below minimum wages. [14] Together, these decisions did more than interpret labour statutes: they converted minimum wages into a constitutional threshold against coercive economic exploitation. Wage

law thus became a site where Articles 21 and 23, read with the Directive Principles, began to structure the meaning of labour welfare. [1]

3.3 Fragmentation of Wage Legislation Prior to Codification

3.3.1 Multiple Wage-Related Statutes

Prior to codification, wage regulation in India operated through a cluster of parallel enactments, each with its own conceptual vocabulary, coverage pattern, and administrative machinery. The Payment of Wages Act focused on regularity and authorised deductions; the Minimum Wages Act addressed wage floors in scheduled employments; the Payment of Bonus Act governed surplus-sharing in specified establishments; and the Equal Remuneration Act targeted sex-based wage discrimination. This architecture was protective in aspiration but fragmented in design. [4][5][6][7][9]

The fragmentation was not merely formal. Different enactments employed different definitions of "wages," different thresholds of applicability, and different modes of enforcement. Workers and employers were required to navigate overlapping yet non-identical rules. The result was a regulatory field in which the same remuneration package could be treated differently depending on the statute invoked. That complexity created space for both inadvertent non-compliance and deliberate evasion. The official rationale for codification expressly identified multiplicity of definitions and authorities as a structural problem requiring legislative correction. [19][20]

3.3.2 Administrative and Compliance Challenges

The pre-Code regime generated significant administrative burdens. Separate authorities, registers, procedural routes, and definitional tests meant that compliance was often paper-heavy and enforcement dispersed. For workers, especially those in precarious and low-paid employment, fragmentation raised access-to-justice costs: identifying the correct statute, authority, and remedy was itself a barrier. For employers, particularly smaller establishments, multiple compliance channels increased transaction costs and legal uncertainty. [21][22]

A particularly serious problem was the earlier structure of minimum wages under the Minimum Wages Act, 1948, which depended on "scheduled employments." That approach could leave workers outside listed sectors beyond the statutory minimum wage net. By the time the Wage Code was proposed, this sector-specific design increasingly appeared misaligned with the realities of a labour market characterised by sub-contracting, service-sector growth, and pervasive informality. The move toward codification was therefore also a move away from sectoral particularism and toward a presumptive universality of wage protection. [5][20][21]

3.3.3 Need for Consolidation

Codification was justified on three interlocking grounds: simplification, broader coverage, and improved enforceability. The Statement of Objects and Reasons to the 2019 Bill emphasised amalgamation, simplification, and rationalisation, and explicitly linked these goals to the removal of multiplicity in definitions and authorities. The Standing Committee process likewise reflected a recognition that the status quo was administratively cumbersome and normatively incomplete. [19][20]

Yet it is important to understand what consolidation meant, and what it did not. Consolidation did not simply fuse four laws into one without altering substance. Rather, it selectively harmonised some fields more deeply than others. Minimum wages and equal remuneration were significantly reworked; payment of wages was modernised and extended; bonus was integrated but largely retained its threshold-based logic. The Wage Code is therefore not a mere restatement. It is a reassembled regulatory scheme.

Table 3.1 Consolidation of Wage-Related Legislation under the Wage Code

Previous legislation	Subject matter	Status under the Code
Payment of Wages Act, 1936	Timely payment of wages; permissible deductions	Consolidated into Chapter III and related enforcement provisions
Minimum Wages Act, 1948	Minimum wage fixation	Consolidated and expanded through Chapters II and V
Payment of Bonus Act, 1965	Bonus entitlement and allocable surplus	Integrated substantially through Chapter IV
Equal Remuneration Act, 1976	Gender wage equality and non-discrimination	Incorporated through sections 3 and 4 and related advisory structures

Source: Compiled from the Code on Wages, 2019 and Ministry of Labour and Employment materials. [18][19][27]

The analytical significance of this consolidation lies in the kind of unity it creates. The Code does not abolish differentiation altogether; bonus, for example, remains structurally distinct from minimum wage protection. But consolidation reduces the centrifugal tendencies of the earlier system by creating a common legal language. In particular, a harmonised definition of wages and a single claims-and-enforcement

framework reduce the opportunities for doctrinal dissonance that characterised the earlier regime.

3.4 Legislative Framework of the Wage Code

3.4.1 Structure and Scope of the Code

The Code on Wages is organised into nine chapters dealing respectively with preliminary matters, minimum wages, payment of wages, bonus, advisory boards, payment of dues and claims, inspection, offences and penalties, and miscellaneous matters. Its formal architecture is revealing. The Code begins not with sector-specific coverage but with broad definitional provisions, followed by a minimum wage regime that is intended to operate as the normative centre of the statute. Payment, bonus, advisory bodies, claims, and enforcement then radiate outward from that centre. The structure itself signals that wage protection is to be treated as a unified field of labour governance. [18][19]

The most important feature of scope is the Code's general applicability to employees across sectors, rather than only those employed in scheduled industries. Official explanatory materials underscore that the scheduled-employment limitation has been abandoned and that the Code extends, in principle, to organised and unorganised workers, including full-time, part-time, temporary, casual, and contractual workers. The doctrinal move is therefore from selective wage regulation to default coverage. That shift is among the Code's most consequential welfare-oriented innovations. [18][27]

At the same time, universality must be stated with precision. It is the minimum wage and wage-payment parts of the Code that are universalised most strongly. The bonus chapter remains subject to separate thresholds and exclusions. In that sense, the Code creates a universal baseline for wage protection, but not a universalisation of every wage-related entitlement. The legal order thus becomes more coherent, yet still stratified.

3.4.2 Universal Minimum Wage Framework

Section 5 prohibits payment below the notified minimum wage, and section 6 empowers the appropriate government to fix minimum wages for employees, with differentiation permitted by skill, geographical area, and the arduous or hazardous character of work. Minimum rates may be fixed by the hour, day, or month, and section 7 permits inclusion of a basic rate, cost of living allowance, and, where applicable, the cash value of concessional supplies. The Code thereby replaces the older scheduled-employment model with a broad-based wage floor regime that remains sensitive to economic and regional differences. [18]

This shift is doctrinally substantial. Under the earlier regime, the right to minimum wages could depend first on whether one's employment fell within a listed category. Under the Code, the default assumption is coverage, with differentiation occurring within the wage-fixing process rather than at the threshold of legal visibility. For labour welfare, the implications are obvious: legal recognition of low-paid work no longer turns so heavily on classificatory inclusion in a schedule. For governance, however, the challenge shifts to effective notification, revision, and enforcement of rates across a vastly larger universe of employment relations. [21][27]

3.4.3 National Floor Wage System

One of the most notable innovations of the Code is the statutory floor wage under section 9. The Central Government may fix a floor wage taking into account minimum living standards, and different floor wages may be fixed for different geographical areas. State minimum wages cannot fall below the floor, and where a pre-existing state minimum is already above the floor, it cannot be reduced merely because the floor is lower. The legal distinction here is critical: the Code does not create one uniform national minimum wage, but a centrally determined floor beneath state-level minimum wage fixation. That preserves federal flexibility while introducing a nationally binding lower boundary. [18][20]

The draft Code on Wages (Central) Rules, 2025 provide further insight into how this floor-wage power is intended to operate. The draft rules indicate that floor-wage fixation should account for food, clothing, housing, and other components of minimum living standards, and should proceed after consultation with the Central Advisory Board and circulation of advice to state governments. They also envisage periodic adjustment for cost of living and ordinary revision intervals. While these rules remain in draft form, they are important because they show the executive's attempt to translate long-standing need-based wage principles into codified methodology. [8][29]

Table 3.2 Normative Lineage of Minimum Wage Fixation in India

Source	Normative content	Doctrinal significance
15th Indian Labour Conference (1957), as reflected in later official	Family-based needs formula including consumption units, food, clothing, and housing	Established the classical "need-based" approach to minimum wages

wage-policy materials		
Reptakos *Brett* (1992)	Added 25% for children's education, medical needs, recreation, festivals, ceremonies, and contingencies	Judicially expanded minimum wages beyond bare subsistence
Draft Code on Wages (Central) Rules, 2025	3 adult consumption units; 2700 calories per day per unit; 66 metres cloth per family per year; housing, fuel, electricity, and 25% for education/medical/recreation/contingencies	Attempts to codify and operationalise the need-based model in rule form

Source: Compiled from the Expert Committee Report on National Minimum Wage, Reptakos Brett, and the Draft Code on Wages (Central) Rules, 2025. [8][12][29]

The continuity visible in Table 3.2 is analytically more important than it first appears. The draft rules do not invent a wholly new wage philosophy; rather, they formalise an older lineage of Indian wage thought. Even the move from the older "72 yards" clothing norm to "66 metres" is better understood as metric standardisation than as substantive retrenchment. The real novelty lies elsewhere: in converting historically dispersed committee norms and judicial elaborations into an administratively usable code-based methodology. That is a major shift in legal form, even where the moral content shows continuity.

3.5 Definition of Wages under the Code

No part of the Wage Code has attracted more attention than its unified definition of "wages." Section 2(y) includes basic pay, dearness allowance, and retaining allowance, while excluding a range of items such as bonuses, house rent allowance, overtime allowance, commission, conveyance allowance, retrenchment compensation, gratuity, and certain other payments. The crucial innovation, however, lies in the proviso: if the excluded components from specified heads exceed one-half of the total remuneration, the excess is deemed to form part of wages. This "50 per cent rule" is one of the Code's most consequential anti-avoidance devices. [18][21]

The importance of this definition is both doctrinal and structural. Doctrinally, it reduces the multiplicity that plagued earlier enactments, where the same remuneration package could be characterised differently under different laws. Structurally, it restrains the long-standing employer practice of salary engineering through inflated allowances and a compressed basic wage. In official explanatory materials, the government itself has acknowledged that the revised definition can raise the base relevant for linked computations such as gratuity, bonus, and provident fund-style contributions under the broader labour code regime. Thus, the definition of wages is not merely interpretive housekeeping; it redistributes economic value within the employment relationship. [18][27]

At the same time, the unified definition is not self-executing clarity. It will likely generate fresh disputes over categorisation of allowances, variable pay, incentive-linked payments, and forms of remuneration at the margins of the inclusion-exclusion scheme. Legal certainty increases at one level, but adjudicatory work is displaced to another. Codification reduces the number of definitions; it does not eliminate the interpretive politics of wages.

3.6 Payment of Wages and Timely Compensation

The Code modernises and generalises the law of wage payment in several important respects. Section 15 recognises payment in coin, currency, cheque, bank credit, and electronic mode. Section 16 requires wage periods not exceeding one month. Section 17 prescribes clear time limits: wages for employees engaged on a daily basis must be paid at the end of the shift; on a weekly basis, before the weekly holiday; on a fortnightly basis, within two days of the end of the fortnight; and on a monthly basis, before the seventh day of the succeeding month. Where employment ends through dismissal, retrenchment, resignation, or closure-related unemployment, wages must be paid within two working days. [18]

These provisions matter to labour welfare because irregular payment is itself a form of deprivation. For low-paid workers, delayed wages are rarely a temporary inconvenience; they trigger debt dependence, food insecurity, and household crisis. Timely payment is therefore properly understood as a social protection measure, not simply an efficiency rule. The Code's insistence on regularity, together with its recognition of digital payment channels, aligns wage administration more closely with contemporary labour markets while preserving the protective core of the earlier Payment of Wages Act. [24][27]

The deductions framework also remains central. Section 18 prohibits deductions except those authorised under the Code, and official materials indicate a continuing cap of 50 per cent on total deductions and recoveries. The welfare logic here is straightforward: workers must not be left with a nominal right to wages but a

practically depleted take-home amount. In this sense, the Code retains an old protective impulse of Indian labour law-guarding wages against erosion-while embedding it in a consolidated statutory form. [18][27]

A final point should be added. The Code also contains a burden-of-proof rule that places on the employer the obligation to prove payment where claims arise regarding non-payment, underpayment, or unauthorised deductions. It further renders void any contractual term by which an employee relinquishes a right to wages or bonus due under the Code. These provisions strengthen the protective design by preventing both evidentiary evasion and contractual waiver of minimum statutory entitlements. [18]

3.7 Equal Remuneration and Gender Wage Equality

The Code incorporates the substance of the Equal Remuneration Act, 1976 into sections 3 and 4. Section 3 prohibits discrimination on the ground of gender in matters relating to wages for the same work or work of a similar nature, and also prohibits discriminatory recruitment or conditions of employment in specified respects. It preserves the established test of "same work or work of a similar nature," with disputes on that question to be decided by the notified authority. Official explanatory materials further indicate that the reference to "gender" is understood to include transgender persons. [7][18]

From a constitutional perspective, these provisions are anchored in Articles 14, 15, 16, and 39(d). In *Randhir Singh v Union of India*, the Supreme Court famously held that "equal pay for equal work," though not expressly declared a fundamental right, is a constitutional goal deducible from equality guarantees. [15] In *Mackinnon Mackenzie & Co Ltd v Audrey D'Costa*, the Court applied the anti-discrimination principle in a sex-equality context and underscored that formal job titles cannot obscure substantive parity analysis. [16] The Wage Code inherits this jurisprudential lineage, even as it rephrases the statutory foundation.

Yet a critical limitation remains. Internationally, the benchmark set by ILO Convention No. 100 is "equal remuneration for men and women workers for work of equal value." The Code, like the earlier Indian statute, continues to hinge primarily on "same work or work of a similar nature." That formulation is narrower. It is well suited to cases of direct comparability, but less effective in addressing structural undervaluation of feminised occupations across formally different job classifications. The Code therefore advances gender equality, but not to the fullest extent contemplated by the broader international principle of equal value. [25]

The advisory-board provisions reinforce this mixed picture. Section 42 requires one-third women's representation on central and state advisory boards, and those boards are mandated to advise on increasing employment opportunities for women and on the extent to which women may be employed in specified establishments or

employments. This gives the Code a broader gender-governance dimension beyond wage parity alone. But whether this institutional design meaningfully shifts labour-market outcomes will depend on actual board functioning, state-level implementation, and the integration of gender equality concerns into wage fixation itself. [18]

3.8 Enforcement Mechanisms under the Wage Code

3.8.1 Inspector-cum-Facilitator System

The enforcement scheme is one of the clearest markers of the Code's broader governance style. Section 51 authorises the appointment of Inspector-cum-Facilitators, and the Code permits an inspection scheme involving web-based inspection, electronic calling of information, and randomised selection of establishments. The shift in nomenclature from "inspector" to "inspector-cum-facilitator" is not merely cosmetic. It signals movement from a purely command-and-control model toward a compliance-management approach in which advice, guidance, and digital monitoring are combined with coercive powers of inspection, search, and document examination. [18]

This move has advantages. It can reduce arbitrary inspection, support standardisation, and lower compliance frictions for employers. It also fits the Code's ambition to rationalise labour administration in an era of electronic records and digital reporting. But the facilitative turn carries risks. In low-compliance environments, over-reliance on guidance can weaken deterrence, especially where labour markets are characterised by informality, labour intermediation, and weak worker voice. The normative question is therefore whether facilitation supplements enforcement or displaces it.

3.8.2 Claims, Penalties, and Compliance Provisions

The Code's claims machinery is potentially worker-friendly. Under section 45, the appropriate government may appoint authorities not below the rank of a Gazetted Officer to determine claims arising under the Code. These authorities may award compensation up to ten times the claim determined, and applications may be filed not only by the affected employee but also by a registered trade union of which the employee is a member or by the Inspector-cum-Facilitator. A single application may cover multiple employees, claims may be filed within three years, and determined amounts may be recovered as arrears of land revenue. These are significant access-to-remedy provisions, especially in wage theft cases affecting groups of workers. [18]

The penalties regime also combines administrative and criminal elements. Officers of the appropriate government may hold enquiries and impose penalties in specified cases. Payment of less than the amount due may attract a fine up to ₹50,000, with

repeat offences within five years attracting imprisonment up to three months or a higher fine or both. Other contraventions attract lower fines, again with escalated consequences for repetition. Offences may be compounded, but ordinarily not where the same kind of violation recurs within five years. Official FAQs likewise emphasise that compounding is effectively limited for repeat violations. [18][27]

The Code also requires maintenance of registers, issuance of wage slips, and display of notices. The draft central rules go further by expressly permitting electronic maintenance of registers and wage slips and requiring multilingual notices in Hindi, English, and the local language. These measures can improve administrative transparency and reduce paper duplication. But they again illustrate a larger theme: the Code's success depends heavily on procedural infrastructure. Digital compliance may aid formal establishments, yet the workers most in need of protection are often those least able to invoke electronically mediated rights. [18][29]

3.9 Impact of the Wage Code on Labour Welfare

3.9.1 Impact on Workers

For workers, the Wage Code offers three evident benefits. First, it broadens the legal reach of minimum wage protection beyond the older scheduled-employment model. Second, it standardises the legal meaning of wages, thereby reducing the scope for evasion through fragmented definitional structures. Third, it strengthens the remedial pathway through claims authorities, enhanced compensation, employer-side burden of proof, and union-assisted filing. These are substantial gains in legal design. [18][21][27]

At a more conceptual level, the Code also reinforces the idea that wages are not merely market outcomes but legally governed entitlements. This matters especially because the Supreme Court's Article 23 jurisprudence treats payment below minimum wages as constitutionally suspect forced labour. To the extent the Code makes minimum wage coverage broader and more intelligible, it potentially expands the practical horizon of that constitutional guarantee. [13][14]

3.9.2 Impact on Employers

For employers, the Code promises simplification. A single statutory framework reduces definitional inconsistency, and the digital compliance model may lower administrative costs relative to the older multi-statute system. Unified record-keeping, standardised categories, and a single claims architecture may improve legal predictability. From a business-regulation perspective, this is one of the Code's principal attractions. [19][20]

But simplification is not synonymous with deregulation. The 50 per cent wages rule may require restructured salary practices; broader coverage may increase wage obligations in sectors that previously escaped minimum wage notifications; and more

coherent claims mechanisms can heighten exposure to liability. The Code simplifies the map, but it can also raise the cost of strategies that depended on fragmentation. For law-abiding employers, that may be clarifying; for labour-cost arbitrageurs, it is constraining.

3.9.3 Impact on Informal Sector Workers

The largest normative promise of the Code lies in its relevance to India's informal labour market. Official parliamentary material based on PLFS 2023-24 data indicates that 73.2 per cent of all workers engaged in the non-agricultural sector were in the informal sector. In such a labour market, a wage law confined to formally structured or scheduled employment cannot serve as an adequate welfare foundation. The Code's broad coverage is therefore rightly viewed as a decisive doctrinal improvement. [28]

Yet the central difficulty is one of translation from legal universality to lived enforceability. Informal workers are more likely to face oral contracts, labour intermediaries, fragmented workplaces, mobility across employers, and weak documentary records. Even a broad statute can fail if workers do not know the applicable rate, cannot identify the responsible employer, or cannot sustain claim-making. The Code narrows the coverage gap, but the enforcement gap remains. That is why the inspectorate, union support, group claims, and evidentiary presumptions are not peripheral details; they are the mechanisms on which welfare impact depends. Official FAQs stress that coverage now extends across organised and unorganised sectors, but the social meaning of that extension will be tested in precisely those spaces where legal compliance has historically been weakest. [18][27]

3.10 International Labour Standards and Wage Regulation

The Wage Code's international significance is best understood through three ILO instruments: the Protection of Wages Convention, 1949 (No. 95), the Equal Remuneration Convention, 1951 (No. 100), and the Minimum Wage Fixing Convention, 1970 (No. 131). Convention No. 95 emphasises regularity, authorised deductions, and secure payment of wages. Convention No. 100 establishes the principle of equal remuneration for men and women for work of equal value. Convention No. 131 calls for machinery protecting wage earners against unduly low wages through processes that take account of workers' needs and economic factors, with consultation of employers' and workers' organisations. [24][25][26]

Viewed against these standards, the Code demonstrates substantial, though incomplete, convergence. Its payment-of-wages provisions align closely with the logic of Convention No. 95. Its anti-discrimination provisions are broadly consistent with Convention No. 100, though, as noted earlier, they remain narrower than the

"equal value" formulation. Its floor-wage and minimum wage architecture, together with tripartite advisory-board structures, move Indian law closer to the institutional philosophy of Convention No. 131, especially by extending wage-floor protection beyond narrow sectoral lists. Official ILO materials indicate that India ratified Convention No. 100 in 1958, while official Indian materials and wage-policy reports have acknowledged that Convention No. 131 remains unratified; the Expert Committee on national minimum wage methodology nevertheless noted that broader wage coverage under the Code could serve as a backstop for eventual ratification. [8][25][26]

Comparatively, the Code also reflects a wider global trend: the re-legitimation of statutory wage floors as tools of inclusive growth, gender equity, and anti-poverty policy. Contemporary ILO wage-policy materials emphasise that effective wage systems require evidence-based fixation, regular revision, and social dialogue. The Wage Code clearly aspires to this model. Whether it fully realises it will depend on how consultation, revision, and compliance operate in practice within India's federal labour governance structure. [2][26]

3.11 Critical Evaluation of the Wage Code

The Code's strengths are considerable. First, it removes anachronistic fragmentation and creates a unified legal frame for wage regulation. Second, it broadens minimum wage coverage beyond the scheduled-employment model. Third, it introduces a harmonised definition of wages that can curb payroll structuring designed to hollow out statutory entitlements. Fourth, it creates a statutory floor wage mechanism that is stronger than the earlier executive practice of a non-binding national floor level benchmark. Fifth, it streamlines claims and inspection architecture in ways that could, if properly implemented, improve compliance and access to remedies. [18][19][20][21]

The Code also reflects a deeper conceptual strength: it treats wage protection as a foundational rather than incidental branch of labour welfare. In doing so, it restores the centrality of wages to labour governance at a time when legal discourse can otherwise become fragmented across industrial relations, social security, and occupational safety. The system-wide importance of the wage definition is especially notable, since the codified labour regime increasingly depends on common definitional architecture across statutes. In that sense, the Wage Code is the hinge on which other parts of the post-codification labour order turn.

Yet the limitations are equally significant. The first is implementation uncertainty. As of March 2026, the Code stands commenced, but the publicly available central rules remain in draft form and transitional official guidance continues to rely on older rules insofar as they are consistent with the Code. That means the legal system is operating in a hybrid mode-part codal, part residual-which can itself generate

uncertainty for both workers and employers. Codification without fully stabilised subordinate legislation risks postponing the very clarity it promises. [27][29][30]

A second limitation concerns substantive adequacy. Universal coverage is normatively important, but labour welfare does not follow automatically from coverage. If minimum wages are fixed too low, revised too slowly, or weakly enforced, the constitutional promise of dignity remains under-realised. The jurisprudence of *Unichoyi*, *Reptakos Brett*, *PUDR*, and *Sanjit Roy* reminds us that the real question is not only who is covered, but what level of life the law is willing to guarantee through wages. [10][12][13][14]

A third limitation lies in the enforcement model. The inspector-cum-facilitator framework and digital inspection scheme embody a modern administrative sensibility, but they may underperform in highly informal and low-documentation sectors unless backed by robust field presence, worker outreach, and credible sanctions. There is an enduring lesson in labour-law scholarship that enforcement, not merely statutory text, determines whether labour rights are meaningful. Sapkal's work on enforcement and the rise of temporary contract work is instructive here: weak enforcement environments alter employer incentives and can hollow out formal rights. [22]

Fourth, the Code's equality provisions are progressive but partial. The move from a sex-specific equal-remuneration law to a gender-based non-discrimination clause is important, and the official inclusion of transgender persons in explanatory material is noteworthy. But the statutory test still falls short of a full equal-value framework. Moreover, wage equality cannot be separated from occupational segregation, unpaid care work, and the undervaluation of feminised labour. Without a richer equality apparatus, the Code is likely to address overt wage discrimination more effectively than structural gendered wage hierarchy.

Fifth, the bonus chapter illustrates the limits of universalisation. While minimum wages and payment protections are broadened, bonus remains threshold-based and tied to establishments employing twenty or more persons, subject to several exclusions. The Code thus unifies wage law without equalising all wage-related benefits. This is not necessarily doctrinally objectionable-bonus and minimum wages serve different purposes-but it does mean that the rhetoric of universality must be carefully qualified. [18]

Finally, there is a structural limitation arising from India's federal labour governance. The Code preserves the role of the "appropriate Government" and depends on central-state interaction, especially in relation to floor wage and notification of minimum rates. This is constitutionally appropriate, given the Concurrent List location of labour matters, but it means that uniform legislative design will coexist with variable local

administrative capacity. The broader transformation of labour governance in India is therefore not centralisation simpliciter. It is better understood as calibrated harmonisation under a shared statutory umbrella.

3.12 Conclusion

The Code on Wages, 2019 is the clearest illustration of how India's new labour regime seeks to transform labour welfare through codification. It consolidates prior law, universalises the logic of minimum wage protection, standardises the concept of wages, and retools administration through claims authorities, advisory boards, digital compliance, and inspector-cum-facilitators. In doctrinal terms, it is a significant and in several respects progressive reconstruction of wage law. In constitutional terms, it gives renewed statutory form to the commitments of equality, dignity, and protection against exploitative labour. In policy terms, it promises a more intelligible and more governable wage regime. [(1)(18)]

But its deeper significance lies in what it reveals about the broader transformation of labour governance in India. The move is not from protection to non-protection, nor simply from old law to new law. It is a move from dispersed welfare statutes to integrated code-based regulation; from sectoral coverage to presumptive universality; from paper inspection to datafied compliance; and from judicial supplementation of legislative gaps to a more executive-driven administrative framework. Whether this transformation strengthens labour welfare will depend on the political choices that follow codification: the levels at which wages are fixed, the seriousness of enforcement, the accessibility of remedies, and the capacity of the State to carry statutory promises into India's vast informal labour economy. The Code on Wages therefore marks neither an endpoint nor a self-validating reform. It is the foundational chapter in a new labour regime whose ultimate meaning will be determined in implementation. [(18)(21)(27)]

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Chapter 4

Industrial Relations Code, 2020: Balancing Workers' Rights and Industrial Harmony

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4.1 Introduction: Industrial Relations in the Modern Labour Economy

Industrial relations law occupies a foundational place within labour welfare because it structures the terms on which conflict in production is recognised, channelled, and resolved. It is the branch of labour law that mediates the triangular relationship among workers, employers, and the state, and it does so not only by restraining industrial conflict but also by constituting legitimate forms of worker voice, collective bargaining, workplace participation, and employment security. In a labour market marked by informality, segmented labour processes, fluctuating demand, and intensified competition for investment, the design of industrial relations law shapes both distributive justice and productive efficiency. A stable industrial relations framework can reduce arbitrary managerial power, lower transaction costs associated with recurrent disputes, and create institutional conditions for what may be described as industrial citizenship. (1,29,30)

The Industrial Relations Code, 2020 sits at the centre of India's recent labour-law codification project. The larger reform exercise consolidated twenty-nine central labour enactments into four codes, and the Industrial Relations Code absorbed three of the core statutes of collective labour law: the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946, and the Industrial Disputes Act, 1947. Although enacted in 2020, the Code was brought into force only on 21 November 2025, and the transition soon required the Industrial Relations Code (Amendment) Act, 2026 to ensure continuity of tribunals and statutory authorities established under the repealed enactments until the new institutional structure became functional. The current regime must therefore be read not simply as a legislative text but as an unfolding reconstitution of labour governance. (6,7,8,23)

The central argument of this chapter is that the Industrial Relations Code represents a major restructuring of India's law of collective labour relations. It seeks to simplify the legal framework, reduce compliance fragmentation, formalise bargaining channels through negotiating unions and negotiating councils, and recalibrate the law of dispute resolution, standing orders, retrenchment, closure, strikes, and lockouts. Yet the Code does not merely rationalise existing law. It also redistributes power. In

several respects it strengthens institutional clarity and creates more structured bargaining forums; in others it enlarges managerial flexibility, raises thresholds for protective regulation, and subjects industrial action to tighter procedural control. The chapter therefore analyses the Code simultaneously as a doctrinal consolidation measure, a constitutional problem of social justice and economic freedom, and a policy instrument in the broader transformation from welfare-oriented labour regulation to a more managerial and compliance-driven labour regime. [1,6,21,24,27,28]

4.2 Historical Evolution of Industrial Relations Law in India

4.2.1 Early Industrial Labour Movements

Industrial relations law in India emerged out of the material realities of colonial industrialisation. The expansion of textile mills, railways, ports, mines and plantations produced a wage-dependent labour force exposed to long hours, hazardous work, disciplinary control, and extreme precarity. Early worker mobilisation was not initially framed in the language of modern collective bargaining; rather, it grew out of protest against wage cuts, abusive supervision, arbitrary dismissals, racial hierarchies, and poor living conditions. Industrial conflict was thus a social response to the asymmetry of economic power that accompanied early capitalist development. In this period, the state's first labour interventions were episodic and often paternalistic, but the cumulative effect of industrial unrest was to demonstrate that the employment relation could not be left to private ordering alone. [29,30]

The early labour movement also reflected the political and social heterogeneity of colonial India. Workers in railway workshops, jute mills, textile centres such as Bombay and Ahmedabad, and plantation economies developed varied forms of organisation, some mediated by nationalist leaders, some by socialists and communists, and some by local community networks. These movements did more than secure particular concessions; they established the normative proposition that labour was entitled to collective representation. That proposition would become the intellectual basis of later legislation recognising trade unions, regulating dismissals, and creating public machinery for dispute settlement. Industrial relations law in India therefore developed not merely as a technical branch of regulation but as a response to social conflict generated by industrial modernity itself. [2,29,30]

4.2.2 Development of Trade Union Legislation

The decisive statutory step in the recognition of labour collectivities came with the Trade Unions Act, 1926. That Act provided a framework for registration, conferred legal personality on registered unions, and granted limited immunities in civil and criminal law for acts done in contemplation or furtherance of trade disputes. These

features were constitutionally and politically significant, because they transformed workers' combinations from potentially suspect conspiracies into juridically cognisable institutions. At the same time, the 1926 Act was not a full charter of collective bargaining. It facilitated organisation and protected union existence, but it did not establish a general statutory duty on employers to recognise unions or bargain with them. Much of the law of recognition remained contingent, sectoral, or dependent on political practice rather than on a uniform legal entitlement. [3,29,30]

Even so, trade unions became the central institutional form of industrial democracy in India. They allowed workers to aggregate dispersed grievances, articulate wage and service demands, and intervene in questions of transfers, discipline, safety, retrenchment, and closure. They also supplied the representational infrastructure through which labour entered tripartite bodies and industrial adjudication. The constitutional guarantee of the right to form associations under Article 19(1)(c) later reinforced the legitimacy of unionisation, though judicial doctrine would make clear that the right to form an association did not automatically constitutionalise every consequence of union activity, such as compulsory recognition or an unqualified right to strike. The pre-codification law thus evolved as a mixed model: associational freedom was recognised, but collective bargaining remained unevenly institutionalised. [1,3,11,29]

4.2.3 Emergence of Industrial Dispute Resolution Framework

If the Trade Unions Act stabilised worker organisation, the next phase of legal development focused on the control and resolution of industrial disputes. The Industrial Employment (Standing Orders) Act, 1946 sought to reduce arbitrariness in service conditions by requiring employers in covered establishments to define with precision matters such as classification of workers, attendance rules, misconduct, disciplinary procedures, and termination-related issues. The Industrial Disputes Act, 1947 then created the institutional spine of postcolonial industrial relations: works committees, conciliation officers, boards of conciliation, labour courts, industrial tribunals and national tribunals. It also regulated lay-off, retrenchment, closure, settlements, awards, and industrial action. Together, these enactments reflected the post-Independence commitment to a managed industrial order in which conflict would be channelled into supervised procedures rather than resolved by sheer economic coercion. [4,5,29,30]

This dispute-resolution framework embodied the developmental state's ambition to reconcile industrialisation with social justice. Collective bargaining existed, but it was supplemented-and often displaced-by state-sponsored conciliation and compulsory adjudication. The model assumed that industrial peace was a public good, and that the state could legitimately intervene to preserve production while also

correcting inequalities within the labour market. Critics later argued that this generated delay, proceduralism and excessive governmental discretion. Nonetheless, the system did institutionalise the idea that disputes over wages, dismissals, conditions of service, retrenchment and closure were matters of public concern and not simply private contract. The industrial relations regime that the Code now replaces was therefore a historically layered arrangement built around unionisation, standardisation of service conditions, and adjudicated industrial peace. [5,15,29,30]

4.2.4 Judicial Development of Industrial Relations Jurisprudence

Judicial interpretation played an indispensable role in shaping the meaning of industrial relations legislation. In Bangalore Water Supply and Sewerage Board v A Rajappa, the Supreme Court gave the concept of "industry" a famously broad construction, emphasising systematic activity organised through employer-worker cooperation for the production or distribution of goods or services. That decision greatly expanded the potential reach of industrial jurisprudence beyond conventional factories and into service activities, subject to certain exclusions. The Industrial Relations Code's definition of "industry" in section 2(p) broadly tracks this expansive orientation while expressly excluding charitable and philanthropic institutions, sovereign functions, domestic service and notified activities. The Code therefore both inherits and selectively recasts the Rajappa legacy. [6,9]

In Workmen of Dimakuchi Tea Estate v Management, the Court clarified the scope of an "industrial dispute" by insisting on a real nexus between the dispute and the employment, non-employment, terms of employment or conditions of labour of workers. Later case law on the meaning of "workman" under the Industrial Disputes Act, including H.R. Adyanthaya v Sandoz (India) Ltd, further shaped the boundary between protected labour and excluded managerial or supervisory personnel. The Industrial Relations Code modernises the terminology by using the word "worker" in section 2(zr), and it expands the category to include sales promotion employees, working journalists, and supervisory employees up to the specified wage ceiling. Yet it retains the basic distinction between "employee" and "worker," with the result that collective labour protections remain unevenly distributed across the hierarchy of the enterprise. [6,10,20,24]

The constitutional dimension of industrial relations jurisprudence emerges from the interaction between fundamental rights and the Directive Principles of State Policy. Articles 38, 39, 41, 42, 43 and 43A articulate the social-welfare vision within which labour legislation has traditionally been interpreted, while Article 19(1)(c) protects the freedom to form associations and Article 19(1)(g) protects the freedom to practise any occupation or carry on trade or business. The Supreme Court's decisions reflect an effort to mediate these competing norms. In All India Bank Employees'

Association v National Industrial Tribunal, the Court held that the right to form associations does not constitutionalise every activity an association might seek to undertake. In Kameshwar Prasad and B.R. Singh, however, the Court acknowledged the democratic significance of collective protest and treated the strike as an important, though regulated, instrument of labour power. Conversely, in T.K. Rangarajan the Court emphatically denied any fundamental or equitable right to strike for government employees. The constitutional field is therefore marked by neither pure liberty nor pure control; it is a field of mediated accommodation in which labour rights are recognised, but usually through statutory design rather than absolute constitutional entitlement. [1,11,12,13,14]

Other judicial decisions reinforce the social-justice orientation of industrial law. In Gujarat Steel Tubes the Court warned against reducing labour adjudication to narrow formalism, while in D.K. Yadav it linked fairness in termination to constitutional values of non-arbitrariness and dignity under Article 21. In Excel Wear and Workmen v Meenakshi Mills, the Court grappled with the constitutional tension between workers' claims to protection and employers' claims to business freedom when closure or retrenchment controls are imposed. More recently, Harjinder Singh reiterated that labour statutes must not be read in a manner that erases their welfare rationale. These decisions remain crucial to understanding the Industrial Relations Code, because codification does not begin on a blank slate. The Code reorganises a doctrinal field already shaped by decades of constitutional reasoning about social justice, industrial peace, managerial prerogative and worker dignity. [15,16,17,18,19]

4.3 Fragmentation of Industrial Relations Legislation Prior to Codification

4.3.1 Multiple Statutes Governing Industrial Relations

Before codification, Indian industrial relations were governed through a cluster of separate enactments, each with its own conceptual vocabulary, institutional apparatus, thresholds and procedures. The Trade Unions Act dealt with registration and legal status of unions; the Industrial Employment (Standing Orders) Act addressed codified service rules; and the Industrial Disputes Act regulated collective disputes, individual dismissal-related disputes, conciliation, adjudication, retrenchment, closure, strikes and lockouts. In practice, lawyers, employers, unions and labour administrators worked across these statutes simultaneously. The older framework possessed doctrinal depth, but its architecture was dispersed. [3,4,5]

4.3.2 Administrative Complexity and Legal Inconsistencies

That dispersion generated administrative complexity. Definitions were not always uniform, authorities overlapped, and litigants often had to navigate different statutory

routes for closely connected issues. Registration of a union, certification of standing orders, notice of change in service conditions, conciliation of disputes, and adjudication before labour courts or tribunals could involve distinct procedures and documentation. The Parliamentary Standing Committee and other reform commentaries identified multiplicity of laws, authorities and forms as a serious problem for both compliance and enforcement. Codification was therefore defended as an exercise in harmonisation rather than simple repeal. [21,22,23]

Table 4.1 Consolidation of Industrial Relations Legislation

Previous legislation	Principal subject area	Status under the Industrial Relations Code, 2020	Analytical significance
Trade Unions Act, 1926	Registration, legal status, governance and immunities of trade unions	Consolidated chiefly in Chapter III	Links formal union status more directly to bargaining recognition through the negotiating-union/council model.
Industrial Employment (Standing Orders) Act, 1946	Codification of service conditions, discipline and workplace rules	Consolidated in Chapter IV	Retains standardisation of service norms, but raises the threshold for applicability and relies on model standing orders pending certification.
Industrial Disputes Act, 1947	Dispute resolution, settlements, awards, lay-off, retrenchment, closure, strikes and lockouts	Consolidated across Chapters II and V-XIII	Integrates dispute machinery and employment-security rules, while recalibrating thresholds and tightening industrial-action procedures.

Source: Compiled from the Industrial Relations Code, 2020 and official reform materials [6,23,24]

Table 4.1 demonstrates that the Industrial Relations Code is not a wholly novel legal field but a consolidation of three pre-existing branches of collective labour regulation.

What is important is not merely that these statutes were merged, but that the merger changed the internal balance among them. Under the earlier regime, the trade-union question, the standing-orders question, and the industrial-disputes question could be studied as partially autonomous doctrinal domains. Under the Code they are made to speak to one another through common definitions, common rule-making structures, and a more integrated enforcement design. This integration is one of the Code's genuine strengths, though-as later sections argue-the simplification of form does not necessarily mean preservation of substantive protection. [6,21,22]

4.3.3 Demand for Reform and Consolidation

The demand for reform had a longer intellectual pedigree. The Second National Commission on Labour recommended that the labour-law universe be regrouped into a smaller number of functional codes, and subsequent governments presented consolidation as a means of rationalising a complex regulatory environment. The Parliamentary Standing Committee's examination of the Industrial Relations Code Bill, 2019 reveals that codification was justified in terms of simplification, speedier dispute resolution, and a claimed balance between labour protection and the need for industrial competitiveness. Yet the debate was never only technical. Employers sought greater flexibility in retrenchment, closure, fixed-term employment and strike regulation, whereas unions pressed for stronger recognition, wider coverage and more robust dispute-settlement institutions. The Industrial Relations Code emerged from this contested terrain. [2,21,23,28]

4.4 Structure and Scope of the Industrial Relations Code

4.4.1 Objectives of the Code

The Industrial Relations Code is designed, in its own terms, to consolidate and amend the laws relating to trade unions, conditions of employment in industrial establishments, and investigation and settlement of industrial disputes. Its official policy narrative emphasises industrial harmony, simplification of compliance, wider definitional clarity, and a regulatory environment that is both "pro-labour" and "pro-employment." The Code thus advances a dual claim: first, that legal simplification can itself improve welfare by reducing uncertainty and delay; and secondly, that a more flexible industrial-relations regime is compatible with, and may even promote, worker welfare because the survival and growth of industry are seen as preconditions of sustainable employment. That narrative frames the doctrinal choices made across the Code, even where those choices remain controversial. [6,23,24]

4.4.2 Key Institutional Framework

Structurally, the Code creates a layered architecture of workplace representation and dispute settlement. At the base level are bi-partite forums: works committees under

section 3 for establishments employing one hundred or more workers, and grievance redressal committees under section 4 for establishments employing twenty or more workers. These institutions are meant to address matters of common interest and individual workplace grievances before disputes harden into formal industrial conflict. The Code then moves upward to trade unions and the negotiating-union/negotiating-council model, and beyond that to conciliation officers, Industrial Tribunals under section 44, and National Industrial Tribunals for disputes of national importance or inter-State significance. The design attempts to create a graduated dispute-resolution ladder, beginning with enterprise-level forums and culminating in specialised adjudication. [6,22]

A further institutional pillar is Chapter IV on standing orders. Section 28 makes this chapter applicable to industrial establishments employing three hundred or more workers, and section 29 provides for model standing orders framed by the Central Government. Until certified standing orders come into operation, the model standing orders are deemed to apply. Employers must prepare draft standing orders, workers or their representatives may object, and the certifying officer and appellate authority possess civil-court-like powers in relation to certification and appeals. Standing orders are doctrinally important because they convert unilateral managerial practices into publicly reviewable service norms. The decision to raise the threshold for their applicability therefore has implications not only for procedural efficiency but also for transparency, workplace discipline and the juridification of everyday employment relations. [4,6,21,22]

Table 4.2 Institutional Architecture under the Industrial Relations Code

Institution	Threshold or trigger	Primary function	Policy significance
Works Committee	100+ workers	Promote amity and address matters of common interest	Represents the older participative ideal of industrial democracy at enterprise level.
Grievance Redressal Committee	20+ workers	Resolve individual workplace grievances within the establishment	Potentially filters disputes early and reduces escalation, especially in individual service matters.

Negotiating Union / Negotiating Council	Single union, or plurality of unions with 51% / 20% support rules	Provide authorised bargaining representation	Creates statutory bargaining architecture and seeks to discipline inter-union fragmentation.
Certifying Officer / Appellate Authority for Standing Orders	300+ workers	Certify and review standing orders and their modification	Formalises service norms but only for larger establishments.
Industrial Tribunal	After failed conciliation or in scheduled disputes	Adjudicate industrial disputes and grant relief	Replaces fragmented labour-court model with integrated specialised adjudication.
National Industrial Tribunal	National-importance or multi-State disputes	Adjudicate disputes with wider economic or territorial implications	Preserves central oversight for disputes that exceed ordinary enterprise boundaries.

Source: Compiled from the Industrial Relations Code, 2020 and allied reform materials [6,22,24]

The institutional structure depicted in Table 4.2 reveals an important shift in the philosophy of regulation. The Code gives greater prominence to structured workplace-level representation-especially through the negotiating union or negotiating council-while simultaneously consolidating adjudication into a Tribunal-based model. It therefore seeks to reduce fragmentation both at the point of bargaining and at the point of adjudication. The welfare significance of this design lies in its promise of quicker settlements and clearer channels of voice; its risk lies in the possibility that formal streamlining may outpace actual administrative capacity, particularly where labour departments, conciliation machinery and tribunals are under-resourced. [6,8,21,22]

4.4.3 Coverage and Applicability

The Code's scope is broad, but its protections are not uniform. Sections 2(p), 2(q), 2(o) and 2(zr) provide key definitional anchors by setting out the meanings of

"industry," "industrial dispute," "fixed term employment," and "worker." The definition of "industry" remains expansive, while the definition of "worker" extends protection to categories such as working journalists, sales promotion employees and certain supervisory employees. At the same time, the Code preserves differentiated thresholds for different institutions: grievance redressal committees at twenty or more workers, works committees at one hundred or more, standing orders at three hundred or more, and the special regime of prior governmental permission for lay-off, retrenchment and closure in larger industrial establishments with three hundred or more workers, or such higher threshold as may be notified by the appropriate government. Coverage is therefore layered and threshold-sensitive, not universal. (6,21,22,24)

The constitutional background of this layered design is federal as well as social. Labour is located in the Concurrent List, and the Code repeatedly refers to the "appropriate Government," meaning that central and state administrations continue to share responsibility for rule-making, enforcement and adjudicatory infrastructure. Codification did not abolish this federal reality; it reorganised it within a common statutory frame. The practical success of the Code consequently depends on a dense network of subordinate legislation, administrative coordination, and institutional readiness across jurisdictions. This point became especially clear when the transition from the repealed enactments to the new regime required subsequent legislative adjustment in 2026 and continuing work on subordinate rules. (1,6,8,31)

4.5 Trade Unions under the Industrial Relations Code

4.5.1 Legal Recognition of Trade Unions

The Code broadly carries forward the classic statutory structure of trade-union registration while integrating it into a larger industrial-relations framework. Section 6 preserves the familiar requirement that any seven or more members may apply for registration, but a workers' union cannot be registered unless at least ten per cent of the workers, or one hundred workers, whichever is less, in the relevant establishment or industry are members on the date of application. A registered union must continue to satisfy a membership floor, subject to a minimum of seven members. Once registered, the union becomes a body corporate with perpetual succession and a common seal. The Code also retains the logic of the earlier law by continuing immunities for bona fide trade-dispute activity and by regulating office-bearers, finances and internal governance. (3,6)

Two features merit particular doctrinal attention. First, the Code treats registration not merely as a formal status but as a gateway to representational authority within the enterprise. Secondly, it retains a fairly traditional approach to trade-union

governance: outside leadership remains limited, and the registration threshold may be burdensome in sectors characterised by turnover, fragmentation or pervasive informalisation. From a welfare perspective, the registration regime is stronger than a purely voluntary common-law model because it secures legal personality and procedural standing; yet it may still operate unevenly for precarious workers whose workplace identities are unstable or whose employer structures are fissured. This limitation is important in assessing how far the Code actually strengthens worker voice. (6,21,27,28)

4.5.2 Recognition of Negotiating Unions

The most significant innovation in the law of union representation is the statutory recognition of the negotiating union and negotiating council in section 14. Where there is only one registered trade union in an industrial establishment, that union becomes the sole negotiating union. Where multiple registered unions operate, the employer must recognise as the sole negotiating union the union that enjoys the support of fifty-one per cent or more of the workers on the muster roll, verified in the prescribed manner. If no union reaches that threshold, the employer must constitute a negotiating council comprising representatives of registered unions that have at least twenty per cent support, with representation calculated in proportion to membership. Recognition is ordinarily valid for three years. (6,21)

This framework is normatively important because pre-codification Indian law lacked a general all-India statutory system of recognition in the private sector. The negotiating-union model seeks to address the long-standing problem of inter-union rivalry and bargaining fragmentation by identifying a principal bargaining agent. In theory, it can enhance industrial stability, reduce multiple-voice bargaining costs, and create clearer accountability in negotiations. Yet the structure is also exclusionary. A majority threshold of fifty-one per cent makes sole recognition difficult in plural union environments, while the twenty per cent threshold for entry into a negotiating council may marginalise smaller unions even where they represent distinct occupational, gendered, regional or political interests. The result is a shift toward majoritarian representation, with all the efficiencies and all the dangers that majoritarianism entails. (6,21,27,28)

4.5.3 Rights and Responsibilities of Trade Unions

Within the Code, trade unions are not conceived simply as adversarial organisations. They are also institutions of regulated participation. They participate in collective bargaining, interface with works committees and grievance committees, represent workers in conciliation and adjudication, and may be bound by duties of good-faith engagement. The Code's retention of unfair labour practices on the part of both

employers and unions underscores this reciprocal conception. Employers are prohibited from bad-faith refusal to bargain collectively with recognised unions, and recognised unions may likewise be criticised for refusing collective bargaining in good faith or for engaging in unlawful coercive conduct. The legal imagination here is one of disciplined industrial citizenship rather than unrestricted economic combat. (6)

From the standpoint of industrial democracy, the Code's union provisions are therefore Janus-faced. On one side, they offer what earlier law often lacked: a statutory bridge between registration and bargaining authority, and a more intelligible route to representational legitimacy. On the other side, they remain bounded by managerial verification mechanisms, threshold rules, and the realities of enterprise-level bargaining in an economy where many workers are employed through layers of outsourcing, fixed-term contracts, or labour-market churn. The Code may thus strengthen unions in large, formal establishments while doing much less for those segments of the workforce where collective organisation is already hardest to sustain. (6,21,27)

4.6 Regulation of Industrial Disputes

4.6.1 Meaning and Nature of Industrial Disputes

Section 2(q) defines an industrial dispute broadly as any dispute or difference between employers and employers, employers and workers, or workers and workers connected with employment, non-employment, terms of employment, or conditions of labour of any person. It also includes disputes between an individual worker and an employer arising out of discharge, dismissal, retrenchment or termination. The Code therefore carries forward the long-established understanding that industrial disputes extend beyond collective bargaining impasses narrowly conceived; they include wage disputes, disciplinary disputes, termination disputes, classification disputes, and broader questions about the organisation of work. In this respect the Code preserves the expansive logic of industrial jurisprudence while simplifying terminology. (6,10)

4.6.2 Conciliation Mechanisms

Conciliation remains the preferred first formal response to industrial conflict. Under section 53, where an industrial dispute exists or is apprehended, or where a strike or lockout notice under section 62 has been given, the conciliation officer is required to investigate the dispute and attempt a fair and amicable settlement. The Code prescribes timelines: ordinarily a failure or settlement report is to be sent within forty-five days of commencement of proceedings, and within fourteen days where the conciliation follows a strike or lockout notice. These timelines are significant because

delay was one of the recurrent criticisms of the earlier regime. Conciliation under the Code is intended to be time-bound, less procedurally diffuse, and more clearly connected to subsequent adjudication. [6,22]

The Code also strengthens the procedural bridge between failed conciliation and adjudication. A concerned party may apply directly to the Tribunal within ninety days from receipt of the failure report. For individual workplace grievances, the grievance redressal committee framework performs a similar preliminary filtering function, and in unresolved cases the worker may move further into the formal machinery. This design is attractive in principle because it reduces dependence on discretionary governmental references-a long-criticised feature of the Industrial Disputes Act architecture. Yet the efficacy of direct access depends on tribunal capacity, legal aid, and the worker's ability to sustain litigation. Formal access does not automatically equal practical accessibility. [6,21,22]

4.6.3 Industrial Tribunals and Adjudication

The Code replaces the older labour-court/industrial-tribunal fragmentation with an integrated Industrial Tribunal model under section 44, ordinarily composed of a Judicial Member and an Administrative Member, alongside a National Industrial Tribunal for disputes of national importance or those affecting establishments in more than one State. This is one of the Code's most consequential institutional reforms. The Tribunal has jurisdiction over matters specified in the Schedules, including discharge, dismissal, retrenchment, closure and other industrial disputes. It enjoys powers analogous to those of a civil court for taking evidence and compelling production, and it may grant relief including reinstatement and related remedies in appropriate cases. The Code also preserves the associated public-law ecology of industrial dispute settlement through rules on the binding force and operation of settlements and awards, notice of change in specified service conditions, and schedules addressing unfair labour practices. [6,22]

Yet the adjudicatory regime is not purely judicialised. Section 55 allows the appropriate government, on public grounds affecting national economy or social justice, to withhold enforceability of an award and thereafter reject or modify it within the statutory period. This retained executive reservation reflects the continuing public-law character of industrial adjudication in India. It preserves the older assumption that industrial disputes may implicate broader economic concerns beyond the immediate parties. At the same time, it raises rule-of-law questions: if the goal of codification is greater certainty and faster resolution, broad governmental power to suspend or modify awards may undercut decisional finality. The doctrinal design of the Code thus oscillates between tribunalisation and executive supervision rather than opting decisively for one or the other. [6,15,19]

4.7 Layoffs, Retrenchment and Closure

4.7.1 Regulation of Layoffs

Employment security remains one of the most contested dimensions of industrial relations reform. The Code preserves a two-tier structure. For industrial establishments covered by the general provisions, the law continues to regulate lay-off through compensation rules and procedural requirements. For larger industrial establishments governed by Chapter X, a more stringent regime applies. Section 77 makes Chapter X applicable to non-seasonal industrial establishments in which not less than three hundred workers, or such higher number as may be notified, were employed on average per working day in the preceding twelve months. In these establishments, prior governmental permission is required for lay-off, retrenchment and closure, subject to a deemed-permission mechanism if the government fails to communicate its decision within sixty days. [6,21,22]

The increase of the threshold from one hundred workers under the earlier Industrial Disputes Act framework to three hundred under the Code is one of the most discussed policy choices in the reform package. Defenders argue that the previous threshold discouraged scale, inhibited labour-intensive growth, and imposed excessive rigidity on medium-sized firms. Critics respond that the practical effect is to move a large number of establishments outside the prior-permission regime, thereby weakening protection precisely where workers are most vulnerable to abrupt workforce adjustment. The Parliamentary Standing Committee accepted the higher threshold in the statute, and the Code accordingly embeds a more employer-flexible baseline than the earlier law. [5,6,21,22,27,28]

4.7.2 Retrenchment Provisions

For retrenchment, the Code substantially carries forward the classic protective formula of notice plus compensation. Workers are generally entitled to one month's notice or wages in lieu of notice and compensation equivalent to fifteen days' average pay for every completed year of continuous service, along with the familiar principles of "last come, first go" and preference in re-employment. These rules continue to embody the idea that managerial restructuring imposes distributive burdens that should not be externalised wholly onto labour. In this sense, the Code preserves an important strand of welfare jurisprudence even while recalibrating thresholds. [5,6]

The Code also introduces the worker re-skilling fund, to which the employer must contribute an amount equal to fifteen days' last drawn wages for every retrenched worker, to be credited to the worker within the prescribed period. This is conceptually significant. It acknowledges that retrenchment is not merely a compensable legal wrong or a managerial event; it is also a labour-market transition requiring some

measure of social cushioning. The fund is modest, and it cannot substitute for robust social security or active labour-market policy. But it signals a partial shift from pure income replacement toward employability-oriented support, albeit on a limited scale. (6,24)

4.7.3 Closure of Industrial Establishments

Closure regulation raises the sharpest tension between enterprise autonomy and labour protection. In Excel Wear, the Supreme Court treated the right to close a business as an incident of the freedom to carry on business, subject to reasonable restriction. In Meenakshi Mills, however, the Court upheld a prior-permission model for retrenchment, accepting that labour protection and industrial peace could justify meaningful restraints on unilateral employer action. The Code operates within this constitutional space. It continues to require notice and compensation for closure and, in establishments covered by Chapter X, prior governmental permission. At the same time, the elevated threshold materially narrows the domain in which that prior permission is required. (6,17,18)

A related and under-appreciated issue concerns fixed-term employment, defined in section 2(o). The Code provides that a fixed-term worker must receive wages, hours of work, allowances and other benefits no less than those of a permanent worker doing the same or similar work, with proportionate statutory benefits and gratuity after one year of service. Normatively, this is an effort to legalise flexibility without abandoning parity. Yet fixed-term employment may also facilitate a structural reduction in the demand for permanent labour. The Code therefore combines substantive parity with contractual temporariness. Whether that combination amounts to balanced reform or to normalised precarity depends on how employers restructure their workforce in response to the new legal options. (6,21,27)

4.8 Regulation of Strikes and Lockouts

4.8.1 Legal Framework for Strikes

The Code adopts a more stringent and generalised approach to industrial action than the earlier public-utility-service-centred model. Section 62 requires prior notice of strike in all industrial establishments: no worker may go on strike without giving notice within sixty days, or within fourteen days of giving such notice, or before the expiry of the date specified in the notice. Strikes are also prohibited during and after conciliation proceedings, during pending tribunal or National Industrial Tribunal proceedings and for sixty days thereafter, during arbitration proceedings and for sixty days thereafter, and during the operation of a settlement or award on covered matters. In addition, the Code brings concerted casual leave within the definition of strike,

thereby expanding the range of coordinated worker actions subject to legality controls. [6,21,22,28]

4.8.2 Lockouts by Employers

The law of lockouts is structured in broadly symmetrical terms. Employers are likewise required to provide notice and are subject to parallel restraints during conciliation, adjudicatory proceedings, arbitration and the operation of settlements or awards. This formal symmetry matters because any account of industrial relations that focuses only on the regulation of strikes misses the fact that employers also possess coercive economic weapons. The Code's scheme, at least on its face, does not treat industrial conflict as a one-sided problem. Yet the symmetry is not complete in effect. Workers usually bear the more immediate income shock from procedural delay and prolonged dispute settlement, whereas employers often possess greater reserves, access to replacement strategies, and managerial control over workplace organisation. Formal reciprocity may therefore conceal unequal bargaining conditions. [6,13,27]

4.8.3 Balancing Industrial Action and Economic Stability

The legal theory behind stringent strike and lockout regulation is the preservation of industrial harmony and economic stability. The state seeks to insert cooling-off periods and compulsory conciliation before production is disrupted. From one perspective, this is defensible: sudden industrial action can impose costs not only on employers and workers but also on supply chains, consumers, and the regional economy. From another perspective, however, an over-proceduralised strike law may hollow out collective bargaining by removing labour's credible economic leverage. The Supreme Court's jurisprudence reflects this tension. All India Bank Employees' Association denied constitutionalisation of strike power; Kameshwar Prasad protected peaceful expression; B.R. Singh acknowledged the strike as an important weapon in collective bargaining; and T.K. Rangarajan adopted a restrictive stance in the context of public employment. The Code clearly aligns with the restrictive strand. [11,12,13,14]

From an international perspective, this restrictive alignment is open to criticism. The ILO treats freedom of association and effective recognition of collective bargaining as fundamental principles, and its supervisory jurisprudence has long accepted strike action as a corollary of those principles, while permitting prohibition or severe restriction only in essential services in the strict sense or for public servants exercising authority in the name of the state. India has not ratified ILO Conventions Nos 87 and 98, but the broader normative pull of global labour standards remains relevant, especially for a legal system that claims to modernise while also preserving labour

welfare. When notice requirements and adjudicatory embargoes extend across all industrial establishments rather than being narrowly tailored to essential services, the balance may move from regulation of conflict to suppression of effective industrial action. [25,26,32]

4.9 Impact of the Industrial Relations Code

4.9.1 Implications for Workers

For workers, the Code offers a mixed ledger. On the positive side, it creates a statutory recognition mechanism for bargaining representation, expands the definition of "worker," preserves retrenchment compensation, provides for re-skilling support, and retains institutional machinery for grievances, conciliation and adjudication. It also rationalises several doctrines and may reduce some of the uncertainty associated with overlapping statutes. On the negative side, the higher thresholds for standing orders and prior-permission requirements reduce the number of establishments in which workers benefit from codified service conditions and stronger employment-security controls. The generalisation of strike notice requirements and the expansion of the definition of strike further constrain collective leverage. In effect, the Code protects worker voice, but within tighter procedural boundaries and a narrower zone of mandatory employment security. [6,21,22,24,27]

4.9.2 Implications for Employers

For employers, the Code is attractive precisely because it promises legal consolidation, fewer forms and rules, a more predictable bargaining counterpart, easier recourse to fixed-term employment, and wider room for workforce restructuring below the Chapter X threshold. The government's own presentation of the reform emphasises compliance simplification and ease of doing business. In principle, clearer law can reduce dispute costs, encourage investment and support scale. But employers also assume new obligations: negotiating-union recognition, grievance-committee participation, parity for fixed-term workers, retrenchment compensation, re-skilling contributions, and continued exposure to tribunal orders and unfair-labour-practice findings. The Code is therefore not a pure deregulation measure; it is better understood as a managed rebalancing in favour of flexibility within a still-regulated industrial order. [6,23,24]

4.9.3 Impact on Industrial Relations Institutions

The Code also transforms labour administration. It requires labour departments to manage membership verification, certification, conciliation, tribunal transitions, and the digital or documentary infrastructure of a unified regime. The move from multiple adjudicatory bodies to a Tribunal-centred system may improve coherence, but only if appointments, staffing, infrastructure and procedural rules keep pace. The 2026

amendment, which allowed tribunals and statutory authorities under the repealed laws to continue functioning until the new bodies became operational, is a revealing indicator that institutional migration was not seamless. Industrial harmony depends as much on administrative capability as on statutory design. Without functioning tribunals, trained conciliators, and coordinated central-state rule-making, codification risks becoming a formal consolidation without corresponding governance capacity. (7,8,31)

4.10 International Perspectives on Industrial Relations

International labour law does not prescribe a single industrial-relations model, but it does provide normative benchmarks. The ILO has consistently treated collective bargaining as a fundamental institution for distributing power within the employment relationship and for promoting stable labour-management relations. Global labour standards do not eliminate national variation in union-recognition systems, thresholds, or adjudicatory structures, yet they place clear value on freedom of association, good-faith bargaining, and accessible dispute resolution. On this account, the Industrial Relations Code's recognition of negotiating unions and councils can be read as a step toward more orderly collective bargaining. (25,26)

At the same time, international standards illuminate the Code's areas of tension. Comparative systems often combine majority bargaining agents with protection for minority voice, and they generally justify strict strike limitations most convincingly in essential services or state functions. The ILO's supervisory jurisprudence is especially relevant because the Code extends prior notice and procedural embargoes on strikes across the entire field of industrial establishments. India's continuing non-ratification of Conventions Nos 87 and 98 does not render those standards irrelevant; as an ILO member State, India remains embedded in a normative order that treats associational freedom and collective bargaining as foundational labour principles. International comparison therefore does not simply condemn or approve the Code; it highlights the extent to which India's new regime privileges dispute prevention and managerial order over a more robust conception of collective labour autonomy. (25,26,32)

4.11 Critical Evaluation of the Industrial Relations Code

A fair assessment of the Code must begin by acknowledging its real achievements. First, the consolidation of the three principal industrial-relations statutes into a single code reduces doctrinal dispersion and makes the legal architecture more intelligible. Secondly, the introduction of a statutory recognition framework for negotiating unions and negotiating councils addresses a long-standing weakness in Indian labour law, where union registration and bargaining authority were not always tightly

connected. Thirdly, the Code preserves important protective devices-retrenchment compensation, notice requirements, standing orders for larger establishments, unfair labour practices, works committees, and adjudicatory relief-thus rejecting the notion that industrial flexibility requires abolition of labour protection. Fourthly, provisions such as re-skilling support and parity norms for fixed-term workers indicate an awareness that labour-market adjustment must carry at least some welfare obligations. [6,21,24]

Those strengths, however, are counterbalanced by substantial limitations. The increase of the threshold for standing orders and for prior-permission regulation of lay-off, retrenchment and closure substantially narrows the zone of mandatory protection. In a labour market dominated by small and medium establishments, threshold design is not a technical side-issue; it is the mechanism that determines who is actually inside the law. By shifting the threshold to three hundred workers, the Code risks excluding a significant layer of formal-sector workers from protections that once reflected the social-justice logic of labour law. This critique is not merely ideological. It follows from the Code's own structural reliance on thresholds as gatekeeping devices. [4,5,6,21,27,28]

The bargaining regime also deserves ambivalent evaluation. Statutory recognition is valuable, but a majoritarian model can discipline plural unionism in ways that are not always democratically neutral. Smaller unions may be excluded from bargaining councils despite representing vulnerable occupational groups or dissenting political traditions. The insistence on quantified support, verified through prescribed procedures, privileges administratively legible forms of support over more fluid or sectorally dispersed forms of worker solidarity. This may be manageable in large, stable enterprises, but it is far less responsive to the realities of subcontracting, labour turnover, and fissured employment structures. The Code is strongest where the enterprise is already formal and administratively ordered; it is weaker where labour vulnerability is greatest. [6,21,27]

The Code's treatment of industrial action is perhaps its most controversial feature. By extending strike notice requirements and procedural prohibitions across all industrial establishments and by broadening the definition of strike to include concerted casual leave, the law places heavy emphasis on dispute avoidance. The result may be fewer sudden work stoppages, but it may also make lawful collective action so procedurally burdensome that the bargaining threat loses efficacy. In collective labour law, rights without leverage can become symbolic. If employers know that strikes are difficult to organise lawfully and that dispute resolution will pass through extended procedural channels, the pressure to bargain may diminish. From the standpoint of ILO norms,

the breadth of the Code's strike restraints appears difficult to justify outside narrowly defined essential services. (6,21,25,26,28)

There are also institutional and constitutional concerns. The retention of governmental power to suspend or modify awards on public grounds keeps alive an older model of executive supervision that sits uneasily with the Code's promise of streamlined adjudication. The distinction between "employee" and "worker" continues to exclude portions of the labour force from collective protections, notwithstanding the Code's broader definitional language. And the federal implementation structure remains demanding: central and state governments must produce rules, establish or adapt institutions, and ensure that labour departments, conciliators and tribunals are actually functional. The need for a 2026 amendment to preserve continuity of tribunals underscores that statutory consolidation is easier to enact than to operationalise. (6,8,21,31)

Ultimately, whether the Code "balances" workers' rights and industrial harmony depends on what one counts as balance. If balance means a clearer legal framework, reduced compliance complexity, formal recognition of bargaining agents, and a controlled path from grievance to adjudication, the Code makes a serious case for itself. If, however, balance requires that worker protections and collective power remain substantively robust in the face of managerial restructuring, then the Code appears more asymmetrical. Its architecture suggests a broader shift in labour governance: from an older model that openly distrusted market power and accepted strong state intervention on labour's behalf, toward a newer model that treats worker welfare, enterprise flexibility and investment attractiveness as mutually reconcilable but resolves most conflicts by narrowing mandatory protection and strengthening procedural control. The result is not the disappearance of labour welfare, but its recoding into a more conditional, compliance-oriented, and growth-sensitive form. (1,6,23,24,27,28)

4.12 Conclusion

The Industrial Relations Code, 2020 is best understood as a constitutional and policy-inflected reorganisation of India's law of collective labour relations. It consolidates three foundational statutes, harmonises definitions, introduces a statutory recognition framework for bargaining representation, streamlines dispute resolution, preserves core doctrines on retrenchment and closure compensation, and seeks to produce a more coherent institutional order. At the same time, it narrows the reach of some of the strongest protective devices of the older regime, subjects industrial action to more generalised restraint, and depends heavily on administrative competence for its success. The Code therefore embodies both continuity and rupture: continuity in its retention of the language of industrial peace and labour welfare, and rupture in its

stronger accommodation of labour-market flexibility and compliance simplification. (6,7,8,21,23)

For the broader transformation of labour governance in India, the significance of the Code is profound. Industrial relations are no longer treated solely as a matter of welfare-state correction of market power; they are increasingly framed as an element of regulatory modernisation, economic efficiency and investment strategy. Yet the constitutional grammar of labour welfare-dignity, fairness, social justice, participation and associational freedom-has not disappeared. It continues to shape judicial interpretation and to provide the normative standards against which the Code will be judged. The future of the new regime will depend on whether its promise of industrial harmony is realised through meaningful worker voice and fair dispute settlement, or whether codification becomes a vehicle for procedural order without substantive bargaining equality. That question lies at the heart of India's contemporary labour transition. (1,6,19,25,27)

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Chapter 5

Labour Codes and the Informal Economy: Challenges of Formalisation and Worker Protection

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5.1 Introduction

The codification of Indian labour law into four central labour codes is one of the most consequential legal restructurings of the post-Independence labour regime. It is significant not merely because it rationalises a previously fragmented statutory landscape, but because it redefines the very grammar of labour welfare: from a field historically dispersed across sector-specific enactments, threshold-based protections, and institutionally distinct welfare authorities, to a more consolidated regime organised around common definitions, unified compliance architecture, digital administration, and a hybrid vocabulary of worker protection and labour-market flexibility. The subject therefore belongs at the centre of any contemporary account of labour-law transformation in India. That importance has only sharpened because the debate is no longer confined to enacted-but-unimplemented legislation: the Union brought the main body of the four labour codes into force from 21 November 2025, and Parliament soon thereafter enacted the Industrial Relations Code (Amendment) Act, 2026 to address transitional institutional continuity. At the same time, central draft rules were pre-published only at the end of 2025 and the operationalisation of state rules remained uneven into early 2026. The new labour regime must therefore be analysed as an implemented, but still institutionally incomplete, settlement.[2][3][5][6][7][8][9][12]

Labour welfare, in the Indian legal tradition, has never been reducible to social insurance alone. It has encompassed wage security, occupational health and safety, maternity relief, equality, welfare amenities, labour inspection, security against arbitrary termination, and institutional forms of worker voice. The Constitution itself treats labour welfare as a matter of social justice and democratic ordering, not administrative benevolence. In that sense, the four codes must be read not as a narrow exercise in statutory tidying-up, but as a reallocation of legal protection across four regulatory domains: wages, industrial relations, social security, and occupational safety and working conditions. This chapter argues that codification produces a

distinctly hybrid regime. It universalises some entitlements, most notably the concept of minimum wages; introduces new categories, especially gig and platform workers, into the vocabulary of social protection; simplifies registration, licensing, returns, and inspection; and expands certain gender and migrant-worker protections. Yet it also raises key thresholds, enlarges executive rule-making power, softens criminal enforcement, and repositions labour welfare within a more facilitative model of compliance. The result is neither a simple story of deregulation nor an uncomplicated welfare advance, but a restructuring of labour governance whose normative meaning depends on constitutional interpretation, administrative capacity, and distributive politics.[1][5][6][7][8][13][14][15][16][17]

5.2. From Fragmentation to Codification: The Historical Evolution of Labour Welfare Legislation

Indian labour welfare legislation developed in layers. The earliest phase was marked by colonial regulation directed less by egalitarian commitments than by industrial discipline, limited factory protection, and the management of labour markets in strategic sectors. Even so, the emergence of enactments such as the Payment of Wages Act 1936 and the Trade Unions Act 1926 signalled recognition that industrial labour generated social questions which could not be left entirely to private contract. The decisive shift occurred in the late colonial and immediate post-Constitution period, when industrial adjudication, minimum wage law, factory welfare, social insurance, and provident fund legislation were progressively assembled into a recognisable labour-welfare state. The Industrial Disputes Act 1947, Factories Act 1948, Minimum Wages Act 1948, Employees' State Insurance Act 1948, and the Employees' Provident Funds and Miscellaneous Provisions Act 1952 became foundational statutes in this architecture; later enactments such as the Maternity Benefit Act 1961, Payment of Bonus Act 1965, Equal Remuneration Act 1976, Inter-State Migrant Workmen Act 1979, Building and Other Construction Workers Act 1996, and Unorganised Workers' Social Security Act 2008 extended that logic to new subjects and new labour markets.[18][19][20][21][22][23][24][25][26][27][28][29][32]

That older regime, however, was expansive and fragmented at the same time. Its welfare ambitions were constitutionally inflected, but its legal form was highly particularistic. Coverage often depended on the type of establishment, scheduled employment, sectoral identity, or number of workers. Definitions of "wages," "employee," "worker," "establishment," and "appropriate government" varied from statute to statute. The result was not only doctrinal complexity but differentiated citizenship in work: some workers fell within elaborate contributory systems; others remained dependent on state schemes, construction-worker boards, or sporadic

welfare funds; many informal workers remained largely outside enforceable social security. By the early twenty-first century, reform critiques increasingly focused on multiplicity of laws, overlapping authorities, cumbersome compliance, and the difficulty of adapting legacy statutes to supply chains, fixed-term work, digital platforms, and high informality. The Second National Commission on Labour captured this diagnosis in 2002, recommending that labour laws be grouped functionally into a smaller number of labour codes.[2][3][4][29][32]

The codification project that followed was therefore shaped by two, not always harmonious, impulses. The first was protective and administrative: to remove definitional inconsistency, reduce litigation over coverage, simplify procedures, and extend certain protections more broadly. The second was managerial and economic: to reduce compliance costs, enable easier adjustment by firms, rationalise inspection, and make labour regulation more compatible with post-liberalisation growth strategies. The Code on Wages, 2019 and the three codes of 2020 represent the legislative expression of this dual agenda. Official government materials describe the reform as the consolidation of twenty-nine central labour enactments into four codes, the reduction of 1,228 sections to 480, of 1,436 rules to 351 draft rules, and the replacement of multiple registrations, licences, returns and forms with substantially fewer compliance instruments. Those numbers are not trivial. They reveal that codification is as much a project of governing labour administration as of restating substantive rights.[3][4][5][6][7][8][12]

Table 5.1. Consolidation of labour welfare legislation under the four labour codes

Labour code	Core regulatory field	Earlier central enactments subsumed	Analytical significance
Code on Wages, 2019	Minimum wages, payment of wages, bonus, gender equality in wage-related matters	Payment of Wages Act 1936; Minimum Wages Act 1948; Payment of Bonus Act 1965; Equal Remuneration Act 1976	Converts wage protection from a set of statute-specific entitlements into a common wage framework with a uniform definition and

			a central floor wage
Industrial Relations Code, 2020	Trade unions, standing orders, industrial dispute resolution, lay-off, retrenchment, closure	Trade Unions Act 1926; Industrial Employment (Standing Orders) Act 1946; Industrial Disputes Act 1947	Reconstructs collective labour law around recognised bargaining structures, digitalised procedure, and revised thresholds for employer adjustment
Code on Social Security, 2020	EPF, ESI, gratuity, maternity, employee compensation, construction welfare, unorganised/gig/platform worker schemes	Nine enactments including EPF Act 1952; ESI Act 1948; Maternity Benefit Act 1961; Payment of Gratuity Act 1972; Unorganised Workers' Social Security Act 2008; BOCW Cess legislation	Brings contributory and scheme-based welfare into a single architecture while introducing new categories such as gig and platform workers
Occupational Safety, Health and Working Conditions Code, 2020	Safety, health, welfare amenities, hours of work, contract labour, migrant workers, sectoral working conditions	Thirteen enactments including Factories Act 1948; Contract Labour Act 1970; Inter-State Migrant Workmen	Reorganises workplace welfare and safety around a common code, but also recalibrates thresholds and

		Act 1979; BOCW Act 1996; Plantations Labour Act 1951	enforcement style

Source: Compiled from the four labour codes and official explanatory materials.[5][6][7][8][12]

Table 1 shows that the reform is more than editorial consolidation. The pre-code regime was organised largely by subject-specific or sector-specific statutes; the new regime reorganises labour welfare functionally. Wage protection is now detached from the old "scheduled employment" architecture. Social security brings together provident fund, insurance, gratuity, maternity, construction-welfare cess and unorganised-worker schemes. Occupational welfare is no longer distributed across factories, contract labour, migrant labour, plantations, beedi, transport, audio-visual work and other specialised enactments, but concentrated in a single code. That functional grouping enhances coherence, but it also transfers enormous interpretive weight to common definitions, delegated legislation, and cross-code administration. Precisely because labour law has been compressed into fewer primary enactments, disputes that were once distributed across many statutes now migrate toward the meanings of "wages," "worker," "establishment," "appropriate government," and the conditions of code applicability.[3][5][6][7][8][34]

5.3. The Doctrinal Architecture of Labour Welfare under the Codes

5.3.1. The Code on Wages, 2019

The Code on Wages is the clearest example of codification as substantive reform rather than mere consolidation. Its structure moves from preliminary definitions and anti-discrimination norms to minimum wages, payment of wages, bonus, advisory boards, authorities, and enforcement. The most important doctrinal shift is the universalisation of the minimum wage idea. Under the Minimum Wages Act 1948, minimum wages were historically tied to scheduled employments. Under the new code, no employer may pay less than the minimum wage notified by the appropriate government, and minimum wages are conceived as a statutory right across sectors. This is reinforced by the central floor wage mechanism: the Central Government fixes a floor wage taking into account minimum living standards, and state-notified minimum wages cannot be below that floor. The legal architecture is therefore two-tiered-central floor, decentralised fixation-with room for geographical differentiation.

At least at the level of statutory design, this is a significant movement from fragmented wage regulation toward an all-employee wage floor.[5][30][31]

Yet the doctrinal promise of universality is not identical to substantive adequacy. The floor-wage device creates a national minimum beneath which states cannot go, but it does not itself guarantee a living wage in the constitutional sense. The code permits differentiation by skill, arduousness and geography, and minimum rates are to be reviewed or revised ordinarily within five years. This is normatively important: the code constitutionalises a baseline against wage undercutting, but it still leaves actual adequacy dependent on executive methodology, political economy, inflation indexing, and enforcement intensity. The distinction between a statutory minimum wage and a constitutional living wage remains salient. In this respect, the Code on Wages advances worker protection, but does not dissolve the classic Indian tension between floor-level subsistence protection and the aspirational norm of living wages under Article 43.[1][5][30][31]

A second doctrinal innovation is the common definition of "wages." The code includes within wages basic pay, dearness allowance and retaining allowance, while excluding specified allowances and payments subject to a 50 per cent cap on excluded components; amounts beyond that cap are added back into wages. The Ministry's own early 2026 FAQs underline that this single definition is intended to travel across the labour codes and to affect statutory calculations such as gratuity and social security contributions. The code also prohibits discrimination on the ground of gender in wages for the same work or work of a similar nature, and prohibits sex-based discrimination in recruitment for the same or similar work except where women's employment is legally restricted. This doctrinally strengthens the old equal-remuneration framework by embedding wage equality within the general wage code and by linking it to a common dispute-resolution mechanism for questions of "same or similar nature" of work.[5][10][26][30]

The Code on Wages also illustrates the new enforcement philosophy. Official government materials emphasise inspector-cum-facilitators, web-based inspection, digital wage payment, simplified forms and returns, and the reduction of unauthorised deductions. These measures respond to longstanding concerns about opaque and rent-seeking inspection. But they also reposition enforcement from a predominantly punitive, inspector-driven model toward a compliance-facilitating administrative state. That is not normatively self-evident. For compliant employers, the new model may reduce friction and improve traceability. For vulnerable workers-especially those in low-visibility worksites, informal subcontracting chains, or digitally intermediated labour markets-the effectiveness of rights will still turn on whether facilitation is

accompanied by credible sanction, data integrity, complaint mechanisms, and labour-department capacity.[3][5][12][34]

5.3.2. The Code on Social Security, 2020

If the wage code universalises a floor-level labour entitlement, the Code on Social Security attempts something even more ambitious: the unification of contributory, compensatory and welfare-scheme regimes within a single statutory architecture. Its chapter structure covers social security organisations, provident fund, employee state insurance, gratuity, maternity benefit, employee's compensation, social security and cess for building workers, social security for unorganised, gig and platform workers, employment information and monitoring, and miscellaneous provisions including the Social Security Fund. The conceptual move is therefore from separate silos of formal-sector social insurance and welfare-board legislation to a unified code that nonetheless preserves very different legal logics within itself. EPF and ESI remain contribution-based institutional systems; gratuity and maternity benefits remain employer-linked statutory entitlements; construction welfare continues to rely on cess-financed boards; and unorganised, gig and platform worker protection is mediated through recommended and notified schemes.[7][22][23][24][28][29]

Several specific doctrinal features deserve notice. The code extends EPF architecture to establishments employing twenty or more persons without the older industry-specific framing; ESI coverage is described by the government as nationwide, with voluntary extension to smaller establishments and mandatory application to hazardous work even with very small workforces. Gratuity is especially important in the post-code regime because fixed-term employees become eligible after one year of service, a marked departure from the older five-year norm for regular employees. Chapter VI preserves maternity protection, including 26 weeks of maternity benefit in appropriate cases, nursing breaks, crèche facilities for establishments meeting the threshold, and the possibility of work-from-home arrangements after the maternity period where the nature of work allows and employer and employee agree. In its substantive middle chapters, therefore, the code carries forward much of the older welfare state while standardising definitions and administration.[7][10][24]

The most discussed innovation, however, lies in the code's treatment of unorganised workers, gig workers and platform workers. The code requires registration of unorganised, gig and platform workers; establishes national and state boards; contemplates central and state schemes; and creates a Social Security Fund for unorganised, gig and platform workers. It also contemplates aggregator contributions at a notified rate between 1 and 2 per cent of annual turnover, subject to a cap of 5 per cent of the amount paid or payable by the aggregator to gig and platform workers. From a comparative labour-law perspective, this is doctrinally significant. Indian

labour law historically addressed non-standard work either by trying to fit workers into existing employer-employee categories or by leaving them to welfare schemes. The Social Security Code creates an intermediate path: it recognises the existence of gig and platform labour without resolving, in a general way, their employment-status disputes.[7][13][14][17][33]

That design is both innovative and limited. It is innovative because it acknowledges that platform-mediated labour is not an aberration at the margins of labour law, but part of the contemporary workforce. It is limited because the protection offered is mostly framework-like and scheme-dependent. The code does not, by recognising gig and platform workers, automatically grant them the bundle of rights ordinarily attached to "employees" or "workers" under other statutes; nor does it create a self-executing universal social insurance guarantee. The gap matters in a labour market where the ILO notes that informal workers still comprise 88.4 per cent of India's workforce and the platform economy is expected to keep expanding. The implementation challenge is equally sharp. Official figures recorded e-Shram registrations exceeding 31.42 crore by the end of 2025, with a platform-worker module launched and aggregators onboarded. Registration, however, is not equivalent to benefit delivery. A digital registry can facilitate portability and targeting, but cannot by itself substitute for stable funding, notified entitlements, grievance mechanisms, and inclusion safeguards for those least able to navigate digital systems.[7][17][33][34]

5.3.3. The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code (OSHWC Code) is the broadest workplace-welfare statute of the new regime. It consolidates a wide range of older enactments dealing with factories, mines, plantations, contract labour, inter-state migrant workmen, building and other construction workers, beedi and cigar workers, motor transport workers, audio-visual workers and others. Its structure covers registration, duties of employers and employees, occupational safety and health, health and working conditions, welfare provisions, hours of work and annual leave, and sector-specific matters through schedules. The doctrinal effect is to relocate workplace welfare from sectorally segmented legislation to a single code with differentiated application rules. That reorganisation may improve coherence and ease of administration, but it also means that protective detail once embedded in specialised statutes increasingly depends on schedules, rules and delegated instruments.[8][20][27][28]

Government explanatory materials highlight several substantive protections. The code broadens the concept of the inter-state migrant worker to include, beyond contractor-routed labour, self-migrating workers; provides for travel allowance and portability-oriented measures; mandates free annual health check-ups; allows women to work in all establishments, including night shifts, with consent and prescribed safeguards; and

maintains crèche obligations in qualifying establishments. The code also continues regulation of contract labour, while revising the threshold for licensing and recognising specified circumstances in which contract labour may be engaged even in core activities. Further, where contractors fail in wage or welfare obligations, the principal employer bears continuing responsibility. These provisions respond to long-standing blind spots in Indian labour welfare, especially migrant labour invisibility, occupational-health neglect, and the gendered exclusion of women from large areas of night-time work.[8][11][27][28][33]

Yet, as with the other codes, the OSHWC Code combines welfare expansion with regulatory relaxation. The government presents the code as a universal safety framework for establishments above specified thresholds and for hazardous activities even at very low levels of employment. But threshold changes matter: raising the contract-labour licensing threshold and recasting a number of welfare and safety requirements in code-and-rule form can narrow effective protection unless labour administration is proactive. The same is true of enforcement. The shift to inspector-cum-facilitators, web-based inspection, and decriminalised first-time offences may reduce arbitrariness and corruption, but it also depends heavily on inspection intelligence, staffing, professional independence, and the ability of workers to trigger intervention. International labour standards on inspection have long emphasised that inspection is central to labour administration, especially for vulnerable workers and informal economy sectors; India's ratification of Convention No. 81 underscores that the question is not whether inspection should become less coercive, but whether facilitation is being matched by enforceable accountability.[8][12][15][16][34]

5.3.4. The Industrial Relations Code, 2020

Although often treated as the "industrial peace" code rather than a welfare statute, the Industrial Relations Code has a substantial welfare dimension because it structures collective voice, grievance redress, security of service, retrenchment compensation and institutional participation. Its chapters cover bi-partite forums, trade unions, standing orders, notice of change, voluntary arbitration, conciliation, industrial tribunals, lay-off, retrenchment and closure, worker reskilling and miscellaneous matters. At its best, the code can be read as an attempt to regularise industrial citizenship: every industrial establishment with twenty or more workers must establish a Grievance Redressal Committee, with adequate women's representation; where multiple unions operate, a negotiating union or negotiating council is to be recognised; and retrenched workers are linked to a reskilling fund financed by the employer's contribution equivalent to fifteen days' wages last drawn. These are not trivial features. They institutionalise voice and transitional welfare within the law of industrial relations.[6][3]

The code also introduces fixed-term employment as a general labour-market form, with formal parity in benefits vis-à-vis permanent workers except where the nature of fixed-term engagement itself excludes continuity-linked claims. In the government's own description, fixed-term employees are to receive benefits equal to permanent workers, including gratuity after one year. But the same code raises the standing-orders threshold to establishments with 300 or more workers and applies the special prior-permission regime for lay-off, retrenchment and closure only to establishments employing at least 300 workers, unless the appropriate government notifies a higher number. These thresholds are central to the contemporary controversy over the code. They reduce the number of establishments subject to tighter procedural controls, and thereby re-balance industrial law in favour of managerial flexibility. The Code's fourteen-day notice requirement for strikes across industrial establishments and its expanded emphasis on formal process reinforce that orientation toward managed industrial peace rather than maximal collective leverage.[6][9][12][33][34]

The welfare significance of the Industrial Relations Code therefore lies in its ambivalence. It formalises collective bargaining through negotiating structures, recognises individual grievance mechanisms, and creates a reskilling fund. But it only weakly realises the constitutional ideal of worker participation in management under Article 43A. Negotiating unions and grievance committees are not the same as co-determination or shared governance. Nor does the code strengthen bargaining power in a straightforward sense. Instead, it channels worker participation into administratively legible forms while lowering the reach of some of the classic protective thresholds. The quick legislative repair embodied in the Industrial Relations Code (Amendment) Act, 2026-ensuring continuity of old tribunals and statutory authorities until institutions under the code become functional-further demonstrates that even this part of the new regime could not transition without institutional strain.[1][6][9]

5.3.5. Common Regulatory Techniques across the Codes

Across all four codes, certain common legal technologies stand out. They include uniform definitions, digital or electronic records, single registration, single licence, single electronic return, web-based inspection, inspector-cum-facilitators, compounding, and a shift away from automatic criminalisation for many first-time offences. Official government material claims that multiple returns have been collapsed into a single electronic return, forms reduced from 181 to 73, registers from 84 to 8, and numerous registrations and licences into single instruments. These common techniques matter because they mark a structural reorientation in Indian labour governance: from statute-specific bureaucracy toward standardised compliance infrastructure. In doctrinal terms, the "new labour regime" is therefore not

just the sum of four codes. It is also a new mode of administering labour law, one that treats data architecture, common definitions and procedural simplification as themselves central to legal reform.[3][5][6][7][8][12]

5.4. Constitutional Foundations of Labour Welfare

The constitutional foundation of labour welfare in India is unusually dense. Fundamental rights prohibit forced labour and child labour in hazardous occupations, protect life and personal liberty, and sustain equality and anti-discrimination norms. Directive Principles require the State to secure a welfare-oriented social order; to pursue distributional justice; to make effective provision for work and assistance in cases of unemployment, old age, sickness and disablement; to secure just and humane conditions of work and maternity relief; to endeavour toward living wages and decent conditions of life; and to promote worker participation in management. Labour welfare is therefore constitutionally anchored in both rights and directives, in both negative restraint and positive obligation. Articles 23, 24, 41, 42, 43 and 43A are especially important, but they operate in conjunction with Articles 14 and 21. Together, they render labour welfare not peripheral to constitutionalism, but part of the architecture of social citizenship.[1]

This constitutional setting is crucial to reading the new labour codes. The codes cannot be interpreted merely as instruments of "ease of doing business" or, conversely, as self-sufficient charters of worker protection. Their legitimacy depends on whether they mediate constitutional commitments in a manner consistent with dignity, equality and social justice. Three implications follow. First, the Constitution does not treat labour welfare as charity but as a structural element of the social order. Secondly, the constitutional imagination of labour welfare is broader than the codes' specific entitlements: it includes living wages, humane conditions, maternity relief, health, and participation. Thirdly, where the codes admit multiple interpretations-especially in relation to thresholds, exclusions, delegated legislation or enforcement-the interpretation most consistent with the constitutional protection of vulnerable workers ought to prevail. In that sense, codification does not displace constitutional labour law; it intensifies the need for constitutional reading.[1][32][33]

5.5. Judicial Construction of Labour Rights and Welfare

Indian labour rights jurisprudence has long constitutionalised labour welfare through creative judicial reading of Part III in light of Directive Principles. In *Randhir Singh v Union of India*, the Supreme Court famously held that the principle of equal pay for equal work is not an abstract doctrine but one capable of being enforced through Articles 14 and 16 read with Article 39(d). Later decisions, including *State of Punjab*

v Jagjit Singh, reaffirmed that parity claims cannot be rejected merely because labour is casual, temporary or non-regular if the work performed is genuinely comparable. These decisions do not abolish all distinctions in service jurisprudence, but they matter because they pull wage justice out of the realm of unenforceable aspiration and into constitutional adjudication. They also illuminate the significance of the Code on Wages' anti-discrimination provisions: the code legislates in a field already normatively thickened by constitutional equality doctrine.[35][41]

In *People's Union for Democratic Rights v Union of India*, the Court linked payment below the statutory minimum wage to Article 23's prohibition of forced labour, holding that economic compulsion does not transform underpaid labour into genuine consent. *Bandhua Mukti Morcha v Union of India* deepened the constitutional frame by treating the right to live with human dignity under Article 21 as nourished by Directive Principles concerning workers, health and humane conditions of work. These judgments are foundational because they reject the idea that labour exploitation is merely a matter of private contract or statutory non-compliance. Instead, they constitutionalise labour welfare by locating wage deprivation, bonded labour and exploitative work conditions within the language of dignity and freedom. Any reading of the labour codes that minimises enforcement against below-minimum wages, coercive labour intermediation, or extreme vulnerability would therefore sit uneasily with the constitutional lineage of Indian labour jurisprudence.[36][37]

The same constitutionalisation is visible in the Court's labour-health and gender jurisprudence. In *Consumer Education & Research Centre v Union of India*, occupational health and medical care were treated as integral to the meaningful content of Article 21 read with Articles 39(e), 41 and 43. In *Municipal Corporation of Delhi v Female Workers (Muster Roll)*, maternity benefit was extended to women on muster rolls and daily wages, reflecting a constitutional understanding that maternity protection is not a privilege of formal status but a social entitlement connected to dignity, equality and humane conditions of work. *Daily Rated Casual Labour Employed under P&T Department v Union of India* likewise contributed to the jurisprudence that the State, as model employer, cannot indefinitely deny labour justice merely by keeping workers casual. Collectively, these cases show that Indian courts have repeatedly thickened labour welfare beyond the bare text of statutes. The codes enter a field already shaped by decades of judicial insistence that labour rights must be understood in the light of dignity, health, maternity, equality and anti-exploitation.[38][39][40]

5.6. International and Comparative Perspectives

A brief comparative view helps to clarify both the ambition and the limits of India's codified welfare regime. In international labour standards, the key benchmarks are not a single universal model but a cluster of principles. The ILO's Social Security (Minimum Standards) Convention, 1952 (No. 102) treats social security as a comprehensive system spanning medical care, sickness, unemployment, old age, employment injury, family benefits, maternity, invalidity and survivors' benefits, while also emphasising collective organisation and tripartite administration. Recommendation No. 202 on Social Protection Floors stresses the establishment of nationally defined floors accessible to all in need and rests on the primary responsibility of the State in a rights-based framework. Convention No. 155 provides a preventive framework for occupational safety and health, and Convention No. 81 continues to treat labour inspection as a core institution of labour administration; India has ratified Convention No. 81. These standards do not dictate statutory form, but they provide useful normative criteria: universality, adequacy, portability, prevention, tripartism, and credible labour administration.[13][14][15][16]

Measured against those benchmarks, India's codes show partial convergence and persistent gaps. The wage code moves toward a national wage floor; the social security code broadens the legal vocabulary of protection to include gig and platform workers; the OSHWC Code incorporates preventive and migrant-sensitive features; and the codes preserve multiple tripartite or tripartite-like boards and advisory structures. Yet universality remains incomplete because protection is still deeply structured by thresholds, scheme notification, and establishment-based coverage rules. Adequacy remains uncertain because a statutory floor wage is not necessarily a living wage, and registration does not guarantee benefit receipt. The ILO's contemporary assessment of India is especially revealing here: effective social protection coverage has risen markedly, but 88.4 per cent of the workforce remains informal. The comparative lesson is not that India's codes are normatively deficient because they depart from some idealised model. It is that codification has to be judged by whether it progressively transforms broad formal coverage into effective, enforceable and portable protection for workers who remain outside stable standard employment.[7][8][13][14][15][16][17]

5.7. Policy Implications and Critical Evaluation

The policy implications of the labour codes are best understood by recognising their dual character. For workers, the codes create real gains: minimum wages are no longer restricted to scheduled employment; the common wage definition can reduce evasion by allowance-splitting; fixed-term employees gain clearer parity in benefits and

earlier gratuity; the social security code formally recognises gig and platform workers; the OSHWC Code addresses migrant portability, health check-ups and women's access to night work with safeguards; and industrial relations law preserves formal bargaining and grievance structures alongside a reskilling fund. For employers, the codes promise fewer forms, registers, licences and returns, more uniform definitions, digital procedure, and a less criminalised compliance environment. For labour administration, the codes promise standardisation, easier data management and a more integrated enforcement design. The attraction of codification, in policy terms, lies precisely in this attempt to make labour welfare and regulatory simplification appear mutually reinforcing.[3][5][6][7][8][12]

Table 5.2. Selected welfare-expanding and flexibilising moves under the new labour regime

Domain	Welfare-expanding move	Flexibilising or limiting move	Likely policy effect
Wages	Universalisation of minimum wages; central floor wage; common wage definition	Adequacy left to executive fixation and revision; enforcement depends on administrative capacity	Broader formal coverage, but distributive outcomes depend on notified rates and implementation
Social security	Recognition of gig and platform workers; Social Security Fund; portability-oriented registration	Protection remains largely scheme-dependent for non-standard workers; no general resolution of employment-status questions	Innovation in coverage categories, but entitlements remain uneven and contingent
OSH and workplace welfare	Broader migrant-worker recognition; annual health check-ups; women's night-	Threshold revisions and delegated rule-making may narrow practical reach; facilitative inspection can	Safer and more inclusive statutory design, but with significant implementation risk

	work access with safeguards	weaken deterrence if under-enforced	
Industrial relations	Grievance Redressal Committees; negotiating union/council; reskilling fund	Standing-orders and prior-permission thresholds raised to 300 workers; tighter strike-procedure environment	More formal voice mechanisms, but reduced protective coverage in many establishments
Administration	Single registration, single licence, single return, digital records, web-based inspection	Greater dependence on portals, interoperable databases, and state-level rule notification	Lower transaction costs, but higher risk of exclusion and transitional uncertainty if systems are weak

Source: Compiled from the labour codes, official government explanatory materials, and ILO standards documents.[3][5][6][7][8][13][14][15][16][17]

Table 2 captures the central analytical point of this chapter: the new labour regime is a hybrid settlement. It expands legal recognition in some domains while narrowing protection in others through thresholds, managerial discretion or scheme-dependence. The strength of the reform lies in its ability to simplify a notoriously unwieldy legal landscape without wholly abandoning welfare commitments. The limitation lies in the way substantive protection increasingly depends on secondary rule-making, executive notification, digital delivery systems and administrative choices about inspection and enforcement. The new regime is therefore less a self-contained code-based constitution of labour than a framework statute model that requires constant institutional filling-in.[3][4][34]

From the worker's perspective, three criticisms deserve emphasis. First, threshold-based exclusions continue to structure labour welfare even after codification. Many obligations still depend on establishment size or sector, which is significant in an economy dominated by small units and informal employment. Secondly, the code-based recognition of gig and platform workers is not equivalent to ordinary employment protection; it may even entrench a dual track in which non-standard workers are recognised for welfare schemes without receiving the bargaining power

or dismissal protection associated with employment status. Thirdly, greater reliance on digital registration and portal-mediated compliance may produce new exclusion risks unless backed by offline access, grievance redress, translation, assisted registration and strong labour inspection. These concerns are sharpened by the sheer scale of informality noted by the ILO.[7][8][14][16][17][33][34]

From the employer's perspective, the codes undoubtedly reduce some transaction costs, but they also generate transitional compliance complexity. The common wage definition may expand the statutory base for gratuity or social-security-related calculations; electronic records and returns may be simpler once stabilised, but only if rules, forms, and portal design are settled; and the fact that the Ministry issued FAQs in January and March 2026 on wage-definition and OSH issues indicates that important operational questions remained live after commencement. Employers therefore gain simplification in the long run, but they also face short-term interpretive burdens in the move from old statutes to code-based compliance. The codes simplify the architecture of law, not the politics of adjustment.[3][10][11]

For labour administration and industrial relations, the implementation challenges are even sharper. Because labour is a concurrent subject, codification required not only central enactment but state rule-making, coordination and institutional reconfiguration. Official statements in early 2026 acknowledged that draft central rules had only recently been pre-published and urged states to notify their rules expeditiously. The Industrial Relations Code (Amendment) Act, 2026 itself reveals how quickly transitional gaps appeared, particularly around tribunals and authorities. This is a reminder that codification is not complete when Parliament legislates. It becomes effective only when boards are constituted, portals operate reliably, inspectors are trained, tribunals function, workers can register and complain, states notify rules, and the administrative culture of labour departments adjusts without abandoning the protective core of labour welfare.[9][12]

Conclusion

The codification of labour welfare in India is thus best understood as a transformation in labour governance rather than a simple consolidation of statutes. The four labour codes reorganise Indian labour law around common definitions, digital administration, reduced compliance burdens, and a more integrated statutory architecture. They universalise some protections, especially in wage law; preserve and partially extend classical social-security and welfare functions; introduce new categories such as gig and platform workers; and reframe occupational welfare and industrial relations within a more standardised administrative model. Yet this transformation is normatively uneven. The same codes that simplify and extend also raise thresholds, rely heavily on delegated legislation, soften parts of punitive

enforcement, and leave major classes of workers dependent on scheme-based or administratively mediated protection.[3][5][6][7][8][12]

The broader transformation of labour law in India, therefore, is not from welfare to non-welfare, nor from protective law to pure market law. It is from a fragmented, statute-specific, inspector-centred order to a codified, portalised, definition-driven and executive-intensive regime in which welfare survives, but in reconfigured form. Whether that reconfiguration advances constitutional labour justice will depend on four variables: the adequacy of wage fixation, the effective extension of social protection to informal and platform workers, the credibility of labour inspection and grievance redress, and the extent to which courts continue to read the codes in the light of dignity, equality, anti-exploitation and humane conditions of work. Codification has changed the form of labour welfare in India. Its substance will be determined in the years ahead by rule-making, administration, industrial practice, and constitutional adjudication.[1][13][14][15][16][17]

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Chapter 6

Contract Labour, Fixed-Term Employment and Labour Flexibility under the New Codes

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6.1 Introduction: Labour Flexibility in Modern Labour Markets

The contemporary labour market is marked by the simultaneous intensification of competition and the fragmentation of employment. Global production networks, just-in-time supply chains, recurrent demand shocks, digital monitoring, and sectoral shifts toward services have all increased the pressure on firms to vary labour inputs more rapidly than the classical model of open-ended employment easily permits. In policy language, this has generated a renewed insistence on "flexibility"; in legal language, it has produced a gradual but unmistakable movement toward the normalization of non-standard work. In India, that movement now has a codified form.

The four labour codes, enacted in 2019 and 2020 and operationalised in late 2025, recast the legal field within which disputes over labour flexibility, labour welfare and managerial prerogative are to be resolved. The timing matters. For several years after enactment the codes remained in a suspended state of anticipation, but the late-2025 commencement notifications, the pre-publication of central rules, and the Industrial Relations Code (Amendment) Act, 2026 together signal that the "new labour regime" is no longer merely programmatic; it is the emerging framework of current labour governance, albeit in a transitional and still unevenly institutionalised form [1,2,3,4,5,6].

Within that wider transformation, contract labour and fixed-term employment occupy a pivotal position. Both are legal devices for numerical flexibility, but they are not identical.

Contract labour disperses responsibility across a triangular relation linking worker, contractor and principal employer, while fixed-term employment retains a direct bilateral relationship between employer and worker but makes the duration of employment contractually finite. The labour codes treat these forms differently. Contract labour is located primarily within the Occupational Safety, Health and Working Conditions Code, 2020, which regulates registration, licensing, wage responsibility, welfare facilities and limits on outsourcing in core activities. Fixed-term

employment, by contrast, is recognised through the architecture of the Industrial Relations Code, 2020 and the current model standing orders, which normalise time-bound direct hiring while extending parity of wages and service conditions with permanent workers for the contract period [7,8,1,2].

This chapter argues that the new regime does not abolish the tension between flexibility and welfare; rather, it juridifies that tension in a new idiom. The codes attempt to shift from a fragmented protective order to a consolidated governance model that combines compliance simplification, digital administration and selective worker protections. Yet that model remains contested because it gives employers more lawful routes to workforce adjustment while only partially answering longstanding anxieties about precarity, equal treatment, collective bargaining and the erosion of employment security.

The chapter therefore examines the doctrinal structure governing contract labour and fixed-term employment, situates those reforms within the constitutional and judicial history of labour welfare, and evaluates their broader implications for workers, employers, labour administration and industrial relations in India [9,10,11,12]

6.2 Concept of Labour Flexibility

6.2.1 Meaning of Labour Market Flexibility

Labour market flexibility is an elastic concept, but in the literature and policy debate it generally refers to the capacity of employers and labour markets to adjust employment relations in response to changing economic conditions.

Three dimensions are conventionally distinguished. Numerical flexibility concerns the ease with which firms can expand or reduce the workforce, alter working time, or shift between permanent and temporary hiring. Functional flexibility concerns the capacity to redeploy labour through multi-skilling, job redesign and internal reorganisation. Wage flexibility concerns the responsiveness of wage-setting to productivity, firm performance or market conditions. These categories overlap in practice, but they reveal an important point: flexibility is not only about dismissal law. It is also about the structure of hiring, the duration of contracts, the legal identity of the employer, the portability of labour across tasks, and the extent to which labour costs can be made variable rather than fixed [12,11].

In the Indian context, debates over flexibility have often been narrowed to the problem of "rigid labour laws", especially rules concerning retrenchment, closure and collective dispute resolution. That frame, however, obscures the institutional forms through which flexibility has actually been achieved. Empirical and doctrinal work shows that Indian employers have long relied less on internal functional flexibility and more on externalisation: outsourcing, labour contracting, casualisation and other forms of non-

regular employment. The growth of contract labour, in particular, has allowed firms to insulate the core enterprise from the full legal and economic consequences of a stable employment relationship. Fixed-term employment, especially after its wider recognition in the central sphere, adds another route: the employer may retain a direct relationship with the worker while limiting the duration of tenure by contract rather than by mediation through a contractor [13,14,10].

6.2.2 Economic Arguments for Labour Flexibility

The economic case for flexibility is usually presented in terms of competitiveness, allocative efficiency and employment generation. Employers and reform advocates contend that when labour demand is volatile, rigid staffing structures discourage expansion because the cost of adjustment is too high. Flexible arrangements, on this view, lower the risks of hiring, improve the capacity of firms to respond to seasonal and cyclical changes, attract investment, and permit a more efficient matching of labour inputs to production requirements.

In export-oriented or project-based sectors, short-term demand may be real rather than strategic; a legal system that recognises only indefinite employment may then encourage informality rather than compliance. The logic of recent Indian codification reflects this argument. Official explanations of the labour codes repeatedly frame consolidation, common registration, rationalised licensing and digital compliance as measures that are expected to improve the business environment without abandoning minimum worker protection [6,15,16,5].

There is also a narrower institutional argument in favour of fixed-term employment. Compared with contractor-mediated labour, fixed-term employment can be defended as a more transparent and formally accountable model of flexibility because the employer is known, wages and benefits are paid directly, and legal parity obligations can more easily be attached to the enterprise. Some policy commentary around the labour codes has therefore implicitly preferred fixed-term employment to the older pattern of extensive outsourcing, treating it as a controlled substitute for the more opaque triangular arrangement of contract labour [10,17,6].

6.2.3 Concerns Regarding Labour Flexibility

The critique of labour flexibility begins from a different empirical premise: that flexibility is often purchased through insecurity. Non-standard employment can redistribute risk from capital to labour by making work episodic, wages unstable, benefits discontinuous and collective organisation more difficult. The formal recognition of flexible hiring can also legitimate a labour market hierarchy in which a shrinking core of permanent workers coexists with a larger periphery of workers whose contractual status weakens their bargaining power. Indian evidence on temporary and

contract work has repeatedly suggested that precarious employment is associated with lower wages, weaker voice, and a greater tendency for employers to avoid long-term commitments in respect of social security, skill formation and career progression [13,18,17].

From a labour welfare perspective, the core concern is therefore not flexibility in the abstract but the conditions under which it is regulated. A regime that permits flexible hiring while ensuring equal treatment, effective enforcement, portability of social protection and credible limits on abuse may be normatively distinct from one that merely multiplies lawful routes to short-duration or outsourced work.

The labour codes must be assessed against that distinction. Their significance lies less in whether they "allow" flexibility-Indian labour markets already contained extensive flexibility-and more in the way they reorganise the legal distribution of risk and responsibility [9,10,12,14].

6.3 Historical Development of Contract Labour Regulation in India

6.3.1 Emergence of Contract Labour

Contract labour developed in India as an organisational response to the segmentation of industrial production. Contractors were used to supply labour for cleaning, loading, maintenance, canteen work, construction, transport and other operations that employers wished to keep outside the regular establishment. Over time, however, the distinction between peripheral and central functions blurred. Contract labour increasingly appeared in tasks that were perennial, integral and carried out within the premises of the principal enterprise. The system enabled firms to lower apparent labour costs, avoid direct obligations toward workers, and maintain a workforce that could be expanded or dispensed with more easily than regular employees. As K. R. Shyam Sundar has shown, the contract labour system in India has long stood at the fault line between the demand for flexibility and the demand for fairness [14,11].

Judicial concern with this arrangement predates the CLRA Act. In The Standard-Vacuum Refining Co. of India Ltd v Its Workmen, the Supreme Court accepted that a dispute concerning the abolition of a contract system in perennial cleaning and maintenance work could amount to a genuine industrial dispute. The decision is important not because it constitutionalised a right to regularisation, but because it recognised that labour engaged through contractors could not be treated as wholly external to the industrial community. The problem of contract labour was thus visible in adjudication before it was fully systematised in statute [19].

6.3.2 Legal Regulation of Contract Labour

The principal pre-code statute was the Contract Labour (Regulation and Abolition) Act, 1970. Its basic design was twofold. First, it regulated the system through registration

of principal establishments and licensing of contractors. Secondly, it empowered the appropriate government to prohibit employment of contract labour in specified processes, operations or other work, especially where the work was perennial, ordinarily performed through regular workers, or sufficiently necessary to the establishment. The Act also imposed obligations relating to canteens, rest rooms, drinking water, latrines, washing facilities and wage payment. In this sense, the CLRA Act was neither a pure abolition statute nor a simple facilitative statute; it sought to contain the system while civilising it [20,14].

A salient aspect of the earlier regime was its relatively lower coverage threshold. The CLRA Act applied to establishments and contractors employing twenty or more contract workers in the preceding twelve months. That threshold reflected a legislative choice to regulate contracting at a comparatively early stage. It also mattered administratively: many smaller establishments and labour contractors that would fall outside the new threshold were within the orbit of the earlier statute [20].

6.3.3 Judicial Interpretation of Contract Labour

The case law under the earlier regime reveals a judicial oscillation between social realism and statutory restraint. In Hussainbhai, Calicut v Alath Factory Thozhilali Union, the Supreme Court famously looked past the contractor form to the economic reality of the relationship, emphasising that where labour is hired through intermediaries but the enterprise retains effective control over production, the law must identify the real employer rather than be misled by paper arrangements. The decision remains a classic statement against disguised employment relationships [21].

The later jurisprudence became more complex. In Air India Statutory Corporation v United Labour Union, the Court adopted a strongly protective reading of the CLRA framework and suggested that prohibition of contract labour would ordinarily carry absorption consequences.

That approach was subsequently rejected by the Constitution Bench in Steel Authority of India Ltd v National Union Waterfront Workers, which held that abolition under the CLRA Act did not by itself produce automatic absorption. Thereafter, workers seeking direct employment status faced a heavier burden: they had to show that the contractual arrangement was sham, nominal or otherwise legally infirm, or that some other independent basis for regularisation existed. Subsequent cases such as Workmen of Nilgiri Coop. Mkt. Society Ltd v State of Tamil Nadu, International Airport Authority of India v International Air Cargo Workers' Union, and Balwant Rai Saluja v Air India Ltd refined the tests for identifying an employer-employee relationship by focusing on factors such as appointment, supervision, payment, disciplinary authority, integration with the establishment and the overall economic relationship [22,23,24,25,26].

This shift had a durable consequence. By the time the labour codes were framed, Indian law no longer treated contract labour primarily through the lens of judicial regularisation. The dominant legal posture had moved toward regulation of the arrangement, scrutiny of sham contracts, and selective intervention through statute or governmental prohibition rather than automatic judicial conversion into permanent employment. At the same time, empirical evidence suggested that contractualisation had become more deeply entrenched in organised manufacturing. PRS Legislative Research notes that the share of contract workers in factories rose substantially in the pre-code years, indicating that labour flexibility was already being realised in practice long before codification formalised a new vocabulary for it [10,13,18].

6.4 Contract Labour under the Labour Codes

The Occupational Safety, Health and Working Conditions Code, 2020 consolidates thirteen prior enactments, including the CLRA Act, and now constitutes the main statutory home of contract labour regulation. This relocation is analytically significant. Under the codes, contract labour is principally governed within a statute concerned with safety, health, welfare, migration, inter-state mobility and working conditions, rather than within the Industrial Relations Code.

The move does not eliminate industrial-relations consequences, but it reframes outsourced labour as a subject of administrative regulation and minimum welfare rather than as a central problem of collective labour law. That is one of the subtle but important shifts in the new labour regime [7,16,6].

6.4.1 Regulation of Contractors

Sections 45 to 57 of the OSHWC Code lay down the general framework for contract labour. The Code applies, in substance, to every establishment in which fifty or more contract labourers are employed or were employed on any day of the preceding twelve months, and to every manpower supply contractor who employs or employed fifty or more contract workers in the same period. Compared with the earlier CLRA threshold of twenty workers, the increase to fifty is one of the most consequential changes introduced by codification. It undoubtedly simplifies the compliance load for smaller establishments and contractors, but it also narrows the field of statutorily regulated contracting [7,20].

The Code seeks to rationalise licensing architecture. It provides for registration of establishments and, under section 119, a common licence for factories, beedi and cigar work and the engagement of contract workers. The December 2025 central rule notification elaborates a more integrated, electronically mediated licensing system, including work-specific licensing details, security deposits, electronic filing and portal-based communication. The compliance philosophy is clear: the State intends to replace

a multiplicity of procedural interfaces with a unified digital architecture. From the standpoint of employers, that is a notable gain in clarity and transaction-cost reduction. From the standpoint of labour welfare, however, the question is whether digital simplification can substitute for effective inspection and field verification where the existence, number and deployment of contract workers may themselves be contested [7,2,5].

6.4.2 Responsibilities of Principal Employers

A major continuity with the earlier law lies in the retention of backstop responsibility on the principal employer. The Code preserves a triangular structure, but it does not allow the principal establishment to become wholly invisible.

Under section 53, the principal employer is responsible for the welfare facilities required under the Code in relation to contract labour. Section 55 places the primary obligation to pay wages on the contractor, but if the contractor fails to pay or makes short payment, the principal employer must pay the full amount due and may then recover it from the contractor, including by adjustment against the security deposit. The rule design accompanying the Code reinforces this architecture by specifying the facilities that must be made available when contract workers operate within the premises of the principal employer, including drinking water, toilets, washrooms, changing rooms where necessary, first aid, canteens and creches in appropriate cases [7,2].

This liability structure is normatively important because it acknowledges the reality that contract labour often works at the site, for the benefit, and under the practical operational control of the principal establishment. Yet the design remains limited. The principal employer is treated primarily as a guarantor of minimum welfare and wage payment, not as the normal employer for all purposes. The Code therefore mitigates the harshest consequences of triangular work without dismantling the triangular form itself [7,21,23].

6.4.3 Welfare Provisions for Contract Workers

The welfare and protection of contract workers under the Code are dispersed rather than concentrated in one dramatic right. They include application of safety and health norms, wage liability safeguards, access to welfare facilities, and the possibility of being covered by provident fund and employee insurance schemes where the Social Security Code applies. The draft central rules further require contractors to communicate work-order information electronically, including the principal employer's details, worksite, commencement date, number of contract workers and duration of the contract. This requirement may seem procedural, but its potential welfare significance is substantial: traceability is a precondition for enforcement. A

worker whose employment is administratively invisible is rarely able to vindicate even the rights that formal law nominally confers [2,27,5].

The most important substantive limit on outsourcing is contained in section 57, which prohibits engagement of contract labour in the core activities of an establishment.

On first reading, this appears to carry forward the historic normative suspicion toward the use of contract labour in perennial and integral operations. However, the same provision also carves out broad exceptions, including circumstances where the activity is ordinarily done through contractors, where the work is intermittent or does not require whole-time workers, and where there is a sudden increase in volume that must be accomplished within a specified time. These exceptions are broad enough to generate considerable interpretive elasticity. In practice, much will depend on how "core activity" is defined at the enterprise level and how rigorously administrative authorities scrutinise claims that an ostensibly central function falls within an exception. The rules provide a mechanism for reference of disputes about core activity to the designated authority, but the protective effect of the provision will depend on institutional willingness to look past managerial labels and to examine the actual organisation of production [7,2,16].

6.5 Fixed-Term Employment under the Labour Codes

6.5.1 Meaning of Fixed-Term Employment

Fixed-term employment is a contractual arrangement under which a worker is employed directly by the employer for a specified period, usually recorded in writing, with the relationship ending on expiry of the term unless renewed. In doctrinal terms, its defining feature is not intermediation but temporality. Unlike contract labour, fixed-term employment does not place a contractor between worker and enterprise; it preserves the bilateral employer-employee relationship while making duration a central element of the bargain. For that reason, fixed-term employment is often portrayed as a cleaner and more legally transparent form of labour flexibility than outsourced labour [8,1,17].

6.5.2 Legal Recognition of Fixed-Term Employment

Although time-bound hiring was not wholly unknown in Indian labour law, its wider recognition in the central sphere dates to the Industrial Employment (Standing Orders) Central (Amendment) Rules, 2018. The labour codes do not merely repeat that move; they institutionalise it within the new codified order. Under the Industrial Relations Code, the legal significance of fixed-term employment emerges through two doctrinal channels.

First, the definition of "retrenchment" excludes termination as a result of non-renewal of the contract on expiry or the completion of the tenure of fixed-term employment.

Secondly, the standing-orders framework-now housed within the Industrial Relations Code and elaborated through the 2025 central rules-classifies fixed-term employment as a recognised category of worker and provides the operative conditions attached to it [28,8,1,15].

This architecture matters because the legal normalisation of fixed-term work is not built on an isolated statutory definition alone. It is anchored in the interaction between substantive industrial-relations law and the governance of standing orders. That makes fixed-term employment part of the internal grammar of enterprise regulation. The worker is not external, casual or unclassifiable; the worker is formally incorporated into the establishment, but on a temporally finite basis and with a termination rule that the Code itself treats as outside retrenchment [8,1].

6.5.3 Rights of Fixed-Term Employees

The most important protective feature of the present framework is parity. The model standing orders provide that a fixed-term employee shall be entitled to hours of work, wages, allowances and other benefits not less than those available to a permanent worker doing the same work or work of a similar nature. They also recognise the entitlement of fixed-term workers to statutory benefits proportionately according to the period of service, even where the usual qualifying period may not be met in the same manner as for longer-duration workers. In principle, therefore, the regime rejects the proposition that temporariness justifies inferior treatment during the life of the contract [1,29,9].

The treatment of gratuity is especially significant. Section 53 of the Code on Social Security expressly contemplates gratuity on termination of a fixed-term contract, and official implementation materials issued after commencement read the new framework as reducing the qualifying period for fixed-term employees from five years to one year, with payment on a proportionate basis where the one-year requirement is satisfied. Even if one treats ministry guidance with appropriate interpretive caution, the direction of policy is unmistakable: the codes seek to differentiate fixed-term work from earlier forms of insecure employment by tying it to a floor of parity and social protection rather than leaving it in a zone of legal inferiority [27,30,5].

Yet the protective logic is incomplete. The law clearly mandates parity within the contract period, but it is much less developed on the problem of serial or abusive renewals. The expiry of a fixed-term contract is excluded from retrenchment, and the current framework does not impose strong statutory limits on the number of renewals, require objective justification for repeated resort to fixed terms, or create an automatic pathway to regular status after successive renewals. As a result, the regime protects against direct wage discrimination more clearly than against the chronic insecurity that may arise when fixed terms are rolled over in sequence [8,1,31,17].

Table 6.1 Comparisonbetween Permanent Employment, Contract Labour and Fixed-Term Employment

Feature	Permanent Employment	Contract Labour	Fixed-Term Employment
Legal relationship	Direct bilateral employment relationship	Triangular relationship involving worker, contractor and principal employer	Direct bilateral relationship for a pre-defined term
Employment duration	Indefinite and continuing	Dependent on contractor engagement or work order	Fixed contractual period
Primary regulatory location	Industrial relations, wages and social-security framework	Occupational safety, welfare and contract-labour provisions under the OSHWC Code	Industrial Relations Code and model standing orders, with linked social-security provisions
Responsibility for wages and welfare	Direct employer bears responsibility	Contractor is primary paymaster, but principal employer carries residual wage and welfare liability on default	Direct employer bears responsibility during the term
Termination logic	Termination ordinarily requires disciplinary, retrenchment, closure or separation procedures	Disengagement often tracks the contractor arrangement; sham-contract disputes remain possible	Expiry of contract term is treated as normal completion and excluded from retrenchment
Job security	Relatively high	Low	Moderate-to-low: parity without continuity
Wage and benefit parity	Baseline comparator	Often formal entitlements exist but enforcement is mediated through the contractor structure	Parity with permanent workers performing the same or similar work during the contract period

Social security and gratuity	Available where statutory thresholds are met	Formally available, but coverage is often uneven in practice	Available during the term, with specific statutory accommodation for gratuity on fixed-term completion

Source: Compiled from the statutory and implementation materials cited in this chapter[8,7,27,1,2,30]

Table 6.1 makes visible the different ways in which legal flexibility is structured across the three principal employment forms. Permanent employment still offers the greatest security because the default norm is continuity and termination is more tightly regulated. Contract labour diffuses responsibility, even though the law imposes a wage and welfare backstop on the principal employer. Fixed-term employment, by contrast, keeps responsibility with the direct employer and now carries a substantial parity principle, yet it preserves temporal insecurity because the law treats contract expiry as a normal mode of termination rather than an exceptional one.

The practical implication is that the codes may encourage some enterprises to prefer fixed-term employment over third-party contracting, but they do not convert fixed-term work into a functional equivalent of regular employment [8,7,27,1,2].

Table 6.2 MajorRegulatory Shifts from the Pre-Code Regime to the Labour Codes

Issue	Earlier regime	Labour-code framework	Likely implication
Coverage threshold for contract labour	The CLRA Act commonly operated at the lower threshold of twenty contract workers	The OSHWC Code raises contract-labour regulation to establishments and contractors engaging fifty or more contract labourers	Smaller outsourced arrangements may fall outside specialised contract-labour regulation, increasing the importance of general labour standards
Licensing and registration architecture	Multiple registrations and licences under separate enactments	Single registration and common-licence logic, increasingly mediated through digital compliance systems	Administrative simplification for employers, but welfare enforcement depends on data accuracy and labour-department capacity

Outsourcing in core activity	Abolition under the CLRA framework depended on government notification, advisory processes and litigation	The OSHWC Code states a general prohibition on contract labour in core activities, subject to express exceptions and administrative determination	The law is clearer in structure, but much turns on interpretation of exceptions and enforcement
Fixed-term employment	Marginal and sectorally uneven until the 2018 standing-orders amendment broadened recognition	The Industrial Relations Code and current model standing orders normalise fixed-term direct hiring with parity during the term	Employers gain a direct flexibility tool that may substitute for some forms of outsourcing
Protection against abuse	Judicial scrutiny focused on sham contracts, camouflage and abolition disputes	Parity rules are clearer, but explicit statutory controls on serial fixed-term renewals remain weak	The system protects against discrimination more effectively than against repeated insecurity
Regulatory style	Fragmented, statute-specific and often establishment-centred	Consolidated, compliance-driven and oriented toward unified digital governance	Codification improves coherence but also shifts labour welfare toward administrable minimum floors rather than continuity guarantees

Source: Compiled from the statutory and implementation materials cited in this chapter[20,28,8,7,1,2,10]

Table 6.2 captures the broader regulatory shift. Codification does not simply consolidate earlier law; it reorders priorities. Coverage thresholds have been raised for contract labour, licensing has been centralised and digitised, and fixed-term work has moved from the margins of standing-orders law toward the centre of enterprise personnel strategy. At the same time, the protective burdens of the system remain concentrated on minimum floors-wages, welfare facilities, parity during the term-while

the law is less assertive on structural questions of employment continuity, anti-abuse safeguards and collective voice. That asymmetry is central to understanding the welfare implications of the new regime [20,7,28,8,1,2,10].

6.6 Impact of Flexible Employment on Labour Welfare

6.6.1 Implications for Workers

For workers, the new regime offers a mixed settlement. On the positive side, the codes increasingly insist that flexibility should not mean complete legal invisibility. Contract workers benefit from backstop wage liability, access to welfare facilities and the application of safety norms. Fixed-term employees benefit from parity of wages and service conditions during the contractual period and from the explicit recognition that social-security protections, including gratuity, must extend to them in a meaningful way. Appointment letters, electronic records and common compliance systems may also, at least in theory, make proof of employment easier than in highly informal settings [7,8,27,1,2,5].

The countervailing concern is continuity. Labour welfare in practice depends not only on the existence of entitlements but also on stable access to them. Short-duration and segmented work may interrupt earnings, reduce the capacity to accumulate service-related benefits, and weaken the worker's bargaining leverage in relation to unsafe or unfair conditions.

Contract labour remains especially vulnerable because the worker may be unsure whether to claim against the contractor, the principal employer or both; fixed-term workers face a different vulnerability, namely the ever-present prospect that the contract will simply expire and not be renewed.

Empirical research on organised manufacturing suggests that contract workers continue to experience wage disadvantage relative to regular workers, and that the spread of temporary and short-duration contracts contributes to an internal segmentation of the formal labour market [18,13,17].

6.6.2 Implications for Employers

For employers, the codes expand the menu of lawful adjustment mechanisms. Contract labour continues to permit outsourcing of selected functions subject to statutory regulation, while fixed-term employment provides a direct route to time-bound hiring without the intermediation costs and status disputes associated with contractors.

The simplified compliance model-common registration, digital filing, rationalised licensing and standardised definitions-also reduces the administrative complexity that historically accompanied Indian labour regulation.This partly explains why the codes are widely defended as a balance between welfare and ease of doing business [6,5,10].

At the same time, the employer interest in flexibility is not necessarily synonymous with long-term productive efficiency. Excessive reliance on precarious labour can reduce incentives for skill investment, weaken enterprise-specific training, generate high turnover and fragment workplace cooperation. The choice is therefore not merely between rigidity and freedom. A labour regime that channels flexibility into direct and transparent fixed-term contracts with real parity obligations may produce different organisational outcomes from one that encourages indiscriminate outsourcing or rolling insecurity. The codes gesture toward the former, but they do not guarantee it [12,17,13].

6.6.3 Implications for Industrial Relations

Flexible employment also reshapes collective labour law. Contract labour fragments bargaining units because workers formally engaged by different contractors may work side by side within the same establishment without being easily incorporated into a common representational structure. High turnover among fixed-term workers can also weaken the internal base of trade unions, affect voter rolls for union recognition, and generate a workforce less willing to engage in collective action because the employment relationship is time-bound. The problem is not only legal but organisational: precarious workers often lack the temporal horizon necessary for sustained workplace collectivism [32,1,12,11].

That said, the industrial-relations implications of fixed-term employment are not identical to those of contract labour. Because the employer is direct, a fixed-term workforce remains more legible to enterprise bargaining than a workforce mediated through multiple contractors. In this respect, fixed-term employment can be seen as both a risk and an opportunity: it may normalise insecurity, but it may also draw some categories of short-duration labour back into the formal perimeter of the enterprise. Whether that possibility is realised depends on how union law, recognition rules and workplace practice interact with the new category [8,1,17].

6.6.4 Constitutional Principles and Labour Rights Jurisprudence

Any evaluation of labour flexibility in India must be situated within the Constitution's social-justice architecture. Labour welfare is not an external policy add-on; it is embedded in a constitutional order that combines enforceable rights with directive commitments. Articles 14 and 16 require equality and non-arbitrariness in public employment and broader legal ordering. Article 21 has been read to include dignity, health and humane conditions of life. Article 23 prohibits forced labour, a guarantee that the Supreme Court has linked to payment below the legal minimum wage. The Directive Principles in Articles 38, 39, 41, 42, 43 and 43A articulate the normative horizon of a welfare-oriented labour order founded on distributive justice, humane working conditions, living wages and worker participation in management [9,33,34,35,29].

The labour jurisprudence of the Supreme Court reflects this architecture, even if not always consistently. In People's Union for Democratic Rights v Union of India and Sanjit Roy v State of Rajasthan, the Court treated payment below the statutory minimum wage as a form of forced labour inconsistent with Article 23. In Consumer Education and Research Centre v Union of India, occupational health and medical protection were linked to the right to life under Article 21. In Randhir Singh v Union of India, the Court read the principle of equal pay for equal work into Articles 14 and 16 in the light of Article 39(d). At the same time, All India Bank Employees' Association v National Industrial Tribunal made clear that Article 19(1)(c) protects the right to form associations or unions, but not every consequential method by which unions might seek to achieve their ends.

Together, these decisions show that Indian constitutional law recognises labour as a domain of dignity, equality and anti-exploitation, but it also leaves considerable space for statutory regulation of collective labour processes [33,34,35,29,32].

Read against this constitutional background, the labour codes are normatively ambivalent. Their parity principle for fixed-term employees reflects the constitutional rejection of inferior treatment for equal work. Their insistence on wage responsibility and welfare facilities for contract labour resonates with the anti-exploitation logic of Articles 21, 23 and 42.

Yet their higher thresholds for regulation, their broad exceptions for core outsourced work, and their normalisation of expiry-based termination also reveal the limits of constitutional translation in a flexibilised labour market. Constitutional labour welfare is oriented toward substantive security and dignity; the codes secure those values only partially, and often in attenuated or minimum-floor form [9,7,8,27,1,2].

6.7 International Perspectives on Flexible Employment

International labour standards do not reject flexibility as such; rather, they seek to prevent flexibility from becoming a vehicle for disguised or abusive employment practices.

The ILO Employment Relationship Recommendation, 2006 (No. 198) is especially relevant to the Indian debate because it urges member States to develop clear methods for determining the existence of an employment relationship and to combat disguised employment arrangements. That recommendation speaks directly to sham contracting, labour intermediation and the perennial judicial difficulty of identifying the real employer in triangular labour arrangements [36,21,24,26].

The ILO Private Employment Agencies Convention, 1997 (No. 181), though framed for a broader institutional setting, also offers a valuable benchmark. It recognises the

role of labour-market intermediation while insisting that workers employed through private agencies must enjoy protection in matters such as freedom of association, collective bargaining, minimum wages, working time, occupational safety and health, and social security. The normative lesson is clear: intermediation may be tolerated, but not at the cost of labour rights floors [37].

The comparative experience with fixed-term work is equally instructive. The European Union's Fixed-Term Work Directive combines two ideas: non-discrimination between fixed-term and comparable permanent workers, and prevention of abuse arising from successive fixed-term contracts. Indian law has moved decisively toward the first idea by recognising parity for fixed-term employees. It has moved much less decisively toward the second. There is as yet no robust statutory doctrine against serial renewals, no general requirement of objective justification for repeated resort to fixed terms, and no conversion rule after successive contracts.

In comparative terms, the Indian model is therefore stronger on equal treatment within the term than on security against repetitive temporariness [31,8,1,17].

6.8 Critical Evaluation of Labour Flexibility under the Labour Codes

The labour codes possess genuine strengths. They reduce legislative fragmentation, rationalise licensing and registration, and introduce a more coherent compliance architecture.

In contract labour, they preserve an important welfare backstop through principal-employer liability for wages and facilities. In fixed-term employment, they reject the idea that time-bound work justifies inferior conditions and instead insist on parity with permanent workers during the contractual period. In administrative terms, the shift toward digital records, common portals and standard forms may improve traceability and reduce some of the procedural opacity that historically surrounded labour contracting [7,8,27,1,2,5].

At the same time, the reforms also reflect a clear redistribution of legal risk in favour of managerial flexibility. The increase of the contract-labour threshold from twenty to fifty narrows statutory coverage. The prohibition on contract labour in core activities is qualified by exceptions broad enough to accommodate a great deal of outsourced work. The relocation of contract labour into the OSHWC Code subtly shifts regulatory emphasis away from the employment-status question and toward minimum welfare and safety management. None of these features is necessarily illegitimate, but together they indicate that the codes seek to manage rather than fundamentally restrain contractualisation [20,7,16,10,14].

The fixed-term regime produces a related ambivalence. On one view, it is a progressive alternative to outsourcing because it keeps the employment relation direct and legally

visible. On another view, it is a normalised pathway for circumvention of the stabilising functions historically associated with regular employment. Because the Code excludes expiry from retrenchment and the current framework lacks strong anti-rollover safeguards, employers may repeatedly renew fixed-term contracts while formally complying with parity obligations. The worker may then receive equal wages during each term but never acquire real employment security.

In that sense, the reform can be criticised not for creating overtly inferior workers, but for making precarity legally respectable [8,1,31,17].

Judicial context deepens this concern. After Steel Authority of India, abolition or illegality in the contract labour system does not automatically produce absorption, and later cases have insisted on careful proof of the real employment relationship.

That doctrinal stance gives employers greater room to structure work through contractors or short-duration contracts, provided they maintain formal compliance. The codes do not reverse this trajectory. Indeed, they sit comfortably within it, because they regulate flexible work more clearly than they challenge the underlying structural turn toward non-standard employment [23,24,25,26].

A further complication is transitional implementation. The codes entered into force only in late 2025, after a prolonged period in which they were enacted but unimplemented; central rulemaking has moved forward through late-2025 notifications and detailed ministry guidance, yet official implementation materials themselves recognise that significant operational detail will continue to depend on rules and institutional adaptation. The Industrial Relations Code (Amendment) Act, 2026, which addressed repeal and continuity of tribunals and statutory authorities, is illustrative of this unfinished transition. Reform on paper has therefore outrun settled practice. That lag matters, because in labour law the welfare value of rights depends decisively on forums, procedures and administrative habit [4,1,2,3,5].

The central question, then, is not whether the codes strike a balance between flexibility and welfare in some abstract sense. They do. The harder question is what kind of balance they strike.

The emerging pattern is one in which labour welfare is secured through minimum floors, documentary visibility and selective parity, while employer capacity to vary the workforce through outsourcing and fixed-term hiring is simultaneously strengthened. That is a defensible model only if enforcement is credible, anti-abuse interpretation is robust, and access to social protection does not depend excessively on continuity of open-ended employment. Those conditions cannot be assumed; they must be institutionally produced [9,6,10,11,14].

6.9 Policy Challenges in Regulating Flexible Employment

Three policy challenges stand out. The first is monitoring. Contract labour regulation depends on knowing who the workers are, where they are deployed, whether the contractor is licensed, and whether the principal employer has discharged its statutory obligations.

Digital filing can help, but only if it is backed by interoperable databases, intelligent inspection, and credible sanctions for misreporting. Otherwise, portalisation may merely document those workers who were already visible while leaving the most precarious labour outside the system's field of vision [2,5,7].

The second challenge is preventing misuse of fixed-term employment. If fixed-term work is to remain a lawful instrument of flexibility rather than a general substitute for regular employment, the legal system may need sharper anti-abuse norms. Comparative practice suggests several possibilities: limits on successive renewals, presumptions of regular status after repeated contracts, a requirement of objective justification for serial fixed-term hiring, or at least stronger scrutiny where a worker performs perennial work for long periods through repeated short contracts. None of these devices would eliminate flexibility, but they would ensure that parity in wages is not purchased at the cost of permanent insecurity [31,17,36].

The third challenge concerns labour administration and industrial relations. The new regime assumes a competent enforcement state capable of coordinating labour departments, social-security institutions and adjudicatory forums. It also assumes that worker voice can survive in a more fragmented workforce. Both assumptions are fragile.

Contract workers and fixed-term employees need accessible grievance mechanisms, representation in collective processes, and portable social protection linked to the individual worker rather than exclusively to a stable and continuous establishment-based tenure. Without such institutional supports, the codes may simplify compliance for employers while leaving labour welfare too dependent on litigation, administrative discretion or individual bargaining power [3,5,27,9].

6.10 Conclusion

Contract labour and fixed-term employment reveal the deeper logic of India's new labour regime. Codification has not merely consolidated statutes; it has reorganised the normative structure of labour governance. Permanent employment remains legally important, but it no longer stands uncontested as the implicit horizon of labour law.

Alongside it now sit two legally recognised forms of flexible work: outsourced labour regulated through a welfare-and-compliance framework, and direct fixed-term labour regulated through parity within a finite duration. The codes therefore do not abolish labour welfare; they relocate it. Welfare is increasingly delivered through registration, digital traceability, wage backstops, parity clauses and social-security inclusion rather than through a strong presumption of stable, open-ended employment [8,7,27,6].

Whether this amounts to a defensible modernisation or a managed normalisation of precarity remains the central question. The answer is likely to vary by sector, by the capacity of labour administration, and by the interpretive posture adopted by courts and regulators in disputes about core activity, sham contracts, repeated fixed terms and actual equality of treatment. The jurisprudential history of Indian labour law shows that labour welfare has always depended on the willingness of institutions to look beyond contractual form to the realities of dependence, control and vulnerability. If the new codes are interpreted and implemented with that realism, they may produce a more transparent and accountable model of flexibility. If not, they risk transforming flexibility into a legally refined mechanism for the dilution of labour security. In that sense, the story of contract labour and fixed-term employment is not peripheral to the codification project; it is one of its clearest windows into the broader transformation of labour governance in India [21,23,24,26,36,9].

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Chapter 7

Labour Codes and Federalism: Centre-State Dynamics in Implementation

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7.1 Introduction: Federalism and Labour Governance in India

India's labour regime is best understood not simply as a body of welfare legislation, but as a constitutionally distributed system of governance. The Constitution allocates legislative authority between Parliament and the States, permits concurrent law-making on subjects in List III, and resolves conflicts through Article 254. Labour-law codification has therefore not displaced federalism; it has re-scripted it. The four labour codes-enacted in 2019-2020 and operationalised in substantial part from 21 November 2025-replace a fragmented statutory landscape with a unified legislative architecture, yet their efficacy still turns on state rule-making, inspection, adjudication, welfare delivery, and administrative coordination.[1][8][12]

This makes federalism central, not incidental, to the new labour regime. The codes promise simplification through common definitions, web-based inspection, electronic compliance, an Inspector-cum-Facilitator model, and a more integrated structure for wages, industrial relations, occupational safety, and social security. At the same time, they leave states with decisive responsibilities: framing subordinate legislation, appointing authorities, staffing labour departments, operating tribunals, enforcing standards, and mediating the relationship between labour protection and investment policy. The codes have unified the statute book, but not the field administration.[2][3][4][5][14]

The central argument of this chapter is that the success of codification depends less on legislative consolidation in the abstract than on the quality of cooperative federalism in practice. This chapter therefore examines the constitutional framework of labour federalism, the historical relationship between central legislation and state implementation, the federal implications of the four labour codes, and the practical challenges that arise when national uniformity is pursued through institutions that remain deeply decentralized. It also argues that the ultimate constitutional test of the codes is not merely whether they simplify compliance, but whether they advance the labour-welfare commitments embedded in the Constitution across India's uneven subnational landscape.[1][16][18][20][21]

7.2 Constitutional Framework of Federalism in India

7.2.1 Federal Structure under the Constitution

The Indian Constitution adopts a federal structure with a strong Union, but it does not eliminate the constitutional significance of the States. Article 246 distributes legislative competence across the Union List, State List, and Concurrent List. Parliament enjoys exclusive authority over List I; States possess exclusive authority over List II subject to constitutional limitations; and both may legislate with respect to List III. This design reflects a double commitment: national coherence in matters requiring broad uniformity, and regional autonomy where social and economic conditions differ. In labour matters, this balance is especially important because labour markets are national in consequence but local in experience. Industrial structure, migration patterns, labour informality, and administrative capacity differ widely across States, making a purely centralized model both impractical and normatively incomplete.[1][23][24]

Indian federalism thus operates less as a rigid territorial partition than as a structured sharing of regulatory authority. Labour law illustrates this particularly well. Even before codification, Parliament frequently enacted general labour statutes, while implementation was often entrusted to state departments, inspectors, labour courts, welfare boards, and local administrative authorities. The Constitution's federal design thereby enabled a common normative grammar of labour welfare without requiring identical institutional pathways in every State. That duality-central norm, state administration-continues under the codes.[1][8][23]

7.2.2 Legislative Competence under the Seventh Schedule

The Seventh Schedule structures legislative power through three lists, but for labour the crucial site is the Concurrent List. Official labour-ministry materials repeatedly acknowledge that labour is a concurrent subject, which is why both the Central Government and the State Governments are required to frame rules under the four labour codes. This constitutional location is doctrinally significant: it recognizes that labour welfare implicates national economic policy, social justice, and industrial peace, while also demanding sensitivity to local labour markets, sectoral composition, migration, and administrative reach.[1][8][9]

The codes preserve this constitutional settlement rather than replacing it. Although Parliament has consolidated the central enactments into four umbrella statutes, the new regime still presupposes subordinate legislation by States and differentiated administrative action by "appropriate governments." In other words, codification has centralized statutory form, but not legislative exclusivity. The Centre now supplies a

more coherent national framework; the States remain constitutionally embedded participants in the making of operational labour law.[2][3][4][5][9]

7.2.3 Significance of Concurrent Jurisdiction in Labour Law

The placement of labour in the Concurrent List serves two related purposes. First, it allows the Union to establish common standards in wages, dispute resolution, safety, and social security. Secondly, it leaves room for States to adapt procedures and institutions to local conditions. Article 254 provides the doctrinal mechanism for managing overlap: where a state law on a concurrent subject is repugnant to a parliamentary law, the central law prevails, unless the state law has received Presidential assent under Article 254(2), in which case it may prevail within that State until Parliament legislates again. In *M. Karunanidhi v. Union of India* and *Hoechst Pharmaceuticals Ltd v. State of Bihar*, the Supreme Court clarified that repugnancy arises where central and state laws in the same concurrent field are irreconcilably inconsistent, and that Article 254 is thus a mechanism of federal ordering, not a denial of state autonomy.[1][20][21]

Concurrent jurisdiction in labour law is also justified by constitutional principle. The Directive Principles require the State to secure a social order informed by justice, equal pay for equal work, humane conditions of work, maternity relief, a living wage, and workers' participation in management. These ideals are reinforced by Articles 14, 21, and 23, which anchor labour regulation in equality, dignity, and protection against exploitation. In *People's Union for Democratic Rights*, the Court held that non-payment of statutory minimum wages could implicate Article 23; in *Bandhua Mukti Morcha*, it treated bonded labour and state inaction as constitutional wrongs; and in *Randhir Singh*, it read the idea of equal pay for equal work into the equality code through Articles 14 and 16 read with Article 39(d). The constitutional logic of labour federalism is therefore not purely administrative: it is a shared obligation to realize social justice through multi-level governance.[1][16][17][18]

7.3 Historical Development of Labour Federalism in India

7.3.1 Central Role in Labour Legislation

Historically, the central government has played the dominant legislative role in Indian labour law. Colonial regulation began with factory legislation and measures responding to industrialization, labour unrest, and international pressures. After independence, Parliament enacted the major legal architecture governing trade unions, industrial disputes, wage protection, social insurance, maternity relief, bonus, equal remuneration, contract labour, migrant labour, and welfare of unorganized workers. Even where these enactments targeted discrete sectors or problems, they

pursued a recognizably national project: establishing baseline labour standards and integrating labour welfare into the constitutional vision of social democracy.[7][23][24]
This central legislative dominance had both normative and functional justifications. Normatively, labour protection was seen as part of the postcolonial commitment to distributive justice and industrial citizenship. Functionally, labour mobility, inter-state commerce, and the national importance of industrial peace made a wholly state-based regime unattractive. But even in this period, central legislation did not create a unitary labour state. Much of the system depended on state labour departments, local inspections, welfare boards, conciliation officers, and adjudicatory institutions constituted or operated at the state level. Indian labour federalism was thus historically characterized by centralized legislation and decentralized administration.[1][8][23]

7.3.2 Role of State Governments in Implementation

The role of States in implementation has always been substantive rather than merely clerical. State labour departments have traditionally supervised registration, inspections, compliance, conciliation, prosecution, and dispute settlement. Under the older industrial-disputes framework, references to labour courts and tribunals, conciliation machinery, and enforcement activities were deeply mediated by the state apparatus. Similarly, social-security and welfare legislation often depended on state-level boards, officers, and local delivery institutions, especially in relation to unorganized workers and sector-specific welfare measures.[4][8][9]
This state role mattered because labour governance is inseparable from regional political economy. Enforcement in a highly industrialized manufacturing state differs from enforcement in a service-led state, a mineral belt, or a predominantly agrarian labour market with seasonal migration. State governments have historically translated national norms into regionally specific enforcement strategies, whether through more active inspection, sectoral exemptions, welfare schemes, or rule-making under central enactments. That pattern continues under the codes, though the balance between local adaptation and national standardization is now more politically charged.[8][9][22]

7.3.3 Variations in State-Level Labour Governance

Variation across States has long been one of the defining features of Indian labour governance. Differences arise from economic development levels, the density of industrial employment, the scale of informality, political alignment, and the capacity of labour administrations. Before codification, some States used their space under the existing labour laws to liberalize closure and retrenchment thresholds, to experiment with fixed-term employment, or to create administrative adaptations for particular sectors. In September 2020, the Union itself emphasized that sixteen States had already increased the threshold under the Industrial Disputes Act from 100 to 300

workers before passage of the Industrial Relations Code, demonstrating that state-level policy experimentation was already an established feature of the federal labour landscape.[3][11]

The move toward codification partly emerged as a response to this complex and layered environment. The Second National Commission on Labour had recommended rationalization and consolidation, and the Ministry has repeatedly framed the codes as an answer to multiplicity, inconsistency, and compliance complexity. Yet the older federal problem did not disappear with codification; it merely changed form. Instead of asking whether India should have many labour statutes, the federal question now becomes whether a simplified central statute can be made effective across States with divergent institutional capacities and policy orientations.[7][8][12]

7.4 Federal Implications of Labour Law Codification

7.4.1 Centralisation of Labour Legislation

The most obvious federal implication of codification is the centralization of legislative architecture. The Ministry's Annual Report states that four labour codes have amalgamated 29 central labour laws in order to reduce multiplicity, simplify compliance, improve transparency and accountability, and extend welfare more effectively. The reform is therefore not merely technical consolidation. It alters the grammar of labour regulation by replacing statute-specific governance with a code-based structure built on common definitions, common compliance devices, and cross-cutting administrative principles.[8][12][14]

The Code on Wages, 2019 is a particularly clear example of centralizing design. It consolidates wage regulation and universalizes the right to minimum wages across employments, replacing the older patchwork of scheduled-employment logic. It also empowers the Central Government to fix a floor wage and requires that minimum wages fixed by the appropriate government cannot fall below that floor. Combined with a common definition of "wages," provisions on timely payment, bonus, and gender equality, the Code aims to establish a national baseline of wage justice while preserving state responsibility for fixation, revision, and enforcement of minimum wages above the floor. The federal structure is thus mixed: a central normative floor combined with state-level implementation and contextual wage-setting.[2][12]

The Industrial Relations Code, 2020 centralizes the law of collective labour relations by consolidating trade unions, standing orders, and industrial disputes within a single framework. It creates the concepts of negotiating union and negotiating council, requires grievance redressal committees in eligible establishments, restructures tribunal arrangements, regulates strikes and lockouts through wider notice

requirements, and establishes a re-skilling fund for retrenched workers. It also raises the threshold for prior governmental permission for lay-off, retrenchment, and closure to establishments employing 300 or more workers, while official government materials note that States may enhance this limit further. The Code therefore seeks national predictability, but it simultaneously opens a space for differentiated state responses on a question central to industrial policy and labour security.[3][10][11]

The Code on Social Security, 2020 similarly integrates a wide range of social-protection statutes into one framework covering provident fund, employees' state insurance, gratuity, maternity benefit, employee compensation, and welfare of unorganized, gig, and platform workers. Its architecture is both centralizing and federal. On the one hand, it adopts a unified statutory vocabulary and creates a broader social-security framework with explicit recognition of new categories of work. On the other hand, it retains and reorganizes a plural institutional structure involving national and state-level boards, including state boards for unorganized workers, and depends heavily on registration, identification, data-sharing, and scheme execution that cannot be meaningfully delivered without state cooperation. In doctrinal terms, it is a central code with decentralized welfare consequences.[4][12]

The Occupational Safety, Health and Working Conditions Code, 2020 centralizes another large field by bringing together diverse rules on safety, welfare, working conditions, contract labour, and inter-state migrant workers. Official explanations emphasize that the Code establishes broad OSH standards, expands the definition of inter-state migrant workers to include self-migrated workers, requires annual health check-ups in covered establishments, and provides for appointment letters and the possibility of women working in all establishments and at night subject to safeguards. Yet the actual effectiveness of these protections depends on state rule-making, local inspection, and enforcement capacity. Occupational safety is perhaps the clearest illustration of why federal labour governance cannot be reduced to legislative drafting: a national code cannot inspect a workplace; only institutions can.[5][12]

Viewed together, the four codes unmistakably standardize labour legislation. They reduce the number of draft rules, forms, registers, and returns; they adopt common concepts such as electronic compliance and Inspector-cum-Facilitator; and they aim to make multi-state compliance less fragmented for employers. The Compliance Handbook states that draft rules were reduced from 1,436 to 351, returns from 31 to one annual electronic return, forms from 181 to 73, and registers from 84 to eight. For employers, this represents a substantial reduction in formal complexity. For the federal system, however, simplification has a paradoxical effect: it increases the importance of implementation quality, because fewer statutory layers now bear more governance weight.[14]

7.4.2 Role of States in Rule-Making

States remain indispensable because the codes are framework statutes. Their practical content is completed through rules governing forms, authorities, procedures, licensing, inspections, digital filings, welfare boards, and local administrative processes. Official ministry materials acknowledge this directly: labour is a concurrent subject and the codes require rules by both the Centre and the States. This means that the actual lived experience of codification will differ depending on how quickly and how carefully each State frames, notifies, and operationalizes its rules. In federal terms, subordinate legislation is where national design becomes subnational reality.[9][15]

7.4.3 Coordination between Central and State Governments

Because the codes require parallel rule-making and shared administration, coordination between the Central Ministry of Labour and Employment and state labour departments becomes an institutional necessity. The Ministry's Annual Report records that six regional meetings were held in 2024 with States and Union Territories to discuss gaps and divergences between the central draft rules and state draft rules, and that the States agreed to align or modify their drafts. In January 2026, the Ministry again convened a regional conference and specifically highlighted the need for quick notification of rules, digital integration through the Shram Suvidha and Samadhan portals, and attention to overlaps between the labour codes and state shops and establishments laws. This is cooperative federalism in a concrete sense: consultation, alignment, interoperability, and conflict-management rather than abstract constitutional rhetoric.[8][15]

7.5 Implementation Challenges in a Federal System

7.5.1 Differences in State Administrative Capacity

The first major challenge in a federal implementation model is uneven administrative capacity. The formal existence of a code does not guarantee effective enforcement if states differ widely in staffing, digital preparedness, inspection infrastructure, adjudicatory functioning, or welfare-delivery mechanisms. The official record itself reflects this unevenness. As of 31 December 2024, state and Union Territory progress in pre-publishing draft rules varied across the codes; and the Ministry's own digital-integration efforts with the Shram Suvidha Portal were still underway with a limited group of States. By January 2026, the Union was still urging States to notify rules and enable seamless API-based integration. The inference is straightforward: the labour codes presume a level of administrative readiness that is not uniformly available across the federation.[8][15]

7.5.2 Variation in Labour Policy Priorities

The second challenge is that States may pursue different labour-policy priorities. Some may see labour reform primarily through the lens of industrial growth, formalization, and investment attraction; others may prioritize labour protection, distributive welfare, or political responsiveness to organized labour. This divergence is neither accidental nor constitutionally aberrant. Federal systems create room for such variation. But in labour law the consequences are unusually significant, because state preferences can affect job security, the aggressiveness of enforcement, the manner of rule-making, and the balance struck between compliance facilitation and protective intervention. Earlier state experimentation with higher retrenchment thresholds under the Industrial Disputes Act demonstrates that labour federalism in India has long been entwined with economic strategy.[3][11][22]

Table 7.1. Division of Responsibilities in Labour Governance

Governance level	Key responsibilities
Central Government	Enacts the labour codes; frames central rules for the central sphere; sets the national policy framework; develops common digital platforms; coordinates intergovernmental consultations; fixes the statutory floor wage under the Code on Wages.
State Governments	Frame state rules; revise and enforce minimum wages subject to the floor wage; administer inspections and local compliance; operate labour departments; support social-security and welfare institutions; manage large parts of adjudicatory and enforcement machinery.
Labour administration / shared institutions	Registration, licensing, inspections, compliance monitoring, conciliation, dispute resolution, social-security delivery, data sharing, and worker-employer interface through portals and field offices.

Source: Compiled from the Constitution of India and Ministry of Labour & Employment implementation materials.[1][8][15]

The table clarifies a point often obscured by the rhetoric of codification: legislative consolidation has not produced administrative centralization. The Centre supplies the legal architecture and much of the reform narrative, but labour governance remains distributed across multiple layers of authority. In practice, workers encounter the state chiefly through state labour departments, inspectors, conciliators, welfare boards, and

tribunals; employers experience the codes through the quality of state rule-making and enforcement; and the Union depends on data integration and policy harmonization to make national standards meaningful. Federalism here is not an institutional afterthought. It is the operating logic of labour administration.[1][8][14]

7.5.3 Regulatory Competition among States

A third challenge is regulatory competition. When labour law is partly decentralized, States may use labour flexibility as a competitive instrument to attract investment, particularly in manufacturing and labour-intensive sectors. That dynamic is visible in the history of threshold reforms, in state-level experimentation with flexible employment arrangements, and in the policy language of investment-friendliness that often accompanies labour reform. Such competition is not always normatively undesirable: it may encourage modernization and administrative efficiency. But it also raises the classic federal concern of a race to the bottom, where protective standards are weakened not because they are unjustified, but because they are seen as economically costly. Critics of the codes have therefore argued that simplification may, in some sectors, be accompanied by a subtle rebalancing of power toward employers.[11][22][40]

Table 7.2. Pre-publication of State/UT Draft Rules under the Four Labour Codes (as on 31 December 2024)

Labour code	Number of States/UTs that had pre-published draft rules
Code on Wages, 2019	34
Industrial Relations Code, 2020	32
Code on Social Security, 2020	32
Occupational Safety, Health and Working Conditions Code, 2020	33

Source: Ministry of Labour & Employment, Annual Report 2024-25.[8]

The table demonstrates two features of federal implementation at once. First, there was substantial progress toward nationwide preparedness before full operationalisation. Secondly, preparedness was not uniform. The Ministry stated in July 2025 that only 32 States/UTs had pre-published draft rules under all four codes; West Bengal and Lakshadweep had not pre-published rules under the four codes; Delhi had pre-published only under the Code on Wages; and Tamil Nadu had not pre-published draft rules under the Social Security Code. Even after code provisions were

brought into force on 21 November 2025, the Centre continued in January 2026 to urge States to notify rules quickly. This staggered trajectory captures the central dilemma of labour federalism: legislative reform can be nationally announced, but implementation remains temporally and institutionally uneven.[9][12][15]

7.6 Role of State Governments in Implementing Labour Codes

7.6.1 State-Level Rule-Making

State rule-making is the first point at which the codes are translated into practical governance. Rules determine the procedural life of the statute: how establishments register, what forms are filed, how authorities function, which digital processes apply, how inspections are triggered, and how specific entitlements are claimed or administered. In a code-based system, where the principal legislation is intentionally more general and integrative, this role becomes even more important. The same code can therefore operate with different practical textures across States, not because the statute changes, but because the rule-making environment does.[2][3][4][5][9]

This has two implications. For employers, state rules determine whether codification feels like genuine simplification or merely a new layer of transitional uncertainty. For workers, state rules affect how accessible labour rights actually are-particularly in relation to claim procedures, welfare registration, or local enforcement channels. For the federal system, subordinate legislation becomes a site of normative choice: whether to lean toward facilitation, protection, digitization, or procedural formalism. That is why the Union's repeated consultations with States on "gaps and divergences" in draft rules were so important. The politics of labour federalism has moved from primary legislation to the design of subordinate norms and administrative pathways.[8][15]

7.6.2 Labour Inspection and Enforcement

Inspection and enforcement remain overwhelmingly dependent on State capacity. The new regime seeks to replace an older inspector-centric model with a web-based inspection system and the institution of the Inspector-cum-Facilitator. Official government materials describe this as an effort to reduce arbitrariness, improve transparency, and encourage compliance rather than rely solely on prosecution. In principle, this is consistent with modern regulatory theory. Yet the success of a facilitative model presupposes competent inspectorates, reliable digital infrastructure, effective risk selection, and meaningful follow-up-conditions that vary widely across States. Without these, "facilitation" may become a euphemism for weak enforcement.[12][14]

International labour standards illuminate this issue. India has ratified the ILO Labour Inspection Convention, 1947 (No. 81), and ILO materials note that it has not ratified

Convention No. 129 on labour inspection in agriculture. The ILO's standards framework also underscores that ratified conventions require implementation and reporting, while the post-2022 classification of OSH Conventions Nos. 155 and 187 as fundamental conventions strengthens the normative expectation that labour inspection and occupational safety be treated as core governance commitments. In that light, the federal question is not whether the Centre has modernized inspection language, but whether state enforcement institutions are sufficiently resourced and coordinated to satisfy both constitutional and international expectations of labour protection.[25][27][28][29][30]

7.6.3 Labour Dispute Resolution at State Level

Dispute resolution under the labour codes also illustrates the persistence of federal implementation. The Industrial Relations Code restructures industrial-relations law, but conciliation and adjudication continue to depend on institutions embedded within the wider state apparatus. The transitional problem became explicit when the Industrial Relations Code (Removal of Difficulties) Order, 2025 provided that existing labour courts and industrial tribunals under the Industrial Disputes Act would continue to hear existing and even new cases until tribunals under the new Code are constituted. This is a revealing moment in the life of codification: the new national law had to lean on the old institutional order because the adjudicatory machinery of federal implementation could not be instantaneously rebuilt.[3][6]

The lesson is broader than the transitional order itself. Labour adjudication in India has long functioned through distributed institutions-conciliation officers, labour courts, tribunals, and state-linked administrative processes. Even when Parliament revises the substantive law, institutional continuity depends on state cooperation, staffing, notification, and procedural adaptation. Comparative experience reinforces the point. Germany, for example, maintains a nationally structured labour-law system but relies on Labour Courts and Land Labour Courts organized through the Länder, with the Federal Labour Court at the apex. Labour adjudication can therefore be nationally coherent while institutionally decentralized; but such a model succeeds only when subnational institutions are stable and credible.[38]

7.7 Comparative Perspectives on Labour Federalism

Comparative federal systems show that there is no single correct way to organize labour governance. Canada represents a relatively dualist model: federal labour standards apply mainly to employees in federally regulated businesses, while most employees fall under provincial or territorial labour standards. This produces strong regional autonomy but also a more explicit jurisdictional fragmentation. The Canadian example shows one endpoint of labour federalism, where constitutional

division maps quite clearly onto separate regulatory spheres. India is not organized this way. Its labour codes are far more centrally framed, even though implementation remains shared.[34][35]

Australia presents a different model, closer to national integration. The Fair Work system covers most Australian workplaces and was built in part through state referrals of power to the Commonwealth, although significant parts of state public sectors and some residual systems remain outside it. This arrangement combines national labour standards, awards, and minimum wages with a strong central institutional framework, but it still leaves room for subnational variation at the margins. For India, the Australian experience is instructive because it demonstrates that deeper national harmonization in labour law often requires not just legislative ambition, but sustained intergovernmental settlement and institutional redesign.[36][37]

Germany offers a third comparative insight. There, labour law is nationally structured, but the administration of justice is territorially layered, with Länder-level labour courts feeding into a federal apex court. This resembles India not in constitutional detail but in institutional logic: national coherence can coexist with decentralized enforcement and adjudication. The key difference is that India's labour market is marked by much higher informality, greater interstate migration, and sharper disparities in state administrative capacity. The same federal model is therefore likely to generate more uneven welfare outcomes in India unless coordination and capacity-building are more deliberate.[38]

Global labour standards also provide a normative frame for evaluating labour federalism. ILO materials emphasize labour inspection, occupational safety, social security, freedom of association, and collective bargaining as core elements of labour governance. India has ratified Convention No. 81 on labour inspection, but official material also indicates that it has not ratified Conventions Nos. 87 and 98 on freedom of association and collective bargaining, and ILO materials note that India is not a signatory to Convention No. 102 on minimum standards of social security. These benchmarks do not dictate a single constitutional model, but they do suggest that any federal system must be judged by whether it secures substantive labour protections rather than merely allocating administrative functions.[25][26][27][28][31][32][33][39]

7.8 Impact of Federalism on Labour Welfare

7.8.1 Potential Benefits of Federal Labour Governance

Federal labour governance can enhance labour welfare in at least three ways. It allows States to experiment with administrative forms and welfare delivery; it permits adaptation to regional industrial conditions; and it creates opportunities for closer institutional contact between workers and regulatory authorities. In a country as

diverse as India, the capacity to tailor implementation to local conditions is not a minor advantage. Social-security delivery for unorganized workers, registration drives for migrant workers, or strategies for enforcing safety norms in mining, construction, or manufacturing may all require state-specific institutional responses. Federalism, at its best, can therefore make welfare governance more context-sensitive and more administratively realistic.[1][4][8]

7.8.2 Risks of Uneven Labour Protection

The corresponding danger is uneven labour protection. If some States notify rules slowly, staff their labour departments weakly, under-invest in inspection, or prioritize investment over enforcement, workers' access to rights may vary sharply across the federation. This is especially serious for those workers who are already structurally vulnerable: migrant labour, fixed-term employees, contract labour, gig workers, platform workers, and workers in the unorganized sector. The new codes promise broader inclusion, but inclusion in law does not automatically become inclusion in administration. Uneven federal implementation can convert formal universality into practical patchiness. That is the central welfare risk of the new labour regime.[12][15][22]

7.8.3 Federal Coordination Challenges

For that reason, federal coordination is not just a managerial concern; it is a welfare imperative. The Ministry's own recent emphasis on regional consultations, rule harmonization, portal integration, and capacity-building through labour institutions indicates recognition of this point. The logical policy response is a more explicit architecture of cooperative implementation: model rules that are genuinely consultative, transparent state scorecards on notification and enforcement, interoperable worker databases, regular Centre-State review conferences, targeted support for weak labour administrations, and public reporting on inspection and dispute-resolution outcomes. These suggestions extend from, rather than depart from, the official materials, which already emphasize alignment, digital integration, and training.[8][15]

The welfare stakes are especially high in relation to portability. The Social Security Code's inclusion of gig, platform, and unorganized workers, and the OSHWC Code's broader understanding of inter-state migrant workers, are normatively significant advances. But these groups depend more than others on interoperable registration systems, portable entitlements, and cross-border administrative coordination. A worker who migrates from Bihar to Gujarat, or a platform worker whose earnings cross state lines, cannot be effectively protected through a purely territorially siloed administrative model. In this respect, codification creates an opportunity for federal

welfare innovation, but only if States and the Centre treat portability as a core design principle rather than an afterthought.[4][5][12][26]

7.9 Critical Evaluation of Labour Codes in a Federal Context

The labour codes have genuine strengths. They simplify a notoriously fragmented central labour-law landscape; reduce duplicative compliance structures; introduce common definitions; create the possibility of more coherent digital governance; universalize minimum-wage coverage in statutory design; and formally widen the horizon of labour welfare to include gig, platform, and broader categories of migrant and fixed-term workers. The compliance-handbook figures on reduced rules, returns, forms, and registers suggest a substantial improvement in formal regulatory intelligibility. In a federal market where firms often operate across multiple States, this is not a trivial achievement. Simplification can itself be welfare-enhancing if it makes compliance more knowable, rights more legible, and enforcement more transparent.[2][4][5][12][14]

At the same time, constitutional labour welfare cannot be reduced to compliance simplification. The jurisprudence of *PUDR*, *Bandhua Mukti Morcha*, *Randhir Singh*, and later *State of Punjab v. Jagjit Singh* makes clear that labour rights in India are tied to substantive equality, dignity, anti-exploitation, and fair remuneration, not merely to administrative efficiency. *Jagjit Singh* is especially important because it extended the equal-pay principle to temporary employees performing comparable work, thereby underscoring that labour justice cannot be evaded through formal employment classifications. Any evaluation of the codes must therefore ask whether they deepen the material protection of vulnerable workers, or whether they primarily rationalize the regulatory environment in a way that may advantage capital unless counterbalanced by strong enforcement and welfare delivery.[16][17][18][19]

From a federal perspective, the most serious structural concern is that codification may have centralized legislative priority without adequately redistributing implementation capacity. States still carry much of the administrative burden, but their effective autonomy is often procedural rather than programmatic: they may frame rules and administer the system, yet the substantive architecture is heavily centralized. This can produce an accountability gap. When welfare fails, the Centre may point to state implementation; when States seek policy space, they may confront a more tightly framed national code. The delayed and uneven progress of state rule notification, coupled with continuing Union pressure for alignment and integration, suggests that the new regime risks asymmetry between central design and state capacity.[8][9][15]

There are also specific distributive controversies. The increased threshold for prior governmental permission in cases of lay-off, retrenchment, and closure; the

expansion of fixed-term employment; and the move toward decriminalization and compounding of certain offences can all be defended as rational regulatory reform. But they can also be criticized as shifts that favour managerial flexibility unless embedded within robust bargaining institutions, active inspection, and effective social security. The political contestation that accompanied implementation in November 2025-when major trade unions condemned the new codes and organized nationwide protests-shows that the codes are not experienced as neutral simplification by all stakeholders. Scholarly critiques likewise argue that the reform package may produce gains in formal coherence while weakening worker bargaining power in practice.[11][22][40]

The better view is therefore a qualified one. The labour codes do strike an important step toward national coherence, and in some respects they create the preconditions for a more portable, technology-enabled, and inclusive labour-welfare framework. But they do not yet settle the federal question satisfactorily. Their constitutional promise will be realized only if the Union supports state capacity, if States notify and implement rules with seriousness, if tribunals and inspectorates are functionally strengthened, and if labour welfare remains the substantive benchmark of reform. In doctrinal terms, the codes are valid instruments of concurrent legislation. In governance terms, they remain a contingent experiment in cooperative federalism whose outcomes are still being made.[1][6][12][15][21]

7.10 Conclusion

India's new labour regime reveals that codification is not the end of labour federalism but its reconfiguration. The old order combined numerous central statutes with highly varied state implementation; the new order combines a compact central code structure with equally decisive, and perhaps even more visible, state responsibility in rule-making, inspection, adjudication, and welfare delivery. The shift is therefore from dispersed legislative pluralism to centralized legislative architecture with decentralized implementation. Whether this produces greater social justice or merely greater formal coherence depends on how the federal relationship is organized after codification.[1][8][12]

The broader transformation of labour governance in India is thus institutional as much as legal. The codes ask the federation to perform a difficult task: to maintain national standards while permitting regional flexibility; to simplify compliance without trivializing protection; and to modernize labour administration without weakening the constitutional commitment to dignity, equality, and welfare. If cooperative federalism is deepened-through harmonized rules, stronger state administrations, interoperable digital systems, and a constitutional insistence on substantive labour justice-the codes may yet become instruments of welfare-oriented modernization. If

not, codification will remain an elegant legislative project resting on uneven foundations.[1][16][18][15]

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Chapter 8

Social Security Code, 2020: Expanding the Contours of Labour Welfare

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8.1 Introduction: Social Security as a Pillar of Labour Welfare

Social security lies at the normative and institutional centre of labour welfare. It translates the abstract promises of dignity, equality and decent work into concrete legal entitlements against the recurrent contingencies of working life: sickness, maternity, disability, employment injury, old age and loss of income. In labour-law terms, it performs at least three functions. First, it redistributes risk away from the individual worker and household. Secondly, it stabilises labour markets by reducing the catastrophic consequences of illness, injury or retirement. Thirdly, it marks the transition from a purely contractual understanding of employment to a social-citizenship model in which labour is treated as a source of entitlement and not merely as a commodity.[1][17][18][29][30]

Within India's wider labour-law transformation, the Code on Social Security, 2020 occupies a particularly important place. It is one of the four labour codes through which Parliament consolidated 29 central labour enactments, and it specifically subsumes nine statutes relating to provident fund, state insurance, gratuity, maternity protection, employment injury compensation, welfare cess for building workers, welfare funds, and unorganised-worker security. The Code was enacted in September 2020, but its operational life has been staggered: official Gazette materials published at the end of 2025 indicate that different provisions were brought into force through notifications issued on 30 April 2021, 3 May 2023, 21 November 2025 and 19 December 2025, while the consolidated central rules were circulated in draft form on 30 December 2025.[2][3][22][23]

The central claim of this chapter is that the Social Security Code seeks both to rationalise and to expand India's social protection architecture, but that these two ambitions do not advance with equal intensity. The Code is strongest where it consolidates and preserves established contributory institutions such as EPF and ESI; it is more tentative where it promises extension to unorganised, gig and platform workers, because that promise often depends upon future schemes, registration systems, financing arrangements and administrative capacity. The result is a new

labour-welfare regime that is broader in vocabulary, more data-driven in administration, and potentially more inclusive in coverage, yet still marked by threshold-based protection, executive discretion and uneven enforceability.[2][21][22][31]

8.2 Concept and Importance of Social Security in Labour Law

8.2.1 Meaning and Scope of Social Security

In labour-law theory, social security is best understood as a legal system for pooling and allocating social risk. It protects workers against events that interrupt or diminish earning capacity and thereby threaten subsistence, health and family stability. The Code itself adopts a broad definition: "social security" encompasses measures of protection for employees, unorganised workers, gig workers and platform workers that secure access to health care and income security in old age, unemployment, sickness, invalidity, work injury, maternity and loss of breadwinner. This definition is notable for two reasons. It extends beyond classical employer-employee categories, and it conceptualises social security not as a single scheme but as a cluster of protections linked to both labour status and social vulnerability.[2][18][29]

The theoretical breadth of the concept matters because labour markets produce insecurity in structurally patterned ways. Waged employment can be interrupted by illness; women workers bear disproportionate reproductive burdens; informal workers face weak income continuity; older workers confront post-employment insecurity; and migrant or gig workers often lack stable attachment to any one establishment. Social security therefore operates not only as post-facto relief but as an institutional precondition for meaningful labour freedom. Without it, the costs of labour-market shocks are privatised to the household, especially to women and low-income families.[17][27][28][30]

8.2.2 Social Security as a Human Rights Principle

The human-rights basis of social security is well established. Article 9 of the International Covenant on Economic, Social and Cultural Rights recognises the right of everyone to social security, including social insurance, while International Labour Organization standards treat protection against major contingencies as a core dimension of social justice. Recommendation No. 202 further shifts the focus from narrow insurance design to the broader idea of nationally guaranteed social protection floors. In this perspective, social security is not a welfare afterthought; it is part of the normative infrastructure of human dignity.[17][18][19]

In India, this human-rights orientation is mediated through the Constitution. The Directive Principles direct the State to secure conditions of work that protect workers' health and strength, provide public assistance in old age, sickness and disablement, ensure maternity relief, and move toward a living wage and decent conditions of life.

Judicial doctrine has long used these provisions to give social content to Articles 14 and 21. In *Consumer Education & Research Centre v Union of India*, the Supreme Court treated the right to health and medical care of workers as integral to the right to life; in *Municipal Corporation of Delhi v Female Workers (Muster Roll)* it extended maternity protection beyond regular employment and anchored that protection in equality, dignity and humane working conditions.[1][11][13][31]

8.2.3 Role of Social Security in Labour Welfare Regimes

A mature labour-welfare regime does more than regulate wages and working conditions; it protects the worker across the lifecycle of labour. Social security reduces destitution, improves retention, supports labour-market participation, and moderates the coercive pressure of economic shocks. At the macro level, it stabilises demand and reduces the social costs of precarious employment. At the micro level, it allows workers to negotiate work from a position somewhat less dominated by existential vulnerability. For these reasons, modern labour-law systems increasingly treat social security as constitutive of labour welfare rather than collateral to it.[20][27][28] This functional importance is especially acute in a labour market such as India's, where informality, migration, short-term engagement and fragmented employment remain pervasive. A welfare regime that attaches protection only to stable formal employment necessarily leaves large sections of labour outside the social wage. The Social Security Code is significant because it recognizes this structural mismatch and attempts, at least in legal design, to move from a narrow factory-centred model toward a differentiated but wider social-protection framework. Whether it succeeds depends on how one evaluates the gap between statutory recognition and substantive entitlement.[2][21][27]

8.3 Historical Evolution of Social Security Legislation in India

8.3.1 Early Social Protection Initiatives

The historical development of Indian social security law was gradual, segmented and deeply connected to industrialisation. The earliest legislative concern was not universal welfare but compensation for specific industrial harms. The Employees' Compensation Act, 1923 represented the first major recognition that the cost of industrial injury could not be left entirely to private contract or tort. It imposed employer liability for employment injury and marked an important conceptual move: labour risk had become a proper subject of statutory redistribution.[4][29]

The next major step came with the post-war and early postcolonial debates on social insurance, culminating in the Employees' State Insurance Act, 1948. As Rajib Ahuja's historical work shows, the making of ESI was shaped by global social-policy currents, wartime industrial pressures, and the emerging developmental state. Yet

from the outset the Indian version of social insurance was employment-based and selective. It created an important new welfare architecture, but one that also helped harden the boundary between formal and informal labour by linking benefits to covered establishments and insurable employment.[5][26]

8.3.2 Development of Social Insurance Legislation

The 1950s to the 1970s saw the consolidation of core labour-welfare legislation. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 institutionalised compulsory savings and long-term income security for covered employees; the Maternity Benefit Act, 1961 addressed wage-linked reproductive protection; and the Payment of Gratuity Act, 1972 recognised terminal service benefits as part of employment justice. These statutes did not emerge as parts of a unified social-security code. Rather, they developed piecemeal around particular contingencies and sectors, with different definitions, thresholds, forums and compliance mechanisms.[6][7][8][29]

Later enactments responded to sectors and categories that were under-protected by the classic organised-sector model. The Building and Other Construction Workers' Welfare Cess Act, 1996 created a dedicated financing mechanism for welfare in a highly informal and migratory sector. The Unorganised Workers' Social Security Act, 2008 formally acknowledged the vast universe of labour that existed outside traditional factory-based employment. Yet the very need for such later statutes also revealed the limitations of the earlier model: the core social-insurance laws were insufficient to cover the heterogeneous labour market that had evolved beyond the mid-twentieth-century industrial worker.[9][10][27]

8.3.3 Institutionalisation of Social Security Schemes

The pre-code framework was not merely legislative; it was heavily institutional. EPFO and ESIC developed into large national systems with dedicated boards, officers, funds and compliance machinery. Building-worker welfare boards and unorganised-worker schemes added further institutional layers. This historical accumulation matters because the Social Security Code did not build social protection ex nihilo. It inherited administrative capacities, liabilities, databases, adjudicatory structures and sectoral expectations formed over decades. In that respect, codification is best seen as legal reorganisation of an already dense institutional field rather than a fresh start.[2][5][6][21]

The institutional story also explains why reform has always been double-edged in India. Existing schemes such as provident fund and state insurance created durable worker expectations and bureaucratic routines. But they also made reform path-dependent. Any new code had to preserve these mature institutions while trying to

extend protection to workers whose labour did not fit older administrative assumptions. The Social Security Code therefore inhabits a tension between continuity and expansion: it retains the classic architecture of contributory social insurance even as it gestures toward broader and more flexible forms of welfare inclusion.[2][21][26]

8.4 Limitations of the Pre-Codification Social Security Framework

8.4.1 Fragmented Social Security Legislation

The most obvious weakness of the pre-codification framework was fragmentation. Different contingencies were regulated by separate enactments drafted in different eras, with different definitions of employee, establishment, wage and contribution. Authorities were dispersed, adjudicatory routes varied, and overlapping compliance burdens accumulated. The Statement of Objects and Reasons to the Code itself acknowledges this multiplicity and identifies as reform goals the reduction of definitional inconsistency, streamlining of authorities, and greater transparency and accountability.[2][22][23]

Fragmentation also had doctrinal consequences. It produced a welfare map in which entitlement often turned not on the worker's vulnerability but on the happenstance of establishment type, sector, size, or statutory fit. As historical scholarship on ESI and social security in India indicates, the resulting system generated graded entitlements rather than a coherent social-protection floor. Workers could be formally employed yet outside one scheme, or informally employed yet nominally visible in another. In this sense, the pre-code regime was expansive in aggregate legislation but uneven in distributive effect.[26][27][29]

8.4.2 Limited Coverage of Informal Sector Workers

A second structural problem was the organised-sector bias of Indian social security law. The most robust schemes-EPF and ESI-were designed around establishment-based employment and contribution-linked administration. Large segments of the workforce, especially self-employed, home-based, casual, migrant and intermittently engaged workers, remained outside or at the margins of these systems. Even where welfare statutes for unorganised labour existed, they were often scheme-thin, administratively weak, or insufficiently integrated with mainstream labour administration.[10][21][27]

The rise of digital-platform labour sharpened this gap. Gig and platform workers were economically visible but legally elusive. They were neither fully absorbed into traditional employment law nor adequately protected by conventional social insurance. The Code's later recognition of gig and platform workers is best understood against this background of exclusion. It reflects a legislator confronting a

labour market in which dependence, vulnerability and algorithmic control were no longer confined to the old factory or shop-floor model.[2][23][25]

8.4.3 Administrative and Institutional Challenges

A third weakness lay in administration. Multiple filings, sector-specific authorities, limited inter-operability of records, and low worker awareness all reduced effective coverage. Welfare delivery often depended on documentary access, local implementation quality, and workers' ability to navigate administrative procedures. The later decision to notify section 142 of the Code in 2021 for Aadhaar-based data collection, and the subsequent development of the e-Shram platform, reflected a state attempt to address these longstanding deficits through digital registration and integrated databases. By the Ministry's 2024-25 annual report, e-Shram registrations had crossed 30 crore, and a one-stop solution had been launched to connect workers to schemes.[21][24]

But digitisation also reveals the deeper point: reform became necessary not only because the old legal structure was fragmented, but because social security administration had to be re-imagined for a labour market characterised by mobility, informality and discontinuous work histories. Codification is thus partly an attempt to solve an administrative problem of modern labour governance: how to identify, register and benefit workers who move across employers, sectors, regions and platforms.[2][21][22]

8.5 Structure and Scope of the Social Security Code

8.5.1 Objectives of the Code

The Code's long title states its purpose clearly: it amends and consolidates the law relating to social security with the goal of extending social security to all employees and workers in the organised, unorganised and other sectors. The codification project was also linked, in official policy narratives, to the broader four-code reform that sought simplification of compliance, rationalisation of authorities, and modernisation of labour administration. The Second National Commission on Labour had earlier recommended grouping labour laws into broad functional codes, and official 2025-26 government materials continue to present the Social Security Code as a culmination of that reform logic.[2][22][23][32]

Importantly, the Code is not just a consolidation statute. It is also a re-description of social security itself. By bringing under one enactment social insurance, gratuity, maternity protection, employment injury, building-worker welfare, unorganised-worker schemes and labour-market information, the Code presents social security as an integrated field of labour governance. This is a conceptual shift from the older

approach, in which each contingency was housed in its own legislative compartment.[2][22]

8.5.2 Coverage of Workers and Establishments

The Code's coverage design combines continuity and innovation. It preserves threshold-based applicability for the traditional contributory chapters: under the First Schedule, Chapter III on provident fund generally applies to establishments employing 20 or more persons, while Chapter IV on Employees' State Insurance generally applies to establishments employing 10 or more persons other than seasonal factories. At the same time, the Code expands its definitional universe. It includes "gig worker", "platform worker", and a broad definition of "social security", and it defines "unorganised worker" in a way that includes not only home-based, self-employed and wage workers in the unorganised sector, but also certain workers in the organised sector who fall outside the classic protective chapters.[2][22][25]

This definitional expansion matters doctrinally. It suggests that the Code does not treat informality as a pure sectoral category; rather, it treats vulnerability as something that can persist even within the formal economy when workers are not covered by core statutory protections. The Code also contains 14 chapters, ranging from social-security organisations and contributory schemes to employment information and monitoring, demonstrating that the new social-security regime is not confined to benefit distribution but extends to labour-market data and administrative surveillance.[2][22]

8.5.3 Institutional Framework under the Code

The institutional framework under the Code preserves multiple specialised bodies instead of creating a single omnibus welfare authority. This is doctrinally significant. The Code recognizes the Central Board of Trustees for provident fund, the Employees' State Insurance Corporation, the National Social Security Board, State Unorganised Workers' Boards, and State Building and Other Construction Workers' Welfare Boards as distinct social-security organisations. It thereby consolidates the legislative basis of welfare administration while retaining differentiated institutional competences.[2][22]

Table 8.1. Institutional Architecture under the Social Security Code

Institution	Statutory location	Core function	Analytical significance
Central Board of Trustees (EPF)	Chapters II & III	Administers provident fund-related schemes and funds	Preserves the classic contributory

			retirement-security model
Employees' State Insurance Corporation	Chapters II & IV	Administers medical and cash benefits for insured employees	Maintains the social-insurance model for health and employment contingencies
National Social Security Board	Section 6 and related provisions	Recommends and monitors schemes for unorganised workers; adapted framework for gig/platform workers	Creates a bridge between formal schemes and non-standard labour categories
State Unorganised Workers' Boards	Section 6	Advises and monitors state-level unorganised worker welfare measures	Reflects cooperative federalism and decentralised welfare administration
State Building and Other Construction Workers' Welfare Boards	Section 7 and Chapter VIII	Administers cess-funded benefits for building workers	Retains a sector-specific redistributive model within the unified code

Source: Compiled from the Code on Social Security, 2020 and Ministry of Labour and Employment guidance materials.[2][22]

The table shows that codification does not produce administrative centralisation in any simple sense. Rather, it layers social protection through multiple organisations with different constituencies and financing logics. EPF and ESIC continue as mature contributory institutions; building-worker welfare remains cess-funded and sector-specific; unorganised and gig-worker welfare is mediated through boards and schemes. This plural architecture may be normatively desirable because different labour segments face different risks. Yet it also means that the promise of a "single" code should not be mistaken for a single administrative pathway.[2][22][23]

8.5.4 Constitutional Principles and Judicial Foundations

The Code sits within a constitutional field shaped by both the Directive Principles and rights jurisprudence. Articles 39(e) and 39(f) direct the State to protect the health and strength of workers and prevent abuse; Article 41 speaks directly of public assistance in cases of old age, sickness, disablement and undeserved want; Article 42 requires just and humane conditions of work and maternity relief; Article 43 points toward a living wage and decent standard of life; and Article 43A locates worker participation within the constitutional imagination of industry. These provisions do not themselves create justiciable benefits, but they have supplied the interpretive grammar through which courts have constitutionalised labour welfare.[1][31]

The most influential line of cases has linked social security to dignity and life under Article 21. In *Consumer Education & Research Centre*, the Court treated workers' health and medical care as integral to the right to life. In *Olga Tellis*, while not a social-security case in the narrow sense, the Court's recognition of livelihood as part of life expanded the constitutional basis for labour-protective interpretation. Together these cases support a jurisprudential move away from a thin civil-libertarian conception of life and toward a material understanding of the conditions necessary for dignified existence.[11][16]

Other decisions illuminate particular branches of social security. *D S Nakara* rejected the idea that pension is a gratuitous state bounty and instead treated it as a right linked to socio-economic justice. *Municipal Corporation of Delhi v Female Workers (Muster Roll)* extended maternity benefits to casual and daily-wage workers, thereby unsettling the assumption that reproductive protection belongs only to stable formal employment. More recently, *Deepika Singh* adopted a purposive and equality-sensitive approach to maternity-related benefits and family structures. In the employment-injury context, *Francis De Costa* formulated a strict causal-connection test under ESI for accidents "arising out of and in the course of employment", a doctrine that continues to shape adjudication even as later legislative changes and case law have moderated its narrowness in particular contexts.[12][13][14][15]

The constitutional and judicial background therefore matters in two ways. First, it explains why social security in India is often interpreted as part of a broader constitutional commitment to social justice. Secondly, it provides a critical lens through which the Code must be read. A statute that expands formal categories of coverage but leaves substantive benefits overly dependent on executive design may satisfy administrative rationalisation without fully realising the constitutional idea of labour welfare as a component of dignity and equality.[11][13][31]

8.6 Key Social Security Schemes under the Code

8.6.1 Provident Fund Schemes

Chapter III preserves the provident-fund architecture as the backbone of long-term income security in formal employment. Section 15 authorises scheme-framing; section 16 establishes the relevant funds; and section 17 structures contribution responsibilities in relation to employees and contractors. The official statutory text indicates that the employer's contribution shall ordinarily be ten per cent of wages, matched by the employee contribution subject to the scheme. The Code also preserves the priority of provident-fund dues over other debts, a crucial device for preventing employee savings from being subordinated in insolvency-like situations.(2)(6)(22)

The provident-fund chapter illustrates the Code's strategy of continuity through consolidation. For workers, it sustains retirement-oriented savings and portability through transfer provisions. For employers, it retains a compliance-intensive but familiar contribution regime. Normatively, its value lies in converting part of current wage expenditure into deferred security. Yet its reach remains tethered to formal establishment thresholds and payroll-based contribution systems. Thus, while Chapter III is institutionally strong, it is not the vehicle through which the Code achieves universality. Its strengths are depth and enforceability, not breadth.(2)(22)(27)

8.6.2 Employee State Insurance Scheme

Chapter IV on Employees' State Insurance preserves the most developed health-centred social-insurance regime in Indian labour law. It creates the Employees' State Insurance Fund, mandates insurance for employees in covered establishments, and provides for contributions by employer and employee at prescribed rates. The Code explicitly places on the employer the obligation to pay both shares in the first instance, including in relation to workers engaged through contractors, while preserving the employer's right of recovery in accordance with the statute. The benefits framework includes sickness, maternity, disablement, dependants' benefit, medical benefit and funeral expenses.(2)(5)(22)

ESI remains one of the clearest examples of cooperative social insurance under Indian labour law. Section 40 contemplates state responsibility for medical treatment, with possible arrangements for cost-sharing or delivery by the Corporation. The chapter also preserves adjudicatory structures through the Employees' Insurance Court. In doctrinal terms, ESI shows how the Code combines risk pooling, medical care and income replacement. But its limits are familiar: coverage depends on statutory thresholds and insurable employment. Case law such as *Francis De Costa* further shows that access to employment-injury benefits can turn on demanding causal tests, even though the welfare logic of the scheme points toward broader protection.(2)(15)(26)

A related point concerns institutional dualism. The Code preserves not only ESI but also an employee-compensation chapter. This means employment injury in Indian social-security law continues to be addressed through two distinct models: social insurance for covered employees under ESI, and employer liability for others under Chapter VII. Codification, therefore, does not erase doctrinal plurality; it reorganises it within a single legislative instrument.[2][4][5]

8.6.3 Maternity Benefits and Worker Welfare

Chapter VI retains and modernises maternity protection. Section 60 provides that a woman who has actually worked for at least 80 days in the preceding 12 months is entitled to maternity benefit; the maximum period is 26 weeks, with up to 8 weeks before the expected delivery, reduced to 12 weeks where the woman has two or more surviving children. The provision also covers adopting mothers and commissioning mothers for 12 weeks from the date the child is handed over. In addition, the chapter includes nursing breaks, crèche facilities and protections against adverse consequences for pregnancy-related absence.[2][7][22]

These provisions are important not only as welfare benefits but as equality measures. Maternity protection in labour law redistributes the social costs of reproduction away from the individual woman worker alone and towards the employer-state social framework. Judicial doctrine has reinforced this view. *Female Workers (Muster Roll)* rejected the exclusion of casual workers from maternity relief, while *Deepika Singh* endorsed a purposive reading sensitive to changing family realities. The Code thus stands within a constitutional trajectory that treats maternity protection as integral to substantive equality and humane labour conditions, not as a discretionary concession.[13][14]

8.6.4 Gratuity and Retirement Benefits

Chapter V preserves gratuity as a statutory terminal benefit linked to long service, but it also introduces one of the Code's more notable innovations for non-standard employment. Section 53 provides for gratuity on superannuation, retirement, resignation, death or disablement, and the ordinary five-year service condition does not apply in cases of death, disablement or the expiry of fixed-term employment. Official government explanations issued after commencement describe section 53 as reducing the eligibility requirement for fixed-term employees from five years to one year, with gratuity payable on a proportionate basis after completion of one year.[2][8][23]

This is significant because fixed-term employment has become a central technique of labour flexibilisation. In older welfare regimes, short-tenure workers could perform regular labour while remaining excluded from long-service benefits. By granting pro

rata gratuity to fixed-term workers, the Code partially interrupts that pattern and aligns with a broader policy of not allowing contractual temporariness to defeat all welfare entitlement. At the same time, gratuity remains a post-employment benefit, and its protective effect depends on compliance, enforcement and the worker's ability to invoke the competent authority.[2][12][22]

8.7 Social Security for Informal, Gig and Platform Workers

8.7.1 Informal Sector Workers

The real test of the Code's claim to expand labour welfare lies in Chapter IX. The pre-code framework treated the unorganised sector as an adjunct to the main welfare system; the Code attempts to move it toward the centre of statutory imagination. It authorises the framing of schemes for unorganised workers, provides for helplines and facilitation centres, and requires registration of unorganised, gig and platform workers. This is legally important because registration becomes the gateway through which a dispersed workforce can be rendered administratively visible.[2][10][25]

Yet the chapter is enabling rather than self-executing. It creates scheme-making powers, registration pathways and administrative structures; it does not automatically confer a full basket of enforceable benefits on all unorganised workers. That distinction is crucial. The Code recognizes the informal worker as a subject of welfare law, but it does not by itself eliminate the historical divide between recognition and delivery. The building-worker cess regime, retained in Chapter VIII, shows that sector-specific redistributive mechanisms remain important where ordinary payroll-linked insurance is inadequate.[2][9][21]

The development of e-Shram has to be read in this light. The portal, launched in 2021 and expanded through later initiatives, is designed as a database of unorganised workers for accessing welfare measures. By 2024-25, official records stated that registrations had crossed 30 crore and that e-Shram had evolved into a one-stop solution for scheme access. This infrastructure could improve portability, especially for migrants and intermittent workers. But administrative visibility is not identical to social security. A database can facilitate entitlement; it cannot substitute for substantive funding and enforceable scheme design.[21][24]

8.7.2 Gig and Platform Workers

The Code's recognition of gig and platform workers is its most discussed reform. For the first time in central labour legislation, "gig worker" and "platform worker" are defined and treated as categories deserving social-security attention. Section 114 empowers the Central Government to frame schemes for gig and platform workers covering life and disability, accident insurance, health and maternity benefits, old-age protection, and crèche support. Official government documents have repeatedly

described this as a transformative inclusion of digital labour within the social-security framework.[2][22][23][25]

The legislative technique chosen here is highly significant. The Code does not resolve the employment-status question by treating gig and platform workers as employees for the purposes of EPF, ESI or other formal-sector chapters. Instead, it constructs a separate welfare route: recognition without wholesale reclassification, schemes without full absorption into existing employer-employee doctrine, and financing through an aggregator-contribution model rather than standard payroll contributions. Analytically, this is a hybrid welfare-fund approach. It acknowledges economic dependence and vulnerability while stopping short of reorganising the underlying law of employment status.[2][23][25]

That design has advantages and limits. Its advantage is pragmatic inclusion: workers need not first win a classification dispute to be acknowledged as welfare subjects. Its limit is that welfare becomes contingent on scheme design and contribution mechanisms, while deeper questions about wages, bargaining power, algorithmic control and dismissal remain outside this chapter's reach. The Code therefore marks an important opening in Indian labour law, but not a complete constitutional settlement of digital labour precarity.[2][31]

8.7.3 Financing of Social Security Schemes

The Code adopts a mixed financing model. Traditional schemes continue the classic tripartite and contributory approach: employers and employees contribute, with the State playing supervisory and sometimes supporting roles. For unorganised, gig and platform workers, however, the Code uses a more plural funding architecture. Section 114 permits contributions from the Central Government, State Governments, aggregators, beneficiaries, corporate social responsibility funds and other sources. Section 141 creates a Social Security Fund for the welfare of unorganised, gig and platform workers, while States are to establish their own funds for unorganised workers.[2][3][23]

The aggregator-contribution mechanism is the most innovative part of this financing design. Under section 114(4), the contribution of aggregators in the categories specified in the Seventh Schedule is set between 1 and 2 per cent of annual turnover, subject to a cap of 5 per cent of the amount paid or payable by the aggregator to gig and platform workers. This model attempts to adapt social-security finance to platform-mediated labour where conventional employer-employee payroll structures may be contested or unstable. It is conceptually important because it reframes digital intermediaries as welfare-financing actors even without full employer reclassification.[2][23]

Table 8.2. Consolidation of Social Security Legislation under the Social Security Code

Previous legislation	Principal welfare subject	Position under the Code
Employees' Compensation Act, 1923	Employment injury compensation	Subsumed in Chapter VII
Employees' State Insurance Act, 1948	Medical insurance and cash benefits	Subsumed in Chapter IV
Employees' Provident Funds and Miscellaneous Provisions Act, 1952	Provident fund, pension, long-term income security	Subsumed in Chapter III
Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959	Vacancy notification and labour-market information	Reworked in Chapter XIII
Maternity Benefit Act, 1961	Maternity protection and related benefits	Subsumed in Chapter VI
Payment of Gratuity Act, 1972	Terminal gratuity	Subsumed in Chapter V
Cine Workers Welfare Fund Act, 1981	Sector-specific welfare fund	Absorbed into the unified code framework
Building and Other Construction Workers' Welfare Cess Act, 1996	Cess-funded welfare for construction workers	Subsumed in Chapter VIII
Unorganised Workers' Social Security Act, 2008	Schemes for unorganised workers	Subsumed in Chapter IX

Source: Compiled from the Code on Social Security, 2020 and Ministry of Labour and Employment *publications.*[2][22]

The significance of consolidation, as the table indicates, lies not merely in legislative tidiness. The Code collapses previously separate welfare silos into a single statutory

frame and thereby enables more coherent definitions, administration and future rule-making. At the same time, it reveals a subtler shift in labour governance: even vacancy reporting and employment monitoring, previously housed in the Employment Exchanges law, are now drawn into the same code. Social security is thus recast as part of a broader informational and regulatory ecosystem rather than a set of isolated benefit statutes.[2][22][23]

8.8 International Labour Standards and Social Protection

International labour standards provide a useful comparative frame for assessing the Code. ILO Convention No. 102 identifies nine classic branches of social security, including medical care, sickness, unemployment, old age, employment injury, maternity, invalidity, survivors' and family benefits. Recommendation No. 202 supplements this by emphasizing nationally defined social-protection floors and the State's primary responsibility to secure at least a basic level of income security and essential health care. These instruments do not dictate institutional uniformity, but they offer a normative benchmark of universality, adequacy and progressive extension.[18][19][20]

Measured against these standards, the Social Security Code is both convergent and incomplete. It converges in two important respects: it recognizes a wide range of contingencies in its definition of social security, and it extends statutory attention beyond standard employees to unorganised, gig and platform workers. It is incomplete because many benefits for those newly recognised categories remain scheme-dependent rather than directly vested, and because unemployment protection remains comparatively underdeveloped in operative design despite appearing in the Code's definitional horizon. The Code, in other words, moves toward a social-protection-floor logic without fully embodying a universal rights-based floor.[2][18][19]

The global context underscores the importance of this trajectory. The ILO's *World Social Protection Report 2024-26* states that only 52.4 per cent of the world's population is effectively covered by at least one social protection benefit, leaving 47.6 per cent without effective coverage. India's codification effort must therefore be situated within a wider international challenge: how to expand social protection in labour markets increasingly marked by informality, climate stress, migration and platformisation. The Code is best read as India's attempt to answer that challenge through legal consolidation plus selective extension, albeit with a distinctly hybrid and administratively mediated model.[20][23]

8.9 Impact of the Social Security Code

8.9.1 Implications for Workers

For workers, the Code offers three clear gains. First, it preserves the core benefits of mature formal-sector schemes-provident fund, ESI, maternity benefits, gratuity and compensation-within a single statute. Secondly, it symbolically and legally broadens the welfare subject by including unorganised, gig and platform workers in the statutory vocabulary. Thirdly, it improves the possibility of portability and administrative visibility through registration-based systems, Aadhaar-enabled identification, and digital databases such as e-Shram. These are not trivial gains in a labour market fragmented by migration and discontinuous work.[2][21][22][24]

At the same time, worker impact differs sharply across labour segments. Covered employees in larger establishments benefit from relatively determinate statutory entitlements. By contrast, unorganised, gig and platform workers often receive recognition first and enforceable benefit later, if at all, depending on scheme notification and financing. The result is a stratified welfare landscape within the Code itself. Its inclusiveness is real at the level of legal subjectivity, but uneven at the level of immediately claimable rights.[2][25][27]

8.9.2 Implications for Employers

For employers, the Code promises simplification but not deregulation. Consolidation reduces the number of principal enactments and aligns definitions across the labour-code architecture, which can lower interpretive and compliance costs. Official guidance materials frame this as a move toward clearer rules, simpler procedures and reduced multiplicity of returns and authorities. Yet the substantive burden of compliance remains substantial: contributions continue under EPF and ESI, gratuity and maternity obligations remain, and digital record systems increase the visibility of non-compliance.[22][23]

For digital aggregators, the Code introduces a new welfare logic. Even without full reclassification as employers for all purposes, aggregators enter the frame as contributors to social security. This may reduce regulatory ambiguity in one sense, but it can also produce new disputes over coverage, turnover, payment bases and the scope of the levy. More broadly, the Code shifts some of the policy cost of labour-market flexibilisation back onto capital and intermediation platforms. That is normatively consistent with labour-welfare principles, though its practical consequences will depend on rules, audits and enforcement.[2][23]

8.9.3 Institutional Implications

Institutionally, the Code reorients labour administration toward integrated but plural governance. It consolidates statutory authority while preserving multiple boards and

corporations; it links welfare with registration and data systems; and it expands the role of the Central Government in relation to gig and platform workers. It also embeds labour-market information within the social-security code through Chapter XIII on employment information and monitoring. This is a move toward a more informational state in labour governance-one that seeks to govern welfare partly through registries, databases and linked administrative platforms.[2][21][22]

The implications for industrial relations are mixed. Better welfare protection can reduce distress-driven labour conflict and improve workforce stability. But the Code also creates new sites of contestation: who counts as a covered worker, which scheme applies, whether an intermediary is an aggregator, how contributions are calculated, and how benefits are accessed through digital registration. In that sense, the reform may shift some labour conflict from classical wage-and-dismissal disputes toward classification, registration and welfare-financing disputes.[2][23][31]

8.10 Critical Evaluation of the Social Security Code

The Social Security Code has real strengths. It consolidates a historically fragmented field, preserves institutional continuity where existing schemes are robust, and broadens the normative reach of labour welfare by recognising categories of workers previously under-protected or entirely absent from central labour legislation. The explicit inclusion of gig and platform workers, the continuation of ESI and EPF, the pro rata gratuity rule for fixed-term employees, and the recognition of adoption and commissioning motherhood all indicate that the Code is not merely cosmetic reform. It has genuine redistributive and inclusive potential.[2][22][23]

A second strength lies in its administrative imagination. By linking social security to registration, digital databases, Aadhaar-enabled identity systems and facilitation centres, the Code attempts to address one of the central weaknesses of Indian labour welfare: the difficulty of reaching mobile, informal and fragmented workers. The e-Shram infrastructure, whatever its present limitations, is evidence that codification is accompanied by institutional efforts to build delivery architecture at scale. In a labour market of India's size and heterogeneity, such infrastructure is indispensable.[21][24]

Yet the Code's most celebrated feature-extension to unorganised, gig and platform workers-is also its principal limitation. For these categories, the statute often creates enabling powers rather than immediately vested entitlements. Rights are mediated through future schemes, registration rules, administrative discretion and funding arrangements. This means that the Code's universality is, in important part, promissory. The legal subject is recognized before the benefit structure is fully constitutionalised in practice. From a labour-rights perspective, that weakens enforceability. From a governance perspective, it shifts great power to subordinate legislation and executive design.[2][3][25]

Threshold-based exclusions also remain. PF and ESI continue to hinge largely on establishment size and formal contribution structures. Workers in micro-enterprises, discontinuous employment and loosely organised service chains may therefore remain outside the most determinate schemes. This is a basic tension in the Code: its formal chapters retain the architecture of stable, insurable employment, while its most expansive promises concern categories whose work frequently falls outside that architecture. As a result, the Code does not abolish the organised/unorganised divide; it governs the divide more consciously.[2][20][27]

Financing presents a further challenge. Employer-employee contributions work relatively well where payroll employment is clear. In the gig economy, however, turnover-based aggregator contributions may prove difficult to assess, monitor and allocate. The statutory rate structure is modest, and its welfare effect will depend on accurate reporting, robust rule-making and meaningful fund design. Similar concerns arise for unorganised-worker schemes that depend on public finance, cess collection or diffuse funding streams. The statutory creation of a fund is necessary but not sufficient; what matters is whether the fund becomes a genuine channel of regular social protection rather than a formally constituted but weakly utilised repository.[2][23][27]

Implementation timing also matters. The Code was enacted in 2020, but official materials show a staggered commencement sequence extending into late 2025, followed by draft consolidated central rules issued on 30 December 2025 and ministry guidance materials released in early 2026. This underscores a familiar lesson of Indian labour reform: codification is only the first stage; operationalisation depends on rules, notifications, institutional readiness and centre-state coordination. The transitional character of the present moment should therefore temper both celebratory and sceptical assessments. The legal architecture is now in place, but its welfare substance is still being assembled.[2][3][22]

Finally, the Code raises a deeper constitutional question. Does modern labour welfare require that social security be tied less tightly to employment status and establishment thresholds, and more closely to personhood, work participation and social vulnerability? International standards, especially Recommendation No. 202, point toward that direction. The Social Security Code moves part of the way there, but not all the way. It broadens legal categories, yet it does not fully transform the contributory and establishment-centred foundations of Indian social security. The most persuasive reading, therefore, is that the Code is a significant transitional statute: more inclusive than the past, but not yet a genuinely universal social-protection charter.[17][19][20][31]

8.11 Conclusion

The Code on Social Security, 2020 represents a major moment in the reorganisation of Indian labour welfare. It consolidates dispersed enactments, preserves mature social-insurance institutions, and extends the statutory language of social protection to categories of workers long excluded from the centre of labour law. Its significance lies not only in the schemes it retains, but also in the governance model it advances: integrated legislation, multiple specialised institutions, digital registration, Aadhaar-linked administration, welfare funds, and selective extension to non-standard labour.[2][21][22]

At the same time, the Code should not be mistaken for the completion of social-security reform. It is better understood as a constitutional and policy transition from a narrowly formal, statute-specific welfare order toward a wider but still uneven labour-governance regime. Its strongest protections remain concentrated in established formal-sector schemes; its most ambitious claims concern workers whose rights will depend on continuing rule-making, financing and administrative commitment. In that sense, the Code captures the broader transformation of labour governance in India: from fragmented legislation to codified frameworks, from factory-centred protection to multi-status regulation, and from welfare as a marginal supplement to welfare as a central but contested technique of governing labour in a changing economy.[2][31]

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Chapter 9

Digitalisation of Labour Governance: Registration, Compliance and E-Governance under the Labour Codes

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9.1 Introduction: Technology and the Transformation of Labour Administration

The codification of Indian labour law is commonly described as a project of statutory consolidation. That description is correct, but incomplete. The labour codes are also an institutional project: they seek to reorganise how labour administration functions, how employers comply, how inspectors enforce, how workers are identified, and how welfare schemes are delivered. The Ministry of Labour and Employment's Annual Report for 2024-25 expressly links codification to the use of technology in enforcement and to greater transparency and accountability. Equally important, the present legal moment is transitional. By notifications brought into effect in late 2025, all four labour codes were operationalised, yet the Ministry's January 2026 FAQ clarified that old rules would continue during the transition until final rules under the Codes are notified, so far as they remain consistent with the Codes.[10] [12]

This transitional setting matters for any serious analysis of digital governance. Labour administration in India has long been marked by multiple laws, fragmented authorities, manual records, physical inspections, and jurisdictional complexity. In response, the state had already begun building digital infrastructures before codification, most visibly through the Shram Suvidha portal, online returns, risk-based inspection systems, the SAMADHAN grievance platform, and later the e-Shram database for unorganised workers. The labour codes do not begin digitalisation from a blank slate; rather, they formalise, extend, and reconfigure an existing administrative turn towards portal-based governance.[11] [15] [16] [17]

The central argument of this chapter is that digitalisation under India's new labour regime is a major reform in labour administration, not merely a technical convenience. It promises simplification, traceability, portability of welfare, data-driven inspection, and reduced regulatory friction. At the same time, it raises hard

questions about federal coordination, worker accessibility, due process in automated enforcement, privacy, and the extent to which labour welfare can be made dependent upon data visibility. The chapter therefore analyses digital governance under the Codes as both an administrative innovation and a normative transformation in the governance of labour.[10] [13] [27]

9.2 Concept of Digital Governance

9.2.1 Meaning of Digital Governance

Digital governance may be understood as the use of information and communication technologies to reorganise public administration, improve service delivery, and structure state-citizen interaction in a more standardised and traceable form. Indian e-governance discourse has long treated digital systems as instruments for "reforming government through technology," while the broader Digital India framework has emphasised digitally transformed services, integrated delivery, real-time access, and digital empowerment. In the labour context, this means that law is no longer administered only through inspectors' visits, physical ledgers, and office counters, but also through databases, dashboards, electronic filings, automated acknowledgements, and interoperable portals.[27] [32]

Digital governance is not reducible to the digitisation of old forms. Its deeper significance lies in the reallocation of administrative capacity. Once records are centralised and searchable, governments can monitor compliance trends, map establishments, identify non-compliance clusters, detect duplication, and target welfare interventions. This helps explain why labour digitalisation is bound up with the production of labour statistics, worker registries, and unique identifiers. The ILO's account of labour administration is useful here: labour administration comprises the public administration activities in the field of national labour policy, and the collection of labour statistics is central to policy formulation and implementation.[27]

Yet digital governance also redefines power. The move from paper to platform standardises forms, narrows informal discretion in some places, and expands backend discretion in others-especially where risk models, data integration, and automated workflows determine who is inspected, who is visible to welfare systems, and which complaints are prioritised. Digital governance in labour law must therefore be analysed simultaneously as an efficiency project, a transparency project, and a data-governance project.[15] [29]

9.2.2 E-Governance in Public Administration

In public administration more generally, e-governance evolved from simple computerisation of departments into networked systems aimed at integrated services

and real-time processing. MeitY's own materials describe Indian e-governance as moving beyond departmental computerisation towards governance-oriented integration and digitally transformed service delivery. Labour administration illustrates that evolution especially well because it has historically involved multiple agencies, repetitive compliance tasks, and high dependence on documentation. Where such systems are digitised, the state can replace fragmented, document-heavy processes with traceable electronic transactions.[32]

The labour field is particularly suited to e-governance because enforcement, welfare, and industrial relations all depend on records. Whether the issue is wage slips, standing orders, establishment registration, social-security enrolment, migrant-worker databases, claims, or inspection reports, digital systems make documentation easier to generate, transmit, preserve, and audit. The attraction for the state is obvious: electronic records are easier to aggregate and compare than paper files dispersed across district offices.[13] [27]

9.2.3 Digital Governance and Regulatory Compliance

From a compliance perspective, digital governance seeks to reduce transaction costs while preserving-or in principle improving-regulatory oversight. The official language surrounding the labour codes repeatedly stresses simplification, single returns, fewer forms, reduced registers, single registration and licence structures, and easier compliance. The Ministry's 2026 Compliance Handbook states that the old framework generated multiple registrations, licences, and returns; under the new architecture, 31 returns are said to have been replaced by a single electronic return, forms reduced from 181 to 73, and registers from 84 to 8.[13]

But the compliance story is not merely one of deregulatory simplification. Digital compliance can also sharpen enforcement. Online returns create timestamps. Web-based inspections create auditable trails. Unique establishment numbers allow cross-referencing. Electronic filings reduce excuses based on missing files. In principle, this should make the state more capable of distinguishing routine compliance from high-risk non-compliance. The best reading of the Codes is therefore not that they choose between facilitation and enforcement, but that they seek to digitise both. Whether they succeed depends on institutional design and implementation.[2] [4] [5] [15]

9.3 Traditional Labour Administration in India

9.3.1 Paper-Based Regulatory Systems

Indian labour administration developed through a layered history. Colonial labour law emerged in relation to factories, plantations, mines, and transport, often in response to industrial discipline, imperial political economy, and selective welfare concerns. Post-independence labour law expanded within a constitutional welfare-state framework, producing a dense body of legislation on wages, industrial disputes,

social insurance, gratuity, maternity, contract labour, migrant workers, and sector-specific working conditions. The resulting architecture was normatively ambitious but institutionally fragmented.[23] [33]

That fragmentation was also documentary. The pre-code regime required employers to interact with different statutes, inspectors, registers, return cycles, and licensing systems. Establishments often maintained parallel records for different laws, sometimes in similar but not identical formats. Labour administration was therefore built around paper files, physical registers, in-person submissions, notices on premises, manual scrutiny, and geographically bounded offices.[11] [13]

9.3.2 Challenges of Traditional Labour Administration

The weaknesses of this model were by now well known. First, multiplicity increased compliance costs and interpretive uncertainty. Secondly, paper-based administration generated delay: files moved slowly, tracking was weak, and standardised monitoring across jurisdictions was difficult. Thirdly, opacity created conditions for both routine inefficiency and discretionary abuse. Where inspection lists were non-transparent and records dispersed, neither employers nor workers could easily predict or verify administrative action.[11] [15]

The Ministry's own digital reform narrative confirms these concerns. The Shram Suvidha portal was built to bring transparency and accountability into enforcement and to ease the complexity of compliance; it introduced online returns, the Labour Identification Number (LIN), and computer-generated inspection lists based on risk criteria. Likewise, the SAMADHAN portal was conceived as a single online platform to reduce disposal time and centralise the monitoring of industrial disputes, claims, and complaints. These reforms would have made little sense if the older administrative order had not been burdened by paper dependence and procedural fragmentation.[11] [15] [16]

9.3.3 Need for Modernisation of Labour Governance

The push for modernisation must also be situated in a wider policy context. The Second National Commission on Labour had recommended consolidation of labour laws; later reform discourse combined simplification with ease of doing business and digital administration. By 2024-25, the Union Budget was explicitly promising comprehensive integration of e-Shram with other portals as a one-stop solution and a revamp of the Shram Suvidha and SAMADHAN portals. In other words, labour codification and labour digitalisation were conceived as parallel components of the same reform package.[13] [14]

The need for modernisation also arose from changes in labour markets. Informality, internal migration, construction work, platform work, and fragmented supply chains

made purely establishment-centric regulation increasingly inadequate. A system designed only for fixed, formal workplaces was poorly equipped to identify unorganised workers, track mobile labour, or deliver portable benefits. e-Shram is best understood against this backdrop: its ambition is not merely digitisation, but the creation of an administratively legible labour population for welfare purposes.[17] [24]

9.4 Digitalisation under the Labour Codes

The labour codes incorporate digital governance in uneven but unmistakable ways. Their doctrinal structure reveals at least four distinct digital functions: registration, record-keeping, inspection, and welfare delivery. They also reveal a federal complication. Labour is in the Concurrent List; the central and state governments both frame rules. The Ministry's 2024-25 Annual Report records pre-publication of draft rules by the Centre and a majority of states and union territories by the end of 2024, while the January 2026 FAQ confirms that old rules continue in force until new rules are finally notified, so long as they remain aligned with the Codes. The digital regime is therefore legally hybrid and administratively uneven.[1] [10] [12]

The Code on Wages, 2019 digitalises compliance mainly through provisions on records, returns, notices, and inspection. Section 50 requires the maintenance of registers, display of notices, and issue of wage slips; section 51 authorises an inspection scheme that may provide for web-based inspection, electronic calling of information, and randomised selection. The 2025 draft central rules carry this further by permitting electronic claims and notices, electronic maintenance of registers, electronic wage slips, and annual returns filed electronically. The code thus uses digitalisation to make wage regulation documentable and reviewable, but it does not construct a separate welfare database architecture of its own.[2] [6]

The Industrial Relations Code, 2020 digitises industrial relations procedure more than substantive rights. Trade-union registration applications may be made electronically; draft standing orders and modifications may be forwarded electronically; conciliation reports may be submitted in electronic form; tribunal and National Industrial Tribunal awards may be signed electronically; and applications seeking prior permission for retrenchment or closure may also be made electronically. This is significant. It shows that, in industrial relations, digitalisation is aimed less at welfare databases and more at accelerating associational, adjudicatory, and managerial procedures. The administrative implication is a faster and more legible paper trail in collective labour relations.[3] [7]

The Occupational Safety, Health and Working Conditions Code, 2020 is more ambitious. Section 3 requires electronic registration of establishments and electronic issue of registration certificates. Section 21 requires the maintenance of a portal-based database for inter-State migrant workers and allows self-registration by workers on the basis of self-declaration and Aadhaar. Section 33 permits electronic registers,

electronic wage slips, and electronic returns; section 34 authorises web-based inspection and electronic information requests; section 37 contemplates third-party audit and certification through a web-based randomised scheme; and section 55 requires payment of contract-labour wages by bank transfer or electronic mode, with electronic intimation to the principal employer. The OSHWC Code therefore moves beyond digitising forms: it builds a digital administrative ecology around registration, traceability, and enforcement.[4] [8]

The Code on Social Security, 2020 goes furthest in linking digital administration to labour welfare. Section 111 permits electronic records for schemes. Section 112 authorises helplines and facilitation centres to disseminate information, process applications, assist registration, and facilitate enrolment. Section 113 requires registration of unorganised, gig, and platform workers through self-declaration, allows electronic self-registration, and envisages Aadhaar-linked documentation and a distinguishable number for the worker. Section 122 permits web-based inspection and electronic information calls, while section 123 permits electronic employer records and returns. The 2025 draft central rules operationalise this architecture through portal-based registration for employees, building workers, unorganised workers, gig workers, platform workers, and aggregators, and contemplate downloadable digital cards and ongoing electronic updates by aggregators.[5] [9]

A striking doctrinal feature across the Codes is the repeated use of the phrase "electronically or otherwise." This drafting formula matters. It suggests that Parliament did not intend pure digital compulsion in every context; rather, it authorised a digital default while preserving room for offline or assisted processes. From the perspective of constitutional administration, this is sensible. It recognises both the efficiency of electronic systems and the reality of uneven digital access. Whether this flexibility survives in practice, however, will depend on how governments design portals, helpdesks, common service interfaces, and documentary alternatives.[4] [5] [9]

9.5 Digital Registration Systems

9.5.1 Registration of Establishments

Electronic registration of establishments is one of the clearest doctrinal moves under the Codes. Under section 3 of the OSHWC Code, qualifying establishments must apply electronically for registration; the registering officer must issue a certificate electronically; and changes in particulars must also be intimated electronically. The Ministry's Compliance Handbook presents this as part of a broader move towards single registration, all-India single licences, electronic filings, and time-bound approvals. This is not merely procedural streamlining. It converts establishment

registration into a trackable data event capable of feeding inspection, licensing, and compliance systems.[4] [13]

The promise of "single" registration has deeper administrative implications. Under the old model, multiple establishments or activities might attract separate documentary interfaces under different statutes. Digital registration seeks to create a unified establishment identity, including through the use of registration numbers and labour identification numbers. In regulatory terms, this makes cross-agency data matching easier; in policy terms, it brings labour administration closer to the logic of integrated business-facing digital governance.[13] [15]

9.5.2 Worker Registration Systems

Worker registration is where digital governance most directly intersects with labour welfare. The OSHWC Code's portal for inter-State migrant workers seeks to make a historically elusive labour category legible through self-registration and state-maintained databases. The Social Security Code then extends this logic to unorganised, gig, and platform workers. Section 113 requires registration through self-declaration, contemplates Aadhaar-linked applications, and expressly requires that the electronic registration system facilitate self-registration. The draft central rules deepen this architecture by providing for designated portals, unique numbers, digital cards, and registration assistance through post offices, common service centres, and e-sewa facilities.[4] [5] [9]

These provisions are doctrinally significant because they shift welfare governance away from the exclusive dependence on the formal employer-employee relationship. Historically, large segments of Indian labour law were hardest to enforce precisely where work was informal, mobile, subcontracted, or platform-mediated. A worker database backed by unique identifiers, self-registration, and portable records seeks to respond to that problem. But it also changes the meaning of labour welfare: welfare increasingly depends on successful registration, successful data validation, and successful inter-agency recognition of database entries.[5] [17]

9.5.3 Integration of Labour Databases

The most visible example of labour-database integration is e-Shram. According to the Ministry's 2024-25 Annual Report, registrations on e-Shram crossed 30 crore, the platform was launched as a "One-Stop Solution" on 21 October 2024, twelve social security and welfare schemes had been mapped or integrated with it, and data-sharing guidelines had been framed for states and union territories. The same report records development of a platform-worker module and advisories to aggregators to register themselves and their workers. e-Shram's official portal in March 2026 presents it as a one-stop solution with helpdesk support, a CSC locator, mobile app functionality, UMANG integration, and stakeholder access arrangements.[10] [14] [17]

Integrated databases can improve policymaking because they permit matching between eligibility, residence, occupation, welfare schemes, and labour-market services. They may also improve portability for migrant workers and target saturation more effectively. But they create a new dependency: the worker must first be data-recognised before the state can act with administrative precision. That is a powerful gain in visibility, but it also carries risks of exclusion where the preconditions of digital registration are not met.[5] [17]

9.6 Digital Compliance Mechanisms

9.6.1 Electronic Filing and Reporting

The codes build a layered regime of electronic filing and reporting. Under the Code on Wages and its 2025 draft central rules, claims, notices, registers, wage slips, and annual returns may be handled electronically. Under the OSHWC Code, registers, wage slips, and returns may likewise be maintained or filed electronically. Under the Social Security Code, employer records and returns may be electronic, and welfare-scheme records may also be maintained electronically. The cumulative effect is the gradual replacement of statute-specific paper trails with digitised compliance files capable of being centralised, searched, and audited.[2] [5] [6]

The doctrinal significance of electronic filing is often understated. Filing rules determine who bears the costs of proof, who can establish chronology, and how easily enforcement can proceed. Once filings become electronic, default, delay, non-response, and inconsistency become easier to trace. That helps both administration and adjudication. It also reduces one classic weakness of labour governance-fragmented proof residing in inaccessible office files.[2] [3] [5]

9.6.2 Self-Certification through Digital Platforms

Self-certification is not created by the Codes alone, but the Codes sit atop an administrative landscape in which self-certified online returns and start-up self-certification already play an important role. The Annual Report 2023-24 records that unified online annual returns under eight central labour laws were mandatory through the Shram Suvidha portal and that start-ups could obtain exemption from inspections under certain laws by submitting self-certified declarations through the portal. The 2026 Compliance Handbook reinforces the policy preference for a “facilitative rather than punitive” compliance approach, alongside single electronic returns and reduced forms and registers.[11] [13] ?!□cite□turn138131view0□turn692078view5□

The attraction of self-certification is plain. It reduces routine paperwork, conserves inspectorate resources, and aligns with the Codes’ rhetoric of simplification. Yet self-certification is defensible only where it remains embedded within credible oversight. In labour law, the danger of over-reliance on self-certification is that formal

attestation may substitute for effective verification, especially in sectors marked by subcontracting, wage theft, or weak worker voice. The wiser reading is that digital self-certification should operate as a triage mechanism within a larger enforcement strategy, not as a substitute for enforcement.[11] [1

9.6.3 Risk-Based Digital Inspection Systems

The labour codes are explicit in authorising technology-driven inspection schemes. The Code on Wages, the OSHWC Code, and the Social Security Code all permit inspection schemes that may provide for web-based inspections, electronic calls for information, and randomised or structured assignment mechanisms. The pre-code Shram Suvidha experience is especially relevant: the Ministry's 2023-24 Annual Report describes a transparent labour inspection scheme based on computer-generated lists using objective risk-based criteria, complaint-based inspections screened through central analysis units, and mandatory uploading of reports within 48 hours.[2] [4] (

Risk-based digital inspection has genuine administrative virtues. It can focus scarce inspectorate capacity on high-risk sectors, avoid arbitrary inspection targeting, improve coverage, and generate system-level statistics on compliance patterns. Yet it also creates a new legal question: what counts as an acceptable risk model in labour administration? If establishments are prioritised through opaque criteria, Article 14 concerns of arbitrariness are not eliminated but displaced from the front-end inspector to the back-end algorithm or dashboard rule. For that reason, risk-based systems must be transparent in principle, reviewable in operation, and supplemented by worker-triggered complaint channels.[1] [22] [2

Table 9.1 Digital Governance Tools under the Labour Codes

Digital governance tool	Principal legal/administrative basis	Core function	Governance significance
Electronic registration of establishments	OSHWC Code, s. 3; Compliance Handbook	Online establishment registration and amendments	Creates a unified, traceable establishment identity for compliance and inspection
Worker self-registration and digital IDs	OSHWC Code, s. 21; Social Security Code, ss. 112-113; 2025 draft	Registers migrant, unorganised, gig	Extends labour governance beyond formal

	Social Security Rules; e-Shram	and platform workers; assigns unique numbers/cards	employment and supports welfare portability
Electronic records, wage slips and returns	Code on Wages, s. 50; OSHWC Code, s. 33; Social Security Code, s. 123; 2025 draft Wages Rules	Standardises employer documentation and filings	Improves traceability, auditability and comparative oversight
Online claims and dispute platforms	2025 draft Wages Rules; Industrial Relations Code procedural e-filings; SAMADHAN	Enables digital submission of claims, reports and dispute materials	Can reduce delay and widen procedural access if supported by offline assistance
Web-based and risk-based inspection	Code on Wages, s. 51; OSHWC Code, s. 34; Social Security Code, s. 122; Shram Suvidha inspection scheme	Uses digital selection, data inputs and electronic reporting	May improve coverage and accountability, but raises transparency and due-process questions
Integrated labour databases	e-Shram; Budget 2024-25; Ministry Annual Report 2024-25	Links labour registration with welfare, labour-market and verification systems	Makes welfare delivery more targeted, but also makes registration a precondition of visibility

Source: **Compiled from the four Labour Codes, the relevant 2025 draft central rules, the Ministry's Annual Reports, and the official Shram Suvidha, SAMADHAN and e-Shram portals.**

Table 9.1 shows that the digital turn under the Codes is not a single reform but an administrative stack. At one level lie employer-facing systems of registration, return-filing and licensing. At another lie worker-facing systems of registration and welfare identification. At a third lie enforcement-facing systems of inspection, analytics and reporting. The table also highlights a conceptual shift: labour governance is moving from isolated statutory silos towards a common digital infrastructure in which the same data event can serve compliance, enforcement, and welfare purposes simultaneously.[10] [1

9.7 Impact of Digitalisation on Labour Governance

9.7.1 Improved Administrative Efficiency

There is little doubt that digitalisation can improve administrative efficiency. Single-window returns, electronic registration, digital acknowledgements, and online claims reduce repetitive paperwork and shorten file movement. The Handbook's own statistics on reduced returns, forms and registers illustrate how simplification is being institutionalised through digital architecture rather than through deregulation alone. Likewise, electronic issuance of certificates and electronic filing of claims and reports can reduce the everyday frictions of compliance and dispute handli

Efficiency gains also matter for workers, not only employers. A grievance system such as SAMADHAN can reduce the distance between worker complaints and administrative handling, while electronic claim forms under the Wages framework may help workers invoke statutory remedies without repeated physical visits to offices. Where digital systems are designed with multilingual interfaces, assisted filing, and trackable status updates, they can diminish both delay and uncertainty.(

9.7.2 Transparency and Accountability

Digital records can make labour governance more transparent. Shram Suvidha describes itself as a single point of contact between employer, employee and enforcement agencies, with online returns and single-window access; the 2023-24 Annual Report records mandatory uploading of inspection reports within 48 hours and risk-based inspection selection. These features help constrain the invisibility of administrative action and generate reviewable compliance histories. Transparency, in this sense, is not merely public disclosure; it is the capacity to reconstruct administrative conduct through digital traces.[1

This has a constitutional dimension. Article 14's prohibition on arbitrariness remains relevant to digital administration no less than to analog administration. If a web-based system reduces room for unstructured discretion and preserves an audit trail, it may strengthen equality before the law in practical terms. But transparency is not guaranteed by digitalisation alone. A system can be fully digital and still opaque if its

backend criteria, data-sharing practices, and prioritisation rules are hidden from those affected.(

9.7.3 Access to Welfare Schemes

The most important welfare effect of digitalisation lies in access and portability. The e-Shram platform, now linked to multiple social-sector schemes, is expressly intended to help agencies verify eligibility, identify beneficiaries, and deliver welfare more effectively across states and districts. The Social Security Code's provisions on registration, facilitation centres, and enrolment support move in the same direction. For migrant, construction, gig, and other precarious workers, this is potentially transformative because it treats identification and welfare delivery as connected problems.(5) (1

The constitutional significance of this development should not be understated. Articles 38, 41, 42, 43 and 47 orient the state toward welfare, public assistance, humane conditions of work, living wages, and public health. Judicial doctrine has similarly constitutionalised labour welfare. In *People's Union for Democratic Rights*, the Court linked payment below minimum wages to Article 23's prohibition of forced labour. In *Bandhua Mukti Morcha*, the Court treated freedom from exploitation and dignified life as requiring affirmative state action. *Olga Tellis* connected livelihood to Article 21, while *Consumer Education & Research Centre* recognised workers' health and medical care as an integral facet of the right to life. Properly designed digital welfare systems can help fulfil these constitutional commitments by making entitlements administratively reachable.(1) (18) (19) (2

9.8 Challenges in Digital Labour Governance

9.8.1 Digital Divide and Worker Accessibility

The strongest critique of digital labour governance is exclusion. Workers who lack smartphones, reliable connectivity, digital literacy, stable identity documents, or language comfort may find registration and grievance systems difficult to use. The Codes partly recognise this problem: section 112 of the Social Security Code authorises facilitation centres and helplines, and the 2025 draft Social Security Rules provide for registration assistance through post offices, common service centres, and e-sewa facilities. e-Shram's portal similarly points to a helpdesk and CSC locator. The legislative architecture, in short, acknowledges digital vulnerability.(5) (

But acknowledgement is not the same as resolution. A labour regime becomes exclusionary when the practical route to rights is digital by default while the offline alternatives are thin, underfunded, or poorly publicised. This risk is especially acute for informal workers, women workers with constrained device access, migrant workers navigating multiple languages, and platform workers whose work

arrangements are already mediated by proprietary apps. The recurring legislative phrase "electronically or otherwise" should therefore be read not as a drafting convenience but as an equality safeguard.

9.8.2 Institutional Capacity for Digital Implementation

Digital systems do not eliminate administrative capacity constraints; they often reconfigure them. Effective e-governance requires robust backend infrastructure, interoperable databases, trained staff, reliable grievance handling, and continuing maintenance. The labour field adds a federal complication because rules and implementation structures are split across the Centre and the states. The Ministry's Annual Report notes both the concurrent-list position of labour and ongoing state integration with the Shram Suvidha portal, underscoring that the digital regime depends on coordination rather than simple central command.(1

ILO materials make the same institutional point in comparative terms. Labour administration requires viable, active systems and adequate financing. Recent ILO-supported digital inspection projects in Fiji and under the LIFT initiative show that moving from paper to fully digital workflows requires pilots, training, case-management design, and technological support; it is not a one-click reform. India's labour digitalisation will similarly succeed only if labour departments, inspectorates, tribunals, welfare boards, and facilitation networks are equipped to use the systems consistently.(2

9.8.3 Data Privacy and Security Concerns

Digital labour governance generates significant privacy concerns because labour databases may contain Aadhaar-linked identifiers, employment details, wage information, migration status, benefits history, occupational information, and potentially sensitive vulnerabilities. After *Justice K.S. Puttaswamy*, privacy and informational self-determination are no longer policy preferences but constitutional concerns. Any labour database architecture must therefore be justified in terms of legality, legitimate aim, necessity, and proportionali

The Digital Personal Data Protection Act, 2023 and the Digital Personal Data Protection Rules, 2025 create an important but still general framework. The Act recognises both the right of individuals to protect personal data and the need to process data for lawful purposes; it also permits the State and its instrumentalities, subject to legal standards, to process digital personal data for benefits, services, certificates, licences and permits in specified circumstances. The Rules require notices to be clear, in plain language, and to provide accessible means for consent withdrawal, rights exercise, and complaints. The Act also recognises rights of access, correction and erasure.(2

For labour governance, this means two things. First, privacy cannot be treated as an afterthought once welfare databases have been built. Secondly, labour databases

require sector-specific data governance norms even where the general data-protection framework exists. Purpose limitation, minimisation, role-based access, retention limits, audit logs, security safeguards, and accessible correction mechanisms are essential. The more labour welfare depends on database integration, the stronger the case for privacy-by-design in labour administration.(22) (2

9.9 International Perspectives on Digital Labour Governance

International labour standards help frame the digital turn. ILO Convention No. 150 defines labour administration as the public administration activities in the field of national labour policy, and Convention No. 81 identifies core labour-inspection functions as enforcement, provision of advice to employers and workers, and reporting of abuses not covered by existing law. India has ratified Convention No. 81. These standards do not prescribe a particular technology, but they do insist that labour administration and inspection be effective, informed, and capable of protecting workers in practice. Digitalisation is therefore compatible with international standards only insofar as it strengthens those underlying functions.(2

Recent ILO work shows a growing global movement towards digital inspectorates. The LIFT system is described by the ILO as a cloud-based electronic case-management system designed to replace paper-based planning, monitoring, and reporting with digital workflows, improve risk detection, and generate reliable statistics; Fiji's Paperless Labour Inspection System similarly aims to improve efficiency, transparency, and coverage. These experiences support the Indian reform agenda but also underline that digital inspection must remain grounded in labour-protection goals, not merely in administrative modernisati

Comparative examples also show the importance of worker-facing design. Singapore's myMOM portal provides integrated employer e-services, while SGWorkPass enables workers to view digital work-pass details, receive personalised notifications, access salary information in specific cases, and choose from multiple language settings, with privacy protections built into identity-confirmed viewing. Australia's Fair Work Ombudsman, by contrast, offers a worker-centred "Record My Hours" app that helps employees record and export their own working-time data and explicitly states that personal data from the app is not stored centrally by the authority. The lesson for India is clear: digital labour governance should not be exclusively employer-facing or inspection-facing; it should also empower workers as record-holders and informed participants.(3

9.10 Critical Evaluation of Digitalisation under the Labour Codes

The strengths of the new digital regime are substantial. It simplifies documentary compliance, reduces multiplicity, creates auditable records, enables risk-based

deployment of scarce inspectorate resources, and widens the state's capacity to identify and support workers outside the narrow formal sector. The combination of e-registration, single returns, electronic inspection frameworks, grievance portals, and e-Shram integration gives the new labour regime a coherence that the old, paper-heavy system often lacked. On this score, digitalisation is one of the most institutionally consequential dimensions of labour codification.[10] [13] [1

Even so, the reform has clear limitations. First, the present framework remains transitional. The Codes are in force, but the Ministry's 2026 FAQ makes clear that old rules continue until new ones are finally notified, and the digital architecture still depends upon draft 2025 central rules and uneven state preparedness. Secondly, simplification for employers does not necessarily translate into stronger labour protection for workers. A regime that emphasises self-certification, facilitation, third-party audits, and electronic filings may reduce friction without adequately increasing substantive compliance unless inspection, adjudication, and worker complaint systems remain robust.[12] [1

Thirdly, digitalisation can obscure distributive questions by presenting labour governance as a technical problem. Labour law is not only about efficient administration; it is about bargaining power, livelihood, health, dignity, and protection from exploitation. The constitutional tradition-visible in Articles 38, 41, 42, 43, and 43A and in cases such as *PUDR*, *Bandhua Mukti Morcha*, *Olga Tellis*, and *Consumer Education*-requires the state to see labour welfare in substantive, not merely procedural, terms. A digital dashboard cannot itself secure minimum wages, humane conditions, social security or industrial justice. It can only help administer them.[1] [18] [19] [2

Fourthly, the privacy question is not peripheral but structural. The more the labour regime relies on Aadhaar-seeded registration, integrated databases, and cross-portal welfare verification, the more important it becomes to ensure legality, proportionality, security safeguards, correction rights, and intelligible notices in plain language. Here, *Puttaswamy* and the DPDP framework supply an important constitutional and statutory check. Labour digitalisation will be normatively defensible only if it is inclusive by design, privacy-conscious by design, and reviewable by design.[22] [2

A more mature reform agenda would therefore move in five directions. It would preserve assisted and offline channels; strengthen worker-facing digital tools, not only employer compliance portals; publish intelligible standards for risk-based inspection and data sharing; build state-level capacity and interoperability; and embed tripartite feedback in portal design. Such an approach would align digital governance with both international labour-administration standards and India's constitutional commitment to humane, dignified labour welfare.[27] [28] [29] [3

9.11 Conclusion

Digitalisation under India's labour codes is not an incidental modernisation of forms. It marks a deeper transformation in the modalities of labour governance: from fragmented paper administration to integrated, portal-mediated regulation; from establishment-centred records to worker databases and welfare registries; from opaque inspection routines to web-based, risk-inflected enforcement; and from scattered disputes and claims to digital grievance platforms. In that sense, the digital turn is central to the broader remaking of India's labour regime.[10] [13] [1

Yet codification and digitalisation do not by themselves settle the normative direction of labour law. They can support welfare, or merely repackage compliance. They can democratise access, or deepen exclusion. They can reduce arbitrariness, or relocate it into opaque data systems. The real test of the new regime will therefore lie in implementation: whether digital labour governance becomes a constitutional instrument for labour welfare, social security, and dignified work, or whether it remains only an efficient administrative shell. That question places Chapter 18 squarely within the larger story of India's new labour regime: a shift not only in what labour law says, but in how labour governance is imagined, organised, and experienced.[1] [10] [1

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Chapter 10

Labour Welfare and Constitutional Mandate: An Appraisal under Directive Principles of State Policy

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10.1 Introduction: Constitutional Foundations of Labour Welfare

Labour welfare occupies a constitutional rather than merely administrative place in Indian law. The Constitution's promise of social, economic and political justice presupposes that the world of work will not be left to private bargaining alone. Employment relations are marked by structural inequality, uneven bargaining power, vulnerability to unemployment, and differentiated exposure to occupational risk. For that reason, labour law in India developed not simply as an adjunct to industrial policy but as a jurisprudence of social citizenship. The consolidation of twenty-nine central labour enactments into four labour codes-on wages, industrial relations, social security, and occupational safety, health and working conditions-does not alter that foundational premise; it rearranges the legal techniques through which the State seeks to realise it.[1,17-20]

The contemporary constitutional importance of labour welfare has become even sharper after the codes were brought into force on 21 November 2025. The post-enforcement position is not one of neat replacement, but of managed transition: official government materials indicate that pre-existing rules, notifications and schemes continue to operate, to the extent consistent with the codes, until new code-specific rules and schemes are finally notified. The result is a hybrid legal order in which codified statutory commitments coexist with inherited regulatory architecture and uneven state-level rule-making. Any serious constitutional appraisal must therefore move beyond the enacted text and consider the institutional conditions of implementation.[21-24]

Historically, the legislative lineage of labour welfare in India runs from the early protective statutes of the late colonial period-such as the Workmen's Compensation Act 1923, the Trade Unions Act 1926 and the Payment of Wages Act 1936-to the post-Constitution expansion of welfare legislation through the Factories Act 1948, Minimum Wages Act 1948, Employees' State Insurance Act 1948, Employees' Provident Funds and Miscellaneous Provisions Act 1952, Maternity Benefit Act

1961, Contract Labour (Regulation and Abolition) Act 1970, Equal Remuneration Act 1976, the Inter-State Migrant Workmen Act 1979 and the building workers' welfare enactments of 1996. The labour-code project is the latest phase in that evolution, shaped both by welfare-state commitments and by the regulatory priorities of liberalisation, formalisation and administrative simplification.[3-16,40,43,44]

This chapter argues that labour welfare legislation in India derives its normative legitimacy from constitutional commitments to social justice, most explicitly articulated through the Directive Principles of State Policy but also mediated through fundamental rights and judicial interpretation. The new labour codes may therefore be understood as a constitutional project of reorganisation rather than a merely technical exercise in legislative consolidation. Whether that project succeeds depends on whether codification deepens worker protection, extends social security and dignified conditions of work, and preserves meaningful forms of industrial citizenship, or whether it instead relocates crucial welfare content into delegated legislation, thresholds and administrative discretion in ways that weaken the constitutional promise of labour justice.[1,2,17-24,42,44]

10.2 Constitutional Philosophy of Social Justice and Labour Protection

10.2.1 Social Justice as a Constitutional Ideal

The constitutional philosophy of labour welfare begins with the social-justice orientation of the Indian republic itself. The Preamble commits the State to justice-social, economic and political-and the constitutional structure proceeds on the assumption that markets do not by themselves secure fair terms of social cooperation. Labour is not treated as an ordinary commodity. It is the basis of livelihood, bodily integrity, familial survival and civic participation. In that sense, labour welfare law is a central means by which the Constitution seeks to reduce material inequality and protect those who enter the labour market from positions of social and economic disadvantage.[1,43,44]

This understanding is consistent with the broader architecture of the Constitution. Articles 38 and 39 require the State to promote a social order informed by justice, minimise inequalities, secure an adequate means of livelihood, and prevent the abuse of workers' health and strength. Article 43 projects a more ambitious horizon by referring to a living wage, decent conditions of work and a decent standard of life. These provisions reveal that labour welfare is not exhausted by subsistence. The constitutional ideal is not merely survival within employment, but dignified work within a distributive order that recognises human vulnerability and social interdependence.[1]

Indian labour legislation historically gave institutional form to this ideal through wage floors, limits on working time, maternity protection, provident funds, workplace safety, compensation for injury, and sector-specific welfare boards. The welfare state did not abolish hierarchy in the labour market, but it attempted to mediate it through mandatory norms that limited contractual asymmetry. Social justice in labour law, therefore, has always involved a double movement: shielding labour from private domination while also organising economic development in a manner compatible with citizenship and dignity.[6-16,35,44]

10.2.2 Labour Rights within the Constitutional Framework

Labour rights occupy a distinctive place within the constitutional framework because they connect liberty, equality and social welfare. In a formal contract model, employment may appear as a voluntary exchange between autonomous parties. Constitutional labour jurisprudence rejects that abstraction. It recognises that choice in labour markets is often shaped by poverty, unemployment, indebtedness, migration and social vulnerability. Labour law accordingly functions as a corrective to unequal bargaining relationships. It supplies mandatory minima where consent alone cannot guarantee fairness.[25-27,43,44]

This corrective function is visible across the constitutional text. Equality norms address wage discrimination and arbitrary exclusion; the ban on forced labour addresses coercive work arrangements and exploitative underpayment; the right to life anchors claims to dignity, health and humane conditions; and the Directive Principles guide legislative design toward social insurance, maternity relief, participatory management and decent living standards. Labour welfare is therefore not a peripheral welfare programme. It is part of the Constitution's deeper attempt to transform status hierarchy into a more egalitarian social order.[1,25-35]

10.3 Directive Principles of State Policy and Labour Welfare

10.3.1 Role and Nature of Directive Principles

The Directive Principles of State Policy furnish the normative core of labour welfare in India. Under Article 37, the Directive Principles are non-justiciable; yet they are also declared to be fundamental in the governance of the country, and the State is mandated to apply them in making laws. Their significance lies not in direct enforceability but in constitutional direction. They articulate a programme of social transformation and supply a standard against which legislative design can be assessed. Labour welfare legislation has historically been one of the most visible domains in which Part IV has been translated into statutory form.[1,33]

The Supreme Court has repeatedly emphasised that the Constitution is not a charter of negative liberty alone. In Minerva Mills the Court described Parts III and IV as

complementary and supplementary, thereby rejecting any strict antagonism between civil-political rights and socio-economic commitments. In the labour context, that insight is particularly important. Directive Principles justify legislative interventions that would otherwise appear to qualify managerial prerogative or contractual freedom. They constitutionalise the proposition that social justice may require affirmative regulation of wages, hours, welfare amenities and social insurance.[33,44]

10.3.2 Constitutional Provisions Relating to Labour Welfare

Several Directive Principles speak directly to labour welfare. Article 38 requires the State to secure a social order informed by justice and to minimise inequalities in income and status. Article 39(a) directs that citizens have an adequate means of livelihood; Article 39(d) speaks of equal pay for equal work; and Article 39(e) requires protection of workers' health and strength against abuse. Article 41 contemplates public assistance in cases of unemployment, sickness, disablement and old age. Article 42 requires just and humane conditions of work and maternity relief. Article 43 envisages a living wage and decent standard of life. Article 43A, inserted by the Forty-second Amendment, adds worker participation in management as a constitutional objective.[1]

Taken together, these provisions reveal the multidimensionality of labour welfare. It is not reducible to wages, nor to factory safety, nor to social security alone. Instead, the constitutional design combines distributive goals (adequate livelihood, living wage), protective goals (humane conditions, health and safety), equality goals (equal pay and non-discrimination), and democratic goals (worker participation in management). The labour-law field accordingly developed as a mosaic of statutes, institutions and welfare funds rather than a single master enactment. Codification must be evaluated against this plural constitutional inheritance.[1,6-20]

10.3.3 Directive Principles as a Framework for Labour Legislation

The Directive Principles have long functioned as a legislative compass. Minimum-wage legislation gives concrete shape to Articles 39 and 43; factory and safety legislation translates Article 42 and Article 39(e) into rules on health, sanitation, ventilation, welfare amenities and working time; maternity protection is an express statutory realisation of Article 42; social-security enactments such as the ESI and EPF laws operationalise Article 41; and welfare-board models for construction labour respond to the constitutional demand that the most precarious forms of work be brought within a redistributive framework.[6-16]

The labour codes continue this practice of translation, but in a new idiom. They replace the earlier statute-by-statute architecture with broad umbrella enactments that standardise definitions, centralise conceptual categories and rely extensively on

subordinate legislation, digital registration and harmonised compliance systems. This is not a neutral reformatting exercise. It changes the constitutional mechanics of labour welfare by altering where the normative detail resides: some protections are preserved in statutory form, while others become dependent on rules, schemes, notifications or administrative platforms. The constitutional question is therefore not whether the codes invoke welfare objectives, but whether the design they adopt is capable of sustaining them in practice.[17-24,40,42]

10.4 Fundamental Rights and Labour Protection

10.4.1 Equality and Non-Discrimination in Employment

Although the Directive Principles provide the principal normative basis for labour welfare, the protection of labour also draws strength from fundamental rights. Articles 14, 15 and 16 establish a constitutional framework against arbitrary and discriminatory treatment. In labour jurisprudence, this framework has informed judicial recognition of equal remuneration, fair classification and non-discriminatory access to employment. In Randhir Singh, the Supreme Court treated "equal pay for equal work" as a constitutional principle deducible from Articles 14 and 16 read with Article 39(d). In Mackinnon Mackenzie, the Court applied the equality principle to sex-based wage discrimination and reinforced the normative significance of equal remuneration legislation.[28,29]

The Code on Wages, 2019 reflects this constitutional lineage. Section 3 prohibits discrimination on the ground of gender in matters relating to wages for the same work or work of a similar nature, as well as in recruitment and conditions of employment, subject to certain exceptions where employment of women is restricted by law. The code also universalises wage regulation across employments and creates a common definition of "wages", thereby seeking to reduce evasion through fragmented statutory categories. From a constitutional perspective, these features advance the equality norm, even though the adequacy of wage levels and enforcement remains a separate question.[17,28,29,39,41]

Equality in labour law also has a broader dignitarian dimension. Wage discrimination, denial of maternity accommodation, exclusion from welfare boards, or arbitrary differentiation between classes of workers may all undermine the equal worth of workers as constitutional subjects. The Court's later jurisprudence, including decisions such as Jagjit Singh, has reiterated the continuing relevance of equality-based claims in the context of precarious or temporary labour, even if the exact contours of relief remain institutionally constrained.[32,39]

10.4.2 Protection against Forced Labour

Article 23 is one of the most significant constitutional provisions for labour welfare because it breaks with a narrow conception of coercion. In People's Union for Democratic Rights v Union of India, the Supreme Court held that "forced labour" is not confined to physical compulsion. Labour extracted because economic necessity leaves a worker with no real alternative may also attract Article 23. Importantly, the Court held that payment below the statutory minimum wage amounts to forced labour because the law itself defines the minimum below which labour cannot be justly purchased.[25]

That principle was reinforced in Sanjit Roy v State of Rajasthan, where the Court held that even workers employed on relief works could not be paid less than minimum wage. The constitutional significance of these decisions is profound. They transform minimum-wage law from a policy preference into an anti-exploitation norm linked to fundamental rights. The Code on Wages must therefore be assessed not simply as a consolidation statute, but as a constitutional instrument for operationalising the Article 23 floor against exploitative underpayment.[26,17]

10.4.3 Right to Life and Dignity of Labour

Article 21 has progressively supplied a constitutional language of dignity for labour welfare. In Bandhua Mukti Morcha, the Supreme Court linked bonded labour, inhuman working conditions and the failure of labour administration to Articles 21, 23 and 24, read alongside the Directive Principles. The judgment treated the right to live with human dignity as incompatible with exploitative labour arrangements, inadequate nutrition, medical neglect and degrading conditions of work. The significance of the case lies not only in its concern with bonded labour, but in its insistence that labour welfare is a constitutional obligation of governance rather than a matter of executive charity.[27]

Subsequent decisions further widened the dignitarian basis of labour protection. In Consumer Education & Research Centre, the Court treated health and medical care for workers exposed to occupational hazards as part of Article 21, read with Articles 39(e), 41 and 43. In Municipal Corporation of Delhi v Female Workers (Muster Roll), maternity relief was extended to women in casual employment, emphasising that social justice and constitutional equality cannot be reserved for permanent workers alone. These decisions established that dignity at work requires more than non-coercion; it includes safety, health, maternity protection and basic social security.[30,32]

10.5 Judicial Interpretation of Labour Welfare Principles

10.5.1 Judicial Activism in Labour Jurisprudence

The judiciary has played a constitutive role in labour welfare through the doctrine of beneficial interpretation. Labour statutes are often enacted to remedy structural inequality, and courts have long held that such legislation should not be construed in a narrow or defeatist manner. In B. Shah, a maternity-benefit provision was interpreted liberally so as to promote the social-justice purpose of the statute. In Workmen of American Express International Banking Corporation, the Court reiterated that welfare legislation should be interpreted in favour of those for whose benefit it is enacted, unless the text clearly compels a contrary result.[36,37]

This pro-labour interpretive orientation was especially visible during the high phase of social-rights constitutionalism, when courts were prepared to read labour legislation in light of the Directive Principles and the vulnerability of workers. Beneficial interpretation did not merely fill statutory gaps; it affirmed a jurisprudential method in which labour law was viewed as public law for regulating social power, not only as private law for enforcing agreements.[27,30,36,37,44]

At the same time, judicial labour jurisprudence has not been uniformly worker-protective across all periods. Scholarly analysis suggests that later decades have witnessed a more mixed pattern, especially in disputes relating to dismissal, reinstatement and managerial flexibility. That development does not erase the constitutionalisation of labour welfare, but it does caution against romanticising the courts as consistently redistributive institutions. The constitutional field remains contested, and judicial doctrine often reflects wider policy shifts in the political economy of labour reform.[45]

10.5.2 Expansion of Socio-Economic Rights

A striking feature of Indian labour jurisprudence is the judicial expansion of socio-economic rights through constitutional interpretation. Occupational health rights, protection against hazardous employment, maternity relief and child-labour rehabilitation have all been read into the constitutional scheme. Consumer Education & Research Centre constitutionalised occupational health; Municipal Corporation of Delhi constitutionalised maternity protection for non-regular women workers; and M.C. Mehta v State of Tamil Nadu connected child labour regulation to rehabilitation, education and the broader welfare obligations of the State. These cases show how labour welfare became a site for the judicial elaboration of substantive citizenship.[30,32,38]

Similarly, D.S. Nakara treated pension not as a gratuitous payment but as a socio-economic measure linked to the welfare-state commitment of the Constitution. Although Nakara arose outside classical industrial labour law, its reasoning

influenced the constitutional understanding of social security as part of dignified post-work existence. In the labour welfare context, this doctrinal move is important because it frames social-security legislation not as a discretionary subsidy but as part of the constitutional architecture of social protection.[35]

10.5.3 Constitutionalisation of Labour Welfare

The cumulative effect of these cases is the constitutionalisation of labour welfare. Labour legislation remains statutory in source, but its meaning is increasingly filtered through constitutional values. National Textile Workers' Union v P.R. Ramakrishnan is emblematic in this regard: by recognising the right of workers to be heard in winding-up proceedings, the Court underscored that workers have an institutional stake in the enterprise and cannot be treated as mere external claimants. This reasoning resonates with Article 43A's aspiration for worker participation in management and with a broader democratic conception of the workplace.[31]

Constitutionalisation has at least three consequences. First, it elevates labour welfare beyond ordinary policy preference. Secondly, it affects interpretive method by encouraging courts to read labour legislation in favour of social justice where the text allows. Thirdly, it provides a normative yardstick for assessing reform. Codification may simplify compliance, modernise administration or recognise new forms of work, but it remains constitutionally suspect if it hollows out minimum guarantees of dignity, equality, participation or social security. The constitutional question is therefore substantive, not merely formal.[1,31,33,44,45]

10.6 Constitutional Foundations of the New Labour Codes

10.6.1 Codification of Labour Laws and Constitutional Objectives

The labour codes were justified by the Union government and reform advocates as a response to multiplicity, definitional inconsistency and compliance complexity in Indian labour law. The Second National Commission on Labour had recommended consolidation of labour statutes into broad thematic codes, and both government and policy analysts presented codification as a means of simplification, transparency, technological integration and improved implementation. Those objectives are constitutionally relevant. If fragmentation impedes enforcement, rationalisation may serve labour welfare rather than diminish it. But codification also redistributes regulatory power: it standardises concepts, repeals sector-specific statutes, and relocates considerable normative detail to rules, schemes and digital systems. For that reason, the constitutional adequacy of the codes cannot be inferred from consolidation alone.[2,21,22,40,42]

Table 10.1 Constitutional Foundations of Labour Welfare in India

Constitutional principle	Constitutional location	Labour welfare objective / regulatory expression
Social justice	Preamble; Articles 38 and 39	Protection of workers against structural inequality through wage regulation, social security and welfare legislation.
Equality and non-discrimination	Articles 14-16 and 39(d)	Equal wages, non-discriminatory recruitment and equal treatment in conditions of work.
Humane working conditions	Articles 21, 39(e) and 42	Workplace safety, health protection, welfare amenities and maternity relief.
Living wage and social security	Articles 41 and 43	Income security, provident fund, insurance, gratuity, minimum/floor wages and decent standards of life.
Worker participation	Article 43A	Collective voice, participatory management and institutionalised dialogue in industrial relations.

Source: Compiled from the Constitution of India and the labour codes.[1,17-20]

Table 10.1 distils the point that labour welfare in India rests on an interlocking constitutional architecture rather than on a single clause or institution. Social justice provides the normative horizon; equality disciplines labour-market hierarchy; humane conditions of work express the constitutional concern with bodily integrity and dignity; and the living-wage principle prevents labour regulation from collapsing into bare subsistence. The codes must accordingly be assessed not only by whether they reduce regulatory multiplicity, but by whether they reproduce this constitutional architecture in operative form.[1,17-20]

The Code on Wages, 2019 is the clearest attempt to universalise a basic labour floor. It consolidates the Payment of Wages Act 1936, Minimum Wages Act 1948, Payment of Bonus Act 1965 and Equal Remuneration Act 1976. Its structure centres on a common definition of wages, timely payment, floor wages, minimum wages, bonus and gender-based non-discrimination. Particularly significant are three features. First, the code applies wage regulation across employments rather than retaining a fragmented scheduled-employment model. Secondly, the Central Government is empowered to fix a floor wage having regard to the minimum living standards of workers, below which state governments cannot set minimum wages. Thirdly, the definition of wages incorporates a fifty-per-cent cap on excluded components, thereby attempting to curb the long-standing practice of splitting wages into allowances so as to reduce statutory liabilities. Constitutionally, these features speak to Articles 14, 23, 39(d), 41 and 43, though much turns on the actual floor and minimum rates notified and on enforcement capacity.[17,25,26,28,29,41]

The Code on Social Security, 2020 combines continuity with innovation. It retains the institutional framework of the Employees' Provident Fund Organisation and the Employees' State Insurance Corporation, while also creating or continuing bodies such as the National Social Security Board, State Unorganised Workers' Boards and Building Workers' Welfare Boards. Doctrinally, its most important development is the formal recognition of unorganised workers, gig workers and platform workers within the social-security framework. The code provides for their registration through self-declaration, assigns a distinguishable number, contemplates Aadhaar-linked identification, and authorises social-security schemes funded by government contributions and, in the case of platform and gig work, aggregator contributions of one to two per cent of annual turnover, capped at five per cent of the amount paid or payable to such workers. It also preserves maternity benefits, enables work-from-home arrangements by agreement after maternity leave where the nature of work permits, and provides gratuity on a pro rata basis for fixed-term employees. These provisions move Indian labour law closer to the constitutional recognition of vulnerability across non-standard forms of work.[19,21,46]

Yet the social-security code also demonstrates the limits of codified aspiration. For unorganised, gig and platform workers, the code is largely framework-oriented: entitlement depends on registration, scheme design, financing and implementation. Official government clarifications now expressly state that registration does not automatically translate into payment of benefits; benefits are payable only under schemes that have been onboarded and only if scheme-specific eligibility conditions are satisfied. This is constitutionally significant. A framework that recognises new categories of workers without guaranteeing concrete and portable benefits risks

converting the right to social security into an administrative possibility rather than an effective entitlement. The constitutional promise of Article 41 is therefore only partially realised in the text itself; it depends heavily on the rule-making and scheme-making that follows.[19,23,53]

The Occupational Safety, Health and Working Conditions Code, 2020 is the most expansive of the four codes in terms of subject-matter. It consolidates the Factories Act 1948, the Contract Labour Act 1970, the Inter-State Migrant Workmen Act 1979, the building workers' legislation of 1996, and several other welfare enactments. Its regulatory structure combines establishment registration, duties of employers and employees, occupational safety and health standards, welfare facilities, special provisions for contract labour and inter-State migrant workers, and licensing architecture. Among its doctrinally important features are mandatory or rule-based welfare amenities such as canteens, crèches and welfare officers above specified thresholds; free annual health examinations for certain classes of employees; written appointment letters; a National Occupational Safety and Health Advisory Board and corresponding state boards; portability of public-distribution and construction-cess benefits for inter-State migrant workers; common licensing; and an inspector-cum-facilitator mechanism operating within a digitised compliance environment. The code thus attempts to shift the law of working conditions toward a unified administrative model with portability, standardisation and technology at its core.[20-22,42]

From a constitutional perspective, the OSHWC Code sits at the intersection of Articles 21, 39(e) and 42. It acknowledges that safety, health and welfare amenities are intrinsic to dignified work. Its portability provisions for migrant workers are particularly important in a labour market characterised by circular migration and fragmented documentation. At the same time, some of its regulatory choices invite closer scrutiny. The movement toward single registration, common licensing and facilitative enforcement may reduce transaction costs and administrative overlap, but it may also dilute deterrent labour inspection unless backed by adequate staffing, credible sanctions and strong risk-detection systems. The constitutional value of humane working conditions cannot be secured by platformisation of compliance alone.[20-23,30,47]

The Industrial Relations Code, 2020 addresses the institutional life of the workplace: trade unions, standing orders, dispute resolution, strikes and lock-outs, lay-off, retrenchment and closure, and a worker re-skilling fund. Its welfare significance lies in the fact that labour protection is not only distributive but also relational. Rights are secured, contested and revised through institutions of collective voice. The code provides for grievance redressal committees in establishments with twenty or more workers and works committees in establishments with one hundred or more workers.

It introduces a statutory mechanism for recognition of a negotiating union where a union commands fifty-one per cent support, and a negotiating council where no union meets that threshold. It also creates a worker re-skilling fund to assist retrenched workers.[18,21,42]

The central constitutional controversy surrounding the Industrial Relations Code arises from its rebalancing of security and flexibility. Fixed-term employment is explicitly recognised, with parity of benefits vis-à-vis permanent workers, including gratuity, though without the expectation of continuity after expiry of the contractual term. At the same time, the code applies the standing-orders regime and the special prior-permission regime for lay-off, retrenchment and closure to establishments employing three hundred or more workers, with power to raise the threshold further by notification. It also requires notice for strikes and lock-outs across industrial establishments. Proponents view these provisions as promoting investment, formal hiring and predictable bargaining structures; critics view them as weakening job security, collective bargaining leverage and the normative density of labour protection in mid-sized establishments. The constitutional question is whether flexibility remains bounded by an enforceable social floor or instead becomes a route for weakening the worker-protective character of industrial citizenship.[18,21,40,42,51,52]

Table 10.2 Legislative Consolidation and Welfare Logic of the Four Labour Codes

Code	Principal predecessor enactments	Core welfare logic	Principal constitutional tension
Code on Wages, 2019	Payment of Wages Act 1936; Minimum Wages Act 1948; Payment of Bonus Act 1965; Equal Remuneration Act 1976	Universal wage floor, common definition of wages and gender equality in wage-related regulation.	Adequacy of wage fixation and enforcement remains decisive.
Industrial Relations	Trade-union, industrial-disputes and	Institutionalises grievance redress,	Higher thresholds and strike

Code, 2020	standing-orders legislation	negotiation and re-skilling while structuring industrial peace.	regulation may dilute security and collective voice.
Code on Social Security, 2020	EPF, ESI, maternity, gratuity and welfare-board enactments	Integrates social insurance and extends recognition to unorganised, gig and platform workers.	Benefits depend heavily on schemes, registration, financing and administrative follow-through.
OSHWC Code, 2020	Factory, contract-labour, migrant-work and building-workers legislation	Creates a unified framework for safety, health, welfare amenities and migrant portability.	Facilitative and digital enforcement may underperform without strong administrative capacity.

Source: Compiled from the four labour codes, PRS Legislative Research materials and Ministry of Labour & Employment documents.[17-23,40-42]

Table 10.2 shows that legislative consolidation has a dual character. It undeniably simplifies the formal map of labour legislation and may reduce overlap, but it also compresses historically distinct welfare concerns into broad codes with varying levels of abstraction. The more abstract the code, the more significant delegated legislation and administrative practice become. In constitutional terms, codification is therefore successful only if the promised simplification does not come at the cost of normative thinning. Where welfare content shifts from statute to rule, or from rule to portal, questions of accountability and enforceability become central.[2,17-24,40,42]

10.6.2 Balancing Labour Welfare and Economic Efficiency

The new labour regime is often defended on the ground that worker protection and economic efficiency need not be antagonistic. Simplified compliance may encourage formalisation; standardised definitions may reduce litigation; portability of benefits may improve labour mobility; and recognition of platform labour may extend social protection to new sectors. These are not constitutionally irrelevant gains. The

Constitution does not require economic stagnation in the name of labour welfare. Rather, it seeks to align development with social justice. Indeed, the official rationale for codification explicitly combines worker dignity with transparency, technological integration and ease of doing business.[21,22,40]

However, constitutional analysis requires more than an appeal to balance. Efficiency is not a free-standing constitutional value capable of displacing worker protection. The better view is that flexibility is constitutionally acceptable only when it operates above an irreducible floor of dignity, equality, safety and social security. That is why the distinction between a living wage and a merely minimal wage remains important; why social-security recognition without funded schemes is normatively incomplete; and why collective voice cannot be reduced to managerial consultation. The Directive Principles do not prohibit labour-market reform, but they do prohibit a model of reform that externalises the costs of competitiveness onto those already structurally vulnerable.[1,17-20,25-30,44]

10.6.3 Constitutional Debates on Labour Reform

The constitutional debates around labour reform in India are therefore best understood as disputes over institutional design rather than as abstract clashes between "pro-worker" and "pro-growth" positions. One line of argument maintains that the earlier labour-law system was too fragmented, too litigation-prone and too exclusionary of emerging forms of work, especially in the informal and platform economy. On this view, codification creates a more legible and potentially more inclusive framework, particularly through universal wage regulation, portability measures and recognition of gig and platform workers.[2,17,19-22,40]

The competing line of argument stresses that the codes also make a normative choice in favour of managerial flexibility and centralised administrative discretion. Trade unions have objected to the increase in thresholds for prior permission for lay-off and retrenchment, the regulation of strikes, and the possible weakening of collective bargaining and employment security. These objections intensified after implementation in November 2025, when nationwide protests characterised the codes as "anti-worker" and "pro-employer". The Union government, by contrast, has maintained that the codes strengthen wages, safety and social security while remaining open to stakeholder feedback as rules are framed and adjusted. Some employer groups welcome simplification and flexibility; others, including smaller businesses, have expressed concern about transitional costs and compliance adaptation. The constitutional significance of this debate lies in its reminder that codification redistributes power among workers, employers, central institutions and state administrations, and that its legitimacy must be assessed from all four vantage points.[21-23,51,52]

10.7 Federal Structure and Labour Legislation

10.7.1 Labour as a Concurrent Subject

India's federal structure is indispensable to understanding labour welfare. Labour is placed in the Concurrent List, allowing both Parliament and state legislatures to enact laws on trade unions, industrial and labour disputes, social security, welfare of labour and conditions of work. This concurrent arrangement reflects the fact that labour regulation combines national economic policy with regionally specific patterns of employment, industrialisation and migration. The labour codes, although enacted by Parliament, therefore do not create a wholly centralised system. They establish a common statutory framework within which both central and state governments continue to exercise substantial rule-making and implementation authority.[1,22]

The constitutional consequences are significant. A nationally fixed floor wage coexists with state-specific minimum wages above that floor. Central boards and social-security organisations coexist with state boards, labour departments and welfare funds. Occupational safety standards may be centrally declared, yet state governments remain pivotal for administration, advisory structures and enforcement in establishments for which they are the appropriate government. Industrial relations continue to be shaped by local labour markets, state-level institutions and regional political economies. Codification thus produces structured federalism rather than uniformity pure and simple.[17-20,22]

10.7.2 Role of State Governments in Labour Welfare

The role of state governments is most visible in implementation. Labour departments, inspectorates, welfare boards, conciliatory machinery, state tribunals and local registration systems remain indispensable to the functioning of the codes. Official reporting before implementation acknowledged that while the central government and a majority of states and Union Territories had pre-published draft rules under the four codes by the end of 2024, seven states or Union Territories had not pre-published one or more required rules. The same materials recorded ongoing regional consultations to align state draft rules with central rules and the integration of several states with the Shram Suvidha portal. These details underscore that codification is not self-executing. Its constitutional fate depends heavily on the quality of state capacity.[22]

The transitional regime accentuates this point. Official FAQs state that, by virtue of section 6 of the General Clauses Act, old rules remain in force until the new rules under the codes are finally notified, so far as they are consistent with the codes. In practice, workers and employers may therefore inhabit different regulatory worlds across states and sectors during the implementation phase. For workers, especially migrants and unorganised workers, such unevenness can mean uncertainty about

applicable procedures, welfare access and grievance forums. For employers, it can generate transitional compliance burdens despite the promise of simplification. For labour administration, it requires a delicate task of maintaining continuity while migrating to new systems and legal forms.[23,24]

10.8 Impact of Constitutional Principles on Labour Policy

Constitutional principles continue to influence labour policy at three interconnected levels. At the normative level, the language of social justice, dignity, equality and humane conditions remains the standard vocabulary through which labour reforms are publicly defended and critiqued. At the legislative level, constitutional commitments shape statutory choices regarding wage floors, maternity protection, health and safety, portability of benefits, and participatory institutions. At the adjudicatory level, constitutional principles furnish standards for interpreting both old and new labour legislation. Even a reform package presented in the idiom of simplification must still demonstrate compatibility with the Constitution's worker-protective commitments.[1,17-23,33-37,44]

International and comparative labour standards reinforce this conclusion. The International Labour Organization's framework of fundamental principles and rights at work now includes a safe and healthy working environment, following the 2022 inclusion of Conventions Nos 155 and 187 within the fundamental architecture. India has long ratified core conventions relating to forced labour, child labour, discrimination and equal remuneration, but, as recent ILO materials reiterate, it has not ratified the conventions on freedom of association and collective bargaining. In that setting, domestic constitutional law assumes heightened significance as an internal source of protection for collective labour rights. The codes show partial alignment with global labour standards in areas such as wage protection, occupational safety, and social-security recognition for non-standard work. Yet alignment in form is not the same as compliance in substance. The real measure is whether workers can effectively organise, access benefits, and work in conditions consistent with dignity and safety.[47,48]

The codes also invite comparison with the broader international movement toward universal social protection and labour formalisation in fragmented labour markets. Article 7 of the International Covenant on Economic, Social and Cultural Rights recognises just and favourable conditions of work, including fair wages, safe and healthy working conditions and rest. The ILO's Social Protection Floors Recommendation similarly emphasises nationally defined guarantees of access to essential health care and income security across the life cycle. In that light, India's recognition of gig and platform workers is normatively innovative, but the scheme-based and contingent design of their entitlements remains weaker than a full social-

protection floor. The gap between recognition and enforceable benefit is thus the central comparative challenge.[49,50,46]

10.9 Critical Evaluation of Labour Codes in Light of Constitutional Mandates

A balanced evaluation of the labour codes must recognise genuine strengths. The first is conceptual simplification. By consolidating multiple statutes and standardising definitions, the codes may reduce interpretive confusion and facilitate compliance. The second is an effort at partial universalisation: the Code on Wages extends minimum-wage logic across employments, and the Social Security Code formally recognises categories of workers historically marginal to labour law, especially unorganised, gig and platform workers. The third is portability and digitisation: migrant workers, building workers and social-security registrants may benefit from interoperable systems, self-registration and more mobile entitlements. The fourth is the retention or extension of specific welfare measures such as gratuity for fixed-term employees, maternity protection, annual health examinations and portability-related benefits for migrants. These are not trivial achievements, particularly in a labour market marked by informality and mobility.[17-23,46]

The limitations are equally serious. Much of the welfare architecture of the new regime is framework-based rather than self-executing. The most visible example is the Social Security Code's treatment of unorganised, gig and platform workers: recognition is statutory, but actual benefits depend on registration, scheme notification, contribution design, portal integration and administrative follow-through. Government clarifications confirm that registration is merely an entry point, not an automatic entitlement. This design risks producing a gap between symbolic inclusion and effective protection. From a constitutional standpoint, a framework that recognises vulnerability but leaves benefits indefinitely contingent sits uneasily with Articles 41 and 43.[19,23,53]

A second limitation concerns the relationship between flexibility and security. The Industrial Relations Code's higher threshold for standing orders and for prior permission for lay-off, retrenchment and closure materially changes the protective terrain for workers in medium-sized establishments. The recognition of fixed-term employment may reduce sham contractualisation in some contexts, but it may also normalise employment without continuity. The mandatory notice regime for strikes and the negotiating-union model may improve orderliness, yet they may also compress worker leverage and marginalise minority unions. None of these provisions is unconstitutional per se; the concern is cumulative. Together, they may move the regulatory centre of gravity from employment security and collective bargaining

toward controlled flexibility, which must then be justified against the Constitution's social-justice commitments.[18,31,42,44,51,52]

A third limitation lies in labour administration. The codes assume a sophisticated state capacity that is unevenly present. Digital registration, electronic records, portal-based benefit access and risk-based inspection can indeed improve traceability and reduce petty discretion. But they can also exclude workers with weak digital access, unstable identification documents, limited literacy or high mobility. The inspector-cum-facilitator model, if not backed by robust enforcement capacity, may convert inspection into advisory symbolism. Administrative capacity, tribunal strength, labour statistics, welfare-board governance and inter-state coordination are therefore not ancillary matters; they are the infrastructure of constitutional compliance.[20-23,53]

The implications for workers, employers, labour administration and industrial relations are accordingly differentiated. For workers, the codes promise wider formal coverage but expose them to new forms of procedural dependence on registration and delegated schemes. For employers, the regime promises common registration, single licensing and standardised compliance, but also requires adaptation to new definitions, digital systems and transitional overlap between old and new rules. For labour administration, codification invites a shift from fragmented statute-specific enforcement toward data-intensive governance, demanding new capacities in inspection, adjudication and interoperability. For industrial relations, the system may become more procedurally ordered yet substantively more asymmetric if collective voice weakens while managerial flexibility expands.[18-23,40,42,51,52]

The decisive constitutional question is therefore not whether the codes are "pro-worker" or "pro-employer" in a sloganistic sense. It is whether they adequately fulfil the Constitution's labour-welfare commitments under contemporary conditions of informality, migration, subcontracting and platformisation. The answer is mixed. The codes strengthen certain foundations of welfare-especially universal wage logic, recognition of new workers, portability, and the symbolic centrality of safety and social security. But they also displace critical welfare content into subordinate legislation, thresholds and administrative systems whose performance remains uncertain and uneven. In that respect, the constitutional future of the labour codes will depend less on the elegance of codification than on the practical realisation of social justice through rules, schemes, budgets, institutions and adjudication.[1,17-24,44,53]

10.10 Conclusion

Labour welfare in India is constitutionally grounded in a vision of social justice that refuses to treat work as a purely private exchange. The Directive Principles, read alongside equality, dignity, anti-exploitation norms and judicial doctrine, establish that labour law is one of the primary instruments through which the Indian state gives

social meaning to citizenship. Historically, welfare legislation grew through sector-specific statutes addressing wages, safety, maternity, social insurance, migration and precarious labour. The labour-code project marks a new phase in that history: not the abandonment of labour welfare, but its recoding through consolidation, standardisation, digitisation and federalised implementation.[1-2,3-20,43,44]

The chapter's appraisal has shown that the new labour regime is normatively ambivalent. On the one hand, it carries forward the constitutional aspiration to protect workers, expand social security, and rationalise labour administration. On the other hand, it also shifts power toward delegated legislation, threshold-based exemptions, and flexibility-oriented regulation. The codes therefore reveal a broader transformation in Indian labour governance: from a dispersed statute-by-statute welfare model to a code-based architecture that is more datafied, more administratively integrated and more explicitly concerned with labour-market efficiency. Whether this transformation can be reconciled with the Constitution depends on implementation. The constitutional legitimacy of codification will ultimately be judged not by the formal consolidation of laws, but by whether workers-in factories, plantations, construction sites, service establishments, homes, platforms and migrant corridors-experience more secure wages, safer workplaces, stronger social protection and a more meaningful industrial citizenship. That remains the unfinished constitutional test of India's new labour regime.[17-24,44,47-50,53]

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Chapter 11

Gender, Labour and Welfare: Assessing Inclusivity under the New Labour Codes

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11.1 Introduction: Gender Equality and Labour Welfare

Any account of labour welfare in contemporary India that ignores gender misses one of the central axes along which labour markets are structured. Gender determines who enters paid work, the kinds of work made available to them, the value attached to that work, the degree of social security that accompanies it, and the likelihood that labour law will recognise their claims as workers at all. The codification project represented by the Code on Wages, 2019, the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020, therefore has significance that extends beyond legislative streamlining. It raises a sharper normative question: whether the new labour regime can move Indian labour law from a model of fragmented, sector-specific and often paternalistic regulation toward a more inclusive conception of labour welfare and labour citizenship.[1,2,3,4]

Gender equality has long been an unresolved problem in Indian labour law. Women workers have faced lower labour-force participation, concentration in precarious and low-paid segments of the labour market, persistent wage gaps, occupational segregation, and weak access to social protection. Even where statutory rights existed, they frequently attached to formal employment relationships that excluded large segments of female labour, especially agricultural workers, home-based workers, domestic workers, casual workers, and those situated in other forms of informal or semi-formal work.[6,7,8,9] Labour regulation has therefore oscillated between two imperfect approaches: protective restrictions that purported to shield women from market risk but often limited their access to employment, and formal equality norms that prohibited direct discrimination but did relatively little to alter structural disadvantage.[10,11]

This chapter argues that the new labour codes embody a partial but incomplete shift from protectionist exclusion to managed inclusion. On the one hand, the codes preserve and in some respects modernise gender-sensitive protections: they restate equal wage norms, continue maternity benefits, recognise certain caregiving-related entitlements, and replace older blanket prohibitions on women's work at night with a

framework of conditional access based on consent and safety. On the other hand, the codes do not by themselves overcome the structural conditions that generate gender inequality. Coverage thresholds, dependence on employer-centred compliance, weak labour administration, the contingent design of social security for informal and platform workers, and the continuing binary and women-centric framing of statutory protection limit the transformative reach of codification.[2,3,4,23,24]

The analysis proceeds in six stages. It first situates gender inequality within the contemporary labour market; secondly, it traces the historical development of gender-sensitive labour legislation in India; thirdly, it examines the constitutional principles and leading judicial decisions that frame labour welfare and equality; fourthly, it undertakes a doctrinal analysis of the relevant provisions of the labour codes; fifthly, it places those provisions in dialogue with international labour standards; and finally, it offers a critical evaluation of the reforms and their implications for labour governance. At a moment when the codification project has moved from legislative design to questions of operationalisation and administrative practice, a gendered reading of labour welfare becomes indispensable to understanding the broader transformation of India's new labour regime.[1,36,37]

11.2 Gender Inequality in Labour Markets

11.2.1 Structural Gender Disparities in Employment

The starting point for any doctrinal assessment must be the structure of the labour market to which the law is addressed. The latest official labour-force data show that female participation in paid work has improved in aggregate terms, but the distance from parity remains substantial. In 2023-24, on the usual-status measure for persons aged fifteen years and above, the female labour-force participation rate stood at 41.7 per cent, compared with 78.8 per cent for men; the corresponding worker-population ratio was 40.3 per cent for women and 76.3 per cent for men.[6] On the current weekly status measure, the gender gap remained similarly pronounced. These data matter because labour welfare legislation, however progressive in text, cannot be evaluated only by the rights it declares; it must be assessed by the extent to which those rights reach workers whose labour-market attachment is intermittent, invisible, or only weakly formalised.[6,9]

The apparent improvement in female labour-force participation must also be interpreted with caution. A large part of women's work in India is embedded in self-employment, family labour, and other forms of informal activity that do not easily translate into social security coverage or enforceable employment rights. Official gender statistics show, for example, that in rural India a very large proportion of women workers remain self-employed, and that a substantial share work as helpers

in household enterprises rather than as independent earners with recognised bargaining power.[7] National indicator data likewise show the continued scale of informal employment and the large proportion of workers in non-agricultural sectors who are without any social security benefit.[8] In other words, numerical participation does not necessarily imply secure employment, decent wages, or legal visibility.

These disparities arise from overlapping social, economic and institutional factors. Gendered norms allocate unpaid domestic and care responsibilities disproportionately to women; education and skills do not automatically convert into market opportunity; labour-demand patterns often favour male workers for full-time and higher-paid jobs; transport and workplace-safety deficits shrink the spatial and temporal horizons within which women can work; and legal protections themselves sometimes assume a standard employment relationship that many women do not possess.[7,9,10,25] The result is not a single barrier but an ecology of disadvantage. Labour legislation can mitigate parts of this ecology, but it cannot be judged successful merely because it contains anti-discrimination language; it must also reduce the distance between formal entitlements and the actual organisation of gendered work.

11.2.2 Occupational Segregation

Occupational segregation remains one of the most enduring mechanisms through which gender inequality is reproduced. Women workers are concentrated in sectors and occupations that are typically lower paid, less secure, and more weakly regulated. Official data show that in rural India women remain overwhelmingly concentrated in agriculture, while in urban India they are clustered in manufacturing, low-end services, and other occupations that do not necessarily provide stable contractual arrangements or structured career ladders.[7] Beyond these aggregate sectoral patterns lie more specific sites of gendered concentration: domestic work, home-based work, food processing, garments, care work, petty retail, and a range of informal service activities where legal compliance is difficult to monitor and worker organisation is fragile.[10,26]

Occupational segregation matters for at least three reasons. First, it channels women into labour markets where the employment relationship itself is diffuse, making labour law harder to invoke. Secondly, it reinforces cultural assumptions that some forms of work are “naturally” female and therefore low-valued, auxiliary, or compatible with unpaid care burdens. Thirdly, it narrows mobility into supervisory, technical and better-remunerated positions. The legal significance of this point is profound. A statutory rule that prohibits paying women less for the same or similar work does not by itself correct the systemic undervaluation of occupations in which

women are concentrated if those jobs are classified differently from male-dominated work of equivalent worth.[2,10,30]

11.2.3 Gender Wage Gap

The gender wage gap is thus both a direct and an indirect phenomenon. Direct discrimination occurs when women are paid less than men for the same or comparable work. Indirect inequality occurs when the market rewards male-dominated occupations more highly, or when women are crowded into casual, part-time, or interrupted work patterns that depress earnings. Official national indicator data report that the ratio of female-to-male average wage and salary earnings among regular wage and salaried employees remained well below parity in recent years.[8] Complementary official statistics also show that women casual workers earn less on average than men in both rural and urban labour markets.[7]

Several factors explain the persistence of wage inequality: weaker bargaining power; discriminatory recruitment and promotion practices; limited access to higher-paying occupations; interruptions associated with social reproduction and caregiving; and the absence of effective remedies in sectors where labour inspection is weak.[10,23,25] For legal analysis, the crucial point is that wage equality cannot be reduced to a narrow comparison between male and female workers occupying identical posts in a formal establishment. Gender-just labour welfare requires an architecture capable of addressing undervaluation, segmentation, and the structural relation between paid work and unpaid care. The labour codes partially recognise this challenge, but they do so unevenly.

11.3 Historical Development of Gender-Sensitive Labour Legislation in India

11.3.1 Early Protective Labour Legislation for Women

The historical development of labour welfare legislation for women in India is marked by a persistent tension between protection and exclusion. Colonial and early post-colonial labour laws often addressed women as a special category requiring protection from hazardous work, excessive hours, and morally suspect workplaces. The Factories Act, 1948, for instance, imposed restrictions on the hours during which women could be employed in factories and reflected a broader legislative tendency to regulate women's work through protective limits rather than through a general duty to make workplaces safe for all workers.[14] Similar sectoral enactments adopted the logic that women's entry into specific forms of industrial labour should be controlled in the name of health, decency or family responsibility.

The rationale for such protective legislation was not wholly insubstantial. In contexts of long hours, unsafe transport, poor sanitation, hazardous processes and exploitative

labour markets, restrictions on night work or on dangerous operations could appear as welfare-oriented safeguards. Yet protective laws also carried an exclusionary effect: they rendered women's work conditional upon assumptions of vulnerability, domesticity and moral supervision. Employers could invoke such restrictions as a reason not to hire women, and the state could avoid investing in safer and more inclusive labour-market infrastructure by simply barring women from particular jobs or shifts.[10,11,21] As later constitutional jurisprudence would make clear, the difference between legitimate protection and discriminatory paternalism is not semantic but structural.

This historical legacy matters because the new labour codes do not emerge from a blank slate. They inherit decades of regulatory layering in which gender-sensitive labour law sometimes expanded welfare but often did so through sex-specific restrictions. The key question for the present is whether codification merely restates this inherited ambivalence in updated form, or whether it genuinely reorients labour welfare from exclusion to equality-enhancing inclusion.

11.3.2 Equal Remuneration and Gender Equality

A more explicitly equality-oriented trajectory emerged with the Equal Remuneration Act, 1976. Enacted in the context of constitutional commitments to equality and equal pay for equal work, the Act prohibited discrimination in remuneration between men and women workers performing the same work or work of a similar nature, and also addressed certain forms of sex discrimination in recruitment.[5,12] The Act represented a significant departure from purely protectionist labour legislation because it framed women not only as subjects of welfare but as workers entitled to equal economic valuation.

At the same time, the architecture of the Equal Remuneration Act revealed the limits of formal equality. Its focus on "same work or work of a similar nature" enabled relief in cases of direct comparability, but it did not fully address the broader international law concept of "work of equal value", under which differently titled jobs can be compared if they require equivalent skill, effort, responsibility and working conditions.[12,30] In a labour market structured by occupational segregation, that distinction is crucial. Nonetheless, the Act became a central normative bridge between constitutional equality and labour welfare, and its substance has substantially migrated into the Code on Wages, 2019.[2,12]

11.3.3 Maternity Protection Laws

The third major strand in gender-sensitive labour legislation concerned maternity protection. The Maternity Benefit Act, 1961 acknowledged that equality in employment could not be sustained if pregnancy and childbirth resulted in the loss of income, dismissal, or exclusion from work.[13] Over time, maternity protection in

India expanded beyond leave and cash benefits to include nursing breaks, protection against adverse action, and more recently the recognition of adoptive and commissioning mothers as well as crèche-related obligations. In normative terms, maternity law reflects the idea that reproductive labour has distributive consequences which cannot be left entirely to private household arrangements.

Yet maternity protection too has been institutionally ambivalent. Where the cost of maternity is borne primarily by the employer rather than social insurance or public finance, the very existence of maternity rights may create incentives for discriminatory hiring, especially in competitive labour markets.[10,23,33] Moreover, threshold-based coverage and the dependence on recognised establishments exclude many women workers in small or informal enterprises. The codification of maternity protection within the Social Security Code therefore has to be read against this longer history: it preserves an important welfare entitlement, but it does not fully solve the distributive or coverage problems built into the older legislative model.

11.4 Constitutional Foundations of Gender Equality in Employment

Gender-sensitive labour welfare in India is constitutionally anchored in both the fundamental rights and the Directive Principles of State Policy. Article 14 guarantees equality before the law and equal protection of the laws; Article 15 prohibits discrimination on grounds including sex; and Article 16 secures equality of opportunity in matters of public employment.[5] These provisions establish the anti-discrimination core of the constitutional order. They are supplemented by Article 15(3), which permits the state to make special provisions for women and children, thereby recognising that formal equality may sometimes require differentiated measures to remedy disadvantage.[5] In the labour context, however, Article 15(3) cannot be read as a charter for exclusionary paternalism. The constitutional challenge is to identify when differential treatment advances substantive equality and when it merely naturalises stereotypes.

11.4.1 Equality and Non-Discrimination

The equality guarantee has had particular force in questions of remuneration and access to employment. Article 39(d), though located in the Directive Principles, directs the state to secure equal pay for equal work for both men and women; Article 39(a) speaks of an adequate means of livelihood for all citizens; and Article 39(e) requires that the health and strength of workers, men and women, are not abused.[5] Read together with Articles 14 and 16, these provisions have enabled courts to treat labour equality not simply as a policy aspiration but as a constitutional commitment informing statutory interpretation.[17,18]

11.4.2 Protection of Women Workers

The welfare dimension of the Constitution is particularly visible in Article 42, which requires the state to make provision for securing just and humane conditions of work and for maternity relief, and in Article 43, which speaks of living wages and conditions of work ensuring a decent standard of life.[5] These principles are especially significant for labour welfare because they connect workplace regulation with social reproduction, human dignity and the material conditions necessary for meaningful freedom. They also support the view that labour law should not be confined to a contractarian model of private bargaining, but must address the asymmetries of labour markets and the reproductive burdens disproportionately borne by women.

Constitutional protection of women workers, however, must be interpreted in a way that is consistent with substantive equality. A maternity benefit, nursing break, crèche facility or workplace-safety requirement can be justified as an equality-enhancing measure because it addresses concrete social disadvantage. By contrast, blanket exclusions from sectors, occupations or hours of work require stronger justification because they may deny women equal access to livelihood while leaving underlying structural risks untouched.[5,21,22] This constitutional distinction is crucial to understanding the movement from older protective labour legislation to the newer codes.

11.4.3 Judicial Interpretation of Gender Equality

Judicial decisions have played an important role in shaping the constitutional meaning of gender equality in employment. In Air India v Nergesh Meerza, the Supreme Court considered service conditions applicable to air hostesses and struck down rules that terminated service on first pregnancy and allowed arbitrary managerial discretion, while leaving intact certain other differentiated conditions.[16] The decision is often read as transitional: it exposed explicit discrimination but did not completely escape the paternal assumptions that marked the period. Its enduring significance lies in showing that employment rules framed in ostensibly managerial terms may rest on impermissible gender stereotypes.

Later decisions moved the jurisprudence more firmly toward substantive equality. In Randhir Singh v Union of India, the Court treated “equal pay for equal work” as a constitutional principle deriving from the equality code read with Article 39(d).[17] In Mackinnon Mackenzie & Co Ltd v Audrey D’Costa, the Court applied the equal-remuneration norm to invalidate sex-based wage differentiation where the work was substantially similar.[18] In Municipal Corporation of Delhi v Female Workers (Muster Roll), the Court held that maternity protection could not be denied merely because women workers were engaged on a casual or muster-roll basis, thereby

reinforcing the idea that maternity relief is tied to human dignity and social justice rather than to the formal permanence of an employment relationship.[20]

The shift from protectionism to anti-stereotyping became particularly clear in Anuj Garg v Hotel Association of India, where the Supreme Court invalidated a statutory prohibition on the employment of women in premises where liquor was served. The Court rejected the assumption that women must be excluded from such workplaces for their own protection and insisted instead that the state address unsafe conditions directly.[21] Vishaka v State of Rajasthan, though not a labour-code case, similarly recognised freedom from sexual harassment as integral to equality, dignity and the right to work, eventually leading to the statutory framework under the 2013 sexual-harassment legislation.[15,19] More recently, in Secretary, Ministry of Defence v Babita Puniya, the Court reaffirmed that structural stereotypes about women's roles cannot determine access to professional opportunity.[22] Taken together, this body of case law forms the constitutional backdrop against which the gender dimensions of the labour codes must be assessed.

11.5 Gender Dimensions of the New Labour Codes

The new labour regime seeks to consolidate multiple statutes into a smaller number of codes, standardise definitions, rationalise compliance, and make labour regulation more legible to employers and administrators.[1] For gender analysis, however, codification is not merely a technical exercise. It re-organises the legal location of equality rights, maternity protection, safety ;

norms and social-security promises. The doctrinal question is whether this re-organisation strengthens the coherence and reach of gender-sensitive labour welfare, or whether important protections are diluted by generalisation, threshold rules and a more compliance-centred style of regulation.

11.5.1 Equal Wage Provisions under the Wage Code

The Code on Wages, 2019 consolidates four earlier enactments, including the Equal Remuneration Act, 1976, into a unified wage framework.[1,2,12] Its gender-equality core is contained principally in sections 3 and 4. Section 3(1) prohibits discrimination on the ground of gender in matters relating to wages in respect of the same work or work of a similar nature; section 3(2)(ii) bars discrimination on the ground of sex in recruitment for the same work or work of a similar nature, or in conditions of employment, except where the employment of women is prohibited or restricted by law.[2] Section 4 empowers the appropriate government to designate an authority to decide disputes about whether work is the same or of a similar nature.[2] Doctrinally, the Code preserves the core anti-discrimination structure of the Equal Remuneration Act while integrating it into a broader wage-governance framework that also covers

floor wages, minimum wages, payment of wages and bonus.

Three aspects of the Wage Code deserve emphasis. First, codification gives gender-based wage equality a place within the general architecture of wage regulation rather than as a stand-alone statute. This may improve visibility and doctrinal coherence, especially because wage equality is not conceptually separable from the broader regulation of remuneration. Secondly, the Code's definition of "same work or work of a similar nature" continues to rely on comparability in skill, effort, experience, responsibility and working conditions.[2] This preserves an adjudicative mechanism for direct pay discrimination. Thirdly, the Code uses the language of "gender" in section 3(1) but "sex" in section 3(2)(ii), a drafting asymmetry that suggests a broader rhetorical commitment to equality without a fully elaborated conceptual shift in the structure of protection.[2]

The principal limitation of the Wage Code is that it does not move beyond the older "same work or work of a similar nature" standard toward the more expansive ILO standard of "work of equal value".[30,31] In a labour market marked by occupational segregation, women's work is often undervalued not because women and men are paid differently for the same post, but because male-coded and female-coded occupations are assigned different pay scales despite comparable value. The Code also leaves unresolved the practical difficulty of enforcement in informal and dispersed labour markets, where workers may lack documentary proof, comparators, or access to adjudicatory forums.[8,10,23] Wage equality contributes to labour welfare, but only if enforcement institutions are capable of penetrating the sectors in which gendered undervaluation is most acute.

11.5.2 Maternity Protection under the Social Security Framework

The Code on Social Security, 2020 consolidates a wide range of welfare enactments and places maternity protection within a larger social-security architecture.[1,3] Chapter VI of the Code substantially carries forward the maternity-benefit regime. It applies to establishments specified in the First Schedule, including factories, mines, plantations and shops or establishments employing ten or more persons.[3] Subject to the statutory qualifying conditions, a woman is entitled to maternity benefit at the rate of her average daily wage, ordinarily for twenty-six weeks, of which not more than eight weeks may precede the expected date of delivery. Where a woman has two or more surviving children, the entitlement is twelve weeks; adoptive and commissioning mothers are also recognised for a twelve-week period.[3] These provisions preserve the major rights that had evolved under the pre-code maternity-benefit regime.

The Social Security Code also retains supporting entitlements that are central to substantive equality in work. It provides for nursing breaks until the child attains the

prescribed age; protects women against dismissal or disadvantage on account of absence during maternity; contemplates work-from-home arrangements where the nature of work permits and employer-employee agreement is possible; and requires establishments above the statutory threshold to provide a crèche facility, with specified opportunities for visits during the day.[3,36] Further, the Code obliges the employer to inform each woman at the time of appointment, in writing and electronically, of the maternity benefits available to her.[3] Doctrinally, this is important because welfare rights often fail not only for lack of substantive provision but also for lack of notice and accessibility.

Despite these strengths, the maternity framework remains limited in three ways. First, coverage thresholds mean that many women workers in micro-establishments, domestic work, agriculture, and informal enterprises remain outside its effective reach.[3,7,23] Secondly, the persistence of an employer-liability model means that the economic cost of maternity is not socialised across the labour market or borne through a universal public scheme. This can create perverse incentives in hiring and retention, especially for women of reproductive age.[10,23,33] Thirdly, the Code treats maternity primarily as a women-specific welfare entitlement rather than part of a broader care infrastructure that would include paternity, parental leave and publicly supported childcare. In that sense, it secures an important right but does not fully redistribute the social costs of reproduction.

The Social Security Code is nevertheless notable for expanding the vocabulary of labour welfare beyond the standard employment relationship. Chapter IX provides for the registration of unorganised workers, gig workers and platform workers, and section 114 authorises the formulation of social-security schemes for such workers covering benefits that may include life and disability cover, accident insurance, health and maternity benefits, old-age protection, and crèche and other welfare measures.[3] This is a significant acknowledgment that contemporary labour markets cannot be understood solely through factory or office employment. However, the rights of gig and platform workers under the Code are largely scheme-dependent and contingent on executive design, funding and registration. Recognition, in other words, does not automatically translate into justiciable and portable entitlements.[3,27,28]

11.5.3 Safety and Working Conditions for Women

The Occupational Safety, Health and Working Conditions Code, 2020 marks perhaps the clearest doctrinal break with older protective labour legislation. Section 43 states that women shall be entitled to be employed in all establishments for all types of work under the Code, and permits their employment before 6 a.m. and beyond 7 p.m. subject to consent and such conditions relating to safety, holidays and working hours as may be prescribed by the appropriate government.[4,37] Section 44 further requires

adequate safeguards, prior to employment, in operations deemed dangerous.[4] These provisions are significant because they replace the older logic of blanket exclusions, exemplified by the Factories Act's restrictive approach to women's hours of work, with a framework of inclusion conditioned by safety obligations.[4,14]

From a gender-equality perspective, this shift is normatively attractive. It is more consistent with the constitutional reasoning in Anuj Garg, which insisted that the answer to unsafe working conditions is not to exclude women from employment but to regulate the workplace so that equal access becomes genuinely possible.[21] The Code therefore aligns labour welfare with women's economic agency rather than with assumptions of domesticity. It can also improve access to higher-paid sectors and shifts, especially in manufacturing, logistics, health care, hospitality and other round-the-clock services where time restrictions had long served as de facto barriers to female employment.[4,23]

Yet the promise of inclusion is conditional in a strong sense. Consent to night work is meaningful only where workers have real bargaining power; otherwise it can become a formal waiver extracted under economic pressure. Safety conditions must also be understood broadly. Transport, lighting, sanitation, supervision, complaint mechanisms, rest intervals, security infrastructure and the prevention of sexual harassment are all part of the practical environment within which night work becomes possible.[15,35,37] The OSHWC Code cannot be evaluated in isolation from the sexual-harassment regime or from labour administration's capacity to inspect, monitor and enforce gender-sensitive safety standards. A doctrinal move from exclusion to inclusion, while valuable, does not eliminate implementation risk.

11.6 Women Workers in Informal and Gig Economy

11.6.1 Women in Informal Employment

Any assessment of gender inclusivity under the labour codes must reckon with the fact that a large share of women workers remain outside stable formal employment. Informality is not a residual category in the Indian economy; it is a defining feature of the labour market. Women are disproportionately represented in self-employment, own-account work, unpaid family labour, home-based production, agriculture, domestic work and other forms of employment where the employer is difficult to identify or where the workplace is spatially dispersed.[7,8,9,26] This has two legal consequences. First, many statutory protections that depend on identifiable establishments, payroll records or threshold numbers of employees become difficult to activate. Secondly, enforcement itself becomes selective, concentrating on visible formal enterprises while leaving the most precarious workers at the margins of labour welfare.

The labour codes attempt to address this problem indirectly by broadening the social-security conversation to include unorganised workers and by creating registration-based mechanisms for welfare schemes.[3] But the gap between recognition and entitlement remains large. Registration systems often require documents, digital access, awareness and administrative follow-through that many precarious workers lack. Women workers may face additional obstacles arising from mobility constraints, name and identity inconsistencies, low digital access, and the fragmented nature of their work histories. The result is that the workers who most need labour welfare may be least able to claim it.[23,24,26]

11.6.2 Women in Gig and Platform Work

Platform-mediated work has introduced new forms of labour-market participation that are often described as flexible and low-entry-barrier. For some women, platform work may create opportunities for income generation that are compatible with care responsibilities or that permit entry into sectors previously dominated by men. The rapid projected growth of India's gig and platform economy has therefore generated policy interest in whether digital labour markets can expand women's economic participation.[27] However, flexibility should not be romanticised. Platform work is frequently characterised by income volatility, algorithmic control, ratings-based discipline, long waiting times, unilateral changes in terms, and limited access to collective bargaining or standard social protection.[27,28]

For women workers, these general vulnerabilities are often compounded by gender-specific risks. Safety in public space, exposure to harassment, discriminatory customer ratings, restricted access to higher-paying routes or time slots, and the difficulty of reconciling platform work with unpaid care obligations can all depress earnings and participation.[28,35] The formal classification of platform workers outside the standard employer-employee binary further complicates access to maternity benefits, sickness cover, occupational safety protections and grievance redress. The Social Security Code's recognition of gig and platform workers is therefore important, but it remains an opening move rather than a settled welfare architecture.[3,27]

11.6.3 Social Security Challenges for Women Workers

Social security challenges for women workers are not reducible to the absence of statutory text. They arise from a combination of legal design, labour-market structure and institutional capacity. Threshold-based coverage excludes many women in small establishments. Contribution-based schemes can fail where employment is intermittent or misclassified. Employer-centred maternity finance may discourage hiring. Registration-based welfare for unorganised and platform workers requires

sustained administrative outreach. And even where entitlements exist, awareness is often limited.[3,7,23,27,37] A gender-sensitive labour administration must therefore do more than notify rules; it must build mechanisms through which women workers can actually enter the welfare net.

The following table summarises the principal gender-related protections located in the labour codes and indicates their broader analytical significance. Read together, these provisions show that codification has not ignored gender; rather, it has reorganised gender-protective norms within broader regulatory frameworks. The problem lies less in complete legislative silence than in the uneven depth, reach and enforceability of those protections.

Table 11.1. Gender-Related Labour Protections under the Labour Codes

Labour Code	Principal gender-related provisions	Analytical significance
Code on Wages, 2019	Prohibits discrimination on the ground of gender in wages for the same or similar work; bars sex-based discrimination in recruitment and conditions of employment for the same or similar work; provides an authority to decide comparability disputes.	Preserves the equal-remuneration norm within general wage regulation, but remains narrower than the international standard of work of equal value.
Code on Social Security, 2020	Continues maternity benefit, nursing breaks, protection against dismissal, crèche obligations, recognition of adoptive and commissioning mothers, and scheme-making powers for gig and platform workers including maternity and crèche-related welfare.	Contains the strongest gender-specific welfare protections, but coverage thresholds and employer-centred financing leave significant gaps.
OSHWC Code, 2020	Entitles women to work in all establishments and all types of work; permits work before 6 a.m. and beyond 7 p.m. with consent and prescribed safeguards; requires safeguards in dangerous operations.	Shifts from exclusionary protection to conditional inclusion, with success dependent on real safety, transport, grievance and inspection systems.

Source: Compiled from the Code on Wages, 2019, the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020.[2,3,4]

As Table 11.1 shows, the three principal codes engage gender through different regulatory techniques. The Wage Code relies on a formal anti-discrimination norm tied to wages and recruitment. The Social Security Code adopts a welfare model that centres maternity, care-linked entitlements and scheme-based extension to non-standard workers. The OSHWC Code advances equality primarily by replacing blanket restrictions with conditional inclusion premised on safety and consent.[2,3,4] The overall picture is therefore one of layered but uneven protection. Some rights are immediate and textually specific; others are dependent on executive schemes, employer compliance or labour-administration capacity.

11.7 International Labour Standards on Gender Equality

Comparative and international labour standards provide an important evaluative frame for the Indian labour codes. The International Labour Organization has long treated gender equality as integral to decent work, not as a peripheral social-policy objective. India has ratified the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), thereby accepting core obligations to pursue equality in remuneration and to eliminate discrimination in employment and occupation.[29,30,31] These conventions matter not only as external benchmarks but also because they influenced the evolution of domestic equality norms, including the development of equal-remuneration legislation.

The comparison between Convention No. 100 and the Wage Code is especially revealing. Convention No. 100 speaks of equal remuneration for men and women workers for work of equal value, a formulation designed to address systemic undervaluation across occupational categories.[30] By contrast, the Wage Code retains the narrower domestic language of "same work or work of a similar nature".[2] The Indian approach is therefore stronger against direct pay discrimination within comparable jobs than against the structural devaluation of female-dominated work. Convention No. 111 likewise reminds us that discrimination is not confined to remuneration; it includes access to employment, training, conditions of work and occupational advancement.[31] A labour regime committed to gender inclusivity must therefore look beyond wages alone.

International standards on maternity also help to illuminate the strengths and limits of the Social Security Code. The Maternity Protection Convention, 2000 (No. 183) prescribes a floor of maternity protection including leave, cash and medical benefits, health protection, employment protection and non-discrimination.[32] In one respect

India exceeds the minimum international duration standard, because domestic law provides a longer period of maternity leave than the Convention's floor.[3,32,33] Yet the broader comparison is less flattering if one focuses on financing and coverage. International labour standards increasingly emphasise that maternity should not operate as a labour-market penalty borne privately by women workers or individual employers. Without wider socialisation of costs and broader coverage, generous leave on paper may coexist with discriminatory hiring and exclusion from entitlement.

Recent international developments also foreground issues that the labour codes only partially address. The Violence and Harassment Convention, 2019 (No. 190) treats freedom from violence and harassment in the world of work as integral to labour rights and recognises the gendered character of many workplace harms.[34] Although Indian law addresses sexual harassment through a separate statutory framework, the broader lesson of Convention No. 190 is that safe work requires an integrated labour-governance approach spanning prevention, complaint mechanisms, employer duties and labour inspection.[15,34,35] This perspective is directly relevant to the implementation of the OSHWC Code's provisions on women's work in all establishments and during extended hours. Comparative standards thus highlight both the progress and the unfinished agenda of gender-inclusive codification.

11.8 Impact of Labour Codes on Gender Inclusivity

11.8.1 Potential Benefits for Women Workers

The labour codes offer several potential benefits for women workers. The Wage Code preserves a statutory basis for challenging explicit wage discrimination and sex-based exclusion from recruitment in comparable work.[2] The Social Security Code continues a relatively strong maternity framework, including leave, dismissal protection, nursing breaks and crèche-related duties.[3] The OSHWC Code removes categorical barriers to women's participation in sectors or shifts that had historically been closed to them, potentially expanding access to higher-paying and more diverse forms of employment.[4,21] The very act of codification may also improve legal visibility by locating gender-related protections within a more coherent and consolidated framework.

For employers and labour administration, codification may produce gains in clarity. A smaller number of primary enactments can reduce interpretive fragmentation and support more standardised compliance systems. To the extent that digital registration, electronic notice requirements and consolidated rule-making improve administrative legibility, women workers may benefit indirectly from clearer lines of obligation.[1,3,36,37] For industrial relations, the shift from protectionist exclusion to conditional inclusion may also reduce one historical source of labour-market

segmentation by making women's presence in multiple sectors and shifts normatively unexceptional.

11.8.2 Challenges in Implementation

The benefits described above depend heavily on implementation. Enforcement remains the central challenge of labour welfare in India, and gender-sensitive rights are no exception. Labour departments are often under-resourced; inspections may be infrequent; workers may be reluctant to complain; and informal employment structures complicate proof and accountability.[9,23,24] In the case of equal pay, the challenge lies in obtaining comparators and records. In the case of maternity benefits, it lies in ensuring that employers do not evade liability through misclassification, contract fragmentation or strategic non-hiring. In the case of women's night work, it lies in verifying that the prescribed safety safeguards are genuine rather than merely nominal.[2,3,4,37]

Social norms further complicate implementation. Labour law can remove formal barriers, but it cannot by itself redistribute unpaid care or neutralise household expectations about women's time, mobility and respectability. Official time-use and participation data show the extent to which women continue to shoulder disproportionate unpaid domestic and caregiving work.[7] Where the social organisation of care remains unequal, legal rights to employment are often exercised on constrained terms. This means that gender-inclusive labour governance requires complementary investments in childcare, public transport, safe urban infrastructure, health systems and awareness programmes, none of which can be delivered through labour codes alone.[9,10,33]

11.8.3 Institutional Challenges

Institutionally, the new labour regime requires labour administration to become more gender-sensitive in both design and practice. Inspectors and facilitators need protocols for assessing equal-pay claims, maternity compliance, crèche obligations, work-hour safeguards and the interaction between occupational safety and sexual-harassment law.[15,37] Sex-disaggregated data collection is essential if the state is to evaluate whether codification is reducing or entrenching inequalities. Administrative outreach to unorganised, migrant, home-based and platform workers must be continuous rather than episodic. Where social-security rights depend on registration, the registration architecture itself becomes a gender issue.

There are also industrial-relations implications. If women remain underrepresented in trade unions, works committees, grievance structures and other collective forums, then the gender content of labour welfare may be filtered through institutions that do not adequately articulate women workers' experiences. Codification does not

automatically democratise representation. A labour-governance framework that seeks inclusivity must therefore attend to voice as well as entitlement. Without channels through which women workers can shape enforcement priorities, formally progressive provisions may remain administratively thin.

11.9 Critical Evaluation of Gender Inclusivity in Labour Codes

A critical evaluation of the labour codes must avoid two opposite errors: celebratory formalism and wholesale dismissal. The codes are not gender-neutral in the sense of ignoring women's labour-market disadvantage. They preserve equal-remuneration norms, maintain a significant maternity regime, recognise care-linked facilities such as crèches, and replace at least some exclusionary restrictions with equality-oriented access rules.[2,3,4] These are real strengths. In doctrinal terms, the movement away from blanket sex-based exclusions is particularly important because it aligns labour welfare with constitutional anti-stereotyping principles and with a broader vision of women's economic agency.[21,22]

At the same time, the reforms remain limited in important respects. First, the equality architecture of the Wage Code is narrower than it might have been. By retaining the comparator of same or similar work rather than work of equal value, the Code does not seriously confront the structural undervaluation embedded in occupational segregation.[2,30] Secondly, maternity protection remains tied to establishment thresholds and an employer-centred financing model. This secures rights for some women workers while leaving others uncovered and may reproduce incentives for labour-market discrimination.[3,23,33] Thirdly, the protections for gig, platform and other non-standard workers are enabling rather than fully vested. Executive schemes can be important, but they do not have the same juridical solidity as immediately enforceable statutory entitlements.[3,27]

Fourthly, the codes do not fully address the broader ecology of gender disadvantage. They say relatively little about care redistribution beyond maternity and crèche obligations, do not integrate equal-opportunity duties in promotion and training in any robust way, and rely heavily on labour-market formalisation as the route through which rights become real.[10,23,24] Their statutory vocabulary also remains largely binary and women-centred, leaving limited room for a more expansive account of gender diversity in labour governance. Finally, the effectiveness of the codes depends on administrative capacity that cannot be assumed: registration systems must function, grievance mechanisms must be accessible, inspectorates must be active, and coordination with other legal regimes, especially sexual-harassment law, must be meaningful.[15,35,37]

The deeper policy issue is whether codification has reimagined labour welfare as social citizenship or merely reorganised existing protections within a simplified

compliance framework. On balance, the new regime appears closer to the latter. It modernises, consolidates and to some degree liberalises the law; it does not by itself construct a universal gender-just welfare architecture. The reforms are therefore best understood as a transitional settlement. They open new space for women's participation and preserve important protections, but they also shift significant burdens onto implementation, executive scheme design, and the wider social infrastructure of care and safety. Gender justice under the labour codes is thus neither absent nor achieved; it remains a contested project.

11.10 Conclusion

The codification of labour law in India has reorganised the terrain on which labour welfare is debated, administered and contested. For gender analysis, the significance of this shift lies less in the rhetoric of simplification than in the redistribution of legal attention across equality, safety, social security and employability. The new labour codes move beyond parts of the older protectionist model by affirming women's entitlement to participate in a wider range of work, preserving equal-wage norms, and continuing maternity-related welfare protections.[2,3,4] They also acknowledge, at least at the level of statutory possibility, that informal, gig and platform workers belong within the horizon of labour welfare.[3,27]

But the chapter's central conclusion is that codification has produced conditional inclusion rather than full gender transformation. The law has become more coherent, but not necessarily more universal. It has become more enabling, but not always more enforceable. Its equality norms are meaningful, but still narrower than the structural realities of occupational segregation and care inequality demand. Its welfare architecture remains strongest for workers who can be located within recognisable establishments and weakest for those whose labour is most precarious or invisible.[8,23,24] The broader transformation of labour governance in India is therefore marked by a paradox: labour welfare is being codified and modernised at the same moment that effective protection increasingly depends on administrative capacity, executive schemes and the political will to reach workers outside the classic formal sector.

For scholars of labour law, this means that the success of the new regime cannot be measured only by consolidation, compliance simplification or doctrinal elegance. It must be assessed by whether gendered labour-market inequalities are actually reduced: whether women obtain safer access to work, whether wage discrimination is effectively challenged, whether maternity ceases to function as a labour-market penalty, whether informal and platform workers gain real social-security access, and whether labour administration becomes capable of enforcing rights in gender-sensitive ways.[1,6,7,9,37] On those questions, the labour codes offer an important but

incomplete foundation. They have reconfigured the legal vocabulary of labour welfare; the task of converting that vocabulary into substantive gender justice remains unfinished.

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Chapter 12

Impact of Labour Codes on Migrant, Informal, Gig and Platform Workers

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12.1 Introduction: Labour Market Transformation and Emerging Worker Categories

The contemporary transformation of Indian labour law cannot be understood without reference to the Constitution's social-welfare orientation, which combines enforceable protections against exploitation with Directive Principles requiring the State to secure humane conditions of work, social assistance, livelihood, and worker participation.[1] Within that constitutional setting, the labour codes mark the most important central reorganisation of labour legislation in recent decades. For the purposes of vulnerable labour, the two most consequential enactments are the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020, both of which moved into the implementation phase by late 2025, even as rule-making and administrative design continued into 2026.[2][3]

This chapter proceeds from a simple but important proposition. India's older labour-law architecture was built around relatively stable, bilateral, and formal employment relationships. That architecture was always a partial fit for India's labour market; it is an even poorer fit for an economy marked by subcontracting, circular migration, informality, app-mediated labour, and task-based services. The labour codes seek to respond to this reality by widening the vocabulary of labour law: "unorganised worker," "gig worker," "platform worker," and an expanded definition of "inter-State migrant worker" now appear in central labour legislation.[2][3] Yet legal recognition does not necessarily amount to robust protection. This chapter therefore argues that codification has undoubtedly expanded legal visibility and opened a welfare architecture for previously marginalised workers, but it has not fully transformed precarious workers into bearers of a complete labour-rights bundle. Much depends on registration, scheme design, inter-governmental coordination, and administrative capacity.

The central concern of the chapter is thus neither merely celebratory nor wholly sceptical. It examines, first, how codification addresses long-standing exclusions in the treatment of migrant and informal labour; secondly, how the Social Security

Code's recognition of gig and platform workers alters the normative landscape; thirdly, how far constitutional principles and labour-rights jurisprudence support a more substantive understanding of welfare; and, finally, whether the labour codes genuinely shift the balance of labour governance or instead produce a thinner, registration-driven and scheme-dependent model of protection. In doing so, the chapter situates the regulation of vulnerable workers within the broader transformation of labour governance in India: a movement away from a factory-centred legal imagination toward datafied, portable, and hybrid welfare regulation.

12.2 Conceptual Understanding of Informal and Non-Standard Work

12.2.1 Meaning of Informal Employment

In labour-law terms, informal employment is best understood not simply as work performed in a small enterprise, but as labour characterised by weak contractual formality, uncertain continuity, limited enforceability of rights, and little or no effective access to social security.[7][18] The Social Security Code reflects this broader understanding by defining the "unorganised sector" as enterprises owned by individuals or self-employed workers employing fewer than ten workers, while defining "unorganised worker" to include home-based workers, self-employed workers, wage workers in the unorganised sector, and even some workers in the organised sector who fall outside major labour protections.[2] In this respect, codification accepts what labour scholarship has long maintained: informality is not merely a sectoral location but a condition produced by fragmented labour relations and incomplete legal coverage.

The scale of informality in India gives this conceptual issue exceptional policy significance. Official e-Shram materials state that around 88 per cent of the workforce is engaged in the unorganised sector, while NITI Aayog's analysis of gig work reiterates that over 90 per cent of India's workforce is informal.[21][26] This means that the historical core of labour legislation-designed primarily around registered establishments and standard employment relationships-has always operated over only a segment of the labour market. Any serious analysis of the labour codes must therefore ask not merely whether they simplify the legal landscape, but whether they convert a vast domain of de facto labour into a domain of meaningful legal protection.

12.2.2 Migrant Labour in India

Migrant labour in India is shaped by structural inequality across regions, agrarian distress, uneven industrialisation, and the cyclical movement of labour between village and city. The traditional legal imagination treated migrant work primarily as contractor-mediated recruitment from one State to another.[5] The newer legal framework is more attentive to the reality that migration is often circular, self-

initiated, seasonal, and unstable. Construction, transport, manufacturing, logistics, and segments of urban services depend heavily on workers who leave their home States temporarily and remain only weakly integrated into destination-State welfare systems. The experience of the COVID-19 lockdown dramatically exposed how migration, informality, and welfare exclusion intersect.[17]

The Occupational Safety, Health and Working Conditions Code responds to that reality by expanding the statutory definition of "inter-State migrant worker." It includes not only those recruited directly or through a contractor in one State for work in another, but also workers who come on their own to another State and obtain employment there, including those who subsequently change establishments within the destination State, subject to a wage ceiling of ₹18,000 per month or a higher notified amount.[3] This doctrinal shift is highly significant. It moves the law away from the narrow contractor-centric model of the 1979 statute and toward recognition of self-migration as a central fact of Indian labour mobility.

12.2.3 Emergence of Gig and Platform Work

Gig work and platform work represent a different, though related, challenge. The Social Security Code defines a "gig worker" as a person who performs work or participates in a work arrangement and earns from such activities outside the traditional employer-employee relationship. It defines "platform work" as work arranged outside a traditional employer-employee relationship through an online platform that connects individuals or organisations for payment, and a "platform worker" as a person engaged in such work.[2] These definitions are noteworthy for what they do and do not do. They clearly name platform-mediated labour as a legal category, but they do so by preserving, rather than dissolving, the conceptual distance from the classic employer-employee relationship.

The rapid growth of the gig economy makes this doctrinal move more than a merely definitional matter. NITI Aayog estimated 6.8 million gig workers in 2019-20, 7.7 million in 2020-21, and projected 23.5 million by 2029-30. It also emphasised the statistical difficulty of identifying gig work and the likelihood that official data still under-captures the phenomenon.[19][21] The contemporary gig economy includes ride-hailing, food and grocery delivery, logistics, e-marketplaces, professional services, content work, and health-related service platforms-categories that broadly correspond to the Social Security Code's Seventh Schedule classification of aggregators.[2] The legal problem is therefore not marginal. It concerns a growing part of the urban services economy in which control, risk, algorithmic allocation, and economic dependency are often present in new forms.

12.3 Historical Regulation of Informal and Migrant Workers

12.3.1 Early Legal Framework for Migrant Workers

Before codification, the principal central law specifically targeting inter-State migrant labour was the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.[5] That statute applied to establishments and contractors employing five or more inter-State migrant workmen, required registration of establishments and licensing of contractors, and sought to regulate employment conditions, displacement-related welfare, and associated service obligations. Its normative premise was recognisably protective: migrant labour required special regulation because distance from home, dependence on recruiters, and lack of bargaining power heightened vulnerability.

Yet the 1979 Act suffered from a severe design limitation. It defined migrant work largely through the lens of recruitment by or through a contractor in one State for work in another. That meant the statute often failed to capture self-migrating labourers, especially those moving through kin networks, informal labour markets, or repeated circular migration.[5] In practice, many destination-State employers and contractors avoided compliance altogether, and the Supreme Court later noted the serious adverse consequences of non-implementation of the 1979 regime.[17] The problem, then, was not merely one of formal under-enforcement; it was also one of conceptual under-inclusion.

12.3.2 Regulation of Contract Labour

The Contract Labour (Regulation and Abolition) Act, 1970 formed the second major pillar of the pre-code regime relevant to migrant and informal labour.[6] Its object was twofold: to regulate the employment of contract labour and, in appropriate circumstances, to abolish it. It established registration and licensing requirements and provided for welfare and health protections. In doctrinal terms, the statute acknowledged the ubiquity of interposed labour contracting, but it did not reject subcontracting as such; rather, it sought to discipline it and reserve abolition for specified circumstances.

The judicial history of contract labour shows the tension between labour protection and labour-market flexibility. In *Air India Statutory Corporation v United Labour Union*, the Supreme Court adopted an absorption-friendly position after abolition of contract labour.[14] That approach was later overruled by the Constitution Bench in *Steel Authority of India Ltd v National Union Waterfront Workers*, which held that prohibition of contract labour under the 1970 Act did not automatically result in absorption by the principal employer, although sham contracts could still be pierced.[15] This shift is crucial to understanding the new labour regime. The codes do

not undo subcontracting; they regulate and sometimes limit it, but within a framework that continues to accommodate mediated labour relations.

12.3.3 Gaps in Legal Protection

A third and equally important part of the historical picture concerns workers who were never effectively protected by either migrant-labour or contract-labour legislation. Informal workers often fell outside the legal net because labour statutes were tied to establishment thresholds, identifiable employers, or standard employment contracts. Home-based workers, own-account workers, household workers, self-employed workers, and casual labourers frequently had no clear access to the classic package of minimum wages, social insurance, accident protection, or welfare benefits. The Unorganised Workers' Social Security Act, 2008 sought to address this gap by creating a welfare-oriented legislative framework, but it remained modest in ambition and implementation, resting largely on schemes rather than immediately enforceable entitlements.(7)

The constitutional and judicial backdrop nevertheless moved in a more expansive direction. In *People's Union for Democratic Rights*, the Supreme Court held that payment below the minimum wage could amount to "forced labour" under Article 23.(10) In *Sanjit Roy*, the Court reiterated that labour for less than the minimum wage violates the constitutional prohibition of forced labour.(11) In *Bandhua Mukti Morcha*, the Court treated bonded labour not as a private misfortune but as a constitutional failure requiring identification, release, and rehabilitation.(12) And in *Olga Tellis*, the Court linked livelihood to the right to life under Article 21.(13) Together, these cases established that labour welfare in India cannot be reduced to managerial benevolence or narrow statutory compliance; it is connected to dignity, livelihood, and freedom from compulsion.

The implementation deficit in labour welfare was also starkly visible in the construction sector. In *National Campaign Committee for Central Legislation on Construction Labour v Union of India*, the Supreme Court highlighted the poor utilisation of welfare cess collected for construction workers, despite the large sums accumulated.(16) That case remains a warning for the present discussion. Legislative recognition and even earmarked financing do not by themselves ensure welfare outcomes. The real question is whether institutions can identify beneficiaries, administer funds, and deliver benefits in time.

12.4 Labour Codes and Expansion of Worker Coverage

The labour codes attempt a structured expansion of labour-law coverage, but they do so through different legal techniques for different categories of workers. For formal employees, the codes largely consolidate pre-existing entitlements; for vulnerable

workers, they build a mixed architecture of recognition, registration, special obligations, and welfare schemes. This is analytically important. The new labour regime does not simply universalise the old labour model. Rather, it differentiates among categories and offers varying intensities of protection.[2][3]

12.4.1 Inclusion of Informal Sector Workers

The Code on Social Security states in its long title that its purpose is to amend and consolidate social-security laws "with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors."[2] That formulation matters. It signals an explicit departure from the historically narrower focus on factory and establishment workers and legitimates a broader social-security imagination. Chapter IX of the Code then creates the specific doctrinal framework for unorganised workers, gig workers, and platform workers. Sections 109 to 114 deal with schemes, funding, record-keeping, helplines, registration, and schemes for gig and platform workers, while section 141 establishes a Social Security Fund.[2]

For unorganised workers specifically, the Code provides for central schemes on matters such as life and disability cover, health and maternity benefits, old-age protection, and education, while State schemes may include provident-fund-type support, employment injury benefits, housing, children's education, skill upgradation, funeral assistance, and old age homes.[2] The structure is notable for blending central and State responsibilities rather than relying on a single national fund or uniform benefit package. It is therefore an enabling welfare framework rather than a single, self-executing system of entitlements. That feature has both virtues and weaknesses: it allows policy flexibility across sectors and States, but it also increases fragmentation and implementation dependence.

The Code's institutional design reinforces this scheme-based architecture. It provides for record-keeping, helplines, facilitation centres, and a National Social Security Board whose functions include recommending schemes, advising the government, monitoring implementation, and reviewing expenditure and record-keeping.[2] What emerges doctrinally is a shift from classic labour inspection toward welfare administration through data, boards, and targeted schemes. That is a major transformation in regulatory method. Yet it also means that many protections for informal workers are mediated through executive design rather than guaranteed in hard-edged statutory language.

12.4.2 Legal Recognition of Gig and Platform Workers

The most novel contribution of the Social Security Code is its formal recognition of gig and platform workers in central labour legislation.[2] This is more than symbolic. Until codification, these workers were often discussed in policy and scholarship, but

central labour law lacked a stable legal vocabulary for them. By defining gig work as activity outside the traditional employer-employee relationship and by separately defining platform work, the Code creates a legal basis for targeted welfare regulation. It also makes visible the central paradox of the reform: the law recognises these workers precisely as workers outside the classic contract of employment.

Section 114 empowers the Central Government to frame social-security schemes for gig workers and platform workers covering life and disability cover, accident insurance, health and maternity benefits, old age protection, crèche, and other benefits.(2) The same provision contemplates multiple funding models: full central funding, mixed central-State funding, aggregator-only funding, mixed funding involving beneficiaries or aggregators, corporate social responsibility funding, and "any other source." This is a capacious enabling clause. It gives the executive considerable freedom to design welfare instruments and financing structures. At the same time, the repeated use of "may frame" underscores that the provision is facilitative, not self-executing. The Code recognises a route to protection; it does not itself deliver a determinate set of benefits.

The financing model is especially significant. Aggregator contributions are tied to annual turnover at a rate of not less than 1 per cent and not more than 2 per cent, subject to a ceiling that the contribution shall not exceed 5 per cent of the amount paid or payable by the aggregator to gig and platform workers. The commencement date of such contributions is to be notified by the Central Government.(2) The Seventh Schedule lists the broad classes of aggregators-ride sharing, delivery, logistics, e-marketplaces, professional services, healthcare, travel and hospitality, content and media, and residual service platforms. This model is normatively important because it recognises that platforms deriving value from labour-mediated intermediation may be required to contribute to social protection even without accepting a full employment relationship.

Still, recognition without status transformation has consequences. The Code does not create a general presumption that gig or platform workers are employees, nor does it provide a test for determining when platform control should convert contractual labels into employment status. Accordingly, the gains of codification in this area lie principally in welfare recognition and financing potential, not in automatic access to the full framework of minimum wages, dismissal protection, working-time safeguards, or collective bargaining rights. In comparative perspective, this is both innovative and restrained: innovative because the category is legally named; restrained because the underlying labour-status question remains unresolved.

12.4.3 Regulation of Migrant Labour under the Occupational Safety Code

The Occupational Safety, Health and Working Conditions Code is the principal site of migrant-labour regulation in the new regime.(3) Section 21 requires the Central and State Governments to collect and maintain statistics and a portal/database for inter-State migrant workers, and permits self-registration on the basis of self-declaration and Aadhaar; significantly, self-employed migrants may also register.(3) This is one of the Code's most important innovations. It recognises that migrant vulnerability often begins with invisibility in official records. By linking migrant labour to a database architecture, the Code aims to make welfare portable and administratively addressable.

Part II of Chapter XI then sets out the substantive migrant-worker regime. It applies to establishments employing ten or more inter-State migrant workers. Section 60 requires contractors or employers to ensure suitable conditions of work, report fatal accidents or serious injury to the authorities of both States and to the worker's next of kin, and extend to migrant workers the benefits available to workers of the establishment, including ESI and EPF where applicable. Section 61 provides for journey allowance; section 62 provides for schemes relating to public distribution system portability and portability of building and construction cess benefits in the destination State; and sections 63 and 64 permit toll-free helplines and studies on migrant labour.(3) The Code thus combines parity, portability, and information systems.

This design is doctrinally superior to the older statute in at least three respects. First, it captures self-migration. Secondly, it explicitly links migrant welfare to portability of food and construction-related benefits. Thirdly, it places migrant regulation within a larger occupational safety and working conditions framework, thereby integrating migrant labour into general workplace regulation rather than treating it solely as a contractor issue. But the model also carries limits. The threshold of ten inter-State migrant workers may exclude smaller workplaces; the wage ceiling may omit some migrants in precarious but slightly better-paid sectors; and portability requires functional coordination between databases and welfare departments.

12.5 Social Security for Informal and Platform Workers

12.5.1 Social Protection Framework

The social-security framework of the labour codes is best read as a layered system. Traditional contributory institutions such as EPF and ESI remain central for covered employees, while the Code simultaneously expands the social-security imagination to unorganised, gig, and platform workers through schemes and funds.(2) This is not universal social insurance in the classical Bismarckian sense. It is closer to a hybrid

model in which some benefits continue to depend on employment-linked contributions, whereas others are to be delivered through public schemes, welfare boards, or special funds. The importance of this move lies in its acknowledgment that the old contributory paradigm cannot by itself accommodate workers outside stable payroll employment.

Section 141 of the Social Security Code is particularly important because it creates a Social Security Fund for the welfare of unorganised workers, gig workers, and platform workers.[2] When read with section 114, the Fund becomes the statutory hinge connecting platform recognition to actual welfare financing. Official statements made in 2025 and 2026 emphasised that the Code extends benefits to gig and platform workers and that the Fund is intended to support this architecture.[22][23] In doctrinal terms, then, the Code does not merely define new workers; it couples definitional inclusion with a financing mechanism, even though the precise design of schemes remains largely executive.

A further point deserves emphasis. The Code's definition of "social security" expressly includes measures protecting unorganised workers, gig workers, and platform workers in relation to health care and income security in cases such as old age, unemployment, sickness, invalidity, work injury, maternity, and loss of a breadwinner.[2] This definition matters because it gestures toward a substantive vision of social citizenship rather than a narrow employment perk. Even so, translating that definition into enforceable benefit structures depends on subsequent notification, funding, and administrative mechanisms. The statute therefore articulates an ambitious vocabulary, but its distributive effect turns on policy follow-through.

12.5.2 Registration of Informal Workers

Registration is the operational core of the new welfare architecture. Section 113 of the Social Security Code provides for registration of unorganised workers, gig workers, and platform workers, including self-registration and Aadhaar-linked identification. Registered workers become eligible to avail the benefits of the relevant schemes.[2] This is echoed in the e-Shram system, which the Ministry describes as a comprehensive National Database of Unorganised Workers designed to facilitate delivery of welfare benefits and social-security measures, and as the first national database including migrant, construction, gig, and platform workers.[26] Registration, in other words, becomes the gateway through which welfare is to be administered.

The promise of digital registration is substantial. It allows portability across States, links workers to multiple welfare schemes, and may reduce the evidentiary chaos that has historically surrounded migrant and informal labour. The Supreme Court, in the migrant-labour suo motu proceedings, treated the early completion of a national database for unorganised and migrant workers as a constitutional necessity, not a

merely administrative aspiration.[17] This judicial intervention is significant because it aligns digital registration with the protection of fundamental rights during conditions of social distress.

Yet registration-based governance also risks reproducing exclusion. The e-Shram framework is Aadhaar-seeded; ordinary self-registration often assumes access to a mobile number linked to Aadhaar, though Common Service Centres may provide biometric assistance where such linkage is absent.[26] In a labour market marked by irregular documents, gendered access to phones, changing migration routes, and intermittent digital literacy, registration may itself become a threshold barrier. The practical success of the codes therefore depends on whether digital registration is treated as an enabling public service rather than a formal precondition that silently filters out the most precarious workers.

12.5.3 Financing Social Protection for Gig Workers

The most difficult policy question in the regulation of platform labour is how to finance social protection when the law stops short of declaring the platform a conventional employer. The Social Security Code addresses this by adopting a hybrid financing imagination. Section 114 contemplates central and State contributions, beneficiary contributions, aggregator contributions, corporate social responsibility funds, and other sources.[2] This flexibility may be defended as pragmatic: it acknowledges heterogeneity across platforms and avoids overcommitting to a single institutional model. But it also raises questions about coherence and adequacy. A benefit architecture funded by many possible sources may become one reliably funded by none.

The aggregator levy is the doctrinal centrepiece of this financing model. By linking contributions to annual turnover, subject to a cap tied to amounts paid or payable to workers, the Code implicitly accepts that platform intermediation generates a social-protection obligation even if the relationship is styled as partnership or independent contracting.[2] That is a significant normative step. It suggests that social-security responsibility can attach to economic organisation, not only to formal employment status. But the effect of this principle depends on notification of rates, commencement of contributions, and enforcement against diverse platform business models. Questions of turnover calculation, pass-through costs, multi-sided markets, and avoidance structures remain important implementation challenges.

Recent policy announcements indicate movement, but also incompleteness. The Union Budget for 2025-26 announced identity cards, e-Shram registration, and PM Jan Arogya Yojana health coverage for gig workers of online platforms; subsequent implementation materials reported approval of the health-benefit scheme, onboarding of major aggregators, and special national registration campaigns in 2025.[24][25] At

the same time, the Ministry stated in January 2026 that deliberations with aggregators, worker organisations, and State governments were continuing on the social-security framework for gig and platform workers.[23] The implication is clear: the statutory recognition is real, but the welfare architecture is still being built.

12.6 Labour Market Realities and Implementation Challenges

12.6.1 Size of the Informal Economy

Implementation challenges are magnified by scale. When approximately 88 per cent of the workforce is in the unorganised sector, and when gig work itself is projected to expand rapidly while remaining overwhelmingly informal, labour protection cannot depend solely on establishment-centred enforcement.[21][26] It must instead work through networks of identification, public distribution, health coverage, welfare boards, and portable benefits. The codes recognise this implicitly. But the administrative consequences are formidable: the State must govern a labour market in which the relevant unit is often not the factory but the worker's fluctuating presence across tasks, platforms, contractors, and States.

The NITI Aayog report's own caveat is revealing. It emphasises that gig-worker estimates are indicative rather than definitive and that existing statistical systems struggle to capture task-based and multiple-job forms of work.[21] If the state cannot easily count these workers, it cannot easily insure, regulate, or represent them. The codes respond to invisibility with registration and database-building, but this solution assumes that workers can be individually identified and continuously updated in administrative systems. In sectors defined by fluidity, that is an ongoing challenge rather than a one-time registration exercise.

12.6.2 Challenges in Identifying Workers

Identification problems differ across categories. Migrant workers may change employers, return seasonally, or work temporarily without formal records. Gig workers may work for multiple platforms simultaneously, move in and out of work at short notice, or combine platform tasks with other informal employment. Unorganised workers may not have documentary proof of occupation, income, or employment continuity. The codes' reliance on self-declaration and Aadhaar-linked systems responds to this complexity, but it does not dissolve it.[2][3][26]

This problem is especially visible in the domain of migrant labour. The Supreme Court in the migrant-labour proceedings repeatedly drew attention to the need for universal ration portability, worker registration, and proper implementation of legal protections.[17] The Court's reasoning effectively acknowledged that vulnerability arises not only from low wages or poor housing, but from being administratively unlocatable. In this sense, the codes' registration architecture is an answer to a real

constitutional problem. But it will remain incomplete unless registration is accompanied by proactive outreach, multilingual facilitation, decentralised enrolment, and interoperability with food, health, construction, and insurance systems.

12.6.3 Administrative and Institutional Constraints

Labour administration in India remains deeply federal. Labour is on the Concurrent List, and the 2025 official implementation note emphasised that both the Central and State Governments have rule-making responsibilities under the codes. By July 2025, 32 States and Union Territories had pre-published draft rules under the four labour codes, with some notable gaps.[22] This federal structure is constitutionally unsurprising but administratively consequential. A worker's formal statutory inclusion may still yield uneven welfare depending on the pace and quality of subordinate legislation, institutional coordination, and political commitment in a particular State.

The codes also presume a more modernised labour administration-one more reliant on electronic records, digital portals, and coordinated boards than on traditional complaint-driven inspection alone. That shift is sensible in relation to dispersed and mobile labour, but it requires infrastructure, trained personnel, and reliable data-sharing. The history of under-utilised construction welfare funds, emphasised by the Supreme Court in 2018, shows that even where money is collected, delivery can fail if institutions are weak.[16] In that respect, the implementation challenge for the new labour regime is not merely legal transition; it is administrative state-building.

Table 12.1: Categories of Workers under the Labour Codes

Category of worker	Nature of employment	Principal code location	Key protections / mechanisms	Structural limits
Unorganised workers	Home-based, self-employed, or wage work in enterprises with fewer than 10 workers, and some uncovered workers in	Code on Social Security, 2020, Ch IX	Registration, central and state welfare schemes, facilitation centres, Social Security Fund linkages	Scheme-based protection; benefits depend on registration, notification, and state capacity

	organised sectors			
Inter-State migrant workers	Contractor-recruited or self-migrated workers employed in another State, subject to wage ceiling	OSHWC Code, 2020, s 2 and Ch XI Pt II	Portal/database, suitable work conditions, accident reporting, journey allowance, PDS portability, portability of construction welfare benefits	Threshold of 10 workers; wage ceiling; inter-state coordination burdens
Gig workers	Task-based work outside traditional employer-employee relationship	Code on Social Security, 2020, s 2(35), Ch IX	Legal recognition, registration, scheme-making power, possible Social Security Fund support	No general employment-status resolution; welfare depends on notified schemes
Platform workers	App- or online platform-mediated work	Code on Social Security, 2020, ss 2(60)-(61), 114 and Seventh Schedule	Aggregator-linked welfare schemes, turnover-based contribution model, registration, budget-linked health and identity initiatives	No full rights bundle of wages, hours, dismissal, or collective bargaining under the Code itself

Source: **Compiled from the Code on Social Security, 2020; the Occupational Safety, Health and Working Conditions Code, 2020; and Ministry of Labour and Employment implementation materials.**[2][3][22][23]

The analytical significance of Table 12.1 lies in the differentiated logic of codification. The codes do not extend the same kind of protection to all vulnerable

workers. Instead, they create a gradient of protection: migrant workers receive more direct workplace-related obligations under the OSHWC Code; gig and platform workers receive legal recognition and a welfare pathway under the Social Security Code; and unorganised workers receive a broad but scheme-based social-protection framework. The table therefore illustrates a central theme of this chapter: legal inclusion has advanced faster than substantive equalisation of rights. The codes expand the map of labour governance, but they do not erase the hierarchy between employees, workers with welfare recognition, and workers with only indirect or contingent protection.

12.7 International Perspectives on Regulation of Gig and Informal Workers

International labour standards provide a useful benchmark for evaluating the Indian reforms. ILO Recommendation No. 204 on the transition from the informal to the formal economy is the first international labour standard dealing specifically with the informal economy, and it emphasises coherent strategies for transition, recognition of diversity within informality, data collection, and the importance of worker and employer organisations.[28] Likewise, ILO Recommendation No. 202 on social protection floors urges member States to build nationally defined basic social-security guarantees as part of broader systems of social security.[27] These instruments do not prescribe a single institutional model, but they provide a normative direction: formalisation should not mean merely counting workers; it should mean extending rights, security, and voice.

For migrant workers, the ILO's core labour-migration instruments-Convention No. 97 and Convention No. 143-stress equal treatment, non-discrimination, regulation of recruitment, social-security protection, and action against abusive migration practices.[29][30] The ILO's contemporary guidance also emphasises that migrant protection lies at the heart of its mandate and that migrant workers should enjoy equal treatment in conditions of work, accommodation, trade-union rights, social security, and legal proceedings. India's new migrant-worker framework partially tracks this normative direction through portability and parity provisions, but it remains more modest in enforcement design than the strongest rights-based models.

Comparative regulation of platform work shows an even sharper divergence. The European Union's Directive (EU) 2024/2831 on improving working conditions in platform work moves beyond welfare recognition toward rules on determining correct employment status and regulating algorithmic management.[31] In the United Kingdom, *Uber BV v Aslam* recognised that Uber drivers were "workers" entitled to statutory protections such as minimum wage and paid leave, illustrating a judicial willingness to reclassify platform labour where control and dependency are

substantial.[32] India, by contrast, has chosen a different route: it has pioneered statutory welfare recognition without yet settling the deeper question of status and control. That choice may be politically pragmatic, but it is doctrinally narrower than emerging European trends.

12.8 Impact of Labour Codes on Vulnerable Workers

12.8.1 Potential Benefits for Workers

The labour codes offer at least four potential gains for vulnerable workers. First, they make previously marginal categories legible within central labour law. Secondly, they provide a formal route to registration and therefore to administrative visibility. Thirdly, they support portability, especially for inter-State migrants, through database architecture and PDS-related provisions. Fourthly, they create a welfare pathway for gig and platform workers through legal recognition, scheme-making power, and possible aggregator-financed benefits.[2][3][23] These are not trivial developments. In a legal order that long privileged formal employment, the simple fact of naming precarious workers and designing institutional channels around them is normatively important.

The policy measures announced in the 2025 Union Budget add to this potential. Identity cards, e-Shram registration, and health coverage under PM Jan Arogya Yojana for gig workers of online platforms indicate that codification may generate concrete welfare spillovers beyond the statute's text.[24][25] Similarly, the broadened migrant-worker definition and the explicit portability of certain benefits respond directly to the social failures revealed during the pandemic. The codes thus have a real redistributive possibility, provided implementation does not stall at the level of database creation.

12.8.2 Implications for Employers and Digital Platforms

For employers and platforms, the codes produce a mixed regulatory effect. On one hand, they increase compliance obligations by requiring new forms of registration, record-keeping, welfare contribution, and migrant-worker support. On the other hand, they stop short of imposing a general employment-status reclassification on platform businesses.[2][3] This may be read as a compromise. Traditional employers remain subject to workplace, wage, and welfare obligations where employment relationships are clear, while digital platforms face a growing welfare-responsibility framework without yet being fully absorbed into classical labour law's employer paradigm.

That compromise may influence business practice in at least two ways. First, it creates pressure toward better worker data management and formal onboarding, because registration and welfare linkages increasingly matter for compliance and public legitimacy. Secondly, it internalises at least part of the social cost of labour

intermediation by requiring possible contributions from aggregators. But because the law does not yet comprehensively regulate issues such as algorithmic control, unilateral deactivation, and earnings volatility, many cost externalities remain with workers themselves. The current regime therefore disciplines platforms at the welfare margin while leaving the productive organisation of platform labour comparatively intact.

12.8.3 Institutional Impact

Institutionally, the labour codes push labour administration toward digital governance, inter-operable databases, and hybrid welfare delivery. The e-Shram portal, migrant-worker portals under the OSHWC framework, aggregator onboarding, and budget-linked interoperability with health systems all illustrate a labour-governance model that increasingly treats information architecture as part of labour welfare itself.[23][25][26] The ideal is portability: rights and benefits should attach to the worker across mobility, platforms, and tasks rather than to a single stable workplace.

This institutional transformation is likely to outlast the specific provisions presently under discussion. The broader labour-governance shift is from inspection of bounded establishments toward management of dispersed labour through registration, digital identity, scheme delivery, and targeted financing. That shift may improve reach, but it also carries constitutional risks if welfare becomes too dependent on data infrastructures that vulnerable workers cannot easily access or contest. Institutional modernisation, in short, is a condition of success but not a substitute for substantive labour justice.

12.9 Critical Evaluation of Labour Codes and Worker Protection

A balanced evaluation must begin by acknowledging the codes' real achievements. First, the Social Security Code's recognition of gig and platform workers is a landmark development in Indian labour legislation. Secondly, the expanded migrant-worker definition in the OSHWC Code corrects a major blind spot of the 1979 Act by including self-migrating workers. Thirdly, the emphasis on registration, portability, and welfare funds aligns the law more closely with the structure of India's labour market than did older factory-centric legislation. Fourthly, the new regime opens the possibility of contribution-based welfare obligations for digital platforms without waiting for complete employment-status convergence. These are substantial strengths and should not be minimised.[2][3]

The limitations, however, are equally significant. The most important is that many rights remain contingent, not guaranteed. For gig and platform workers, the statute largely says the government "may" frame schemes. The difference between legal

recognition and justiciable entitlement is therefore profound.[2] The codes create a welfare possibility rather than a universal floor of enforceable labour rights. This is especially apparent when compared with the constitutional jurisprudence of Articles 21 and 23, which has often treated labour exploitation as implicating dignity and freedom, not merely administrative eligibility.[1][10][11][12]

A second limitation concerns legal status. The codes do not resolve whether, and under what conditions, a platform worker should be treated as an employee or worker for the purpose of wage protection, working time, unfair termination, or collective bargaining. The welfare route may therefore coexist with continuing contractual precarity. This matters because the Code on Wages can only protect those who fall within its operative employee framework; it does not by itself dissolve the boundary between self-styled independent contracting and employment.[4] In this sense, India's approach remains structurally different from jurisdictions that use status adjudication to pull platform labour into mainstream labour rights.

A third limitation is administrative. The migrant-labour crisis during the pandemic, the Supreme Court's repeated directions in the suo motu proceedings, and the construction-welfare jurisprudence all reveal that India's labour-welfare problem is often not absence of legislative intention but weakness of implementation.[16][17] The codes will not transform vulnerable labour merely by being textually expansive. Their success depends on robust registration drives, multilingual facilitation, accessible grievance channels, functioning welfare boards, transparent fund utilisation, and constant coordination between labour, food, health, and social-justice departments.

A fourth problem is that codification may naturalise a segmented labour-law order. Formal employees continue to inhabit the strongest zone of legal protection; migrant workers receive a blend of workplace and portability rights; unorganised workers receive welfare schemes; gig and platform workers receive recognition plus potential welfare. This segmentation is not irrational, but it raises a deeper normative question: does the new labour regime universalise labour citizenship, or does it merely administer precarity more efficiently? Put differently, do the codes reduce vulnerability, or do they construct a thinner social floor while leaving the underlying distribution of economic power largely untouched?

Trade-union and scholarly critiques draw much of their force from this final question. The concern is not that the codes do nothing; rather, it is that they convert the problem of labour protection into one of registration and welfare targeting without adequately confronting bargaining power, subcontracting structures, employment insecurity, and platform control.[18][20] That critique is persuasive in part. The codes are stronger on visibility than on voice, stronger on scheme architecture than on collective power, and stronger on inclusion in administrative systems than on legal equalisation across

labour forms. Yet it would be mistaken to dismiss them as merely cosmetic. In a country where invisibility itself has long been a technique of exclusion, visibility is a real gain. The true question is whether visibility will mature into enforceable social citizenship.

12.10 Conclusion

The impact of the labour codes on migrant, informal, gig, and platform workers is best understood as an incremental but important reorientation of Indian labour governance. The codes move beyond the older assumption that labour law is mainly about stable employees in identifiable establishments. They recognise mobility, informality, task-based work, and platform intermediation as objects of regulation. They create pathways for registration, portability, welfare financing, and targeted schemes. They also bring vulnerable labour more squarely within the constitutional promise of dignity, livelihood, and protection against exploitation.[1][2][3]

At the same time, the reform stops short of a full transformation in the substantive rights of precarious workers. The new regime is strongest where it makes labour visible to the state and weakest where it would need to redistribute control within the labour relationship itself. For migrant workers, it improves coverage and portability but depends on federal coordination and active enforcement. For informal workers, it widens the welfare frame but leaves much to schemes and administrative capacity. For gig and platform workers, it offers historic recognition and a financing architecture but does not finally answer the status question that lies at the heart of labour law.

The broader transformation of labour governance in India therefore becomes clear. Codification has not simply consolidated statutes; it has altered the governing logic of labour welfare. The older paradigm revolved around regulating the workplace. The newer paradigm increasingly revolves around identifying the worker across workplaces, States, and digital interfaces. Whether this shift becomes a genuine advance in labour justice will depend on the future of scheme design, judicial interpretation, platform accountability, fund utilisation, and institutional capacity. The labour codes have opened the door. Whether they produce a thicker social floor for vulnerable labour remains the central question for India's new labour regime.

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Chapter 13

Occupational Safety, Health and Working Conditions Code, 2020: Towards a Safer Workplace Regime

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13.1 Introduction: Workplace Safety as a Core Dimension of Labour Welfare

Occupational safety and health are central to any serious idea of labour welfare. A labour regime that regulates wages or discipline but tolerates preventable injury, occupational disease, fatigue, or degrading workplace conditions remains normatively incomplete. The protection of the worker's body and health is not merely ancillary to employment regulation; it is a precondition for human dignity, meaningful freedom at work, and productive economic development[1][25]. Unsafe workplaces impose immediate costs on workers and their families, but they also generate wider social costs through medical expenditure, loss of earnings, lowered productivity, and distrust in regulatory institutions[6][29].

The Indian experience illustrates the urgency of the issue. Industrial accidents, unsafe construction sites, hazardous processes, poor ventilation, inadequate sanitation, excessive hours, and weak enforcement have long exposed the limits of a labour law system that evolved through sector-specific statutes and uneven administration[14][16][21][22][29]. The problem has never been confined to the traditional factory. Contract labour, migrant workers, plantation labour, dock workers, motor transport workers, and construction workers have faced distinct but overlapping vulnerabilities arising from precarious employment, dispersed accountability, and fragmented supervision[15][17][19][20][21][22][30][31][32]. The COVID-19 period further underlined how working conditions, labour mobility, and welfare administration are deeply interconnected[32][35].

The Occupational Safety, Health and Working Conditions Code, 2020 ("OSHWC Code") was enacted as part of the larger codification of Indian labour law into four labour codes. Its importance lies in its attempt to consolidate thirteen central enactments dealing with occupational safety, health, welfare, and working conditions into a single framework statute[2][8][35]. The Code was brought into force on 21 November 2025, although central rules and sector-specific regulations continued to

be rolled out afterward, showing that formal commencement does not by itself complete regulatory transformation[3][4][33][34]. The reform therefore represents both legislative consolidation and administrative redesign: it moves from statute-by-statute regulation toward a code-based regime built around framework duties, delegated standards, digital registration and licensing, inspector-cum-facilitators, and advisory bodies[2][4][5][6].

This chapter argues that the OSHWC Code is a major restructuring of India's workplace safety regime, but one whose protective promise depends heavily on subordinate legislation, enforcement capacity, and the extent to which the state can reach vulnerable workers across the formal-informal divide. The Code clearly addresses longstanding problems of fragmentation and duplicative compliance. At the same time, it reflects a broader shift in labour governance: away from dense sector-specific statutory detail and toward a hybrid model that combines welfare goals with administrative simplification and "ease of doing business" rationales[6][28][35]. The chapter therefore examines the historical evolution of safety law, the pre-code fragmented regime, the doctrinal design of the Code, its constitutional and international setting, its implications for workers, employers and institutions, and the principal strengths and weaknesses of the reform.

13.2 Historical Evolution of Workplace Safety Regulation in India

13.2.1 Early Industrial Safety Concerns

The modern history of workplace safety law in India is closely tied to industrialisation under colonial rule. Textile mills, jute mills, mines, plantations, workshops, and port labour created large concentrations of wage labour exposed to dangerous machinery, dust, heat, overcrowding, and very long working days. In the earliest phase, the law displayed limited concern for labour welfare as such. Injuries and disease were largely treated as incidental to production, while regulation focused on the most visible abuses, especially the employment of women and children and extreme hours of work[26][27].

Two long-term features of Indian safety regulation were already visible in this period. First, risk was addressed sector by sector: factories, mines and plantations were treated as distinct regulatory spheres. Secondly, the law concentrated more on immediate accident prevention than on a broader conception of occupational health. The result was a narrow and selective model of protection rather than a general right to safe and healthy work[26][27][29].

13.2.2 Development of Workplace Safety Laws in Colonial India

Colonial legislation gradually responded through successive factory laws and mining regulations that introduced modest restrictions on hours, rudimentary safeguards for

machinery, and a system of inspection[26][27]. Over time these laws broadened their scope, but their limitations remained clear. Coverage thresholds excluded many workers, inspection capacity was weak, and the logic of protection was paternal and selective rather than rights-based. Even where welfare measures appeared, they remained subordinate to the imperatives of industrial production[26][27][29].

13.2.3 Post-Independence Expansion of Occupational Safety Laws

Independence transformed the normative frame. The Constitution's commitment to social justice, dignity and labour welfare encouraged a far more expansive legislative project[1]. The Factories Act, 1948 became the principal post-independence safety statute for factories, dealing with health, safety, welfare, working hours and leave[14]. Parallel sectoral laws then proliferated: the Plantation Labour Act, 1951; Mines Act, 1952; Motor Transport Workers Act, 1961; Beedi and Cigar Workers (Conditions of Employment) Act, 1966; Contract Labour (Regulation and Abolition) Act, 1970; Inter-State Migrant Workmen Act, 1979; Dock Workers (Safety, Health and Welfare) Act, 1986; and Building and Other Construction Workers Act, 1996[15][16][17][18][19][20][21][22].

These enactments significantly widened the idea of labour welfare. Safety was no longer confined to preventing visible accidents; it now included sanitation, ventilation, housing, medical care, rest rooms, canteens, drinking water, welfare officers, regulated hours and other humane conditions of work. Yet the expansion was additive rather than integrated. Different sectors acquired different statutes, authorities, standards and procedures. Protective ambition grew, but so did fragmentation[8][26][27].

13.2.4 Judicial Interpretation of Workplace Safety Rights

The judiciary was central to the constitutionalisation of workplace welfare. In People's Union for Democratic Rights v Union of India, the Supreme Court treated labour-law violations on public projects as constitutional failures rather than mere technical infractions[10]. In Bandhua Mukti Morcha v Union of India, the Court linked conditions of work to dignity and read state obligations through Articles 21, 23, 24 and the Directive Principles[11]. In M.C. Mehta v Union of India, the Court underscored the special responsibilities attached to hazardous activity, helping to reshape the legal context of industrial safety[12].

The clearest articulation came in Consumer Education and Research Centre v Union of India, where the Court held that the right to health and medical care of workers is an integral facet of the right to life under Article 21 and drew support from Articles 39(e), 41 and 43[13]. Occupational disease and unsafe work could no longer be treated as unfortunate by-products of industrialisation. They were matters of constitutional

concern. This jurisprudence remains the benchmark against which the OSHWC Code must be judged[1][13].

13.3 Fragmentation of Occupational Safety Legislation Prior to Codification

13.3.1 Multiplicity of Safety Laws

Before codification, occupational safety and working conditions in India were regulated through a mosaic of central enactments, each oriented to a particular sector or category of labour. The OSHWC Code eventually consolidated thirteen such laws, including legislation concerning factories, plantations, mines, newspaper establishments, motor transport, beedi and cigar work, contract labour, inter-State migrant workers, cinema and audiovisual workers, docks, and construction labour[2][35]. This multiplicity was historically intelligible: different industries generate different risks, and special regulation was often necessary. But over time the aggregate system became dense, overlapping, and difficult to navigate.

Fragmentation operated at more than one level. Substantive standards differed across laws. Thresholds of applicability differed. Institutional responsibilities differed depending on whether the relevant establishment fell under the jurisdiction of a factory inspectorate, mining authority, dock safety administration, labour department, welfare commissioner, or construction-board framework[6][7][16][21][22]. Definitions also varied across statutes, creating uncertainty over who counted as a worker, employee, contractor, or migrant for specific regulatory purposes. Even where laws pursued similar welfare goals, they did so through separate administrative channels and with uneven levels of detail[8][9][26].

13.3.2 Administrative Complexity and Compliance Burden

The fragmented pre-code regime produced significant administrative complexity for both employers and workers. Employers operating across sectors or multiple states often faced separate registrations, licences, returns, records, and inspections under different enactments. Construction-linked manufacturing, contractor-supplied labour, transport-linked operations, and port or mine-adjacent activities could generate multiple points of regulatory contact. This multiplicity was not merely inconvenient. It could dilute accountability by dispersing responsibility across parallel legal regimes, and it could foster low-value compliance focused on forms rather than prevention[6][8][9][28].

For workers, fragmentation created a different set of problems. Entitlements were often sector-contingent; knowledge of rights depended on legal literacy that many workers, especially migrants and informal workers, could not reasonably be expected to possess. Vulnerable workers frequently fell through interstitial gaps between

statutes, or between law on paper and labour administration in practice. Migrant labour provides a clear example. The Inter-State Migrant Workmen Act, 1979 conferred important protections, but its application turned on restrictive recruitment models and formal identification structures that often failed to capture the actual mobility of labour in India[20][32]. Contract labour regulation displayed similar limits: the formal allocation of liability between contractor and principal employer did not always translate into effective welfare, timely payment of wages, or safe working conditions[19][26].

13.3.3 Policy Need for Consolidation

The policy case for consolidation thus emerged from three interrelated concerns. The first was simplification. The Second National Commission on Labour recommended that the existing body of labour law be amalgamated into broad thematic groups, including a category covering safety, welfare, and working conditions[8][35]. The second was harmonisation. Consolidation promised to reduce definitional inconsistency, duplication of authorities, and incompatible compliance structures. The third was regulatory modernisation. By the late 2010s, labour reform discourse increasingly emphasised digital administration, single-window compliance, standardised licensing, and the rationalisation of inspection procedures[6][8][9].

However, consolidation was not a neutral technical exercise. As critics observed, codification also risked shifting the balance of labour regulation toward managerial flexibility and compliance facilitation, sometimes at the expense of hard-edged protective detail[28][29]. The crucial question, therefore, was never whether simplification was desirable in the abstract. It was whether simplification would strengthen worker protection by making the law more coherent and enforceable, or whether it would weaken protection by translating detailed sectoral obligations into broad, rule-dependent framework provisions. The OSHWC Code must be read against this tension between regulatory coherence and protective depth[28][29][30][31].

13.4 Structure and Scope of the Occupational Safety Code

13.4.1 Objectives of the Code

The OSHWC Code is framed as a law "to consolidate and amend" the rules governing occupational safety, health and working conditions[2]. Its Statement of Objects and Reasons states that the Code seeks to amalgamate, simplify and rationalise thirteen labour enactments and introduce changes such as single registration, appointment letters, migrant portability, advisory boards, safety committees, women's employment, and common licensing[35]. Three objectives are especially clear.

The first is protective consolidation: the Code brings multiple sectors within one statutory framework while retaining special parts for mines, plantations, factories,

beedi and cigar work, building and construction work, contract labour, interstate migrants, and audiovisual workers[2]. The second is administrative streamlining: it reduces multiplicity of registration and licensing channels through digital procedures and a common institutional vocabulary[4][5][6]. The third is governance redesign: it replaces the older inspector model with the inspector-cum-facilitator, authorises web-based inspection, enables third-party audits for certain establishments, and leaves considerable detail to standards and rules prescribed by the appropriate government[2][4][5].

13.4.2 Coverage and Applicability

The Code generally applies to establishments employing ten or more workers and to all mines and docks regardless of workforce thresholds, while certain chapters and parts operate through additional sector-specific thresholds[2][5][35]. Registration is required for every employer of an establishment to which the Code applies, and the application is to be made electronically[2][4]. The contract labour part applies to establishments and contractors engaging fifty or more contract labourers; the inter-State migrant worker part applies where ten or more such workers are employed[2]. Many welfare obligations are also threshold-based: canteens at one hundred or more workers, rest rooms in factories and mines with more than fifty workers, welfare officers at two hundred and fifty or more workers, and safety officers in larger or more hazardous establishments[2][5].

The structure is therefore one of differentiated universality. The Code widens the legal umbrella of safety regulation, but distributes obligations in layers. This is defensible on grounds of proportionality, yet thresholds also leave gaps. Small establishments and dispersed worksites may remain weakly supervised despite serious risks, a problem that is especially acute in an economy marked by informality[29][31][32].

The Code also responds to changing labour mobility. Inter-State migrant workers may self-register on a portal based on self-declaration and Aadhaar, and the law contemplates the collection of safety statistics and migrant-worker data[2][4]. This departs from the older contractor-centred model and acknowledges that migration in India is often circular and only partly formalised[20][32].

13.4.3 Institutional Framework under the Code

Institutionally, the Code builds a layered system. The National Occupational Safety and Health Advisory Board advises the Central Government on standards, rules, implementation and policy, while State Occupational Safety and Health Advisory Boards perform a similar role at the state level[2]. Below this advisory layer, Chief Inspector-cum-Facilitators and Inspector-cum-Facilitators exercise powers of entry,

examination, sampling, photography, videography and record inspection[2]. The appropriate government may also establish a web-based inspection scheme and formulate third-party audit and certification systems for start-ups and other classes of establishments[2][5].

The Code also relies on existing technical institutions. DGFASLI remains the technical arm of the Ministry for safety, health and welfare in factories and ports, while DGMS provides continuity in mining safety administration[6][7]. At workplace level, Safety Committees and safety officers introduce a participatory dimension, and employees have rights to information, representation, and complaint in cases of imminent danger[2]. Even so, the effectiveness of this architecture depends heavily on delegated legislation and administrative resources. The post-commencement roll-out of draft rules and sectoral regulations illustrates that the statute supplies the framework, but operational detail must come from continuing rule-making[3][4][33][34].

13.5 Workplace Safety and Health Standards

13.5.1 Safety Regulations in Industrial Establishments

The Code places employer duties at the centre of the safety regime. Section 6 requires every employer to ensure that the workplace is free from hazards that cause or are likely to cause injury or occupational disease, to comply with occupational safety and health standards, to provide and maintain a safe working environment, and to ensure the safe use, handling, storage and transport of articles and substances[2]. Importantly, the employer may not pass on the cost of statutory safety and health measures to employees[2]. This is a fundamental welfare principle. Safety is not a contractual add-on to be purchased by the worker; it is a non-transferable regulatory obligation of the employer.

The Code's standards regime is deliberately broad. The Central Government may declare occupational safety and health standards for workplaces in factories, mines, dock work, beedi and cigar work, construction work and other notified establishments, including standards on hazards, machinery, processes, dangerous operations, and matters specified in the Second Schedule[2]. The Second Schedule itself includes issues such as fencing of machinery, work on or near machinery in motion, employment of adolescents on dangerous machines, lifting machinery, pressure plants, floors and stairs, excessive weights, eye protection, precautions against dangerous fumes, explosive or inflammable dust and gas, fire, and confined spaces[2]. The legislative technique is significant: rather than reproducing every technical standard in the body of the statute, the Code creates a standard-setting power broad enough to respond to technological change.

This design has practical advantages. Hazardous processes evolve; machinery becomes more complex; newer risks, including chemical exposure and nano-materials, may not fit easily within older statutory categories. A framework standard-setting model allows governments to update safety requirements more readily than would be possible through repeated statutory amendment[35]. Yet the model also produces dependence on executive action. If standards remain incomplete, inconsistently framed, or weakly enforced, the protective potential of the statute is compromised. The effectiveness of delegated safety standards therefore becomes a central question of labour governance, not a mere administrative afterthought.

13.5.2 Health Protection Measures

The Code treats health protection as a distinct and indispensable component of workplace regulation. It requires cleanliness, hygienic conditions, proper ventilation, effective temperature control, the elimination or control of dust, fumes and impurities, safe drinking water, adequate lighting, sufficient space, and the provision of separate latrines and urinals for male, female and transgender employees[2]. The inclusion of transgender workers in the express design of sanitary facilities is noteworthy, not because it solves the structural exclusion of gender-diverse workers, but because it reflects an attempt to move beyond the binary assumptions embedded in older welfare statutes.

The Code also addresses occupational disease more directly than a narrow accident-prevention approach would allow. It provides for notice of notifiable diseases, reporting obligations for medical practitioners, occupational health surveys, and research-related activities by notified institutions[2]. The Third Schedule lists notifiable occupational diseases, while the annual health examination or test of employees belonging to prescribed classes must be provided by the employer free of cost[2]. These features align with a preventive model of labour welfare in which medical surveillance, information gathering, and epidemiological attention matter alongside immediate safety precautions. This orientation is consistent with judicial recognition that occupational disease is not a private misfortune but a regulatory concern linked to the right to health[13].

The Code's health architecture also has wider public-health implications. Unsafe disposal of hazardous and toxic waste, including electronic waste, can expose not only workers but nearby communities[2]. Accordingly, occupational safety law cannot be fully separated from environmental governance. The statutory recognition of hazardous processes, threshold exposure, and health surveys suggests an integrated understanding of workplace harm. In practice, however, the integration of labour inspection, public health systems, and environmental regulation remains

institutionally difficult. Much will depend on coordination among labour departments, technical agencies, medical services, and local administration.

13.5.3 Welfare Facilities for Workers

Beyond accident prevention and disease control, the Code includes a substantial set of welfare provisions. Employers must provide washing facilities, bathing places and locker rooms where required, facilities for storing and drying clothing, arrangements for sitting, first-aid boxes, and other prescribed welfare measures[2]. Establishments employing one hundred or more workers must provide a canteen[2]. Factories and mines with more than fifty workers are required to provide shelters, rest rooms and lunch rooms; motor transport workers are entitled to appropriate facilities where halts occur at night[2]. Welfare officers are required in factories, mines and plantations employing two hundred and fifty or more workers[2]. Building workers must be provided temporary living accommodation, without charge, at or near worksites when prescribed conditions are met[2][22][31].

These provisions underscore an often overlooked point: labour welfare is not exhausted by prohibitory safety rules. Adequate rest, water, food, sanitation, medical aid, and dignified workplace amenities are constitutive of safe work. A fatigued, undernourished, or poorly housed worker is more vulnerable to injury and ill-health. Welfare facilities therefore perform a dual role. They advance human dignity and they reduce risk. This is particularly important in sectors such as construction, plantations, transport, and migrant labour where work and residence may be closely linked[15][20][22][30][31].

At the same time, welfare facilities are precisely the kinds of obligations most susceptible to uneven enforcement. Employers often comply first with visible registration and record-keeping requirements, and only later-if at all-with substantive welfare obligations that require continuous expenditure. The history of Indian labour administration shows that the existence of statutory facilities does not guarantee their quality or accessibility[26][27][29]. The OSHWC Code's welfare chapter is therefore best read as a valuable formal consolidation whose substantive effect will hinge on inspection, worker representation, and credible penalties.

13.6 Regulation of Working Conditions

13.6.1 Working Hours and Leave Provisions

The regulation of working time remains a core anti-exploitation device in labour law. The Code accordingly prohibits work in excess of eight hours a day, subject to rules on intervals and spread-over, and generally limits work to six days in a week[2]. It preserves weekly rest and compensatory holiday mechanisms, while requiring overtime wages at twice the normal rate where overtime is lawfully performed and

consented to[2]. These provisions continue the classic welfare understanding that occupational safety is inseparable from limits on fatigue. Overwork increases the probability of accidents, impairs judgment, and undermines long-term health; it is as much a safety issue as defective machinery.

The Code's treatment of overtime is particularly significant. By requiring worker consent and double wages, it formally recognises overtime as an exception rather than the norm[2]. Yet this formal protection may not be fully effective in labour markets marked by dependency and weak bargaining power. Where workers fear dismissal or non-renewal of contracts, "consent" may be highly constrained. The legal rule is therefore necessary, but not sufficient. Effective regulation of working time requires inspection, accurate record-keeping, and credible worker complaint channels.

The Code also preserves annual leave with wages, continuing the welfare tradition that recovery time is integral to safe and humane work[2]. In doctrinal terms, the regulation of hours and leave reflects the Code's broader structure: it combines general norms applicable across establishments with sector-specific flexibility to be prescribed by government. The advantage is adaptability; the risk is that flexibility can gradually erode protective baselines if subordinate legislation privileges production concerns over welfare. This tension has already surfaced in public debate on labour codes more generally, where the language of flexibility and productivity sometimes sits uneasily alongside the historical function of labour law as a brake on exploitation[28][29].

13.6.2 Safety of Women Workers

One of the most consequential changes introduced by the Code is its approach to women's employment. Section 43 affirms that women shall be entitled to be employed in all establishments for all types of work under the Code, and permits employment before 6 a.m. and beyond 7 p.m. with their consent and subject to conditions relating to safety, holidays and working hours to be prescribed by the appropriate government[2]. This provision marks a departure from older protective laws that restricted women's night work in the name of welfare.

From a constitutional perspective, the change is defensible as an equality-enhancing reform. Blanket exclusions from certain hours or forms of work can entrench gendered labour segmentation and deprive women of access to better-paid employment in sectors operating round the clock. Read with Articles 14, 15 and 16, the Code's enabling formulation better reflects a model of substantive equality than did paternal prohibitions inherited from earlier regimes[1]. Yet the reform also demands caution. Gender equality in the workplace cannot be achieved by simply lifting restrictions while leaving structural conditions unchanged. Safe transport, lighting, sanitation, anti-harassment mechanisms, secure accommodation where

relevant, and non-discriminatory rostering practices are indispensable to meaningful freedom of work.

The Code partly acknowledges this by empowering the appropriate government to prescribe safeguards and by allowing restrictions where dangerous operations threaten women's health and safety[2]. Nevertheless, much depends on the specificity of rules and the seriousness of enforcement. A gender-sensitive occupational safety regime must look beyond formal access to the differentiated ways in which risk is experienced. The concerns are especially acute for interstate migrant women workers, who may face a combination of precarious employment, insecure housing, lack of identity documents, care burdens, and vulnerability to violence[32]. The Code creates possibilities for inclusion, but it does not automatically resolve the social conditions that make inclusion unsafe or unequal.

13.6.3 Protection of Migrant and Contract Workers

The Code's treatment of contract labour and inter-State migrant workers is among its most important welfare dimensions. Contract labour remains governed through a distinct part of Chapter XI. Contractors must obtain licences, principal employers bear residual responsibility where contractors default in wage payment, and the law seeks to restrict the engagement of contract labour in core activities, subject to specified exceptions[2][19]. The core-activity restriction expresses an important normative judgment: outsourcing should not become a device for permanently displacing the direct employment relation in areas central to the establishment's ordinary business. At the same time, the breadth of the statutory exceptions leaves room for significant employer-side flexibility, which may weaken the practical force of the restriction[2][19][28].

The migrant worker provisions are more explicitly welfare-oriented. Employers and contractors must ensure suitable conditions of work, and fatal accidents or serious bodily injury involving an interstate migrant worker must be reported both to authorities in the destination and home states and to next of kin[2]. The Code preserves a journey allowance for to-and-fro travel to the worker's native place once a year, subject to prescribed conditions[2][20]. It also enables schemes for portability of public distribution system benefits and building-construction welfare benefits, and requires the creation of a toll-free helpline and the maintenance of data on migrant workers[2][35]. These provisions were clearly shaped by the post-2020 recognition that labour mobility in India demands a portability-based welfare architecture rather than one tied rigidly to a single place of employment or residence[32][35].

Yet the protection of contract and migrant workers under the Code remains structurally challenging. These workers often inhabit the weakest points of the employment relationship: they are recruited through layers of intermediaries,

employed on short terms, housed in employer-linked or contractor-linked accommodation, and less able to assert rights against immediate or ultimate economic power. The Code attempts to respond through shared liability, portal-based registration, benefit portability, and wage-payment rules requiring bank transfer or electronic modes[2][4][5]. But these mechanisms presuppose documentation, banking access, state coordination, and administrative follow-through. The law is therefore directionally important, but its actual protective capacity will depend on whether enforcement institutions can see and reach workers whose labour is structurally obscured by contracting chains and mobility.

13.7 Licensing, Registration and Compliance Mechanisms

13.7.1 Registration of Establishments

A central reform under the Code is the move toward single, electronic registration. Every employer of an establishment to which the Code applies must apply for registration electronically within the prescribed time[2][4][5]. This reflects a wider project of labour-law digitalisation and promises to reduce duplication, improve data quality, and create a clearer compliance baseline[5][6]. For workers, registration matters because it makes the establishment legible to the state; an unregistered workplace is less likely to be inspected or held accountable. Yet digital legibility is only a first step. Registration improves governance only when linked to verification, inspection planning and sanction.

13.7.2 Licensing of Contractors

The Code rationalises contractor licensing through the concept of a common licence. A designated authority may issue licences electronically, including in multi-state or all-India form where appropriate[2][35]. Deemed approval applies where the authority does not decide an application within the statutory period[2]. These changes clearly reduce transaction costs for businesses operating across jurisdictions.

Simplification, however, is acceptable only if accountability remains clear. The Code requires contractor responsibilities to be specified in the licence, obliges contractors to intimate work orders, and makes them primarily liable for wage payment through bank transfer or electronic mode[2]. Where the contractor defaults, the principal employer must pay and may recover the amount from the contractor or security deposit[2]. Shared responsibility is essential in triangular employment structures where risk can otherwise be dispersed.

The significance of consolidation is summarised in Table 13.1. The table shows that the Code does not merely replace factory law in the narrow sense; it draws together sectoral safety statutes and welfare laws that historically operated on parallel tracks. The interpretive consequence is a shift from legislative silos to a common framework

of duties, welfare, hours, and enforcement, even though sector-specific provisions continue inside the Code[2][35].

Table 13.1 Consolidation of Workplace Safety Laws under the Occupational Safety Code

Previous legislation	Primary sector or subject regulated	Status under the OSHWC Code
Factories Act, 1948	Industrial safety, health, welfare and working time in factories	Consolidated
Plantation Labour Act, 1951	Plantation labour welfare, housing, medical and sanitary facilities	Consolidated
Mines Act, 1952	Mining safety, health and working conditions	Consolidated
Motor Transport Workers Act, 1961	Safety and working conditions of transport labour	Consolidated
Beedi and Cigar Workers (Conditions of Employment) Act, 1966	Conditions of employment and welfare in beedi and cigar establishments	Consolidated
Contract Labour (Regulation and Abolition) Act, 1970	Regulation of contractor-supplied labour and principal-employer responsibility	Integrated
Inter-State Migrant Workmen Act, 1979	Migrant worker registration, wages, journey allowance and welfare	Integrated
Dock Workers (Safety, Health and Welfare) Act, 1986	Safety and welfare in dock work	Consolidated

Building and Other Construction Workers Act, 1996	Construction-site safety, welfare and working conditions	Consolidated

Source: Author's synthesis based on the Occupational Safety, Health and Working Conditions Code, 2020 and its Statement of Objects and Reasons[2][35].

Table 13.1 demonstrates that codification is analytically significant for two reasons. It harmonises previously separate regimes of industrial safety, migrant welfare, contract labour accountability, and construction-site regulation within one framework, and it shifts interpretive attention from isolated statutes to a unified model of duties, standards and compliance. At the same time, consolidation does not erase sectoral specificity; it relocates it inside the Code itself[2][35].

13.7.3 Inspection and Enforcement Mechanisms

The enforcement design of the Code reflects a shift from coercive inspection alone to a mixed model of facilitation, risk-based oversight, and selective prosecution. Inspector-cum-Facilitators retain substantial powers to enter establishments, inspect premises, examine persons, take measurements, photographs and videographs, collect samples, and require the production of records[2]. At the same time, the government may design web-based inspection systems using randomisation and electronic information flows[2][5]. For some establishments, third-party audit and certification may supplement state inspection[2].

This design has clear advantages, including transparency and the possibility of better targeting. It also carries risks. A heavily facilitative model may under-deter serious non-compliance, especially in sectors where violations are routine. The prosecution framework, which often allows an opportunity to comply before prosecution and permits compounding of certain offences, may improve efficiency but can soften deterrence if used too broadly[2]. The key question is whether the system distinguishes adequately between technical lapse and conduct that exposes workers to grave harm.

13.8 International Labour Standards and Workplace Safety

The OSHWC Code should also be situated within the larger field of international labour standards. The International Labour Organization (ILO), of which India is a founding member, has long treated occupational safety and health as a core dimension of decent work and labour administration[6][25]. In June 2022, the International Labour Conference recognised "a safe and healthy working environment" as a fundamental principle and right at work and designated ILO Conventions Nos 155 and 187 as fundamental conventions[25]. This development is normatively significant even where

domestic law does not mechanically follow convention text. It signals a global expectation that safe work is not peripheral welfare policy, but a central labour value. Convention No 155 emphasises the formulation of a coherent national policy on occupational safety and health, preventive action, consultation, employer duties, worker information, and inspection[23]. Convention No 187 stresses the creation of a promotional framework based on national policy, national systems, national programmes, and a culture of continual improvement in workplace safety and health[24]. Many elements of the OSHWC Code echo these principles: the creation of national and state advisory boards, the power to prescribe standards, the duties imposed on employers, the rights of workers to information and representation, the reporting of accidents and diseases, occupational health surveys, and the collection of safety statistics[2][23][24][25].

The Code's convergence with international standards is therefore substantial at the level of architecture. It moves Indian safety law toward a preventive and systems-based model rather than a purely reactive or punishment-centred one. It also reflects the importance of tripartism, technical expertise, and data. Yet alignment at the level of form does not guarantee alignment in effect. International standards presume functioning labour inspection, coordinated public institutions, worker representation, and a continuing commitment to improvement. In contexts where large segments of the labour force remain informal, mobile, or weakly documented, the translation of international principles into effective domestic protection remains difficult[23][24][25][29].

Comparative experience also suggests a broader lesson. Jurisdictions that successfully reduce workplace risk usually combine legal standards with sustained institutional investment, sectoral risk mapping, medical surveillance, training, and meaningful worker participation. Codification can improve coherence, but prevention requires administration, not merely legislation. The OSHWC Code is best seen as bringing Indian law into closer conversation with global safety norms while leaving unresolved the practical question of how those norms will be realised across the diversity of Indian workplaces.

13.9 Impact of the Occupational Safety Code

13.9.1 Implications for Workers

For workers, the Code offers several potential gains. The consolidation of thirteen laws into a single framework may make entitlements easier to identify and administer, particularly where workers move between sectors or are employed through contractors[2][35]. The express duties placed on employers, the right to information, the provision for annual health examinations, the requirement of appointment letters, the accident-reporting framework, and the welfare provisions on canteens, rest rooms,

first aid and accommodation all strengthen the formal legal basis for demanding safer work[2][5]. The Code's treatment of migrant workers, including self-registration, benefit portability, and journey allowance, addresses longstanding weaknesses in the earlier legal regime[2][20][32].

Yet the benefits are unevenly distributed. Workers in larger and more visible establishments are more likely to gain from codified standards than workers in small, dispersed, or informal settings where threshold exclusions and weak inspection continue to matter. The law may therefore improve protection within the more legible segments of the labour market while leaving precarious workers only partially covered. For workers, then, the Code is an important formal advance, but not a complete welfare settlement[29][31][32].

13.9.2 Implications for Employers

For employers, the Code reduces compliance fragmentation. Single registration, common licences, electronic filings, deemed approvals, and consolidated definitions lower transaction costs and may improve certainty for multi-unit and multi-state businesses[4][5][6]. Uniformity can also make internal compliance systems more manageable, especially for employers previously navigating multiple sectoral statutes with overlapping obligations.

At the same time, the Code imposes broader and clearer duties on employers. Written appointment letters, safe systems of work, annual health tests for prescribed classes, accident reporting, welfare facilities, wage responsibility in contractor chains, and compliance with prescribed standards all require organisational investment[2]. In this respect, the reform is not simply deregulatory. It simultaneously simplifies administration and sharpens legal responsibility. Employers that interpret codification only as "ease of doing business" risk underestimating the substantive burden of occupational safety duties.

13.9.3 Institutional Implications

Institutionally, the Code pushes labour administration toward a more integrated governance model. Digital registration and licensing, web-based inspection, data collection, advisory boards, safety committees, and third-party audits together indicate an administrative transformation rather than a mere renumbering of statutory provisions[2][4][5][6]. If implemented well, this may improve coordination, transparency, and risk targeting. Technical agencies such as DGFASLI and DGMS can provide continuity and expertise within the new framework[6][7].

However, institutional transformation also generates transition costs. Inspectors must adapt to new powers and procedures. States must align rules and administrative systems. Employers and workers must learn a new legal vocabulary. Courts and

tribunals must interpret the Code in continuity with, and sometimes in departure from, the jurisprudence under repealed enactments. The impact of the Code is therefore best understood not as an event but as a staged process of legal and administrative translation[2][3][4][5].

13.10 Critical Evaluation of the Occupational Safety Code

The OSHWC Code has undeniable strengths. It addresses the long-recognised problem of legislative fragmentation by bringing thirteen enactments into one framework[2][8][35]. It modernises administration through digital registration, common licensing, portal-based compliance and web-based inspection[4][5][6]. It adopts a broader understanding of labour welfare that includes not only accident prevention but also occupational health, sanitation, welfare facilities, working time, women's work, contract labour and migrant labour[2]. It also moves toward a preventive safety culture by recognising worker information rights, Safety Committees, accident reporting and occupational health surveys[2][23][24]. From the perspective of legal architecture, the Code is one of the most significant reforms of Indian labour law in decades.

The first major limitation, however, is coverage. The Code remains deeply threshold-dependent. Many obligations apply only above specified workforce levels. In an economy marked by informality, family labour, seasonal work, subcontracting and small establishments, threshold design can leave many workers outside effective protection[29][31][32]. The classic dualism of Indian labour law-stronger rights in organised segments and thinner protection in the unorganised majority-has therefore not disappeared.

The second limitation is the heavy dependence on delegated legislation. Crucial matters are to be prescribed by governments, developed through standards, or elaborated in rules and regulations[2][4]. That technique offers flexibility, but it also creates uncertainty and delays. The Code came into force in November 2025, but draft central rules followed only in late December 2025, with further draft regulations for mines and dock work appearing in early 2026[3][4][33][34]. This reveals a structural challenge of codified governance: a statute may be legally operative while remaining administratively incomplete. For workers, that can postpone the practical enjoyment of rights; for employers, it can create transitional ambiguity.

A third limitation concerns enforcement philosophy. The move from "inspector" to "inspector-cum-facilitator" and the reliance on digital systems, risk-based inspection and third-party audit reflect a governance style oriented toward compliance management[2][5][6]. Such an approach may be justified where non-compliance stems from complexity. But occupational safety law addresses harms that are often irreversible. Where workers face death, serious injury or chronic disease, the law

must deter, not merely facilitate. If "ease of doing business" becomes the dominant administrative ethos, the seriousness of occupational harm may be understated[28][29].

The fourth limitation lies in the continuing vulnerability of contract, migrant and women workers. Migrant-worker self-registration and benefit portability are important innovations, but they depend on documentation, digital access, inter-state coordination and real delivery systems[2][32]. Shared liability in contract labour is necessary, yet the exceptions to the prohibition on using contract labour in core activities may allow responsibility to continue being externalised[2][19]. Women's access to all establishments and night work with consent is normatively preferable to blanket exclusion, but safe participation requires transport, sanitation, housing, anti-harassment protection, and care-sensitive workplace design that the Code alone cannot guarantee[1][2][32]. Formal inclusion can therefore coexist with material vulnerability.

A fifth challenge is federal implementation. Labour is a concurrent subject, and the Code depends on both central and state action[1][6]. This makes variation in rules, inspection quality, and administrative priorities inevitable. Local adaptation may sometimes be desirable, but excessive divergence can undermine the promise of minimum national protection against hazardous work.

A balanced assessment must therefore distinguish between formal rationalisation and substantive welfare. Formal rationalisation has clearly occurred: the law is more consolidated, coherent, and administratively modern. Substantive welfare remains contingent on state investment in inspectors, laboratories, medical surveillance, accident investigation, worker education and grievance systems. The OSHWC Code is thus a serious and necessary reform, but not a self-executing solution. Its success will depend less on the elegance of codification than on whether the new framework can actually govern the workplaces where vulnerability is greatest.

13.11 Conclusion

The Occupational Safety, Health and Working Conditions Code, 2020 marks a decisive moment in the remaking of Indian labour law. It draws together a historically fragmented body of sector-specific enactments and recasts workplace safety, health, welfare, and working conditions within a common statutory architecture[2][35]. In doing so, it acknowledges an essential truth of labour welfare: the value of work cannot be separated from the conditions under which work is performed. Safety, sanitation, occupational health, rest, medical supervision, welfare facilities, and regulated hours are not peripheral amenities; they are the material foundation of dignified labour[1][13][25].

The chapter has shown, however, that codification is not synonymous with completion. Historically, Indian workplace safety law evolved through incremental

sectoral responses-first under colonial regulation, then through a post-independence welfare state that expanded protection but also multiplied statutes and authorities[14][15][16][17][18][19][20][21][22][26][27]. The OSHWC Code addresses that fragmentation with a unified framework and a more modern administrative design. Its doctrinal structure-combining employer duties, worker rights, advisory boards, digital registration, common licensing, web-based inspection, and sector-specific provisions-reveals a shift toward framework legislation supported by extensive delegated rule-making[2][4][5].

This shift has broader implications for labour governance in India. The Code exemplifies the larger movement from detailed, statute-specific labour regulation to integrated code-based governance. It also exemplifies the ambivalence of that movement. On the one hand, consolidation can enhance coherence, legibility, and administrative efficiency. On the other hand, the protective depth of labour law may become increasingly dependent on executive standards, state-level implementation, and enforcement capacity. The Code therefore sits at the intersection of welfare and managerial modernisation, of rights and compliance, of constitutional aspiration and institutional constraint[6][28][29].

Ultimately, the OSHWC Code should be read neither as a mere deregulatory exercise nor as a completed welfare constitution for the workplace. It is better understood as an enabling legal framework whose social meaning will be determined in implementation. If operationalised through strong rules, credible inspection, worker participation, medical surveillance, and effective inter-state coordination, it can significantly improve safety and dignity at work. If not, it may remain a formally elegant but unevenly realised reform. The broader transformation of labour governance in India thus turns on a final question: whether codification will become an instrument for deepening labour welfare, or merely a technique for reorganising the law while leaving the most vulnerable workers insufficiently protected. The answer will define the future of India’s new labour regime.

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Chapter 14

Collective Bargaining, Trade Unions and the New Labour Architecture

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14.1 Introduction: Collective Bargaining and Industrial Democracy

Collective bargaining is one of the foundational institutions of modern labour law. It is the principal legal and social process through which workers, acting collectively rather than as atomised individuals, negotiate the terms of employment with employers. In that sense, collective bargaining performs a dual function. It is at once a distributive mechanism concerned with wages, benefits, hours and conditions of work, and a constitutional mechanism of workplace governance that gives institutional form to industrial democracy. In jurisdictions marked by asymmetries of bargaining power in labour markets, collective bargaining is also an instrument through which the law attempts to mediate the structural inequality between capital and labour.[1][24]

In India, the legal history of collective bargaining has long been characterised by a tension between recognition and regulation. Trade unions were granted legal personality and certain immunities relatively early through the Trade Unions Act, 1926, but the central legal framework did not, for most of the twentieth century, establish a universal statutory regime for the recognition of bargaining agents. Collective bargaining accordingly developed through a mixture of voluntary recognition, sectoral practice, state legislation, tripartite codes and the industrial-disputes machinery under the Industrial Disputes Act, 1947. This meant that Indian labour law often supported collective representation indirectly, through conciliation, adjudication and settlements, rather than by constructing an integrated national architecture of bargaining representation.[11][12][14][15]

The codification of labour law into four labour codes has altered that position in an important respect. The Industrial Relations Code, 2020, now brought into force together with the Industrial Relations (Central) Rules, 2025, does more than consolidate earlier enactments. It restructures the legal framework governing trade unions, collective bargaining and dispute settlement by linking union registration to a statutory model of recognition, verification and structured negotiation. The concepts of the negotiating union and the negotiating council are the clearest expression of this change. They reflect a deliberate policy choice: industrial stability is to be pursued

through a more definite identification of representative interlocutors, a more formal procedure for bargaining, and a tighter connection between collective negotiation and institutional dispute-resolution processes.[2][3][4][5][6]

This chapter argues that the new labour regime seeks to recast worker representation from a largely plural, fragmented and partly voluntary field into a more managed architecture of industrial relations. That architecture has the potential to strengthen bargaining clarity and reduce inter-union rivalry, but it also raises concerns about majoritarianism, the narrowing of autonomous union space, and the transformation of industrial democracy into a procedural instrument of labour governance. The discussion that follows therefore examines the concept and importance of collective bargaining, traces the historical development of trade unionism in India, analyses the doctrinal structure of the Industrial Relations Code, situates that structure within constitutional principles and labour-rights jurisprudence, and evaluates the broader policy implications of codification for workers, employers, labour administration and industrial relations in India.[1][2][6][7]

14.2 Concept and Importance of Collective Bargaining

14.2.1 Meaning of Collective Bargaining

Collective bargaining may be described as the process by which employers and workers' representatives negotiate collectively over the terms and conditions of employment. Unlike an individual contract of employment, collective bargaining is not merely a private exchange between formally equal parties. It is a legally structured method of balancing unequal economic power. At its core lie three elements: representation, negotiation and agreement. Workers are represented through a trade union or another legally recognised representative body; employers negotiate directly or through managerial representatives; and the process aims at agreements on wages, hours, leave, work organisation, discipline, welfare benefits and other conditions of service.[24][25][14]

The importance of collective bargaining rests on the fact that labour markets do not operate as neutral markets in the abstract. Individual workers ordinarily bargain from a position of dependency; employers, by contrast, exercise organisational and economic power through control over the enterprise, the labour process and the continuity of employment. Collective bargaining is the institutional response to that imbalance. It collectivises voice, aggregates claims, and channels workplace conflict into an organised form of negotiation. In this respect, collective bargaining is both a corrective to unequal bargaining power and a mechanism for establishing labour standards beyond the statutory floor.[9][14][25]

14.2.2 Collective Bargaining and Industrial Peace

Collective bargaining is also central to the maintenance of industrial peace. The industrial relations literature has long distinguished between unilateral managerial control, adversarial industrial conflict and negotiated order. Collective bargaining belongs to the third model. By creating a regular forum in which demands, grievances and organisational change can be discussed, it reduces the need for abrupt recourse to strikes, lockouts and coercive forms of confrontation. Agreements reached through bargaining can stabilise expectations, reduce uncertainty and confer legitimacy upon workplace rules because they are the product of a participatory process rather than unilateral imposition.[9][15][25]

Indian labour law has historically oscillated between the ideal of negotiated settlement and the practical dominance of conciliation and adjudication. Even so, the Supreme Court has repeatedly emphasised that negotiated settlement is preferable to imposed adjudication where genuine representation and fair process exist. In National Engineering Industries Ltd v State of Rajasthan the Court underscored the importance of settlements reached by parties themselves, on the ground that they are more likely to produce durable industrial peace than externally imposed awards. That judicial preference reveals a broader normative point: collective bargaining is not simply an economic device, but part of the legal infrastructure of social peace in the industrial sphere.[22][15]

14.2.3 Collective Bargaining as a Democratic Institution

The democratic value of collective bargaining lies in its contribution to worker participation. Industrial democracy does not imply the displacement of managerial authority in its entirety; rather, it requires that authority over working life be exercised within institutions that permit worker representation, consultation and negotiated adjustment. Collective bargaining gives workers a collective voice in the governance of the workplace and in the ordering of production. It connects the contractual relationship of employment to a broader constitutional ideal of democratic participation in institutions that shape social life.[1][24]

In the Indian constitutional setting, this democratic dimension is reinforced by the Directive Principles of State Policy and especially by Article 43A, which directs the State to secure the participation of workers in the management of undertakings. Although Article 43A is not judicially enforceable in the same manner as a fundamental right, it provides an important interpretive framework for labour legislation. The constitutional aspiration is not merely the prevention of exploitation, but the creation of institutions through which workers may participate in the determination of industrial conditions. Collective bargaining is therefore one of the

principal legal expressions of industrial democracy in the Indian labour constitution.[1][21]

Any analysis of collective bargaining under Indian law must also distinguish between what is constitutionally protected and what is constitutionally encouraged. Article 19(1)(c) guarantees the right to form associations or unions, subject to reasonable restrictions under Article 19(4). The Supreme Court has repeatedly held, however, that this associational freedom does not by itself constitutionalise every incident of union activity; at the same time, it has also insisted that associational freedom cannot be reduced to a matter of state grace or administrative recognition, as O.K. Ghosh illustrates in the public-employment context. In All India Bank Employees' Association the Court rejected the proposition that the right to form unions necessarily includes a guaranteed right to effective collective bargaining or to strike; Kameshwar Prasad and T.K. Rangarajan later reaffirmed that strike action is not a fundamental right, particularly in public employment. The constitutional protection is therefore strongest at the level of association, not at the level of every tactical instrument of collective action.[1][16][17][18][23]

At the same time, the Constitution does not leave labour welfare to negative liberty alone. Articles 38, 39, 41, 42 and 43 establish a social-welfare framework oriented toward just conditions of work, a living wage and social participation, while Article 43A directs the State to secure worker participation in management. The constitutional location of collective bargaining in India is therefore best understood as a composite one: freedom of association supplies the democratic premise, while the Directive Principles furnish the social and institutional objectives. The legitimacy of the new bargaining architecture must accordingly be assessed not only by its compliance with associational freedom, but by its capacity to advance substantive worker participation, fair conditions of labour and industrial justice.[1][21]

14.3 Historical Development of Trade Unionism in India

14.3.1 Emergence of Labour Movements

Trade unionism in India emerged in the context of colonial industrialisation. The development of railways, ports, plantations, mines and textile mills produced a wage-dependent industrial workforce, especially in urban and port-based centres such as Bombay, Calcutta, Madras, Kanpur and Ahmedabad. Early worker mobilisation was often sporadic and shaped by immediate grievances over wages, hours, discipline and living conditions. Over time, however, labour protest began to assume organisational form. Worker associations, often assisted by nationalist leaders, social reformers or political activists, developed into more durable unions. The labour movement thus

arose not only from industrial capitalism, but also from the wider anti-colonial and social reform currents that marked late colonial India.[8][9]

The early Indian labour movement was heterogeneous. It contained craft-based organisation, enterprise-specific associations, politically aligned federations and regionally concentrated industrial unions. This diversity enabled mobilisation but also generated a structural tendency towards fragmentation. From the outset, therefore, Indian trade unionism displayed two characteristics that continue to matter under the new labour regime: first, a close connection between trade unions and broader political formations; and secondly, the coexistence of representative claims by multiple unions within the same workplace or sector.[8][10]

14.3.2 Institutionalisation of Trade Unions

The institutionalisation of trade unionism was marked by the enactment of the Trade Unions Act, 1926. The Act did not create collective bargaining in any comprehensive sense, but it performed a vital legal function. It recognised the trade union as a juristic entity capable of registration, endowed it with continuity and legal identity, and conferred important immunities in relation to civil and criminal liability for collective action undertaken in contemplation or furtherance of trade disputes. In legal terms, the Act shifted trade unionism from a precarious associative practice into a recognised component of industrial relations.[11][14][15]

Yet the 1926 Act was cautious in design. It regulated registration, internal governance, office-bearers, funds and immunities, but it did not provide a general statutory system for the recognition of representative unions by employers. Recognition remained largely a matter of industrial practice, voluntary arrangements or later state-level interventions. This distinction between legal existence and bargaining recognition proved central to the later development of Indian industrial relations. A union might be registered and legally protected, yet still face difficulty in establishing itself as the authoritative bargaining representative of workers within a particular establishment.[11][14]

14.3.3 Growth of Trade Union Movements after Independence

After Independence, trade union activity expanded significantly. Constitutional democracy, industrial planning, the growth of the public sector and the expansion of labour legislation all created a broader field for worker organisation. Unions came to play a major role in wage bargaining, industrial disputes, social legislation and tripartite consultation. The industrial relations framework of the post-colonial state was not purely contractual; it was shaped by welfare-statist commitments, administrative supervision and adjudicatory intervention. Trade unions were

consequently important not only as bargaining bodies but also as participants in labour policy and industrial citizenship.[1][9][10]

At the same time, post-independence trade unionism inherited and deepened certain structural weaknesses. Multiplicity of unions, political rivalry, uneven density, and differential strength across sectors affected bargaining capacity. In many establishments there were several competing unions, each claiming to represent labour, which often weakened the coherence of collective bargaining. This pattern encouraged employers to exploit division and led the state to rely heavily on conciliation and adjudication. Much of the later debate about codification, and especially about the statutory recognition of a negotiating union, must be understood against that background of fragmented representation.[8][10][14]

14.4 Legal Framework Governing Trade Unions before Codification

14.4.1 Registration and Recognition of Trade Unions

Before codification, the central legal framework governing trade unions was distributed primarily across the Trade Unions Act, 1926 and the Industrial Disputes Act, 1947. The former dealt mainly with the constitution and legal status of unions. It laid down the conditions for registration, required a minimum membership threshold, prescribed rules regarding office-bearers and union funds, and conferred juristic personality and limited immunities. Registration was significant because it transformed a collective association into a legal actor capable of holding property, suing and being sued, and undertaking protected collective activity within the boundaries of the statute.[11][14][15]

Recognition, however, occupied a more uncertain place. Registration did not automatically entail employer recognition for purposes of collective bargaining. At the central level, no general statutory rule compelled an employer to recognise the most representative union across industries as the exclusive or primary bargaining agent. Recognition often depended upon voluntary employer practice, governmental codes such as the Code of Discipline in Industry, 1958, or special state legislation in selected jurisdictions. The result was a system in which legal personality and bargaining legitimacy were only imperfectly connected.[14][15]

14.4.2 Role of Trade Unions in Industrial Disputes

The Industrial Disputes Act, 1947 supplied the second major component of the pre-codification regime. It established works committees, conciliation machinery, labour courts, industrial tribunals and national tribunals, and it regulated strikes, lockouts, retrenchment, closure and settlements. Trade unions played a central role within this framework by sponsoring industrial disputes, representing workmen in conciliation and adjudication, and negotiating settlements with employers. Even where bargaining

lacked a strong statutory recognition model, unions were embedded in the legal process through the industrial-disputes machinery.[12][15]

Judicial doctrine under the Industrial Disputes Act gave importance to negotiated settlement. In Barauni Refinery Pragatisheel Shramik Parishad v Indian Oil Corporation Ltd the Supreme Court stressed the binding force of a settlement reached in conciliation, even upon workers belonging to a minority union, because the statutory policy favoured the stability of collective settlements reached through representative processes. This line of authority indicated that Indian industrial jurisprudence accepted a form of practical majoritarianism, even if the underlying law had not developed a comprehensive recognition framework. The law preferred a durable settlement that could secure industrial peace over endless rivalry among competing unions.[20][12]

14.4.3 Limitations of the Pre-Codification Framework

The pre-codification framework suffered from several limitations. First, fragmentation of unions within a single establishment often diluted bargaining power. Multiple unions claiming representation could produce inter-union competition, strategic rivalry and uncertainty as to who could speak for labour. Secondly, the absence of a universal central recognition regime weakened the institutional standing of unions vis-à-vis employers. Thirdly, the heavy reliance on conciliation and adjudication sometimes displaced collective bargaining rather than strengthening it. In practice, dispute resolution often occurred after conflict had escalated, rather than through sustained, pre-dispute negotiation.[10][14][15]

A further limitation was the procedural and federal complexity of labour regulation. Different statutes applied to connected aspects of industrial relations; state-level recognition practices varied; and the formal legal framework was more elaborate than the actual bargaining power of workers in many sectors. Scholarly accounts of Indian labour law have therefore observed that its formal architecture was often extensive, while its effective reach was restricted by enforcement deficits, informalisation and the uneven organisation of labour. Codification responded to these concerns by promising simplification and integration, but simplification itself does not resolve the underlying representational problem unless it is accompanied by workable institutions of bargaining and enforcement.[6][7][9]

14.5 Trade Unions under the New Labour Codes

The principal code for purposes of collective bargaining and trade unionism is the Industrial Relations Code, 2020. The Code consolidates the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947. In formal terms, it is both a consolidating and an amending enactment. In

substantive terms, it creates a new representational architecture by connecting trade union law, standing orders, dispute settlement and strike regulation within a single legal instrument. The Code was brought into force on 21 November 2025; the Industrial Relations (Central) Rules, 2025 followed in December 2025; and transitional issues relating to tribunals and repeal were clarified through the Removal of Difficulties Order, 2025 and the Amendment Act, 2026.[2][3][4][5]

14.5.1 Recognition of Trade Unions

The Code retains a registration-based framework for trade unions, but places greater emphasis on continuing representativeness. A trade union may be registered upon satisfaction of the statutory membership requirements, and unions registered under the earlier Trade Unions Act are deemed to be registered under the new Code subject to compliance with the updated requirements. This continuity softens institutional disruption, but it also signals that codification is not a mere repeal-and-replace exercise. Existing unions are preserved, yet repositioned within a recognition-oriented framework.[2][11]

The major innovation lies in section 14, which provides that where there are registered trade unions in an industrial establishment, there shall be either a negotiating union or a negotiating council for negotiation on prescribed matters. If only one registered trade union functions in the establishment, the employer must recognise it as the sole negotiating union, subject under the Rules to the requirement that it have at least thirty per cent membership of the workers. Where more than one union exists, a union receiving fifty-one per cent or more support of workers on the muster roll is to be recognised as the sole negotiating union. If no union reaches that threshold, the employer is to constitute a negotiating council including unions with at least twenty per cent support, with representation proportionate to support in the manner prescribed by the statute.[2][3]

This statutory scheme is significant for two reasons. First, it fills the historical gap in central labour law by creating a definite rule of bargaining recognition. Secondly, it embeds a majoritarian principle into the law of union representation. The Code thus seeks to replace the uncertainty of plural bargaining claims with a structured determination of representative status. Recognition is not left solely to voluntary practice; it becomes part of the statutory architecture of industrial relations.[2][3][14]

14.5.2 Concept of Negotiating Union and Negotiating Council

The concepts of the negotiating union and the negotiating council are the centrepiece of the new bargaining regime. A negotiating union is the statutorily recognised bargaining agent for the establishment, while a negotiating council functions as a collective representational body where no union commands majority support. Both

devices are designed to reduce fragmentation and create a more manageable framework for employer-union negotiation. The recognition remains valid for three years and may be extended, by mutual decision, up to five years. This temporal stability is intended to ensure continuity in bargaining relationships and to avoid repeated contests over representational status.[2][3]

The Industrial Relations (Central) Rules, 2025 further specify the content of bargaining. Rule 9 includes within the scope of negotiation such matters as classification of workers, wage components, hours of work, rest intervals, leave, holidays, promotion and transfer policies, disciplinary procedures, quarter allotment, safety, health and working conditions, and other conditions of service. The same Rules also provide for the verification of union membership by a verification officer and require the employer to extend certain facilities to the negotiating union or council, including notice boards, venues for meetings and discussion, access for office-bearers, check-off of union subscriptions with worker consent, and office accommodation in larger establishments. These provisions move collective bargaining from a largely implicit practice to an expressly regulated institutional process.[3]

14.5.3 Rights and Responsibilities of Trade Unions

The Code preserves several classic incidents of trade union legality. Registered trade unions continue to enjoy corporate personality, the capacity to sue and be sued, and specified immunities in relation to civil liability and criminal conspiracy for collective action undertaken in contemplation or furtherance of an industrial dispute. The Code also regulates internal governance, elections, office-bearers and the proportion of outsider office-bearers. In this respect, the new regime does not abandon the traditional legal conception of the union as a protected associational form.[2][14][15]

At the same time, the Code recasts union responsibility within a framework that privileges industrial order. Recognised unions and councils are expected to participate in negotiation, assist in the composition of workplace differences, and function within a graded dispute-resolution process involving grievance redressal, conciliation, arbitration and adjudication. The legal structure therefore treats trade unions not only as rights-bearing organisations but also as institutional partners in the maintenance of industrial discipline. That orientation is central to the broader philosophy of codification: worker representation is legally protected, but it is channelled through regulated procedures that aim to secure predictability and stability in industrial relations.[2][3][6]

14.6 Structure of Collective Bargaining under the New Labour Regime

14.6.1 Collective Negotiation Mechanisms

The structure of collective bargaining under the Code is multilayered. At the base are bipartite participatory bodies. Section 3 requires a Works Committee in industrial establishments with one hundred or more workers, with representatives of employers and workers in equal number to promote amity and to address matters of common interest. Section 4 requires a Grievance Redressal Committee in establishments with twenty or more workers, again with parity of representation, to address grievances within a defined timeframe. These are not substitutes for collective bargaining in the strict sense, but they are part of the Code's architecture of workplace dialogue.[2]

Above this foundational layer lies the recognised bargaining structure of the negotiating union or negotiating council. This is the level at which collective negotiation on core conditions of employment is expected to take place. The legal innovation here is not the mere presence of unions, but the statutory identification of who may bargain and on what subjects. The Code thereby attempts to convert collective bargaining from a diffuse industrial practice into a rule-governed institutional process. In addition, the standing orders regime under Chapter IV requires employers in larger establishments to consult trade unions, recognised negotiating unions or members of the negotiating council when preparing draft standing orders, thereby tying workplace rule-making to representative consultation.[2][3]

Table 14.1 Key Features of Collective Bargaining under the Industrial Relations Code, 2020

Feature	Legal position	Analytical significance
Negotiating union	A sole bargaining agent is recognised where there is one union meeting the rule-based threshold, or where one union secures 51% or more verified support.	Reduces uncertainty over who may bargain and seeks to prevent representational fragmentation.
Negotiating council	Where no union reaches 51%, unions with at least 20% support participate in a council with proportional representation.	Preserves plural representation while still moving toward a structured bargaining forum.

Verification of support	Membership/support is determined through the statutory verification process under the Rules.	Attempts to anchor bargaining legitimacy in objective representativeness rather than employer discretion.
Bargaining subjects	Rule 9 lists wages, hours, leave, promotion and transfer policy, discipline, housing, safety, health and other conditions of service.	Makes collective bargaining more programmatic and less dependent on ad hoc practice.
Works Committee and Grievance Redressal Committee	Sections 3 and 4 require bipartite forums in establishments crossing statutory thresholds.	Creates pre-dispute channels for dialogue, consultation and grievance handling.
Conciliation and Industrial Tribunal	The Code retains conciliation, voluntary arbitration and adjudication through Industrial Tribunals.	Connects bargaining to a graduated dispute-resolution framework and preserves the settlement orientation of Indian labour law.
Strike and lockout discipline	Section 62 imposes notice and cooling-off requirements across industrial establishments.	Encourages negotiation, but also constrains the economic pressure that underpins effective bargaining.

Source: Compiled from the Industrial Relations Code, 2020, especially ss. 3, 4, 14, 42-58, 62-63, and the Industrial Relations (Central) Rules, 2025, r. 9.

Table 14.1 illustrates that the Code does not rely on one bargaining device alone. It constructs an ascending chain of participation and dispute management: workplace committees for day-to-day engagement, recognised representative institutions for bargaining, conciliation for dispute prevention, and tribunals for adjudication when negotiation fails. The significance of this design lies in its attempt to treat collective

bargaining as part of a broader governance system rather than as an isolated contractual event. Yet the institutional density of the framework also means that effective bargaining depends heavily on administrative capacity, timely verification, and credible representative institutions.[2][3][15]

14.6.2 Dispute Resolution through Collective Negotiation

Collective bargaining under the Code is closely connected to the resolution of industrial disputes. The Grievance Redressal Committee is intended to address individual or group grievances at an early stage. Conciliation officers remain central to the formal settlement machinery. Voluntary arbitration continues to be available where an industrial dispute exists or is apprehended. Industrial Tribunals, constituted with judicial and administrative expertise under the Code, retain authority over important matters including the interpretation of standing orders, dismissal and discharge, the legality of strikes and lockouts, retrenchment and closure, and trade union disputes. Settlements reached through conciliation continue to enjoy an expanded binding force that extends beyond the immediate signatories.[2][12][20]

This structure carries forward an old feature of Indian labour law while altering its institutional setting. The pre-codification regime also emphasised conciliation and settlements; however, the Code now inserts a clearer recognition framework before the dispute escalates into adjudication. In principle, therefore, there is a stronger pathway from recognised representation to negotiated settlement. At the same time, the Code preserves the adjudicatory backstop and even retains transitional continuity by allowing pre-existing Labour Courts and Tribunals to continue until the corresponding Code institutions are fully constituted. This transitional hybridity reveals that the new regime is juridically ambitious but administratively evolutionary.[2][4][5]

14.6.3 Institutional Framework Supporting Collective Bargaining

The institutional framework supporting collective bargaining under the Code includes conciliation officers, Industrial Tribunals, voluntary arbitration and the administrative machinery for union verification and registration. The Rules also confer practical facilities upon negotiating unions and councils, recognising that representation is ineffective without access to workers, space for deliberation and minimal organisational resources. In a practical sense, therefore, the new law acknowledges that collective bargaining requires both legal recognition and material conditions of representation.[3][25]

Nevertheless, the framework is also marked by an important asymmetry. While the Code strengthens structured representation, it simultaneously subjects strikes and lockouts to a more generalised notice regime. Under section 62, no strike may be

commenced without notice within sixty days, nor within fourteen days of such notice, nor during the pendency of specified proceedings and cooling-off periods. Unlike the earlier law, which imposed special notice requirements mainly in public utility services, the new Code generalises notice discipline to all industrial establishments. The law therefore supports bargaining, but within a regulatory environment that seeks to contain disruptive industrial action.[(2)(12)(23)]

Table 14.2 From the Pre-Codification Framework to the Code-Based Regime

Dimension	Earlier framework	Position under the Industrial Relations Code	Implication
Trade union status	Registration and legal personality under the Trade Unions Act, 1926.	Registration retained, with continuity for pre-existing unions under the Code.	Continuity is preserved, but unions are relocated within a new recognition-centred regime.
Bargaining recognition	No general central statutory recognition model; reliance on voluntary arrangements, codes or state laws.	Section 14 creates a negotiating union / negotiating council model based on representativeness thresholds.	Moves Indian labour law from recognition-light to recognition-oriented bargaining.
Standing orders	Separate legislation under the Industrial Employment (Standing Orders) Act, 1946.	Integrated into the Code; consultation with union/negotiating union/council is built into certification, but threshold raised to 300 workers.	Consultation is formalised, but fewer establishments are covered.

Industrial disputes machinery	Conciliation, Labour Courts and Tribunals under the Industrial Disputes Act, 1947.	Retained in restructured form, with transitional continuity for earlier adjudicatory bodies.	Preserves adjudicatory backstops while integrating them into a single code.
Strike regulation	Special notice discipline centred largely on public utility services.	Notice and cooling-off requirements generalised across industrial establishments.	Greater procedural control over industrial action; possible weakening of bargaining pressure.
Lay-off, retrenchment and closure	Prior-permission thresholds under the earlier law were lower.	Chapter X applies only to establishments with 300 or more workers unless a higher threshold is notified.	Managerial flexibility increases in many establishments, potentially affecting union leverage.

Source: Compiled from the Trade Unions Act, 1926; the Industrial Disputes Act, 1947; the Industrial Employment (Standing Orders) Act, 1946; the Industrial Relations Code, 2020; the Industrial Relations (Central) Rules, 2025; and the Industrial Relations Code (Amendment) Act, 2026.

Table 14.2 brings out the deeper transformation effected by codification. The new regime does not merely merge three statutes; it changes the legal logic of worker representation. Registration is supplemented by recognition; bargaining is defined more precisely; consultation is linked to standing orders; and industrial action is more tightly proceduralised. At the same time, thresholds for standing orders and for prior permission in lay-off, retrenchment and closure are raised to three hundred workers, which may reduce the practical leverage of unions in a large number of medium-sized establishments. The architecture is thus simultaneously more structured and, in some respects, more managerial.[2][3][13]

14.7 Role of Trade Unions in Protecting Worker Rights

14.7.1 Representation of Workers in Industrial Relations

Trade unions remain indispensable to the protection of workers' interests in industrial relations. Their classic functions include bargaining for fair wages, resisting arbitrary managerial action, representing workers in disciplinary and grievance matters, and articulating collective concerns over safety, welfare and dignity at work. In B.R. Singh v Union of India the Supreme Court recognised the importance of trade unions as the organised voice of labour in a democratic polity. That insight retains force under the new Code: the legal architecture may change, but the need for representative worker institutions does not.[19][1]

Indeed, the statutory recognition of a negotiating union could, under favourable conditions, strengthen representation by eliminating uncertainty about bargaining authority. In enterprises previously marked by persistent inter-union competition, a recognised union may be able to bargain more effectively and secure clearer outcomes. This is one of the most plausible claims advanced in favour of the Code. Yet the practical benefit depends upon whether recognition reflects genuine worker support, whether minority voices remain institutionally audible, and whether employers bargain in good faith rather than treating recognition as a means of securing a compliant interlocutor.[2][3][24]

14.7.2 Protection against Employer Exploitation

Trade unions also provide protection against exploitation by transforming individual grievances into collective claims. In labour markets characterised by precarious employment, high labour supply and informational inequality, the individual worker is often poorly placed to contest unilateral changes to wages, work intensity, discipline or dismissal. Collective organisation supplies legal assistance, solidarity and negotiating power. It also enables workers to contest what international labour standards describe as the inequality inherent in the employment relationship.[24][25]

The Code preserves some mechanisms that can assist this protective function. The Grievance Redressal Committee creates an internal forum; workers can escalate certain termination-related disputes after a defined period; and recognised unions obtain facilities that may help them monitor conditions of work. Yet these advantages must be weighed against the Code's broader shift toward formalised discipline. Restrictions on strikes, managerial flexibility in establishments below enhanced statutory thresholds, and the formal-sector orientation of the bargaining model may all limit the protective reach of unions, especially for workers in fragmented or precarious employment settings.[2][3][6]

14.7.3 Trade Unions and Labour Welfare Policies

Trade unions influence labour welfare not only through enterprise-level bargaining, but also through policy advocacy and participation in tripartite institutions. Historically, Indian trade unions have been important actors in debates over wages, social security, working conditions, public sector restructuring and labour legislation. Their role in labour welfare has therefore extended beyond contract negotiation into the making of labour policy itself. This broader function remains normatively important in a codified regime because many questions affecting workers cannot be resolved at the enterprise alone.[8][10][24]

Codification, however, may have an ambivalent effect on this policy role. On one view, the clearer legal architecture of representation could strengthen organised labour's institutional voice. On another view, the concentration of bargaining legitimacy in recognised unions within establishments may narrow the space for broader movements, federations and solidaristic forms of mobilisation that have historically shaped labour policy in India. The future role of trade unions in labour welfare will therefore depend not only on the Code's text, but on whether codification is accompanied by meaningful tripartite engagement and a willingness to treat unions as public actors rather than merely establishment-level negotiating agents.[2][7][10]

14.8 International Labour Standards on Collective Bargaining

International labour standards provide an important normative context for evaluating India's new bargaining architecture. The International Labour Organization treats freedom of association and the effective recognition of the right to collective bargaining as fundamental principles and rights at work. Collective bargaining is viewed not simply as a contractual technique, but as a core institutional means by which workers and employers regulate terms and conditions of employment, secure fair wages and contribute to stable labour relations. The ILO's policy materials consistently emphasise that a legal system seeking to promote collective bargaining must provide representative worker organisations, effective recognition procedures and institutional support for voluntary negotiation.[24][25]

The two central treaty instruments are Convention No. 87 on freedom of association and Convention No. 98 on the right to organise and collective bargaining. India has long engaged with these principles through domestic law and ILO supervision, but has not ratified either Convention. That fact matters doctrinally and politically, though it does not exhaust the analysis. As an ILO member, India remains committed through the ILO constitutional framework and the Declaration on Fundamental Principles and Rights at Work to respect and promote the underlying principles. The

question, therefore, is not merely one of ratification, but of substantive compatibility and institutional design.[24][27][28]

From the perspective of ILO standards, a system of sole bargaining agents or most-representative unions is not per se objectionable. The ILO's freedom-of-association jurisprudence accepts that exclusive bargaining rights may be conferred upon the most representative organisation, provided that the criteria are objective, pre-established and not manipulated to suppress independent unionism. This is an important point for the Indian Code. The statutory model of a negotiating union and, failing majority support, a negotiating council, can be defended in principle as compatible with international standards because it seeks to organise bargaining around representativeness rather than employer discretion. The legal risk lies elsewhere: in ensuring that thresholds, verification procedures and institutional practice do not operate to marginalise minority unions unjustifiably or to narrow the space for legitimate associational pluralism.[24][25][26]

Comparatively, many labour law systems recognise that bargaining requires some method of determining representative status, whether through certification elections, membership verification, sectoral representativeness tests or voluntary recognition backed by statutory procedure. The Indian innovation is therefore not the introduction of recognition as such, but its insertion into a labour market that remains deeply segmented and only partially formalised. The challenge is to ensure that a model suited to organised industrial establishments does not become the measure of labour rights for a workforce in which informality, contractualisation and dispersed work relations remain pervasive.[9][24][25]

14.9 Impact of Labour Codes on Trade Unionism

14.9.1 Potential Strengthening of Structured Negotiation

The strongest argument in favour of the Code is that it may strengthen structured negotiation. By identifying a negotiating union or council, specifying bargaining subjects, providing verification procedures and granting basic representational facilities, the law reduces a longstanding ambiguity in Indian industrial relations. Employers know with whom they must bargain; unions know the legal route to recognition; and the state can channel disputes through more determinate procedures. In sectors or establishments where multiplicity of unions previously paralysed effective negotiation, the Code may well improve bargaining coherence and settlement capacity.[2][3][6]

This potential advantage should not be dismissed. The older framework often treated collective bargaining as normatively desirable while leaving the institutional question of representation underdeveloped. Section 14 of the Code directly addresses that

weakness. Moreover, by linking recognition to objective thresholds and verification, the law can reduce employer arbitrariness in the choice of bargaining interlocutors. For workers, a credible and independent recognition process may strengthen rather than dilute collective representation.[2][3][24]

14.9.2 Concerns Raised by Trade Unions

Trade unions and labour scholars have nevertheless raised substantial concerns. The first concerns the broadening of strike restrictions. The generalisation of notice requirements and cooling-off periods to all industrial establishments alters the balance between negotiation and pressure. Collective bargaining is most effective when both sides possess lawful means of exerting economic pressure. If the right to strike is highly proceduralised and easily rendered illegal, bargaining may become more formal than effective. Indian constitutional doctrine has not recognised a fundamental right to strike, as decisions from All India Bank Employees' Association to T.K. Rangarajan make clear, but the absence of fundamental-right status does not mean that strike action lacks democratic or industrial significance.[16][17][19][23]

A second concern relates to union autonomy and pluralism. The majoritarian thresholds of fifty-one per cent for a sole negotiating union and twenty per cent for entry into a negotiating council may streamline bargaining, but they may also disadvantage smaller unions, ideological minorities and emergent worker groups. In some establishments, especially those with divided or fluid labour forces, such thresholds may consolidate representation in a dominant union without necessarily ensuring responsiveness to minority concerns. The legal challenge is to distinguish legitimate representational ordering from excessive compression of associational pluralism.[2][3][26]

A third concern lies in the interaction between enhanced recognition and increased managerial flexibility. The Code raises the threshold for standing orders and for prior governmental permission in lay-off, retrenchment and closure matters to establishments with three hundred workers, unless a higher threshold is notified. This means that many establishments fall outside protective regimes that previously applied at lower thresholds. For unions, the result may be paradoxical: bargaining is more formally organised, but it takes place within a legal environment that expands managerial discretion in a significant range of enterprises.[2][13]

14.9.3 Implications for Industrial Relations

The implications for industrial relations are therefore mixed. The Code is likely to produce a more orderly and bureaucratically legible model of collective bargaining in the organised sector. It may reduce rivalry among unions, clarify channels of negotiation and strengthen the use of settlements. However, the same model may

transform industrial relations into a more tightly managed field in which worker voice is recognised only when it fits within prescribed institutional forms. The danger is that industrial democracy becomes procedural rather than substantive: representation is acknowledged, but collective power is narrowed.[2][6][24]

There are also implications for labour administration. Recognition based on verified support requires credible administrative machinery, timely membership verification and dispute resolution that does not become mired in delay. The continuation of pre-existing tribunals under transitional arrangements reveals that institutional implementation remains as important as statutory design. Without robust administrative capacity, the promise of structured bargaining may be undermined by delay, contestation and uneven enforcement across jurisdictions.[3][4][5][6]

14.10 Critical Evaluation of Collective Bargaining under the Labour Codes

A critical evaluation of the Code must avoid two equally misleading positions: the claim that codification is merely technical consolidation, and the opposite claim that it wholly dismantles collective labour rights. The Code does neither. It reorders the field. Its principal strength is that it recognises, in explicit statutory form, that collective bargaining requires identifiable representative institutions. The negotiating union and negotiating council provisions address a genuine historical weakness in Indian labour law. The Rules on bargaining subjects and representational facilities further indicate that the legislature intends bargaining to be operational rather than symbolic. From the perspective of legal architecture, these are significant advances.[2][3][14]

The Code also promotes integration. By bringing together trade union law, standing orders and industrial-disputes machinery, it creates a more coherent legal narrative of industrial relations. This may improve compliance, reduce legal fragmentation and make labour administration more intelligible for both workers and employers. The governmental rationale for codification-simplification, transparency, reduced multiplicity of authorities and more efficient implementation-cannot simply be dismissed as rhetoric. In a system long criticised for complexity and overlap, some degree of integration was plainly desirable.[6][7]

Yet the Code's limitations are equally substantial. First, its bargaining model is highly enterprise-centred. It assumes an identifiable industrial establishment, a stable body of workers on the muster roll, and unions capable of demonstrating establishment-level support. This model fits organised industrial employment better than the contemporary labour market as a whole. It does not directly resolve the challenge of collective representation in highly informal, contractualised, fissured or platform-

mediated forms of work. The legal architecture is therefore modernising in form while remaining narrow in social reach.[9][24]

Secondly, the Code's majoritarian model may undervalue plural representation. Exclusive or primary bargaining agents can be justified, but only if the institutional environment safeguards internal union democracy, fair verification, minority expression and independence from employer influence. Without such safeguards, recognition may entrench a dominant union rather than enhance collective deliberation. Indian experience with politically aligned and rival unions makes this risk especially salient.[3][10][26]

Thirdly, the expansion of procedural constraints on strikes alters the practical equilibrium of bargaining power. Judicial doctrine in India has consistently denied that strike action is a fundamental right, especially in the public employment context. But the same case law has acknowledged the functional role of collective protest in labour relations. B.R. Singh treated strike action as a significant weapon of labour even while recognising its legal limits. A regime that encourages bargaining while substantially constraining lawful industrial action may produce orderly procedures, but not necessarily balanced negotiation.[17][19][23]

Fourthly, the relationship between bargaining reform and managerial flexibility must be scrutinised. Raising thresholds for standing orders and for prior-permission requirements in lay-off, retrenchment and closure reduces regulatory constraints upon employers in many establishments. From an employer perspective, this may improve adaptability and reduce compliance burdens. From a worker-protection perspective, however, it may diminish the structural leverage that supports meaningful bargaining. Collective bargaining is strongest when statutory floors and procedural protections create a stable baseline from which negotiation can proceed. If that baseline is weakened, bargaining risks becoming a thinner substitute for rights rather than a supplement to them.[2][13][15]

Finally, implementation remains the decisive question. Codification in India operates within a federal labour administration. Central legislation and rules are only part of the picture; state-level rulemaking, administrative readiness, labour inspectorates, conciliation capacity and tribunal functioning are equally important. The transitional orders issued after commencement of the Code show that the legal system itself has had to manage gaps between statutory design and institutional readiness. This implementation challenge is not peripheral. It is constitutive of the success or failure of the new labour architecture.[4][5][6]

Viewed from the standpoint of competing constituencies, the reform has a clear distributive politics. Policymakers tend to emphasise simplification, industrial harmony, ease of doing business and improved dispute management. Employers are

likely to welcome a single bargaining interlocutor, fewer representational disputes and greater operational flexibility. Labour organisations, by contrast, are more likely to see a reduction in autonomous bargaining power, a stricter strike regime and a legal preference for managed order over collective contestation. The Code must therefore be understood as a recalibration rather than a neutral rationalisation of labour law. It institutionalises worker voice, but on terms that simultaneously discipline it.[6][7][29]

14.11 Conclusion

Collective bargaining and trade unionism occupy a central place in any serious conception of labour welfare and industrial democracy. In India, however, the law historically recognised unions more readily than it recognised bargaining representation. The Industrial Relations Code, 2020 changes that position in a fundamental way. By introducing the negotiating union and negotiating council, by defining bargaining subjects, by linking representation to verification and facilities, and by integrating bargaining with standing orders and dispute-settlement institutions, the Code creates a more explicit legal architecture of collective negotiation than previously existed at the central level.[2][3]

That transformation should not be read in one register alone. It may strengthen structured negotiation, reduce fragmentation and produce clearer channels of settlement in the organised sector. But it also embodies a broader shift in labour governance: from dispersed and plural labour statutes to integrated codes; from registration-heavy union law to recognition-centred representation; and from a welfare-paternalist, adjudication-heavy regime to a more compliance-oriented and managerially legible system of industrial relations. The codification of labour law in India is thus not merely a drafting exercise. It is a constitutional and policy reorganisation of how worker voice is recognised, channelled and constrained.[6][9][24]

The future of industrial democracy under the new labour regime will therefore depend on how these legal structures are inhabited in practice. If recognition procedures are fair, bargaining facilities real, unions independent, and administrative institutions competent, the Code could provide a more stable framework for collective representation. If, however, recognition becomes a tool of managerial convenience, strikes are over-proceduralised, and threshold-based flexibility erodes substantive protections, the new architecture may weaken the very collective power it claims to organise. The broader transformation of labour governance in India will thus be judged not only by the coherence of codified law, but by whether labour welfare remains anchored in genuine worker participation rather than in the mere management of industrial conflict.[1][2][19][24]

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Chapter 15

Enforcement Mechanisms under the Labour Codes: Inspection, Compliance and Penalties

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15.1 Introduction: Importance of Enforcement in Labour Regulation

Enforcement is the hinge between the normative ambition of labour law and its social reality. Minimum wages, equal remuneration, safe workplaces, maternity protection, provident fund contributions and remedies against unfair labour practices do not become effective merely because Parliament has enacted them. They become effective only when institutions can inspect workplaces, verify records, hear claims, compel compliance and impose consequences proportionate to the gravity of breach.[1][23][24] In the Indian setting, this point has special force because the historical weakness of labour legislation has often lain less in the absence of protective norms than in fragmented administration, uneven inspection, slow adjudication, and chronic under-enforcement.[2][24][25]

The contemporary relevance of this problem is sharpened by the fact that the labour codes are no longer merely enacted texts awaiting activation. Through a cluster of notifications issued in November and December 2025, the Union government brought the four labour codes into force and officially presented them as the operative replacement for 29 central labour enactments; official policy materials simultaneously describe the new regime in terms of simplified compliance, digitised administration, inspector-cum-facilitators, single electronic returns, and streamlined adjudicatory processes. At the same time, the reissue of draft central rules at the end of December 2025 and the continuation of transitional arrangements show that commencement and effective implementation are not identical events.[3][4][5][6][7][8]

This chapter argues that codification has not abolished enforcement so much as restructured it. The new regime moves away from a purely statute-specific and prosecution-heavy model toward a hybrid architecture combining inspection, assisted compliance, digitised reporting, administrative penalties, compounding, and specialised adjudication. Yet the welfare value of this architecture will depend less on its formal elegance than on inspectorate capacity, tribunal effectiveness, central-state coordination, and the state's ability to reach workers located outside the easily visible formal establishment: contract workers, migrants, unorganised workers, home-based workers, gig workers and platform workers.[3][4][24][27][29]

15.2 Concept and Significance of Labour Law Enforcement

15.2.1 Meaning of Labour Law Enforcement

Labour law enforcement may be understood as the set of public and quasi-public processes through which legal standards governing employment are translated into practical compliance. In classical form, it includes regulatory oversight, workplace inspection, investigation of violations, maintenance and production of records, adjudication of claims, recovery of dues, and the imposition of civil, administrative or criminal consequences. Properly understood, enforcement is not exhausted by prosecution. It includes preventive and educative functions, because labour regulation seeks not only to punish breach but also to prevent injury, wage theft, and denial of social protection before they occur.[21][23][24][25]

This broader understanding is important because labour law occupies an intermediate position between public regulation and private contract. A worker may possess a formal statutory right to wages, safety measures, paid leave or social insurance, but unless an administrative or judicial mechanism exists to supervise and vindicate that right, the legal entitlement remains largely nominal. Enforcement thus converts labour law from a declaratory code into an operative system of social governance.[1][23][25]

15.2.2 Importance of Effective Enforcement

Effective enforcement is indispensable to worker protection. In wage regulation, it ensures that statutory minima are not undercut in practice; in occupational safety, it prevents workplace injury and death; in social security, it ensures that contributions are paid, workers are registered, and benefits remain accessible. Weak enforcement, by contrast, hollows out labour welfare legislation from within. A formally progressive statute with no credible inspection, claims or sanctioning machinery often produces little more than paper compliance.[5][7][8][23]

Enforcement also serves a market-regulatory function. When one employer bears the cost of complying with minimum wages, social-security contributions and safety obligations, while another gains a cost advantage through evasion, weak enforcement converts illegality into a competitive strategy. Labour inspection therefore protects not only workers but also lawful competition, public revenue, and the credibility of the regulatory state.[23][24][28]

15.2.3 Enforcement and Regulatory Governance

Within contemporary regulatory theory, labour enforcement belongs to the broader field of regulatory governance: it concerns how the state monitors compliance, allocates discretion, designs information flows, structures deterrence, and secures accountability from private actors. In this sense, enforcement is also a question of

administrative design. The choice between routine inspection and targeted inspection, criminal prosecution and administrative penalty, paper records and digital reporting, or adversarial policing and assisted compliance, reflects competing conceptions of how labour welfare is to be governed.[3][23][24]

The Indian constitutional framework gives this question a distinctly normative charge. Articles 38, 39, 41, 42, 43 and 43A place labour welfare within the architecture of social justice; Articles 14, 21, 23 and 24 provide the hard constitutional edges of equality, dignity, freedom from exploitation and protection against child labour. The Supreme Court's jurisprudence has repeatedly shown that failures of labour enforcement may implicate constitutional, not merely statutory, concerns. In *People's Union for Democratic Rights v Union of India*, the Court held that payment below minimum wages could amount to "forced labour" under Article 23. In *Bandhua Mukti Morcha v Union of India*, it treated the implementation of welfare legislation as integral to the right to live with dignity. In *Consumer Education and Research Centre v Union of India*, it recognised workers' health and medical care as part of Article 21. And in *Randhir Singh* and *State of Punjab v Jagjit Singh*, the Court linked wage justice to the constitutional aspiration of equal pay for equal work.[1][16][17][18][19][20]

The implication is profound. In the Indian labour context, non-enforcement is not simply a problem of bureaucratic inefficiency. Where labour statutes operationalise guarantees of dignity, health, minimum subsistence and freedom from coercive exploitation, persistent under-enforcement becomes constitutionally suspect.[16][17][18]

15.3 Historical Framework of Labour Law Enforcement in India

15.3.1 Traditional Labour Inspection System

Before codification, labour enforcement in India developed through a dense and statute-specific network of inspectors, authorities and adjudicatory forums. Wage regulation was historically governed by enactments such as the Payment of Wages Act 1936, Minimum Wages Act 1948, Payment of Bonus Act 1965 and Equal Remuneration Act 1976. Industrial relations were structured through the Trade Unions Act 1926, Industrial Employment (Standing Orders) Act 1946 and Industrial Disputes Act 1947. Occupational safety and working conditions were dispersed across the Factories Act 1948, Mines Act 1952, Contract Labour (Regulation and Abolition) Act 1970, Inter-State Migrant Workmen Act 1979, Plantations Labour Act 1951 and Building and Other Construction Workers Act 1996, among others. Social security obligations were spread across the Employees' Compensation Act 1923, Employees' State Insurance Act 1948, Employees' Provident Funds and Miscellaneous Provisions Act 1952, Maternity Benefit Act 1961, Payment of

Gratuity Act 1972 and later the Unorganised Workers' Social Security Act 2008.[9][10][11][12][13][14][15]

The enforcement machinery mirrored this fragmentation. Different statutes created different inspectors, registers, returns, licensing regimes, prosecutions and claims procedures. In the central sphere, the Chief Labour Commissioner and the Directorate General, Factory Advice Service and Labour Institutes performed important inspection functions, while the Directorate General of Mines Safety supervised mines and oilfields. At the state level, labour departments and factory inspectorates carried the principal burden of inspection and compliance monitoring, often with additional sector-specific inspectorates in particular industries.[13][14][15][24]

15.3.2 Enforcement Challenges in the Pre-Codification Regime

The pre-codification regime suffered from three chronic weaknesses. First, inspection was frequently complaint-driven or episodic rather than strategic and universal. The ILO's profile of India notes that many inspections were carried out after receipt of complaints or where safety concerns made visits necessary, rather than through integrated inspection planning. Secondly, sanctioning powers were limited under many enactments: inspectors often functioned primarily by filing prosecution complaints in court, so enforcement depended on a slow and litigation-heavy criminal process. Thirdly, the multiplicity of laws encouraged paperwork-heavy compliance without ensuring substantive workplace oversight.[24][25][26]

Even where inspectors possessed significant powers, structural limits remained severe. A fragmented inspectorate supervising a vast labour market-much of it informal, geographically dispersed, subcontracted or migratory-could not easily generate universal compliance. The result was familiar: under-reporting, selective enforcement, bargaining around inspection, and a recurring gap between formal labour rights and actual labour conditions. Scholarship on Indian labour law has long emphasised that the challenge lies not merely in legislating rights but in extending them beyond the small and visible parts of the formal economy.[25][26][27]

15.3.3 Administrative Fragmentation of Enforcement

Administrative fragmentation was not an incidental defect but a structural feature of the old regime. Multiple statutes meant multiple inspections, overlapping record-keeping, duplicative returns, and a proliferation of licensing and registration obligations. The Second National Commission on Labour recommended that the labour laws be grouped into a smaller number of functional codes precisely to reduce this complexity. Official reform material now quantifies the scale of that fragmentation by stating that 29 central labour laws, 1,228 statutory sections and 1,436 rules were rationalised into four codes, with 31 returns replaced by a single electronic return, 181 forms reduced to 73, and 84 registers reduced to 8.[2][3] [4]

These figures should not be read as self-validating proof that codification will necessarily improve labour welfare. But they do reveal the administrative logic of reform: the codes seek to make the labour law state more legible, more data-driven, and less dependent on statute-wise procedural silos. The question, however, is whether simplification of compliance architecture will also translate into stronger enforcement of substantive rights. That is the central issue to which the codified regime now turns.[2][3][28]

15.4 Enforcement Framework under the Labour Codes

The first doctrinal point to note is that the four labour codes do not create a single, uniform enforcement model. Rather, each code builds an enforcement architecture suited to its subject-matter, even while sharing certain common techniques such as digitalisation, authorised officers, graded penalties and, in several instances, inspector-cum-facilitators. The result is not a monolithic enforcement chapter but a family of related enforcement forms.[5][6][7][8]

Under the Code on Wages, the central enforcement device is a claims jurisdiction backed by inspection and penalty. Section 45 authorises a claims authority, not below the rank of a Gazetted Officer, to hear applications concerning non-payment, delayed payment, unauthorised deductions, or discrimination-related wage claims. The authority may direct payment with compensation-potentially up to ten times the amount due-and recovery may proceed as arrears of land revenue. The application may be made not only by the employee but also by a registered trade union or an inspector-cum-facilitator. Sections 51 to 56 then add inspectors, officer-imposed penalties, prosecution, prior opportunity to comply, and compounding. The Wages Code is therefore best read as a rights-recovery statute: it aims to restore individual monetary entitlements through a combination of administrative inspection, quasi-judicial claims resolution and penal sanction.[5]

The Industrial Relations Code is structurally different. Its centre of gravity lies not in a general inspectorate but in dispute prevention and adjudication. Conciliation officers under section 43 and Industrial Tribunals under section 44 are central institutions, while section 49 vests conciliation officers, arbitrators and tribunals with powers resembling those of civil courts, including the ability to summon witnesses, call for documents and, in defined circumstances, enter establishments after notice to verify implementation of awards. Chapter XIII adds adjudicating officers, government-gated prosecution and compounding. Yet unlike the Wages, OSHWC and Social Security Codes, the IR Code does not rest on a general inspector-cum-facilitator model for all obligations. Its enforcement philosophy is adjudicatory and dispute-centric: certification, conciliation, tribunal process and government-authorised sanctions are more central than routine workplace inspection.[6]

The Occupational Safety, Health and Working Conditions Code is the most elaborate inspection statute among the four. Sections 34 to 40 provide for the appointment of Chief Inspectors-cum-Facilitators and Inspectors-cum-Facilitators, a statutorily structured inspection scheme, powers of entry and examination, confidentiality of complaints, special powers including prohibition orders in dangerous conditions, and the duty of employers to provide facilities for inspection. Section 37 further introduces third-party audit and certification for specified classes of establishments, including start-ups, through a web-based random assignment model. The code's design is explicitly preventive: it aims to detect danger before injury occurs, and not merely to punish after the event.[7]

The Code on Social Security combines inspection with assessment, contribution recovery, benefit administration and worker registration. Section 113 provides for electronic self-registration of unorganised workers, gig workers and platform workers; section 122 creates inspector-cum-facilitators and authorises digital inspection schemes with randomisation and electronic information-calls; other provisions create complaint-based remedies, including in maternity benefit matters, as well as prosecution and compounding rules. The Social Security Code is thus both a welfare statute and an administrative statute: enforcement depends not only on coercive action against defaulting employers but also on the state's capacity to register workers, track contributions, and make entitlements portable and accessible.[8]

Taken together, the codes replace the older map of statute-wise inspectorates with a differentiated but partially convergent architecture. Wage enforcement remains claim-centred; industrial relations enforcement remains adjudication-centred; occupational safety enforcement remains inspection-centred; and social security enforcement remains contribution-and-registration-centred. The codes unify labour law, but they do not homogenise the modalities of enforcement. That nuance is crucial to any serious doctrinal assessment.[5][6][7][8]

15.5 Inspector-cum-Facilitator System

15.5.1 Transformation of Labour Inspection

The shift from "Inspector" to "Inspector-cum-Facilitator" is among the most symbolically charged features of codification. At one level, the change reflects the language of responsive regulation: the state presents itself not merely as a punitive monitor but as a body that guides compliance, reduces unnecessary friction, and addresses violations proportionately. At another level, the change responds to longstanding criticism that labour inspection had become associated with opacity, rent-seeking, and procedural harassment rather than coherent enforcement.[3][4][23][24]

Doctrinally, however, the new nomenclature should not be misunderstood as a retreat from public enforcement. In the Code on Wages, the OSHWC Code and the Social Security Code, the inspector-cum-facilitator continues to possess coercive powers of entry, inspection, examination of persons, calling for information, search and seizure or copying of records, and initiation or support of proceedings. The term "facilitator" supplements rather than supplants the older enforcement function.[5][7][8]

There is also an important comparative point here. The dual role of advice plus enforcement is not alien to international labour standards. ILO materials on labour inspection emphasise that modern inspection systems are expected both to secure compliance and to furnish employers and workers with information and guidance, while bringing regulatory defects to the attention of competent authorities. In that sense, the Indian inspector-cum-facilitator model resembles, at least in design, the classical functions associated with Convention No 81. The difficulty lies not in the concept itself, but in ensuring that the facilitative element does not dilute deterrence where serious worker harms are at stake.[21][23][24]

15.5.2 Powers and Responsibilities of Inspectors

Under the Code on Wages, inspectors-cum-facilitators may advise employers and workers concerning compliance, inspect establishments, examine persons, require production of information, and search, seize or copy wage records. They may also bring defects and abuses to the notice of the appropriate government. Similar powers appear in the Social Security Code, where inspectors may require information relevant to contributions, registration and benefits administration.[5][8]

The OSHWC Code goes further. Its inspectors-cum-facilitators may enter workplaces with assistants or experts, inspect plant, machinery and premises, take measurements and samples, conduct examinations, and in dangerous situations invoke special powers, including prohibition of work in conditions posing imminent hazard. Section 39 protects the confidentiality of the source of complaints, a feature of obvious significance in a labour market where retaliation, dismissal, or blacklisting may deter workers from reporting unsafe conditions.[7]

These powers matter because labour welfare often fails not for want of broad statutory language but for want of evidentiary access. Wage non-payment, under-recording of overtime, denial of social-security coverage, and failure to implement safety norms are frequently hidden in payroll data, attendance registers, contribution records, contractor arrangements, or production systems inaccessible to workers themselves. Inspectorial authority therefore performs an evidentiary function central to effective enforcement.[5][7][8][25]

15.5.3 Digital Inspection Systems

A major innovation of the codes lies in the statutory authorisation of digital inspection schemes. The Code on Wages, the OSHWC Code and the Social Security Code all contemplate inspection schemes featuring web-based inspection, electronic calls for information, and randomised selection of establishments or inspectors. The OSHWC and Social Security Codes also contemplate unique identification numbers for establishments, inspectors and inspections, timely uploading of reports, and special inspections based on notified parameters or characteristics of work and employment relations.[5][7][8]

The regulatory promise of digitalisation is threefold. First, it may reduce arbitrary or opaque selection of establishments for inspection. Secondly, it creates documentary trails-through uploaded reports and electronic records-that can improve administrative accountability. Thirdly, it may enable better targeting of scarce enforcement resources by drawing attention to high-risk establishments, repeat violators, hazardous sectors, or anomalous compliance patterns. Yet these benefits are contingent on data quality and institutional use. A digitised inspection system that relies on incomplete databases or excludes informal workplaces may simply make the formal sector more legible while leaving the most precarious work outside view.[3][7][8][27]

15.6 Compliance Mechanisms under the Labour Codes

15.6.1 Self-Certification and Employer Compliance

The rhetoric of self-certification in the new regime requires careful handling. The codes do not replace public enforcement with purely private declarations; inspection, claims adjudication, authorised penalty officers and prosecution remain legally central. What the new architecture does create is a more facilitative compliance environment, one that relies heavily on employer-maintained records, electronic returns, self-assessment in certain contexts, and opportunities to cure violations before prosecution. In that limited but important sense, the codified regime internalises a self-certificatory logic without privatising enforcement altogether.[3][5][8]

This shift also has roots in earlier regulatory practice. The ILO's profile of India notes that, even before codification, smaller undertakings in the central sphere had been brought within forms of self-certification to reduce routine inspections. The labour codes generalise that tendency by placing greater weight on documented compliance, electronic registers, and digital filing. The advantage is obvious: reduced friction for compliant firms. The danger is equally evident: where documentary self-reporting is weakly audited, self-certification may become self-exoneration.[24][26]

15.6.2 Electronic Registration and Reporting

Digital compliance is not a minor procedural add-on; it is a core feature of the codified regime. Official materials emphasise single registration, single licence and single return as emblematic reforms. The Code on Wages and the Social Security Code permit electronic maintenance of registers and wage slips, and the Social Security Code explicitly mandates electronic self-registration systems for unorganised workers, gig workers and platform workers. This is especially significant because access to benefits in social-security systems often depends not simply on substantive eligibility but on successful registration and traceable identity.[3][4][5][8]

From an administrative standpoint, electronic reporting can reduce duplication, facilitate portability across states, and produce better compliance data. From a labour welfare standpoint, however, digital systems work only if workers are able to enter them and remain visible within them. An Aadhaar-linked, portal-based regime may increase portability and traceability, but it may also exclude workers with documentary problems, irregular migration histories, limited digital literacy, or intermittent attachment to formal employers. For precarious workers, administrative accessibility is itself a welfare issue.[8][27][29]

15.6.3 Risk-Based Inspection Systems

The codes do not repeatedly use the phrase "risk-based inspection," but the architecture points strongly in that direction. Randomisation is combined with parameter-based special inspections and explicit consideration of the characteristics of employment relationships, nature of work and workplace. In the OSHWC context, this readily accommodates a hierarchy of risk: mines, hazardous processes, construction work and dangerous machinery plainly require more intensive oversight than low-risk office establishments. In the social-security context, establishments displaying anomalies in contribution records, worker classification or registration patterns may similarly invite closer scrutiny. This is an inference from the statutory design, but a well-grounded one.[7][8]

Targeted inspection offers real benefits. It can reduce wasted administrative effort, protect workers in the most dangerous or vulnerable settings, and curb the arbitrariness historically associated with unstructured routine visits. Yet risk-based systems also create new blind spots. If risk models are built on existing registration data, they may under-detect unregistered establishments, disguised employment relationships, or home-based and platform-mediated work that does not fit conventional establishment categories. A risk-based system is only as inclusive as the data on which it relies.[23][24][27]

Table 15.1. Key Enforcement Mechanisms under the Labour Codes

Enforcement mechanism	Description	Analytical significance
Inspector-cum-facilitator system	Replaces or supplements the traditional inspector in the Wages, OSHWC and Social Security Codes	Seeks to combine advice, information and deterrent enforcement
Digital compliance systems	Electronic registration, registers, wage slips, returns, web-based inspections and uploaded reports	Promotes traceability and reduces duplication, but depends on data quality and access
Self-certification / self-reporting tendencies	Employer-maintained digital records, self-assessment in specified contexts, and compliance directions before prosecution	Lowers routine burden, but may weaken deterrence if audit capacity is poor
Risk-based / randomised inspections	Random selection plus special inspections based on notified parameters and characteristics of work	Aims to reduce discretion and focus attention on higher-risk sectors or anomalies
Administrative penalties and compounding	Authorised officers may impose penalties; several offences may be compounded	Speeds resolution and reduces court load, but risks monetising non-compliance if overused

Source: Compiled from the Code on Wages, 2019, ss 45, 51-56; the Occupational Safety, Health and Working Conditions Code, 2020, ss 34-40, 94-114; the Code on Social Security, 2020, ss 113, 122, 137-138; and Ministry of Labour and Employment, Compliance Handbook for Employers Under the Four Labour Codes (2026).[3][5][7][8]

The table makes clear that codified enforcement is not simply a substitution of "inspectors" by "portals." It is a layered regime in which digital systems, facilitated compliance, selective inspection, administrative sanctions and traditional coercive powers are intended to operate together. The success of the model therefore depends on calibration. If facilitation overwhelms sanction, the system risks softness; if

sanction overwhelms assistance, the promise of simplification is lost. The codes are best understood as attempting to institutionalise a middle path, though whether that middle path will prove effective remains an open administrative question.[3][5][7][8]

15.7 Penalties and Legal Consequences for Non-Compliance

15.7.1 Monetary Penalties

The penalty structure of the labour codes reflects a deliberate move toward graded monetary sanctions. Under the Code on Wages, an employer who pays less than the amount due may be fined up to ₹50,000, while other specified contraventions attract lower fines and record-related breaches lower still. Under the IR Code, unlawful lay-off, retrenchment or closure-related contraventions can attract large fines; other breaches, including unfair labour practices and residual contraventions, attract additional graded sanctions. Under the OSHWC Code, the general penalty for contravention is substantially higher-between ₹2 lakh and ₹3 lakh, with additional daily penalties for continuing non-compliance. The Social Security Code treats default in contributions, gratuity, maternity-related obligations and cess payment as penal matters of varying seriousness.[5][6][7][8]

These monetary penalties serve at least three functions. They express the seriousness of labour obligations; they deter non-compliance by increasing the cost of breach; and, in some instances, they help shift labour enforcement away from exclusive dependence on the ordinary criminal courts. That last point is institutionally important. Where authorised officers may impose penalties directly, the system gains speed and may reduce the transaction costs of enforcement. But it also increases the importance of fair administrative procedure, appeal mechanisms and transparency in penalty assessment.[5][6][7]

15.7.2 Criminal Liability in Serious Violations

Despite the move toward administrative penalties, the codes retain criminal liability for serious breaches. Under the Code on Wages, repeat violations of wage-payment obligations may attract imprisonment. Under the IR Code, repeat unlawful lay-off, retrenchment or closure contraventions may result in imprisonment in addition to higher fines. The OSHWC Code is particularly strong in this respect: contraventions involving hazardous processes, accidents causing death or serious bodily injury, or disobedience of prohibition orders may attract imprisonment and substantial fines, with courts empowered in some cases to direct that part of the fine be paid as compensation to victims or their families. The Social Security Code also imposes imprisonment for serious contribution defaults, especially where the employer has deducted contributions from employees and failed to remit them.[5][6][7][8]

This retention of criminal liability is doctrinally significant. It shows that the codes do not treat all non-compliance as a mere cost of doing business. Where labour violations threaten life, bodily integrity or the wrongful withholding of workers' own money, the statutory scheme preserves the stronger moral language of crime. This is normatively defensible. If labour law is to reflect constitutional commitments to dignity, health and freedom from exploitation, its most serious breaches cannot be reduced to administrative inconvenience.[16][17][18][7][8]

15.7.3 Compounding of Offences

At the same time, the codes embrace compounding for many lesser or first-time offences. The Code on Wages allows compounding of offences not punishable with imprisonment; the IR Code and the Social Security Code allow compounding of specified offences at prescribed fractions of the maximum fine; and the Social Security Code expressly requires a prior written direction and opportunity to comply before prosecution in defined cases, with a bar on repeated reliance on that opportunity within three years. Comparable opportunity-to-comply provisions also appear in the Wages and OSHWC Codes, though accidents and repeat violations are treated differently.[5][6][7][8]

The rationale is intelligible. Compounding reduces court congestion, encourages rapid correction of non-serious violations, and permits the regulator to focus criminal process on graver harms. Yet the device is double-edged. If applied to procedural or first-time documentary lapses, it may enhance proportionality. If normalised in cases of wage theft, chronic contribution default or serious safety breaches, it can erode deterrence by enabling employers to treat violation as a monetisable compliance option. The challenge lies in ensuring that compounding remains an exception for lesser contraventions, not a substitute for real accountability in matters central to labour welfare.[3][5][7][8]

15.8 Institutional Framework for Labour Enforcement

15.8.1 Role of Labour Departments

State labour departments remain central to enforcement under the codes. Codification has not displaced the federal structure of labour administration, and the "appropriate government" continues to determine institutional competence across sectors and establishments. Historically, as the ILO's profile of India notes, central and state responsibilities have been divided according to the nature of the establishment and the applicable field of labour regulation. That basic logic persists. As a result, the effectiveness of the codes will depend heavily on the administrative capacity of state labour departments, factory inspectorates, mines safety authorities, and central enforcement bodies such as the Chief Labour Commissioner organisation.[7][8][24]

Codification may simplify the legal map, but it does not eliminate the need for personnel, training, inspection planning, interoperable data systems, or field presence. The labour department remains the front line of enforcement, especially in a system that still depends on the detection of violations, processing of claims, monitoring of registrations, and follow-up on directions and penalties.[3][24]

15.8.2 Role of Labour Courts and Tribunals

Historically, labour courts and industrial tribunals under the Industrial Disputes Act formed an important part of the enforcement landscape because many statutory conflicts surfaced as industrial disputes. Under the Industrial Relations Code, this adjudicatory tradition is carried forward chiefly through the Industrial Tribunal and National Industrial Tribunal, with conciliation officers as the first institutional filter and section 49 powers supplying the procedural means to gather evidence and supervise implementation. Wage enforcement continues through claims authorities, while social-security enforcement frequently proceeds through notified officers, contribution authorities and criminal process depending on the subject-matter.[5][6][8]

Adjudicatory institutions matter because many labour rights cannot be secured solely through inspection. Dismissals, retrenchments, union-related conflicts, bonus disputes, equal-remuneration questions and contested contribution liabilities often require authoritative interpretation and enforceable orders. The labour codes therefore rely not only on executive inspection but also on judicial and quasi-judicial forums capable of converting disputed rights into binding determinations.[5][6][25]

15.8.3 Coordination among Regulatory Authorities

Coordination among authorities is one of the least visible but most consequential dimensions of labour enforcement. The same establishment may raise simultaneous questions of wage payment, safety compliance, contract labour, migrant work, provident fund contributions, maternity benefit, retrenchment procedure and standing orders. If these issues remain institutionally siloed, codification may reproduce the old fragmentation in digital rather than paper form. Effective enforcement therefore requires cooperation between labour departments, social-security institutions, tribunals, sectoral regulators and digital compliance platforms.[3][7][8][24]

The need for coordination is especially acute for workers at the margins of formality. Contract workers, inter-state migrants, gig workers and platform workers often move across jurisdictions and sectors, making traditional establishment-based administration an inadequate unit of welfare governance. Portability of benefits, data sharing, and coordinated enforcement strategy are therefore not merely technocratic concerns; they are essential to the inclusionary promise of the codes.[4][8][27]

15.9 International Perspectives on Labour Inspection

International labour standards treat labour inspection as a core public function of labour administration. ILO Convention No 81, ratified by India in 1949, establishes labour inspection as a system for securing compliance with legal provisions relating to conditions of work and worker protection. The ILO's guidance further emphasises that inspection is not confined to punitive control; it also includes advice to employers and workers, communication of legal defects to competent authorities, and cooperation across institutions. India has not ratified Convention No 129 on labour inspection in agriculture, a point that remains significant in a labour market where rural, seasonal and dispersed work continues to present distinctive supervisory challenges.[21][22][23][24]

From that standpoint, the Indian inspector-cum-facilitator model is not inherently inconsistent with global standards. What matters is whether the system preserves sufficient independence, reach and sanctioning credibility. ILO materials stress that labour inspection should apply to all relevant workplaces, operate with adequate resources, and combine educational with enforcement functions. They also caution that modern labour markets-marked by informality, subcontracting, home-based work and fragmented employment relationships-make inspection more difficult, not less. Digital tools may help, but they are not substitutes for real institutional capacity.[21][23][24]

15.10 Impact of Enforcement Reforms

15.10.1 Potential Benefits of Modernised Enforcement

The potential benefits of the new enforcement model are substantial. Codification may reduce duplication, lower unnecessary procedural costs, improve traceability of inspections and filings, and make it easier for both regulators and workers to identify applicable rights and responsible authorities. Web-based inspection, randomisation, digital records, and single-return architecture can, in principle, reduce administrative opacity and permit more coherent use of scarce enforcement resources. Stronger penalty provisions in safety and social-security matters may also sharpen deterrence where worker welfare is most severely threatened.[3][4][7][8]

There is also a deeper institutional benefit. By integrating claims, inspection, digital compliance and administrative penalties, the codes create a more intelligible enforcement continuum than the old system of scattered statutes. In principle, this can improve both compliance and access to remedy. A worker seeking unpaid wages, for instance, is no longer forced to navigate a thicket of separate wage-related enactments; the law, the inspectorate and the claims authority now sit within a unified legislative frame.[3][5]

15.10.2 Concerns regarding Weak Enforcement

Set against these claims are serious concerns about under-enforcement. Labour organisations and critical scholarship have argued that a facilitative inspection model, expanded opportunities for compounding, and an overall emphasis on ease of compliance may soften the deterrent force of labour law, especially where workers have weak bargaining power or limited access to representation. These concerns did not remain academic: the rollout of the codes in late November 2025 was met by union protests that characterised the reforms as potentially detrimental to worker security and collective bargaining.[28][29]

This critique should not be dismissed as resistance to administrative modernisation. It raises a serious jurisprudential question: when the state shifts from direct inspection to facilitated compliance, who bears the burden of proving and contesting non-compliance? If the burden falls disproportionately on individual workers-especially those in precarious, migrant or non-unionised settings-the formal simplification of compliance may coincide with a practical weakening of enforcement.[16][17][27][29]

15.10.3 Institutional Capacity Challenges

The greatest challenge remains institutional capacity. Digital systems require accurate databases, interoperable platforms, trained officers, responsive grievance handling, and timely appellate review. Inspectorates require staff, transport, technical expertise and freedom from local capture. Adjudicatory bodies require vacancies to be filled and cases disposed of in reasonable time. None of these conditions follows automatically from codification. Official simplification metrics and statutory innovations may improve the tools of governance, but they do not by themselves create a capable enforcement state.[3][24]

The problem is especially acute in the informal economy. Establishment-based inspection remains an imperfect instrument where work is mobile, household-based, subcontracted or mediated by digital platforms. The Social Security Code's recognition of gig and platform workers is normatively important, but recognition alone does not solve the practical problems of registration, contribution design, benefit delivery, classification disputes and interstate portability. Enforcement in such contexts requires not merely stronger inspection but new methods of labour administration.[8][27][29]

15.11 Critical Evaluation of Enforcement Mechanisms

The labour codes undoubtedly improve the formal architecture of labour enforcement. They rationalise previously scattered statutory regimes, introduce digital processes capable of improving transparency, create clearer opportunities for claims and administrative penalty, and modernise inspection design through

randomisation, uploaded reporting and, in the OSHWC and Social Security contexts, more structured inspection schemes. In safety and contribution matters, they also preserve a strong penal core for serious violations. On these counts, codification represents a real and not merely rhetorical reform of labour administration.[3][5][7][8]

Yet the same reforms also contain a significant ambiguity. The codes are built around a facilitative understanding of compliance, one that prefers digital filing, prior directions, compounding and officer-imposed penalties over exclusive reliance on prosecution. This may be sensible for minor documentary lapses or first-time procedural breaches. But labour law is not only an administrative code; it is also a regime for protecting workers from wage deprivation, industrial injury, exclusion from social insurance, and retaliatory or coercive employment practices. In such matters, excessive procedural leniency can blunt the law's redistributive and protective function.[16][17][18][5][7][8]

A further limitation lies in the risk of formal-sector bias. Digital compliance systems work best where establishments are already registered, records are already maintained, and workers are already administratively visible. The most vulnerable workers in India often fall outside these conditions. Unorganised labour, small workshops, supply-chain labour, home-based work and platform-mediated labour are precisely the sites where documentary visibility is weakest and enforcement need is greatest. Without deliberate outreach, worker-centred complaint channels, proactive field inspection and cross-agency coordination, the new architecture may improve compliance among already visible firms while reproducing exclusion at the margins.[24][27][29]

The Industrial Relations Code introduces a related but distinct concern. Because its enforcement logic is adjudicatory rather than inspector-driven, access to effective conciliation, representation and tribunal process becomes decisive. If conciliation is perfunctory, tribunals understaffed, or workers poorly represented, the formal existence of adjudicatory powers will not translate into meaningful enforcement of collective rights. In this sense, the IR Code reminds us that labour enforcement is not reducible to inspection alone; it also depends on the procedural health of labour adjudication.[6]

From a constitutional perspective, the standard of evaluation cannot be merely managerial. The relevant question is not whether the codes simplify compliance in the abstract, but whether they improve the practical enforcement of rights that the Constitution and the Supreme Court have linked to dignity, equality, health and freedom from exploitation. *PUDR*, *Bandhua Mukti Morcha* and *Consumer Education and Research Centre* show that labour enforcement is inseparable from the constitutional project of social justice. A labour regime that is administratively

elegant but substantively unable to secure minimum wages, safe work and social protection would fall short of that constitutional horizon.[1][16][17][18]

The most defensible overall assessment, therefore, is a qualified one. The codes create a more coherent and potentially more transparent enforcement architecture than the older regime. But coherence is not the same as effectiveness. The success of codified enforcement will depend on whether India can combine three things rarely achieved together: administrative simplification for compliant employers, credible deterrence for violators, and inclusive reach for workers whose labour remains difficult to see.[3][23][24][29]

15.12 Conclusion

Enforcement is the decisive test of India's new labour regime. The four labour codes seek to move beyond the older world of statute-wise inspectorates, duplicative filings and court-dependent prosecution by building a hybrid system of inspector-cum-facilitators, digital compliance, structured inspection schemes, administrative penalties, compounding and specialised adjudication. In doing so, they substantially recast the techniques of labour governance.[3][4][5][6][7][8]

The deeper analytical lesson, however, is that labour codification is not only a project of legislative consolidation. It is a transformation in the state's governing style: from fragmented welfare legislation toward integrated labour governance, from paper inspection toward data-mediated administration, and from exclusively punitive enforcement toward calibrated compliance management. Whether that transformation advances labour welfare will depend on how the new machinery is staffed, coordinated and used. If the codes make workers more visible, remedies more accessible, and serious violations more costly, they will mark a genuine welfare-enhancing reform. If they merely simplify procedure for the visible formal sector while leaving precarious labour weakly protected, the transformation will remain incomplete.[1][16][17][23][24][27][29]

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Chapter 16

Role of the International Labour Organization and Global Labour Standards In India's Labour Law Reforms

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16.1 Introduction: Globalisation and the Internationalisation of Labour Regulation

India's labour law codification must now be read in two temporal registers at once. The first is the register of enactment: the four labour codes enacted between 2019 and 2020 consolidated twenty-nine central labour enactments into a compressed statutory architecture organised around wages, industrial relations, social security, and occupational safety, health and working conditions. The second is the register of operation: with the codes brought into force on 21 November 2025, the debate is no longer merely about legislative design, but about the concrete modalities through which codification reorders labour governance in practice[4]. In both registers, international labour standards matter. They supply the language of labour welfare, decent work, equality, occupational safety, social protection, and social dialogue through which national reform is defended, criticised, and compared[1, 2].

The importance of the international dimension lies not in the simplistic proposition that Indian labour law merely "imports" norms from outside. Labour regulation is shaped by domestic constitutional commitments, federal competence, social conflict, administrative capacity, and the political economy of growth. Yet international labour standards-developed principally through the International Labour Organization (ILO), but also through comparative practice, transnational production networks, and global debates on labour market governance-have increasingly become a reference point for domestic reform[6, 8]. The influence is therefore mediated rather than mechanical. International norms frame what counts as acceptable labour protection, but domestic institutions determine how those norms are translated, diluted, or deepened.

This chapter argues that the new labour regime embodies a selective and uneven internationalisation of labour welfare. The codes converge meaningfully with global

standards in some areas: wage protection, anti-discrimination, institutionalised occupational safety, and the recognition-at least at a framework level-of social protection for unorganised, gig, and platform workers[2, 19, 21, 22]. At the same time, the regime diverges from, or only partially internalises, international labour standards in relation to collective labour rights, the substantive content of social security entitlements, and the enforcement architecture necessary to make rights effective[20, 23, 24, 34]. The result is a codified labour order that is normatively global in vocabulary but domestically filtered through a developmental state seeking both labour protection and regulatory simplification.

The chapter proceeds in ten parts. It first traces the emergence of international labour regulation and the institutional role of the ILO. It then identifies the core principles of international labour standards, examines India's long engagement with the ILO, and situates labour codification within the historical evolution of Indian labour welfare legislation. The chapter next analyses how international labour standards have shaped Indian wage law, occupational safety regulation, and social security policy; it then turns to constitutional principles and judicial decisions that mediate the relationship between international norms and domestic labour rights. Thereafter, it examines the pressures of globalisation, undertakes a doctrinal analysis of the relevant labour codes, briefly compares India's approach with selected foreign models, and offers a critical evaluation of the reforms. The conclusion links these developments to the broader transformation of labour governance in contemporary India[3, 5, 9].

16.2 Evolution of International Labour Standards

16.2.1 Emergence of International Labour Regulation

International labour regulation emerged from the social dislocations of industrial capitalism. In the nineteenth and early twentieth centuries, industrialisation generated long hours, unsafe workplaces, child labour, wage insecurity, and severe bargaining asymmetries between capital and labour. These conditions produced both domestic labour movements and an international concern that competition among states could trigger a regulatory "race to the bottom," with labour exploitation becoming an instrument of comparative advantage[1, 6]. The early movement for international labour standards was therefore animated by a double logic: humanitarian protection for workers and the stabilisation of competition among industrialising states.

The settlement after the First World War gave this logic a durable institutional form. The Constitution of the ILO, attached to the Treaty of Versailles, famously declared

that lasting peace can be established only if it is based upon social justice[1]. This formulation was not rhetorical surplus. It connected labour conditions to political legitimacy, economic order, and international peace, thereby treating labour regulation as a matter of public law beyond the boundaries of any single nation-state. In time, the 1944 Declaration of Philadelphia expanded this normative vision by insisting that labour is not a commodity and that poverty anywhere constitutes a danger to prosperity everywhere[1]. Together these formulations supplied the jurisprudential foundation for modern international labour law.

For postcolonial states such as India, international labour standards also served a different historical function. They offered a vocabulary through which national development could be reconciled with labour welfare. In newly independent societies marked by poverty, informality, and uneven industrialisation, the labour question could not be reduced to factory discipline alone. It encompassed minimum wages, social insurance, migrant labour, maternity protection, bonded labour, occupational disease, and the integration of vulnerable workers into citizenship-bearing welfare institutions[6, 9]. International labour regulation thus gradually widened from a narrow concern with industrial employment to a broader concern with social protection and labour market inclusion.

16.2.2 Establishment of Global Labour Institutions

The ILO remains the central institutional site for the production of international labour standards. Its distinctive feature is tripartism: governments, employers, and workers participate in the adoption of conventions and recommendations and in the governance of the organisation[1, 37]. This institutional form is normatively important because it treats labour regulation not merely as state command or private contract, but as an arena of structured social dialogue. The tripartite model has had enduring influence on labour law theory and practice, including in India, where advisory boards, wage boards, negotiating mechanisms, and consultative institutions have frequently been justified in the language of tripartite participation[3, 19, 20].

The ILO's institutional role extends beyond standard-setting. It also operates supervisory mechanisms through which ratified conventions are monitored, observed, and discussed. These include regular reporting obligations, scrutiny by the Committee of Experts on the Application of Conventions and Recommendations, and tripartite review within the International Labour Conference[2, 4]. Even where a convention has not been ratified, the ILO's jurisprudence and commentary often shape domestic debate by creating persuasive benchmarks for national legislators, courts, trade unions, employers' bodies, and civil society actors.

Over time, the ILO has also broadened its substantive agenda through the language of "decent work," social protection floors, gender equality, and the future of work. That expansion matters for understanding India's labour reforms. The labour codes are not simply a technical restatement of pre-existing statutes; they are also a response to contemporary pressures of informality, labour market segmentation, platform work, labour mobility, and digital governance. Those pressures have been debated globally, often through ILO reports, recommendations, and supervisory dialogues, and they form part of the intellectual context in which codification must be understood[2, 3, 33].

16.2.3 Development of International Labour Conventions

International labour standards are principally expressed through conventions and recommendations. Conventions are treaties open to ratification; recommendations are non-binding instruments that elaborate principles, techniques, or policy guidance[2, 4]. Both are important. Ratified conventions create international legal obligations, but recommendations frequently influence domestic law reform precisely because they are more flexible and can guide legislative experimentation without the formal pressures of treaty compliance.

The history of ILO standard-setting also shows that labour standards evolve conceptually. Early standards addressed hours of work, maternity protection, minimum age, labour inspection, and sector-specific welfare. Later standards addressed equality, collective rights, minimum wage fixing, social security, migrant labour, occupational safety and health, and the governance of labour administration[2, 29, 30, 31, 32]. This historical layering is mirrored in India's own labour legislation, which evolved from sectoral and problem-specific enactments to a broader welfare architecture after independence, and finally to the contemporary codes.

A decisive contemporary development was the 2022 amendment to the ILO Declaration on Fundamental Principles and Rights at Work, which recognised a safe and healthy working environment as a fundamental principle and right at work[2, 30, 31]. This development is highly relevant to India's Occupational Safety, Health and Working Conditions Code, 2020. It underscores that occupational safety is no longer merely a technical compliance issue but a core component of labour rights and labour welfare. The new Indian regime therefore operates in a global normative environment in which safety, health, and dignity at work are no longer peripheral to fundamental labour law.

16.3 Core Principles of International Labour Standards

16.3.1 Fundamental Labour Rights

The foundational body of international labour standards comprises freedom of association, collective bargaining, elimination of forced labour, abolition of child labour, and equality in employment and occupation[2]. These principles structure labour law not only because they define minimum normative baselines, but because they identify the basic conditions under which workers can act as rights-bearing participants in economic life rather than as disposable inputs to production.

Freedom of association and collective bargaining remain central to any labour constitution. Convention No. 87 protects the right of workers and employers to establish and join organisations of their own choosing without prior authorisation, while Convention No. 98 protects the right to organise and requires protection against anti-union discrimination and interference in collective bargaining[23, 24]. These conventions do not prescribe a single institutional model, but they do insist that labour relations must permit meaningful collective voice. Their importance in the Indian context is obvious: debates over union recognition, strike regulation, standing orders, retrenchment, labour adjudication, and fixed-term employment all implicate the extent to which labour law treats collective action as a protected democratic practice or as a managed disruption to production.

The forced labour conventions-Convention No. 29 and Convention No. 105-are equally significant for India, where labour regulation has long intersected with bonded labour, caste oppression, debt dependence, and non-payment of minimum wages[25, 26]. International law's prohibition of forced labour helps explain why Indian constitutional doctrine has treated exploitative labour conditions as violations of fundamental rights rather than as merely private contractual wrongs. As discussed below, the Supreme Court's interpretation of Article 23 has often been more ambitious than a narrow criminal-law understanding of coercion[14, 15].

Equality norms also have direct relevance to the labour codes. Convention No. 100 on Equal Remuneration and Convention No. 111 on Discrimination (Employment and Occupation) provide the international template for prohibitions on gender-based wage discrimination and broader anti-discrimination commitments[27, 28]. India's pre-code Equal Remuneration Act, 1976, and the anti-discrimination clause in the Code on Wages, 2019, must therefore be read not simply as domestic redistributive measures but as part of a longer international commitment to equal citizenship in labour markets[19, 27, 28].

16.3.2 Workplace Safety and Occupational Health

International occupational safety and health (OSH) standards are organised around the idea that prevention is a public obligation shared by the state, employers, and workers. Convention No. 155 requires a coherent national policy on occupational safety, health, and the working environment, while Convention No. 187 emphasises a promotional framework oriented toward continual improvement[30, 31]. Together they move beyond reactive accident compensation toward preventive governance, institutional coordination, inspection, data collection, and worker participation in safety systems.

The contemporary significance of OSH has grown because production is increasingly dispersed across supply chains, informal worksites, logistics networks, and digital platforms. Industrial accidents, occupational disease, heat exposure, chemical hazards, and precarious contracting can no longer be treated as problems limited to the archetypal factory. A credible welfare regime must therefore address safety as a cross-sectoral issue and must link it to migration, subcontracting, gendered work patterns, and labour informality[2, 22, 30, 31].

India's codification reflects this global shift in part by creating a unified OSH code. Yet the international standard is demanding. It requires not only statutory consolidation, but functioning inspection systems, standard-setting capacity, credible enforcement, and worker knowledge of rights. The distance between legislative architecture and real safety outcomes is therefore especially important in evaluating India's labour reforms[22, 30, 31].

16.3.3 Social Security and Worker Protection

International labour law has long recognised that labour welfare cannot be secured by workplace regulation alone. Convention No. 102 on Social Security (Minimum Standards) identifies the basic branches of social security and treats social protection as a structured system rather than an ad hoc benevolence[32]. More recently, Recommendation No. 202 on Social Protection Floors has stressed nationally defined minimum guarantees, universality, and progressive extension of coverage[33]. These instruments are especially pertinent for countries such as India, where the majority of workers have historically remained outside formal employment-based insurance systems.

The normative move from bounded, contributory employment to broader social protection is crucial in the Indian setting. Informal workers, self-employed workers, migrant workers, and platform workers often fall between classical categories of labour law and social insurance. International standards increasingly press states to

overcome this exclusion, whether through contributory schemes, tax-financed transfers, simplified registration, portability, or hybrid financing models[32, 33]. This shift is reflected in the Code on Social Security, 2020, which formally acknowledges unorganised workers, gig workers, and platform workers within the statutory frame[21].

At the same time, international norms do not collapse into a single institutional design. They permit incremental extension, differentiated schemes, and nationally tailored financing. This flexibility can be enabling, but it can also allow states to adopt symbolic inclusion without robust entitlements. The distinction between formal recognition and substantive coverage is therefore central to evaluating India's claim to have aligned labour reform with global standards of social security[21, 32, 33].

16.4 India and the International Labour Organization

16.4.1 India's Membership and Participation

India is a founding member of the ILO and has been a permanent member of the ILO Governing Body since 1922[3, 37]. This fact is more than institutional biography. It reflects India's longstanding engagement with international labour governance across colonial, postcolonial, and contemporary periods. The first ILO office in India opened in 1928, and the country's contemporary Decent Work Country Programme continues to be structured through tripartite consultation[37]. India's labour law reforms therefore cannot be described as operating at the edge of international labour governance; they emerge from within a long-standing relationship to it.

That relationship has historically been ambivalent but productive. Colonial labour legislation was shaped partly by international pressure and partly by the politics of imperial industry. After independence, India embraced a welfare-oriented and industrial peace-oriented labour law framework influenced by constitutional social justice and by the international legitimacy of labour standards[6, 10]. The post-independence statutes on industrial disputes, minimum wages, social insurance, maternity protection, provident funds, and factories did not copy ILO instruments mechanically, but they developed within a global normative environment in which labour protection had become a legitimate component of state-building[6].

The contemporary codes continue this relationship, albeit under altered economic conditions. India's engagement with the ILO now coexists with pressures generated by global supply chains, platform capitalism, labour migration, investment competition, and ease-of-doing-business narratives. International participation therefore does not guarantee a worker-protective outcome. Rather, it furnishes a set

of normative resources and institutional benchmarks through which domestic reform is contested and evaluated[7, 8].

16.4.2 Adoption of International Labour Standards

According to the Ministry of Labour and Employment's Annual Report 2024-25, India has ratified forty-seven ILO conventions and one protocol, including six fundamental conventions and three governance conventions[3]. This places India within, but not fully at the centre of, the international standards regime. Ratification has been selective, and that selectivity is doctrinally revealing.

India's ratification of conventions relating to forced labour, equal remuneration, discrimination, minimum age, and the worst forms of child labour demonstrates broad acceptance of core welfare and dignity norms[3, 25, 26, 27, 28]. These commitments have influenced domestic legislation and judicial reasoning in visible ways. The constitutional and statutory repudiation of bonded labour, the jurisprudence treating payment below minimum wages as unconstitutional exploitation, and the continuation of equal remuneration principles in the Code on Wages are all consistent with this trajectory[14, 15, 19].

However, India has still not ratified Convention Nos. 87 and 98 concerning freedom of association and collective bargaining[3, 23, 24, 38]. Nor has it ratified the major OSH conventions, Convention Nos. 155 and 187[30, 31, 39]. These omissions matter. They do not mean that Indian law is devoid of associational freedom or safety regulation; rather, they indicate that the state has preferred a more controlled domestic approach in these domains, reserving greater latitude over trade unionism, strike regulation, public sector employment, and the pace of OSH institutionalisation. This selective ratification pattern helps explain the mixed character of the labour codes: stronger convergence with international welfare standards in wages and social protection, but more guarded convergence in collective labour rights and safety governance.

16.4.3 Implementation of International Labour Norms and the Historical Evolution of Labour Welfare Legislation

International labour norms have entered Indian law through at least three pathways. The first is direct legislative reception: wage laws, anti-discrimination norms, social insurance statutes, and OSH legislation often track or respond to international standards even where no formal obligation requires verbatim implementation[6, 19, 21, 22]. The second is policy diffusion: international institutions and comparative practice shape expert committee reports, bureaucratic design, and legislative justifications. The Second National Commission on Labour's recommendation that labour law be regrouped around a smaller number of thematic codes is itself intelligible within a

wider global discourse of rationalisation and integrated labour market governance[5]. The third pathway is judicial interpretation: courts routinely use constitutional principles and, where appropriate, international norms to deepen the protective meaning of domestic labour law[11, 14, 16].

This process can be seen historically. Early Indian labour legislation was fragmented and sector-specific. Colonial enactments addressed factories, mines, work injuries, and trade disputes in piecemeal fashion. The post-independence era added a more recognisably welfare-state architecture: the Industrial Disputes Act, 1947, Minimum Wages Act, 1948, Employees' State Insurance Act, 1948, Employees' Provident Funds Act, 1952, Maternity Benefit Act, 1961, Payment of Bonus Act, 1965, and Equal Remuneration Act, 1976 created a dense but segmented system of labour welfare[6, 19, 21, 22]. This architecture bore the marks of both constitutional social justice and ILO-era welfare thinking.

The codification project sought to replace fragmentation with thematic coherence. The codes promised simplification, wider coverage, digital compliance, and a more integrated enforcement structure[4, 5]. Yet codification also reconstituted labour welfare conceptually. Instead of a statute-by-statute welfare state, the new regime favours consolidated codes administered through portals, electronic registration, unified returns, inspectors-cum-facilitators, and central or state boards[19, 20, 21, 22]. International influence is visible in this design, but so is a managerial state logic: welfare is increasingly framed as standard-setting, digital registration, and scheme administration rather than solely as adjudicated substantive rights.

16.5 Influence of International Standards on Indian Labour Law

16.5.1 Impact on Wage Regulation

International labour standards have deeply influenced the way India now structures wage regulation. The most obvious doctrinal instance is the Code on Wages, 2019, which consolidates four earlier enactments and extends wage protection and minimum wage regulation across employments rather than confining minimum wages to the older "scheduled employment" model[19]. In this respect, the Code moves closer to the international logic of universal wage floors associated with Convention No. 131 on minimum wage fixing[29].

The Code's floor wage mechanism is especially significant. Section 9 empowers the Central Government to fix a floor wage having regard to minimum living standards, with scope for geographical variation, and states may not set minimum wages below that floor[19]. This technique resonates with the international expectation that wage regulation should protect workers against unduly low pay while allowing

institutional adaptation to local conditions[29]. It also shifts the Indian debate away from a merely sectoral welfare device toward a national wage architecture, even though the adequacy of any actual floor wage remains a matter of policy and politics. The Code also carries forward the principle of equal remuneration by prohibiting discrimination on the ground of gender in matters relating to wages and recruitment for the same work or work of a similar nature[19, 27, 28]. That continuity is doctrinally important because codification could have diluted equality protections in the name of simplification. Instead, the Code preserves a core anti-discrimination norm consonant with Convention Nos. 100 and 111[27, 28]. Advisory Boards at the central and state levels, with mandated representation of women, reinforce the tripartite and consultative character of wage governance[19].

Yet alignment with international wage standards is only partial. A legal floor is not the same as a living wage; the enforcement of wage payment, deductions, and minimum wage obligations continues to depend on administrative reach, worker knowledge, and claim-making capacity. The inspector-cum-facilitator model and digitalised compliance framework may improve information flows, but they may also soften the punitive edge of labour inspection if not matched by credible enforcement and accessible adjudication[19, 34]. Thus, international influence is evident in the architecture of wage protection, but outcomes remain contingent on implementation.

16.5.2 Impact on Workplace Safety Standards

The influence of international standards is also visible in India's shift toward a consolidated safety regime. The Occupational Safety, Health and Working Conditions Code, 2020 brings together a large body of sectoral legislation concerning factories, mines, contract labour, migrant workers, plantations, transport, beedi and cigar work, and other forms of employment[22]. This structural move reflects the preventive and systems-oriented logic associated with modern OSH governance under Convention Nos. 155 and 187[30, 31].

Doctrinally, the Code creates a National Occupational Safety and Health Advisory Board, empowers the government to declare OSH standards, defines employer duties regarding health, safety, and working conditions, and recognises employee rights, including the right to warn about imminent danger[22]. It also includes specific provisions concerning inter-state migrant workers, such as registration, journey allowance, and access-related welfare measures[22]. These features indicate a transition from fragmented, establishment-specific regulation toward a more unified safety regime, which is broadly compatible with international OSH principles.

Nevertheless, the convergence is incomplete. India has not ratified the principal OSH conventions[30, 31, 39], and the practical effectiveness of the OSH Code depends heavily on subordinate rules, technical standards, inspection capacity, and data systems. The post-enforcement rulemaking process into 2025 and 2026 underlines this point: statutory consolidation does not automatically generate operational safety governance[37, 39]. Moreover, the expansion of contracting, outsourcing, logistics work, and platform-mediated labour creates safety problems that are difficult to govern through establishment-centric inspection models alone. International standards highlight these risks, but domestic enforcement institutions must still be built to address them.

16.5.3 Impact on Social Security Policies

The Code on Social Security, 2020 most explicitly reflects the international turn toward broad-based social protection. It consolidates the major central social security enactments and creates statutory space for schemes concerning unorganised workers, gig workers, and platform workers[21]. That move is normatively significant in a country where the majority of workers have historically remained outside conventional contributory social insurance.

The Code establishes a National Social Security Board with representation from workers, employers, aggregators, and governments; provides for welfare schemes for unorganised workers; enables social security schemes for gig and platform workers; and allows electronic self-registration linked to proof of identity[21]. It also authorises financing arrangements involving aggregators in platform sectors[21]. In comparative perspective, this is an important legislative innovation: India is among the first major labour-law jurisdictions to expressly name gig and platform workers within a central social security statute.

Yet the Code's international alignment is best described as framework alignment rather than entitlement convergence. Convention No. 102 and Recommendation No. 202 emphasise defined guarantees, adequacy, and progressive universality[32, 33]. The Indian Code, by contrast, is heavily scheme-dependent. It creates legal authority to frame welfare schemes, but often leaves the content, financing, and delivery of benefits to future executive action[21]. Registration is a gateway, not a guarantee. This distinction is critical. A framework can symbolically include workers while leaving actual benefit realisation vulnerable to fiscal restraint, administrative fragmentation, or delayed rulemaking.

Table 16.1 Core International Labour Standards and Their Influence on Indian Labour Law

International principle	Key ILO instruments	Indicative Indian code provisions	Analytical significance
Freedom of association and collective bargaining	Conventions Nos 87 and 98	Industrial Relations Code provisions on trade unions, negotiating union/council, grievance redress, strike regulation	Partial convergence on worker representation; weaker alignment on collective autonomy and industrial action
Fair wages and equality	Conventions Nos 100, 111 and 131	Code on Wages provisions on gender non-discrimination, floor wage, minimum wages and advisory boards	Extends wage-floor architecture and preserves anti-discrimination commitments
Occupational safety and health	Conventions Nos 155 and 187; 2022 amendment to the ILO Declaration	OSHWC Code provisions on advisory board, standards, employer duties, migrant-worker welfare and imminent danger	Moves toward a preventive and system-wide safety framework, though implementation remains crucial
Social security and inclusive protection	Convention No 102 and Recommendation No 202	Code on Social Security provisions on boards, schemes, registration, and gig/platform worker welfare	Expands the statutory frame for universalisation, but mainly through scheme-based implementation

Source: Compiled from the ILO Declaration and instruments, the Code on Wages, the Industrial Relations Code, the Code on Social Security, and the Occupational Safety, Health and Working Conditions Code[2, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33].

Table 16.1 shows that the influence of international standards on Indian labour law is strongest where international norms can be translated into institutional forms that suit codification: floor wages, advisory boards, unified OSH standards, and scheme-based social security. The weakest alignment appears where international labour law requires robust collective autonomy or enforceable substantive guarantees. This pattern is central to the new labour regime as a whole.

16.5.4 Constitutional Principles and Judicial Mediation of Labour Welfare

The Indian Constitution mediates the reception of international labour standards in a distinctive way. Labour welfare is anchored not only in the Directive Principles of State Policy-especially Articles 38, 39, 41, 42, 43, and 43A-but also in the equality, liberty, and dignity guarantees of Part III, including Articles 14, 19(1)(c), 21, 23, and 24[10]. In addition, Article 51(c) directs the state to foster respect for international law and treaty obligations, while Article 253 empowers Parliament to legislate for implementing international agreements[10]. Although these provisions do not automatically incorporate ILO conventions into domestic law, they create a constitutional environment in which international norms can influence interpretation and legislative design.

The Supreme Court's decision in Vishaka v State of Rajasthan provides the general interpretive principle: international conventions and norms consistent with fundamental rights may be used to fill gaps in domestic law[11]. In the labour field, that principle has allowed courts to adopt a constitutional style of reasoning that often parallels international labour standards without depending on direct incorporation. The result is a jurisprudence in which labour welfare is treated as part of the constitutional project of social justice.

Several decisions are foundational. In Randhir Singh v Union of India, the Court treated "equal pay for equal work" as a constitutional goal flowing from Articles 14, 16, and 39(d)[13]. In People's Union for Democratic Rights v Union of India, it held that payment of less than the minimum wage amounts to forced labour within the meaning of Article 23[14]. In Bandhua Mukti Morcha v Union of India, the Court linked bonded labour, humane working conditions, and the state's affirmative obligations to dignity and social justice[15]. In Consumer Education & Research Centre v Union of India, occupational health and medical protection for workers suffering industrial disease were connected to the right to life under Article 21[16]. These decisions align strongly with the ILO's human-centred conception of labour welfare.

At the same time, the constitutional jurisprudence on collective labour rights is more restrictive. In All India Bank Employees' Association v National Industrial Tribunal, the Court recognised the right to form associations under Article 19(1)(c) but declined to constitutionalise every incident of collective bargaining[12]. In T.K. Rangarajan v Government of Tamil Nadu, the Court held that government employees have no fundamental right to strike[17]. This jurisprudence helps explain why domestic law can accommodate trade unions and industrial adjudication while still imposing significant legal controls on collective action. International norms on association and collective bargaining therefore interact with a constitutional baseline that protects organisation more readily than industrial pressure.

Later cases such as Harjinder Singh v Punjab State Warehousing Corporation reaffirmed that labour law must not lose its social justice orientation under liberalising economic conditions[18]. Yet Santanu Sarkar's account of the judiciary's shifting orientation reminds us that labour adjudication is shaped by wider political economy currents as well as doctrinal continuity[34]. The constitutional reception of international labour norms is therefore real, but it is mediated by institutional context, judicial philosophy, and changing conceptions of economic governance.

16.6 Globalisation and Labour Policy Reform

16.6.1 Economic Globalisation and Labour Markets

Globalisation has transformed the context of labour regulation in India. Liberalisation, export orientation, transnational production, logistics integration, and platform-mediated services have reconfigured the labour market, intensifying the pressure on governments to create business-friendly regulatory environments while also responding to demands for social protection[7, 8]. Labour law reform in this context is often justified in the language of competitiveness, investment, and formalisation.

This pressure has produced two partially contradictory reform impulses. One impulse seeks flexibility: easier adjustment of labour, simplified compliance, wider managerial discretion, and reduced transaction costs. The other seeks inclusion: wage floors, social insurance, portability, digital registration, and basic worker protection. The labour codes embody both impulses simultaneously. They are thus best understood not as purely deregulatory or purely protective, but as a hybrid response to global market integration[7, 8, 9].

International labour standards complicate the flexibility narrative by insisting that labour market participation must be compatible with dignity, fairness, and minimum protection. As Deakin and Haldar argue, there is little robust evidence that labour

law deregulation alone drives development, whereas institution-building and risk management are central to transitions toward formalisation[8]. This insight is highly relevant to India's new labour regime. If codification is to succeed, it cannot rely on simplification alone; it must also create the institutional capacity through which workers can actually realise the protections that the codes promise.

16.6.2 International Trade and Labour Standards

The relationship between labour standards and international trade is often framed in polarised terms: labour protection is either seen as a moral necessity or as an obstacle to competitiveness. Both views are too simple. In global supply chains, low labour standards may reduce immediate costs while increasing long-term reputational, social, and governance risks. Conversely, higher labour standards may improve resilience, productivity, labour retention, and legitimacy even where they increase short-term compliance burdens[2, 8].

In India, these tensions are visible in debates over manufacturing growth, export competitiveness, and labour-intensive employment. The call for simplified labour law has often been accompanied by claims that worker-protective statutes deter formal job creation[7, 8]. Yet comparative and empirical work has repeatedly shown that the relationship between labour law and growth is contingent and mediated by enforcement, institutional design, firm strategy, and social policy[8]. The codes should therefore be evaluated not by whether they make labour cheaper or more "flexible," but by whether they improve the quality, stability, and dignity of work while supporting sustainable industrial development.

16.6.3 Role of Multilateral Institutions in Labour Reform

The ILO has influenced labour reform in India primarily through normative guidance, technical assistance, and the global legitimation of labour standards. Other global policy actors have sometimes emphasised deregulation, ease of doing business, or labour market flexibility[8]. The new labour regime sits at the intersection of these agendas. Its language of universalisation, social security extension, and welfare enhancement reflects the influence of international labour norms; its emphasis on simplification, single registrations, electronic returns, and inspectors-cum-facilitators reflects a governance model shaped by managerial and investment-oriented considerations[4, 19, 20, 21, 22].

This mixed genealogy is crucial. It means that international influence should not be equated with a uniformly pro-worker outcome. Global labour governance itself is plural: it includes hard law, soft law, technical expertise, benchmarking, comparative practice, and market pressure. India's labour codes selectively assemble these

elements into a domestic regulatory project that seeks to reconcile labour welfare with economic efficiency. The central question is not whether international influence exists, but which international influences have prevailed and with what distributive consequences.

16.7 Labour Codes and International Labour Standards

The labour codes offer the most concrete site for doctrinal analysis because they transform international influence into operative legal structures. They also illustrate how codification reorganises labour law from a dispersed welfare architecture into a smaller number of dense framework statutes. That transformation has analytical consequences: it creates greater conceptual coherence, but it also shifts significant normative detail into delegated legislation, administrative practice, and executive scheme-making[4, 5].

Table 16.2 India's Labour Codes and Modes of International Influence

Labour code	Pre-code consolidation	Dominant welfare technique	International reference point	Principal implementation challenge
Code on Wages, 2019	4 wage statutes	Universal wage floor, wage payment discipline, anti-discrimination	Conventions Nos 100, 111 and 131	Adequacy, revision, and enforcement of floor and minimum wages
Industrial Relations Code, 2020	3 collective labour statutes	Managed representation, dispute resolution, regulated industrial action	Conventions Nos 87 and 98; social dialogue principles	Balancing labour flexibility with collective worker voice
Code on Social Security, 2020	9 social security statutes	Boards, registration, and scheme-based extension to excluded workers	Convention No 102 and Recommendation No 202	Turning formal inclusion into funded and portable benefits
OSHWC Code, 2020	13 OSH and labour	Unified standards,	Conventions Nos 155 and 187;	Inspection capacity,

	welfare statutes	employer duties, preventive safety governance	2022 ILO Declaration amendment	technical standards, and governance of migrant/contract work

Source: Compiled from the four labour codes, the 2025 enforcement notification, and relevant ILO wage, social security and OSH instruments[4, 19, 20, 21, 22, 29, 30, 31, 32, 33].

Table 16.2 clarifies that the four codes differ markedly in the mode through which international influence is absorbed. The Code on Wages most closely approximates a rights-and-standards model; the Code on Social Security adopts a framework-and-schemes model; the OSH Code reflects a preventive-governance model; and the Industrial Relations Code embodies the most contested balance between managerial flexibility and collective labour rights. These differences are important because they suggest that "alignment with international standards" cannot be assessed in the abstract; it must be evaluated code by code.

The Code on Wages, 2019 is the clearest example of codification as substantive rationalisation. By consolidating wage payment, minimum wage, bonus, and equal remuneration laws, the Code regularises the vocabulary of wages and extends protection beyond the previously fragmented statutory field[19]. The floor wage provision, the power to fix and revise minimum wages, the gender non-discrimination clause, and the advisory board structure all echo international concerns with fair wages, equality, and tripartite participation[19, 27, 28, 29]. In policy terms, the Code is capable of supporting a nationally coordinated wage floor while retaining state-level differentiation.

Yet the Code also illustrates the limits of formal convergence. Wage justice depends on frequency and adequacy of revision, enforceability in informal and small establishments, access to claims processes, and the institutional seriousness of inspections. The move to inspectors-cum-facilitators and digitalised records may reduce compliance friction, but it also risks muting deterrence unless backed by transparent inspection algorithms, penalties, and worker-facing grievance systems[19]. International standards can justify the architecture, but they cannot substitute for administrative capacity.

The Industrial Relations Code, 2020 is the most controversial from an international labour standards perspective. On one view, it advances orderly industrial relations by providing for negotiating unions or negotiating councils, grievance redressal committees, and a more streamlined framework for dispute resolution[20]. These

provisions can be read as partial expressions of social dialogue and representational rationalisation. They are not normatively trivial; fragmented multi-union environments can impede stable bargaining, and the Code attempts to create institutional pathways for representation.

On another view, however, the Code weakens collective labour rights in ways that are difficult to reconcile with the spirit, if not the direct treaty obligations, of Convention Nos. 87 and 98[23, 24]. The universalisation of strike notice requirements, the expanded procedural controls on industrial action, and the elevation of thresholds for standing orders and for prior governmental permission in cases of lay-off, retrenchment, and closure indicate a shift toward greater managerial flexibility and tighter state supervision of collective action[20]. The re-skilling fund for retrenched workers is a welfare innovation, but it does not offset the structural reduction in worker leverage where collective bargaining institutions are weak[20]. From an international labour rights standpoint, the Code therefore reflects selective convergence: it recognises worker representation, but within a more controlled industrial relations framework.

The Code on Social Security, 2020 exemplifies a different strategy of internationalisation. Instead of guaranteeing a universal bundle of immediately enforceable benefits, it constructs a layered administrative framework capable of extending social protection to previously excluded categories[21]. The National Social Security Board, the registration architecture, the welfare schemes for unorganised workers, and the specific recognition of gig and platform workers are all consistent with the global turn toward social protection floors and inclusive labour market governance[21, 32, 33]. The inclusion of aggregator-based financing mechanisms is especially notable as an attempt to adapt social security thinking to digital labour markets[21].

Nonetheless, the Code's weaknesses are equally clear. Scheme-based welfare is vulnerable to under-design, under-funding, and uneven implementation. The legal recognition of a category is not the same as the delivery of cash, health, disability, maternity, old-age, or accident benefits at meaningful levels. Moreover, the Code does not resolve the employment-status question that lies at the heart of many platform-work disputes; it instead offers a welfare framework that can coexist with continued classification uncertainty[21, 35]. In this sense, the Code is innovative but incomplete: it reflects international concern with universalisation, but it stops short of a more robust rights-based restructuring of platform labour.

The Occupational Safety, Health and Working Conditions Code, 2020 may be the part of the new regime that most clearly benefits from codification. A multiplicity of

sectoral safety laws had long produced overlap, unevenness, and conceptual fragmentation. By bringing these subjects together, the Code facilitates more coherent standards, a common vocabulary of employer duties, and a unified enforcement imagination[22]. The National OSH Advisory Board, government power to specify standards, provisions on welfare facilities, and the recognition of the worker's right to warn of imminent danger situate safety within an institutional rather than purely remedial paradigm[22].

Yet here too implementation will decide the real significance of reform. Safety law depends on inspections, technical competence, worker awareness, reporting systems, and the capacity to govern labour supply chains, contract work, and migrant work. The continuing role of central rules and regulations after the codes came into effect underscores the extent to which codification remains incomplete without dense subordinate legislation and sustained administrative investment[37, 39]. The international lesson is plain: OSH rights are only as strong as the systems that monitor, investigate, and prevent harm.

Taken together, the four codes reveal the broader transformation of Indian labour governance. The system moves from detailed statute-specific welfare obligations toward a more standardised, centralised, and digitally administered model. International labour standards are woven into this architecture, but not uniformly. Where global norms support standard-setting, welfare boards, portability, or social insurance expansion, the codes often show visible convergence. Where international norms require stronger collective power or firmer social rights against employers and the state, codification is more cautious. That asymmetry is one of the defining features of India's new labour regime[4, 9].

16.8 Comparative Perspectives on Labour Law Reform

Comparative experience helps sharpen the evaluation of India's reforms. South Africa's National Minimum Wage Act, 2018 offers one useful comparison because it combines a statutory national minimum wage with an institutional mechanism for revision through a specialised commission operating within a broader tradition of social dialogue[36]. The South African model suggests that wage floors can be embedded in a more visible deliberative process, with clearer public reasoning about adequacy, exemptions, and revision cycles. India's floor wage framework under the Code on Wages moves in a comparable direction, but the transparency and authority of wage-fixing institutions remain an area for further development[19, 36].

The European Union's Platform Work Directive offers a second, very different comparison[35]. Whereas India's Social Security Code recognises gig and platform

workers primarily for welfare-scheme purposes, the EU approach places greater emphasis on employment-status presumptions, algorithmic transparency, and human oversight of automated managerial decisions[35]. The comparison is not meant to ignore contextual differences. Rather, it shows that recognition of platform workers can be pursued through at least two distinct legal pathways: a social security pathway and a labour-status-and-management pathway. India has chosen the former more decisively than the latter.

Comparative analysis therefore suggests that India's codification is innovative in some respects but normatively modest in others. It has moved faster than many jurisdictions in statutorily naming gig and platform workers; it has moved more cautiously on collective labour rights and on the regulation of algorithmic control. Similarly, it has consolidated OSH law impressively, but still faces the classic challenge of converting legal architecture into preventive capacity. Comparison thus supports a qualified rather than celebratory assessment of reform.

16.9 Critical Evaluation of International Influence on Labour Law Reform

The strengths of the new labour regime should be acknowledged clearly. First, codification reduces fragmentation and creates a more intelligible legal structure. For workers, employers, labour administrators, and courts, a coherent architecture can improve navigation and reduce duplication[4, 5]. Second, the Code on Wages universalises wage protection more effectively than the prior scheduled-employment model and preserves anti-discrimination norms[19, 27, 28, 29]. Third, the Social Security Code's recognition of unorganised, gig, and platform workers is a major conceptual advance, especially in light of global debates on the future of work[21, 32, 33]. Fourth, the OSH Code aligns domestic law with the rising global salience of safe and healthy work[2, 22, 30, 31]. Finally, digital registration, unified returns, and integrated boards may strengthen portability and administrative coordination if implemented well[21, 37, 39].

But the limitations are equally substantial. The first is normative asymmetry. International labour standards influence the codes most strongly where welfare can be expressed through state-administered standards and schemes; they influence the codes least where labour protection depends on autonomous worker power. The Industrial Relations Code's approach to strikes, thresholds, and managerial adjustment illustrates this point[20, 23, 24]. India's continuing non-ratification of Conventions 87 and 98 is therefore not an incidental treaty choice; it reflects a deeper hesitation about robustly constitutionalising collective labour power[3, 23, 24].

The second limitation is the difference between statutory inclusion and substantive entitlement. The Social Security Code's embrace of unorganised and platform workers is important, but its benefits remain contingent on future schemes, funding flows, registration practices, and institutional delivery[21, 32, 33]. Without strong implementation, welfare may remain aspirational. Similar concerns arise in OSH and wages: a floor wage can be set too low, and safety standards can remain weakly enforced. Codification cannot by itself resolve the chronic gap between formal labour law and labour market reality that scholars of Indian labour law have long emphasised[6, 7].

The third limitation concerns labour administration. The move toward inspectors-cum-facilitators, electronic records, and centralised portals may improve efficiency, but it can also marginalise workers who lack digital access, documentary capacity, or organisational support. Informal workers, migrants, women workers in precarious sectors, and platform workers may be formally visible to the system yet practically unable to secure benefits or remedies. A labour welfare regime cannot be judged solely by the elegance of its compliance architecture; it must be assessed by whether vulnerable workers can actually use it[9, 21, 34].

A fourth concern is federal and delegated governance. Labour is located substantially in the Concurrent List, and the codes rely heavily on rules, schemes, notifications, and administrative infrastructures that require coordination across the Union and the States[10]. The fact that rulemaking continued after the codes came into force is not anomalous; it is intrinsic to the codification design[40, 41, 42]. But it also means that implementation can be uneven, delayed, and opaque. In practice, much of the labour welfare content of the codes will be determined not by Parliament alone but by subordinate legislation and executive choices.

For employers, the regime offers greater clarity, unified compliance structures, and more predictable institutional design. For workers, it offers broader formal coverage but often thinner substantive guarantees. For labour administration, it creates an opportunity to modernise data systems and inspection, but also a risk of over-centralised digital formalism. For industrial relations, it promises order yet may reduce bargaining capacity where trade union strength is already uneven. This is the central paradox of codification: it can widen the legal map of labour welfare while narrowing the pathways through which workers exercise agency within it[4, 9, 20].

16.10 Policy Implications for Labour Governance in India

The policy implications of international labour standards for India's future labour governance are therefore substantial. First, India should treat international labour

norms not as external constraints on development, but as institutional resources for inclusive formalisation. Wage floors, social protection, and OSH systems can support productivity and labour market stability when backed by credible institutions[8, 29, 32]. Second, the state should deepen rather than dilute tripartite consultation. The legitimacy of labour reform depends not only on statutory outcomes but on the quality of social dialogue through which those outcomes are negotiated[1, 37].

Third, the implementation agenda now matters more than enactment. The codes require transparent rulemaking, adequate labour administration budgets, interoperable digital systems, worker-facing facilitation centres, and inspection regimes that combine facilitation with credible deterrence[21, 40, 41, 42]. Fourth, India should progressively align domestic law and practice more closely with international standards on collective labour rights and occupational safety. Formal ratification of all remaining conventions is a political question, but functional alignment in domestic law-especially through stronger protections for collective bargaining and safer workplaces-need not await treaty action[23, 24, 30, 31].

Fifth, social security for gig and platform workers should move from statutory recognition toward measurable benefit delivery. That requires stable financing, clear benefit design, simple registration, portability, and integration with broader health, accident, and income-security systems[21, 32, 33, 35]. Comparative practice suggests that platform work cannot be governed adequately through welfare schemes alone; questions of employment status, managerial control, and algorithmic accountability will become increasingly important[35].

In analytical synthesis, India's labour law codification represents a broader transformation from a dispersed, statute-dense welfare model to a consolidated, digitally administered, and selectively universalised regime of labour governance. The ILO and global labour standards have helped shape this transformation, but their influence has been translated through constitutional social justice, developmental state priorities, federal administration, and the politics of labour market reform. The result is not a simple story of convergence or divergence. It is a story of selective incorporation: labour welfare norms travel into domestic law, but they are reassembled in ways that privilege some dimensions of protection-wages, safety frameworks, social security architecture-over others, especially collective worker power. The future of India's new labour regime will therefore depend less on the symbolic achievement of codification than on whether international labour standards are operationalised as living institutions of labour justice rather than as managerial ideals of labour administration[4, 9, 10].

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Chapter 17

Ease of Doing Business versus Workers' Welfare: A Critical Assessment of the New Regime

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17.1 Introduction: The Policy Debate on Labour Regulation

Few questions in contemporary Indian labour law are as normatively charged as the relationship between economic efficiency and worker protection. Labour law is expected, at once, to discipline exploitation, stabilize industrial relations, and support an investment climate attractive to capital. That dual expectation has acquired fresh intensity with the codification of central labour legislation into 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, all of which were brought into force on 21 November 2025 and are now supplemented by central rules and administrative guidance.[2][3][4][5][6][7][8][9][11][12]

The legislative project was officially framed as a rationalization exercise. According to the Union government, the amalgamation of twenty-nine central labour enactments into four codes was intended to reduce definitional multiplicity, simplify compliance, employ digital technology in enforcement, and promote transparency, investment, and employment creation while simultaneously serving worker welfare.[10][11] The central policy vocabulary is therefore not one of deregulation in the abstract, but of regulatory redesign: one registration, one licence, one return; inspector-cum-facilitators in place of purely punitive inspection; standardized definitions across previously fragmented statutes; and broader use of online registration, record-keeping, and inspection systems.[12][10][11]

Yet codification has never been merely a technical exercise. Labour law in India has historically mediated unequal bargaining power, compensated for segmented labour markets, and operationalized constitutional commitments to dignity, equality, and social justice.[1][21][22][25] For that reason, the labour codes have generated a sustained controversy. Supporters portray them as long-overdue modernization, arguing that legal simplification and greater labour market flexibility will reduce transaction costs, attract investment, and encourage formal employment. Critics answer that the codes alter the substantive distribution of power by relaxing thresholds governing lay-off

and retrenchment permissions, extending strike notice requirements, and rendering important welfare protections dependent on executive schemes and administrative capacity rather than on dense statutory entitlements.[14][19][22][23][24]

This chapter proceeds from a simple but important premise: the opposition between "ease of doing business" and "workers' welfare" is real, but overstated if treated as a binary. The labour codes do not abandon welfare as a legislative objective; indeed, they repeatedly invoke wage security, social security, occupational safety, gender equality, and worker dignity.[2][4][5][11] At the same time, welfare in the new regime is often secured through a thinner and more managerial form of regulation-one that privileges standardization, digital compliance, and conditional or scheme-based protection, while enlarging managerial discretion in hiring, contracting, and exit in key sectors.[10][12][23][22] The central argument of the chapter is therefore that the codes represent an attempt to reconcile competitiveness and labour protection, but they do so through a structural recalibration that is normatively and institutionally contested. Whether the new regime ultimately balances these objectives depends less on declaratory statements of legislative intent than on thresholds, delegated legislation, labour administration, adjudicatory interpretation, and the continuing force of constitutional labour jurisprudence.

The discussion begins by locating "ease of doing business" in the broader economic-policy imagination of labour reform. It then reconstructs the historical evolution of labour welfare legislation in India, followed by a doctrinal account of the architecture of the four labour codes. The chapter subsequently analyses the constitutional principles and judicial decisions that shape labour rights in India, evaluates the impact of the codes on workers and employers, situates the Indian reforms within wider international labour debates, and concludes with a critical assessment of the implications of codification for labour governance in India.

17.2 Concept of Ease of Doing Business in Economic Policy

17.2.1 Meaning and Objectives of Ease of Doing Business

In contemporary economic policy, "ease of doing business" refers to the reduction of legal and administrative frictions that raise the cost of establishing, operating, expanding, or closing enterprises. In Indian labour law, the phrase has acquired a distinct administrative meaning: simplifying licences and registrations, rationalizing inspections, reducing duplicative compliance, standardizing definitions, and using digital platforms to lower transaction costs for business.[14][10][11] It does not necessarily imply the disappearance of regulation; rather, it signals a transition from multiple statute-specific controls toward integrated, process-based governance.

This objective rests on a critique of the pre-code legal order. Prior to codification, wage regulation, industrial disputes, trade union recognition, occupational safety, migrant labour, gratuity, provident fund, insurance, and maternity benefits were governed by separate enactments with different definitions of "worker", "employee", "wages", "establishment", and "appropriate government".[10][25][26] Employers faced overlapping returns and multiple inspectorates, while workers often encountered uneven enforcement and poor portability of rights.[10][11][12]

Ease-of-doing-business reforms in labour law therefore pursue three linked goals: subject-based consolidation, digitalized compliance, and greater predictability. In theory, these reforms can serve not only employers but also workers, because procedural clarity may reduce evasion and extend formal compliance. The harder question is whether procedural simplification is accompanied by adequate substantive protection.

17.2.2 Economic Rationale for Labour Market Flexibility

The economic argument for labour market flexibility is straightforward. Firms are said to invest more readily when labour law allows them to adjust workforce size, work organization, shifts, and employment forms in response to demand fluctuations, technological change, and competitive pressures. In this view, rigid dismissal laws and cumbersome approvals discourage labour-intensive manufacturing, encourage informality, and prevent enterprises from scaling up.[14][20][19] Flexibility is thus cast as a route to productivity, competitiveness, and employment generation.

In India, this argument gained strength after liberalization. Yet the empirical foundations of the "rigid labour law" thesis have been vigorously contested. Bhattacharjea's critiques show that much of the literature on labour rigidity relied on problematic coding of legal provisions and overstated causal claims about the relationship between labour regulation, investment, and industrial performance.[20][19]

A broad literature therefore cautions against the assumption that weakening employment protection automatically yields higher growth or employment. Labour markets are shaped by infrastructure, technology, demand, finance, and skill formation, so the effect of legal reform is contingent rather than mechanical.[19][21][22]

Even so, flexibility remains politically attractive because labour law offers governments a visible reform lever. For that reason, official documents usually speak not of flexibility alone but of an "optimum combination of flexibility and security".[14] The contest is therefore not over whether both values matter, but over how the balance is struck and what counts as adequate security.

17.2.3 Global Trends in Labour Market Reforms

The Indian reform agenda sits within a wider international pattern. Across jurisdictions, labour regulation has moved away from purely command-and-control

models toward combinations of flexibilization, social protection, and digitalized compliance. Comparative labour-law literature often describes this as a shift toward "flexicurity", in which enterprise adaptability is justified only when accompanied by income security, active labour-market measures, and meaningful collective representation.[21][18][55]

This global context matters because it shows that efficiency and welfare are not mutually exclusive policy categories. International institutions do not reject economic efficiency, but they typically insist that it be pursued within a framework of decent work, fair wages, safety, social protection, and social dialogue.[17][18][55][56][57] The challenge for India is similar: simplification may be defensible, but only if it does not reduce labour welfare to a thin administrative afterthought.

17.3 Concept of Labour Welfare and Worker Protection

17.3.1 Labour Welfare as a Social Justice Principle

Labour welfare in Indian law is not reducible to charity or employer benevolence. It is a legal response to structural inequality in labour markets. The wage contract may be formally consensual, but labour law proceeds from the recognition that consent in conditions of economic dependence is often materially constrained. Labour welfare legislation therefore imposes legal minima where market bargaining is inadequate, redistributes some risks of production away from workers, and protects the bodily integrity and dignity of labour.[1][21][25][26]

The welfare idea operates at several levels. It provides subsistence and security through minimum wages, timely payment, social insurance, gratuity, maternity benefits, accident compensation, and old-age protection.[31][28][33][34][35][4] It secures humane conditions of labour through regulation of hours, safety, health, and welfare amenities.[32][5][57] It also protects industrial citizenship through collective voice, fair procedure, and restraints on arbitrary dismissal or closure.[27][29][30][3] In all these senses, labour welfare is a principle of social justice, not merely administrative tidiness.

17.3.2 Protective Role of Labour Legislation

The historical evolution of labour welfare legislation in India reveals a movement from limited sectoral protection to a broader, though still fragmented, welfare architecture. Colonial labour law responded unevenly to industrialization. The Trade Unions Act, 1926 and the Payment of Wages Act, 1936 recognized associational and wage-protection concerns, but the more ambitious architecture emerged after independence.[27][28] The Industrial Disputes Act, 1947 institutionalized dispute resolution and employment security; the Minimum Wages Act, 1948 targeted wage exploitation; the Factories Act, 1948 reorganized workplace safety and welfare; and

the ESI and EPF statutes built contributory social protection for parts of the formal workforce.[30][31][32][33][34]

Later enactments widened this protective field. The Maternity Benefit Act, 1961 acknowledged reproductive labour and maternal health; the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 addressed distributive justice and gender equality; the Contract Labour Act, 1970 and the Inter-State Migrant Workmen Act, 1979 confronted specific vulnerabilities generated by subcontracting and labour mobility; and the Unorganised Workers' Social Security Act, 2008 recognized that welfare could not remain confined to the organized sector.[35][36][37][38][39][40] This layered history matters because it shows that labour welfare in India developed as a cumulative response to new forms of vulnerability.

The labour codes inherit this history, but they also reconfigure it. Codification can strengthen coherence, but it can also displace historically specific protections with more generalized frameworks. The crucial analytical issue is whether such generalization produces broader universality or thinner rights. The answer differs across the four codes.[2][3][4][5][23][24]

17.3.3 Labour Welfare and Constitutional Philosophy

The constitutional foundation of labour welfare is both explicit and diffuse. It is explicit in the Directive Principles, which require the state to secure a social order informed by justice, minimize inequalities, ensure adequate means of livelihood, guarantee equal pay for equal work, protect the health and strength of workers, provide public assistance in cases of unemployment, old age, sickness and disablement, secure just and humane conditions of work and maternity relief, and promote a living wage and workers' participation in management.[1] It is diffuse because labour welfare also draws strength from enforceable rights: equality under Articles 14 and 15, freedom of association under Article 19(1)(c), dignity under Article 21, and protection against forced labour and child labour under Articles 23 and 24.[1]

The Supreme Court's labour jurisprudence has repeatedly constitutionalized these commitments. In *People's Union for Democratic Rights*, the Court linked payment below statutory minima to Article 23; in *Bandhua Mukti Morcha*, it tied freedom from labour exploitation to dignity under Article 21; and in *Consumer Education and Research Centre*, it treated workers' health and medical care as integral to the right to life.[41][42][45] Equality jurisprudence has been similarly important: *Randhir Singh* treated equal pay for equal work as a constitutional goal, while *Mackinnon Mackenzie* reinforced anti-discrimination principles in remuneration.[43][46] In *D. S. Nakara*, social security was read in a manner consistent with constitutional commitments to security in old age.[44]

The Court has also insisted that welfare legislation be interpreted purposively. *B. Shah* and *Workmen of American Express* remain canonical statements of beneficial interpretation in labour law.[47][48] Yet constitutional labour rights are not unlimited. *Excel Wear* recognized employer freedom under Article 19(1)(g), while *All India Bank Employees' Association* and *T. K. Rangarajan* refused to constitutionalize strike action as a fundamental right.[50][51][52] The Constitution thus requires a balancing exercise: labour welfare is central to India's social order, but it must be reconciled with federal design, business freedom, and judicial limits on the constitutionalization of some collective claims.

17.4 Labour Reform Agenda in India

17.4.1 Economic Liberalisation and Labour Policy

The labour reform agenda that culminated in codification cannot be understood without post-1991 liberalization. Economic reform reoriented state priorities toward competitiveness, exports, private investment, and integration into global markets. In that setting, labour law became a central object of policy debate. Reform-minded economists and industry bodies argued that India's manufacturing sector had been constrained by rigid labour laws and cumbersome compliance. Labour organizations and critical scholars responded that the deeper problem was not over-protection but the coexistence of limited formal-sector protections with overwhelming informality, weak enforcement, and growing subcontracting.[20][14][15][16][22]

This shift changed the terms on which labour welfare was discussed. Welfare was no longer treated solely as a protective end in itself; it was increasingly linked to productivity, formalization, skill formation, and business confidence. Such reframing does not necessarily negate welfare commitments, but it does alter the metrics of success.

17.4.2 Policy Drivers behind Labour Law Codification

The immediate driver of codification was the recommendation of the Second National Commission on Labour that existing labour laws be grouped into a smaller number of comprehensive codes on a functional basis.[13] Over time, this recommendation was folded into a broader reform logic emphasizing simplification, digital governance, and harmonization of definitions. Official documents repeatedly stated that codification would reduce multiplicity of definitions and authorities, facilitate technology-enabled enforcement, improve transparency, and encourage enterprise creation and employment growth while also harmonizing the needs of workers and industry.[10][11] NITI Aayog's *Strategy for New India @ 75* similarly called for early codification and an "optimum combination of flexibility and security".[14]

The reform drivers were thus multiple: juridical simplification, administrative modernization, economic signalling, and the need to respond to non-standard work. The Social Security Code's treatment of unorganized, gig, and platform workers is especially important in this regard.[4][15][24]

17.4.3 Institutional Support for Labour Reform

Institutionally, the codification project drew support from the Ministry of Labour and Employment, NITI Aayog, and the digital-governance infrastructure associated with the Shram Suvidha Portal.[14][10][12] The Ministry's annual report underscores that labour remains in the Concurrent List and that both central and state governments must frame rules under the codes.[10] This is vital. Codification may be centrally enacted, but labour governance in India remains constitutionally federal and administratively dispersed.

The codes are therefore framework statutes rather than self-executing welfare settlements. Their operation depends on central and state rules, notifications, digital systems, labour-department capacity, and adjudicatory interpretation. This is especially obvious in social security, where statutory recognition of gig and platform workers does not automatically create a defined benefit architecture.[4][8][5][9]

17.5 Labour Codes and the Ease of Doing Business Agenda

The labour codes are both consolidating and constitutive statutes. They consolidate twenty-nine earlier enactments, but in doing so they also redesign institutions, thresholds, enforcement styles, and the relationship between the worker, the employer, and the labour department.[10][11][13][2][3][4][5]

Table 17.1. Policy Objectives of Labour Law Codification

Policy Objective	Description
Simplification	Consolidation of multiple labour statutes into four subject-based codes with common definitions and integrated structures
Compliance reform	Digital registration, electronic records, web-based or standardized inspections, and movement toward single registration, licence, and return
Labour flexibility	Greater managerial room in staffing, shift design, contract use, and exit decisions, especially through threshold changes and formal recognition of fixed-term employment

Welfare protection	Retention or reformulation of wage security, social security, occupational safety, gender-equality norms, and selected protections for unorganized, gig, and migrant workers

Source: Compiled from the Code on Wages, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code, 2020; Ministry of Labour and Employment, Annual Report 2024-25; and Press Information Bureau materials on implementation of the labour codes.[2][3][4][5][10][11]

Table 17.1 captures the central logic of codification: simplification and compliance reform serve the ease-of-doing-business agenda, while labour flexibility and welfare protection reveal the distributive compromise embedded in the new regime. These objectives do not always move together. A simplified framework may facilitate enforcement, but it may also dilute sector-specific protections; labour flexibility may support enterprise adaptation, but it may reduce procedural security for workers.

17.5.1 Simplification of Labour Legislation

The most visible achievement of codification is architectural. The Code on Wages consolidates four wage-related statutes; the Industrial Relations Code consolidates the Trade Unions Act, the Standing Orders Act, and the Industrial Disputes Act; the Code on Social Security consolidates the main central social-security enactments; and the OSHWC Code absorbs thirteen statutes concerned with factories, contract labour, migrant work, mines, transport, and related welfare regimes.[2][3][4][5][27][29][30][28][31][33][34][35][36][37][38][39][40]

Simplification has two dimensions. The first is definitional. The codes seek to standardize core terms such as "wages", "employee", "worker", and "establishment", though complete uniformity is not achieved because context-specific definitions remain.[2][3][4][5][25] The second is institutional. The codes rely on common structural devices-inspector-cum-facilitators, electronic maintenance of records, and greater use of delegated legislation capable of being integrated with online platforms.[2][5][6][9][12]

The simplification logic is especially clear in the Code on Wages. Under the prior regime, minimum wages applied only to scheduled employments. The new Code allows the appropriate government to fix minimum wages more generally and requires minimum rates to be set with reference to a nationally determined floor wage below which state minima cannot fall.[2][31][56] It also brings under a single legislative roof wage payment, minimum wages, bonus, and gender equality in remuneration and recruitment.[2][28][36][37]

The Social Security Code similarly assembles provident fund, insurance, gratuity, maternity benefit, compensation, construction cess, and unorganized-worker welfare within a common statutory architecture.[4][33][34][35][40] The OSHWC Code creates one registration for eligible establishments and a common or single licence architecture for contractors in prescribed situations, directly serving the goal of procedural economy.[5][9][11][12] Yet simplification is not normatively self-validating. A single architecture can universalize protection, but it can also flatten historically specific safeguards.

Table 17.2. Legislative Consolidation and Principal Regulatory Techniques under the Four Labour Codes

Code	Central enactments consolidated	Principal regulatory techniques	Likely significance
Code on Wages, 2019	4	Uniform wage definition, floor wage, broader minimum wage framework, inspector-cum-facilitator, digital compliance	Greater coherence in wage regulation; welfare gains depend on adequacy of wage fixation and enforcement
Industrial Relations Code, 2020	3	Negotiating union/council, grievance redressal committee, fixed-term employment, standing orders and retrenchment thresholds, strike notice rules	Simplifies industrial relations law but materially affects bargaining power and job security
Code on Social Security, 2020	9	Unified social-security architecture, boards and funds, Aadhaar-based registration, inclusion of gig/platform workers, pro-rata gratuity for fixed-term workers	Expands legal recognition beyond the organized sector, but many benefits remain scheme-dependent

OSHWC Code, 2020	13	Single registration, common licence, general duties of employer, appointment letters, migrant-worker self-registration, electronic record systems	Streamlines administration of working conditions while leaving major questions to thresholds and enforcement

Source: Compiled from the text of the four labour codes and related official implementation documents.[2][3][4][5][12]

Table 17.2 shows that codification is not merely editorial. Each code replaces a cluster of statutes with a distinct regulatory technique. The same legislative move that simplifies compliance may also reallocate risk and bargaining power.

17.5.2 Compliance Reforms

The ease-of-doing-business agenda is most clearly expressed in the compliance architecture of the codes. The central rules contemplate electronic maintenance of records, online filing, web-based systems, and inspection procedures intended to be more standardized and less opaque than the older localized inspectorate model.[6][7][8][9][12] The Ministry's implementation materials expressly frame this as a transition toward easier and more transparent compliance.[12][11]

A second theme is the transformation of inspection. The Code on Wages adopts the "inspector-cum-facilitator" model and authorizes web-based inspection schemes with elements of randomization and predefined parameters.[2][6] The OSHWC Code contains a similar orientation toward compliance facilitation rather than purely punitive inspection.[5][9] In principle, such a system can reduce rent-seeking and selective harassment. In practice, its welfare implications depend on inspection intensity and data quality. Where labour departments are understaffed or digital systems are weak, a facilitative inspection model can slide into under-enforcement.

A third theme is procedural integration. The OSHWC Code moves toward one registration for establishments and common or single licensing for contract labour in prescribed situations; the broader reform narrative also emphasizes common reporting formats and reduced duplication.[5][9][11][12] These changes reduce bureaucratic friction, but they may also privilege easily measurable formal compliance over harder substantive questions such as wage adequacy, workplace coercion, safety culture, or union discrimination.

17.5.3 Labour Market Flexibility

The most controversial flexibility-oriented provisions are found in the Industrial Relations Code. It recognizes fixed-term employment and requires parity in wages,

hours, and other benefits with comparable permanent workers, while the Social Security Code grants pro-rata gratuity to fixed-term employees in relevant cases.[3][4] This is a hybrid mechanism. It regularizes a form of labour deployment already widely used in practice, but it also normalizes temporariness within the core workforce and may weaken long-term bargaining power if fixed-term appointments become routine.[23][24][22]

The Code also restructures collective and dismissal-related protections. It requires notice before strikes and lockouts in all industrial establishments, raises the threshold for standing orders to establishments with 300 or more workers, and applies the prior-permission regime for lay-off, retrenchment, and closure only to establishments employing at least 300 workers.[3][23] Under the pre-code framework, the relevant thresholds were lower.[30][29][23] The increase is therefore not technical; it enlarges managerial discretion in medium-sized enterprises.

The OSHWC Code contains flexibility-oriented features in a different register. It permits women to be employed in all establishments and for all kinds of work, including beyond traditional time limitations, subject to consent and prescribed safety conditions.[5] Normatively, this can be read as an equality-enhancing shift away from paternalistic exclusion, but its welfare value depends on whether safety and transport protections are genuinely implemented. Similarly, contract-labour regulation is triggered only where fifty or more contract workers are engaged, which may reduce regulatory burden on smaller establishments but can also narrow the reach of protective oversight in outsourced work arrangements.[5][38]

The codes therefore embed flexibility through a pattern-threshold increases, standardized contract forms, procedural streamlining, and a managerialized compliance architecture. Whether this amounts to legitimate modernization or disproportionate dilution of protection remains the central question.

17.6 Impact of Labour Codes on Workers

17.6.1 Potential Benefits for Workers

A fair assessment of the codes must acknowledge their potential welfare gains. The Code on Wages expands the legal imagination of wage protection by moving beyond the old scheduled-employment model and by introducing the concept of a nationally fixed floor wage. It also retains the requirement of timely payment of wages, continues the bonus framework, and prohibits discrimination on the ground of gender in matters relating to wages and recruitment, subject to statutory exceptions where women's employment may otherwise be restricted by law.[2][28][31][36][37] For workers previously excluded from the schedules under the 1948 Act, the universalizing structure of the Code could be a real gain.

The Social Security Code also offers some significant advances. It recognizes unorganized workers, gig workers, and platform workers as categories within the labour law imagination, provides for their registration, and authorizes schemes concerning life and disability cover, accident insurance, health and maternity benefits, old-age protection, crèche and related matters.[4][8] For a labour market in which non-standard work is growing rapidly, mere recognition is not insignificant. The Code also carries forward gratuity, maternity protection, provident fund and insurance institutions, and, importantly, grants pro-rata gratuity to fixed-term employees rather than conditioning entitlement upon the conventional five-year service rule in the ordinary way.[4][34][35] This reduces one important inequity associated with fixed-term labour.

The OSHWC Code likewise contains worker-oriented features: appointment letters for employees in prescribed establishments, a stronger consolidated statement of employer duties regarding safety, welfare and working conditions, annual health check-ups in specified contexts, and self-registration of inter-state migrant workers through an electronic mechanism that may facilitate portability and access to benefits.[5][9][12] The Industrial Relations Code provides for Grievance Redressal Committees in establishments employing twenty or more workers and recognizes negotiating unions or negotiating councils for collective representation, which may improve internal dispute handling and collective dialogue where the institutions are actually allowed to function.[3]

17.6.2 Concerns Regarding Labour Rights

These welfare gains, however, coexist with serious concerns. The strongest critique concerns job security and collective bargaining. By raising the threshold for prior permission for lay-off, retrenchment, and closure to establishments with 300 workers, the Industrial Relations Code reduces statutory protection for workers employed in a large band of medium-sized establishments that previously fell within the stricter permission regime.[3][30][23] Similarly, the increase in the threshold for standing orders means that many workers will no longer benefit from statutorily standardized service conditions, leaving matters such as misconduct, discipline, and termination more directly within managerial rule-making or private contract.[3][29][23]

Strike regulation is another contentious area. The extension of notice requirements to strikes in all industrial establishments constrains workers' tactical capacity and may weaken collective bargaining, especially in sectors where prompt collective action has traditionally functioned as leverage in negotiations.[3][51][52][22] The absence of a constitutional fundamental right to strike does not eliminate the normative importance of industrial action in labour relations; rather, it heightens the significance of statutory design. From a policy perspective, the question is whether the Code

secures industrial peace through balanced procedure or through asymmetrical restraints on labour.

The formal legalization of fixed-term employment also presents a mixed picture. Equal pay and proportionate benefits are valuable protections, and they are preferable to disguised casualization.[3][4] Yet a workforce composed increasingly of fixed-term workers may still experience weaker solidarity, less bargaining power, and a heightened risk of cyclical replacement. In that sense, parity provisions can mitigate but not entirely neutralize precarity. The codes may therefore change the modality of insecurity rather than abolish it.

17.6.3 Implications for Informal and Vulnerable Workers

The hardest test for the labour codes lies in relation to India's overwhelmingly informal labour market. Recent labour-market evidence continues to show that the great majority of workers remain informally employed, and official policy instruments such as e-Shram have been developed precisely because welfare delivery cannot rely on traditional formal-sector identification alone.[15][16][10] The Ministry's own annual report records that e-Shram registrations had crossed 30 crore, underscoring both the scale of unorganized labour and the administrative ambition of digital registration.[10]

Against that background, the Social Security Code's recognition of unorganized, gig, and platform workers is symbolically important but legally incomplete. Registration is a gateway, not the benefit itself. The Code authorizes schemes; it does not by itself guarantee a defined universal basket of social-security benefits to all registered workers.[4][8][12] The proposed contribution architecture for aggregators similarly indicates an intention to finance gig-worker welfare, but the actual welfare value of the provision depends on notified contribution rates, benefit design, portability, grievance mechanisms, and institutional enforcement.[4] In other words, legal recognition without robust entitlements may produce visibility without full security.

Inter-state migrant workers present a similar problem. The OSHWC Code recognizes self-registration and portability-related ideas, but the shift from a tightly defined contractor-mediated regime toward a mixed threshold-and-registration model may individualize the burden of identification in ways that are difficult for vulnerable workers to navigate.[5][39][24] Workers in domestic work, home-based production, small workshops, agricultural labour, and dispersed supply chains may remain weakly protected where the statutory regime depends on establishment thresholds, digital literacy, or effective state intermediation. The codes do not ignore vulnerability; rather, they often address it through administrative frameworks whose adequacy remains uncertain.

17.7 Impact of Labour Codes on Employers and Industry

17.7.1 Benefits for Business Environment

For employers, the advantages of codification are substantial. Fragmented compliance across numerous statutes imposed real costs, particularly on enterprises operating in multiple states or combining manufacturing, logistics, services, and contract labour arrangements. The move toward common definitions, a smaller number of principal enactments, digital filings, and integrated licences promises a more navigable regulatory environment.[10][11][12] In that sense, the codes reduce legal uncertainty even where substantive obligations remain robust.

The reform also carries signalling value. Labour law reform has long been presented as part of India's effort to improve the investment climate and promote manufacturing expansion. The government has explicitly linked codification to employment generation, enterprise creation, and modernization of outdated law.[11][10][14] For investors, predictability regarding labour costs, closure rules, and inspection processes matters as much as the absolute level of regulation.

17.7.2 Regulatory Certainty for Employers

The most immediate employer gain is regulatory certainty. The definition of wages under the Code on Wages has implications across multiple statutory fields, including bonus and social-security calculations, and helps standardize payroll structures even while creating transitional adjustment costs.[2][12] Likewise, the formal recognition of fixed-term employment reduces ambiguity over a form of labour engagement that many firms already used indirectly or through awkward arrangements.[3][4] The shift from multiple inspectors and local registers toward digital systems and inspector-cum-facilitators can also lower compliance anxiety.

Certainty, however, is not deregulation. Employers must still satisfy wage minima, gratuity rules, provident-fund and insurance obligations when covered, occupational-safety duties, and industrial-relations procedures.[2][4][5][3] In many establishments, the new regime reorganizes obligations more than it removes them.

17.7.3 Industrial Productivity and Labour Relations

Whether the codes improve productivity depends partly on how they affect labour relations. Greater flexibility in staffing and shifts can improve operational efficiency, and the removal of exclusionary restrictions on women's work may widen labour supply in some sectors.[5] Yet productivity is not produced by legal flexibility alone; it also depends on skill, trust, low turnover, and a sense of procedural fairness.

Two possibilities therefore coexist. In the optimistic account, simplified law, clearer procedures, grievance committees, and negotiating-union mechanisms may reduce confusion and stabilize enterprise-level relations.[3][12] In the less optimistic account,

workers may experience the codes as weakening job security and collective leverage, with conflict shifting outside formal institutions. The long-term business value of codification will depend on which of these trajectories becomes dominant.

17.8 International Perspectives on Labour Reform

International labour regulation offers no simple blueprint, but it does provide normative benchmarks and comparative cautions. The ILO's decent work framework treats productive enterprise and labour protection as mutually reinforcing rather than mutually exclusive goals. Decent work requires employment opportunities, rights at work, social protection, and social dialogue; it is therefore structurally opposed both to pure deregulation and to an unrealistic defence of rigid legalism detached from labour-market realities.[17][18][55][57] In relation to wage policy, Convention No. 131 emphasizes that minimum-wage systems should take account both of workers' needs and of economic factors. Convention No. 102 and the social-protection-floor approach underline the importance of basic social security guarantees. Convention No. 155 addresses occupational safety and health, while Convention No. 183 articulates minimum maternity protection standards.[56][55][57][58]

Collective labour rights remain especially relevant in evaluating the Industrial Relations Code. International labour standards place considerable emphasis on freedom of association and collective bargaining through Conventions Nos. 87 and 98. India has long engaged with these principles through constitutional law and domestic industrial-relations legislation, but the continuing non-ratification of Conventions 87 and 98 remains normatively significant in debates over union recognition, bargaining autonomy, and strike regulation.[17][18][53][54] The issue is not simply formal ratification. It is whether the design of industrial-relations institutions allows workers an effective voice commensurate with the growth of enterprise flexibility.

Comparatively, one lesson is especially clear: labour-market flexibilization is least damaging when paired with robust security institutions. Jurisdictions that allow easier labour adjustment often offset insecurity through unemployment protection, active labour-market policy, portable benefits, and stronger social dialogue. Where such institutions are weak, deregulation tends to shift risk downward onto workers.[21][55] The Indian labour codes gesture toward such a balance-particularly through social-security recognition of non-standard workers and retention of wage and safety norms-but the balance remains incomplete because many protections remain conditional, threshold-based, or heavily dependent on administrative follow-through. The international perspective therefore supports neither blanket condemnation nor unqualified celebration. It suggests instead that codification can be defensible only if flexibility is anchored in genuinely enforceable welfare floors.

17.9 Critical Evaluation of the New Labour Regime

A critical assessment of the new labour regime must begin by avoiding two easy caricatures: first, that the codes amount to a wholesale abandonment of labour welfare; secondly, that they are merely neutral consolidation with no distributive consequences. Both claims are inaccurate. The codes preserve and in some respects broaden important welfare commitments-universal minimum-wage architecture, floor-wage logic, prohibition of gender discrimination in wages, retention of gratuity and maternity benefit, recognition of gig and platform workers, consolidated occupational-safety duties, appointment letters, and internal grievance structures.[2][4][5][3][12] At the same time, they materially expand managerial discretion in relation to labour deployment, industrial action, and enterprise exit, especially through threshold changes and procedural restrictions under the Industrial Relations Code.[3][23][22]

The strengths of codification are real. It corrects a genuine problem of legislative fragmentation. A labour-law architecture spread over dozens of enactments with inconsistent definitions was costly for employers, difficult for labour departments to administer, and often unintelligible to workers themselves.[10][11][25] The codes also better acknowledge the contemporary world of work. The Social Security Code's treatment of gig and platform workers, the OSHWC Code's portability-oriented provisions for migrant workers, and the relaxation of exclusionary restrictions on women's work all reflect the inadequacy of the old factory-centric model.[4][5][24] Additionally, digitalization and integrated compliance can improve traceability and reduce the discretionary opacity historically associated with labour inspection.[6][9][12]

The limitations are equally substantial. The first is the asymmetry between flexibility and security. The Industrial Relations Code makes it easier for a significant class of establishments to retrench, lay off, or close without prior governmental permission, but it does not create a commensurate unemployment-security framework or universal income support architecture for displaced workers.[3][23][55] The re-skilling fund is a useful but modest device, not an equivalent substitute for stronger employment security. Secondly, the expansion of fixed-term employment is only partially cushioned by parity and gratuity provisions; it may still encourage recurrent labour turnover and weaken union formation.[3][4][22] Thirdly, strike regulation under the Code may deepen the already uneven legal terrain of collective bargaining by imposing procedural burdens on workers without creating stronger institutional incentives for good-faith bargaining by employers.[3][51][52][54]

A second major limitation concerns vulnerable workers. The Social Security Code does not fully resolve the core problem of India's labour market: the distance between legal recognition and actual social-security delivery. Registration through Aadhaar-

linked systems and scheme authorization may improve visibility, but visibility is not the same as entitlement.[4][8][10] For gig and platform workers in particular, the Code leaves unresolved critical questions about income floors, working-time control, algorithmic management, transparency in deactivation, and collective representation. A welfare regime that recognizes the platform worker without addressing the governance power of the platform remains incomplete.[24][17] Likewise, threshold-based coverage under the OSHWC Code may leave many workers in smaller or diffuse workplaces outside effective protection, even where hazards are significant.[5][57]

The third limitation lies in implementation. Because labour is in the Concurrent List, effective realization of the codes depends on state rule-making, administrative coordination, digital capacity, trained inspectorates, and adjudicatory infrastructure.[1][10] Codification creates a unified legislative shell, but not automatically a unified enforcement state. Interoperability problems, uneven state capacity, limited worker awareness, and persistent informality can all blunt the practical impact of even well-designed provisions. There is also a risk that digital compliance will privilege formal paperwork over substantive labour standards if inspection becomes excessively data-driven and under-resourced.

Constitutional doctrine supplies an important critical lens here. Decisions such as *PUDR*, *Bandhua Mukti Morcha*, *Consumer Education and Research Centre*, *B. Shah*, and *Harjinder Singh* remind us that labour statutes cannot be read merely as business regulations; they are part of a constitutional project of social justice and dignified life.[41][42][45][47][49] That does not eliminate the relevance of enterprise freedom, as *Excel Wear* shows, but it does require that statutory interpretation and policy design preserve meaningful substantive minima for those whose bargaining power is weakest.[50] Measured against that constitutional standard, the labour codes are defensible only if their welfare provisions are interpreted purposively and implemented robustly. Without that, the language of balance risks becoming a formal cover for substantive imbalance.

17.10 Policy Implications for Labour Governance

The labour codes reshape the broader architecture of labour governance. First, they push labour administration from a fragmented inspectorate model toward a data-intensive governance model built around integrated portals, electronic records, common identifiers, and rule-based inspections.[10][12][6][9] This may improve transparency, but it also requires investment in digital infrastructure, interoperable state systems, training, and safeguards against exclusion arising from digital illiteracy or documentation gaps.

Secondly, the codes promote a more structured and enterprise-centred model of industrial relations through negotiating unions or councils, internal grievance committees, and procedural regulation of strikes and layoffs.[3] That may improve predictability, but it also risks narrowing labour politics to controlled internal channels unless workers retain genuine bargaining power.

Thirdly, codification shifts labour governance from sector-specific welfare statutes toward generalized regulatory frameworks. This can aid coherence, but it places greater pressure on delegated legislation and labour departments to preserve attention to sectoral vulnerability. Construction, platform work, logistics, home-based work, and small workshops do not experience risk in the same way.

Three policy priorities follow. Welfare provisions should be thickened through rules and schemes that convert recognition into enforceable benefits, especially for gig, platform, migrant, and unorganized workers.[4][5][10] Inspection reform should combine facilitation with credible deterrence.[2][5][12] And industrial-relations governance should be strengthened through accessible conciliation, timely adjudication, and protection against anti-union retaliation, so that flexibility does not hollow out collective voice.[3][53][54]

17.11 Conclusion

The new labour regime represents one of the most consequential reorganizations of Indian labour law since independence. Its normative ambition is unmistakable: to reconcile a competitive business environment with a continuing commitment to labour welfare.[10][11] In legislative form, that ambition takes the shape of consolidation, digital compliance, standardized definitions, broader recognition of new labour forms, and selective flexibility for employers. The resulting framework is neither a simple neoliberal retreat nor a straightforward welfare-state advance. It is a hybrid model of labour governance.

The chapter has argued that codification does achieve genuine gains in coherence, administrative clarity, and in some areas substantive inclusion. The universalizing wage framework, retention of social-security institutions, recognition of gig and platform workers, consolidation of occupational-safety norms, and procedural innovations in grievance handling all testify to the continuing centrality of labour welfare in Indian law.[2][4][5][3] But the chapter has also shown that the new regime redistributes risk. Higher thresholds for employment-protection obligations, wider strike restrictions, dependence on delegated schemes, and continued reliance on threshold-based coverage for many protections create significant vulnerabilities, especially for workers with weak bargaining power or intermittent attachment to formal enterprises.[3][4][5][23][24]

In constitutional terms, the labour codes must therefore be read against the enduring commitment of the Indian Constitution to dignity, equality, social justice, humane conditions of work, and protection from exploitation.[1][41][42][45][49] Their future legitimacy will depend on whether institutions of labour governance-ministries, state departments, inspectorates, boards, tribunals, unions, and courts-interpret and implement them in a manner that preserves those commitments while accommodating economic change. Codification has transformed the form of labour governance in India. The unresolved question, and the central one for the broader monograph, is whether it will also transform the substance of labour welfare in a manner faithful to the social constitutionalism from which Indian labour law historically drew its authority.

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Chapter 18

Judicial Responses to Labour Law Codification: Trends and Challenges

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18.1 Introduction: Judiciary and the Evolution of Labour Law

The codification of Indian labour law into 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 marks the most ambitious restructuring of labour legislation since Independence. The four codes replace twenty-nine central enactments, but the significance of the reform lies not merely in legislative consolidation. The codes alter the architecture of labour governance by creating broader umbrella statutes, shifting substantial detail into delegated legislation, standardising regulatory devices such as the inspector-cum-facilitator, introducing digital registration and compliance mechanisms, and recasting old distributive compromises through new thresholds, definitions, and institutional arrangements.[2, 3, 4, 5, 7, 11]

This restructuring matters because labour law in India has never been a self-contained statutory field. Courts have long interpreted labour legislation against the background of constitutional commitments to equality, dignity, social justice, and protection against exploitation. Labour adjudication has also evolved through an uneasy but enduring effort to reconcile distributive welfare with industrial peace, managerial prerogative, and economic policy. Codification therefore does not diminish the judicial role. It intensifies it. Framework statutes leave more space for interpretive choice; new categories such as gig workers and platform workers generate fresh doctrinal questions; and the codes operationalise reform through rules, schemes, and notifications that are themselves vulnerable to challenge or under-enforcement.[1, 4, 5, 10, 11, 37, 38, 39]

The chapter proceeds on the central claim that judicial interpretation will be decisive in determining whether labour law codification is ultimately experienced as a renewal of labour welfare or as a transition toward a more managerial and flexibility-oriented regime. That proposition is already visible in the first wave of litigation after the codes were brought into force on 21 November 2025. Early decisions have not yet resolved the deepest normative questions. They have, however, revealed a judicial

preference for continuity, avoidance of adjudicatory vacuum, and selective migration of pre-code doctrine into the new statutory framework. Those early moves will matter greatly for the future of labour rights jurisprudence.[6, 8, 9, 32, 33, 34, 35, 36]

18.2 Role of the Judiciary in Labour Jurisprudence

18.2.1 Courts as Guardians of Labour Rights

Indian courts have historically functioned as guardians of labour rights in three interrelated senses. First, they interpret labour statutes that are drafted in general language and that often depend on judicial elaboration for workable content. Secondly, they review executive action by labour departments, welfare boards, inspectors, tribunals, and recovery authorities. Thirdly, they constitutionalise labour welfare by reading statutory protections in light of broader commitments to human dignity and social justice. This role is especially important because labour law regulates relationships characterised by structural inequality in bargaining power. Without judicial mediation, formal rights can be reduced to paper guarantees by evasion, misclassification, procedural delay, or narrow administrative interpretation.[17, 18, 22, 24, 25, 44, 45]

At the same time, judicial guardianship has never meant unqualified preference for employees in every dispute. Courts have also treated industrial peace, continuity of production, and the orderly use of statutory dispute-resolution machinery as important public values. Labour jurisprudence is therefore best understood as a constitutional balancing exercise rather than a one-directional redistributive project. Judicial doctrine protects wages, health, maternity, and non-exploitation, but it also preserves procedural channels for collective bargaining, conciliation, and adjudication, and it acknowledges that labour regulation operates within a wider framework of economic governance.[15, 30, 31, 36, 37, 38]

18.2.2 Judicial Approach to Labour Legislation

A recurrent principle in Indian labour jurisprudence is that labour statutes are beneficial or social-welfare legislation and should ordinarily be interpreted purposively rather than narrowly. This method has been particularly visible where courts have had to decide whether a class of workers falls within a statutory definition, whether a welfare benefit should be construed expansively, or whether formal contractual language can defeat the protective object of a statute. Beneficial interpretation does not license judicial disregard of text, but it does require judges to read labour enactments in a manner consistent with their remedial purpose and with the social realities of unequal employment relations.[15, 16, 24, 25, 44, 45]

Yet the beneficial-interpretation principle has always existed alongside a more cautious strand of doctrine. Courts have, at crucial moments, insisted that remedial

purpose cannot justify creating rights that the legislature did not confer, disregarding carefully drafted thresholds, or ignoring the conceptual boundaries of employment status. Decisions such as Steel Authority of India Ltd. v National Union Waterfront Workers and Workmen of Nilgiri Coop. Mkt. Society Ltd. v State of Tamil Nadu exemplify judicial reluctance to convert labour welfare into unbounded judicial legislation. Likewise, in disputes concerning strikes and broader economic regulation, the courts have often been deferential to legislative design and public-order concerns.[26, 27, 30, 31, 45]

18.2.3 Constitutional Dimensions of Labour Jurisprudence

The constitutional foundations of Indian labour jurisprudence are distributed across both Fundamental Rights and Directive Principles of State Policy. Articles 14 and 21 supply norms of equality, fairness, and dignity. Articles 23 and 24 prohibit forced labour and child labour in constitutionally salient forms. Article 19(1)(c) protects association, even though courts have not accepted an unqualified fundamental right to strike. On the Directive Principles side, Articles 38, 39, 41, 42, 43, and 43A articulate a constitutional vision of social order, just and humane conditions of work, maternity relief, living wages, and worker participation in management. Labour adjudication has repeatedly drawn these provisions together to transform statutory protections into expressions of constitutional morality.[1, 17, 18, 19, 22, 25, 31]

The practical effect of this constitutionalisation has been substantial. In People's Union for Democratic Rights, the Supreme Court treated non-payment of minimum wages as a form of forced labour within Article 23. In Bandhua Mukti Morcha, the Court converted labour exploitation into a constitutional issue of state obligation. Randhir Singh linked equal pay claims to constitutional equality; Consumer Education and Research Centre connected occupational health to the right to life; and Municipal Corporation of Delhi v Female Workers extended maternity protection beyond formal regular employment. These decisions did more than settle individual disputes. They supplied the interpretive grammar through which later labour statutes, and now the labour codes, are likely to be read.[17, 18, 19, 22, 25, 28]

Table 18.1 Key Judicial Themes in Labour Jurisprudence

Judicial principle	Significance for labour law
Beneficial interpretation	Supports purposive readings of labour legislation so that remedial rights are not defeated by formalistic or purely contractual arguments.

Constitutional protection	Connects labour welfare with equality, dignity, health, livelihood, and protection against exploitation under the Constitution.
Judicial activism	Expands labour protection where legislative or executive action is inadequate, especially in contexts of bonded labour, minimum wages, health, and maternity.
Judicial restraint	Recognises limits of adjudication and shows deference to legislative judgment in economic regulation, institutional design, and broad policy line-drawing.

Source: Compiled from Supreme Court labour jurisprudence and academic commentary discussed in the text.

The significance of these principles is captured in Table 18.1. What the table shows is not a set of isolated doctrinal labels, but a historically layered judicial method. Beneficial interpretation protects labour statutes from being hollowed out by formalism. Constitutional protection anchors labour welfare in rights language. Judicial activism has expanded the reach of labour protection in situations of vulnerability and state inaction. Judicial restraint, however, remains a countervailing principle, especially where labour reform is defended as economic legislation. The future of code interpretation will be shaped by the way judges move between these competing impulses.[17, 18, 22, 25, 30, 37, 38]

18.3 Evolution of Judicial Interpretation in Labour Law

18.3.1 Early Judicial Interpretation of Labour Laws

Early labour jurisprudence in India developed around the institutional needs of industrial capitalism: defining the employer-employee relationship, structuring industrial peace, and clarifying the reach of statutory adjudication. The courts were required to decide what counted as an "industry", who counted as a "workman", when a dispute was "industrial", and how far labour statutes could penetrate formally private contractual arrangements. Those questions were never merely technical. They determined which forms of vulnerability would be juridically visible and which would remain outside the reach of labour law.[15, 37, 44, 45]

Bangalore Water Supply & Sewerage Board v A. Rajappa remains the most influential statement of the expansive judicial phase. By reading "industry" broadly, the Court enabled large segments of organised activity to fall within the labour-law

net. Hussainbhai, Calicut v Alath Factory Thozhilali Union performed a similarly important function for triangular work arrangements, directing attention to economic reality rather than merely to contractual intermediation. The doctrinal impulse in these cases was clear: labour protection should not be defeated by corporate form, outsourcing structure, or nominal arrangements that obscure dependency.[15, 16, 37, 44]

Over time, however, the Supreme Court introduced greater conceptual discipline. In Workmen of Nilgiri Coop. Mkt. Society, the Court emphasised multi-factor tests for employment status and cautioned against reducing the inquiry to a single formal or economic marker. In Steel Authority of India Ltd., the Court refused to sustain a doctrine of automatic absorption of contract labour absent statutory direction. These decisions did not abandon labour protection, but they signalled that judicial expansion would henceforth be more text-sensitive and institutionally restrained. That tension between expansive welfare logic and doctrinal discipline is reproduced in the labour codes.[26, 27, 45]

18.3.2 Expansion of Labour Rights through Judicial Activism

The most transformative phase of labour jurisprudence emerged when the Court began to treat labour exploitation as a constitutional wrong rather than a matter of ordinary statutory compliance. In People's Union for Democratic Rights, the Court held that compelling persons to work for less than the statutory minimum wage amounts to forced labour under Article 23. The significance of that move was profound: minimum wages were no longer merely a statutory floor set by the state; they became part of the constitutional prohibition against exploitative labour extraction.[17, 19]

Bandhua Mukti Morcha extended the same logic into the domain of bonded labour, migrant vulnerability, and state inaction. The Court rejected a narrow adversarial model and employed public-interest litigation to insist that labour exploitation implicated the constitutional obligation of the state to identify, release, and rehabilitate affected workers. This was an activist moment in the strong sense: the judiciary was not simply resolving bilateral disputes but redefining the institutional responsibilities of governance in the face of labour coercion and social marginality.[18, 37, 38]

A related expansion occurred in cases on workplace health, job security, and arbitrariness in employment. Consumer Education and Research Centre treated the protection of workers from occupational disease as part of the right to life. D.K. Yadav v J.M.A. Industries Ltd. insisted that termination affecting livelihood must satisfy standards of fairness and non-arbitrariness. Central Inland Water Transport Corpn. Ltd. v Brojo Nath Ganguly and Delhi Transport Corporation v D.T.C. Mazdoor Congress subjected one-sided or arbitrary service conditions to

constitutional scrutiny. Read together, these cases moved labour law beyond wage regulation into a richer jurisprudence of dignified work and fair employment relations.[20, 21, 22, 23]

Judicial activism also widened the social-welfare dimension of labour law. In Municipal Corporation of Delhi v Female Workers, the Court extended maternity protection to muster-roll workers, refusing to confine maternity relief to formally regular employment. Air India Statutory Corporation v United Labour Union similarly reflected a welfare-sensitive attitude to statutory interpretation, even though later doctrine would temper parts of its reasoning. The cumulative effect of these cases was to normalise the idea that labour legislation should be interpreted against the lived conditions of workers rather than only through the formal categories favoured by management or administration.[24, 25, 26]

18.3.3 Judicial Interpretation of Worker Welfare

Worker welfare jurisprudence has developed through a series of doctrinal bridges between statute and Constitution. Minimum-wage law became intertwined with Article 23; equal-remuneration claims drew support from equality principles; occupational health came to be seen as a component of life and dignity; and maternity, social security, and humane conditions of work were increasingly read through Articles 14 and 21 in conjunction with Directive Principles. This constitutional layering matters because it raises the normative cost of legislative or administrative regression. Once labour protection is attached to dignity and non-exploitation, courts are less likely to treat it as a mere policy preference.[1, 17, 19, 22, 25, 28]

The later equal-pay cases, including State of Punjab v Jagjit Singh, show how labour welfare continues to evolve through constitutional idioms even outside classic industrial adjudication. Jagjit Singh did not create a general doctrine of parity across all forms of work, yet it reaffirmed that the state cannot casually exploit precarious status to deny equal pay for equal work in functionally comparable roles. Such reasoning is important in the contemporary world of fixed-term employment, contractualisation, and platform-mediated labour, where differential legal status is often used to justify distributive inequality.[19, 28, 40, 41]

The pandemic-era migrant workers litigation further highlighted the institutional dimension of labour welfare. In Re Problems and Miseries of Migrant Labourers, the Supreme Court pushed the executive toward registration, database creation, portability, and better coordination in relation to unorganised and migrant workers. That intervention foreshadowed key features of the Code on Social Security and the OSHWC Code, both of which rely on registration and portable entitlements. The case is therefore a bridge between older welfare jurisprudence and the digitalised governance strategies of codification.[4, 5, 29]

By the eve of codification, Indian labour jurisprudence had thus produced a layered inheritance: purposive interpretation, constitutional anti-exploitation norms, scepticism toward sham contractual forms, recognition of health and maternity as welfare rights, and an increasingly visible concern with portability and informality. But it had also absorbed a counter-impulse toward restraint, doctrinal clarity, and deference to legislative choices in economic policy. The labour codes enter this judicial field as statutes that simultaneously invite continuity and generate pressure for rebalancing.[26, 27, 30, 37, 38, 39]

18.4 Judicial Challenges to Labour Law Codification

The labour codes contain a large number of provisions whose practical significance will depend on judicial interpretation. The Code on Wages creates a common wage concept, authorises a floor wage, prohibits gender discrimination, and restructures compliance. The Industrial Relations Code governs recognition of negotiating unions and councils, fixed-term employment, standing orders, lay-off, retrenchment and closure thresholds, and strike and lock-out regulation. The Code on Social Security reworks the institutional matrix of provident fund, insurance, gratuity, maternity, and welfare schemes, while also introducing statutory recognition of gig workers, platform workers, and aggregator contributions. The OSHWC Code consolidates health and safety obligations, migrant-worker regulation, common licensing, women's access to all establishments subject to safeguards, and portability-linked welfare mechanisms. Each of these features creates distinct sites of constitutional and doctrinal challenge.[2, 3, 4, 5, 7, 8, 11]

18.4.1 Constitutional Challenges to Labour Codes

At the threshold lies the question of constitutional competence and institutional design. Labour appears in the Concurrent List, enabling both Parliament and state legislatures to legislate, but codification does not eliminate federal tensions. The central codes depend heavily on state rules, implementation machinery, and adaptation by regional labour administrations. This produces the possibility of repugnancy disputes, uneven enforcement, and differential operationalisation across states. It also raises a more subtle constitutional issue: whether broad framework statutes that displace detailed prior legislation while leaving substantial content to rules and schemes create an accountability deficit in labour governance.[1, 10, 11, 37]

Equality challenges are also foreseeable. The Industrial Relations Code raises the threshold for standing orders and for prior government permission in cases of lay-off, retrenchment, and closure from one hundred workers under the earlier regime to three hundred workers for the relevant chapter. The formal legislative justification is labour-market flexibility and reduced compliance burden for smaller establishments.

The constitutional question, however, is whether such thresholds create unjustified stratification in the intensity of protection afforded to similarly vulnerable workers. Courts reviewing such provisions are unlikely to adopt strict scrutiny, but Article 14 challenges may still ask whether the classification has a rational connection to the statutory purpose and whether the burden on workers is disproportionate to the claimed reform objective.[3, 10, 11, 30, 39, 41]

Collective rights present a second line of constitutional challenge. Section 62 of the Industrial Relations Code broadens the requirement of notice before strike or lock-out, extending a notice-based model beyond public utility services. Indian doctrine does not recognise a fundamental right to strike, and T.K. Rangarajan remains an important reminder of the judiciary's reluctance to constitutionalise strike action as such. Yet the absence of a fundamental right to strike does not make all restrictions constitutionally invisible. Courts may still assess whether the statutory scheme unduly weakens collective bargaining, whether procedural restrictions are used oppressively, and whether the state has preserved meaningful avenues for workers' associational agency under Article 19(1)(c).[3, 14, 31, 36]

A further constitutional challenge concerns delegated legislation and implementation-by-scheme. The Code on Social Security and the OSHWC Code contain many provisions whose effective content depends on notifications, registration platforms, scheme design, and administrative coordination. A right that depends entirely on future executive operationalisation can become hollow, especially for unorganised, migrant, or platform workers. Courts may therefore be drawn into Article 14 and Article 21 challenges not only to restrictive statutory text but also to administrative delay, selective notification, defective digital architecture, or exclusionary implementation practices. The migrant workers case before the Supreme Court has already demonstrated judicial willingness to push the state toward operationalisation where formal entitlement is undercut by administrative inertia.[4, 5, 7, 8, 29]

The Code on Wages illustrates how even apparently technical drafting choices may become constitutional and distributive controversies. The statutory definition of wages now operates across several legal consequences, while the floor-wage mechanism seeks to create a national normative baseline beneath state minimum wages. Judicial disputes may therefore arise over the permissibility of excluding allowances, the relationship between floor wage and state rates, and whether compliance-oriented devices such as the inspector-cum-facilitator model dilute traditional enforcement. A court that treats these questions as merely administrative may understate their welfare significance, because wage definition and enforcement design directly affect the monetary value of labour protection.[2, 7, 8, 11, 17, 19]

18.4.2 Disputes Concerning Worker Classification

Perhaps the most difficult doctrinal questions generated by codification arise from worker classification. The Code on Social Security defines "gig worker", "platform work", and "platform worker" and creates a statutory basis for welfare schemes, registration, and contributions by aggregators within a capped percentage framework. This is a remarkable development in one sense: for the first time, central labour legislation expressly acknowledges large segments of workers whose labour is mediated by digital platforms and who have historically fallen outside the classical employee model. Yet recognition through social-security categories is not the same as recognition as employees or workers for the purposes of the other codes.[4, 7, 8, 42] This architecture creates an interpretive paradox. On the one hand, the Code on Social Security can be read as an inclusionary move that extends welfare to categories previously invisible to labour law. On the other hand, the very act of defining gig and platform workers outside the conventional employer-employee frame may encourage arguments that these workers belong to a separate welfare track with diluted rights. Litigation is therefore likely to proceed along two distinct but connected routes. The first route will seek enforcement of social-security entitlements as gig or platform workers under the Code itself. The second will argue, in appropriate cases, that notwithstanding contractual labels, a worker is in substance an employee or worker under the Code on Wages, the Industrial Relations Code, or the OSHWC Code.[2, 3, 4, 5, 16, 27, 42]

In such disputes, pre-code doctrine will remain important. Hussainbhai directs attention to economic reality and the location of effective control. Nilgiri emphasises a multi-factor inquiry into supervision, control, integration, and the overall structure of the relationship. These tests are not fully tailored to algorithmic management, platform ratings, surge pricing, and digital termination, but they provide the closest available doctrinal bridge. Indian courts may eventually have to develop a more refined approach that combines functional dependency, control over essential terms of work, and the worker's inability to bargain over platform architecture. Until then, worker classification in the code era will remain a site of deep uncertainty.[16, 27, 42, 43] International labour standards point in an inclusionary direction even if they do not prescribe a single model of employee status for platform labour. The International Labour Organization now treats Convention No. 155 on occupational safety and health as a fundamental convention, underscoring the centrality of safe work. India has ratified the two fundamental conventions on child labour but has not ratified Conventions Nos. 87 and 98 on freedom of association and collective bargaining. The comparative lesson is not that international law supplies ready-made doctrinal answers; rather, it suggests that modern labour governance is expected to widen floors

of protection even when employment forms change. For Indian courts, that expectation may support interpretations that refuse to let novel business models produce protection-free zones.[12, 13, 14]

18.4.3 Conflicts between Labour Flexibility and Worker Protection

The codified regime reflects a visible policy preference for combining labour-market flexibility with selected welfare guarantees. Fixed-term employment under the Industrial Relations Code illustrates this mixed design. The Code promises parity of wages, allowances, hours of work, and statutory benefits for fixed-term employees during the period of engagement, including gratuity on terms more favourable than under the older model. At the same time, the spread of fixed-term hiring may normalise rotational insecurity, weaken long-term associational capacity, and allow employers to avoid the practical burdens associated with permanent workforces. Courts will eventually have to decide whether parity clauses are treated as robust anti-precarity norms or merely as formal assurances within an increasingly disposable employment structure.[3, 7, 10, 11, 40]

The same tension appears in the revised thresholds for standing orders and prior permission in cases of lay-off, retrenchment, and closure. Defenders of reform present higher thresholds as necessary to reduce regulatory rigidities that allegedly discourage scale, investment, and job creation. Critics reply that these changes reduce procedural and substantive protection precisely where workers most need collective security against unilateral managerial decisions. When such disputes reach the courts, judges are unlikely to replace legislative economic assessment with their own policy preferences. They may, however, insist that the exercise of statutory power remains non-arbitrary, procedurally fair, and consistent with the broader constitutional understanding of livelihood and dignity developed in D.K. Yadav and related cases.[3, 10, 11, 21, 23, 30, 39]

The Code on Wages and the OSHWC Code generate additional flexibility-versus-protection questions that are less dramatic but equally significant. The common definition of wages affects liabilities across bonus, social security, and related heads; disputes over exclusions and allowances are likely to shape the distributive content of codified protection. The floor-wage mechanism may be invoked to challenge unduly low statutory minima or arbitrary executive differentiation. The OSHWC Code's permission for women to work in all establishments and at night, subject to consent and safety safeguards, raises a modern equality question: whether the law will be interpreted to facilitate women's access to work on non-discriminatory terms or whether paternalist restrictions will survive under the language of protection. Similarly, the broadened treatment of inter-state migrant workers and provisions for

registration and portability may become meaningful only if courts insist on implementation that is accessible in fact, not merely in form.(2, 5, 7, 8, 13, 28, 29)

For all these reasons, conflicts between labour flexibility and worker protection will not be resolved by abstract ideology alone. They will be resolved in the daily doctrinal work of determining whether a threshold is rigid or rebuttable, whether a platform arrangement is genuine or sham, whether parity means equality in substance or only in nomenclature, whether health and safety obligations survive outsourced arrangements, and whether digital registration requirements can lawfully become barriers to welfare. The labour codes therefore push the judiciary into a renewed role as arbiter of the distributional consequences of economic reform.(2, 3, 4, 5, 22, 23, 30, 38, 41)

18.5 Judicial Review of Labour Policy Reforms

18.5.1 Scope of Judicial Review

Judicial review of labour reform operates at several levels. Courts may review the constitutionality of the parent statute; the validity of rules, notifications, and schemes issued under it; the legality of administrative action under those instruments; and the decisions of labour courts, tribunals, or recovery authorities applying the code framework. The standards of review include legislative competence, violation of Fundamental Rights, excessive delegation, ultra vires rule-making, manifest arbitrariness, non-compliance with procedural requirements, and jurisdictional error. Because the codes are framework statutes implemented through extensive subordinate legislation, this multi-layered review is likely to be especially important in the codified regime.(1, 10, 11, 30)

18.5.2 Balancing Legislative Intent and Worker Protection

A distinctive challenge for judges will be to balance fidelity to legislative intent with the tradition of worker-protective interpretation. Codification preserves many earlier concepts but repositions them within new statutory structures. Section 59 of the Industrial Relations Code, for example, is a successor provision to the older money-claims machinery under section 33C(2) of the Industrial Disputes Act; section 62 reworks familiar strike restrictions; the social-security provisions retain a long lineage of contributory welfare legislation while adding new categories. In such settings, courts are likely to read pre-code case law as interpretive guidance unless the new statute clearly manifests a contrary intention. Judicial continuity is therefore not a mere habit; it is a method of preserving legal intelligibility across legislative transition.(3, 4, 9, 34, 36, 44, 45)

18.5.3 Judicial Deference to Economic Policy

The principle of deference to economic policy, strongly associated with R.K. Garg v Union of India, will undoubtedly influence judicial review of the labour codes.

Reform legislation is typically defended on the ground that it represents complex socio-economic choice involving predictive judgments better made by elected institutions than by courts. Yet labour legislation cannot be assimilated entirely to ordinary market regulation. It engages questions of exploitation, livelihood, bodily integrity, and collective power. The likely judicial approach, therefore, is not absolute deference but calibrated deference: respect for legislative judgments on economic design, accompanied by closer scrutiny where reform trenches upon minimum wages, occupational health, social security access, or constitutionally salient forms of inequality.[17, 18, 22, 25, 30, 38, 39]

18.6 Emerging Judicial Trends in Interpreting Labour Codes

18.6.1 Early Judicial Interpretations of Labour Codes

Because the four labour codes were brought into force only on 21 November 2025, the earliest reported decisions have dealt less with the full merits of substantive labour entitlements than with transitional and institutional questions. This is unsurprising. When a major codification repeals long-standing statutes, the first judicial problem is often whether adjudicatory bodies, pending claims, and enforcement processes can continue without legal vacuum. The initial case law shows a clear judicial preference for continuity.[6, 8, 9, 32, 33]

In M.K. Suresh Kumar, NM v Union of India, the Kerala High Court rejected a challenge to the notification issued under section 103 of the Industrial Relations Code and accepted the continuing use of existing adjudicatory structures until the new tribunal framework became operational. The Court treated continuity as a practical and legally permissible means of avoiding paralysis in labour dispute resolution. The same pragmatic concern appears in Glastronix LLP v President/General Secretary, where the Karnataka High Court, reading the Industrial Relations Code (Amendment) Act, 2026 together with section 104(1A), held that labour courts and tribunals under the repealed enactments could continue to function until the new institutions were constituted.[9, 32, 33]

The early jurisprudence also displays a second pattern: migration of pre-code doctrine into code interpretation. In D+H Solutions India Pvt Ltd v Jayakrishnan Ramachandran Nair, the Kerala High Court approached section 59 of the Industrial Relations Code by reference to the established jurisprudence under section 33C(2) of the Industrial Disputes Act. Similarly, in Bharat Petroleum Corporation Ltd v General Secretary, the Karnataka High Court treated the strike restrictions in the new code as carrying forward the earlier logic that strikes are impermissible during the pendency of conciliation in the statutorily protected period. These decisions suggest that courts

will, at least initially, stabilise the new regime by drawing heavily on the doctrinal memory of the old one.[34, 36, 45]

This first wave of case law is also institutionally revealing. The courts have not insisted that codification begins with doctrinal tabula rasa. Instead, they have treated commencement as a moment requiring legal continuity, institutional preservation, and practical transition management. Such an approach carries obvious benefits: pending disputes remain remediable and employers are not exposed to contradictory forum uncertainty. But it also means that some of the most contested policy choices embedded in the codes - on thresholds, flexibility, and new labour categories - have not yet been tested on a fully developed constitutional plane. Continuity is therefore a stabilising strategy, not a final judicial verdict on the merits of codification.[9, 32, 33, 34, 36]

Table 18.2 Early Judicial Questions under the Labour Codes (2025-2026)

Issue	Code provision	Illustrative decision	Indicative judicial trend
Continuity of tribunals after repeal	Industrial Relations Code ss 103, 104(1A)	M.K. Suresh Kumar; Glastronix LLP	Courts avoid adjudicatory vacuum and uphold continuity until the new institutional framework is operational.
Money claims and execution-style jurisdiction	Industrial Relations Code s 59	D+H Solutions India Pvt Ltd	Settled pre-code jurisprudence under section 33C(2) is treated as interpretively relevant to the successor provision.
Strike restraint during statutory proceedings	Industrial Relations Code s 62	Bharat Petroleum Corporation Ltd	The logic of industrial peace and statutory notice restrictions continues under the codified framework.
Recovery of social security dues	Code on Social Security s 131(3)	A. Sunder Singh	Courts may temper recovery measures in equity, but they do not treat social-security liabilities as optional.

Source: Early reported High Court decisions interpreting the labour-code framework, discussed in the text.

Table 18.2 identifies the significance of these early cases. Their importance lies less in the substantive outcomes for wages, safety, or collective bargaining than in the interpretive posture they announce. The courts have so far been unwilling to allow codification to interrupt adjudication; they have read amending and savings provisions pragmatically; and they have presumed continuity of doctrine where the new text mirrors old functional structures. This approach may reassure employers and workers alike, but it also delays deeper engagement with whether the codes alter the normative balance between welfare and flexibility.[9, 32, 33, 34, 36]

18.6.2 Courts and Gig Economy Labour Disputes

No authoritative post-commencement judgment has yet settled the central question of gig-work status under the labour codes. Nevertheless, the field of likely litigation is already visible. Platform workers may challenge unilateral deactivation, wage deductions, opaque algorithmic penalties, exclusion from benefits, and denial of registration or scheme access. Platform companies, in turn, are likely to rely on contractual language and the specific definitions in the Code on Social Security to argue that gig work belongs to a special statutory category distinct from employment. When such disputes mature, courts will have to decide whether the code framework merely acknowledges a category of welfare beneficiaries or whether it also leaves room for findings of employee or worker status in functionally dependent relationships.[4, 42, 43]

The judicial tools for this task will likely include familiar indicators of control, supervision, integration, and economic dependency, adapted to digital management. Hussainbhai and Nilgiri remain relevant because they reject overreliance on formal contractual labels. The constitutional cases on forced labour, equal pay, dignity, and livelihood also remain relevant because they highlight the substantive harms caused by highly asymmetric labour relations. In an era of ratings, incentives, dynamic pricing, and app-based discipline, the deeper issue is whether labour law will continue to focus on the real structure of dependency or retreat into the language of entrepreneurial autonomy favoured by platform contracts.[16, 17, 18, 19, 27, 42]

18.6.3 Future Role of Judiciary in Labour Governance

Looking forward, the judiciary is likely to influence labour governance in at least four ways. First, it will define the practical meaning of code provisions through interpretation of wages, worker status, safety duties, and collective-rights restrictions. Secondly, it will police the legality and fairness of delegated legislation and executive implementation. Thirdly, it will stabilise or unsettle institutional arrangements in

labour administration, especially where transition, vacancies, or overlapping forums create uncertainty. Fourthly, judicial decisions will feed back into policy by prompting amendments, clarificatory circulars, changes in compliance strategy, and reorientation in collective bargaining behaviour.[2, 3, 4, 5, 7, 8, 9, 32, 33, 35]

The likely trajectory is therefore neither a return to the expansive activism of the classic public-interest era nor a wholesale surrender to economic-policy deference. A more plausible pattern is selective constitutionalisation. Courts will probably continue to insist on operational continuity, procedural legality, and basic welfare floors, while showing greater caution in displacing legislative judgments about thresholds, managerial flexibility, and market design. Whether that middle path adequately protects precarious workers remains an open question and may become the central jurisprudential issue of the code era.[29, 30, 32, 33, 34, 36, 38]

18.7 Impact of Judicial Decisions on Labour Welfare

18.7.1 Protection of Worker Rights through Judicial Intervention

Judicial intervention affects labour welfare most directly when it turns abstract statutory promises into enforceable claims. The history of minimum wages, maternity benefits, health and safety, and anti-exploitation doctrine shows that labour statutes often achieve practical force only after courts refuse to allow formal categories or procedural obstacles to defeat their purpose. That pattern will continue under the codes. If a platform worker is wrongfully denied registration, if a migrant worker cannot access portable entitlements, or if a fixed-term employee is denied parity of benefits, the practical value of the code will depend on judicial willingness to supply an effective remedy.[17, 18, 22, 25, 28, 42]

18.7.2 Institutional Impact of Labour Jurisprudence

Judicial decisions also shape the institutions of labour administration. The transition cases under the Industrial Relations Code prevented a potentially serious adjudicatory vacuum at the moment of commencement. Likewise, the Madras High Court's decision in A. Sunder Singh v Recovery Officer illustrates how judicial oversight can modulate enforcement without destroying the underlying welfare objective. By permitting calibrated relief while preserving recovery of employees' state insurance dues, the Court balanced administrative effectiveness, employer viability, and worker interest in the continuation of statutory social security. Such decisions influence how labour departments, recovery authorities, and employers understand the enforceable seriousness of code obligations.[32, 33, 35]

18.7.3 Judicial Influence on Labour Policy

Labour jurisprudence has a policy effect beyond the immediate case. Adverse judgments may prompt legislative amendment, as the Industrial Relations Code

(Amendment) Act, 2026 itself demonstrates in clarifying continuity after repeal. Interpretive uncertainty may lead ministries to issue guidance, FAQs, or compliance manuals. Employers may redesign engagement contracts, internal grievance procedures, and compliance systems in anticipation of litigation risk. Trade unions may adjust bargaining strategies depending on how courts interpret strike restrictions, negotiating-union thresholds, and the scope of adjudicatory remedies. Judicial decisions therefore do not merely apply labour policy; they participate in making it.[7, 8, 9, 32, 33, 36, 38]

18.8 Critical Evaluation of Judicial Responses

A balanced evaluation of judicial responses to codification must begin by acknowledging the strengths of the judicial role. Indian labour law would be substantially poorer without the judiciary's historical insistence on looking beyond formal contract to material dependence, beyond statutory text to constitutional purpose, and beyond administrative inertia to the actual conditions of labour. The early code cases continue this tradition in one important respect: they prevent transition from becoming an excuse for denial of remedy. By preserving institutional continuity and carrying forward settled doctrine where appropriate, the courts have protected the basic rule-of-law requirement that labour rights remain justiciable during legal transition.[16, 17, 18, 22, 25, 32, 33, 34]

There is, however, a structural reason why judicial response matters even more in the code era than in the earlier statute-specific regime. The former system was fragmented and difficult to administer, but it was often normatively dense: many rights and procedures were embedded directly in the text of separate enactments. The new codes are more integrated but also more open-ended, with considerable reliance on subordinate legislation and administrative design. This shift increases the practical weight of adjudication, because judicial interpretation now helps determine not only the meaning of individual provisions but also the extent to which framework legislation will be infused with welfare content rather than managerial discretion.[2, 3, 4, 5, 10, 11, 37]

The codification itself also contains genuine strengths. Consolidation may reduce fragmentation; a common wage concept may ease some forms of evasion; the social-security code recognises gig and platform workers within a central statutory framework; the OSHWC Code attempts to rationalise licensing and bring inter-state migrant labour into a more portable welfare structure; and the codes expressly open all establishments to women workers subject to safeguards. These are not insignificant advances. In a legal system long criticised for multiplicity, overlap, and poor accessibility, codification has an intelligible administrative rationale.[2, 4, 5, 7, 8, 11, 42]

Yet the limitations are equally substantial. The Industrial Relations Code raises thresholds in ways that reduce the incidence of standing orders and prior-permission requirements. Strike regulation is tightened in a manner that can weaken labour's bargaining leverage. Gig-worker recognition is partial and may entrench a two-tier model of labour protection unless courts remain open to reclassification in appropriate cases. Across the codes, many concrete rights depend on future rules, scheme design, registration architecture, and state capacity. This means that what looks like simplification in statutory form may in practice become opacity in implementation.[3, 4, 5, 10, 11, 39, 41, 42]

These limitations create a difficult question about judicial method. A strongly activist court could use constitutional values and beneficial interpretation to offset deregulatory tendencies and implementation gaps. But aggressive judicial reconstruction of the code framework risks doctrinal instability and may invite criticism that judges are substituting themselves for the legislature in matters of economic and administrative policy. A strongly restrained court, by contrast, would preserve institutional modesty but may normalise under-protection by treating structural precarity as a legislative choice beyond meaningful review. The challenge is therefore not simply to choose between activism and restraint, but to articulate a principled account of when welfare-sensitive intervention is constitutionally required.[26, 27, 30, 37, 38, 44, 45]

On that question, the better view is that judicial intervention should be strongest where codified reform threatens basic wage security, bodily integrity, social security access, or protection against coercive exploitation, and more cautious where the dispute concerns broad economic line-drawing for which courts lack institutional competence. Such a calibrated approach is consistent with the structure of Indian constitutional labour jurisprudence. It honours deference in matters of economic design without allowing the language of reform to erase the constitutional floor beneath labour welfare.[17, 18, 22, 29, 30, 38]

18.9 Challenges in Judicial Enforcement of Labour Codes

Even the most principled judicial approach will confront serious enforcement constraints. The codes do not reduce the complexity of labour disputes so much as reconfigure it. Questions of worker status, wage composition, portability, algorithmic control, social-security registration, and the interaction between central codes and state rules may generate substantial litigation. Courts and tribunals will require doctrinal continuity, administrative coordination, and technical familiarity with digital forms of work. The transition litigation already reveals how institutional design problems - including the constitution and continuity of forums - can shape the real availability of justice.[7, 8, 9, 32, 33, 34, 36]

Access to justice poses a second challenge. The workers most affected by under-enforcement - unorganised workers, inter-state migrants, women in informal employment, and platform workers - often have the weakest documentary records, the least bargaining power, and the least capacity to navigate formal adjudication. Digital self-registration can improve portability and identification, but it can also exclude workers lacking information, language access, or technological confidence. Courts can mitigate such problems through purposive interpretation and process-sensitive remedies, but they cannot by themselves substitute for robust labour administration. Judicial enforcement will therefore remain indispensable but insufficient unless supported by institutional capacity, clarity in subordinate legislation, and accessible mechanisms of compliance and redress.[4, 5, 7, 8, 29, 42, 43]

A final difficulty concerns adjudicatory capacity itself. Labour judges and practitioners must now work across a consolidated statutory vocabulary while remaining attentive to the doctrinal history of the repealed enactments. This requires training, coherent precedent-building, and stable institutional staffing. If tribunals and labour courts are understaffed or if transitional uncertainty persists, the likely effect will be not fewer disputes but slower and more fragmented enforcement. In that event, the codes may produce formal simplification without effective access to justice, a result that would frustrate both welfare objectives and the promise of regulatory rationalisation.[7, 9, 32, 33, 34, 35, 36, 45]

18.10 Conclusion

The judicial response to labour law codification in India is still in its infancy, yet its significance is already clear. The four labour codes do not simply consolidate older statutes; they reorganise the very grammar of labour governance by combining legislative consolidation, delegated rule-making, digital administration, new worker categories, and a more explicit accommodation of flexibility-oriented reform. In that setting, the judiciary becomes the institution that must decide how far the constitutional legacy of labour welfare travels into the new regime. Early decisions indicate a preference for continuity, institutional pragmatism, and cautious transplantation of pre-code doctrine. The more difficult disputes - on worker classification, collective action, termination thresholds, social-security operationalisation, gendered access to work, and migrant portability - are only beginning to emerge.[2, 3, 4, 5, 6, 9, 32, 33, 34, 35, 36]

The broader transformation of labour governance in India will therefore be shaped not only by statutory text but by judicial choice. If courts read the codes through the long constitutional tradition of dignity, equality, and anti-exploitation, codification may yet become a vehicle for modernising labour welfare without abandoning its normative core. If, however, judicial deference hardens into acceptance of managerial

flexibility as the dominant organising principle, the new labour regime may preserve welfare largely in form while weakening it in operation. The chapter's central conclusion is thus straightforward: codification has not displaced the judiciary from labour law; it has made the judicial forum one of the principal sites at which the future meaning of labour welfare in India will be contested and constructed.(1, 17, 18, 22, 29, 30, 37, 38, 39)

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Chapter 19

Dispute Resolution Mechanisms under the Labour Codes: Conciliation, Adjudication and Industrial Justice

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19.1 Introduction

Labour welfare has long occupied an ambiguous position in Indian labour law. On one view, it denotes a cluster of protective enactments concerned with minimum wages, social insurance, safety, maternity, welfare funds, and industrial peace. On another, it expresses a larger constitutional aspiration: the transformation of a labour market structured by inequality into one that secures dignity, social citizenship, and a measure of industrial democracy. The codification of Indian labour law into four labour codes therefore matters not merely as a legislative housekeeping exercise. It alters the grammar through which labour welfare is imagined, administered, and contested. The shift from a dispersed field of sectoral statutes to a consolidated code framework raises a central question: whether codification strengthens labour welfare through coherence and wider coverage, or whether it reconstitutes welfare in a thinner, more managerial form oriented primarily to compliance simplification and labour-market flexibility[1, 2, 5, 8, 11, 35, 36, 37].

That question has become considerably more urgent since the reform has moved from legislative promise to operative legal framework. The four codes were enacted in 2019 and 2020, but they came into force only on 21 November 2025; draft central rules followed on 30 December 2025, and the first phase of implementation in 2025-26 has revealed both the ambition and the fragility of the new regime[3, 4, 6, 7, 9, 10, 12, 13, 14, 44, 46, 47, 48]. Official materials present the reform as a historic consolidation of twenty-nine central labour laws into four codes, reducing a multiplicity of sections, forms, registers and returns into a streamlined and technology-enabled compliance architecture[44, 45, 46]. Yet the post-notification period has also shown that transition under the codes is legally and administratively complex: older rules continue in force where preserved, state rulemaking remains uneven, digital portals are still being integrated, and the Industrial Relations Code required a removal-of-difficulties order to avoid institutional discontinuity in adjudication[13, 44, 45, 48].

This chapter argues that codification does not simply dismantle labour welfare, nor does it straightforwardly preserve the older protective model. Rather, it reconstitutes labour welfare as code-based governance. Protective content survives, and in some respects expands: minimum wages are universalised; a floor wage is introduced; the social security code recognises gig and platform workers; inter-state migrant workers receive broader statutory recognition; women's night work is normalised subject to consent and safeguards; appointment letters and certain health protections are formalised; and the industrial relations framework retains institutions of worker representation and dispute resolution[2, 5, 8, 11, 44, 46, 47]. At the same time, the codes embed welfare within a regulatory design characterised by threshold-based inclusion, delegated rulemaking, digital registration, inspector-cum-facilitator models, compounding, common licensing, and increased space for managerial flexibility. In that sense, the reform represents a move from protective statute pluralism to integrated, portal-mediated labour governance[40, 41, 42, 43, 44, 45].

The chapter proceeds in nine parts. It first traces the historical evolution of labour welfare legislation in India. It then analyses the architecture of consolidation and offers a doctrinal examination of the wage, social security, occupational safety, and industrial relations codes. The next sections situate the codes within constitutional doctrine and labour-rights jurisprudence, before examining their policy implications for workers, employers, labour administration and industrial relations. A brief international perspective is introduced through global labour standards, especially those of the International Labour Organization (ILO). The chapter concludes with a critical assessment of the strengths, limitations and implementation challenges of the new labour regime. Because full code-specific case law is still embryonic, the analysis necessarily relies not only on the codes themselves but also on the constitutional and statutory jurisprudence that is likely to shape their future interpretation[22, 24, 25, 27, 29, 30, 34, 37].

19.2. Historical Evolution of Labour Welfare Legislation in India

The history of labour welfare legislation in India is not a neat progression from laissez-faire to welfare. Colonial labour law developed under a mixed logic of industrial regulation, public order, and selective humanitarian concern. Early factory legislation, beginning with the Factories Act of 1881 and strengthened through later enactments, responded partly to pressure about excessive hours, child labour and unsafe conditions, but also to the requirements of industrial discipline and imperial political economy. The Trade Unions Act, 1926 and the Trade Disputes Act, 1929 recognised collective labour as a legal category while simultaneously containing it within a framework of regulated conflict. The colonial inheritance, in other words,

supplied both the institutional vocabulary of labour law and the durable tendency to govern labour through sector-specific statutes and thresholds[36, 39, 57].

The post-Constitution period transformed this field by embedding labour regulation in a social-justice constitutional order. India's early labour legislation after 1950 pursued welfare through an accretive and sectoral model. The Minimum Wages Act, 1948 sought protection against unduly low wages in scheduled employments; the Employees' State Insurance Act, 1948 and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 introduced contributory social insurance and old-age security; the Maternity Benefit Act, 1961 and gratuity law responded to reproduction, service security and retirement; later enactments addressed contract labour, migrant labour, construction labour, and a variety of industry-specific working conditions[15, 16, 17, 18, 19, 20, 21, 39]. Welfare, however, remained fragmented across statutory silos. Coverage depended heavily on sector, establishment size, employment status, and whether a worker was visible to the formal economy. The result was a regime that was elaborate in text, uneven in reach, and administratively dense.

From the 1980s onward, three structural pressures destabilised this model. First, the rapid growth of informal work revealed the inadequacy of a protective framework designed around stable, bilateral and largely formal employment relationships. Second, liberalisation after 1991 intensified the argument that India's labour laws were overly complex, threshold-ridden and hostile to enterprise growth, even though the empirical literature remained far from unanimous on the causal relationship between labour regulation and economic performance[36, 38, 40]. Third, labour administration itself struggled with multiplicity: multiple definitions, multiple inspectors, multiple registers, and overlapping jurisdictions generated both compliance costs for employers and enforcement deficits for workers. Labour welfare statutes that had originally emerged as protections against market power increasingly came to be criticised as a labyrinth.

The Second National Commission on Labour, reporting in 2002, became the pivotal institutional bridge between the old regime and codification. It recommended that the existing body of labour law be grouped broadly into functional labour codes so as to reduce complexity while preserving core protections[35, 46, 50]. The Commission's influence was not immediate, but its framework proved decisive. During the period from 2015 to 2019 the Union government undertook tripartite consultations and progressively advanced a codification programme that culminated in the Code on Wages, 2019 and, in 2020, the Industrial Relations Code, the Code on Social Security, and the Occupational Safety, Health and Working Conditions Code[35, 46]. The legislative exercise was framed as rationalisation rather than repeal:

older protections were said to be harmonised, definitions unified, and procedures simplified.

Yet the deeper historical significance of codification lies in what it does to the structure of welfare itself. The pre-code regime operated through a dense ecology of statutes, many of which were targeted at particular vulnerabilities-migrant status, contract labour, maternity, construction work, workplace safety, bonus, or equal remuneration. Codification does not erase these concerns; instead, it resituates them within broader code-based categories. This re-situation has gains and losses. The gain is systemic coherence, common definitions, and the possibility of wider coverage, especially where older statutes were confined to scheduled employments or sector-specific enclaves. The loss is that distinctive statutory histories and institutional safeguards are flattened into a more generalised administrative architecture. In that process, labour welfare may become more portable and formally more universal, but also more dependent on delegated rules, thresholds, and administrative design[37, 40, 41, 42, 43].

Table 1 captures the architecture of consolidation. Its significance is not merely quantitative. It shows that codification brought together laws that formerly operated through different welfare logics: distributive wage protection, social insurance, workplace safety, employment security, collective bargaining, and sector-specific welfare. The table also underscores that the labour codes are not simply four new statutes placed alongside the old system; they are the juridical mechanism through which the older field is reorganised.

19.3. Legislative Consolidation and the Architecture of the New Labour Welfare Regime

Viewed as a matter of legislative technique, the reform groups labour law by function: wages, social security, occupational safety and working conditions, and industrial relations. But functional grouping is also substantive grouping. Table 1 shows that each code absorbs a cluster of pre-code statutes that had evolved around a distinct conception of labour welfare. Read together, the four codes reorganise welfare from a set of sector-specific statutory islands into an integrated framework of wage security, social protection, working conditions and collective regulation[2, 5, 8, 11, 44, 46].

Table 1. Legislative Consolidation under India's Four Labour Codes

Code	Subject-matter	Principal pre-code statutes consolidated	Welfare significance
Code on Wages, 2019	Wages, payment of wages, bonus, equal remuneration	Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; Equal Remuneration Act, 1976	Universalises minimum-wage protection, harmonises wage definitions, and embeds gender equality within a unified wage framework.
Code on Social Security, 2020	Social insurance, gratuity, maternity, employee compensation, unorganised-worker and platform-worker schemes	Employees' Compensation Act, 1923; Employees' State Insurance Act, 1948; Employees' Provident Funds and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961; Payment of Gratuity Act, 1972;	Reorganises the welfare state for labour by combining classic contributory protection with a scheme-based extension to informal, gig and platform work.

		Building and Other Construction Workers' Welfare Cess Act, 1996; Unorganised Workers' Social Security Act, 2008; and allied enactments	
Occupational Safety, Health and Working Conditions Code, 2020	Safety, health, welfare amenities, contract labour, migrant labour, sector-specific working conditions	Factories Act, 1948; Plantations Labour Act, 1951; Mines Act, 1952; Contract Labour (Regulation and Abolition) Act, 1970; Inter-State Migrant Workmen Act, 1979; Building and Other Construction Workers Act, 1996; and related sectoral enactments	Transforms fragmented workplace-protection statutes into a common safety-and-conditions architecture with migrant and contract-labour components.

Industrial Relations Code, 2020	Trade unions, standing orders, industrial disputes, retrenchment, closure	Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; Industrial Disputes Act, 1947	Recasts labour welfare as procedural fairness, collective representation and regulated labour-market flexibility within a consolidated industrial-relations statute.

Source: Compiled from the four labour codes and official explanatory materials [2, 5, 8, 11, 44, 46]

The analytical importance of consolidation should not be overstated, but neither should it be understated. Codification reduces duplication and may facilitate more consistent compliance, particularly where employers operate across sectors and states. Official guidance emphasises that consolidation has reduced 1,228 sections to 480, 31 returns to a single electronic return, forms from 181 to 73, and registers from 84 to 8[44]. Those are not trivial efficiencies. But welfare legislation is not exhausted by administrative reduction. Whether consolidation improves labour welfare depends on how the codes redistribute risk, define eligibility, structure enforcement, and empower or weaken institutions of worker voice. It is to that doctrinal inquiry that the chapter now turns.

19.4. Doctrinal Analysis of the Labour Codes

19.4.1. The Code on Wages, 2019

The Code on Wages is the clearest example of codification operating through universalisation. It consolidates the Payment of Wages Act, the Minimum Wages Act, the Payment of Bonus Act and the Equal Remuneration Act into a single wage statute[2, 15, 46]. Its most significant doctrinal innovation is the extension of the minimum wage principle beyond the old category of “scheduled employment”. Under the earlier law, the minimum wage regime was limited by the notified

schedule, leaving large parts of the labour market outside its direct protection. The new code instead adopts a general entitlement to minimum wages, thereby repositioning wage protection as a baseline norm of employment rather than a sector-specific privilege[2, 46, 47, 52].

The architecture of the code rests on three interlocking ideas: a common definition of "wages", a national floor wage, and differentiated minimum wage fixation by the appropriate government. The common definition of wages has considerable cross-code significance. Wages include basic pay, dearness allowance and retaining allowance, while numerous allowances are excluded unless exclusions exceed fifty per cent of total remuneration, in which event the excess is added back into wages[2, 48]. This seemingly technical definition is central to the new labour regime because the same wage concept is used across the codes for calculating several statutory entitlements. The consequence is a likely widening of the base for gratuity, bonus, retrenchment compensation, overtime and social-security contributions where establishments had historically structured remuneration through a large allowance component. From the worker's standpoint, the uniform wage definition can curtail avoidance; from the employer's standpoint, it increases standardisation while also potentially increasing labour cost.

The floor wage mechanism marks another important departure. The Central Government is empowered to fix a floor wage based on minimum living standards, and different floor wages may be fixed for different geographical areas. State governments may not fix minimum wages below the floor wage, although they may maintain higher rates[2, 49, 52]. In design, the provision resonates with international minimum-wage logic, especially the ILO's insistence that minimum-wage machinery should protect workers against unduly low wages and should be periodically reviewed[52]. Yet the doctrinal achievement is only partial. The code creates the legal platform for a national wage floor, but the adequacy of that floor depends on methodology, consultation, periodic revision, and political will. The floor wage therefore embodies both a constitutional promise of living standards and a regulatory risk: if the benchmark is set too low, universalisation may occur at a level that is legally coherent but socially inadequate.

The code also retains and reorganises classic wage-protection devices. It provides for timely payment of wages, regulates authorised deductions, mandates overtime at not less than twice the normal rate of wages, continues the bonus framework, and prohibits discrimination on grounds of gender in wages and recruitment for the same work or work of a similar nature[2, 44, 46, 47, 48]. The equal-remuneration function of the old law is thus retained, but within a more general equality framework consistent with Articles 14, 15 and 39(d) of the Constitution. Advisory boards remain part of

the wage-fixation machinery, and the claims process is channelled through designated authorities and appeals. These features show that the Code on Wages is not merely deregulatory. It preserves the classic welfare objectives of floor-level wage protection, wage-payment discipline and gender equality.

At the level of enforcement, however, the code also exemplifies the new regulatory idiom. It introduces the inspector-cum-facilitator, permits web-based inspections, and dovetails with the larger drive toward single returns, electronic processes and compounding[2, 44, 45]. The rationale is that facilitative enforcement is more transparent and less arbitrary than traditional inspectorate power. That claim has force, especially in a regime once criticised for fragmentation and rent-seeking. But it also raises a classical labour-law concern: wage law works not merely through norms on paper but through credible deterrence. A facilitative and digital inspection model may improve standardised compliance among larger employers while weakening the on-the-ground enforceability that vulnerable workers often need most. The Code on Wages therefore reveals the dual movement of the new labour regime: universal normative entitlement accompanied by a more managerial enforcement strategy[40, 41, 43, 44].

19.4.2. The Code on Social Security, 2020

If the wage code universalises a classic labour standard, the Code on Social Security attempts something more ambitious and more unstable: the reorganisation of social insurance and labour welfare across the organised, unorganised, gig and platform economy[5, 44, 47]. It consolidates nine enactments, including laws on employees' compensation, provident fund, state insurance, gratuity, maternity benefit, building and construction welfare cess, and unorganised workers' social security[5, 16, 17, 18, 21, 44]. In formal design, the code is expansive. It preserves existing contributory structures such as EPF and ESI, retains gratuity and maternity protections, and creates a framework for schemes addressing unorganised workers, gig workers and platform workers. This breadth makes it the most normatively ambitious of the four codes, but also the one most dependent on delegated policy and administrative capacity.

Three doctrinal features deserve particular attention. The first is the preservation and rationalisation of classic social-insurance institutions. The Employees' Provident Fund and Employees' State Insurance mechanisms survive within the code, and official clarifications indicate that EPF continues to apply to establishments employing twenty or more employees, while ESI is mandatory for establishments with more than ten employees, voluntary for smaller establishments, and extendable even to establishments with one employee where hazardous processes are involved[5, 47]. This continuity is important because much public discussion about codification

assumed a wholesale break from the old regime. In social security, the more accurate picture is institutional continuity within a consolidated statute.

The second feature is the code's express engagement with precarious and platform-mediated work. The code defines "gig worker", "platform worker" and "aggregator", provides for registration of unorganised, gig and platform workers, and empowers governments to formulate schemes relating to life and disability cover, accident insurance, health and maternity benefits, old-age protection, education and allied welfare measures[5, 44, 47]. It also establishes a financing mechanism through contributions by aggregators, ordinarily between one and two per cent of annual turnover, subject to a cap linked to the amounts paid or payable to gig and platform workers[5]. This is doctrinally significant because Indian labour law historically struggled to locate platform work within the binary of employee and independent contractor. The code does not resolve that classificatory debate. Instead, it creates a third path: welfare without full employment-status assimilation. That is an important innovation, but it is also the source of a major limitation. Gig and platform workers are recognised as subjects of social-security policy, yet their entitlements remain largely scheme-dependent rather than directly self-executing statutory rights.

The third important feature is the retention and adaptation of labour-welfare protections linked to continuity of service and family security. Gratuity continues, but the code relaxes the five-year continuous-service condition where termination occurs by reason of death, disablement, or expiry of a fixed-term employment contract; fixed-term workers are thereby brought more clearly into the gratuity framework on a pro rata basis[5, 48]. Maternity benefit protections, nursing breaks and the creche obligation in specified establishments are also retained within the social-security code[5, 18]. In doctrinal terms, this matters because codification could easily have dissolved such entitlements into a generic insurance model. Instead, the code preserves the recognisable welfare jurisprudence of gratuity, maternity and compensation, even as it subjects them to a common administrative and definitional structure.The institutional design of the code is equally notable. It provides for a National Social Security Board and state-level boards for unorganised workers, and it relies heavily on self-registration, digital identity and databases. Section 142 links access to a wide range of benefits and registration processes to Aadhaar-based identity, and the emerging architecture is clearly aligned with the government's broader digital welfare platforms, including e-Shram[5, 45]. In principle, this can improve portability and reduce exclusion caused by fragmented records. By 2024-25, e-Shram registrations had crossed thirty crore, and the Annual Report indicates an expanding effort to integrate welfare schemes and platform-worker modules through the portal[45]. Yet the same design creates new exclusions. Workers whose

documentation is weak, whose digital access is uneven, or whose occupational identities are intermittent may formally exist in law while remaining functionally invisible to the benefits architecture.

The code must therefore be read through a distinction between recognition and entitlement. Recognition has clearly widened. Unorganised, gig and platform workers are no longer outside the conceptual map of social security. Entitlement, however, remains uneven. Organised workers within EPF/ESI-type structures continue to possess legally defined benefits, though subject to threshold rules. By contrast, workers in the informal and digital economy are often relocated into a scheme-based universe, where benefit content depends on future notifications, financing arrangements, inter-governmental coordination and database integrity[40, 43, 44, 51, 53]. In comparative terms, this is a modest but real movement toward universalisation; in constitutional terms, it is still some distance away from treating social security as a matter of robust social citizenship.

At a policy level the Code on Social Security is perhaps the clearest instance of the strengths and contradictions of the new labour regime. It extends the language of welfare to previously neglected groups and recognises the plural forms of contemporary labour markets. But it does so through administrative futurity: registration first, schemes later; recognition first, justiciable entitlement later. This design may be administratively prudent, but it also means that the code's redistributive promise will be judged less by its definitional breadth than by whether funding, rulemaking, portability and institutional delivery make that breadth meaningful in lived labour markets[44, 45, 47, 51].

19.4.3. The Occupational Safety, Health and Working Conditions Code, 2020

The Occupational Safety, Health and Working Conditions Code (OSHWC Code) consolidates thirteen central labour enactments dealing with factories, mines, plantations, contract labour, inter-state migrant workers, building and other construction workers, journalists, motor transport workers and other sectors[8, 46]. The welfare significance of this consolidation lies in the fusion of physical safety, workplace health, welfare amenities, work-time regulation, contract labour governance and migrant-worker protection into a single statutory frame. In contrast to the pre-code model, where different sectors carried their own histories and compliance mechanisms, the OSHWC Code creates a common safety-and-conditions architecture with sector-specific chapters nested inside it.

At the level of principle, the code affirms a recognisable welfare logic. It imposes duties on employers to ensure a workplace free from hazards so far as reasonably practicable, contemplates standards for health and safety, requires the issuance of appointment letters to employees, and provides for free annual health examinations

for prescribed classes of workers[8, 47]. It also permits women to be employed in all establishments and for all types of work, including beyond traditional daytime restrictions, subject to consent and prescribed safeguards for safety, holidays and working hours[8, 47]. These changes are important because they move the law away from older paternalistic exclusions while also affirming that workplace safety is a general regulatory obligation rather than a sectoral exception.

The code's treatment of contract labour and migrant labour is especially important to labour welfare. It generally applies the contract labour chapter to establishments and contractors employing fifty or more contract labourers, retains the principal employer's responsibility where the contractor defaults in payment, and restricts engagement of contract labour in core activities subject to exceptions[8, 19, 44, 48]. The inter-state migrant provisions enlarge the statutory definition of migrant worker to include not only contractor-recruited labour but also self-migrating workers employed in another state below the notified wage ceiling, thereby acknowledging a contemporary migration pattern not adequately captured by the older 1979 Act[8, 20, 46, 47]. The code also provides for journey allowance, portability of public distribution and welfare benefits, and database-based registration. These are meaningful improvements over a model that tied protection too closely to contractor intermediation.

The code further embodies the administrative ethos of simplification. It creates a single registration and licensing architecture and is designed to work through electronic applications and common forms, especially in the draft central rules[10, 44, 45]. This matters because industries using contract labour, operating across states or engaging in construction activity historically faced multiple overlapping permissions. Simplification, however, comes with doctrinal trade-offs. Much of the content of health, safety and welfare depends on rules, standards, schedules and notifications. Where rules remain draft or unevenly harmonised across states, the apparent clarity of the code may conceal operational uncertainty. Moreover, many protections continue to be triggered by thresholds, which means that small establishments and precarious work arrangements may remain outside effective coverage despite the rhetoric of universality.

The OSHWC Code is therefore best understood as a framework statute. It modernises the language of safety, rationalises licensing, broadens the recognition of migrant labour, and updates the law concerning women's work and employment documentation. Yet it remains vulnerable to the classic problem of labour-protective legislation in unequal economies: the greatest risks often concentrate precisely where the administrative state is weakest-small units, informal worksites, subcontracting chains, and circular migration. The code's doctrinal vocabulary is progressive in

several respects, especially when read alongside the constitutional right to health and humane working conditions. Its success, however, depends on whether the enforcement state can reach the workplaces that most urgently require protection[8, 30, 44, 45, 54, 55].

19.4.4. The Industrial Relations Code, 2020

Although the Industrial Relations Code is commonly discussed in terms of flexibility and dispute management, it also belongs squarely within the domain of labour welfare. Welfare in industrial relations is not limited to pecuniary benefits; it includes security of employment, voice, collective representation, fair procedures in discipline and retrenchment, and the institutional management of industrial conflict. The code consolidates the Trade Unions Act, the Industrial Employment (Standing Orders) Act and the Industrial Disputes Act[11, 46]. In doing so, it reconstructs the welfare dimension of labour law through a new relationship between collective rights and managerial authority.

A first significant feature is the code's attempt to formalise representational structures within the establishment. It provides for recognition of a negotiating union where one trade union has the requisite threshold of support, and for a negotiating council where no union commands a clear majority. It retains works committees in establishments with one hundred or more workers and grievance redressal committees in establishments with twenty or more workers[11, 44]. These institutions are not substitutes for genuine collective bargaining, but they matter. In a labour market increasingly characterised by fragmentation and outsourced production, statutory recognition of negotiating structures can help stabilise channels of voice within the enterprise. At least normatively, the code acknowledges that industrial peace requires institutions of communication and representation.

A second feature concerns employment security and labour flexibility. The code recognises fixed-term employment and requires parity in hours of work, wages, allowances and other statutory benefits between fixed-term and permanent workers, subject to the terms of the code and allied legislation[11]. Properly used, fixed-term employment can provide a lawful and transparent alternative to the informal casualisation of permanent work. Improperly used, it can normalise temporariness as the preferred mode of hiring. The welfare question is therefore not whether fixed-term employment exists, but whether equality norms, social-security rights and anti-avoidance enforcement are strong enough to prevent the category from becoming a substitute for durable employment relationships.

The most controversial doctrinal shift concerns thresholds. The code raises the threshold for the applicability of standing orders to establishments employing three hundred or more workers, and a similar three-hundred-worker threshold governs

prior governmental permission for lay-off, retrenchment and closure under the relevant chapter[11, 44]. This is a material reallocation of risk. Supporters view it as reducing compliance rigidity for small and medium enterprises and encouraging hiring. Critics argue that it enlarges the space within which workers may be dismissed or establishments closed without the procedural scrutiny earlier imposed at lower thresholds[40, 41, 42, 43]. The code does create a workers' re-skilling fund financed by employer contributions upon retrenchment, and this is a noteworthy welfare innovation[11, 47]. But the re-skilling fund is compensatory rather than preventative: it softens the consequences of retrenchment without constraining the employer's power to retrench.

The code's law of strikes and lockouts also recalibrates the balance between labour and capital. It extends notice requirements beyond public utility services and imposes restrictions on the timing of strikes and lockouts after notice is given[11, 31]. In constitutional terms, this sits within a legal tradition that does not treat the right to strike as a fundamental right. But industrial action remains a central bargaining instrument in labour relations, and statutory burdens on strike action affect the practical equilibrium of collective bargaining. The negotiating-union provisions may formalise voice at one level, while the expanded notice regime narrows the tactical space within which that voice can acquire collective force. The code thus simultaneously recognises and disciplines collective labour.

The initial implementation phase also revealed transition problems specific to industrial relations. The commencement notification brought the code into force on 21 November 2025, but a removal-of-difficulties order had to clarify the continuity of labour courts and industrial tribunals constituted under the earlier regime, because the transition did not expressly repeal or replace the old adjudicatory structures in a seamless way[12, 13]. This episode is doctrinally instructive. Industrial relations law depends heavily on institutions, not merely norms. Where adjudicatory continuity is uncertain, rights to representation, dispute resolution and protection against unfair retrenchment can become formally available but practically unstable. The Industrial Relations Code therefore illustrates the most delicate feature of the new labour regime: welfare through codification can succeed only where legislative consolidation is matched by institutional continuity and enforceable procedural fairness.

Before turning to constitutional doctrine, it is useful to distil the doctrinal analysis into a synoptic view. Table 2 identifies the main welfare mechanisms created or retained under each code, the regulatory techniques through which they operate, and the principal gains and concerns associated with them. The table reinforces a central argument of this chapter: the codes widen the normative vocabulary of labour

welfare while simultaneously making welfare more dependent on thresholds, administration and subordinate legislation.

Table 19.2. Welfare Architecture under the Labour Codes: Institutions, Techniques, Gains and Risks

Code	Core welfare institutions/ mechanisms	Regulatory technique	Principal gains	Principal concerns
Code on Wages, 2019	Floor wage; minimum wages; claims authority; advisory boards; common definition of wages; inspector-cum-facilitator	Universal normative coverage combined with electronic compliance, claims procedures and standardised wage concepts	Universal minimum-wage entitlement; better payroll transparency; stronger basis for bonus, gratuity and overtime calculations; gender-equality norm	Adequacy of floor wage depends on methodology and revision; facilitative enforcement may be weaker for vulnerable workers; wage restructuring disputes likely
Code on Social Security, 2020	EPF; ESI; gratuity; maternity benefits; National and State Social Security Boards; worker registration and databases; aggregator contributions	Continuity of contributory social insurance plus scheme-based extension to informal, gig and platform workers	Recognition of new forms of labour; pro rata/ fixed-term gratuity protection; possibility of portability and wider social-security inclusion	Many entitlements remain scheme-dependent; Aadhaar/ digital exclusion risks; continuing thresholds for formal schemes; financing and delivery remain uncertain
OSHWC Code, 2020	Employer duties; appointment letters; annual health	Framework statute combining	Improved coherence in safety law;	Protection remains uneven

	checks; common registration/ licence; safety standards; migrant registration; contract-labour regulation	general duties, sectoral chapters, electronic licensing and threshold-triggered obligations	wider recognition of self-migrating workers; women's work liberalised subject to safeguards; principal-employer accountability retained	below thresholds; heavy dependence on rules and inspection capacity; informal worksites may remain weakly regulated
Industrial Relations Code, 2020	Negotiating union/council; works committees; grievance redressal committees; tribunals; re-skilling fund; fixed-term employment	Institutionalised worker voice combined with higher flexibility thresholds and broader strike regulation	Formal recognition of negotiating structures; direct access to tribunal after failed conciliation; re-skilling fund for retrenched workers	Higher thresholds for standing orders and retrenchment permission may reduce job security; strike-notice regime narrows collective leverage; transition depends on functioning tribunals

Source: Compiled from the four labour codes, draft central rules and official guidance [2, 5, 8, 11, 14, 44, 47, 48]

Table 2 summarises the welfare architecture that emerges across the four codes. What it demonstrates is that codification works through a combination of normative universalisation and administrative filtration. Each code creates a more general framework than its predecessor statutes; each also channels protection through thresholds, digital procedures, and significant delegated rulemaking. The consequence is that labour welfare under the codes is both broader in aspiration and more conditional in delivery.

19.5. Constitutional Foundations of Labour Welfare

The constitutional foundations of labour welfare in India are dispersed across both justiciable rights and directive principles, and their doctrinal force lies precisely in their interrelationship. Articles 14 and 15 ground equality in conditions of employment; Article 16 informs equality in public employment; Article 19(1)(c) protects association and therefore the juridical basis of trade unionism; Article 19(1)(g) protects the freedom to carry on occupation, trade or business; Article 21 has been interpreted to include dignity, health and livelihood-related concerns; and Articles 23 and 24 constitutionally repudiate forced labour and exploitative child labour[1, 23, 24, 26, 27, 29, 30]. The Directive Principles add a social-democratic vocabulary: Article 38 directs the State to secure a social order informed by justice; Article 39(d) speaks of equal pay for equal work; Article 39(e) protects the health and strength of workers; Articles 41 and 42 address work, public assistance and just and humane conditions of work with maternity relief; Article 43 speaks of a living wage and decent standard of life; and Article 43A introduces worker participation in management[1, 37].

Two constitutional points are especially important for understanding the new labour regime. First, labour welfare is not conceptually external to economic development in the Indian Constitution. The constitutional text does not oppose enterprise to welfare as mutually exclusive goods; rather, it seeks to organise economic life in a manner compatible with dignity, equality and social justice. That is why a labour code can constitutionally simplify compliance and still be judged by whether it advances humane work and social security. Second, labour welfare in India has always been mediated through federalism. Labour is placed in the Concurrent List, and the relevant entries cover trade unions, industrial disputes, social security, employment and unemployment, and the welfare of labour, including working conditions, provident funds, employer's liability, workmen's compensation, invalidity and maternity benefits[1, 45]. The codes must therefore be understood as Union statutes whose practical life depends substantially on central and state rulemaking, inspection capacity and adjudicatory institutions.

The constitutional balance is not one-directional. Decisions such as Excel Wear demonstrate that employers' constitutional freedoms remain relevant to closure and business autonomy[23]. But Indian labour constitutionalism has never treated freedom of business as normatively exhaustive. Labour law exists precisely because the employment relationship is structurally unequal and because market contracts alone cannot secure conditions of substantive freedom. The enduring constitutional challenge is therefore not whether labour law should permit enterprise flexibility,

but how far such flexibility can extend without hollowing out the material conditions of dignity promised by Articles 21, 23, 39, 42 and 43[23, 27, 29, 30, 37, 38].

This constitutional matrix provides a critical lens for the labour codes. Where the codes universalise minimum wages, preserve maternity protection, recognise social security for informal workers, or expand safe-working standards, they move within the grain of the Constitution. Where they weaken collective bargaining capacity, condition welfare on excessive thresholds, or rely on administrative schemes without enforceable entitlements, constitutional scrutiny does not disappear merely because the legislature has codified. The codes must ultimately be read not as self-justifying instruments of reform, but as statutes situated within an already existing constitutional commitment to labour justice[1, 24, 25, 27, 30, 34, 37].

19.6. Judicial Construction of Labour Welfare and Labour Rights

Judicial doctrine has played a decisive role in shaping labour welfare in India, especially where the constitutional text and labour statutes intersect. A first line of cases concerns wage justice and forced labour. In People's Union for Democratic Rights v Union of India, the Supreme Court held that payment below the statutory minimum wage amounts to "forced labour" within the meaning of Article 23 where labour is compelled by economic necessity[24]. Sanjit Roy reaffirmed that even in public works or relief settings the State cannot evade minimum-wage obligations[26]. These decisions are foundational for understanding the Code on Wages. They transform minimum wage from a mere statutory floor into a constitutional minimum below which labour relations risk becoming exploitative in a constitutional sense.

A second line of cases concerns equality and remuneration. Randhir Singh and Daily Rated Casual Labour established the principle of equal pay for equal work as a constitutional goal capable of legal effect, even if not mechanically applied in every dispute[25, 28]. These decisions do not eliminate all wage differentiation, but they constitutionalise the presumption that unjustified disparities in remuneration undermine equality. The equal-remuneration function now carried within the Code on Wages must be read against that constitutional background. The code's gender-equality provisions therefore do not derive their importance solely from statutory continuity with the earlier Equal Remuneration Act; they are also part of a broader jurisprudence that treats wage equality as integral to constitutional fairness[2, 25, 28].

A third line of authority links labour welfare to dignity, health and humane working conditions. Bandhua Mukti Morcha treated bonded and exploitative labour not simply as a labour-market issue but as a constitutional injury requiring affirmative state action[27]. Consumer Education and Research Centre recognised occupational health as part of the right to life under Article 21, thereby constitutionalising

elements of workplace safety and employer responsibility[30]. Municipal Corporation of Delhi v Female Workers (Muster Roll) extended maternity benefit reasoning beyond the narrow boundaries of permanent or regular employment, affirming that maternity relief is inseparable from the dignity of women workers[34]. These decisions are highly relevant to the Social Security Code and the OSHWC Code. They suggest that welfare provisions concerning health, maternity and safe conditions are not optional add-ons to labour regulation but part of a constitutional commitment to humane labour.

A fourth line of cases concerns procedure and employment security. D.K. Yadav held that termination of employment without fair procedure offends the requirements of justice that flow into Article 21[29]. Industrial law has long recognised that livelihood cannot be placed wholly at the mercy of unilateral managerial power. That principle becomes newly relevant under the Industrial Relations Code, which recalibrates the thresholds governing standing orders and prior permission for lay-offs, retrenchment and closure. The constitutional point is not that the legislature may never alter thresholds; it is that flexibility must still operate within a framework of fairness, reasoned procedure and institutional remedy. Where retrenchment becomes easier, the importance of due process and effective adjudicatory institutions correspondingly increases.

The law of collective labour rights reveals a more contested judicial landscape. Bangalore Water Supply and Sewerage Board v A. Rajappa famously gave "industry" a wide meaning, thus bringing a broad array of employment relationships within labour-law regulation[22]. Syndicate Bank v K. Umesh Nayak, however, reiterated that the right to strike is not itself a fundamental right, even though strike action remains a serious and historically significant weapon of collective bargaining[31]. The Industrial Relations Code inherits this ambivalence. It formalises negotiating structures while also constraining strikes through notice and timing rules. Because India has not ratified ILO Conventions 87 and 98, domestic constitutional and statutory doctrine remains especially important in mediating the scope of associational freedom and collective bargaining[1, 31, 56].

Finally, the contract-labour cases reveal the judiciary's oscillation between protective and managerial interpretations. Air India Statutory Corporation v United Labour Union adopted a worker-protective reading in relation to the consequences of abolishing contract labour, whereas Steel Authority of India Ltd. v National Union Waterfront Workers later rejected automatic absorption and narrowed that line[32, 33]. This oscillation matters because the OSHWC Code retains contract-labour regulation but does not abolish the structural reliance on triangular labour arrangements. As subcontracting, platform work and labour intermediation deepen,

future courts will confront a familiar question in new statutory clothes: whether labour welfare law treats fragmentation as a reason to dilute accountability or as a reason to strengthen it.

Because the codes only became operative in late 2025, dedicated code-specific jurisprudence remains in its infancy. For the present, therefore, pre-code judicial doctrine continues to perform a constitutive role. It supplies the constitutional values, interpretive presumptions and worker-protective principles through which the new labour regime will be read. Codification may reorganise statutory text, but it does not erase the constitutional memory of labour rights jurisprudence[22, 24, 27, 29, 30, 34, 37].

19.7. Policy Implications for Workers, Employers, Labour Administration and Industrial Relations

For workers, the codes offer a mixed picture of expansion and conditionality. The clearest gains lie in wider normative recognition. Minimum-wage protection is no longer limited to scheduled employment; a common wage definition can reduce artificial structuring of pay; social-security discourse now includes unorganised, gig and platform workers; migrant workers receive broader statutory visibility and portability commitments; appointment letters and certain health protections are generalised; and retrenched workers have at least a limited statutory claim through the re-skilling fund[2, 5, 8, 11, 44, 47]. These are not cosmetic changes. In a labour market historically marked by informality and invisibility, the move from silence to recognition has genuine value. But much depends on whether recognition matures into enforceable access. Threshold exclusions, scheme dependence, digital registration barriers and uneven inspection capacity mean that many workers may still experience welfare as contingent rather than guaranteed[40, 43, 44, 45, 51].

For employers, the policy story is more straightforwardly oriented to simplification. Single registration, common licensing, reduced forms and registers, a single electronic return, and harmonised definitions lower transaction costs and reduce the complexity associated with navigating multiple labour statutes[44, 45, 46]. Greater clarity in definitions-especially wages, worker, establishment and registration requirements-may help formal-sector firms standardise payroll and compliance systems. For larger enterprises, technology-driven administration can also reduce the arbitrariness historically associated with fragmented inspections. At the same time, employers face transition burdens: wage restructuring under the common definition, new digital processes, uncertainty pending final rules, and the need to align internal HR policies with a post-code framework that is simpler in architecture but not necessarily lighter in substance[3, 4, 7, 10, 14, 48].

For labour administration, the codes mark a shift from statute-specific inspectorates to integrated administrative governance. The state is increasingly imagined as a digital coordinator: it registers establishments, allocates labour identification numbers, integrates states through the Shram Suvidha Portal, manages databases for unorganised and migrant workers, and steers enforcement through risk-based or web-based systems[44, 45]. This transformation could improve transparency and data quality. Yet it also intensifies the importance of bureaucratic capacity, interoperability and federal coordination. Labour administration cannot simply be digitised into existence. Portals require updating; inspectors-cum-facilitators require training; adjudicatory institutions require staffing; and workers require awareness, assistance and accessible claims mechanisms. The codes are thus administrative-capacity statutes as much as labour-rights statutes.

For industrial relations, the implications are perhaps the most structurally significant. The codes formalise channels of representation through negotiating unions and grievance committees, but they also strengthen the employer's flexibility in establishments below the higher thresholds for standing orders and retrenchment permissions[11, 44]. Collective action is more tightly regulated, while fixed-term employment is normalised as a lawful workforce strategy. In effect, the codes seek to stabilise industrial relations not by deepening collective bargaining power but by rationalising representation, formalising dispute resolution and enabling a wider managerial zone of adaptation. Whether this produces "industrial peace" or simply weaker worker bargaining power will depend on the social context in which the law operates. In sectors with strong unions, the codes may reorganise bargaining without extinguishing it. In sectors marked by subcontracting, migration and precarious work, the same provisions may further individualise labour relations[41, 42, 43, 51, 56].

19.8. International and Comparative Perspectives

The new labour regime may be read fruitfully against ILO standards. The Code on Wages partly aligns with the logic of Convention No. 131, which emphasises protection against unduly low wages, minimum-wage machinery with legal force, consultation, and periodic review[49, 52]. India's floor-wage mechanism and universal minimum-wage architecture clearly move in this direction. But alignment is not identity. The adequacy of wage fixation depends on methodology and social dialogue, and the codes leave substantial room for contest over how a "minimum living standard" is operationalised. The law creates the machinery of wage justice; it does not guarantee the substantive adequacy of the outcome.

The Code on Social Security similarly invites comparison with Convention No. 102, the ILO's flagship instrument setting minimum standards across nine branches of

social security[53]. The Indian code captures the broad contemporary aspiration of extending social security beyond a narrow formal workforce, and its recognition of gig and platform workers is internationally noteworthy. Yet the comparison also reveals a gap. Convention No. 102 is concerned with structured and reliable minimum standards, whereas much of the Indian code's extension to informal and platform labour remains scheme-based, discretionary and dependent on future design. The code therefore speaks the language of universalisation while still operating through differentiated entitlement structures.

The OSHWC Code aligns, at least in principle, with the prevention-oriented logic of Convention No. 155, especially when read in light of the ILO's 2022 recognition of a safe and healthy working environment as a fundamental principle and right at work[54, 55]. The code's general duties, health examinations and safety framework reflect that orientation. The weakest comparative area is collective labour rights. India has not ratified ILO Conventions 87 and 98 on freedom of association and collective bargaining[56]. That fact does not determine the constitutionality of the Industrial Relations Code, but it is relevant when assessing whether the expanded strike-notice regime and threshold-driven flexibility move Indian labour law closer to, or further away from, the associational core of international labour standards. In comparative terms, then, India's new labour regime is strongest on administrative consolidation and weakest where labour welfare depends on robust collective power.

19.9. Critical Evaluation of the Reforms

The strengths of codification are real and should be acknowledged with precision. First, the codes reduce legal fragmentation. A labour-law field historically organised through multiple enactments, overlapping definitions and dispersed authorities has been brought into a more intelligible structure[44, 45, 46]. Second, the codes make several substantive welfare gains: universal minimum wages; a statutory floor wage; recognition of gig and platform workers within social-security discourse; broader legal visibility for migrant labour; parity-oriented treatment of fixed-term workers; re-skilling support upon retrenchment; and greater formal attention to appointment letters, health checks and women's participation in all forms of work[2, 5, 8, 11, 47]. Third, codification may improve compliance where employers and administrators previously struggled with multiplicity. In that sense, simplification is not inherently anti-worker. A norm that cannot be understood or administered is often a norm that cannot be effectively claimed.

The limitations are equally serious. The first is threshold dependence. Many of the codes continue to hinge protection on establishment size, employment status or sectoral reach. This is not new, but codification does not overcome the problem; it

often reorganises it[40, 43]. The second is the reliance on delegated rulemaking. Because so much operational content lies in rules, schedules and notifications, the substance of welfare under the codes can remain indeterminate long after the parent enactments are in force[4, 7, 10, 14, 48]. The 2025-26 transition illustrates this sharply: the codes are operative, but their day-to-day legal life is mediated through draft rules, residual older rules, FAQs, portals and administrative guidance. Third, the expansion of social security for gig and platform workers, while normatively significant, remains more recognitional than rights-conferring. Without durable funding, robust registration systems and enforceable scheme content, the promise of universalisation risks becoming aspirational rhetoric.

The reforms also reflect a distinct political economy. Official materials explicitly link codification to ease of doing business, employment generation, digital governance and reduced compliance burdens[44, 45, 46]. None of these objectives is constitutionally illegitimate. The concern is that labour welfare may become increasingly justified in instrumental terms-as a means of efficient labour-market governance-rather than as a constitutive element of social justice. This is visible in the move from inspectors to facilitators, from sector-specific welfare statutes to integrated compliance architecture, and from direct entitlements to portal-mediated delivery. Such a transformation does not automatically dilute labour rights, but it can subtly shift the centre of gravity from worker protection to administratively managed flexibility[41, 42, 43].

Implementation challenges will likely determine the reform's legacy. State rule harmonisation remains critical because labour is in the Concurrent List and enforcement capacity is distributed. Adjudicatory continuity and tribunal functioning are essential, as the industrial-relations transition already demonstrated[13, 45]. Digital systems must not turn into new exclusionary gates for workers lacking documentation or technological access. Labour departments require training and staffing. Workers require awareness, support and accessible complaint processes. The emerging portal architecture must interoperate across wage, social-security, migration and inspection functions. Without such integration, codification may simplify compliance for visible firms while leaving the hardest labour-welfare problems untouched.

Recent official and quasi-official assessments have tended to present the initial implementation phase in positive terms. The 2026 Compliance Handbook emphasises simplification and facilitative administration, while a perception-based study by the V. V. Giri National Labour Institute reports substantial stakeholder acceptance[44, 51]. These materials are useful indicators of administrative intent and early reception, but they should be read cautiously. Perception data cannot substitute

for outcome-based evidence concerning wages, claims, occupational injuries, retrenchments, migrant portability or social-security access. The true measure of codification will lie not in whether the system is administratively neater, but in whether workers who historically fell through the cracks are more secure in fact.

The most balanced evaluation, therefore, is neither celebratory nor dismissive. The new labour regime contains serious welfare innovations and serious redistributive risks. It simplifies the legal field but does not dissolve inequality. It modernises administration but may also depersonalise access. It recognises new categories of labour while leaving many protections contingent. And it attempts to stabilise industrial relations while reducing certain forms of worker leverage. Codification should accordingly be understood as a constitutional experiment in labour governance-one whose success depends less on the elegance of consolidation than on the substantive social outcomes it produces[37, 40, 41, 42, 43, 51].

Conclusion

India's labour codes represent one of the most consequential reorganisations of labour legislation since Independence. Their importance lies not only in consolidation but in the redefinition of what labour welfare means within a changing political economy. The older regime pursued welfare through a proliferating array of targeted statutes, many of them sector-specific and formal-sector oriented. The new regime pursues welfare through four integrated codes, common definitions, digital administration, consolidated institutions and a more explicit accommodation with enterprise flexibility[35, 36, 44, 46]. That transformation should not be reduced to the binary of "pro-worker" versus "pro-employer". The codes are both: worker-protective in some of their normative commitments, employer-accommodating in important parts of their design, and state-transformative in the administrative apparatus they construct.

The central analytical conclusion of this chapter is that codification has shifted Indian labour law from protective statute pluralism to integrated labour governance. Whether that shift deepens labour justice will depend on how the codes are interpreted, ruled, administered and contested. If the floor wage is meaningful, if social security for informal and platform labour becomes real, if safety enforcement reaches precarious workplaces, if migrant portability works, and if industrial relations institutions remain fair and accessible, the codes may indeed renew the constitutional project of labour welfare in a contemporary form. If, however, universal language is paired with thin entitlements, high thresholds, weak enforcement and constrained collective power, codification may legalise a more unequal equilibrium between labour and capital. The future of India's new labour

regime will therefore be decided not by codification alone, but by the constitutional, judicial and administrative choices through which codification is made to govern[1, 13, 24, 30, 37, 43, 44, 51, 55, 56].

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Chapter 20

Future of Labour Welfare in India: Gaps, Prospects and the Road Ahead

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20.1 Introduction: The Changing Landscape of Labour Welfare

Labour welfare in India has always stood at the intersection of social justice, economic development, and constitutional governance. The idea was never confined to factory canteens, maternity relief, or welfare funds in a narrow administrative sense; it has historically referred to a broader legal commitment to humane conditions of work, fair wages, social security, collective representation, and protection against arbitrary economic vulnerability. In this respect, the four labour codes mark not merely a drafting exercise or legislative tidying-up, but a structural reorganisation of the normative field within which labour welfare is imagined, administered, and contested. Enacted between 2019 and 2020 and brought into force from 21 November 2025, 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 together now constitute India's new labour regime.[2][3][4][5][7]

The historical importance of this transformation becomes clearer when placed against the longer genealogy of Indian labour law. Colonial legislation such as the early factory laws, the Workmen's Compensation Act, 1923, the Trade Unions Act, 1926, and the Payment of Wages Act, 1936 reflected a limited regulatory concern with industrial order and elementary worker protection. The post-Constitution period substantially widened the welfare horizon through the Minimum Wages Act, 1948, the Employees' State Insurance Act, 1948, the Employees' Provident Funds Act, 1952, the Maternity Benefit Act, 1961, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen Act, 1979, and later welfare legislation for building workers and other vulnerable sectors. Over time, however, this architecture became institutionally dense, definitionally fragmented, and administratively uneven. Codification responded to that inherited complexity by consolidating 29 central labour enactments into four thematic codes.[7][26][27][28]

This chapter argues that the future of labour welfare in India will depend less on the mere existence of a codified legal text than on how the new regime resolves four

enduring tensions: between simplification and substantive protection; between flexibility and security; between digital administration and social inclusion; and between central codification and state-level implementation. The chapter therefore proceeds by situating labour welfare within twenty-first century transformations in labour markets; examining the doctrinal architecture of the labour codes; analysing constitutional principles and labour-rights jurisprudence; assessing implications for workers, employers, labour administration, and industrial relations; and offering a critical evaluation of the strengths, limitations, and implementation challenges of the new regime. The central claim is that codification has not ended the welfare question in Indian labour law; it has relocated that question into new sites-platform work, portability, data infrastructures, delegated legislation, and institutional capacity.[1][7][8][9]

20.2 Transformation of Labour Markets in the Twenty-First Century

20.2.1 Globalisation and Labour Mobility

The future of labour welfare cannot be understood without recognising the changed sociology of work. India's labour market is no longer organised solely around the standard image of long-term employment in a large industrial establishment. Globalisation has deepened supply-chain production, subcontracting, labour mobility, and competitive pressures for cost rationalisation. At the same time, official labour statistics show a labour market that is broadening in participation yet remains structurally informal. According to the Periodic Labour Force Survey for 2023-24, the labour force participation rate for persons aged 15 years and above stood at 60.1 per cent, with female labour force participation at 41.7 per cent and worker population ratio at 58.2 per cent; the usual status unemployment rate was 3.2 per cent. These are important indicators of labour market dynamism, but they do not signify universalisation of decent work. ILOSTAT data indicate that informal employment in India remained about 88.1 per cent in 2024.[10][11]

This combination-rising participation, low measured unemployment, and persistent informality-poses the core puzzle for labour welfare. Welfare law designed around the stable bilateral employer-employee relationship struggles when production is outsourced, employment is mediated through contractors, and livelihoods depend on circular migration between states, sectors, and labour statuses. The migration of labour from agriculture to construction, services, logistics, and urban informal work has made portability of benefits, housing, food access, accident insurance, and inter-state administrative coordination more important than the older model of establishment-bound welfare. Labour mobility thus transforms labour welfare from

a static workplace question into a dynamic question of legal continuity across spaces of work.[10][11][5]

20.2.2 Technological Change and Digital Labour

Technological change has sharpened these pressures. Digital platforms have produced new forms of labour intermediation in transport, delivery, domestic services, online freelancing, and task-based work. The NITI Aayog has estimated that India had 7.7 million gig workers in 2020-21 and that this number could rise to 23.5 million by 2029-30. The ILO's work on digital labour platforms has similarly emphasised that platform work is not a marginal phenomenon but one of the clearest manifestations of the digital transformation of work, generating significant challenges around classification, remuneration, working time, control, and social protection.[12][15]

Digitalisation complicates labour welfare in at least three ways. First, it blurs the distinction between employee and independent contractor, on which much of classical labour law depended. Secondly, it disaggregates the workplace: labour is coordinated by algorithm, rating, and app-based allocation rather than by direct managerial supervision in a physically bounded establishment. Thirdly, it relocates risk onto workers through demand volatility, asset costs, and uncertain access to social security. The labour codes recognise this transformed reality more clearly than the prior central legislative framework did, but recognition alone does not settle the legal consequences of dependence, control, or vulnerability in platform-mediated work.[4][12][15]

20.2.3 Changing Nature of Employment

The shift from traditional long-term employment to contract, temporary, seasonal, and fixed-term work is equally significant. The Industrial Relations Code expressly recognises fixed-term employment, while the Social Security Code and related government guidance clarify gratuity protections for fixed-term workers after one year of service. This signals a broader transition in the legal imagination of work: from lifetime attachment to a single employer toward episodic and diversified labour relations.[3][4][8][9]

Yet this transformation also exposes a basic tension in labour law codification. The codes modernise the law by acknowledging non-standard work, but they still rely heavily on legacy categories, thresholds, and scheme-based governance. As a result, the changing nature of employment does not simply require more legal coverage; it requires a rethinking of what counts as the juridical basis of welfare itself. The future of labour welfare in India, therefore, turns on whether legal protection remains tied to the standard contract of employment or is progressively reconstructed around

economic dependence, work-related vulnerability, and portable social citizenship.[3][4][5][15]

20.3 Achievements of Labour Law Codification

Codification has achieved three undeniable reforms. It has simplified the legislative field, expanded the conceptual perimeter of social security, and initiated a shift toward digital and integrated labour governance. These are substantial achievements, even if each is normatively qualified and institutionally incomplete.[2][3][4][5][7]

Table 20.1 Legislative consolidation and welfare architecture under the four labour codes

Code	Principal welfare field	Key doctrinal instruments	Future governance issue
Code on Wages, 2019	Wage justice and income protection	common definition of wages; floor wage; minimum wages; payment of wages; bonus; gender non-discrimination; claims authorities; inspector-cum-facilitator	adequacy of wage floor and enforceability in informal and fragmented work
Industrial Relations Code, 2020	Worker voice, dispute resolution, job security and restructuring	grievance redressal committees; negotiating union model; standing orders; strike and lock-out regulation; retrenchment and closure rules; re-skilling fund	balance between flexibility and collective bargaining power
Code on Social	Social insurance and social assistance	EPF, ESI, gratuity, maternity benefit, employee compensation,	translating enabling provisions into universal and

Security, 2020	across formal and informal sectors	unorganised worker registration, gig/platform worker schemes, aggregator contribution framework	portable entitlements
Occupational Safety, Health and Working Conditions Code, 2020	Safety, welfare facilities and conditions of work	employer duties; standards; appointment letters; inspectorate; migrant worker registration and portability; journey allowance; welfare facilities	effective inspection, interstate coordination, and inclusion of precarious workers

Source: Compiled from the Code on Wages, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code, 2020; Ministry of Labour and Employment, Annual Report 2024-25.[2][3][4][5][7]

The analytical significance of Table 20.1 lies in showing that codification reorganises labour welfare not by abolishing its traditional domains but by regrouping them into four integrated regulatory clusters. Wage protection, social security, health and welfare conditions, and industrial relations are now doctrinally more legible as parts of a single labour-governance architecture. This gives employers and administrators greater statutory clarity, but it also concentrates considerable power in delegated rule-making, thresholds, and administrative design. In that sense, the achievement of consolidation is simultaneously the source of new risks of regulatory unevenness.[2][3][4][5][8]

20.3.1 Simplification of Labour Legislation

The Code on Wages, 2019 illustrates the gains of simplification most clearly. It creates a common definition of "wages," provides for a national floor wage to be fixed by the Central Government, and extends the minimum wage architecture beyond the older scheduled-employment model. It also prohibits discrimination on the ground of gender in wages for the same or similar work and in recruitment and conditions of employment, subject to lawful restrictions. The Code structures wage regulation around minimum wages, payment of wages, bonus, claims, advisory boards, and enforcement, replacing older fragmentation across multiple statutes.[2]

The regulatory design matters. The floor wage enables the Union to establish a baseline while leaving room for state-level wage-setting above it; advisory boards institutionalise tripartite participation, and the statute expressly requires one-third women's representation on the Central Advisory Board. Claims authorities may award compensation, in some cases up to ten times the amount due, and the Code contemplates expedited disposal. For employers, the simplification of definitions reduces interpretive uncertainty; for workers, it potentially widens the reach of statutory wage protection. Yet wage justice remains dependent on realistic fixation, regular revision, effective inspection, and actual worker access to claims mechanisms. Simplification, in other words, is a procedural achievement, not by itself a guarantee of distributive adequacy.(2)

The Occupational Safety, Health and Working Conditions Code similarly rationalises a diffuse statutory field. It consolidates disparate enactments on factories, contract labour, inter-state migrant workers, mines, and building and other construction work into a single code structured around registration, duties, standards, welfare facilities, and special categories of workers. The Code requires employers to provide a workplace free from hazards, comply with prescribed standards, furnish appointment letters, and ensure welfare measures and annual health examinations for prescribed classes of employees. It also confers on employees rights to obtain information relating to safety and health, to represent concerns, and to report imminent danger.(5)

The Industrial Relations Code presents a more ambivalent form of simplification. It creates an integrated structure for trade unions, conditions of service, dispute resolution, strikes and lock-outs, and lay-off, retrenchment, and closure. Its long-term benefit lies in a clearer statutory architecture for industrial relations. Yet simplification here is intertwined with redistribution of bargaining power. Establishments with twenty or more workers must constitute a Grievance Redressal Committee with equal employer and worker representation and adequate representation of women, while bargaining recognition is organised through a majority-based negotiating union model. At the same time, standing orders and prior-permission requirements for lay-off, retrenchment, and closure now operate at the threshold of 300 workers, and the Code imposes notice requirements for strikes across sectors. The result is a more coherent statute, but not a politically neutral one.(3)

20.3.2 Expansion of Social Security Coverage

The Code on Social Security, 2020 is the most visible site of conceptual expansion. Its importance lies not simply in integrating the law relating to provident fund, insurance, gratuity, maternity benefit, employee compensation, and welfare boards,

but in expressly recognising unorganised workers, gig workers, and platform workers within the statutory universe of social security. That recognition is historically significant because it marks a departure from the older central framework, which was overwhelmingly built around conventional employment relationships and establishment-based contributions.[4]

Doctrinally, Chapter IX of the Social Security Code is central to the future of labour welfare. It provides for registration of unorganised workers, gig workers, and platform workers, including self-registration on an electronic system; facilitation centres and helplines to support enrolment; and eligibility to avail the benefits of schemes framed under the Chapter. Section 114 authorises the Central Government to notify social security schemes for gig and platform workers on matters including life and disability cover, accident insurance, health and maternity benefits, old-age protection, and crèche support. The same statutory framework contemplates funding through central and state contributions, beneficiary or aggregator contributions, corporate social responsibility sources, and other funding channels.[4]

The aggregator contribution mechanism is particularly important. The Code provides that specified aggregators may be required to contribute at a rate between one and two per cent of annual turnover, subject to a cap of five per cent of the amount paid or payable by the aggregator to gig and platform workers, with the commencement date to be notified by the Central Government. The National Social Security Board performs the relevant board functions for gig and platform workers, with representation from aggregators and gig/platform workers. These provisions show that the Code is not blind to the economics of digital labour markets; it attempts to build a contributory bridge between new business models and welfare obligations.[4]

Yet the expansion is best understood as enabling rather than self-executing. The Code authorises schemes; it does not, by its own force, create a fully specified, universally enforceable social security package for every informal, gig, or platform worker. This distinction is doctrinally crucial. A scheme-based model allows flexibility and innovation, but it also leaves welfare dependent on executive design, financing choices, rule-making, coverage criteria, and implementation capacity. Even important advances-such as facilitated registration, digital records, and the integration of gig workers into the statutory vocabulary of social security-do not eliminate the gap between recognition and actual benefit realisation.[4][8][9]

The Code's importance for non-standard work extends beyond Chapter IX. Government compliance guidance under the new regime clarifies gratuity protections for fixed-term employees and elaborates maternity and crèche-related obligations. This is significant because it suggests that the social security architecture

is beginning, however modestly, to accommodate fragmented employment tenures rather than assuming a single uninterrupted career with one employer. The future question is whether such accommodation will remain exceptional and scheme-based or mature into a broader portable social security design.[4][8][9]

20.3.3 Modernisation of Labour Governance

Codification also modernises labour governance through digitalisation and an altered enforcement philosophy. The Code on Wages adopts the "inspector-cum-facilitator" model and contemplates web-based and randomised inspection. The administrative aspiration is evident: inspection should become less opaque, more systematised, and potentially more resistant to arbitrariness. Similar digital impulses appear across the new regime-in electronic registration, self-declaration, platform verification, and interoperability through labour portals.[2][4][7]

The e-Shram architecture is an especially important example. The Ministry's annual report states that e-Shram registrations crossed 30 crore, and that multiple social security and welfare schemes have been integrated or mapped with the platform. The same report notes continuing state integration with the Shram Suvidha Portal and the broader project of compliance simplification. These developments matter because digital governance can potentially solve a classic problem of Indian labour welfare: fragmentation of records across ministries, schemes, and states.[7]

At the same time, modernisation alters the role of labour administration. The administrator is no longer only an inspector of factories or a conciliation officer in industrial disputes; the state increasingly acts as data steward, interoperable platform designer, and orchestrator of portable welfare. This can enhance efficiency, but it also creates new risks of exclusion through documentation failure, weak digital literacy, language barriers, and infrastructural asymmetry across states. A future-oriented labour welfare regime must therefore treat digitalisation as an administrative tool, not as a substitute for in-person facilitation, legal awareness, and accessible grievance redress.[7][8][9]

20.4 Persistent Gaps in the Labour Welfare Framework

20.4.1 Limited Protection for Informal Workers

The most persistent gap is structural informality. If informal employment remains the dominant mode of work, then even well-drafted labour codes will have limited transformative effect unless they can operate outside the narrow boundaries of formal establishments. This is where the new regime remains incomplete. Recognition of unorganised, gig, and platform workers under the Social Security Code is normatively important, but the actual delivery of benefits depends on registration, scheme design, and executive prioritisation. Many informal workers

still lack written contracts, stable employer identities, or the documentary regularity that modern welfare administration often presupposes.[4][7][11]

The problem is not merely legal underinclusion but legal modality. A substantial part of the new welfare framework for precarious workers is mediated through government-notified schemes, portals, and targeted delivery rather than through immediately enforceable bilateral duties. This means that workers most in need of protection may have rights that are formally acknowledged yet practically diluted by informational, procedural, or technological barriers. In that sense, the future of labour welfare in India depends on whether codification evolves from recognition-plus-registration to robust, claimable, portable entitlements.[4][11][14]

20.4.2 Implementation Challenges

A second gap concerns implementation. The labour codes are in force, but the transition to the full architecture of subordinate legislation and institutions remains a live issue. Official FAQs issued in January 2026 state that, during the transition, existing rules continue by operation of general legal principles to the extent they are consistent with the codes until new rules are finally notified. Central draft rules under the codes were re-published after commencement, and the Ministry's own compliance materials acknowledge that many operational details depend on rules still being prescribed or finalised. This is a classic problem of codification: legislative commencement does not automatically produce administrative completeness.[8][9]

The Industrial Relations Code (Amendment) Act, 2026 makes the point even more sharply. Enacted after commencement and deemed effective from 21 November 2025, it amends the repeal and savings provision so that tribunals and statutory authorities under repealed enactments continue until corresponding bodies under the Code become functional. This was a necessary housekeeping reform, but it also reveals the institutional fragility of large-scale legal transition. Where welfare rights depend on functioning boards, tribunals, inspectors, and registries, even technical transitional gaps can materially affect worker protection.[6]

Implementation challenges also arise from capacity. A more digitised, risk-based, portal-heavy labour administration requires data systems, trained personnel, interoperable databases, and frontline facilitation. Without those investments, "inspector-cum-facilitator" may become merely "understaffed inspector," and digital registration may become a barrier rather than a bridge. Effective welfare enforcement still requires boots on the ground, not only dashboards in the secretariat.[7][8][9]

20.4.3 Regional Disparities in Labour Governance

A third gap flows from India's federal structure. Labour is a subject in the Concurrent List, which means that the uniform text of the codes must operate through differentiated state-level administrative and regulatory ecosystems. The Ministry's annual report preceding full commencement recorded divergences between central draft rules and draft state rules and noted that some States and Union Territories still had to pre-publish rules for one or more codes. This federal reality matters greatly: labour welfare outcomes will vary depending on state fiscal capacity, inspectorate strength, political commitment, urbanisation patterns, and digital infrastructure.[1][7]

Regional disparities are not merely technical. They affect the lived meaning of labour rights. A migrant worker moving between states may encounter different registration practices, different quality of facilitation, and different speed of welfare delivery even under the same central code. Consequently, the future of labour welfare in India must be understood as a problem of cooperative federalism. National codification supplies the skeleton; state capacity supplies much of the flesh.[1][5][7]

20.5 Emerging Challenges for Labour Welfare

20.5.1 Regulation of Gig and Platform Work

The regulation of gig and platform work is likely to become the defining labour welfare issue of the next decade. The Social Security Code's recognition of gig and platform workers is a major first step, but the new regime still stops short of comprehensively resolving their legal status. The codes do not fully displace the binary between employee and independent contractor, nor do they comprehensively regulate algorithmic control, ratings-based discipline, work allocation opacity, or sudden deactivation. In other words, the law recognises the worker for some welfare purposes without yet fully theorising the labour relation in which that worker is embedded.[4][12][15]

This partial recognition should not be underestimated; indeed, it may be the most innovative part of the new regime. But its limits are equally clear. If social security is made to depend on future schemes, unspecified funding flows, or incomplete registration, then platform workers may remain visible to law without being effectively protected by it. The next phase of reform will likely need to address contribution enforcement, accident liability, algorithmic transparency, dispute resolution, collective voice, and the portability of benefits across platforms. Comparative developments internationally suggest that viable regulatory models tend to converge around these questions, whether through reclassification, hybrid categories, or dedicated contributory welfare systems. That comparative proposition

is an inference from the broader international debate, but it captures the direction of travel with some accuracy.[4][13][15]

20.5.2 Protection of Migrant Workers

Migrant labour remains another site of acute vulnerability. The Occupational Safety, Health and Working Conditions Code includes a notable set of provisions for inter-state migrant workers: self-registration through an electronic portal, welfare-linked databases, annual journey allowance, the option of availing the public distribution system at the native or destination state, and portability of benefits attached to building and other construction work. These are significant design innovations because migrant workers historically fell through the cracks of territorial and establishment-based welfare.[5]

But the hard questions lie in implementation. Portability requires reliable data exchange between origin and destination states, recognition across departments, and worker awareness. Migrant welfare also extends beyond the statutory text to housing, health access, childcare, grievance channels, language support, and emergency response. The codes move in the right direction by acknowledging mobility as a welfare issue, yet their effectiveness will depend on coordinated interstate administration rather than legal text alone. The future of labour welfare will be judged, in part, by whether a migrating worker can carry welfare entitlements as easily as he or she carries a mobile phone.[5][7]

20.5.3 Gender Inequality in Labour Markets

Gender remains a central fault line. The Code on Wages prohibits gender discrimination in wages for the same or similar work and in recruitment and conditions of employment, while the Social Security Code preserves maternity benefits and enables crèche-related welfare provisions. The OSHWC Code includes welfare and sanitation requirements, including separate facilities for male, female, and transgender employees. These are not trivial reforms; they embed equality and dignity concerns within the new statutory framework.[2][4][5]

Yet the labour market context shows why formal equality norms are insufficient. Female labour force participation has improved, but women remain disproportionately concentrated in informal, home-based, care, agricultural, and precarious service work. Gendered care burdens, occupational segregation, safety concerns, and unequal access to formal employment continue to depress substantive labour equality. Accordingly, the future of labour welfare must move beyond non-discrimination alone toward gender-inclusive policy design: childcare infrastructure, safe transport, flexible but non-precarious work arrangements, social security for

informal women workers, and enforcement practices sensitive to sexual harassment and workplace exclusion.[10][23]

Table 20.2 Major challenges for labour welfare in the future

Challenge	Policy implication
Informal employment	expansion of portable and claimable social protection beyond standard employment
Gig economy work	legal framework for worker classification, platform contributions, and algorithmic accountability
Migrant labour	interstate portability of welfare, food access, housing support, and multilingual facilitation
Gender inequality	childcare, safety, equal opportunity, and social security for informal and precarious women workers

Source: Compiled from PLFS 2023-24, ILO materials on informality and platform work, NITI Aayog gig economy report, and the labour codes.[2][4][5][10][11][12][15]

The table identifies the four structural axes along which future reform is most likely to be tested. Its significance lies in demonstrating that labour welfare is no longer exhausted by the classical industrial relation between a factory owner and a permanent worker. The new welfare question is multidimensional: it concerns informality, digital intermediation, mobility, and social reproduction. A labour regime that fails to address these four axes may be formally modern but substantively inadequate.[11][12][15]

20.6 Role of Labour Institutions in Strengthening Worker Protection

20.6.1 Labour Administration and Governance

Labour welfare ultimately succeeds or fails through institutions. The codes establish or preserve a network of advisory boards, social security organisations, grievance mechanisms, inspectors-cum-facilitators, and tribunals. This institutional design suggests that the state does not view codification as deregulation in the crude sense of simple withdrawal; rather, it attempts a reconfiguration of regulatory technique. The problem is that sophisticated design requires sophisticated administration. Registration, inspections, dispute resolution, and welfare disbursal must be timely, interoperable, and intelligible to workers.[2][3][4][5]

The role of labour administration in the future will therefore be dual. It must remain a guarantor of compliance against underpayment, unsafe conditions, or unlawful retrenchment, but it must also operate as a welfare delivery institution capable of enrolling vulnerable workers, coordinating with states, and maintaining reliable benefit records. The more the codes rely on digital systems and self-registration, the more labour administration must invest in assisted facilitation. Otherwise, the very workers most in need of welfare may become least capable of accessing it.[7][8][9]

20.6.2 Role of Trade Unions and Worker Representation

Trade unions remain indispensable to labour welfare, even under a more individualised and digital economy. The Industrial Relations Code's majority-based recognition of a negotiating union and its provision for workplace grievance committees show that the law still conceives worker voice as institutionally important. But the Code also imposes broader strike notice requirements and raises the threshold for standing orders and prior permission for retrenchment or closure, thereby shifting the balance toward managerial flexibility in many medium-sized establishments. This may weaken the practical bargaining leverage through which labour welfare has historically been defended.[3][26]

In the future, the most important union function may be organisational innovation. Informal workers, migrant workers, domestic workers, and platform workers often do not fit neatly into classical plant-based union structures. International labour standards on transition from the informal to the formal economy emphasise social dialogue, freedom of association, and the inclusion of representative organisations of workers in the informal economy. Indian labour welfare will be stronger if unions and worker collectives are enabled to organise across dispersed workplaces and digitally mediated sectors rather than being confined to the shrinking core of standard industrial employment.[14][15]

20.6.3 Role of the Judiciary in Protecting Labour Rights

The constitutional foundations of labour welfare in India are deeper than the labour statutes themselves. Labour rights jurisprudence draws on the equality guarantee in Articles 14 and 16, freedom of association under Article 19(1)(c), the right to life under Article 21, the prohibitions on forced labour and child labour in Articles 23 and 24, and the Directive Principles in Articles 38, 39(d), 41, 42, 43 and 43A. Labour welfare in India is therefore not merely statutory policy; it is part of the constitutional project of social justice.[1]

The Supreme Court has repeatedly constitutionalised labour welfare. In *Randhir Singh v Union of India*, the Court treated "equal pay for equal work" as a constitutional goal deriving content from Articles 14 and 16. In *People's Union for*

Democratic Rights v Union of India, it held that payment below the statutory minimum wage could amount to forced labour within the meaning of Article 23. In *Bandhua Mukti Morcha v Union of India*, the Court linked the abolition of bonded labour to the state's wider constitutional obligation to secure humane conditions of work and dignity. These decisions are important not only as precedents but as constitutional method: they show how the Court has historically used Directive Principles to deepen the meaning of fundamental rights in the labour context.[16][17][18] Later decisions extended this logic. *Olga Tellis v Bombay Municipal Corporation* recognised livelihood as integral to Article 21. *Daily Rated Casual Labour v Union of India* and related jurisprudence underscored the injustice of treating precarious workers as outside the norms of fair employment. In *Consumer Education & Research Centre v Union of India*, occupational health and medical protection for workers exposed to hazardous industries were read into the right to life. In *Municipal Corporation of Delhi v Female Workers (Muster Roll)*, maternity benefit was extended beyond permanent formal employment, reflecting a constitutional commitment to reproductive justice and labour dignity.[19][20][21][23]

The contract labour cases reveal a more complex judicial trajectory. In *Air India Statutory Corporation v United Labour Union*, the Court adopted a strongly worker-protective approach. That position was substantially recalibrated in *Steel Authority of India Ltd v National Union Waterfront Workers*, where automatic absorption of contract labour upon abolition was rejected. The doctrinal lesson is that the judiciary has oscillated between expansive welfare readings and caution against judicially remaking labour-market structure. This tension will likely persist under the new regime, especially in relation to platform labour, outsourcing, and worker classification.[22][24]

A more recent and highly relevant decision is *Gujarat Mazdoor Sabha v State of Gujarat*, where the Supreme Court invalidated sweeping pandemic-era exemptions from labour protections under the Factories Act. The Court held, in effect, that economic distress could not justify a blanket suspension of humane working conditions and overtime protections in the absence of the kind of "public emergency" required by statute. The case is especially important for the future because it affirms that labour welfare protections cannot be treated as dispensable merely because the executive invokes crisis or economic necessity. Under the labour codes, judicial review will remain vital in policing exemptions, delegated legislation, thresholds, and administrative design against constitutional norms of proportionality, dignity, and social justice.[25]

20.7 International Perspectives on Future Labour Regulation

International labour standards offer two especially important frameworks for thinking about India's future trajectory. The first is the ILO's Social Protection Floors Recommendation, 2012 (No. 202), which emphasises nationally defined basic social security guarantees, a rights-based approach, and the primary responsibility of the state in designing and implementing social protection systems. The second is the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), which treats formalisation as a process requiring coherent policies, social protection, enforcement, social dialogue, data systems, and respect for freedom of association and collective bargaining.[13][14]

These standards are highly relevant to India's new labour regime. The Social Security Code's framework for unorganised, gig, and platform workers is broadly consistent with the international move toward widening coverage, but the ILO approach suggests that durable welfare reform requires more than targeted schemes; it requires a floor of guarantees that is reliable, inclusive, and progressively universal. Likewise, the codified emphasis on registration, data, and formalisation resonates with Recommendation No. 204, yet that instrument also insists that transitions to formality must not reduce protections and must be grounded in social dialogue. India's future labour welfare trajectory will be stronger if it reads codification through these international principles rather than only through administrative efficiency.[4][13][14]

International work on digital labour platforms is also instructive. The ILO's global study of digital labour platforms emphasises regulatory responses across jurisdictions and seeks pathways for ensuring that all platform work becomes decent work. Without mechanically transplanting foreign models, one can infer three broad lessons for Indian policy: platform work requires clearer allocation of responsibility; welfare must become portable across fragmented work relations; and worker voice remains central even in technologically mediated markets. India's statutory recognition of gig and platform workers is thus significant, but internationally it appears as a beginning rather than an endpoint.[15]

20.8 Policy Recommendations for Strengthening Labour Welfare

20.8.1 Strengthening Social Security Systems

The first policy priority is to convert the Social Security Code's enabling architecture into a genuinely portable and claimable system of protection. This requires, at minimum, a nationally guaranteed basic package for unorganised, gig, and platform workers covering accident insurance, health protection, maternity support, disability cover, and old-age income support. The aggregator contribution framework should

be operationalised with transparent rates, robust collection mechanisms, and ring-fenced welfare funds. Interoperability between e-Shram, state welfare boards, social insurance institutions, and destination-state service delivery systems should be treated as a core public good, not a peripheral technical exercise.[4][7][8][9][13]

A second dimension is inclusion by design. Registration should not become a source of exclusion because of Aadhaar mismatches, unstable connectivity, or lack of awareness. Assisted registration through local facilitation centres, worker organisations, trade unions, urban local bodies, and common service centres is essential. Social protection that exists only for digitally fluent workers is not universal protection.[4][8][9]

20.8.2 Improving Labour Law Enforcement

The second priority is enforcement. Finalisation and rationalisation of subordinate legislation should be treated as urgent. Transitional ambiguity about the interaction between old rules and new codes should be minimised through consolidated guidance, plain-language manuals, and multilingual worker-facing materials. Inspection systems should combine risk-based digital tools with adequate field staff, transparent audit trails, and accountability safeguards. A purely compliance-light model may improve formal "ease of doing business" indicators while weakening real labour standards.[8][9]

Enforcement must also be reimagined as a welfare service. Claims under wage law, accident compensation, maternity claims, migrant-worker grievances, and access to social security benefits need efficient first-instance resolution. The institutional continuity issues that required the Industrial Relations Code (Amendment) Act, 2026 underline the necessity of investing in functional tribunals and authorities, not merely legislating them into existence.[2][6]

20.8.3 Promoting Inclusive Labour Policies

The third priority is inclusion. Migrant workers need portable food security, benefit portability, safe housing, medical access, and grievance helplines that function across languages and states. Women workers need childcare support, safe commuting, sanitation, equal opportunity enforcement, and social security that covers the realities of informal and interrupted work. Informal worker organisations and gig-worker associations should be institutionally heard in welfare board design and rule-making. Labour welfare is weakened when the voices of its principal beneficiaries are absent from governance.[5][10][14]

A related recommendation concerns the Industrial Relations Code. If future reform is to remain faithful to the constitutional value of worker participation, the law should be interpreted and, where necessary, amended in a manner that supports

meaningful collective bargaining, not merely orderly dispute management. The future of labour welfare depends as much on voice as on benefits. Welfare without representation risks paternalism; representation without welfare risks abstraction. The codes must be made to support both.[3][1][14]

20.9 Future Directions for Labour Law Reform

The long-term direction of labour law reform in India is likely to move along three axes. First, labour welfare will have to become more worker-centred and less establishment-centred. Portable social protection, interoperable welfare identities, and benefit continuity across jobs, states, and platforms will be indispensable in a labour market defined by mobility and fragmentation. Secondly, labour law will have to become more status-sensitive but less dependent on the rigid employee/independent-contractor binary. A future regime may need to focus more explicitly on economic dependence, personal labour, and vulnerability than on formal contractual labels alone. Thirdly, labour governance will need a more stable theory of digital regulation-covering platform contributions, data use, algorithmic management, worker rating systems, and technologically mediated discipline.[4][5][12][15]

At the same time, future reform should avoid a false choice between growth and labour welfare. Indian labour law has long oscillated between welfare-state paternalism and market-oriented flexibilisation. The labour codes embody both impulses: they rationalise and widen certain protections while also easing aspects of labour market adjustment. The key normative challenge is therefore not whether India should modernise labour law, but what model of modernity it should pursue. A constitutionally grounded model would treat labour welfare as an enabling condition of democratic development, productivity, and social peace, not as an impediment to them.[1][3][13]

The road ahead also requires institutional humility. Codification is not self-implementing. It requires fiscal commitment, federal coordination, administrative learning, and sustained social dialogue. If these conditions are ignored, the codes may produce a formally modern but substantively thin welfare order. If they are taken seriously, however, the codes could become the foundation for a new generation of labour welfare that is more universal, portable, inclusive, and responsive to the realities of twenty-first century work.[7][8][9][14]

20.10 Conclusion

The future of labour welfare in India will be shaped by how the new labour regime manages transition rather than by codification alone. The four labour codes have simplified the statutory landscape, extended the conceptual reach of social security,

modernised elements of compliance and inspection, and acknowledged emerging forms of work such as gig and platform labour. At the same time, they remain marked by significant limitations: threshold-based exclusions, dependence on delegated legislation, incomplete implementation, uneven federal capacity, and unresolved questions about worker voice in a flexibilised economy.[2][3][4][5][6][8][9]

The broader transformation of labour governance in India is therefore best described as a shift from a fragmented welfare-state statutory order to an integrated, digitalised, and selectively flexibilised regime. Whether that transformation strengthens or weakens labour welfare will depend on the normative choices that now follow: whether welfare becomes portable and universal rather than residual and scheme-dependent; whether digital systems are made inclusive rather than exclusionary; whether collective representation adapts to new labour markets; and whether courts and institutions continue to interpret labour regulation in the light of constitutional commitments to dignity, equality, and social justice. The labour codes have opened a new chapter in Indian labour law. They have not closed the argument about labour welfare; they have made that argument more urgent, more complex, and more foundational to the future of democratic governance itself.[1][13][14][15][25]

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