Implementation Gap in Labour Codes

Mains: *GS-III – Economy*

Why in News?

While India's four labour codes are now fully implemented, the accompanying rules fail to address key worker protections—leaving gig workers, contract employees, and trade unions vulnerable.

What about the four labour codes?

- **New Labour Codes** – The are being made effective from 21st November 2025, rationalising 29 existing labour laws.
- **Objective** – By modernising labour regulations, enhancing workers' welfare and aligning the labour ecosystem with the evolving world of work.
- This landmark move lays the foundation for a future-ready workforce and stronger, resilient industries driving labour reforms for Aatmanirbhar Bharat.
- **4 codes include**
    - The Code on Wages, 2019 – Subsumes 4 laws, including the Minimum Wages Act and Payment of Bonus Act.
    - The Industrial Relations Code, 2020 – Subsumes 3 laws, notably the Industrial Disputes Act and Trade Unions Act.
    - The Code on Social Security, 2020 – Subsumes 9 laws, including the EPF, ESI, and Maternity Benefit Acts.
    - The Occupational Safety, Health and Working Conditions Code, 2020 – Subsumes 13 laws, such as the Factories Act and Mines Act.

To Know more about labour Code, click here

What are the critical gaps that exist in the new codes?

- **Role of Rules** – Rules essentially lay down the standard operating procedures (SoPs) for implementing an Act or Code.
- While they cannot contradict the provisions of the parent legislation, they become crucial where the law is broad or open-ended.
- Many hoped the rules would soften controversial provisions, but that expectation has not been met.
- **Fixed-Term Employment (FTE)** – The Industrial Relations Code, 2020 formally introduced the concept of FTE into India's labour law framework.
- **No Minimum Tenure** – The Industrial Relations Code remains silent on minimum

tenure or limits the number of contract renewals, which addressed the gaps to mitigate potential adverse effects on workers.

- **Risk –** A minimum tenure (one year) could have prevented very short tenures which are detrimental to employees.
- Also, there could have been some restrictions in the number of times renewals can be allowed.
- Otherwise, there is a possibility that even regular positions become FTEs with unlimited renewals.
- **Floor Wage vs Minimum Wage** – The Code on Wages (Central) Rules provide only a vague definition of the "floor wage" & do not clearly distinguish it from the minimum wage.
- While the Rules require consultation with State governments, they do not specify a detailed framework for such consultations, raising concerns that the process may remain largely symbolic.
- **Gender Bias in Wage Calculation** – The Rules fail to lay down clear principles for fixing minimum wages.
- As a result, the convention of treating a four-member family comprising three consumption units is likely to continue.
- This effectively perpetuates gender bias, as an adult female is assigned a weight of 0.8 compared with 1.0 for an adult male, perpetuates gender inequality in wage-setting.
- **Hourly Wage Calculation** – The Rules further provide that the hourly wage shall be calculated by dividing the daily wage by eight.
- Conceptually, this is a flawed approach - an hourly wage should not merely be a pro-rata derivation of the daily wage, as workers may not be able to find work for the remaining hours of the day.
- **International Practice** – Minimum hourly wages are often determined independently of daily wage rates.
- This issue is particularly important in India, given the large number of domestic workers and the likely expansion of gig and platform-based work in future.

Why do the Gig workers remain vulnerable?

- **Gig & Platform Workers** – The Social Security Code (Central) Rules make no attempt to clarify the employment relationship in the gig economy.
- They continue to be treated as self-employed and remain part of the unorganised workforce.
- **Gratuity Insurance** – The Rules are also silent on the mandatory gratuity insurance envisaged under the Code.
- Such insurance could protect workers against non-payment of gratuity by employers.
- However, the Rules fail to specify the modalities for implementing this safeguard, leaving an important worker protection mechanism undefined.
- **Trade Union Recognition** – The Industrial Relations Code (Central) Rules provide that a sole registered trade union must have at least 30% membership to be recognised.
- This means that *registration alone does not guarantee recognition*.
- In large establishments, smaller or newly formed unions may find it difficult to meet this threshold.

- Further weakening their ability to represent workers at a time when the bargaining power of trade unions has already been declining for decades.
- Notably, the 30% threshold does not appear in the Code itself.
- **Fixed-Term Employment Ambiguity** – The Rules fail to provide further clarity on the engagement and renewal of fixed-term employees, leaving significant scope for ambiguity and potential misuse.

What are the missing safeguards for workers?

- **Safety and Welfare Provisions** – The Occupational Safety, Health and Working Conditions Code (Central) Rules set out safety and welfare provisions for the various occupations covered under the Code.
- However, certain occupation-specific welfare measures, such as housing and medical facilities for plantation workers, are absent.
- **Contract Labour Ambiguity** – The Rules also do not specify the activities for which contract of labour may be engaged, nor do they clearly distinguish between core and non-core activities.
- **Missed Opportunity** – The certain open-ended provisions contested by the trade unions and academics could have been moderated to a certain extent while framing the Rules.
- Instead, the Rules leave ambiguity and gaps, weakening worker protections.
- This is seen as another missed chance to strengthen safeguards for India's working class.

What lies ahead?

- The rules must evolve to close gaps in fixed-term employment, wage calculation, and gig worker safeguards.
- Without stronger definitions and limits, workers risk greater precarity as employers exploit ambiguities.
- Trade unions face declining power due to high recognition of thresholds, while contract labour in core operations remains undefined.
- Going forward, India's labour framework must revitalise collective bargaining and clarify occupational safety standards, ensuring that workers in plantations, gig platforms, and contract roles are not left vulnerable.

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Reference

The Hindu | Implementation complete, but workers still vulnerable

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