What can we expect from the labour codes?

Bhuvana Anand and Sarvnipun Kaur

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Businesses in India have long been discouraged from expanding their workforce. Indian labour regulations penalise the growth of businesses by increasing the volume of regulations on enterprises willing to scale up. Dr. Arvind Panagriya, former Vice-Chairman of NITI Aayog observed,"when you go from six workers to seven in a firm, the Trade Unions Act kicks in. When you go from nine to ten, the Factories Act kicks in. And when you go from 19 to 20, something else kicks in, as happens again when you go from 49 to 50 and 99 to 100. The biggest killer is the Industrial Disputes Act, which says that if you are a manufacturing firm with 100 workers or more, you cannot dismiss any of them under any circumstances unless you get prior approval from the government."

Labour reforms would improve employment, wages and productivity, but reforms have been stalled in the past. Researchers from Brookings Institution and Indian Statistical Institute found that employment and wages in states with entrepreneur-friendly labour regulations were higher than the states with inflexible regulations. Research from the National Council for Applied Economic Research (NCAER) showed that industries in states that introduced labour reforms were 25.4% more productive than industries in states that didn't reform their labour regulations. While research highlights their economic benefits, labour reforms have been stalled in India due to political factors.

In relief to enterprises, in October 2020, the Parliament passed 4 Labour Codes: Code on Wages, Code on Social Security, Industrial Relations Code, and Occupational Safety, Health and Working Conditions (OSHWC) Code. This is really the first time that we have taken a fundamental look at all our labour laws, and undertaken reforms. **So, what has changed?**

- **Lean Four-Code Structure:** TeamLease RegTech estimates that the new Codes reduce the volume of regulations by subsuming 44 Central labour laws into 4 codes, reducing the number of sections under the laws by 67% from 1,232 to 480.
- **Businesses encouraged to scale up:** The Codes encourage the growth of small enterprises by increasing the thresholds beyond which the enterprises need to comply with regulations. For instance, under the new codes, the thresholds beyond which enterprises have to comply with contract labour regulations has increased from 20 to 50. Similarly, the Codes increase the thresholds for establishments that need the government's approval to dismiss workers from 100 to 300 and empower states to further increase these thresholds.

- **Clarity on an entrepreneur's obligations:** The Codes provide uniform definitions of commonly used terms like "wages", "worker" and "establishment" across all four codes. Uniform definitions reduce ambiguity and the chances of misinterpretation by entrepreneurs. For instance, previously the term "wages" was separately defined in at least 10 different Acts, and while some definitions included travelling allowance, others excluded travelling allowance. The onus was on the employer to determine if he had to pay a travelling allowance as a part of wages or not. This made it hard for entrepreneurs to comply.

- **Reduced costs of compliance:** The Codes bring down the registration/ license, returns, and registers related compliances under labour laws. The Code on Social Security replaces the requirement of 36 returns— including monthly, quarterly, half-yearly, annual, and biennial returns—to one consolidated return. The OSHWC Code reduces the requirement of 11 registrations under different Acts to one common registration and prescribes a turnaround period of 30 days to grant registration. Businesses are forced to hire company secretaries and labour lawyers to interpret laws, track updates, and ensure timely filings. Reduced compliance requirements will save an entrepreneur time, effort and money.

- **Penalties aligned to severity of the offence:** Unlike the previous framework, the Codes grade penalties according to the severity of the violation. For instance, a factory manager could be imprisoned for up to a year for violating any provision of the Factories Act, under section 92 of the Act imposed. His offence could be failing to maintain a register, or it could be ignoring crucial safety regulations, but he would invite the same penalty of imprisonment of up to a year. On the contrary, under the OSHWC Code, the penalty for non-maintenance of registers does not include an imprisonment term, whereas the penalty for crucial safety regulations includes a year's imprisonment term.

The government of India (GoI) intends to implement these reforms through the Codes next year. According to TeamLease RegTechs' data, labour laws have contributed to 47% of all compliance requirements faced by entrepreneurs. Since this is the first time we have taken a fundamental look at our labour laws, we must carefully remove all the compliances that have limited employment and made doing business difficult.

State governments have approximately 5 months to frame business-friendly rules. State rules should resolve practical challenges for entrepreneurs by reducing lags in approvals; digitising filings, registrations, and registers; and limiting inspector interface. The rules should allow entrepreneurs and workers the flexibility to mutually decide their service rules, ways of recordkeeping, working hours, and conditions of work. States should be cognizant of the changes that would be required in their regulation infrastructure, process and agency design, with the overhaul of the old regulatory framework.

GoI can further reform the Codes by rethinking some of the old provisions. For instance, GoI could bring overtime wages, currently double the normal wage, closer to the ILO limit of 1.25 times the normal wage. GoI should also empower states to establish the size thresholds for compliances, decide working hours limits, and grant exemptions. The Codes already grant some powers to state governments, but there is scope for more. For instance, the IR Code allows states to increase the size of enterprises that have to take the government's permission to dismiss workers but does not allow states to change compliance thresholds for Standing Orders.

Enterprises witness a 35% increase in their labour costs on employing their 10th worker. Labour law reforms will limit labour costs and encourage enterprises to expand their human capital and create employment opportunities. With the introduction of the new labour codes, India inc. has taken a step towards better economic opportunities for all, now the key is to keep moving.