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Brief Analysis On Industrial Relations Code, 2020

Introduced Recently In Light Of The International

Labor Organization Conventions.

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Introduction:

In India, labour is considered under the Concurrent list where both State and Centre has power to enact laws on the said subject, thus previously it could be observed that there are more than 40 central labour laws and more than 100 state labour and related laws, therefore it was a need to integrate them in the related matters, in the Second National Commission on Labour (2002) suggested that the labour laws need to be integrated under the heads of- Wages, Safety, Social Security, Industrial relations, and Welfare and working conditions¹. Therefore, in 2019 in order to integrate 29 central legislations, the Central Government submitted four bills on labour codes². These are the following:

- Code on Wages;
- Industrial Relations Code;
- Social Security Code;
- Occupational Safety, Health and Working Conditions Code

The Code on Wages was passed in 2019, however the other three proposals were sent to the Labour Standing Committee. Following the Committee's recommendations, the government replaced these bills with new ones in September 2020, which were also passed that month. According to the Labour Ministry, the rules for all four labour code bills will be published at the same time³. As a result, despite the fact that the draft Rules for the Wages Code were disseminated in 2019, the Ministry delayed finalising and implementing them. The author in this

¹ PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 13 March 2022].

² Lawrbit. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://www.lawrbit.com/wp-content/uploads/2020/11/lawrbit-industrial-relations-code-2020.pdf>> [Accessed 17 March 2022].

³ PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 13 March 2022].

Research paper would be analysing - *The Industrial Relations Code of 2020*.

The Industrial Relations Code of 2020 establishes a broader framework for protecting workers' rights to form unions, reducing friction between employers and employees, and establishing rules for resolving industrial disputes⁴. The Industrial Relations Code, 2020 is one of the four key labour codes that are part of the Central Government's largest reform project in decades. It consists of three primary basic statutes that deal with labour disputes and collective bargaining agreements, namely:

- The Industrial Disputes Act, 1947;
- The Trade Unions Act, 1926;
- Industrial Employment (Standing Orders) Act, 1946

Objectives Of The Code

- The Code was created to protect employers' and employees' rights by facilitating labour reforms and making it easier to do business⁵.
- The Code's goal is to achieve industrial peace and harmony as the ultimate goal in settling industrial disputes, as well as to further industry's progress by establishing a harmonious and cordial relationship between employers and employees⁶.

DISTINGUISHING CHARACTERISTICS AND KEY ANALYSIS OF INDUSTRIAL RELATIONS CODE, 2020:

1. ***Expansion of the Definition of Worker:*** In the said code, the definition of the term worker has been widened and thus it also includes working journalists which is defined under Section 2(f) of the Working journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act of 1955, and employees of sales promotion, as defined in Section 2(d) of the Sales Promotion Employees (Terms of Service) Act 1976, are now included in the

⁴ Lawrbit. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://www.lawrbit.com/wp-content/uploads/2020/11/lawrbit-industrial-relations-code-2020.pdf>> [Accessed 17 March 2022].

⁵ Lawrbit. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://www.lawrbit.com/wp-content/uploads/2020/11/lawrbit-industrial-relations-code-2020.pdf>> [Accessed 17 March 2022].

⁶ Lawrbit. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://www.lawrbit.com/wp-content/uploads/2020/11/lawrbit-industrial-relations-code-2020.pdf>> [Accessed 17 March 2022].

definition of worker⁷. The definition of "worker" includes those who are working in a supervisory role and earn less than Rs. 18,000 per month (or any sum notified by the Central Government).

2. **Expansion of the Definition of Industry:** The definition of industry has been revised to include "institutions owned or managed by organisations wholly or substantially engaged in any charitable, social, or philanthropic service," as defined by the *Supreme Court in Bangalore Water Supply and Sewerage Board v. AS Rajappa*⁸. However, the Code excludes "institutions owned or managed by organisations wholly or substantially engaged in any charitable, social, or philanthropic service."⁹
3. **Status of Bargaining Union:** Talking about Trade union law, the Code states that if an organization has more than one union, the one with 51% of the employees as members would be granted the status of the exclusive bargaining union. This is a significant pitfall from the 75% level established in the 2019 legislation. There is also a mechanism for the formation of a bargaining council if no single union achieves the previously mentioned 51 % criteria. In such circumstances, the council is made up of delegates from the various unions, as long as they represent at least 20% of the labour¹⁰.
4. The Labour Relations Bill 2019 established the Labour Disputes (Regulation) Act 1947 in establishments with 100 or more employees. The 2020 Industrial Relations Code, on the other hand, increased the threshold to 300 and gave the "relevant government" the power to exempt any industrial facility or class thereof from all or some of the Code's rules¹¹.
5. **Freedom to Companies for Employment:** Hiring Besides the overall framework, which entails video notices from several state governments, fixed-term employment has a legal grounding. It offers companies more freedom to hire according to supply and demand. If they work for one year under their respective employment contracts, fixed-term employees are eligible for pro-rata tips.

⁷ PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 24 March 2022].

⁸ Yogiam Seth Sharma, Govt introduces three crucial Bills on labour laws in Lok Sabha amid Congress' opposition, THE ECONOMIC TIMES, (Sep 22, 2020, 01:45 PM), https://m.economictimes.com/news/economy/policy/govt-introduces-three-crucial-bills-on-labour-laws-in-lok-sabha-amid-congressopposition/amp_articles/78203977.cms?s=08

⁹ Ijlmh.com. 2022. *Industrial Relations Code, 2020: The Dawn of the Reformation*. [online] Available at: <<https://www.ijlmh.com/wp-content/uploads/Industrial-Relations-Code-2020-The-Dawn-of-the-Reformation.pdf>> [Accessed 24 March 2022].

¹⁰ PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 24 March 2022].

¹¹ PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 24 March 2022].

In terms of working conditions, salaries, allowances, and other perks, they are treated equally to permanent employees¹².

6. Section 65 pertains to industrial facilities that are not covered by Chapter X of the Code, which is effectively Chapter VB of the Industrial Dispute Act of 1947, when it comes to layoffs and workforce reductions¹³. It covers industrial firms with more than 50 employees on average every working day throughout the previous calendar year.
7. Section 77 of Chapter X applies to industrial establishments that employed no less than 300 workers on average per working day in the previous 12 months, or a bigger number than the relevant government may specify¹⁴. As a result, layoffs, staff downsizing, and closures must be approved in advance by the government for the companies covered by this rule.
8. **Strikes and sudden lockouts are prohibited by the Code** in all companies, thus no company can strike in violation of the contract 60 days before the strike or the expiration of a date indicated in the strike notification. Strikes are also illegal while mediation is taking place and for the next seven days after it is completed. Strikes are also forbidden while labour court proceedings are continuing or for 60 days after they are completed. Similar rules were included in the Industrial Disputes Act of 1947, although they only applied to public utilities¹⁵.
9. **Trade Union: Negotiating Union and Union Council:** The Industrial Relations Code 2020 proposed a new idea for industrial companies' bargaining trade unions or negotiating councils. The following is based on the stated provision: The employer identifies a single union as the workers' only bargaining union in the case of a single union in an industrial company. When there are many unions, the employer recognises the union with 51 percent of the employees in the industrial company's model directory as a bargaining union. The employer establishes a negotiating council made up of representatives of these registered trade unions, who are supported by at least 20% of the whole workforce of the industrial company, if none of them meet the above-mentioned 51 percent membership criteria (1 representative for every 20 %). The Industrial Relations Code of 2020 further states that if the central or state government considers that a union or confederation needs to be recognised as a central or state union, the government may do so.

¹² PRS Legislative Research. 2022. *The Industrial Relations Code, 2020*. [online] Available at: <<https://prsindia.org/billtrack/the-industrial-relations-code-2020>> [Accessed 24 March 2022].

¹³ Egazette.nic.in. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://egazette.nic.in/WriteReadData/2020/222118.pdf>> [Accessed 17 March 2022].

¹⁴ Egazette.nic.in. 2022. *THE INDUSTRIAL RELATIONS CODE, 2020*. [online] Available at: <<https://egazette.nic.in/WriteReadData/2020/222118.pdf>> [Accessed 17 March 2022].

¹⁵ Ijlmh.com. 2022. *Industrial Relations Code, 2020: The Dawn of the Reformation*. [online] Available at: <<https://www.ijlmh.com/wp-content/uploads/Industrial-Relations-Code-2020-The-Dawn-of-the-Reformation.pdf>> [Accessed 24 March 2022].

- 10. Fine:** Any individual who engages in unfair labour practises stated in a schedule to the Code (such as prohibiting workers from organising trade unions, coercing workers to join trade unions, destroying employer's property, and so on) is subject to a fine ranging from 10,000 to 2 lakh rupees.
- 11. The provisions relating to layoffs and retrenchment** (the termination of a worker's employment for reasons other than disciplinary actions)¹⁶:
- Non-seasonal industrial establishments with 50 to 300 workers and non-seasonal industrial establishments with at least 300 workers must pay 50% of basic wages and dearness allowances if a worker is laid off, and the employer must provide one month's notice or wages for the notice period if the worker is retrenched.
 - Before layoffs, retrenchments, or closures, a non-seasonal industrial firm with at least 300 workers must obtain prior permission from the national or state government. This level may be raised by the federal or state governments.
 - If an employer wants to re-employ someone within a year following retrenchment, he must give retrenched workers priority over others.
- 12. Dispute Resolution Mechanism:** Chapter VII establishes a procedure for resolving labour disputes. According to section 44, the Industrial Tribunal will henceforth have two members, one of which will be a judicial member and the other an administrative member. It will adjudicate the issues as a bench, according to Section 47. Until now, the tribunal has only one member. The decision will be made by a majority vote. In the event of a conflict, the matter will be referred to the appropriate government, which will then designate a judicial member of another tribunal to hear the issue, which will be determined by a majority vote¹⁷.
- 13. Process followed for Matters relation to National Importance:** According to the code, if an industrial dispute involves issues of national importance, the central or state government may appoint conciliation officers to mediate, investigate, and hold conciliation processes in order to obtain a fair and peaceful settlement. The conciliation officer is responsible for sending a settlement report to the parties involved or the competent government within 45 days. However, with the consent of the conciliation officer, this period may be extended. If no resolution is

¹⁶ Ijlmh.com. 2022. *Industrial Relations Code, 2020: The Dawn of the Reformation*. [online] Available at: <<https://www.ijlmh.com/wp-content/uploads/Industrial-Relations-Code-2020-The-Dawn-of-the-Reformation.pdf>> [Accessed 24 March 2022].

¹⁷ Ijlmh.com. 2022. *Industrial Relations Code, 2020: The Dawn of the Reformation*. [online] Available at: <<https://www.ijlmh.com/wp-content/uploads/Industrial-Relations-Code-2020-The-Dawn-of-the-Reformation.pdf>> [Accessed 24 March 2022].

reached or the parties are dissatisfied with the decision, each party may file an application with the Industrial Tribunal established under this rule within 90 days of receipt¹⁸.

Therefore, above mentioned are key Characteristics and Analysis of industrial relations code, 2020.

Issues About The Industrial Relations Code:

The relevant paragraph address some of the concerns raised by the community about the new Code.

- It has the potential to erode the rights of workers in industrial enterprises with less than 300 employees.
- Employers in such modest enterprises have been granted complete flexibility in terms of hiring and terminating employees.
- The conditions for legal strikes have been tightened, with the time limit for workers to give notice of lawful strikes being extended, making it nearly impossible to call a strike legally.
- The reskilling fund appears to be framed randomly, and it is unclear where the entire fund will come from.

¹⁸ Ijlmh.com. 2022. *Industrial Relations Code, 2020: The Dawn of the Reformation*. [online] Available at: <<https://www.ijlmh.com/wp-content/uploads/Industrial-Relations-Code-2020-The-Dawn-of-the-Reformation.pdf>> [Accessed 24 March 2022].

Conclusion And Recommendations:

In a nutshell, in order to have a positive labour reformation there needs to be harmony in between the industries and the related factors which could be achieved if there is effective communications between the Trade unions and the industries were their issues could be addressed in a justifiable manner. Taking into account this Code does not appear to have taken into consideration the welfare of labourers, instead providing companies with a great deal of flexibility in terms of recruiting and layoff. Industrial strikes are made more difficult by the imposition of new conditions, and social security regulations are enforced on both official and informal workers. There is a lot of misuse of the term's 'worker' and 'employee,' which leads to a lot of confusion. As a result, the Code must be modified to eliminate the present uncertainties. It is necessary to incorporate provisions to protect workers'/employees' rights. To prevent abuse, the flexibility granted to companies must be limited. In terms of working hours, salary, allowances, and other perks, fixed-term employees should be treated the same as permanent employees. The increase in the standing order threshold from 100 to 300 is highly inappropriate for Enterprises with less than 300 employees now have complete discretion over who they recruit and fire. The marginal informal worker, who works against all odds and is frequently paid less than the minimum wage, must be the focus of labour law reform. Such workers are not covered by social security, and it is these issues that must be addressed rather than simply merging the laws into one Code and implementing employer-friendly amendments.

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