

India: Here's Why Workers, Opposition Parties Are Protesting Against the 3 New Labour Laws

Sunday 18 October 2020, by [The Wire \(IN\)](#) (Date first published: 23 September 2020).

These Bills, with 411 clauses, 13 schedules and comprising 350 pages were accorded just three hours of discussion. They now make it difficult for labour unions to be recognised, for workers to strike and for them to protect their jobs.

New Delhi: The passage of three crucial labour law Bills on Tuesday by voice vote in the ongoing Monsoon Session of parliament – in the absence of the Opposition that was away protesting against the two farm Bills – has been called into question.

While workers rights groups have claimed that these Bills are anti-worker as they paved the way for a “hire and fire” policy and restrict the right to strike, analysts have pointed out that the Bills are significantly different from earlier ones introduced in 2019, and should thus be again referred to a Standing Committee.

Both the Lok Sabha and Rajya Sabha have passed the Occupational Safety, Health and Working Conditions Code, 2020, the Industrial Relations Code, 2020 and the Code on Social Security, 2020, while the Opposition was not in the House.

What are the new Labour Codes

In 2019, the Central government proposed to replace 29 existing labour laws with four Labour Codes on wages, social security, occupational safety and industrial relations. Since the issue of labour came under the Concurrent List of the Constitution, there were over 100 state and 40 central laws regulating the various aspects to it.

Since these laws were found to be complex, with archaic provisions and inconsistent definitions, it was advised that the laws be clubbed together to improve ease of compliance and ensure uniformity. It was also suggested that the central labour laws broadly cover the aspects of industrial relations, wages, social security, safety and welfare and working conditions.

In 2019, the Ministry of Labour and Employment introduced four Bills to consolidate the 29 central laws. These codes covered wages, industrial relations, and social security, along with occupational safety, health and working conditions.

While the Code on wages, which dealt with setting a national-level floor wage for all workers was subsequently passed, the other three Bills were referred to the Standing Committee on Labour, which later submitted its report on these.

These three Bills were replaced with new Bills by the government on September 19, 2020.

What the Minister for Labour said

The three labour reform Bills were introduced by the Minister of State for Labour and Employment Santosh Kumar Gangwar on September 19. At the end of the debate on these Bills, Gangwar said the Ministry has incorporated 174 out of 233 recommendations of the standing committee on labour for the three codes. This amounts to 74% of the recommendations. He also declared that the government held nine tripartite consultations, and 10 inter-ministerial consultations during the drafting stage of the codes.

He said the labour ministry has consolidated and amalgamated 29 labour laws.

The Centre has claimed that these Codes seek to improve the ease of compliance and hiring and firing of workers while keeping labour welfare under consideration.

How are the new Bills different from previous ones

[In a detailed note, PRS Legislative Research recently identified points](#) of difference between the new and earlier Bills for labour reforms.

It has been pointed out that there are changes in the definition of “appropriate government for Central PSUs”. Whereas the 2019 Bills provided that the Central government will act as the appropriate government for any central PSU, the 2020 Bills add it would remain so even if its holding in that PSU drops to less than 50% after the Bills commence.

The 2019 Bills noted the Central government would be the ‘appropriate government’ for certain industries, including railways, mines, telecom, and banking, while the 2020 Bills have expanded this to cover any “controlled industry” that the government may specify.

There is also a difference in the case of offences punishable with imprisonment. While the 2019 Bills allowed for compounding (settling) of offences which were not punishable with imprisonment, or with imprisonment and fine, for a sum of 50% of the maximum fine provided for the offence, the 2020 Bills on industrial relations and social security have other things to say.

It states that for offences with fine, compounding is allowed for a sum of 50% of the maximum fine provided for the offence. For offences with imprisonment, compounding is allowed for a sum of 75%.

Size of organisation will determine law

A key feature of the new Bills is that they provide size-based applicability of the laws to various organisations.

While most labour laws apply to establishments with 10 or more employees, certain Labour Codes do not.

The new laws raise the thresholds for workers from 20 to 40 under The Factories Act of 1948, which defined any manufacturing unit as a factory if it employed 10 workers while using electricity or 20 workers while working without.

The Industrial Disputes Act of 1947 requires any establishment employing over 100 workers to seek government permission before any retrenchment; the threshold has been raised to 300, with the government empowered to raise it further through notification. These changes have been debated for over two decades but were not proposed in the 2019 Bill. The Industrial Employment (Standing Orders) Act of 1946 requires employers to formally define conditions of employment under them if

they have at least 100 workers. The 2020 Bill has increased this threshold to 300 workers.

The Industrial Relations Code now seeks to allow companies with up to 300 workers to lay off people without the concerned state government's approval. This provision was, till now, only available to companies employing up to 100 people under The Industrial Employment (Standing Orders) Act of 1946, which defined the conditions of employment.

The argument being given for the relaxation is that it created an exit barrier for establishments and impacted their ability to adjust workforce in line with production demands.

Changes in contract labour rules

On the issue of contract labourers, who have largely been denied basic protections such as assured wages, the Industrial Relations Code while not addressing this concern provides for a new form of short-term labour through something known as fixed term employment. While the earlier Bill was applicable to establishments which employed at least 20 contract workers and to contractors who supplied at least 20 workers, the limits have been raised to 50 workers.

Also, the new Code prohibits employment of contract workers in any core activity but allows for their employment in a specified list of non-core activities such as canteen, security and sanitation services.

No clarity on recognising unions, providing welfare schemes

Also, when it comes to trade unions, the Code has no criteria to 'recognise' them for formally negotiating with employers despite its registering them.

The Codes simplify labour laws to a large extent but fall short in some respects. For example, the Code on Social Security also creates enabling provisions to notify schemes for 'gig' and 'platform' workers, but there remains a lack of clarity in these definitions.

Also, the Bills have not clearly specified the norms pertaining to social security schemes, health and safety standards, and working conditions and delegated these largely to the state governments.

Why are workers' groups protesting

Workers' rights groups insist that these laws will only promote a 'hire and fire' regime and take away the right to protest from workers. Also, they said the new norms would adversely affect the workers by allowing easy retrenchment and exempting certain categories of companies from adherence to the laws that safeguard their rights.

The Karnataka State IT/ITeS Employees Union charged that the three new Bills together would lead to "imposing conditions of virtual slavery on the working people". It cautioned that the new Labour Codes will render more than 74% of the industrial workers and 70% of industrial establishments gullible to the "hire and fire regime".

A non-profit working with migrant communities, Aajeevika Bureau, questioned why the workers were being denied their right to protest. It said also highlighted a number of points through which these Labour Codes would adversely impact the interests of the workers.

The Bureau highlighted that the Industrial Relations Code prohibits the right to strike and demands that unions give a 60-day notice to strike. This, when a notice leads to automatic conciliation and striking during conciliation is illegal. The Bureau said the Bill thus "destroys the freedom of

association guaranteed to Indian citizens under the Constitution.”

Little time allowed

The Opposition has demanded that the recommendations of Standing Committee be adopted in totality and not in a piecemeal fashion. Congress leader Shashi Tharoor said, “The alternative would be to face constitutional challenge in the court...does he wants a judicial scrutiny again?”

Other opposition leaders like Manish Tiwari of Congress have raised the issue of little time being given to MPs to consider the provisions of the Bills or to debate them and had sought that these Bills too be referred to a Standing Committee. It has been pointed out that the Bills were only introduced on Saturday, September 19, and the Business Advisory Committee of the Lok Sabha allocated three hours for them to be discussed and passed this week. This despite these Bills having 411 clauses and 13 schedules running into 350 pages.

This article would not have been possible if not for the notes published by PRS Legislative Research and the views presented by its president, M.R. Madavan in an [article](#).

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