Gig workers await the promise of Labour Codes

Will the Labour Codes recently notified by the government ensure labour rights for gig workers and others in India's vast unorganised sector?

SHIVA RAJORA
New Delhi, 4 December

Raman (27) started working as a deliveryman a few years ago, running errands for up to 12 hours a day in the national capital for food, grocery and quick commerce platforms. He is a gig worker, and his life could be about to be changed.

Like Raman, there are 10 million gig workers in India, according to a NITI Aayog report, which projects the number to grow to 23.5 million by 2029-30. They are the foot-soldiers of India's informal service sector, but Raman is unaware of this status, let alone his entitlements as a worker — an irony given that the national capital where Raman works is powered overwhelmingly by the service sector.

"I don't know what 'gig work' means. I ride 10-12 hours a day and manage to earn enough to keep my life going. Beyond this, I have no connection with any of these apps; nor do they provide me any other benefit like insurance or pension, apart from my earnings," said Raman.

This situation is likely to change now. That's because nearly five years after Parliament passed four Labour Codes, reforming and consolidating the 29 existing labour laws, the Union government on November 21 notified them for implementation.

The four Codes — on wages (2019), industrial relations (2020), social security (2020) and occupational safety, health and working conditions (2020) – aim to modernise labour regulations, enhance workers' welfare and align the labour ecosystem with the evolving world of work, including gig work.

The Code on social security recognises gig workers for the first time in the country and provides for framing of welfare schemes for them, covering health, pension, education and disability cover. These are things that have remained out of reach for most workers in India's teeming and unregulated informal sector, including gig workers.

"I don't have much knowledge about these new Codes. But if it is true, it is good. I am still young, yet there are so many people who are old and do this sort of work. They have no social security to fall upon. Let's see when these things come into practice," said Raman.

Apart from recognising gig work, the new Codes also mandate employers must all provide appointment letters and minimum wages for all workers. But experts caution that the execution of the new Codes remains key to their success.

Covering the unorganised sector

What Codes say

- Gig and platform work is defined for the first time
- Aggregators must contribute 1-2% of the annual turnover, capped at 5% of the amount paid/payable to gig and platform workers
- Mandatory appointment letters and minimum wages to all workers
- Fixed-term employees to get all benefits enjoyed by permanent employees (EPF, ESI, timely wages, minimum wages)

What experts say

- Contribution mechanisms and enforcement pathways for social security to gig remain unclear
- Difficult to ensure minimum wages, as more than half of the workers are deprived of them
- Weakened inspection regime dilutes enforcement, leading to violations
- The Occupational Safety Code excludes 80% of labour force in home-based and micro-enterprises from security and safety checks

Gaps in the Codes

Santosh Mehrotra, research fellow at IZA Institute of Labour economics said that though the recognition of gig and platform work was a necessary reform, the contribution mechanisms for social security benefits and enforcement pathways remain unclear.

"Tracking contributions or verifying employment histories would challenge even well-staffed regulators. The creation of a 'gig workers board' risks creating a separate bureaucracy, akin to the construction worker board — with money being collected, though rarely disbursed to those it was meant to help," he added.

Social scientist Dhiraj Nite of Ambedkar University argues that the new Codes have not reformed labour laws in two critical areas — provident fund and insurance for workers. The threshold set for employers to extend the Employees' Provident Fund and Employees' State Insurance has been left untouched — a workforce of 20 and 10 respectively. Anyone employing fewer workers is absolved of this responsibility.

"Moreover, the Codes put much faith in digital compliance, electronic filing and online grievance systems. This can potentially undermine small businesses, as they do not have the capacity to deal with such sweeping changes," he added.

By exempting factories with fewer than 20 workers, the OSH (occupational safety, health and working conditions) Code excludes nearly 80 per cent of India's labour force, which include home-based, micro-enterprises and informal workers, from accessing social security benefits.

Similarly, other provisions like minimum wage remain hard to enforce. Recent data from the UN's International Labour Organisation (ILO) shows that as much as 62 per cent of the unskilled casual agricultural workers and 70 per cent of workers in construction said they were not paid minimum wages in 2022.

"With weakened inspection and enforcement systems, workers are already deprived of minimum wages – even in the formal sector. How will the new Codes ensure that it is followed in the informal sector? An abysmally low national floor-level wage, which too will vary in different regions, will force many states to reduce existing minimum wages," said a labour economist requesting anonymity.

All about rule-making

K R Shyam Sundar, professor of practice at the Management Development Institute (MDI) in Gurugram, said that since labour is a concurrent subject, the new Codes empower states to notify their own rules locally, which may make the rollout uneven. There is every possibility that it will again lead to a maze of rules and regulations, thus undoing what the Codes aimed to achieve.

"The legislative process has left a lot to be desired as it has put undue weightage on the rule-making process because of the ambiguity in the Codes. It may result in a situation where a worker in one state might enjoy benefits unavailable in another or a factory being regulated differently across state lines," he added.

A 2023 study by the V V Giri National Labour Institute (VVGNLI) had cautioned that the rules framed by various states and union territories under the Labour Codes had "too much" divergence and went against the basic ethos and spirit of the Codes.

As of today, West Bengal, Tamil Nadu, Kerala, Karnataka, and Delhi are yet to pre-publish draft rules for the four Codes, which may delay the rollout.

Labour secretary Vandana Gurnani told *Business Standard* that the thrust remains on ensuring uniformity and harmonisation in the state rules, although they have the flexibility to adapt the rules to local context.

Unions unimpressed

Apart from the implementation challenges, the new Codes also face resistance from many trade unions, who termed them a "deceptive fraud committed against the working people".

The joint platform of 10 central trade unions (CTUs) — consisting of Indian National Trade Union Congress (INTUC), All India Trade Union Congress (AITUC), Centre of Indian Trade Unions (CITU), Hind Mazdoor Sabha (HMS) and Self-Employed Women's Association (SEWA) among others, have warned of nationwide protests.

Tapan Sen, general secretary, CITU, said the simplification exercise has been used as a "cover to dilute and dismantle" existing protective provisions in the Industrial Disputes Act, Factories Act, and Mines Act Contract Labour (Regulation and Abolition) Act among other laws.

"Rather than strengthening rights, the new Codes dismantle job security, dilute the role of labour departments and push the entire workforce into precarious employment. They constitute the most sweeping and aggressive abrogation of workers' hard-won rights and entitlements since Independence," he added.

Amarjeet Kaur, general secretary, AITUC said provisions like raising the notice period of strikes from 14 days to 60 days, and increasing the minimum workforce threshold for requiring government approval for lay-offs curtail the bargaining powers of trade unions and workers and give more power to employers.

However, the Bharatiya Mazdoor Sangh (BMS)-led Confederation of Central Trade Unions (CONCENT) welcomed the notification of the new Labour Codes as a "landmark and progressive reform" that replaces fragmented, outdated colonial-era labour laws, thus benefiting 400 million unorganised workers.

"The new code presents a unified, contemporary, transparent and worker-centric framework. The universalisation of social security under the new Codes is a transformative milestone in India's labour history," it said.

With the Centre aiming to roll out the new Codes before April 1 next year, a showdown between the Centre and trade unions is one scenario experts point to. It remains to be seen whether the government is able to iron out the creases around implementation or whether trade unions will succeed in mobilising a broader 'labour movement'.

In either case, the fate of millions like Raman — who struggle to keep pace with a rapidly evolving workplace — hangs in the balance.