

**Proceedings of Workshop  
on  
New Labour Codes**

**Understanding the Impact on Informal Workers**

**Centre for Labour Research and Action**

**Supported by Rosa Luxemburg Stiftung**



**2023**

## **Workshop on New Labour Codes: Understanding the Impact on Informal Workers**

Date: 11-12 October 2023

Venue: Kochi, Kerala

Centre for Labour Research and Action and Rosa Luxembourg Stiftung organized a workshop on the impact of the new proposed labour codes on informal and migrant workers in India. The workshop was attended by 39 participants comprising members of workers' organizations working with informal and migrant workers, and the CLRA team.

### **Day 1: Session on new labour codes by Dithhi Bhattacharya and Shakti Hiranyagarbha from Centre for Workers Management**

The session began with an introduction from Sudhir Katiyar, Executive Director of CLRA on the relevance of the new labour codes, in the context of the push from the capitalist class to relax the existing safeguards available to workers. He reiterated the organization's long-standing demand for one law for all workers including informal and migrant workers. This was followed by a song from Mina Jadhav from CLRA, highlighting the contemporary economic and social realities faced by the working class. Thereafter, the participants introduced themselves and their work with informal and migrant workers.

After the introductions, Ramesh Srivastava from CLRA highlighted the relevance and importance of knowing current and proposed laws to CLRA's work. Migrant workers in the informal sector do not have a direct voice given their circumstances, and the organization has to support the workers through these changes in the legal landscape. He also encouraged the cohort to share the challenges they face on the ground, to get clarity on how to utilize the laws to resolve such cases.

### **Setting the context**

Dithhi Bhattacharya and Shakti Hiranyagarbha from the Centre For Workers' Management spoke about the inception and long history of how the labour codes came into being in India, starting from the formation of the 2nd National Commission for Labour in 1999. This was supposed to be a tripartite commission which discussed ways to simplify the multiple existing labour laws for 'ease of business' and increase the inflow of investment. Major industrialists stood to benefit from such a simplification in the laws. This promoted the informalisation of the workforce, making it difficult to collectivize. The commission was supposed to be tripartite but trade unions boycotted it, barring the Bhartiya Mazdoor Sangh (BMS). However, even the BMS submitted a 700-page opposition letter. Therefore, no union entirely agreed with the commission report at the time.

In 2002, the 2<sup>nd</sup> National Commission for Labour submitted recommendations which included (i) a separate act for the unorganised sector (ii) minimum wages for all (iii) a separate act for small factories. The Supreme Court had contested this by commenting that if an establishment cannot pay basic minimum wages then they should close the business, rather than being exempted from labour law provisions which apply to all other establishments.

It was further highlighted that more than 47 per cent of factories in India have less than 19 workers, which puts them outside the purview of any labour act. Further, 33.8 percent of factories have 20 to 99 workers. Therefore, no factory act applies to around 80 per cent of the factories in India. Only 19 per cent of factories are under the legal purview and they are pushing for the laws to be simplified further. The four labour codes, Code on Social Security 2020, Occupational Safety, Health and Working Conditions Code 2020, Industrial Relations Code 2020, and Code on Wages 2019, aim to consolidate 29 central laws on labour.

### **Industrial Relations Code, 2020**

The first step towards introducing the codes in the year 2020 involved replacing the Industrial Disputes Act (IDA), 1947 with the Industrial Relations Code, 2020. The IDA recognized the power imbalance between the workers and the owners and the inherent profit motive of the industrialists. However, with the new code, a distinction between organized and unorganized workers was created for the first time, breaking solidarity within the worker movement. It is important to recognize that there can be unorganized workers within the organized sector as well, for instance, contract workers at factories. Activists have advocated for getting provident fund benefits for unorganised and informal workers as well. But the solidarity was systematically broken by creating these distinctions and a separate voice had to emerge for the rights of unorganized workers where there is no direct employer-employee relationship. Moreover, there have also been changes in the definition of “industry” under the code, and charitable, social, philanthropic, and those of a spiritual or religious nature are specifically excluded.

The Industrial Relations Code also defines “fixed-term employment.” While the Code on Social Security does introduce benefits for such employees, same as permanent workers, this promotes companies to hire employees on fixed-term contracts thus affecting their continuity of employment. This in turn affects their ability to negotiate for wage hikes and promotes contractualization of the workforce.

Regarding the contractualization of work, it was further highlighted that under the existing laws, contract labour cannot be used for core work. This led to an insightful discussion on what constitutes core work. For instance, if an organisation cannot function without the cleaning staff, should that also not constitute core work and hence not be contracted out? As per the existing laws, only non-permanent work should be contracted out by any establishment.

This code also proposes to do away with the requirement of standing orders for organisations that employ up to 300 workers, which was earlier 100 workers. Standing orders contain important terms and conditions of service and are legally binding. Moreover, only if a trade union has the support of 51 per cent of workers on the muster roll of an organization, will the union be recognized as a negotiating union.



## **The Occupational Safety, Health and Working Conditions Code 2020**

The trainers highlighted how currently, under The Occupational Safety, Health and Working Conditions Code 2020, around 13 laws are being combined, which might have a detrimental effect on the welfare and safety of all workers. There needs to be a work-based separation of OSH rules instead of workplace-based. It is also to be noted that, interstate migrant workers are included from the definition of contract workers. This means, certain specific safeguards available to migrant workers under the Interstate Migrant Workers Act, 1979 would no longer be available to the workers. Further, in factories where the manufacturing process is being carried out using power/electricity, the threshold for applicability of the code has been increased from 10 to 20 workers, and where power is not used it is increased from 20 to 40 workers. This also excludes workers. For contractors as well, the threshold of applicability for contractors employing more than 20 workers has been increased to 50 workers.

After the 1984 accident at the Union Carbide factory in Bhopal, a hazardous work schedule was prepared by the government. An amendment was also made to the Factories Act so that state governments could also make changes to the schedule. A compulsory safety committee was also required to be formed for the scheduled jobs. However, the power now solely rests with the union government.

Further, under the codes, the maximum number of overtime hours has been increased from 50 hours to 125 hours every quarter, across industries. While companies can adopt the 4-day work week, with increased overtime hours they can call upon workers on the weekend as well. The maximum daily hours, including the spread over time, i.e. the time for rest, has been increased from 10.5 hours to 12 hours. However, since workers are still on duty during this rest hour they can be called upon. Because of a lack of rest time, accidents are common. It was opined that such an arrangement would affect the time available to workers to engage in unionisation activities. To add to it, fear is especially a deterrent for contract labour and migrant workers. The issue of leave was also raised, because, the earlier rule of informing 24 hours in advance in case of calling workers to the workplace on a weekly off has been removed. Further, any cancelled leave should be given within four days, however, there is no time limit now.

It should also be noted that around 80 per cent of the factories are not covered under any of the provisions of the factories act as the number of employees is below 100. Only 19 per cent of the factories fall under the legal purview, and this will be diluted further under the proposed new codes. Some of the amendments that are proposed are the removal of the labour inspector

post and bringing in single window clearance for factories. Further, earlier, workers could go to court regarding a dispute even after years of the incident, however, now they cannot go and register a case after three years of an incident. Some of the participants raised the concern that at one end we are demanding one law applicable to all. Still, when it comes to OSH, the demand is for separate laws specific to the occupation, which seems like a contradictory stand. It was also asked that if unorganised workers are not being covered under the current laws, is it not good to have a separate for safeguarding their rights? To this, the trainers responded that aspects such as social security, working hours, and leave should be universally applicable to all workers. However, since health and safety aspects differ, there should be specific provisions regarding those for each category of work.

### **The Code on Wages, 2019**

The Code on Wages, 2019 replaces the Payment of Wages Act, of 1936, the Minimum Wages Act, of 1948, the Payment of Bonus Act, of 1965, and the Equal Remuneration Act, of 1976. The trainers highlighted that putting a lower limit on the number of workers to enforce minimum wages, i.e. five workers, excludes a large section of workers, especially women and those working as farm labourers, home-based workers, NREGA workers, gig-economy workers, and those employed by the state to implement government schemes. How the minimum wage for each work within each state is calculated was also shared by the trainers, and the concept of floor wage was introduced which was insightful for the participants. The trainers explained that a national-level floor wage is set by the union government, and as per the new code, it will be revised every five years. The states cannot fix a minimum wage below this national level floor wage. It was opined that the option to set the minimum wage as low as the floor wage, which is only Rs 178, is now available to states. On being asked how the floor wage is calculated, the trainers shared that there is no rule stated for the calculation of floor wages.

The participants also took part in group work to calculate minimum wages based on food baskets, clothing, rent, fuel costs, healthcare, and education costs. The gaps and patriarchal approach to the process were discussed.



Further, it was shared that earlier Out Workers, i.e. persons who work away from the employer's premises, were included in the Minimum Wages Act, but they do not find a mention

under The Code on Wages. Under the equal remuneration aspect, parameters such as transfer, promotion, and training have been removed which creates ambiguity and increases the scope for discrimination. Importantly, earlier the workers were allowed to see the balance sheet of the company to negotiate with the employer regarding bonuses and pay, but under the new codes, employers do not have any prerogative to show the balance sheet. With the dilution in the role of the labour inspector and effective reduction in fines, any fear amongst employers has diminished. The trainers also highlighted ambiguity in the definition of contractor and their inclusion as 'principal employers' under the new codes, thus limiting the responsibility of the ultimate employers for contractual work.

### **The Social Security Code**

The Social Security Code has been formulated by combining multiple laws, and for the first time, certain sections stand to receive social security benefits who were earlier deprived of it. However, while earlier it was the employers' responsibility to register their organisation with Employee State Insurance Corporation, now a Shram Suvidha Board will be set up wherein it is a worker's responsibility to register themselves. Any non-seasonal factory with more than 10 workers, having a maximum salary of Rs 21,000 had to mandatorily register itself with ESIC and provide benefits to its employees. However, under the proposed code, the government is required to set the wage limit through notifications which can be altered at any time. Further, the principal employer was responsible for the payment of ESIC benefits, and now the responsibility will be shifted to contractors and sub-contractors.

For Provident Fund as well, earlier non-payment was a cognizable offence for the employer, however under the new codes, no action will be taken in the first instance of non-payment and the process of surprise checks will also be done away with, thus creating a system of impunity. Further, there is no physical space for registering labour-related complaints as all complaints will now be routed through an online portal. The trainers also shared various aspects which pointed towards the easing of fines in case of violations. Earlier, for PF violations, the fine was Rs 4,000 along with a year of jail time. However, under the new code, certain offences are compoundable offences. There is no compounding for an offence committed for the second time within three years from the commission of a similar offence, which was earlier compounded, or the date of commission of a similar offence for which such person was earlier convicted. Thus, while the disciplinary action seems to have increased, the opportunity to impose the action is reduced. Even for employee compensation in case of accident or death during work, there was a schedule of employment for which the compensation was applicable. Now, the schedule will be removed and the employer-employee relationship will have to be established in the absence of a schedule.

Moreover, for maternity benefits, there were no limits on the number of children, however, now the benefits of 26 weeks of paid leave are applicable only for the 1<sup>st</sup> and 2<sup>nd</sup> pregnancy. From the 3<sup>rd</sup> pregnancy onwards, only 12 weeks of leave is applicable.

## Summing up

The trainers reiterated that the organised sector benefits can be extended to the unorganised sector as well through advocacy, however, if these benefits also get diluted then it becomes difficult to advocate for the rights of unorganised sector workers as well. Certain provisions are legally binding for organised workers but are posed as ‘benefits’ for unorganized workers and are only provided if the government has funds to disburse on schemes. These laws are still not considered as ‘rights’ for the unorganized sector workers. Sufficient funding needs to be put in by the union and state governments, employers and Corporate Social Responsibility funds. It was also highlighted by the team that we should also strive to set up models such as the Mathadi Board, a tripartite welfare board, which includes workers, states, and labour users, promoting job security and social security benefits for Mathadi workers or head-loaders. It is pertinent to note that there has been no labour research by the government in the last four years, and even the last labour congress was organised in 2016.

A document containing a list of the existing labor laws that have been consolidated into different new labour codes was shared with the participants. This has been appended to this report.



**Day 2:** Exposure tour of the Kudumbashree project sites of Kerala and a discussion with Benoy Peter from the Centre for Migration and Inclusive Development

On day two, the team made visits to a restaurant and a canteen/community kitchen run under the Kerala government’s poverty eradication and women empowerment programme – Kudumbashree. During interactions with the team, the owner of the restaurant shared that to start the restaurant, a loan was provided to the woman entrepreneur who set up the business as a family-run unit, with sustained support under the Kudumbashree program. Currently, around 10 people are employed there, including migrant workers, with budget meals being served to customers. The community kitchen was started in collaboration with the local self-government. The idea germinated during the COVID-19 lockdown when budget meals were delivered to patients under quarantine and those whose livelihoods were affected. The team spent time to understand the workings of the kitchen which is entirely run by women. The meals provided at this canteen were priced at 20 rupees, and there was an initiative run for the provision of free food to the poor as well.



The team also visited Chhottanikkera panchayat which highlighted grassroots democracy and environmental protection efforts. The team interacted with women workers engaged in sorting of non-biodegradable waste at the solid waste management centre within the panchayat. The panchayat is considered plastic-free owing to the efforts of the women workers, who belong to the Haritha Karma Sena supported under the Kudumbashree program. The waste is collected from door-to-door by the women and each household pays a user fee of Rs 50. After taking a tour and interacting with the women workers at the sorting facility, the team discussed with the panchayat members their efforts and initiatives within the panchayat jurisdiction for sustainability and women's empowerment.



### **Finding common threads with the migration story in Kerala**

A discussion was held with Benoy Peter from the Centre for Migration and Inclusive Development (CMID) on the situation of migrant workers in Kerala. CMID collaborated with CLRA on the first phase of the Seasonal Migration Atlas research. Benoy explained how migration into Kerala has increased over the years, and the factors facilitating this include a decline in the local labour force because of an increase in outward migration. Further, the inward remittances received have been used for new construction, for which there was a lack



of local workforce. Another pull factor has been the comparatively higher minimum wage for 'unskilled' work in the state, at around INR 800 to 1,000.

Earlier, workers were migrating to Kerala from Karnataka, Tamil Nadu, and Andhra Pradesh, however, that changed after the 1990s with increased migration from Assam, Bihar, and Jharkhand. The push factors for this migration broadly include a decline in agriculture as a means of income in rural parts of these states. In tribal regions as well, the terrain is not suitable for cultivation and tribals are migrating to work as agricultural labour. Even in Odisha, CMID's study indicated a shift from agricultural income to non-agricultural daily wages. The participants agreed that the situation is similar in Rajasthan and Gujarat, where farm owners are not engaging in agricultural labour and instead hiring cheap labour at low wages. There has been a significant impact of climate change on agricultural productivity, impacting poor and marginal landholders. They cannot even sell the land because of this reason. Since agriculture is rain-fed in the eastern belt, climate change impact is felt more strongly. Currently, 40 per cent of the migrant workforce in Kerala is from West Bengal, followed by Odisha, Assam, and Jharkhand. Benoy highlighted that currently there are around 30 lakh migrant workers in Kerala as per reported data, which is an underestimation as it excludes workers at labour chowks and only covers industrial clusters. Whereas, 1 of 3 workers seeks work at labour chowks. The migration is broadly network-driven and also intermediary-driven in some sectors. For instance, migrants from Assam, Bengal and Odisha have networks in Kerala now, but those from Rajasthan and Gujarat come through intermediaries.

In terms of demographics, Benoy mentioned that, in general, migrants from southern India include single men, single women, married couples, and married couples with children. Whereas, migrants from other areas majorly include single men and around 10 per cent are married couples with families. For construction work, workers come from across areas, and for hospitality, preference is for workers from Nepal and North-East India as there is a bias towards "fair skin" and English-speaking skills. At the plantations, mostly tribal workers are employed who migrate with their families from areas such as Mandla in Madhya Pradesh. In the traditional fishing industry, workers migrate from five states – Odisha, Sunderbans in West Bengal, Andhra Pradesh, Karnataka, and Tamil Nadu. In iron and steel manufacturing, mostly Adivasis are employed, and the plywood manufacturing sector, which workers from Assam earlier dominated, now sees migrants from West Bengal and Odisha as well. Further, in footwear manufacturing workers generally come from Araria, Bihar and West Bengal and apparel manufacturing takes in migrants from Eastern India. Most of the women migrants are in fish processing and garment industries. He highlighted how the cultural aspects also travel as currently in Munnar some students speak fluent Mundari, a language from Jharkhand.

While some workers are permanently employed, most are in the informal sector with no social security, piece-rate wages, and at least 10 hours of work. Further, even if they are not bonded as per the legal definition of bonded labour, they are often confined labour as it is not easy to leave one employer given the tactics that are employed to make them stay. This includes delaying their salary and keeping their Aadhar and other documents.

With the above context, he reiterated the critical role of migrant workers in boosting Kerala's economy through their contribution as workers and also as consumers within the state. He added that the challenges faced by migrant workers in Kerala are similar to those of migrant

workers in other states. They lack social security and are excluded from trade unions. They do not have access to healthcare and depend on informal networks for financial security. Further, they face exploitation and their children's education is also a concern, along with linguistic discrimination. He mentioned a new rule being deliberated which would make police registration mandatory for migrants, thus violating their fundamental right to work and live anywhere in India.

It was highlighted that there are multiple schemes and programs in the state for migrants, including the social security scheme of 2010, however, all that is on paper and implementation is a challenge. He also stated that while the state might provide monetary compensation to families of migrant workers to transport their bodies to their state in case of death during work, there is no effort or funding put into occupational safety such that these deaths do not occur in the first place. Further, enrolment by workers for a scheme should not be the indicator of success for the scheme. Instead, the scheme should be assessed based on budgetary allocation and spending. Benoy highlighted the need for a department in the state for the welfare of migrant workers. Benoy also highlighted how CMID's research work has been used for advocacy, for instance, the evidence they provided of climate change impact on migrant workers which was submitted to Odisha and Jharkhand governments. They also worked on a policy paper on internal migration. The session ended with a discussion between the participants and Benoy regarding parallels between CMID and CLRA's work and questions regarding the nature of cases handled by CMID, challenges faced by CMID in linking migrant children to education, housing justice for migrants in Kerala, and CMID's advocacy efforts.

## **Conclusion**

In all, the programs helped equip the participants with critical and valuable insight into the implications of the new labour codes on the informal sector. This will enhance their capabilities in casework and advocacy, enabling them to contribute meaningfully to their respective roles. The visits to the Kudumbashree project sites exposed the participants to a government initiative which has served as a promising model for workers' welfare in Kerala. The aim was to broaden the perspective of the participants and expose them to a nuanced understanding of workers' welfare. Moreover, the interaction with Benoy Peter made the participants aware of the work being done to secure the rights of migrant workers in Kerala and identify the common threads and scope for solidarity building across states. This will help in forging collaborative initiatives in the future for safeguarding and improving the rights of workers in India.

## लेबर कोड परिचय

चार श्रम कोड - वेतन संहिता 2019, सामाजिक सुरक्षा संहिता 2020, औद्योगिक संबंध संहिता 2020, और व्यावसायिक सुरक्षा, स्वास्थ्य और कार्य स्थिति संहिता 2020 29 केंद्रीय श्रम कानूनों को समेकित करते हैं। संहिताओं को 2019 और 2020 के बीच राष्ट्रपति की सहमति प्राप्त हुई लेकिन राज्यों ने अभी तक इन संहिताओं के तहत अपने नियमों को अंतिम रूप नहीं दिया है। समेकन का मुख्य उद्देश्य मौजूदा केंद्रीय श्रम कानूनों के प्रासंगिक प्रावधानों को सरल बनाना, एकीकृत करना और तर्कसंगत बनाना है।

### वेतन संहिता 2019

वेतन संहिता, 2019 (आमतौर पर वेतन संहिता के रूप में जाना जाता है) निम्नलिखित कानूनों को प्रतिस्थापित करता है:

1. वेतन भुगतान अधिनियम, 1936
2. न्यूनतम वेतन अधिनियम, 1948
3. बोनस भुगतान अधिनियम, 1965
4. समान पारिश्रमिक अधिनियम, 1976

### हाइलाइट्स

1. संहिता के अनुसार - (i) मूल वेतन, (ii) महंगाई भत्ता और (iii) प्रतिधारण भत्ता को 'मजदूरी' के घटकों के रूप में शामिल किया गया है। इसके अलावा, संहिता निम्नलिखित घटकों को मजदूरी की परिभाषा से बाहर करती है: (ए) बोनस भुगतान; (बी) उचित सरकार के आदेश द्वारा मजदूरी की गणना से बाहर किए गए घर-आवास, प्रकाश, पानी, चिकित्सा देखभाल या अन्य सुविधा की आपूर्ति या किसी भी सेवा का मूल्य; (सी) किसी पेंशन या भविष्य निधि में नियोक्ता का योगदान; (डी) वाहन भत्ते; (ई) कर्मचारी को उसके रोजगार की प्रकृति के अनुसार विशेष खर्चों को चुकाने के लिए भुगतान की गई राशि; (च) मकान किराया भत्ता; (छ) पार्टियों के बीच पुरस्कार या समझौते या अदालत या न्यायाधिकरण के आदेश के तहत देय पारिश्रमिक; (ज) ओवरटाइम भत्ता; (i) कर्मचारी को देय कमीशन; (जे) ग्रेच्युटी भुगतान; और, (के) कर्मचारी को देय छंटनी मुआवजा या अन्य सेवानिवृत्ति लाभ या उसके रोजगार की समाप्ति पर

कर्मचारी को किया गया कोई अनुग्रह भुगतान। जहां पहले मजदूरी की परिभाषा श्रम कानूनों में भिन्न-भिन्न थी, अब संहिता न्यूनतम मजदूरी, मजदूरी के भुगतान और बोनस के भुगतान पर लागू होने वाली एकल परिभाषा प्रदान करती है।

2. ठेकेदार संहिता के अंतर्गत 'कर्मचारी' शब्द के अंतर्गत आते हैं।

3. 'फ्लोर वेज' शब्द को धारा 9 के तहत पेश किया गया है, जिसमें कहा गया है कि केंद्र सरकार निर्धारित तरीके से किसी कर्मचारी के न्यूनतम जीवन स्तर को ध्यान में रखते हुए फ्लोर वेज तय करेगी। न्यूनतम फ्लोर वेज केंद्र सरकार द्वारा निर्धारित फ्लोर वेज से कम नहीं होगा।

4. छूट प्राप्त घटकों की अधिकतम सीमा 50 प्रतिशत है

5. धारा 17 मजदूरी भुगतान के लिए समय सीमा निर्धारित करती है। कर्मचारियों की संख्या चाहे कुछ भी हो, वेतन का भुगतान अगले महीने की 7वीं तारीख से पहले किया जाएगा।

6. धारा 17 में आगे कहा गया है कि किसी कर्मचारी को सेवा से हटाने, बर्खास्त करने, छंटनी, या कर्मचारी द्वारा सेवा से इस्तीफा देने की स्थिति में, कर्मचारी को उसके निष्कासन, बर्खास्तगी, छंटनी या सेवा से दो कार्य दिवसों के भीतर वेतन का भुगतान किया जाएगा। इस्तीफा, जैसा भी मामला हो।

7. धारा 29 में कहा गया है कि यौन उत्पीड़न के दोषी व्यक्ति बोनस के लिए पात्र नहीं होंगे।

वेतन संहिता एक सर्वांगीण कानून है जो नियोक्ता और कर्मचारी के हितों को संतुलित करने का प्रयास करता है। इसका उद्देश्य 'मजदूरी' की एक सामान्य परिभाषा बनाकर मौजूदा श्रम कानूनों में अस्पष्टता को दूर करना है। इससे कर्मचारियों के शुद्ध देय वेतन पर महत्वपूर्ण प्रभाव पड़ने की संभावना है। यह संहिता अप्रचलित प्रावधानों को बदलकर और कानूनों को सुव्यवस्थित करके व्यापार करने में आसानी में सहायता करेगी।

## सामाजिक सुरक्षा संहिता 2020

सामाजिक सुरक्षा संहिता, 2020 (आमतौर पर सामाजिक सुरक्षा संहिता के रूप में जाना जाता है) में निम्नलिखित 9 कानून शामिल हैं:

1. कर्मचारी मुआवज़ा अधिनियम 1923
2. कर्मचारी राज्य बीमा अधिनियम 1948
3. कर्मचारी भविष्य निधि और विविध प्रावधान अधिनियम 1952
4. कर्मचारी विनिमय (रिक्तियों की अनिवार्य अधिसूचना) अधिनियम, 1959
5. मातृत्व लाभ अधिनियम 1961
6. ग्रेच्युटी भुगतान अधिनियम 1972
7. सिने वर्कर्स कल्याण निधि अधिनियम 1981
8. भवन एवं अन्य निर्माण श्रमिक उपकर अधिनियम 1996
9. असंगठित श्रमिक सामाजिक सुरक्षा अधिनियम 2008

### हाइलाइट

1. संहिता ने अपने दायरे में निश्चित अवधि के कर्मचारियों, प्लेटफॉर्म श्रमिकों, गिग श्रमिकों, अंतर-राज्य श्रमिकों आदि को शामिल किया है।
2. संहिता की धारा 3 में कहा गया है कि सभी कवर प्रतिष्ठानों को संहिता के तहत पंजीकृत होना आवश्यक है जब तक कि वे पहले से ही अन्य श्रम कानूनों के तहत पंजीकृत न हों।
3. इसने 'करियर सेंटर' शब्द पेश किया है जिसका अर्थ है केंद्र सरकार द्वारा निर्धारित किसी भी कार्यालय (रोजगार कार्यालय, स्थान या पोर्टल सहित)। कैरियर सेवाएँ प्रदान करने के लिए।
4. संहिता किसी प्रतिष्ठान को कर्मचारी भविष्य निधि (अध्याय III) और कर्मचारी राज्य बीमा योजना (अध्याय IV) के कवरेज में स्वेच्छा से शामिल होने या बाहर निकलने की अनुमति देती है, भले ही कर्मचारियों की संख्या निर्दिष्ट सीमा से कम हो। यह प्रावधान महामारी के संदर्भ में बाद में विचार के रूप में डाला गया है।
5. संहिता की धारा 53(2) में प्रावधान है कि निश्चित अवधि के कर्मचारियों के मामले में, ग्रेच्युटी का भुगतान आनुपातिक आधार पर किया जाएगा, न कि पांच साल की निरंतर सेवा पर।

6. यह संहिता केंद्र सरकार को सशक्त बनाती है। कर्मचारी राज्य बीमा निगम (ईएसआईसी) के तहत लाभ प्रदान करने के संबंध में असंगठित श्रमिकों, गिग श्रमिकों और प्लेटफार्म श्रमिकों के साथ-साथ उनके परिवारों के सदस्यों के लिए सामाजिक सुरक्षा योजनाएं तैयार करना।

7. संहिता दंड और अपराध भी तय करती है। मुख्य आकर्षण हैं- धारा 134 जो बार-बार अपराध करने वालों के लिए दंड की बात करती है और धारा 137 जो नियोक्ता को अभियोजन या कार्यवाही शुरू करने से पहले अधिनियम के तहत किसी भी अपराध के लिए गैर-अनुपालन को सही करने का अवसर देती है।

8. धारा 144 के तहत एक प्रावधान किया गया है जिसमें महामारी, स्थानिक या राष्ट्रीय आपदा की स्थिति में नियोक्ताओं या कर्मचारियों के योगदान को तीन महीने की अवधि के लिए स्थगित या कम किया जा सकता है।

इस संहिता का लक्ष्य संगठित, असंगठित क्षेत्र या किसी अन्य क्षेत्र के सभी कर्मचारियों और श्रमिकों को सामाजिक सुरक्षा प्रदान करना है। इसमें गिग वर्कर (ऐसे व्यक्ति जो काम करते हैं या किसी कार्य व्यवस्था में भाग लेते हैं और पारंपरिक नियोक्ता-कर्मचारी संबंधों के बाहर ऐसी गतिविधियों से कमाई करते हैं) और प्लेटफॉर्म वर्कर (एक कार्य व्यवस्था जहां श्रमिक या व्यक्ति/संगठन विशिष्ट समस्याओं को हल करने के लिए ऑनलाइन प्लेटफॉर्म का उपयोग करते हैं) भी शामिल हैं। भुगतान के बदले विशिष्ट सेवाएँ या ऐसी कोई अन्य गतिविधि प्रदान करना)। इसलिए, एसएस कोड ने न केवल सामाजिक सुरक्षा कवरेज को अधिक कर्मचारियों तक बढ़ाया है बल्कि कवरेज को भी बढ़ाया है।

## व्यावसायिक सुरक्षा, स्वास्थ्य और काम करने की स्थिति संहिता, 2020

व्यावसायिक सुरक्षा, स्वास्थ्य और कार्य स्थिति संहिता, 2020 (आमतौर पर ओएसएच कोड के रूप में जाना जाता है) में निम्नलिखित 13 कानून शामिल हैं:

1. कारखाना अधिनियम, 1948
2. बागान श्रम अधिनियम, 1951
3. खान अधिनियम, 1952
4. श्रमजीवी पत्रकार और अन्य समाचार पत्र कर्मचारी (सेवा की शर्तें और विविध प्रावधान) अधिनियम, 1955
5. श्रमजीवी पत्रकार (मजदूरी की दरों का निर्धारण) अधिनियम, 1958
6. मोटर परिवहन श्रमिक अधिनियम, 1961
7. बीड़ी और सिगार श्रमिक (रोजगार की शर्तें) अधिनियम, 1966
8. संविदा श्रम (विनियमन और उन्मूलन) अधिनियम, 1970
9. बिक्री संवर्धन कर्मचारी (सेवा की शर्तें) अधिनियम, 1976
10. अंतर-राज्य प्रवासी कामगार (रोजगार और सेवा की शर्तों का विनियमन) अधिनियम, 1979
11. गोदी श्रमिक (सुरक्षा, स्वास्थ्य और कल्याण) अधिनियम, 1986
12. सिने वर्कर्स और सिनेमा थिएटर वर्कर्स अधिनियम, 1981
13. भवन और अन्य निर्माण श्रमिक (रोजगार और सेवा की शर्तों का विनियमन) अधिनियम, 1996

### हाइलाइट

1. यह संहिता 10 या अधिक श्रमिकों को नियोजित करने वाले सभी प्रतिष्ठानों पर लागू होती है, खदानों और गोदी को छोड़कर जहां यह संहिता 1 कर्मचारी के साथ भी लागू होगी।
2. इसमें प्रावधान है कि 10 या अधिक श्रमिकों वाले सभी प्रतिष्ठानों का पंजीकरण होगा।
3. इसने सभी प्रतिष्ठानों के लिए सुरक्षा आवश्यकता को अनिवार्य करके सुरक्षा अनुपालन को बढ़ाया है।
4. संहिता की धारा 57 मुख्य गतिविधियों के लिए अनुबंध श्रम के रोजगार पर रोक लगाती है।

5. संहिता स्पष्ट करती है कि एक ठेकेदार जो अपने कर्मचारियों को तैनात करता है और वैधानिक लाभ प्रदान करता है, वह ठेकेदार नहीं है और कर्मचारी, ठेका मजदूर नहीं हैं।
6. संहिता की धारा 55 में प्रावधान है कि ठेकेदार वेतन का भुगतान केवल बैंक हस्तांतरण के माध्यम से करेगा। जहां ठेकेदार मजदूरी का भुगतान करने में विफल रहता है, तो मुख्य नियोक्ता भुगतान करने के लिए उत्तरदायी होगा।
7. धारा 48 में कहा गया है कि एक ठेकेदार को पूरे भारत में तैनाती के लिए केवल एक लाइसेंस प्राप्त करना होगा जो 5 साल के लिए वैध होगा।
8. धारा 32 छुट्टी नकदीकरण के बारे में बात करती है और यह निर्धारित करती है कि जहां छुट्टी की कुल मात्रा 30 दिनों से अधिक है, एक कर्मचारी ऐसी अतिरिक्त छुट्टी को भुनाने का हकदार होगा। श्रमिक उन शेष छुट्टियों को भुनाने के हकदार हैं जिन्हें आगे नहीं बढ़ाया गया है।
9. मसौदा नियमों के माध्यम से, संहिता ओवरटाइम सीमा प्रति तिमाही 125 घंटे निर्धारित करती है।
10. धारा 2(1)(जेडएफ) में कहा गया है कि संहिता में 'अंतरराज्यीय प्रवासी श्रमिक' की परिभाषा में काम के लिए दूसरे राज्य की यात्रा करने वाला व्यक्ति शामिल है, बशर्ते मजदूरी 18,000/- रुपये प्रति माह से कम हो।
11. धारा 61 में आगे कहा गया है कि अंतरराज्यीय प्रवासी श्रमिक वार्षिक यात्रा भत्ते का हकदार है।

OSH कोड एक महत्वपूर्ण मोड़ पर आ गया है जहाँ श्रमिकों के अधिकारों पर बहस चल रही है और महामारी के कारण उनकी स्थितियाँ सामने आ गई हैं। संहिता स्पष्ट रूप से प्रवासी श्रमिकों जैसे मुद्दों को संबोधित करती है जिन पर अधिक ध्यान देने की आवश्यकता है। इसके अलावा, यह पूरे भारत में एकल लाइसेंस का प्रावधान शुरू करके उद्योग में नियोक्ताओं के लिए अनुपालन को सरल बनाता है।



## औद्योगिक संबंध संहिता, 2020

औद्योगिक संबंध संहिता, 2020 (आमतौर पर आईआर कोड के रूप में जाना जाता है)

निम्नलिखित 3 कानूनों को समाहित करता है:

1. औद्योगिक विवाद अधिनियम, 1947
2. ट्रेड यूनियन अधिनियम, 1926
3. स्थायी आदेश अधिनियम, 1946

### हाइलाइट

1. संहिता के तहत, 'उद्योग' शब्द अब विशेष रूप से धर्मार्थ, सामाजिक, परोपकारी और घरेलू सेवाओं को बाहर करता है।
2. 'कार्यकर्ता' की परिभाषा का विस्तार कर इसमें कामकाजी पत्रकारों और बिक्री संवर्धन कर्मचारियों को शामिल किया गया है। इसके अलावा, कोई भी व्यक्ति रुपये से कम वेतन प्राप्त करता है। 18,000 प्रति माह को इस परिभाषा के अंतर्गत लाया गया है।
3. 10 या अधिक श्रमिकों को रोजगार देने वाले प्रतिष्ठानों के लिए शिकायत निवारण समिति की प्रणाली अनिवार्य है और संहिता ने वैकल्पिक तंत्र के प्रावधान को समाप्त कर दिया है।
4. संहिता ने 'श्रम न्यायालयों' को 'औद्योगिक न्यायाधिकरण' से प्रतिस्थापित कर दिया है।
5. संहिता धारा 2(ओ) के तहत 'निश्चित अवधि के रोजगार' के लिए एक नया प्रावधान पेश करती है, जिसका अर्थ है कि किसी कर्मचारी की नियुक्ति एक निश्चित अवधि के लिए रोजगार के लिखित अनुबंध के आधार पर की जा सकती है, बशर्ते कि वे सभी के लिए पात्र हों।  
स्थायी कर्मचारी के समान लाभ। इसके अलावा, यदि वे एक वर्ष की अवधि के लिए सेवाएं प्रदान करते हैं तो वे ग्रेच्युटी के पात्र होंगे।
6. स्थायी आदेशों की प्रयोज्यता की सीमा को पहले निर्धारित सीमा 100 से बढ़ाकर 300 कर दिया गया है।
7. संहिता ने किसी ट्रेड यूनियन के लिए एकमात्र वार्ताकार संघ का दर्जा पाने की सीमा को 2019 के विधेयक में निर्धारित 75% से घटाकर 51% कर्मचारी वाले सदस्य के रूप में कर दिया है।
8. इसके अलावा, एक वार्ता परिषद का गठन करने के लिए, जहां कोई भी यूनियन 51% सीमा को पूरा नहीं करता है, परिषद का गठन विभिन्न यूनियनों के प्रतिनिधियों के साथ किया जा सकता है, बशर्ते कि उनके सदस्यों के रूप में कम से कम 20% कर्मचारी हों।

9. संहिता i) 14 दिन का नोटिस दिए बिना सभी प्रतिष्ठानों में हड़ताल और तालाबंदी पर रोक लगाती है, ii) सुलह अधिकारी के समक्ष कार्यवाही लंबित होने के दौरान iii) न्यायाधिकरण के समक्ष कार्यवाही लंबित होने के दौरान या iv) मध्यस्थता या निपटान के लंबित रहने के दौरान या जबकि एक पुरस्कार चालू है।

संहिता यह सुनिश्चित करती है कि उद्योग सुचारू रूप से काम करते रहें, मुकदमे के लंबित रहने के दौरान हड़तालों पर अंकुश लगाकर काम में बार-बार होने वाले व्यवधानों से बचा जा सके। इसी तरह, एकमात्र वार्ता संघ की शुरुआत से नियोक्ता के साथ सौहार्दपूर्ण समझौते तक पहुंचने में लगने वाले समय को कम करने में मदद मिलेगी।



**Centre for Labour  
Research and Action  
(CLRA)**



**Rosa Luxemburg  
Stiftung-South Asia**

**Centre for Labour Research and Action**

Centre for Labour Research and Action (CLRA) promotes workers' rights in the vast informal sector economy of India. It undertakes research to document the work conditions in the informal sector followed by policy advocacy with the state so that the workers receive their due entitlements. The centre has done pioneering work in documenting the seasonal migration streams that feed labour to labour intensive industries like agriculture, brick kilns, building and construction. Its work has facilitated development of an alternative paradigm of organizing workers that factors in the constant movement of workers, the critical role of middlemen, the nature of production process, and the socio- economic profile of workers

**Rosa Luxemburg Stiftung**

The Rosa Luxemburg Stiftung (RLS) is German- based foundation working in South Asia and other parts of the world on the subjects of critical social analysis and civic education. It promotes a sovereign, socialist, secular, and democratic social order, and aims to present members of society and decision- makers with alternative approaches to such an order. Research organizations, groups working for social emancipation, and social activists are supported in their initiatives to develop models that have the potential to deliver social and economic justice.

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