

# Making labour laws work for the workers

A tech-based delivery system is crucial to ensure that unorganised sector workers get the benefits that are legally due to them

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The Covid-19 pandemic and the ensuing lockdown hit the workforce particularly hard and has brought into debate the effectiveness of our labour welfare legislation.

The complete shutdown resulted in mass movement of hundreds and thousands of migrant workers to return to their homes. Even though the Centre intervened by passing an order on March 29, 2020 ('Order') under the Disaster Management Act, 2005 directing all employers of industrial, shops and commercial establishments to pay full wages to their workers during the lockdown, the efficacy of such an order on the unorganised sector appeared to be negligible. On May 17, 2020, even this Order was withdrawn.

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 is the key law that dealt with migrant labour issues. This Act applies to any establishment or contractor who employs five or more inter-State migrant workmen on any day, in the past 12 months.

Under this Act, establishments are required to obtain a certificate of registration before employing

inter-State migrant workmen. Also, contractors are required to obtain a licence from the relevant authorities in both the workman's home State and the State where he will be employed.

The establishments and contractors are required to ensure that all employment and welfare benefits (wages, healthcare, residential premises, holidays, applicability of other industrial and welfare laws, etc.) are available to migrant workers.

Under this Act, it is the contractor's responsibility to provide social security to such workmen and also the principal employer has to ensure that the contractor complies with the provisions of the Act.

If the contractor fails to fulfil duties under the Inter-State Migrant Workmen Act, the principal employer will be obliged to provide all amenities and benefits to such workers.

Unfortunately, there are several flaws in the Inter-State Migrant Workmen Act relating to its implementation.

The law does not apply to migrant workers who have migrated to another State for employment without approaching any contractor. The law also does not take into account that most migrant workers work are uneducated,



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work in the unorganised sector, are hired without any written contract, and have no awareness of their rights.

In 2008, the government enacted the Unorganised Workers' Social Security Act, 2008 to formulate welfare schemes for unorganised workers. The Rashtriya Swasthya Bima Yojana is one such scheme which provides health insurance coverage for below poverty line families.

The Pradhan Mantri Shram Yogi Maandhan Yojana (PMSY) was introduced for old age protection and social security of unorganised workers. However, not many of the unorganised workers enjoy the benefits under this Act on account of their continuous migration from

one State to another in search of livelihood.

## Labour reforms

In 2019, to reform labour laws, the Labour Ministry proposed to combine 44 labour laws into four codes. Three such labour law codes have received the President's nod on September 28, 2020. The Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2019 ("Occupational Safety Code") are two such labour codes.

The Code on Social Security, 2020 replaces nine laws relating to social security, one of them being the Unorganised Workers' Social Security Act, 2008 while one of the acts that will be replaced by the Occupational Safety Code is Inter-State Migrant Workmen Act. Under the said Occupational Safety Code, where an establishment employs contract labour through an unlicensed contractor, such employment will be deemed to be in contravention of the provision of the Occupational Safety Code.

However, the Standing Committee on the Occupational Safety Code had observed that the Bill failed to consider how it would deal with the migrant workers in the event of a calamity or an emergency.

In the wake of Covid-19, the

Centre announced various schemes for the migrant workers and poorer sections. These include providing free foodgrains to 80 million families, 'One Nation, One Ration Card', and Garib Kalyan Rojgar Abhiyaan to provide jobs for returning migrant workers. Though these schemes are laudable, implementing them will be a challenge.

The implementation system must be technology-driven which would help in creating awareness of the schemes and deliver benefits to unorganised sector workers efficiently.

Nandan Nilekani spoke about "internal globalisation" and that "the whole country needs to be a single market point for delivery of services with a portable infrastructure". Nilekani further explained that "portability has two aspects to it, wherever you're in the country, you should get that service."

So the proper implementation of labour laws, especially those relating to the unorganised sector, will crucially hinge on a technology-based delivery system to ensure that benefits are duly passed to the intended beneficiaries.

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