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Four labour codes, one big leap

They make India a better habitat for good jobs



Trade unions had a vested interest in the previous labour law regime because their membership is mostly older people (Illustration: C R sasikumar)



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The wonderful 1954 Hindi novel *Maila Aanchal* by P N Renu captured the defeat of idealistic politics in Bihar — samata, nyay and jan-shakti — by entrenched hierarchies, transactional politics, and elite manipulation. The recent Bihar elections suggest change: The promise of a government job for every family was dismissed as out of touch with reality — it would cost five times the state's annual budget — by a patronising dynast whose worldview is ruling, not governing. But they did remind us that job creation in backward states needs new ideas.

Yesterday's [notification of labour codes](#) empowers chief ministers to craft fertile habitats for formal, high-wage, high-productivity private employers.

Notifying labour codes helps backward states because their migration — taking people to jobs instead of jobs to people — is hardly god's will. Bihar's unemployment has stayed in the narrow 3-10 per cent range since 1991, but unemployment is the wrong metric for backward states. Most Biharis toil in employed poverty (jobs that don't pay enough) or unviable self-employment (self-exploitation). Bihar's challenge is the shortage of high productivity employers (only five listed companies, only 9,217 ESI paying employers, and 99 per cent of MSMEs classified as Micro) and lack of high productivity sectors (54 per cent work in agriculture, only 5 per cent work in manufacturing, 0.5 per cent financial services, 0.4 per cent in technology and less than 1 per cent in modern retail/pharma).

Essentially, the flow of jobs in Bihar since 1991 has not changed the stock of jobs since 1961. In contrast, the share of Karnataka's GDP from software services has grown from 5 per cent in 1991 to 63 per cent today, while the share of [Tamil Nadu](#)'s GDP from manufacturing has grown from 7 per cent in 1991 to 34 per cent today. Nationally, India makes half of all the medicines consumed in America and exports more software than Saudi Arabia does oil. Government spending made a small contribution to these transformations relative to policies that encourage high-productivity employers to hire high-wage employees through the simplification, decriminalisation and digitisation of new labour codes that consolidate 29 Acts into four codes.

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The new labour codes reduce 1,228 sections to 480, 1,436 rules to 351, 84 registers to 8, 31 returns to 1, 8 registers to 1, and 4 licences to 1. It decriminalises 65 sections that weaponise thousands of compliances. It expands social security to gig and unorganised workers, removes unfair restrictions on women, and enables portability of benefits for inter-state migrant workers. It reduces corruption by tackling multiple definitions of wages/employee/worker, mandatory physical records, multiple licences given for short durations, prosecution without notice, a non-randomised inspection regime, no time limitation on past case inquiry, the power to re-open past cases suo motu, and an unreasonable EPFO-assessed appeal deposit amount of 75 per cent.

The four labour codes are not perfect; there should be only one. But they represent a huge leap in making India a better habitat for good job creation. They also offer us a small peek into a legislative future when India's regulatory cholesterol is replaced by a regime of trust, which abandons ineffective notions of jail provisions as a deterrent, replaces prior approvals or licences with perpetual self-registration, acknowledges that arming inspectors to enforce the unenforceable breeds corruption, accepts that everything is permitted till prohibited, and concedes that process is punishment only for the innocent. The labour codes embrace a trust-based regulatory regime that will, hopefully, restrict the administrative state to two instruments: Acts passed by Parliament and Rules notified in the Gazette. In the past, multiple instruments used to create compliance, such as guidelines, circulars, government orders, regulations, directions, notes, policies, and many others, often diminished accountability, bred discretion, and undermined the rule of law.

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States that attract the new good jobs of the next decade — they are probably over 50 million up for grabs — will shift from a bird’s eye view to a worm’s eye view of the daily life of employers.

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India’s labour laws have been our most poisonous regulatory cholesterol; they hurt small employers more than big employers with networks, money and power. They blunted the migration of Chinese factory refugees to India. They ensured 50 per cent of our labour force was self-exploiting in marginal self-employment or farm employment. They bred a sense of humour about the rule of law because of corruption arising from differences in how the law was written, interpreted, practised, and enforced. Labour inspectors often paraphrased Stalin to brag, “Show me the company and I will show you the crime”. Trade unions had a vested interest in the previous labour law regime because their membership is mostly older people.

But the self-interest of a vocal but organised labour aristocracy can hardly be national interest when 65 per cent of our population is below 35 years old.

The new labour codes give states considerable discretion in varying their rule-making. History suggests this matters; the Central Factories Act has been amended only three times since independence — 1954, 1976, and 1987 — while various state-administered Shops and Establishment Acts have been amended more than 1,900 times (more than 180 times by Maharashtra alone). The delegation of powers under the new labour codes recognises that per capita incomes vary 10 times between our richest and backward states; this is four in China, three in Europe and two in the US.

It would be naïve to suggest that jobs are the only solution for backward states. But the new season of the excellent TV series *Maharani* starts with the anger of a fictional Bihar Chief Minister at the central government for not granting “special status” as a solution to catching up with “Karnataka, Maharashtra and Tamil Nadu”. A cynical response from the fictional central government could be redirecting the fictional CM to Ghalib’s quip *Dhool chehre pe thi/ Main aaina saaf karta raha* (the dust was on my face/ but I kept cleaning the mirror). A superior response is notifying the labour codes.

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