DECODING INDIA'S LABOUR COMPLIANCE FRAMEWORK

Contents

EXCECUTIVE SUMMARY

Businesses in India are subject to 1,536 acts, which translates to 69,233 compliances and 6,618 annual filings. Among these, 26,134 compliances prescribe imprisonment as a penalty for contraventions. Labour accounts for 463 acts (30.1%), 32,542 compliances (47%) and 3,048 (46%) filings. Diving deeper into labour compliances we find that state-level compliances constitute 31,605 (97%) of the total labour-related obligations with union-level compliances coming at 937. Of these, 17,819 (54%) carry imprisonment as a penalty for non-compliance. Putting this in context with the total number of compliances that prescribe jail terms, we find that 68% (17,819 out of 26,134) of them belong to labour.

These compliances, which include licences, registrations, permissions, returns, displays, registers, challans, renewals, and notices, may be annual, monthly, weekly, or due on a different day. Noncompliance or regulatory oversight may result in severe financial penalties and prosecution. This whitepaper gives the readers a peek into the complex labour compliance ecosystem and the challenges employers face.

Labour is included in the concurrent list of the Constitution of India, which means that both the Centre and the states have the authority to enact laws regarding it. Schedule 7 of the Constitution includes within the concurrent list of subjects the regulation of labour and safety in mines and oilfields, trade unions and labour disputes, and labour welfare. Article 254 (2) of the Constitution states that if there is a conflict between union and state law on a concurrent subject, the state law prevails if it was passed after the union law and received presidential approval. After the Union government approves, states may amend or reform their labour laws.

This whitepaper gives an overview of the 29 union acts that create the compliance framework for labour, and dives into the different types of compliances contained within it. These include Audits and Accounts, Licences and Registrations, Display Requirements, Employee Safety and Welfare, Examination and Testing, Registers and Records, Return Filing and Disclosures, and Statutory Payments. It also takes a look at the compliance challenges faced by employers and the state of criminalisation that is present in the labour regulatory ecosystem. The paper then introduces the labour reforms in the form of labour codes that are yet to be implemented. It provides a clear picture of the key changes in compliance obligations and transformation brought about by the four labour codes. The paper concludes with policy recommendations that suggest introduction of digtal technologies and decriminalisation of provisions to improve ease of doing business for employers and entrepreneurs.

INTRODUCTION

Businesses in India are subject to 1,536 acts, which translates to 69,233 compliances and 6,618 annual filings. Among these, 26,134 compliances prescribe imprisonment as a penalty for contraventions. Labour accounts for 463 acts (30.1%), 32,542 compliances (47%) and 3,048 (46%) filings. Diving deeper into labour compliances we find that state-level compliances constitute 31,605 (97%) of the total labour-related obligations with union-level compliances coming at 937. Of these, 17,819 (54%) carry imprisonment as a penalty for non-compliance. Putting this in context with the total number of compliances that prescribe jail terms, we find that 68% (17,819 out of 26,134) of them belong to labour.

Furthermore, 72% (31,605 out of 43,696) of all State-level compliances stem from labour regulations. All central, state, and municipal compliances can be time-based, event-based, or list-based. These compliances, which include licences, registrations, permissions, returns, displays, registers, challans, renewals, and notices, may be annual, monthly, weekly, or due on a different day. Noncompliance or regulatory oversight may result in severe financial penalties and prosecution. This whitepaper gives the readers a peek into the complex labour compliance ecosystem and the challenges employers face.

Labour Day or International Workers' Day stands as a reminder of the progress made towards recognising and realising workers' rights and reflecting on the challenges that persist. The labour movement and the evolution of labour law in India are well documented and serve as a guiding light to ensure the welfare and protection of workers' rights. The framework encompasses a wide range of issues, including wages, working hours, working conditions, health and safety, and social security among others. The laws and regulations have continued to evolve over time, reflecting the changes in the economic, social, and political landscape. We trace the past of labour laws in India, take a quick look at the present framework and compliance challenges, and discuss the future and changes brought about by the codification of labour laws.

HISTORY OF LABOUR LAWS

Labour is included in the concurrent list of the Constitution of India, which means that both the Centre and the states have the authority to enact laws regarding it. Schedule 7 of the Constitution includes within the concurrent list of subjects the regulation of labour and safety in mines and oilfields, trade unions and labour disputes, and labour welfare. Article 254 (2) of the Constitution states that if there is a conflict between union and state law on a concurrent subject, the state law prevails if it was passed after the union law and received presidential approval. After the Union government approves, states may amend or reform their labour laws.

Labour is a critical component among the four production factors of land, labour, entrepreneurship, and capital. Utilising mass production of goods and services to meet the needs of a growing population, the Industrial Revolution radically altered how capital was utilised to meet the needs of a growing population. Innovations in technology, the invention of new machines, and a more organised division of labour heralded the transformation of agrarian economies into vast industrial empires and massive urbanisation. Nonetheless, this industrialisation was accompanied by widespread exploitation of the labour force, including excruciatingly long work hours, unsanitary factory conditions, the employment of children in dangerous activities, and meagre wages. In the early 1800s in Britain, the plight of the workers prompted the enactment of several labour laws. In 1833, the very first Factory Act was enacted.

Almost a century later, the Industrial Revolution engulfed India. In 1854, the first cotton textile factory was established in Bombay. Then, within fifteen years, factories arose in Bombay, Nagpur, Kanpur, and Chennai. In 1881, more than 5000 power looms were in operation in Bengal. The first jute spinning mill was established in Rishra in 1855, and the first Iron and Steelwork was established in 1873. In 1870, Bally paper mills were established in Bengal, and Kanpur was emerging as a centre for tanning and leather factories.

With the industrial revolution, two distinct classes emerged: the capitalist and working classes. The workers were largely untrained, uneducated, unorganised, and exploited by the capitalists. In addition, there was a total lack of welfare measures. A strong need for protective labour legislation was felt as early as 1855; however, nothing concrete happened till the late 1880s.

Textile mills in India began competing with those in Great Britain. As a result, mill owners got worried and alleged that inferior labour standards prevailed in Indian mills resulting in lower production costs. So they demanded raising the labour standards in India to stay competitive. Consequently, the Factories Act, 1881 was legislated with the joint efforts of philanthropists and social workers in India and Great Britain.

Before the Factories Act, 1881, little-to-no legislation governed employee-employer relations. The focus of such legislation was placing sanctions on workers for contract violations and attempting to criminalise worker opposition, a manifestation of the master-servant relationship imported from English law. Section 6 of the Bengal Regulation VII of 1819 provided for the imprisonment of workers who did not complete their full term of service.The British enacted the Employer's and Workmen's (disputes) Act in response to the violent resistance exhibited by some construction workers due to conflicts that were viewed as a natural consequence of the industrialisation of the economy. The Act "provided employers with the ability to enforce the provision of labour through criminal proceedings." During the initial stages of colonial rule, the laws were inadequate, blatantly favoured the employers, and offered the workers almost no protection.

Thus, the workers were disadvantaged on two fronts: the indifference of colonial rulers towards worker safety and the paucity of legislation that favoured the employer overwhelmingly. These two circumstances planted the seeds for the abhorrent state of the working class. Under the Workmen's Breach of Contract Act, 1859, indentured labourers in the plantation industry were required to serve their term of service in one location. Those who failed to do so were subject to arrest and punishment. Similarly, workers in coal mines and jute mills were unable to escape exploitative working conditions in their respective mines or mills due to the aforementioned factors. The wage rates were meagre and insufficient to cover the workers' expenses, the employer withheld one week's pay to monitor the worker, and frequent deductions were made for minor infractions. Employers often used corporal punishment and harsh treatment to discipline their employees. The work hours were unreasonable for men, women, and children, and the use of children for dangerous labour was one of the most disgraceful aspects of the industrial revolution in India.

The 1881 Act laid the foundation for working hours and age restrictions for employing children in factories. It prohibited the employment of children under the age of 7 in factories and restricted the work hours of children above the age of 7 to 9 hours per day. Furthermore, it mandated the fencing of hazardous machinery in the factory premises and led to the appointment of Inspectors to overlook the implementation of the Act.

However, it was grossly inadequate. Welfare issues, including weekly holidays, working hours, mid-day lunch breaks, and payment of wages by the 15th of each month, among others, were constantly being raised by labour rights activists. The Act proved unable to provide proper safeguards to the workers from exploitative conditions properly. In 1890, the state of the workers in Europe was thoroughly discussed at the International Conference on Labour organised in Berlin. As a result, the heads of different European countries came up with recommendations concerning the employment of children, the work hours of women workers, and working conditions in factories. Using this, the British factory owners further pressured the Indian colonial government to pass another law inducing stricter regulations. The government responded by forming a Factory Commission in 1890, which was mandated to look into the condition of factory labourers and make recommendations to be included in the new law.

The new Factories Act passed in 1891 applied to all the factories which employed 50 or more workers. The age threshold for employment of children in factories was increased from 7 years to 9 years, and their work hours were fixed at 9 hours per day. A necessary weekly holiday for women workers was mandated, and working hours were set at 11 hours per day. The definition of Factory was amended to include premises in which fifty persons or more were employed. The Local Governments were empowered to extend it to premises where twenty people or more were employed. It included provisions for women employees, and their working hours were limited with a provision for a thirty-minute interval for rest.

Royal Commission on Labour

During the pre-independence period, the government followed a reform policy and controlled matters related to labour conditions. In 1928, the Royal Commission on Labour appointed H. H. Whitley as the chairman and N. M. Joshi and Dewan Chaman Lal as members.

The commission focused on studying various worker issues, including health, the standard of living, and the worker-employer relationship, among others, in various industrial undertakings and plantations in British India. It submitted its report in 1931, which for the first time, recommended the appointment of Labour Officers to establish liaison with employers. These officers were expected to ensure that employees were provided good working conditions, canteen facilities for meals, fair-price shops, recreation, medical, and housing facilities, among others.

Under the Factories Act 1934, the Provincial Government had the power to apply the Act to the establishments employing more than ten people where power was used. The act introduced the concept of seasonal and perennial factories and made provisions for different working hours for each category. The act categorised factory workers into four categories; adult male, adult female, adolescent (15-17 years), and children (12-15 years). It reduced work hours and defined maximum work hours for each category.

National Commission on Labour

The first National Commission on Labour was set up on 24th December 1966 under the Chairmanship of Justice P.B. Gajendragadkar. The Commission submitted its report in August 1969 after a detailed analysis of all labour problems in the organised and unorganised sectors.

The recommendations covered recruitment agencies and practices, training and workers' education, working conditions, labour welfare, housing, social security, wages and earnings, wage policy, bonuses, workers/employers organisations, and industrial relations machinery. More stringent penalties were recommended for violating safety requirements. Provisions for welfare facilities were also provided. It also suggested the implementation of new acts like the Contract Labour (Regulation and Abolition) Act.

Pursuant to the submissions of the commission, the National Labour Institute was set up in 1972. Soon after the large-scale industrialisation of India, the Bhopal Gas Tragedy came as a rude shock. While the country was allowing industries employing hazardous substances, technology, and processes to operate, an attempt still needed to be made to develop an appropriate regulatory framework to govern the safety and risk of such industries. Little attention was paid towards enhancing the capacities of bodies responsible for industrial safety to monitor hazardous industries. The incident prompted a range of statutory, policy, and judicial responses. As a result, the Factories (Amendment) Act 1987 was passed, providing better provisions for using and handling hazardous substances in factories. It called upon the management to provide more significant safety measures, the appointment of safety officers in factories where 1000 or more workers are employed or where any manufacturing process or operation is carried on, which involves any risk of bodily injury, poisoning, or disease, or any other hazard to health to the persons employed in the factory. The amended Act also provided provisions for investigations of all fatal accidents within a month of their occurrence. It also empowered various authorities to undertake safety and occupational health surveys.

The Act also brought a protective clause for contract labour. The amended Act further prescribed a crèche facility wherein more than 30 women workers (instead of 50, as provided in the Principal Act) are ordinarily employed. Furthermore, according to this amended act, if a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service during the calendar year, he or his heir or nominee will then be entitled to wages in lieu of the quantum of leave due. Finally, the amended Act also provided for modified rates of general penalty for offences and enhanced punishment after prior convictions.

OVERVIEW OF THE LABOUR COMPLIANCE FRAMEWORK

Union Labour Acts

The Factories Act, 1948

The Factories Act 1948 is a social welfare legislation enacted to protect and uplift factory workers. It is geared towards safeguarding the interests of the workers, including safety, hygiene, and welfare at the workplace. It lays down the duties and responsibilities of the factory owners to ensure the health and safety of factory workers. It also imposes restrictions on the employment of women, children, and working hours

The MInes Act, 1952

The Mines Act, 1952 was enacted to improve the conditions of mine workers. It regulates the working conditions and provides the working hours, limitations of employment, and welfare of the workers. In addition, employers are required to provide adequate health and safety measures

The Payment of Wages Act, 1936

The Payment of Wages Act, 1936 was enacted to ensure employers do not exploit the workers in the informal sector and receive their wages without any unnecessary delays. It ensures that the workers receive their total wages on time without any unlawful deductions, the act intended to save the workmen from falling into a debt trap

The Minimum Wages Act, 1948

The Minimum Wages Act, 1948 was introduced to set a minimum wage for workers in the informal sector to save them from exploitation. The act uses a minimum wage-determining mechanism to prevent the exploitation of workers

The Payment of Bonus Act, 1965

The Payment of Bonus Act, 1965 was enacted to impose a legal obligation on the employer to share the profit earned by the business amongst the employees

The Equal Remuneration Act, 1976

The Equal Remuneration Act, 1976 introduces the employer's legal obligation to pay equal remuneration to men and women uniformly. It aims to eliminate discrimination against women and treat women workers in a just, fair, and equitable manner

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 was enacted to ensure the welfare of inter-state migrant workers. It aims to provide secure and effective protection against exploitation in the state they were recruited from and where they are employed. A separate legislation was introduced as the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 felt inadequate to address the issues faced by migrant workers

Contract Labour (Regulation and Abolition) Act, 1970

The Contract Labour (Regulation and Abolition) Act, 1970 was introduced to prevent the exploitation of contract labourers. It aims to provide proper and habitable working conditions and ensure that the workers receive their due wages and benefits

The Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 was enacted to provide aid to mothers-to-be and mothers of newborns with paid leaves and benefits before and after the child's birth. The act aims to facilitate women workers in taking care of their babies and ensure the security of their tenure

The Payment of Gratuity Act, 1972

The Payment of Gratuity Act, 1972 lays down additional benefits that need to be paid to employees working in factories and establishments. The act was introduced to ensure a standard pattern for gratuity payments nationwide

The Employees' State Insurance Act,1948

The Employee State Insurance Act, 1948 is a piece of social welfare legislation enacted to provide certain benefits to employees in case of sickness, maternity, and employment injury, among others

The Employees Provident Fund and Miscellaneous Provisions Act, 1952

The Employees Provident Fund and Miscellaneous Provisions Act, 1952 provides for creating provident funds (pension fund and deposit-linked insurance fund) for employees in factories and other establishments. It creates another layer of welfare and social security for workers and provides retirement benefits

The Employees Compensation Act, 1923

The Employees' Compensation Act, 1923 covers the issue of compensation to workers if they suffer any injury from a workplace accident. The need for the act was felt to address the issue of workers suffering severe injuries due to workplace accidents and losing their livelihood

The Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947 attempts to ensure peace and harmony in the event of a dispute and provides the mechanism for investigating and resolving such disputes through negotiations. It also covers the issue of compensation of workers on account of closure, layoff, or retrenchment

The Trade Unions Act, 1926

The Trade Unions Act, 1926, was introduced to control and manage trade unions. Trade unions act as a link between the workers and the management and are powerful institutions that have power over the social and economic conditions of the workers. The act was introduced to regulate and recognise these unions

The Industrial Employment (Standing Orders) Act, 1946

The Industrial Employment (Standing Orders) Act, 1946 lays down an obligation on industrial establishments to define the conditions of employment and get them certified. It regulates 'standing orders' and was introduced to standardise the conditions of employment wherein the workers were previously engaged on uncertain and vague terms

The Plantations Labour Act, 1951

The Plantations Labour Act, 1951 provides for the welfare of workers employed in tea, coffee, rubber, cinchona, and cardamom plantations, among others, and regulates their working conditions. In addition, it lays down the obligations for residential accommodation, medical facilities, and educational and recreational facilities for workers on the employer

The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 cover the conditions of employment. It regulates the service conditions for working journalists and other newspaper employees. The act provides for creating a wage board and addresses issues including working hours, leaves, and rate of wages, among others

The Motor Transport Workers Act, 1961

The Motor Transport Workers Act, 1961 was enacted to take care of the welfare of motor transport workers and regulate their working conditions. Employers have been made responsible for their workers' welfare, health, and safety

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966

The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 was enacted to provide for the welfare of the workers in beedi and cigar establishments in what is a largely unorganised industry. It creates an obligation on the employer to maintain safe, clean, and hygienic working conditions

The Sales Promotion Employees (Conditions of Service) Act, 1976

The Sales Promotion Employees (Conditions of Service) Act, 1976 regulates the service conditions of sales promotion employees. It applies to the pharmaceutical industry in the first instance

The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981

The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 was introduced to regulate the conditions of employment of cine and cinema theatre workers

The Dock Workers (Safety, Health and Welfare) Act, 1986

The Dock Workers (Safety, Health and Welfare) Act, 1986 was enacted to provide for dockworkers' security, health, and welfare. The act was introduced after the need to ensure the rights of dockworkers for a safe and secure working environment was felt

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 was introduced to provide for the safety, health, and welfare measures for building and other construction workers

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 ensures that vacancies are compulsorily notified on employment exchanges. It allows the authorities to assess the employment potential of various industries and establishments

The Cine Workers Welfare Fund Act, 1981

The Cine Workers Welfare Fund Act, 1981 was introduced to create a welfare fund that can be used to finance activities that promote the welfare of cine workers

The Building and Other Construction Workers Welfare Cess Act, 1996

The Building and Other Construction Workers Welfare Cess Act, 1996 was enacted to levy and collect cess on the cost of construction incurred by employers. This cess is used towards the various welfare schemes and measures operated by the Building and Other Construction Workers' Welfare Board

The Unorganised Workers' Social Security Act, 2008

The Unorganised Workers' Social Security Act, 2008 was enacted to ensure social security and welfare benefits for workers in the unorganized sector

TYPES OF LABOUR COMPLIANCES

Licences and Registrations

Factory owners are required to obtain a factory licence and a certificate of stability under the Factories Act, 1948. Most of the requirements pertaining to certification and licencing are contained in the state and municipal laws. For instance, a logistics and supply chain company in the state of Karnataka is required to obtain a trade licence and renew it on an annual basis in accordance with the Karnataka Municipal Corporations Act, 1976. Employers are also required to obtain registration certificates under the Employees' Provident Fund Scheme, the Employees' State Insurance Corporation, the State welfare fund rules, the State Shops and Establishments Act, the Inter-State Migrant Workmen Act, 1979, and the Payment of Gratuity Act, 1972 among others.

In addition, factory and other establishment owners are also required to obtain registrations for the internal committee on sexual harassment of women, the principal employer, factory premises, and MSME (if applicable). An illustrative list of licences and registrations can be found in Table 1 in the annexure.

Displays

Employees Compensation Act, 1923, Maternity Benefit Act, 1961, Minimum Wages Act, 1948, and Payment of Gratuity Act, 1972 make it mandatory for an employer to display an abstract, the Act and Rules within the establishment. The Minimum Wages Act, 1948 and Contract Labour (Regulation and Abolition) Act, 1970 impose additional requirements such as displaying notice regarding the rates of wages, dates of payment of wages, and rest days.

The Rights of Persons with Disabilities Act, 2016 requires employers to display an equal opportunity policy for disabled persons. Similarly, establishments are also required to publish an equal opportunity policy under the Transgender Persons (Protection of Rights) Rules, 2020. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 also mandates the display of a flow chart of the sexual harassment complaint redressal process and the names and contact details of the members of the Internal Committee. An illustrative list of display-related compliances can be found in Table 1 in the annexure.

Registers and Records

Under labour laws, companies are required to maintain a register of employees or workers on their roll. Leave records of employees or workers must also be maintained in registers. Employers are also required to maintain records of the dates of whitewashing, varnishing, and colour-washing among others under the Factories Act, 1948. In addition, they are also required to maintain a register of accidents, a record of the examination of hoists or lifts, an overtime register, a maintenance book, and a leave with wages register among others.

The Payment of Bonus Act, 1965 requires maintaining a register showing the computation of allocable surplus, set-on, and set-off of allocable surplus and bonus payable. The Minimum Wages Act, 1948 also lists down compliances for maintaining an inspection book and a register of wages, fines, and overtime. Furthermore, under the Employees' State Insurance Act, 1948, an employer again must maintain a register of employees, accident book, inspection book, and identity cards of employees. The Contract Labour (Regulation and Abolition) Act, 1970 requires employers to maintain a register of contractors.

An illustrative list of registers and records that need to be maintained can be found in Table 4 in the annexure

Return Filings and Disclosures

Annual returns must be filed under the Employees' Compensation Act, 1923, the Maternity Benefit Act, 1961, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, the Contract Labour (Regulation and Abolition) Act, 1970 and quarterly Returns under the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959.

The Rights of Persons with Disabilities Act, 2016 requires registering a copy of the equal opportunity policy with the Chief Commissioner or the State Commissioner. As per the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, the Internal Committee must prepare and submit a report to the employer and district officer. The Contract Labour (Regulation and Abolition) Act, 1970 requires the employer to submit a Unified Annual Return. Under the Industrial Disputes Act, 1947, it is compulsory to submit a half-yearly report on the constitution and functioning of the Works Committee to the Labour Officer.

An illustrative list of returns that need to be furnished can be found in Table 1 in the annexure

Cleanliness

The Factories Act, 1948 contains extensive regulations regarding the hygienic condition of factory facilities, including canteens and washing facilities. Employers are required to ensure lime cleansing of canteen walls, repainting factory interior walls and partitions among others. Factories employing more than 250 workers have to ensure that latrines and urinals are cleaned once every 7 days. Inside walls, partitions, and ceilings and tops of all rooms, passages and staircases must be cleaned every 6 months and the factory floor must be washed once a week. In addition, the employer is also required to provide sufficient and suitable clean clothes to the employees serving in the canteen of the factory.

Audit and Accounts

Compliance under the Factories Act, 1948 and its associated state regulations, requires the owner/manager of a manufacturing facility to conduct an annual audit of accounts pertinent to canteen facilities. Failure to comply may result in imprisonment for up to two years.

Examinations & Testings

Under the Factories Act, 1948 a manufacturer must conduct an annual testing of pressure plants or vessels internally. In case an internal examination is not possible, they must be examined through a hydraulic test once every 2 years. Employers are required to ensure that all joints and belts in the factory are regularly inspected. Noise levels in the factory must be tested annually and the employer must provide clean drinking water in the factory premises with the water being tested by a government-approved laboratory once every 6 months. All workers must also be medically examined once a year by a certifying surgeon.

An illustrative list of inspectors that can visit a factory can be found in Table 2 in the annexure

Statutory Payments

Under the Employees State Insurance Act, 1948 and the 1950 regulations, an employer is required to make a monthly contribution to the ESIC on behalf of each employee. Likewise, maternity benefits must be paid in accordance with the Maternity Benefits Act, 1961. Employers are obligated to pay the bonus in cash within 8 months from the close of the accounting year under the Payment of Bonus Act, 1965. Payment of overtime wages, and wages during leave must also be done in accordance with the provisions of the Factories Act, 1948.

Employee Safety and Welfare

These regulations pertain to both labourers and employees, as well as the maintenance of manufacturing facilities. Under the Factories Act, 1948 a water centre has to be provided on each floor of the factory and maintained in a clean condition. Safety ventilation has to be provided in ovens and driers with automatic arrangements to a cut-off electrical supply when the temperature exceeds the pre-set value. Employers also cannot employ workers in a hazardous process without a certificate of fitness. In addition, workers must be provided with tight-fitting clothes as a safety measure and young people must be employed on dangerous machines.

Under the Maternity Benefits Act, 1961, for instance, every business is required to inform female employees of available benefits. Women who return to duty after delivery must be provided with 2 interval breaks every day until the child is 15 months old. Furthermore, women must be given ample break time to reach the crèche where their child is kept and come back. Under the Minimum Wages Act, 1948, employers are required to ensure that the working hours of an employee do not exceed ten and a half hours in a day.

An illustrative list of safety items can be found in Table 1 in the annexure

Committees

Under the labour law framework, factory owners are required to constitute various committees. Factories Act, 1948 requires that there must be a canteen managing committee which is to be reconstituted every 2 years. Under the Industrial Disputes Act, 1947 employers are required to set up a works committee, and a grievance redressal committee. The occupier of the premises is then further required to conduct a quarterly meeting of the works committee. Furthermore, an internal committee must be instituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013. This committee must also be reconstituted every 3 years. Employers may further be required to constitute a health, safety, and welfare committee under the respective State Shops & Establishment Act and rules.

An illustrative list of committees that need to be constituted can be found in Table 1 in the annexure

Appointments

Factory owners are required to make certain appointments under the Factories Act, 1948. These include the appointment of a water centre in charge, créche staff, sweepers to clean latrines, urinals, and wash places, a medical officer, a safety officer, and a welfare officer. In addition, the chief inspector of factories must be notified about the appointment of the safety officer.

Others

There are several more compliance obligations that must be fulfilled by factory owners. Under the Factories Act, 1948, employers are required to plant trees with the approval of the district forest officer if there are more than 100 workers employed in the factory. An annual review of the information supplied to workers, the general public, the chief inspector, and the district emergency authority must be conducted in factories involved in hazardous manufacturing processes. Employers are required to ensure the effective treatment of wastes and effluents coming out of the manufacturing process.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, & Redressal) Act, 2013 requires the occupier of the premises to organise workshops and awareness programmes. The employer is also required to formulate and disseminate an internal policy to promote gender-sensitive safe spaces. Under the Apprentices Act, 1961, employers are obligated to make arrangements to impart a course of practical training to every apprentice in addition to imparting basic training. Furthermore, under the Employees' State Insurance Act, 1948, factory owners are required to maintain an inspection book and the identity card of employees.

EMPLOYER COMPLIANCE CHALLENGES IN THE CURRENT FRAMEWORK

Among India's 63 million enterprises, only 1 million are formal enterprises covering their workforce under labour laws. 62 million enterprises are small and informal and over 90% of India's labour force works in them. As a result, only approximately 9% of India's workforce benefits from the labour laws.

Home-based workers, gig workers, informal workers, and informal organizations fall squarely outside the ambit of the present labour law framework. Employers face a host of different challenges within the current labour compliance framework. These include:

- No provision for gig workers, platform workers, home-based workers and fixed-term employment
- Different applicability thresholds under different Acts
- Several different permutations of minimum wages
- Different definitions of establishment, workmen, and wages across states
- Labour Unions can go on strike anytime without any prior notice
- Lot of scope for physical interaction between employer and the government
- Multiplicity of returns/registers with redundancy, duplication & overlap
- Numerous different registrations/licences/exemptions under different acts
- Different authorities responsible for enforcement/inspections

India's labour laws do not provide for variabilisation of labour costs. While the demand and supply cycles are highly dynamic, India Inc's labour costs are largely fixed. It impedes the entry of newer, more productive firms and the exit of older, less productive ones.

India's employer compliance universe has 1,536 acts that apply to businesses, and 463 (30.1%) of those are labour-related. 32,542 compliances (47% of the total) and 3,048 filings (46% of the total) related to the subject of labour. There are 31,605 state-level compliances and 937 union-level compliances. Labour-related regulations are involved in 72% of all state-level compliances. The Jailed for Doing Business Monograph states that 68% (17,819) of all violations that resulted in an imprisonment term were labour law violations.

There is no centrally available exhaustive list of compliances to be filled by an entrepreneur, little information on the procedural timelines, and no regular updates on changes in laws and compliances. For instance, approximately 517 regulatory updates were published in FY 22-23 alone. The regulatory updates include revisions to forms, addition/ subtraction of compliance items, and changes in penalties. In addition, there is a multiplicity, duplicity, and overlap in the number of registers and records an establishment needs to maintain. Complying with the requirements of a complex regulatory structure requires hiring company secretaries and labour lawyers to interpret the language of the laws, ensure timely filings, and track updates. An illustrative list can be found in Table 3 in the annexure.

Criminalisation in labour laws

A thorough review of India's business laws reveals that imprisonment has been used as a tool of control against entrepreneurs over the years. The monograph titled Jailed for Doing Business, co-authored by Gautam Chikermane and Rishi Agrawal, uncovers the nature and extent of the risks of imprisonment entrepreneurs face in the country. Of the 1,536 laws governing business in India, more than half (54.9%) carry imprisonment clauses. Among the 69,233 compliances in these laws, two out of every five (37.7%) prescribe jail terms for non-compliance. The report highlights that a significant number of clauses criminalise procedural violations and technical lapses rather than serious offences involving willful harm. It illustrates that in many cases, there is an equivalence between punishment for minor errors by entrepreneurs and death due to negligence under the Indian Penal Code, 1860. Resultantly, the current business environment reflects a sense of distrust and hostility towards companies and raises barriers to the seamless flow of innovation, wealth and jobs in the economy.

The table below provides an illustrative overview of compliances that prescribe imprisonment as a penalty for non-compliance.

Table 5: Illustrative representation of labour compliance obligations for various businesses

Enterprise	Total Compliances	Compliances prescribing imprisonment for contravention	Labour compliances	Labour compliances with provision for imprisonment
Retail store*	138	58	85	41
Pharmaceutical MSME**	998	486	448	322
Logistics and supply chain MSME***	648	226	268	133

* A retail outlet with a single corporate office, and a single store in the state of Maharashtra
** A pharmaceutical MSME with a single corporate office, and a single manufacturing facility in the state of Maharashtra
*** A logistics and supply-chain MSME with a single corporate office, and a single warehouse in the state of Maharashtra

Applicable Labour Compliances for MSMEs

A pharmaceutical MSME with a single corporate office, and a single manufacturing facility in the state of Maharashtra has to obtain 4 licences and registrations and comply with 49 displays and 72 registers and records requirements related to labour obligations. In addition, it has to manage 97 employee safety and welfare compliances.

A logistics and supply-chain MSME with a single corporate office, and a single warehouse in the state of Maharashtra has to obtain 17 licences and registrations and comply with 61 displays and 64 registers and records requirements related to labour obligations. In addition, it has to manage 49 employee safety and welfare compliances.

Table 6: Illustrative table of labour compliance obligations for a Pharmaceutical MSME - Manufacturing and Logistics and supply-chain MSME

	Pharmaceutical MSME- Manufacturing	Logistics and Supply-chain MSME - Services
Compliance Type	**Labour Compliances**	
Licences and registrations	4	17
Displays	49	61
Registers and records	72	64
Return filings and disclosures	37	39
Audit and accounts	1	2
Cleanliness	16	6
Examinations and testings	14	2
Statutory payments	31	12
Employee safety and welfare	97	49
Committees	8	3
Appointments	7	2
Others	32	31

OVERVIEW OF LABOUR REFORM

History of labour codes

The 2nd National Commission on Labour (SNCL), under the chairmanship of Ravinder Varma was set up in 1999. The need for constituting the SNCL was felt as three decades had passed since the submission of the report of the First National Commission on Labour, and the 1991 reforms changed the Indian industrial climate, which needed to be supplemented by labour market reforms. The agenda of the SNCL was to rationalise existing labour laws and incorporate their provisions into a comprehensive code. The Commission constituted 6 study groups and considered their recommendations in their Report. The Report recommended simplifying laws, covering all aspects of employment, curbing inspector raj, and balancing the industry's and workers' needs.

In 2014, the Government of India introduced procedural reforms in labour laws, including a single-window labour compliance process and a new inspection scheme with a computerised system that identified companies to be inspected using unbiased, objective criteria. The Government intended to improve the Ease of Doing Business and the growth of the manufacturing sector to help in its "Make in India" campaign. Union-led backlash slowed the pace of reforms by the Union government while the states continued reforms. The Union Government, encouraged by their prosperous and peaceful implementation, intended to replicate them nationally.

The Government started redrafting labour legislation as a part of a proposal to codify labour laws based on "issue". The legislative intent guiding the redrafting included easing compliance, updating outdated laws to align with present economic needs, and ensuring better enforcement and standardisation. In the last six years, the government held multiple stakeholders consultations with trade union representatives, employers, state governments, and labour market experts. This included holding nine tripartite consultations, four Sub-Committee meetings and ten Regional Conferences, ten inter-ministerial consultations, and taking citizens' views. Eleven central trade unions proposed to discuss labour law reforms in the 46th ILC scheduled between July 20-21. The Standing Committee on Labour headed drafted reports on the new Labour Codes and presented them in both houses of the Parliament. They also invited written memoranda and suggestions on the Codes from NGOs/Experts/Stakeholders and Institutions. The Standing Committee recommended 233 changes, of which 174 were accepted and incorporated into the codes.

The codes also extend the coverage of the existing labour laws. Most of India's labour is not covered under the current labour laws. However, the labour codes attempt to extend the coverage to provide protection and benefits to more employees.

Parliamentary Approval

In 2019, the Ministry of Labour and Employment introduced four Bills on labour to subsume 29 Central labour laws into 4 Codes regulating: (i) Wages, (ii) Industrial Relations, (iii) Social Security, and (iv) Occupational Safety, Health, and Working Conditions. The Codes consolidated 29 labour laws, and Parliament repealed 15 laws. The parliament passed these bills, which were notified in the Gazette of India.

The Code on Wages, 2019 was passed by the Lok Sabha on July 30, 2019 and notified on August 8, 2019. The Industrial Relations Code, Code on Social Security, 2020 and the Occupational Safety, Health, and Working Conditions Code, 2020 were passed by the Lok Sabha on September 22, 2020 and notified on September 29, 2020.

Overview of Labour Codes

With changing technology and the working environment, newer forms of employment have developed. The labour codes bring these newer forms of employment, like "platform worker or gig worker", within the ambit of social security. Schemes for linking the unorganised sector and Gig workers with ESIC schemes and for bringing Self-employed workers under the aegis of EPFO are also in process. The Code on Social Security also provides for creating the National Social Security Board to recommend and monitor schemes for gig and platform workers. For the first time, a Fixed Term Employee working for a determined period on a contract has been given the right to social security like a Regular Employee.

The OSH&WC Code, 2020 has also updated its definitions in line with the working conditions of industrial or other establishments. It modified the definition of cine workers to include all audio-visual workers, working journalists to include journalists working in electronic media, and inter-state migrant workers to include those migrant workers that employers instead of contractors have employed. It also brought IT and Service Sector establishments under its ambit.

The Factories Act, 1948 prohibited women from working at night. This provision has also been revised by the OSH&WC Code, 2020, which permits women to work in every sector at night, provided their consent is taken, and the employer has made adequate security provisions. The Code on Wages ensures Pay parity for women workers compared to their male counterparts.

Under the Code on Wages, the provisions of the Minimum Wages Act, which initially applied only to employees engaged in scheduled employment and/or drawing wages less than Rs. 18,000/-, will apply to all employees. Under the Code on Social Security, the facility of ESIC, which was provided in 566 districts only, would now be provided in all 740 districts. EPFO's coverage would apply to all establishments with 20 workers, which applied only to establishments included in the Schedule. The provision of a "Social Security Fund" for 40 crore unorganised workers will help in universal Social Security coverage.

The changes and reforms in the labour laws have been brought about considering the changing working conditions. They provide for the creation of a national database for unorganised workers and inter-state migrant labour. They also offer a helpline facility for the redressal of problems of migrant workers.

Key Changes in labour codes

Occupational Safety, Health and Working Conditions Code, 2020

The OSH&WC Code, 2020 subsumes 13 union acts. It incorporates various new provisions to create standardisation in the statutory norms for workers' occupational safety, health and working conditions. The applicability threshold under the Factories Act, 1948 has been increased for the benefit of smaller enterprises. New provisions on common licences have also been introduced to reduce the compliance burden.

Multiple definitions of Workman and Employee were provided across at least 14 Central labour Laws. This led to ambiguity and misinterpretation amongst the employers, and in the end, the courts decided the applicable and suitable definition from case to case. Some of these definitions were also outdated and did not cover certain sections of workers, leaving them out of the ambit of protection.

The Occupational, Safety, Health and Working Conditions (OSH&WC) Code, 2020 has brought the necessary changes in the definition of employee and workman based on the working conditions of industrial establishments or other establishments. It modifies the definitions of Cine workers to include all audio-visual workers, working journalists to include journalists working in electronic media and inter-state migrant workers to include migrants employed by employers instead of contractors. It also provides recognition to unorganised workers, gig workers and platform workers. It brings them within the umbrella of social security schemes that include life and disability insurance, PF, health and maternity benefits and skill upgradation. It, therefore, enhances the coverage of safety and health provisions.

It has reduced four licences and 22 returns to one each. Under the 4 Acts the Code covers, the employer must maintain 76 registers. These registers included records of whitewashing, accident and dangerous occurrences, humidity registers, inspection books etc. The number of registers required to be maintained by employers has now been reduced to 2-3 and can be reduced to 1 register.

The Code reduces 11 different registrations covered under the 13 different Acts to 1. Some of the registrations do not define the timelines within which the registration should be granted, leading to procedural delay. Section 7 of Contract Labour (Regulation and Abolition) Act, 1970 mandates that all establishments to which the Act applies to register themselves with the appropriate government, but the Act was silent on the time limit for granting registration. The OSH&WC Code prescribes a time limit of 30 days from the date of application for granting of registration. In the absence of any communication during this period, the permission applied for will be deemed granted.

The Codes also provide for obtaining a shared licence for factories, contract labour, Beedi and Cigar establishments. This means that any factory, contractor, other type of establishment, or combination must apply for just one licence. The licensing authority is to issue the licence within forty-five days of the receipt of the application, failing which the licence will be deemed to be issued.

Table 7: Illustrative list of proposed changes in applicability thresholds

S.NO	ACT	EXISTING PROVISION	CODE	PROPOSED CHANGES
1	Contract Labour (Regulation and Abolition) Act, 1970	Applicability - Differs, state specific	Code on Occupational Safety, Health and Working Conditions, 2020	Applicability - To 50 workers or more across all the states
2	Contract Labour (Regulation and Abolition) Act, 1970	Obtaining License - State Specific	Code on Occupational Safety, Health and Working Conditions, 2020	Common License across all the states
3	Factories Act, 1948	Applicability – (i) With the aid of power -10 workers (ii) Without the aid of power - 20 workers	Code on Occupational Safety, Health and Working Conditions, 2020	Applicability (i) With the aid of power - 20 workers (ii) Without the aid of power - 40 workers The threshold Threshold in Number of Workers for Appointment of (i) Safety Officers - 500 workers (ii) Welfare Officers – 250 workers (iii) Canteen - 100 workers

Industrial Relations Code, 2020

The Industrial Relations Code, 2020 subsumes 3 union acts. The applicability threshold in terms of workers has been increased under the Code. At the same time, the provision on the grievance redressal committee has undergone changes.

Table 8: Illustrative list of proposed changes in applicability thresholds Comment end

S.NO	ACT	EXISTING PROVISION	CODE	PROPOSED CHANGES
1	Industrial Employment (Standing Orders) Act,1946	Applicability - Provisions of Standing Orders shall apply to an industrial establishment in which 100 or more workers are employed	Code on Industrial Relations, 2020	Applicability - Provisions of Standing Orders shall apply to an industrial establishment in which 300 or more workers are employed
2	Industrial Disputes Act,1947	Grievance Redressal CommitteeThreshold - 6 members	Code on Industrial Relations, 2020	Grievance Redressal Committee Threshold - 10 members

Code on Social Security, 2020

The Code on Social Security, 2020 subsumes 9 union acts. Several new provisions have been introduced under the Code for bringing uniformity in social security coverage for workers. Schemes such as Employees' Provident Fund and Employees' State Insurance now have broader applicability and voluntary coverage.

Table 9: Illustrative list of changes in Employee Provident Fund

CHANGE	DESCRIPTION	IMPACT
1. Applicability –Sec 1 (4)	Shall apply to establishments employing 20 or more employees. Industry-specific application removed	More establishments will be covered under EPF
2. Wage ceiling – Sec 2 (26)	No wage ceiling could be prescribed for EPF employee coverage. The wage ceiling is only for EPS & EDLI schemes	All employees are to be covered for the purpose of EPF (The existing scheme shall continue till a new scheme is announced).
3. Determining the number of employees for applicability – Sec 2 (26) 2nd provison	Employees whose wages are more than the notified wages ceiling shall also be taken into account	More establishments will be covered under EPF
4. Excludes Apprentices – Sec 2 (26)	The term 'employee' specifically excludes apprentices engaged under Apprentices Act	Current position continues
5. Condition for Exempted Establishment – Sec 21 (1)	Condition for authorization to employers for maintaining PF accounts – 100 or more persons	No more exemption for the establishment having less than 100 employees

Table 10: Illustrative list of changes in Employees' State Insurance Coverage

CHANGE	DESCRIPTION	IMPACT
1. Voluntary coverage – Sec 1 (7)	Establishments can go for voluntary coverage under ESIC. Currently, it is possible only under EPF	Option of the employer – Not compulsory
2. Applicability of ESIC to Plantation – Sec 1 (4) first schedule	Plantations can go for voluntary coverage under ESIC for the employed workers	Option of the employer – Not compulsory
3. Hazardous or life-threatening establishments.-Sec 1 (4) first schedule	Central Govt can make ESIC applicable through notification even if there is a single employee engaged in Hazardous or life-threatening establishments	Central Govt may notify
4. Wage ceiling – Sec 2 (26)	The term employee shall mean such employee drawing wages less than or equal to the wage ceiling notified by the Central Government For coverage – All employees whose wages are more than the ceiling wages are to be considered	the Current scheme of Rs.21000/- shall continue till such time the notifications are published
5. Accident while commuting – Sec 34	Employees met with an accident while commuting between residence to place of employment shall be considered as employment injury	Brought more clarity
6. Employer fails to cover/contribute ESIC – Sec 42	ESIC's shall extend the benefits to the employees even if the employer fails to cover an employee or fail to pay the contribution	ESIC shall recover the actual expenses/benefits from the employer
7. Coverage extended to Mines – Sec 2 (29)	Mines are also to be covered under ESIC. Included in the definition of establishment. Currently, ESIC is not applicable to mines	Employees' engaged in mines shall be covered under ESIC

Code on Wages, 2019

The Code on Wages, 2019 subsumes 4 union acts. It has introduced a broader applicability criterion for establishments and employees. It also has standardised definitions to bring about clarity in implementation. New provisions regarding mode, time, and disqualification of payments of wages and bonuses have also been incorporated to remove ambiguities in enforcement.

Previously, labour laws consisted of multiple definitions for different terms of common use like "wages", "worker", and "establishment" under different Acts. The burden was on the employer to either create a hybrid definition to ensure compliance or to remember each definition in detail to submit the returns prescribed by different Acts.

The term "wages" was defined distinctly in no less than ten different Central labour Acts, namely, the Employees' Compensation Act,1923; Industrial Disputes Act, 1947; Maternity Benefit Act,1961; Minimum Wages Act,1948; Payment of Bonus Act, 1965; Payment Of Gratuity Act, 1972; Payment Of Wages Act, 1936; Employees' Provident Funds And Miscellaneous Provisions Act 1952; Employees State Insurance Act,1948 and Equal Remuneration Act, 1976. While the definitions under some acts had significant overlap with others, some provided a completely different definition. For example, the definition of "wages" under the Industrial Disputes Act, 1948, Minimum Wages Act, 1948, and Payment Of Wages Act, 1936 includes travelling allowances. However, these were not included under the definition used in the Employees' Compensation Act, 1923, Payment of Bonus Act, 1965, Payment of Gratuity Act, 1972, and Employee State Insurance Act, 1948.

The Code on Wages, 2019 provides a universal definition of wages incorporated across the three other labour Codes. This definition has replaced the previous proliferation of definitions and developed a comprehensive, unified schema. The new definition of 'wages' contains basic pay, dearness allowance, and retaining allowance as inclusive aspects of remuneration. It excludes bonuses, house-rent allowances, overtime allowances, conveyance allowances, gratuity, and commissions, amongst certain other allowances that initially formed a part of one of the definitions of wages. Only the excluded allowances (barring gratuity and retrenchment/retirement benefits) that exceed 50% of the total remuneration will be considered as remuneration and added to wages, according to the Code on Wages, 2020.

Table 11: Illustrative list of changes in applicability

Applicability	Existing				Proposed
	Minimum Wages Act	Payment of Wages Act	Payment of Bonus Act	Equal Remuneration Act	Code on Wages, 2019
Applicability to the establishments	Only to scheduled employment	This does not automatically apply to shops and establishments	20 or more employees	To all establishments listed as per Sec 1(3)	To all establishments (20 or more employees in case of bonus alone)
Applicability to the employees	Only to those working in scheduled employment	All employees drawing less than Rs 24000	Employees drawing less than Rs 21000	No specific condition	To all employees (for bonus, the salary cap is to be notified)

Change in Compliance Obligations

Table 12: Illustrative reduction of compliance burden under Code on Wages, 2019

	Licences	Registrations	Returns	Registers
Current	None	None	3 (annual)	12
Proposed	None	None	1 (annual)	4*
Reduction		-	67%	91.5%

*Can be consolidated into 1

It has reduced the 3 annual returns to be filed by the employer under the Minimum Wages Act, 1948; Payment of Wages Act, 1936 and Payment of Bonus Act, 1965 to one consolidated annual return. According to the initial framework, the employer had to maintain 12 different registers which included particulars related to work performed by the employees, fines, deductions made from the wages of the employees, bonuses, wages, and other particulars that may be prescribed. These registers have to be preserved by the employer for a time period prescribed by the law. For example, under the Payment of Wages Act, 1936 the employers were required to preserve the registers for three years after the date of last entry. The Code on Wages reduces the number of registers from 12 to 4. These 4 registers can further be reduced to 1 register.

Table 13: Illustrative reduction of compliance burden under Code on Social Security, 2020

	Licences	Registrations	Returns	Registers
Current	None	4	36	Over 20*
Proposed	None	1	1	1 or 2
Reduction	None	75%	97%	Over 90%

It reduced the 36 annual returns under the 9 Acts to one. The previous regime required 12 Remittances, 24 Returns under PF, four returns under Employment Exchanges (ER1), and two returns under ESI. The returns included monthly challans under the Employees' State Insurance Act, 1948, and Employees Provident Fund and Miscellaneous Provisions Act, 1952; quarterly returns under the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; half-yearly returns under Employees' State Insurance Act, 1948; annual returns under the Maternity Benefit Act, 1961 and biennial returns under the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959. They also included compulsory notification of vacancies every 15 days, leading to at least 24 submissions annually.

Table 14: Illustrative reduction of compliance burden under Code on Industrial Relations, 2020

	Licences	Registrations	Returns	Registers
Current	None	2	1	1
Proposed	None	1	1	None
Reduction	-	50%	-	

It has reduced the two registrations required by the trade unions to one. The registration applications are to be accompanied by the rules of the Trade Union, particulars of members making the application, the name of the Trade Union, and the address of its head office. The Industrial Employment (Standing Orders) Act, 1946 also required register maintenance.

Table 15: Illustrative reduction of compliance burden under OSH&WC Code, 2020

	Licences	Registrations	Returns	Registers
Current	4	11	22	76
Proposed	1	1	1	2-3
Reduction	75%	90%	95	~95%

The Acts covered under the OSH&WC Code initially required filing 22 returns. Some of these returns are annual, monthly, and quarterly. For example, some returns under the Factories Act, 1948 have to be filled annually, while others under the Act have to be filled every six months. Each state also has separate rules regarding the form and deadlines of applications for each of these returns. The OSH&WC code reduces them to one return.

RECOMMENDATIONS

A centralised online portal that publishes compliance updates from regulators, states, and central government departments and ministries is required. In addition, the portal should allow for operations such as search and sort and provide access to subscription services for legal updates, gazettes, and notifications. This will promote greater information symmetry.

India's current labour laws are strewn with redundancy, and overlap, creating a high compliance burden. Although many states have already issued rules and draft notifications are available, the government has yet to implement the new Labour Codes. Employers can benefit once the codes are put into action. Furthermore, digitisation and decriminalisation are also required to bring transparency, consistency, and timeliness of compliance along with promoting ease of doing business.

EntityLocker

The effective integration of the EntityLocker introduced by the government will serve as a centralised repository for legitimate documents, including but not limited to licences, registrations, permissions, NOCs, and consent orders. Subsequently, these genuine digital documents may be employed in compliance and verification procedures. By granting consent to service providers, organisations can streamline the approval, registration, and clearance processes, among others. Additional support for the document's authenticity can be obtained by implementing a transparent, verifiable, and tamper-proof storage system. This will substantially diminish the occurrences of fraudulent activities involving falsified and counterfeit documents to acquire licences, registrations, and approvals.

PAN 2.0 (Common Business Identifier)

India's complex identification framework with 23 overlapping central and state identities adds to regulatory cholesterol for businesses. Both central and state governments require businesses to create at least 23 identities, including PAN, GSTN, LIN and Professional Tax Number, Factory license number, Shop & Establishment Registration. These layers weave a vast web of redundancies that tangles up the enterprises in justifying their presence. The integration of recently introduced PAN 2.0, similar to a Unique Enterprise Number (UEN), will enable a secure, technology-driven framework with features like a unified portal and QR codes. Consolidating core and non-core PAN and TAN activities will form one common identifier for businesses.

National Employer Compliance Grid (NECG)

There are over 2,300 websites that publish regulatory updates in India. Each website has its own layout, design, features and online capabilities. There is no standard way of publishing and consuming regulatory information. Hence, compliance could be integrated into India's DPI Stack through the NECG. Leveraging Common Business Identifier and EntityLocker, NECG will facilitate straight-through filings, payments, regulatory updates (over 8,000 annually), inspection notices, and audit trails via a unified tech platform. Empanelled private sector companies, similar to banks and fintechs on UPI, will develop applications for tracking, automation, and compliance filings on top of the NECG infrastructure.

Automation of Labour Compliances

Compliance is essential for the operation and growth of organisations. Consequently, compliance management is an essential business process. A suitable compliance management framework aids a company in maintaining transparency and fostering market confidence in its capabilities. Technology is transforming fundamental business processes by making them quicker, simpler, and more affordable. As a key component of their compliance objectives in this era of digitalisation, businesses must actively pursue automation. Currently, the digitalisation of compliance processes is limited to monitoring and administrating regulatory obligations. Automation will enable businesses to reduce both the expense of compliance and the cost of poor compliance.

With the advent of regulatory technologies, corporate compliance surveillance procedures have matured. Nevertheless, compiling returns, registers, and challans, among other compliance forms, is time-consuming and expensive. Therefore, automation is necessary for businesses to reduce compliance costs and attain timely, accurate, and transparent compliance.

Significant advances are being made in automating the generation of compliance documents for Labour Laws (Registers, Returns, Challans, and Filings, among others). Automation layers will digitise the entire compliance process, reducing the need for manual intervention and increasing precision and substantially reducing compliance costs.

Compliance automation will provide a foundation for businesses to manage their compliance obligations effectively. This technology-driven base can then be used to establish a culture of compliance and accountability within business compliance processes.

Digital Inspections

The government must also adopt an open digital infrastructure. For example, rather than maintaining records manually and preserving them for extended periods, it could be advantageous to use an e-locker to preserve records. Such a digital framework will also facilitate online record inspections and strengthen enforcement mechanisms. In addition, automatic renewals, electronic billing, and pure digital applications are all instruments that can facilitate governance and business operations.

Regulation and enforcement based on enterprise profiles can help reduce the inspector raj and ensure government attention is focused on unsafe or hazardous areas. Businesses should be categorised as high, medium, or low risk based on their size, location, industry, and establishment type (office/factory). Such as, in Andhra Pradesh, the compliance inspection requirements of a business should be based on its risk profile. Identifying the establishments that should be inspected requires a computerised risk assessment. If an employer continues to comply with the applicable laws (returns/ registers/ challans), she must be classified as a low-risk business. If no complaints are received, they will continue to be exempt. Those businesses that have received complaints should be subject to unannounced inspections. The authority hierarchy conducting the investigation should also vary based on the establishment's risk level. The Digital Platform should be enhanced to support/enable a digital request for inspection and document upload with digital inspection criteria. There should not be a variety of inspections of the same establishment by the same inspector. Randomly assigning inspectors would reduce interactions between inspectors and employers and the likelihood of rent-seeking.

Decriminalisation

Teamlease Regtech's analysis reveals that of the 463 union acts and 32,542 compliances related to labour, 17,819 contain provisions for imprisonment. Putting this in context with the total number of compliances across different categories that prescribe jail terms, we find that 68% (17,819 out of 26,134) of them belong to labour. Under the Maharashtra Factories Act, for instance, failure or lapse in sustaining certain lighting standards, the quantity of drinking water, and reconstituting the canteen committee once every two years can result in up to two years of imprisonment. In Madhya Pradesh, failure or omission to conduct an annual medical examination on each member of the canteen personnel who handles food is punishable by up to five years in prison.

Regulatory lapses and ignored deadlines may land Indian employers in prison. Criminalising noncompliance is detrimental to law and order and commerce. It multiplies cases against employers, treats them as criminals, and instils in entrepreneurs a dread of imprisonment. It is conducive to inspector raj. The prospect of indictment compels companies to negotiate with inspectors, as bribes are a price worth paying to avoid disruption of production schedules or loss of staff time, which would result from additional visits.

The legal objective of penalising corporations or business owners should be deterrence, not retribution. Except for a few willful offences, all business punishments must be monetary. If an entrepreneur violates the law to earn ill-gotten gains, the appropriate policy response should be to seize those gains and more. The 'more' could be a multiple of the ill-gotten gain, ranging from three times to ten or more, but only if required and if the argument is reasonable.

A related issue is poor enforcement, but adding more criminal clauses will not improve this situation. Not only compliance and the economy require reform. There must also be an increase in the state's ability to enforce the law, including penalties for officials who abuse their position.

ANNEXURE

Table 1: List of Compliances

Licenses and Permits	• Registration of establishment under:
	  ◦ EPF
	  ◦ ESIC
	  ◦ Labour Welfare Fund
	  ◦ Shops and Establishments Act
	  ◦ Inter State Migrant Workers Act
	  ◦ Payment of Gratuity Act
	• Registration of internal committee on sexual harassment of women
	• Registration of Principal employer
	• Registration of Factory
	• Registration of MSME

Returns	• Professional Tax (Monthly) • Contribution to Employee State Insurance & Labour Welfare fund (Half yearly) • Reports on training, engagement and eligibility of apprentices (Half yearly) • Reports on progress of and intention to engage apprentices (Quarterly) • Compensation (Annual) • Maternity benefits (Annual) • Bonus (Annual) • Self-certification (Annual) • Undertakings on equal opportunity policy for the disabled (Annual) • Undertakings on providing prescribed facilities for women working night shifts (Annual) • Vacancies in establishments (Biennial)
Registers	• Employees (Apprentices, Contract workers, Children, Inter-State Migrant Workmen, Persons with disabilities) • Compensation • Remuneration (wages, salaries, advances, House Rent Allowances) • Overtime • Bonus • Deductions • Fines • Muster Rolls • Accident Books • Contractors • Records of white-washing, colour-washing, etc in Form 8 • Register of hoist or lifts • Register of examination of pressure plants • Register of temperature, humidity • Inspection books

Records	• Medical Records of every employee • Medical Examination on a particular frequency based on nature of process • Ambulance Room • Stretcher • Paramedic staff • Qualified Medical Practitioner
Displays	• Lift - Load Capacity, lift Licence • Fire Safety - Exit Signs, Extinguishers • Abstracts of Acts - Min 8 Acts in the office/factory / canteen easily accessible to employees • Child Labour • Name of the Establishment in Local Language • Name of the inspector • Notice of Holidays
Safety Items	• Exhaust Fans • Maintenance of Humidity and temperature • Distance between Machines • Required Lux levels (lighting) • Sound Levels (in Decibels) • PPE (Personal Protective Equipment) to be provided • First Aid Kits • Prevention of Glare • Maintenance of scrap yard • Male & Female Washrooms (Number of urinals / • Quantity of Drinking Water • Water Cooler facility • Washing area for washing and drying of clothes • Construction and maintenance of drainage system • Installation and maintenance of spittoons • Maintenance of restrooms / toilets • Fencing of Machinery • Maintenance of adequate flooring • Storage of Chemicals (segregation etc)
Committees (Constitution / Reconstitution / Procedures of Activities / Minutes / Actions)	• Safety Committee • Canteen Committee • Welfare Committee • POSH Committee • Grievance Redressal Committee
Intimations	• Change of Factory Manager • Working on National / Festival Holidays • Amendments to Industrial Employment Standing Orders • Notice of Accident / Panchmana / Report of Accident • Annual Holiday Intimations • Change of Contractor (Commencement & Completion) • Plan approval for modifications to the factory

Table 2: List of inspectors who can visit an establishment and inspect

	Authority	**Act / Rules (Central / State)**
1	Factories Inspector	Factories Act, 1948
2	Labour Inspector	Shops & Establishment Act, Minimum Wage Act, 1948, Payment of Wages Act, 1936
3	Labour Officer	Payment of Bonus Act, 1965, Maternity Benefits Act, 1961, Building and Other Construction Workers Act, 1996
4	Asst. LabourCommissioner	Contract Labour (Regulation & Abolition) Act, 1970, Inter-State Migrant Workmen (Regulation of Employment & Condition of Service) Act, 1979
5	Labour Welfare Commissioner	Labour Welfare Fund Act
6	Health Inspector	Local Legislation
7	Employment Officer	Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
8	Apprenticeship Advisor	Apprentice Act, 1961
9	Enforcement Officer	Employee Provident Fund & Miscellaneous Provisions Act, 1952
10	Inspector	Employee State Insurance Act, 1948
11	Commissioner	Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013
12	Commissioner	Rights of Persons with Disabilities Act, 2016
13	Professional Tax Officer	Professional Tax Act (State Specific)

Table 3: Overlap in particulars required in registers maintained under different Acts

Wage registers	• Factories Act, 1948, • Shops And Establishments (Regulation Of Employment And Conditions Of Service) Rules, 2018 • Payment of Wages Act, 1936 • The Minimum Wages Act, 1948 • Labour Welfare Fund Act • State Tax on Professions, Trades, Callings and Employments Act, 1975

Accident books	• Employees State Insurance Act, 1948 • Employees Compensation Act, 1923 • Factories Act, 1948
Deductions	• Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act • Payment of Wages Act, 1936
Employees	• Factories Act, 1948 • Contract Labour (Regulation & Abolition) Act, 1970 • Child labour (prohibition and regulation) Act • Employees State Insurance Act, 1948 • Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act • Minimum House-Rent Allowance • Payment of Wages Act, 1936

Table 4: List of registers under various Acts

Name of the Act	Register
Factories Act, 1948	• Records of white-washing, colour-washing, etc in Form 8 • Register of hoist or lifts • Register of examination of pressure plants • Record of accidents and dangerous occurrences • Register of adult workers in Form 17 • Muster-roll • Register of child workers • Leave with Wages Register • Overtime Register • Inspection book • Temperature Register (Hygrometer) • Humidity Register for temperature • Register of examination of Gas Holder • Material Safety Data Sheet
Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act	• Register of Contractors • Register of Persons employed • Register of deductions for damage or loss • Register of Fines • Register of Advances • Register of Overtime

The Minimum Wages Act, 1948	• Muster Roll cum Wage Register in Form II • Inspection book • Maternity Benefit Act • Maternity Benefit Register
Payment of Wages Act, 1936	• Register for wages • Persons employed • Work performed by the employees • Deductions made from the wages • Fines imposed and Receipts given • Any other particulars in such a form as may be prescribed. • Register for advances in Form IV
Payment of Bonus Act, 1965	• Register of bonus payable in Form C • Register for computation of allocable surplus in Form A • Register showing set-on and set-off of allocable surplus in Form B
Employees State Insurance Act, 1948	• Register of Employees in Form 6 • Accident book in Form 11
Apprentices Act	• Maintaining a register of attendance of apprentices
Child labour (prohibition and regulation) Act	• Register of employed children in Form B • Register containing particulars of adolescent employed by occupier • Inspection book
Contract Labour (Regulation & Abolition) Act, 1970	• Register and records of employee • Register of Contractors in Form VIII
Employees Compensation Act, 1923	• Register for fatal accident • Register for non-fatal accident
Rights of Persons with Disabilities Act, 2016	• Records of persons with disabilities having twenty or more employees

CONTACT US

TeamLease RegTech Pvt. Ltd.

(Formerly - Avantis RegTech Pvt. Ltd.)

Office No. 312 & 313, Kakade Bizz Icon,
Shivajinagar, Pune, Maharashtra 411005, India.

Bangalore, Mumbai, Kolkata, Hyderabad, Delhi, Chennai, Ahmedabad

9899245318

sales@tlregtech.com

www.teamleaseregtech.com