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Labour law - Editorial

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Code debate

Far-reaching in effect, the new labour codes require greater deliberation

Some laws are far too important and have far too much impact on the people to be passed in haste or without sufficient deliberation. The three codes aimed at consolidating diverse labour laws and ushering in reforms fall in this category. The codes were passed in both Houses after a limited debate and in the absence of the Opposition. The Industrial Relations Code, the Social Security Code and the Occupational Safety, Health and Working Conditions Code, 2020, are an updated version of the respective Codes of 2019, which were scrutinised by a Standing Committee. Therefore, there is considerable merit in the argument that the fresh drafts, introduced a few days before their passage, ought to have been sent back to the panel for an assessment. It is significant that the most contentious feature – the increase in the threshold for an establishment to seek government permission before closure, lay-off or retrenchment from units that employ 100 workers to 300 – was not found in the 2019 draft, but has been introduced now. This gives establishments greater freedom in their termination and exit decisions. No one disagrees with the basic objective of amalgamating, simplifying and rationalising labour laws. However, the very fact that it involves a voluminous body of legislation should have meant that the final version was widely discussed with the stakeholders, and given sufficient time and opportunity to give their views.

The root of the idea of consolidated labour codes goes back to the June 2002 report of the Second National Commission on Labour. The broad vision has been to give an impetus to economic activity without adversely affecting the interests of workers. Whether this is adequately reflected in the new provisions will be tested by the experience of administering the Codes. A positive feature is that the Social Security Code promises the establishment of social security funds for unorganised workers, as well as gig and platform workers, and also says their welfare would be addressed by the National Social Security Board. A contentious section allows the appropriate government to exempt any new factory from all provisions of the Code on occupational health, safety and working conditions. The threshold for considering any premises as a factory has also been raised from 10 to 20 workers without the use of power, and from 20 to 40 with power. It is significant that almost all major trade unions are opposing the new codes. This reflects a genuine fear that expansive powers of exemption have been conferred on the respective governments and there has been excessive delegation of rule-making powers. The threshold for lay-offs, as well as for various social security schemes can be raised by executive order; safety standards can be changed. There is much reason to fear that conferring wide discretion to the central and State governments may not be conducive to the interests of workers.