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FROM WELFARE TO WORK ABILITY: RECALIBRATING LABOUR JURISPRUDENCE UNDER INDIA'S LABOUR CODES

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ABSTRACT

This paper examines the transformation of Indian labour jurisprudence following the consolidation of labour laws into four codes, with particular focus on the Industrial Relations Code, 2020. It addresses the central research question: how do India's Labour Codes recalibrate labour jurisprudence from a welfare oriented framework toward one centred on workability. Traditionally, labour law in India has been based on constitutional principles of social justice, dignity, and redistribution, which positioned it as a mechanism to correct inequalities in the labour market.

The paper argues that recent reforms reflect a shift in the design and purpose of labour regulation. Drawing on policy approaches supported by NITI Aayog and global perspectives such as those of the World Bank, it shows that labour law is increasingly being aligned with goals of efficiency, investment, and formalisation. In this context, the paper introduces the concept of "workability," defined as a model of labour regulation that focuses on administrative efficiency, easier compliance, and labour market flexibility.

Through an analysis of key legal changes, including higher thresholds for layoffs and retrenchment, the introduction of fixed term employment, standardisation of wages, and the shift to an inspector cum facilitator system, the paper shows how labour law is being made more flexible and easier to implement. It also examines the idea of regulatory arbitrage to explain how clear legal categories and thresholds may allow employers to structure their practices in ways that comply with the law but reduce its protective effect.

The paper concludes that the Labour Codes do not remove the welfare basis of labour law but change its focus. There is a shift from protecting labour against market forces to facilitating labour markets while still maintaining a formal commitment to social justice. The long term impact of these reforms will depend on how they are implemented and interpreted by courts.

Keywords: labour law, workability, regulatory arbitrage, labour codes, flexibility, welfare, formalisation

INTRODUCTION

India's recent labour law reform marks a structural shift rather than a mere legislative update. The consolidation of numerous central labour enactments into four comprehensive codes, most notably the Industrial Relations Code, 2020, reflects an attempt to redesign the architecture of labour regulation itself. This consolidation has been officially framed as a move toward simplification, transparency, and enhanced compliance efficiency, with the Ministry of Labour and Employment emphasising the need to reduce legal fragmentation and make regulatory processes more accessible to both employers and workers.¹ The reform narrative, therefore, is not limited to statutory consolidation; it signals a broader transformation in how labour law is conceived and operationalised.

At the policy level, this transformation is closely tied to economic governance objectives. Reports and policy frameworks advanced by NITI Aayog highlight the importance of labour market reforms in improving investment climate, promoting formalisation, and generating employment.² Similarly, global regulatory discourse, particularly as reflected in studies by the World Bank, evaluates labour regulation through the lens of efficiency, flexibility, and ease of doing business.³ These frameworks collectively position labour law not merely as an instrument of worker protection but as a component of economic infrastructure that must facilitate growth and adaptability.

Within this evolving framework lies a fundamental tension between the traditional welfare orientation of Indian labour jurisprudence and the emerging emphasis on economic flexibility. Historically, labour law in India has functioned as a protective mechanism aimed at correcting structural inequalities between labour and capital. The new Codes, however, introduce provisions that recalibrate this balance. For instance, the Industrial Relations Code revises thresholds for layoff, retrenchment, and standing orders, thereby expanding managerial discretion and reducing prior regulatory constraints.⁴ These changes, while aimed at improving ease of compliance and operational flexibility, simultaneously signal a shift in the underlying

¹ Ministry of Labour & Employment, Government of India, Labour Codes Overview (India Code Portal).

² NITI Aayog, Labour Reform and Employment Policy Reports (Gov't of India).

³ World Bank Grp., Labor Regulations Throughout the World (2019), https://documents1.worldbank.org/curated/en/221471546254761057/pdf/Labor-Regulations_Throughout-the-World.pdf.

⁴ B. Muthu Jeya Kumari, The Industrial Relations Code, 2020: A Critique, 6 (5) IJLMH Page 998 - 1007 (2023), DOI: <https://doi.org/10.1000/IJLMH.115856>.

priorities of labour regulation.

To understand this transformation, this paper introduces the concept of “workability.” Workability refers to a mode of legal design that prioritises administrative efficiency, reduces regulatory friction, and enables adaptability within labour markets. It captures the movement of labour law from a strictly protective framework toward one that is aligned with broader economic and governance objectives. In this sense, workability does not eliminate welfare concerns but repositions them within a system that seeks to balance protection with productivity and flexibility.

WELFARE FOUNDATIONS OF INDIAN LABOUR JURISPRUDENCE

Indian labour jurisprudence is deeply rooted in a constitutional vision that conceives labour not merely as a contractual relationship, but as a matter of social justice, dignity, and equitable distribution. The Directive Principles of State Policy under the Constitution of India provide the normative foundation for this welfare-oriented framework. Article 38 mandates the State to secure a social order in which justice—social, economic, and political which permeates all institutions, and further requires the minimisation of inequalities in income, status, and opportunities.⁵ This provision establishes the broader redistributive goal of governance, within which labour law operates as a critical instrument.

Article 39 reinforces this vision by directing the State to ensure adequate means of livelihood for all citizens, prevent concentration of wealth, and secure equal pay for equal work.⁶ These principles explicitly recognise the structural imbalance between labour and capital and justify State intervention to correct such disparities. Similarly, Article 41 obligates the State to make effective provisions for the right to work and public assistance in cases of unemployment, sickness, and disability, thereby linking labour rights to social security.⁷ Article 43 further strengthens this framework by requiring the State to secure a living wage and decent working conditions that enable a dignified standard of life.⁸ Taken together, these provisions reflect a constitutional commitment to labour welfare that goes beyond formal equality and seeks substantive justice.

This constitutional orientation aligns closely with international labour standards, particularly the “Decent Work” framework developed by the International Labour Organization. The

⁵ INDIA CONST. art. 38.

⁶ INDIA CONST. art. 39.

⁷ INDIA CONST. art. 41.

⁸ INDIA CONST. art. 43.

Decent Work Country Programme for India emphasises employment that is productive, delivers fair income, ensures security in the workplace, and guarantees dignity and social protection.⁹ This framework reinforces the idea that labour must be understood in terms of human dignity and livelihood security, rather than as a purely economic or contractual arrangement. Thus, both constitutional principles and international standards situate labour law within a broader welfare paradigm that prioritises human well-being.

The welfare foundations of labour jurisprudence have been significantly expanded through judicial interpretation. The Supreme Court of India has played a crucial role in transforming labour rights into enforceable dimensions of the right to life and dignity. In *Olga Tellis v. Bombay Municipal Corporation*, the Court held that the right to livelihood is an integral part of the right to life under Article 21.¹⁰ This decision marked a pivotal shift by recognising that deprivation of livelihood would effectively strip individuals of their ability to live with dignity, thereby bringing labour concerns within the ambit of fundamental rights.

Similarly, in *Bandhua Mukti Morcha v. Union of India*, the Court addressed the issue of bonded labour and emphasised the State's obligation to identify, release, and rehabilitate bonded workers.¹¹ The judgment expanded the scope of State responsibility by linking labour exploitation to violations of fundamental rights, particularly dignity and freedom. Through such decisions, the judiciary moved beyond a narrow contractual understanding of labour and recognised it as a matter of social justice requiring active State intervention.

These judicial developments effectively transformed labour rights into livelihood rights, thereby strengthening the welfare orientation of labour law. They also reinforced the idea that the State bears a proactive duty to protect vulnerable workers, rather than merely regulating employment relationships.

Prior to the introduction of the Labour Codes, Indian labour law was characterised by a distinctly protective and redistributive structure. Pre-Code labour legislation was designed to safeguard workers against exploitation and to address inherent inequalities in bargaining power.¹² These laws imposed obligations on employers relating to job security, working conditions, and social security benefits, thereby embedding welfare considerations into the legal framework.

⁹ Int'l Labour Org., Decent Work Country Programme: India 2023–2027 (2023), <https://www.ilo.org/publications/decent-work-country-programme-india-2023-2027>.

¹⁰ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545 (India).

¹¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161 (India).

¹² Labour Laws in India, iPleaders Blog (discussing protective nature of pre-Code labour laws), <https://blog.ipleaders.in/labour-laws-in-india-2/>.

Moreover, enforcement mechanisms were largely State-centric, with labour inspectors playing a key role in ensuring compliance. This model reflected a regulatory philosophy in which the State acted as an active enforcer of labour standards, rather than a passive facilitator.¹³ The emphasis was on substantive protection, often through rigid statutory safeguards that limited employer discretion in matters such as layoffs, retrenchment, and working conditions.

In sum, the welfare foundations of Indian labour jurisprudence are grounded in constitutional principles, reinforced by judicial expansion, and operationalised through protective and State-driven legislation. Labour law historically functioned as a corrective mechanism aimed at addressing structural inequalities within the labour market. By prioritising dignity, livelihood, and social justice, this framework positioned labour regulation as an essential tool for redistributive governance rather than merely a system for managing employment relations.

THE RISE OF “WORKABILITY” IN LABOUR REGULATION

The shift toward “workability” in Indian labour regulation is closely linked to broader economic policy objectives that emphasise efficiency, investment, and competitiveness. Policy discourse in recent years has increasingly framed labour law as a critical component of the investment climate rather than solely as a tool of worker protection. Reports and recommendations issued by NITI Aayog highlight the need for labour market reforms to facilitate economic growth, enhance formalisation of employment, and improve ease of doing business.¹⁴ These policy frameworks emphasise that rigid labour regulations may discourage investment and limit job creation, thereby necessitating reforms that introduce flexibility and reduce compliance burdens.

This perspective is reinforced by global regulatory approaches, particularly those reflected in studies conducted by the World Bank. The World Bank’s analysis of labour regulations across jurisdictions evaluates legal frameworks based on their impact on hiring and firing flexibility, administrative burden, and overall efficiency.¹⁵ Such assessments implicitly promote regulatory models that minimise restrictions on enterprises and enable adaptability in labour markets. Within this framework, labour law is increasingly understood as part of a broader economic infrastructure that must align with global competitiveness and investment-friendly

¹³ Labour Laws in India, iPleaders Blog (discussing protective nature of pre-Code labour laws), <https://blog.ipleaders.in/labour-laws-in-india-2/>

¹⁴ NITI Aayog, Labour Reform and Employment Policy Reports (Gov’t of India).

¹⁵ World Bank Grp., Labor Regulations Throughout the World (2019), https://documents1.worldbank.org/curated/en/221471546254761057/pdf/Labor-Regulations_Throughout-the-World.pdf.

governance.

Thus, labour reforms in India are not isolated legal developments but are embedded within a policy environment that prioritises formalisation, economic efficiency, and integration with global markets. The move toward “workability” reflects this alignment between labour regulation and macroeconomic objectives.

The concept of “workability” provides a useful lens to understand the evolving orientation of labour law. At its core, workability refers to a model of legal regulation that prioritises administrative efficiency, simplifies compliance mechanisms, and enhances labour market flexibility. It represents a shift from a protection-centric framework toward one that seeks to balance worker welfare with the operational needs of enterprises.

Academic discussions, including analyses available on SSRN and broader labour law scholarship, often frame this transition as part of a global movement from protective labour regimes to flexible regulatory systems.¹⁶ This shift is typically justified on the grounds that excessive regulation may hinder economic activity, while streamlined and adaptable frameworks can promote employment generation and formalisation. Within this context, workability emerges as a principle that seeks to reduce regulatory friction, clarify legal obligations, and enable easier adaptation to changing economic conditions.

Importantly, workability does not necessarily imply the abandonment of labour protection. Instead, it redefines the manner in which protection is delivered that is moving away from rigid statutory safeguards toward mechanisms that are easier to administer and comply with. This reconceptualisation reflects an attempt to integrate labour law within the broader logic of governance efficiency and economic rationality.

The rise of workability is accompanied by a significant transformation in the role of the State in labour regulation. Traditionally, the State functioned as a strict regulator, enforcing compliance through inspections and coercive mechanisms. However, recent reforms indicate a shift toward a facilitative model, where the State acts as an enabler of compliance rather than merely an enforcer.

This transition is evident in policy narratives advanced by the Ministry of Labour and Employment, which emphasise transparency, ease of compliance, and the use of technology-driven inspection systems.¹⁷ The move toward self-certification and risk-based inspections reflects a deliberate attempt to reduce the rigidity of enforcement mechanisms and to encourage

¹⁶ Sneha Subheesh, *Reforming Indian Labour Law: A Critical Analysis of Contract Labour, Employee Protection, and the New Labour Codes* (Apr. 16, 2025), SSRN.

¹⁷ Ministry of Labour & Employment, Government of India, *Labour Codes Overview* (India Code Portal).

voluntary compliance by enterprises. This facilitative approach may weaken the effectiveness of labour protections by reducing direct State intervention.¹⁸ The replacement of strict inspection regimes with advisory or facilitative mechanisms shifts the burden of compliance onto employers, potentially creating gaps in enforcement. This change illustrates how the pursuit of workability can alter not only the content of labour law but also its institutional functioning.

The emergence of workability as a guiding principle reflects a broader transformation in labour regulation. Driven by policy objectives such as investment promotion, formalisation, and global competitiveness, labour law is increasingly being aligned with economic governance frameworks. This shift is characterised by a redefinition of regulatory goals, a reconceptualisation of legal design, and a transformation in the role of the State. As a result, labour regulation is no longer solely a mechanism for protecting workers but is becoming an integral part of a governance system that seeks to balance protection with efficiency and adaptability.

DOCTRINAL RECALIBRATION UNDER THE LABOUR CODES

The transformation of Indian labour law becomes most visible at the doctrinal level, where specific legal provisions have been restructured to reflect the emerging principle of workability. The Industrial Relations Code, 2020, which consolidates the Industrial Disputes Act, 1947, the Trade Unions Act, 1926, and the Industrial Employment (Standing Orders) Act, 1946, exemplifies this shift by introducing changes that recalibrate the balance between protection and flexibility.¹⁹ These doctrinal changes are not isolated amendments but part of a broader reorientation in the logic of labour regulation.

A. Layoff and Retrenchment Thresholds

One of the most significant changes introduced by the Industrial Relations Code is the increase in the threshold for prior government permission for layoffs, retrenchment, and closure. Under the earlier regime, establishments employing 100 or more workers were required to obtain prior approval from the appropriate government before undertaking such actions. The Code raises this threshold to 300 workers, thereby substantially expanding the scope of employer

¹⁸ B. Muthu Jeya Kumari, The Industrial Relations Code, 2020: A Critique, 6 (5) IJLMH Page 998 - 1007 (2023), DOI: <https://doi.org/10.1000/IJLMH.115856>.

¹⁹ The Industrial Relations Code, 2020, No. 35 of 2020 (India).

discretion.²⁰

This change reduces the regulatory constraints that previously operated as a safeguard against arbitrary termination of employment. By limiting the requirement of prior permission to larger establishments, the Code allows a wider range of employers to restructure their workforce without direct State intervention. News analyses and policy discussions have highlighted that this modification is intended to encourage industrial growth by reducing compliance burdens and enhancing managerial flexibility.²¹

From a doctrinal perspective, this shift reflects a movement away from strict job security protections toward a model that prioritises enterprise flexibility. The underlying principle is to enable firms to respond more efficiently to market conditions, thereby aligning labour regulation with economic realities. In terms of workability, this reform reduces procedural barriers and facilitates easier operational decision-making for employers.

B. Fixed-Term Employment

The formal recognition of fixed-term employment under the Industrial Relations Code represents another important doctrinal innovation. The Code defines fixed-term employment as engagement through a written contract for a specified duration, while ensuring that such employees receive wages, allowances, and benefits equivalent to those of permanent workers performing similar tasks.²² It also provides that fixed-term employees are eligible for statutory benefits, including gratuity, on a proportionate basis, even if they do not meet the traditional qualifying period.

While this provision appears to extend certain protections to non-permanent workers, it simultaneously legitimises flexible employment arrangements that were previously less formalised. By allowing employers to engage workers for specific durations without long-term obligations, the Code facilitates workforce adaptability. Academic analyses, including SSRN discussions on the Labour Codes, note that such provisions blur the distinction between permanent and temporary employment, thereby normalising precarious forms of work.²³

The doctrinal principle underlying this reform is flexibility over permanence. It reflects an acceptance of dynamic labour market conditions where long-term employment is no longer the

²⁰ The Industrial Relations Code, 2020, No. 35 of 2020 (India).

²¹ The Industrial Relations Code, 2020, No. 35 of 2020 (India).

²² B. Muthu Jeya Kumari, The Industrial Relations Code, 2020: A Critique, 6 (5) IJLMH Page 998 - 1007 (2023), DOI: <https://doi.org/10.1000/IJLMH.115856>.

²³ Sneha Subheesh, Reforming Indian Labour Law: A Critical Analysis of Contract Labour, Employee Protection, and the New Labour Codes (Apr. 16, 2025), SSRN.

dominant model. In terms of workability, fixed-term employment enhances the ability of firms to adjust labour inputs according to demand, thereby improving operational efficiency.

C. Wage Definition Rationalisation

Another key area of doctrinal recalibration is the standardisation of the definition of “wages” under the Code on Wages. This reform seeks to create uniformity across different labour statutes by providing a clear and consistent definition applicable to various forms of remuneration. Academic commentary suggests that this rationalisation reduces ambiguity and simplifies compliance for employers, who previously had to navigate multiple definitions across different laws.²⁴

However, the standardisation of wages also has implications for the calculation of benefits such as provident fund contributions, gratuity, and bonuses. By restructuring the components included within the definition of wages, the Code indirectly alters the financial obligations of employers and the entitlements of workers. Thus, while the reform improves clarity, it also reshapes the substantive distribution of benefits.

The principle underlying this change is uniformity and simplification. It seeks to eliminate interpretative disputes and streamline regulatory requirements. In the context of workability, this reform enhances administrative efficiency by making compliance more predictable and less complex.

D. Inspector-cum-Facilitator Model

A further doctrinal shift is evident in the transformation of the enforcement mechanism through the introduction of the inspector-cum-facilitator model. Under the earlier framework, labour inspectors played a primarily supervisory and enforcement-oriented role, with significant powers to ensure compliance. The Labour Codes replace this model with one that emphasises facilitation, guidance, and advisory functions.

Policy narratives from the Ministry of Labour and Employment highlight that this change is intended to promote transparency and ease of compliance, often through technology-driven inspection systems and risk-based assessments.²⁵ At the same time, academic critiques²⁵ argue

²⁴Rajrishi Ramaswamy & Anuradha Binnuri, An Analysis of the Impact of India’s Labour Codes on Its Organized and Unorganized Sectors, 9(1) Cogent Soc. Sci. 2238458 (2023), <https://doi.org/10.1080/23311886.2023.2238458>.

²⁵ Ministry of Labour & Employment, Government of India, Labour Codes Overview (India Code Portal).

that this shift may weaken enforcement by reducing the deterrent effect of inspections.²⁶

This reform reflects a move from coercive regulation to cooperative regulation. The State's role transitions from strict enforcement to enabling compliance, thereby reducing friction between regulators and regulated entities. In terms of workability, the inspector-cum-facilitator model lowers enforcement burdens and encourages voluntary adherence to legal norms.

Taken together, these doctrinal changes demonstrate a systematic recalibration of labour law toward workability as an organising principle. By increasing thresholds for layoffs and retrenchment, formalising flexible employment arrangements, standardising wage definitions, and transforming enforcement mechanisms, the Labour Codes reconfigure the structure and function of labour regulation. These reforms do not eliminate legal protections but reshape them in a manner that prioritises efficiency, flexibility, and administrative simplicity. As a result, labour law is increasingly oriented toward facilitating economic activity while maintaining a modified framework of worker protection.

REGULATORY CONSEQUENCES: POSSIBILITY OF ARBITRAGE

The doctrinal recalibration introduced by the Labour Codes gives rise to an important structural consequence in the form of regulatory arbitrage. The concept of regulatory arbitrage, as developed by Victor Fleischer, is based on the insight that legal rules operate through defined categories that cannot fully capture the complexity of economic relationships.²⁷ As a result, gaps inevitably emerge between the formal structure of the law and the underlying realities of economic activity. These gaps create opportunities for regulated actors to organise their affairs in ways that comply with the letter of the law while potentially avoiding its substantive intent. This theoretical framework is particularly relevant in the context of labour regulation, where legal protections are often tied to specific thresholds, definitions, and classifications. When such categories are clearly defined, they can also become sites of strategic behaviour. Thus, regulatory arbitrage does not arise from non compliance, but from compliance that is structured in a way that takes advantage of the limits of legal design.

The Labour Codes, by introducing clearer thresholds and definitions, create conditions in which regulatory arbitrage can operate in practice. Academic analyses available on SSRN and studies examining the impact of the Codes on different sectors highlight how employers may

²⁶ B. Muthu Jeya Kumari , The Industrial Relations Code, 2020: A Critique, 6 (5) IJLMH Page 998 - 1007 (2023), DOI: <https://doi.org/10.1000/IJLMH.115856>.

²⁷ Victor Fleischer, Regulatory Arbitrage, U. Colo. Law Legal Studies Research Paper No. 10-11 (2010), available at <https://ssrn.com/abstract=1567212>.

respond strategically to these legal frameworks.²⁸ One example is the restructuring of workforce size to remain below statutory thresholds that trigger stricter regulatory obligations, such as those relating to layoffs, retrenchment, or standing orders. By maintaining employment levels below these thresholds, firms can avoid additional compliance requirements while remaining formally within the law.

Another area where arbitrage may emerge is in the classification of workers. The distinction between different categories such as worker and employee, as well as the recognition of fixed term employment, provides scope for structuring contractual relationships in ways that optimise regulatory outcomes. Research based discussions, including those available through ResearchGate, point out that such classifications can be used to manage liabilities and obligations, particularly in relation to job security and social benefits.²⁹

Further, the increasing use of fragmented employment arrangements, including short term contracts and outsourced labour, reflects another dimension of regulatory arbitrage. These arrangements allow firms to distribute labour obligations across multiple contractual relationships, thereby reducing the impact of any single regulatory provision. While such practices may comply with the formal structure of the law, they illustrate how economic actors adapt to legal frameworks in ways that maximise flexibility.

The emergence of regulatory arbitrage has significant implications for the functioning of labour law. One key consequence is that compliance increasingly becomes formal rather than substantive. Employers may adhere to the technical requirements of the law while structuring their operations in ways that dilute the protective intent of labour regulation. This creates a situation where the presence of legal compliance does not necessarily translate into effective worker protection.

In this context, labour law begins to operate as a navigable architecture rather than a rigid system of constraints. Legal rules provide a framework within which actors can plan and adjust their behaviour, rather than acting as absolute limits on economic activity. This transformation reflects the broader shift toward workability, where the emphasis is on designing regulations that can be efficiently implemented and adapted, even if this flexibility allows for strategic navigation.

The possibility of regulatory arbitrage demonstrates that the Labour Codes reshape not only

²⁸ Sneha Subheesh, *Reforming Indian Labour Law: A Critical Analysis of Contract Labour, Employee Protection, and the New Labour Codes* (Apr. 16, 2025), SSRN.

²⁹ Rajrishi Ramaswamy & Anuradha Binnuri, *An Analysis of the Impact of India's Labour Codes on Its Organized and Unorganized Sectors*, 9(1) *Cogent Soc. Sci.* 2238458 (2023), <https://doi.org/10.1080/23311886.2023.2238458>.

the content of labour regulation but also the way in which it functions in practice. By creating defined categories and thresholds that are central to the logic of workability, the Codes enable forms of strategic compliance that were less pronounced under earlier frameworks. As a result, labour regulation is transformed into a system that is not only applied but also actively interpreted and navigated by economic actors.

VI. CONSTITUTIONAL RECALIBRATION

The constitutional foundation of Indian labour jurisprudence is firmly rooted in the Directive Principles of State Policy, which establish a welfare oriented vision of governance. Articles 38, 39, 41, and 43 of the Constitution of India collectively impose an obligation on the State to secure social and economic justice, ensure adequate livelihood, provide the right to work and social assistance, and guarantee a living wage with dignified working conditions.³⁰ These provisions reflect a redistributive framework in which labour protection is central to achieving substantive equality. Judicial interpretation has further strengthened this framework by expanding labour rights into the domain of fundamental rights, particularly through the recognition of livelihood and dignity as integral to the right to life.

This welfare baseline is also consistent with international labour standards articulated by the International Labour Organization. The Decent Work framework emphasises employment that ensures fair income, social protection, and dignity at work, reinforcing the idea that labour law must prioritise human well being rather than purely economic considerations.³¹ Thus, both constitutional principles and international norms establish labour regulation as a tool of social justice.

The introduction of the Labour Codes brings into focus a growing tension between this welfare oriented framework and the increasing emphasis on economic efficiency. Policy justifications supported by institutions such as the World Bank highlight the importance of labour market flexibility, ease of compliance, and reduced regulatory burden in promoting investment and economic growth.³² These considerations reflect a shift toward viewing labour law as an instrument of economic governance rather than solely a mechanism for worker protection.

This tension is not expressed as a direct conflict with constitutional provisions but rather as a

³⁰ INDIA CONST. arts. 38, 39, 41, 43.

³¹ Int'l Labour Org., Decent Work Country Programme India 2023–2027 (2023), <https://www.ilo.org/publications/decent-work-country-programme-india-2023-2027>.

³² World Bank Grp., Labor Regulations Throughout the World (2019), https://documents1.worldbank.org/curated/en/221471546254761057/pdf/Labor-Regulations_Throughout-the-World.pdf.

shift in emphasis. While the Directive Principles continue to provide the normative foundation, the operational design of labour regulation increasingly reflects priorities such as efficiency, adaptability, and competitiveness. As a result, labour law is situated at the intersection of two competing objectives: the pursuit of social justice and the facilitation of economic activity.

The changes introduced by the Labour Codes do not amount to a direct violation of the Constitution. The core commitments to welfare, dignity, and social justice remain formally intact. However, there is a clear recalibration in the priorities that shape labour regulation. The emphasis has shifted from strong protective intervention toward a framework that seeks to balance protection with economic efficiency.

This shift can be understood as a transformation in the role of labour law within the constitutional order. Rather than acting primarily as a corrective mechanism against market forces, labour law is increasingly designed to operate alongside and facilitate market processes. In this sense, the recalibration reflects a change in orientation rather than a departure from constitutional principles. The movement is from protecting labour against markets to facilitating labour markets.

CONCLUSION

This paper has argued that the recent labour law reforms in India represent not an abandonment of welfare jurisprudence but a recalibration of its function. The consolidation of labour laws into comprehensive codes, coupled with doctrinal changes and policy shifts, signals a transformation in how labour regulation is conceptualised and implemented. Labour law is no longer confined to its traditional role as a protective mechanism but is increasingly integrated into a broader framework of economic governance.

This transformation carries both potential benefits and risks. On one hand, the emphasis on efficiency and simplification can enhance compliance, encourage formalisation of employment, and improve the investment climate. These objectives align with global regulatory approaches, as reflected in the analytical frameworks of institutions such as the World Bank.³³ On the other hand, the shift toward workability may lead to a dilution of substantive protections, particularly when combined with the possibility of regulatory arbitrage. As discussed earlier, the existence of defined thresholds and flexible arrangements can enable strategic behaviour that complies with the formal structure of the law while

³³ World Bank Grp., Labor Regulations Throughout the World (2019), https://documents1.worldbank.org/curated/en/221471546254761057/pdf/Labor-Regulations_Throughout-the-World.pdf.

undermining its protective intent.

The future trajectory of Indian labour jurisprudence will depend significantly on how these reforms are implemented and interpreted. Administrative practices, institutional capacity, and judicial engagement will play a crucial role in determining whether the balance between efficiency and protection is maintained. In this evolving landscape, the challenge lies in ensuring that the pursuit of workability does not come at the cost of the foundational commitment to dignity, livelihood, and social justice that underpins the constitutional framework.

