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## INDUSTRIES CANNOT BE FORCED TO PAY WAGES DURING LOCKDOWN

### *Why in news?*

The Parliamentary Committee on Labour in its report on the Industrial Relations Code, 2019, submitted on 23<sup>rd</sup> April, has recommended that “in case of natural calamities, payment of wages to the workers until the re-establishment of the industry may be unjustifiable”.

### *Background*

- The Industrial Relations Code 2019 is an amalgamation of three laws — Industrial Disputes Act, 1947, Trade Unions Act, 1926, and Industrial Employment (Standing Orders) Act, 1946.
- It was introduced in the Lok Sabha in November 2019 and referred to the Standing Committee on Labour in December 2019.
- With the ongoing lockdown, the draft report was circulated to the members on April 15 via e-mail and they were given eight days to respond and the final adopted report was accepted by the Speaker Om Birla on 23<sup>rd</sup> April 2020.
- The Industrial Code makes it incumbent upon the employer to pay 50% wages to the workers/employees who are laid off due to shortage of power, coal, raw material etc., for 45 days.
- The Committee has, however, expressed reservations for payment of the prescribed percentage of wages to the workers in the event of closure of an establishment due to natural calamity.

### *What the Parliamentary Committee said?*

- In case of natural calamities like earthquake, flood, super cyclone etc. which often result in closure of establishments for a considerably longer period without the employer’s fault, payment of wages to the workers until the re-establishment of the industry may be unjustifiable
- The Committee has suggested that “clarity” be brought in so that employers “not responsible for closure or lay off, are not disadvantaged in case of such natural calamity



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of high intent”.

- The basic idea about our recommendations is that the industry should also not be forced when the situation is beyond their control.
- The law has to be reasonable. It is for the government to step in and extend a helping hand for the industries.

## ***Industrial Relations Code Bill, 2019***

- The Industrial Relations Code 2019 (IR Code) is the third bill in a series of four being framed to amalgamate and rationalize more than 40 central laws governing labour affairs. It was introduced in the Lok Sabha on November 28, 2019.
- The Code provides for the recognition of trade unions, notice periods for strikes and lock-outs, standing orders, and resolution of industrial disputes.
- It subsumes and replaces three labour laws: The Industrial Disputes Act, 1947; the Trade Unions Act, 1926; and the Industrial Employment (Standing Orders) Act, 1946.

## ***Important Aspects of The Bill***

1. The Bill provides a degree of flexibility in government approvals for the retrenchment of employees.
2. It presents a legal framework for ushering in the concept of ‘fixed-term employment’ through contract workers on a pan-India basis.
3. While companies currently hire contract workers through contractors, the fixed-term employment concept allows the companies to hire contract workers directly.
4. It also allows for tweaking of the contract term based on the seasonality of the industry.
5. During the contract tenure, the workers will be treated on par with regular workers.
6. It helps the companies to hire and fire workers easily and also provides social security to contract workers.
7. Contract workers will now be eligible for getting PF, gratuity, medical benefits, etc., similar to regular workers during their contract periods.
8. By placing the concept in the central bill, the government is expecting that it will have a wider reach and states will follow suit.

## ***Key Issues and Analysis***

- The Code prohibits strikes or lock-outs in any establishment unless a prior notice of 14



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days is provided. Similar provisions existed in the Industrial Disputes Act, 1947 for public utility services (such as, railways and airlines). The Code expands these provisions to apply to all industrial establishments. This may impact the ability of workers to strike and employees to lock-out.

- The Code permits the government to defer, reject or modify awards passed by Industrial Tribunals and the National Industrial Tribunal. A similar provision in the Industrial Disputes Act, 1947 was struck down by the Madras High Court in 2011, as it violated the principle of separation of powers by allowing the government to change the decision of a Tribunal through executive action.
- The Code requires the employer of establishments with at least 100 workers to obtain permission from the appropriate government prior to the retrenchment of a worker. The government may increase or decrease this threshold through a notification. The question is whether the power to determine such a threshold should be specified by Parliament or whether it should be delegated to the government.

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