

PGDM 2018-20
Labour Legislations
DM 522

Trimester – V, End-Term Examination: December 2019

Time allowed: 2 hrs 30 min

Max Marks: 50

Roll No: _____

Instruction: Students are required to write Roll No on every page of the question paper, writing anything except the Roll No will be treated as Unfair Means. All other instructions on the reverse of Admit Card should be followed meticulously. In case of rough work please use answer sheet.

Sections	No. of Questions to attempt	Marks	Total Marks
A	Minimum 3 question with internal choices and CILO (Course Intended Learning Outcome) covered	3*10	30
B	Compulsory Case Study with minimum of 2 questions	20	20
Total Marks			50

Section A

Note: Answer any three question each question carries equal marks. (10x 3 = 30)

A1a. 'Labour is a subject discussed in the concurrent list of the constitution'. Comment with elaborate reference to the relevant articles of Indian constitution referred for the formulation effective labour legislations. (CILO 1)

Or

A1b. 'Article 19 1(a) and Article 43 have been referred to strengthen the workers'/workmens' rights.' Elaborate with reference to relevant legislations available for the protection of rights of the workmen and its association. (CILO 1)

A2a. Supreme Court has held that the process undertaken in zonal and sub-stations and electricity generating stations, transforming and transmitting electricity generated at the power station does not fall within the definition of manufacturing process and could not be said to be factories ... (*Workmen of Delhi Electric Supply Undertaking v. Management of D.E.S.U.*, AIR 1973 S.C. 365). In the light of above case discuss the definition of manufacturing process and factory as per the provisions of the Factories Act 1948. Elaborate the salient features of health, safety and welfare provisions as discussed in the Factories Act 1948. (CILO 2)

Or

A2b. 'Strikes and lock-outs are the two weapons in the hands of workers and employers respectively, which they can use to press their viewpoints in the process of collective bargaining'. In the light this statement discuss the relevant provisions stated under the Industrial Disputes Act, 1947. (CILO 2)

A3a. Explain your understanding about Labour Reforms with special reference to India. As an HR manager, what key measures would you suggest to rationalize various labour

legislations in India? Also state the recommendations of the latest labour reforms on suggested amendments on contract labour legislations in India. (CILO 1/2)

Or

A3b Define an 'accident'. When it is said to arise out of and in the course of an employment? Mr Hemant Chand, born on 25 Aug 1976, is working as a Dumper Operator in Bauxite Excavation Limited. He is associated with this company since 1998. On April 24, 2016 he met an accident, while on work, leading to an injury causing 90% loss of his earning capacity. His last drawn monthly wage was ` 10000 before the accident. Calculate his total compensation entitlement as per ECA 1923 (2009 Amendment)? (CILO 1/2)
(Factor 31y:205.95, 32y:203.85, 33y:201.66, 34y:199.40, 35y:197.06, 36y:194.64, 37y:192.14, 38y:189.56, 39y:186.90, 40y:184.17)

Section B

Note: Answer the following questions each question carry equal marks. (CILO 3) (10 x 2=20)

India at work: Labour reforms aim to boost wages and productivity

Critics of the new reforms say streamlining India's complex labour laws may help companies more than workers.

Each day is a new test of Deepak Kumar's resolve as he waits with dozens of others outside the Khar railway station in India's financial capital, Mumbai, hoping to be hired by local contractors for a day's work on a construction site.

"It's always the same risky work and the hours never change, but the pay varies a lot," Kumar. Beholden to the whims of the "bosses" of the construction firms, his income sometimes dips below the customary \$7 (approx. 470 INR)-per-day rate for inner-city Mumbai, pushing his finances to the brink, he says. "Right now it's too hard to plan for the future. I don't know what I'll earn tomorrow and I have to send half my earnings back to my family in Bihar [state]," Kumar says, referring to the state in India's northeastern corner, one of the poorest in the country.

"I also worry about working without any protective gear when we're not hired by the large companies," he adds.

As a labourer in the informal sector, flipping between physically demanding jobs that offer no social security benefits such as pensions, 23-year-old Kumar is among the 500 million workers that India's Ministry of Labour and Employment says will benefit from legal reforms.

But critics argue that proposals to streamline India's labour laws, which involve the adoption of internet-based solutions, will be difficult to implement while the country suffers from ageing telecommunications and power infrastructure. And they say the changes could end up benefiting companies more than workers.

India has begun the process of consolidating its 44 labour laws into a more manageable set of four new codes. They will govern wages, industrial relations, social security provision and working conditions.

The codes aim to raise incomes and social security levels for the 90 percent of India's workers who are employed in the informal sector, while at the same time helping businesses become more competitive and boosting an economy that is showing signs of a slowdown.

Many economists say a modernisation of India's labour laws is long overdue.

"Forming a cohesive industrial policy is more crucial for India now than ever before", Jayan Jose Thomas, associate professor of economics at the Indian Institute of Technology Delhi. Her further adds- "Increasing wages and lifting incomes can also help fuel demand for goods, boosting industrial growth in the domestic market".

India's tough labour laws have been blamed for keeping manufacturing businesses small and hindering job creation. For instance, if an organisation grows beyond a hundred employees, it needs to seek the government's permission to let go of staff or dismantle units. Meanwhile, registering a business invites a mountain of paperwork, meaning many firms remain in the informal sector.

The government is optimistic that its reforms will prove successful. The most recent Economic Survey, a summary of economic performance prepared by the Ministry of Finance, noted that factories in the western state of Rajasthan employing more than 100 workers grew at 9.3 percent per annum two years after deregulating certain state labour laws.

That compared to 3.7 percent per annum growth in the two years prior to the reforms – a sign, the government says, that reforms that make it easier for companies to sack people could ironically create more jobs by allowing those firms to be nimble.

Unemployment in India reached a 45-year high in 2018. The latest figures from the Centre for Monitoring Indian Economy show it at a three-year high of 8.1 percent in October. It has become a growing source of pain for the present government, which came to power in 2014 - in part on the promise that it would create more jobs.

Raising incomes, formalising the workforce

As important as creating new jobs is, ensuring that those who are currently employed are paid adequately is another goal of the government's labour reforms. The new laws mandate a national minimum wage of 176 rupees (\$2.50) per hour. India has had a minimum wage law in place since 1948, but it has varied widely.

The law's complex structure, coupled with poor oversight, means there was little incentive to implement it. According to the government's Periodic Labour Force Survey 2017-18, 45 percent of employees in the formal sector are paid less than the minimum wage.

The new Code on Wages Bill 2019, passed by parliament on July 30th, seeks to correct this by streamlining the myriad different minimum wages in place for various sectors and subsequently reducing the costs for employers to comply with wage rules.

New labour laws have brought in a more streamlined minimum wage structure across India, but critics say implementing it will be a challenge [File: Francis Mascarenhas/Reuters]

One example of the complexity of the rules concerns mineworkers involved in crushing stones. Those working with soft soil are eligible to a minimum wage of 376 rupees (\$5.31) a day, while for those working with hard rock, the statutory rate is 750 rupees (\$10.60), according to government data.

But it is not clear how the new minimum wage will be enforced. With few jobs to go around, workers could be powerless to force employers to comply.

"Look around you, there are so many men here needing work that making demands of the bosses is impossible – they'll just tell you to move off," said Rohit Singh, a 23-year-old migrant worker from Rajasthan.

Sharmila Kantha, a principal consultant at the Confederation of Indian Industry, suggests that the government's plans to furnish each worker with a unique identification number and card could help to make sure companies comply with the new rules. But even this system is likely to have its limitations, Kantha says.

"A smart card system could help keep track of wage payments, if state governments ensure its roll-out," she said. "However, with many informal workers engaged in multiple jobs and with multiple employers and self-employment in any given week, it will be difficult."

Removing hurdles, widening safety nets

Of the many proposed reforms, businesses will perhaps be cheering the end of the so-called "Inspector Raj" phenomena the most. Many have long complained of government inspectors harassing businesses and soliciting bribes in exchange for the right licences and documentation.

"The current inspection system is akin to a racket," a textile manufacturer he further adds that "Each month the inspector arrives on the same day and I know how much I will need to pay him to ensure he leaves me and my factory alone".

Under the aegis of a new algorithm, visits will now be scheduled and assigned to inspectors at random. A new online portal will also allow businesses to self-report and upload documents themselves, in an attempt to reduce their compliance burden. As a reaction to this the workers' unions say they are disappointed with the latest reforms to India's labour laws [File: Shailesh Andrade/Reuters]

Yet while the proposed labour codes include further provisions to help business - such as streamlining the number of licences and permits required to operate legally and increasing the minimum number of employees needed to form a union - some are unsure such measures will deliver the productivity boost for which the government is hoping.

"If you reflect on what has constrained economic activity in the country, there are other bottlenecks that are more severe than trade unions and inspector harassment," K R Shyam Sundar, a professor at the Xavier School of Management in Jamshedpur, observes that - "Labour regulations are never the top concern of business owners," he added.

The textile manufacturer agrees, explaining that inadequate financing, power supplies and infrastructure are hindering manufacturing processes more than inflexible labour laws.

"Sure, you can create online systems for businesses to upload reports themselves," he said. "But for that to work, you also need to ensure reliable internet service and power supply outside of the big cities too, where factories are located."

Some are also warning that the reforms appear too business-friendly - and could hurt workers' interests.

Left-leaning trade unions held a joint protest in recent weeks opposing new legislation that governs wages and working conditions.

The codes "curtail the rights of workers" and are an oversimplification, they said in a statement. The unions are also disappointed that they had not been consulted during the bill-drafting process and that many of the suggestions put forward by an expert committee - such as a daily national minimum wage floor that is significantly higher than the \$2.50 that has been implemented - have not been taken up.

Questions

1. Critically analyse the observations of experts, economists and unions as stated in the article about the initial phase of labour reforms in India.
2. How will the new labour codes can bring changes to India's labour laws that in turn can affect ordinary people and the broader economy?
