

LABOUR & LIBERTY

CENTRE FOR ADVANCED STUDIES IN
LABOUR WELFARE



RAJIV GANDHI
NATIONAL
UNIVERSITY OF LAW,
PATIALA

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UAE: NEW LAW REGULATING LABOUR RELATIONS TO BE EFFECTIVE FROM 2022

The United Arab Emirates (UAE) recently announced its new Federal Labour Law No. 33 of 2021 ('The new labour law'), which repeals Federal Labour Law No. 8 of 1980. The New Labour Law, which will come into force on 2nd February 2022, is applicable to employers and employees in the UAE's private sector. This covers the companies which are incorporated in the UAE mainland and regulated by the Ministry of Human Resources and Emiratization as well as companies in the free zones. The New Labour Law also applies to companies wholly or partly owned by the federal or local government unless their establishing laws state otherwise. Companies will need to understand the impact and adapt their operations in compliance with the changes arising from the New Labour Law.

The New Labour Law provides that workers from private sectors are entitled to annual leave for the time they spent at work during the previous year of service before exhausting their annual leave balance. Furthermore, with regard to part-time workers, the New Labour Law specifies that they will be entitled to a yearly leave based on their real working hours as stipulated in their employment contract and in compliance with the executive provisions of this law. Private sector companies have the authority under this law to provide their employees leave from the account of their annual leave during the induction program, with the employee maintaining the right to be rewarded for the rest of their annual leave balance if they pass the period. Employers may also select the dates of yearly leave in line with work needs and in consultation with each employee who will be on leave. To guarantee that work continues, the leave can be used in turn by the workers and the employers must inform each employee of the set dates at least one month in advance.

Employees have the right to carry their yearly leave, forward to the next year, according to the regulation which requires that this should be done in consultation with the company and in compliance with the facility's rules and regulations. Also, the yearly leave period must contain weekly off-days for each employee. However, unless the employee wishes to carry it forward or get a monetary allowance, the employer may not prohibit his employees from taking an annual vacation that is due for more than two years. Workers in the private sector must also be compensated for unpaid leave if they quit their job before availing it, regardless of how long it lasts. They will also be entitled to a monetary stipend based on their basic wage for the days they worked during their yearly leave.

While some of the details of the New Labour Law is are yet to be published, it is clear that there are a number of significant issues for employers operating in the UAE to grapple with, and changes will need to be made to employment contracts, policies and practices. In particular, there will be some significant changes around flexible working patterns which are to be covered in future regulations. The new law will permit only fixed-term employment contracts not exceeding three years, instead of at present where unlimited contracts are allowed. There are some changes made to notice periods and termination of employment. End of service Gratuity and compensation for unlawful termination, as well as restrictive covenants. But perhaps the most significant change though is the extension of discrimination laws. Discrimination protection is currently limited to pay and pregnancy/maternity leave. The new law will extend protection to discrimination based on race, colour, sex, religion, national or ethnic origin and disability; it will also introduce new protections against sexual, physical, verbal or psychological harassment.



CHINA REGULATES 996 WORK CULTURE

Recently, the Supreme People's Court in China has stepped in to regulate the illegal 996 (working from 9 am to 9 pm, 6 days a week) overtime policy. The Supreme People's Court and Ministry of Human Resources and Social Security published a lengthy essay about the labour violations and unreasonable overtime labelled '996'. The report by the top court details ten real cases of gross violation of the labour laws and the resulting (horrific) consequences. The 996 policy gained traction among the internet companies in the private sector and has caused a widespread backlash among the people employed under major tech tycoons. While this overtime policy has not been congruent with the present labor laws in China, the founder of Alibaba, Jack Ma, who is among the wealthiest people in the world, has written a lengthy blog post about how being able to work '996' is a 'blessing'. This, however, is not the opinion of the workers, who have faced grave injuries while working overtime excessively.

The Chinese labour laws are strict when it comes to those working in sectors where the number of working hours can be measured. Under the standard work hour system, the employees are only allowed to be made to work for eight hours or less a day, five days a week. This brings forward a manageable 40 hours a week. While with some flexibility, it can extend to 44 hours a week, there is not even a slight resemblance to the 996 system. The top court has stepped in to maintain the status quo concerning the "common prosperity" (the government ensuring the upliftment of impoverished classes) and 'social mobility lift' which are a huge part of the Chinese government's propaganda. It is an effort to bridge the gap between the tycoons and the working class of China.

The report details 10 major cases, primarily related to the tech industry, which seemed to be plagued with labour law violations. Some of them were related to

people losing their lives due to this unhealthy practice. These include the cases of two employees from the Chinese e-commerce platform Pinduoduo, in which the employees worked for more than 300 hours each month. A woman died after working continuous long shifts and another worker committed suicide. In addition to this, there were cases in which workers were denied their owed (proper) wages and overtime pay. One unidentified tech firm asked its employees to sign agreements waiving their overtime pay. Among the most devastating cases, in one a media staffer had passed out in the office restroom at 5:30 a.m. before dying from heart failure. The family was paid 400,000 yuan by the company as the court ruled this death work-related.

The issue here is that the '996' policy is glorified by Internet company tycoons, who are the leaders in the emerging tech-conscious world. They celebrate the constant grind and contend that it is one of the main reasons for their success. Jack Ma (Alibaba), Richard Liu (JD.com), Bai Ya (Youzan) share these views. This sort of a culture becomes even more detrimental when the employees are incentivized for it and promotions start depending on it as well. A major reason why the employees succumb to the pressure is because they can easily be replaced, due to the overwhelming population which is eager to work. According to the notice that had supplemented the report by the Top court, China's human resources ministry and the courts are aiming to develop guidelines to resolve future labour disputes. However, these guidelines are not enough. There has to be a clamp down on the unjust practices carried out by the tycoons and they need to be brought down from such arbitrary power. Specific companies earning extravagant profits on the basis of free or cheap overtime services by their employees need to be monitored and warned. If they continue to defy the law, they need to be uprooted. Because if the tycoons continue to thrive at the cost of the basic well-being of the working class, the suicides and heart failures will not stop.



ECONOMIC ADVISORY COUNCIL SUGGESTS A UNIFIED LABOUR LEGISLATION

The Economic Advisory Council (EAC) has said in a report that the four labour codes, which Prime Minister Narendra Modi has himself lauded on several occasions and which the Union Ministry of Labour and Employment is preparing to implement across the country soon, did not take a comprehensive view of all labour laws. The EAC- PM's is an indirect affirmation of the Central Trade Unions' claim that the Central government's four labour regulations, like the three agri-market legislation, are poor enough to be repealed. The four contentious codes have been labelled by the Central Trade Unions as anti-labour and pro-corporate.

The EAC-PM has proposed a unified labour legislation to replace the four labour codes, similar to the Bangladesh Labour Act of 2006. According to the report, the four labour codes, which were created following the merger of 29 core labour laws, have simply standardised and simplified existing statutes without correcting definitional errors.

The EAC-PM has stressed the need for greater labour law simplification as well as other legislative initiatives to enhance job creation and industrial growth. The EAC-PM has also recommended a greater emphasis on talent development, public infrastructure investment, lowering trade and investment policy obstacles, and streamlining laws and processes, among other things.

The EAC- PM's viewpoint is diametrically opposed to that of the Prime Minister and the Union Ministry of Labour and Employment who say that the four codes are the most significant labour reform in independent India and which have been long needed within the industrial sphere.



COMPANIES WITH BEST WORK CULTURES IN INDIA



TATA CONSULTANCY SERVICES

When it comes to women's employment, TCS ranked among the top ten companies in India in 2018. Good work culture was fostered at TCS offers its employees a work-life balance that allows them to grow and achieve their goals.

ADOBE INDIA

One of the world's most creative companies, Adobe has a reputation for being one of the most innovative. For the 16th consecutive year, it was named one of Fortune Magazine's "100 Best Companies to Work For."

GODREJ CONSUMER PRODUCTS

Godrej provides an open and collaborative environment. A talent-hunting initiative, LOUD (Live Out Ur Dream), to recognize some of the most creative and passionate individuals with tremendous potential, has been established.

GOOGLE INDIA

Officially, there are no work hours for Google. Attend meetings on time and complete your work. In addition, each team is entitled to one team outing per year to get to know one another more intimately. Also, Google has no dress code and employees are usually seen wearing casual clothes!

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RAJIV GANDHI NATIONAL UNIVERSITY OF LAW**



**PATRON-IN-CHIEF
PROF. (DR.) G.S. BAJPAI**

**PATRON
PROF. (DR.) NARESH KUMAR VATS**

**FACULTY COORDINATORS
DR. GEETIKA WALIA
MS. SONIKA**

STUDENT CONTRIBUTORS

**PARAMJEET SINGH
PARTH GONDIA
RIA BANSAL
PAANKHURIE
UTKARSH GOYAL
MADHUMITA J**

