

Industrial Relations Code, 2020

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Background

The Industrial Relations Code, 2020 ("IR Code") has been enacted to amend and consolidate the laws relating to trade unions, conditions of employment in industrial establishments, and investigation and settlement of industrial disputes, with the objective of promoting harmonious industrial relations between employers and workers and ensuring an effective framework for resolution of industrial disputes and matters connected therewith or incidental thereto. The IR Code was passed by the Lok Sabha on September 22, 2020 and subsequently by the Rajya Sabha on September 23, 2020, with a view to amalgamate, simplify and rationalise the provisions of three central labour enactments governing industrial relations, namely the Industrial Disputes Act, 1947, the Trade Unions Act, 1926, and the Industrial Employment (Standing Orders) Act, 1946. The Industrial Relations Code, 2020 has come into force with effect from 21 November 2025.

Note: The Industrial Relations Code may not be applicable to all nonprofits (Section III of this memo offers more clarity)

Laws Subsumed under The Industrial Relation Code, 2020

1. The Trade Unions Act, 1926
2. The Industrial Employment (Standing Orders) Act, 1946
3. The Industrial Disputes Act, 1947

Key Features of the Industrial Relations Code, 2020

- 1. Simplification of Compliance Mechanism:** The Industrial Relations Code, 2020 simplifies labour law compliance by reducing the number of rules, forms, and registers and enabling digital filings and electronic record-keeping. This minimises procedural complexity, enhances transparency, and reduces administrative burden for establishments while improving regulatory efficiency.
- 2. Expanded and Uniform Definition of Worker:** The Code broadens the definition of "worker" to include sales promotion employees, working journalists, and supervisory employees earning up to Rs.18,000 per month. This expansion ensures that a wider section of employees gains access to labour protections, statutory benefits, and dispute resolution mechanisms.
- 3. Expansion of the Definition of Industry:** The definition of "industry" now includes any systematic activity carried out through cooperation between employers and workers, irrespective of profit motive or capital investment.
- 4. Uniform Definition of Wages:** A standardised definition of wages has been introduced with a 50% cap on exclusions, ensuring that statutory benefits such as gratuity, retrenchment compensation, and social security contributions are calculated on a fair portion of total earnings. This reduces wage manipulation and disputes relating to benefit calculations.
- 5. Statutory Recognition of Trade Unions:** The Code provides a structured mechanism for recognition of trade unions through the concept of a Negotiating Union or Negotiating Council. A union with 51% membership is recognised as the sole negotiating body, strengthening collective bargaining and promoting structured employer-employee dialogue.
- 6. Introduction of Fixed-Term Employment:** Fixed-Term Employment allows employers to engage workers for a specific duration through written contracts while ensuring parity with permanent employees in wages, working conditions, and statutory benefits. Fixed-term employees also become eligible for gratuity upon completion of one year of service.
- 7. Regulation of Strikes and Lockouts:** The Code mandates a 14-day prior notice before strikes or lockouts in all establishments and restricts such actions during conciliation and tribunal proceedings. The inclusion of mass casual leave within the definition of strike

discourages sudden work stoppages and promotes negotiated settlement of disputes.

8. **Streamlined and Time-Bound Dispute Resolution Mechanism:** Industrial disputes are addressed through two-member Industrial Tribunals consisting of judicial and administrative members to ensure faster adjudication. Parties may directly approach the tribunal if conciliation fails within a prescribed period, reducing delays in dispute resolution.
9. **Decriminalisation and Compounding of Offences:** Several minor offences under the Code have been decriminalised and made compoundable through payment of monetary penalties. This shifts enforcement from punitive prosecution to compliance-based regulation, enabling quicker resolution while reducing litigation burdens.
10. **Retrenchment Flexibility with Worker Protection Measures:** The threshold requiring prior government approval for lay-off, retrenchment, and closure has been increased to establishments employing 300 or more workers, providing operational flexibility to industries. At the same time, the Worker Re-Skilling Fund ensures financial assistance and skill development support for retrenched workers.
11. **Gender Representation and Work Flexibility:** The Code mandates adequate representation of women in Grievance Redressal Committees proportional to their workforce participation and enables work-from-home provisions under Model Standing Orders, promoting inclusive and flexible employment practices.
12. **Digitalisation of Industrial Relations Processes:** The Code enables electronic registration, filing of returns, maintenance of records, and online communication with authorities. Digital systems enhance transparency, reduce paperwork, and ensure faster compliance and administrative efficiency.

Does a Not-for-Profit organisation (NPO) have to comply with the Industrial Relations Code?

The answer depends on whether the specific not-for-profit organisation qualifies as an "industry" under Section 2(p) of the Industrial Relations Code, 2020.

A. Definition of industry as Section 2(p) of Industrial Relations code

*"industry" means any systematic activity carried on by co-operation between an employer and worker (whether such worker is employed by such employer directly or by or through any agency, including a contractor) for the production, supply or distribution of goods or services with a view to satisfy human wants or wishes (not being wants or wishes which are merely spiritual or religious in nature), whether or not -- (i) any capital has been invested for the purpose of carrying on such activity; or (ii) such activity is carried on with a motive to make any gain or profit, **but does not include -- (i) institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic service;** or (ii) any activity of the appropriate Government relating to the sovereign functions of the appropriate Government including all the activities carried on by the departments of the Central Government dealing with defence research, atomic energy and space; or (iii) any domestic service; or (iv) any other activity as may be notified by the Central Government;*

Thus "industry" is any systematic activity carried on by cooperation between an employer and workers (whether directly employed or through an agency/contractor) for the production, supply or distribution of goods or services to satisfy human wants or wishes (other than purely spiritual or religious wants), irrespective of capital investment or profit motive.

However, the definition expressly excludes:

1. Institutions owned or managed by organisations wholly or substantially engaged in charitable, social or philanthropic services;
2. Sovereign functions of the Government (including defence research, atomic energy and space);
3. Domestic service; and
4. Any other activity notified by the Central Government.

Application to Not-for-Profit Organisations

A Not-for-Profit organisation will qualify as an "industry" if:

- It carries on a systematic and organised activity;
- There exists an employer-worker relationship;

- It provides goods or services to satisfy human wants (other than purely religious/spiritual purposes); and
- It does not fall within the charitable/philanthropic exclusion.

Whether the organisation makes a profit or not is not considered while deciding if it is an industry under the Industrial Relations Code, 2020.

Effect of the Charitable Exclusion

Under Section 2(p), institutions owned or managed by organisations wholly or substantially engaged in charitable, social, or philanthropic service are excluded. Therefore:

- If the NPO is wholly or substantially charitable in character, it may fall outside the definition of "industry."
- If the organisation operates in a structured, service-delivery manner employing workers and is not substantially charitable in nature, it may still be treated as an industry.

The determination will depend on:

- The dominant nature of activities;
- The organisational structure;
- The presence of an employment relationship; and
- Whether the charitable element is substantial.

Interpretational challenge

The Code does not prescribe clear criteria for determining what constitutes "charitable" or "philanthropic" activity. Therefore, the assessment is fact-specific and depends on the dominant nature of functions, organisational structure, and the extent to which activities resemble organised service delivery rather than pure charity. Consequently, classification must be evaluated on a case-by-case basis.

A Not-for-Profit organisation does not automatically fall outside the definition of "industry" under Section 2(p) of the Industrial Relations Code, 2020. It will qualify as an industry where it carries on systematic service activities through employer-worker cooperation, unless it is wholly or substantially engaged in charitable, social, or philanthropic services falling within the statutory exclusion. See Illustrations for more clarity.

Illustration 1: NPO Classified as an "Industry"

A registered non-profit organisation operates vocational training centres for craft and art products in multiple cities.

- Training and skilling programmes are delivered systematically to trainees.
- The products produced are sold in stores -- online and offline.
- The organisation receives funding through grants, CSR partnerships, and course fees from certain beneficiaries.
- Services are aimed at improving employability and livelihood opportunities.
- Operations resemble organised manufacturing and service delivery with defined employment hierarchies and performance systems.

Legal Position

This training centres and manufacturing units are likely to be classified as an **industry** because:

- There is a systematic and organised activity
- Employer-worker relationship exists
- Services satisfy human wants (handicraft products are produced)
- Activity is sale-oriented rather than purely charitable
- The organisation may be engaged in charity, but the manufacturing unit produces products for sale.

“ Illustration 2: NPO Not Classified as an "Industry"

A charitable trust runs a community relief centre that distributes free food, clothing, and emergency aid during disasters.

- Activities are largely volunteer-driven.
- No structured commercial-style operations exist.

- Services are provided entirely free of cost.
- The dominant purpose is humanitarian relief and philanthropy.

This NPO would likely **not qualify as an industry** because:

- The organisation is wholly engaged in charitable and philanthropic service
- Activities fall within the charitable exclusion under Section 2(p)
- Absence of structured employer-worker industrial organisation
- Dominant character is relief-based charity rather than organised production or service delivery

B. Earlier Legal Position under the Industrial Disputes Act, 1947

Section 2(j) of the Industrial Disputes Act, 1947 defines "industry" as:

"Any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen."

The definition is broad and inclusive, focusing on the nature of the activity rather than the motive behind it. The definition in its preliminary reading does not exclude non-profits.

Landmark Interpretation: Bangalore Water Supply Case

Bangalore Water Supply and Sewerage Board vs. A. Rajappa

This seven-judge bench decision remains the leading authority on the interpretation of "industry."

The Court laid down the Triple Test to determine whether an activity qualifies as an industry:

- Systematic activity
- Cooperation between employer and employee
- Production or distribution of goods or services to satisfy human needs

If these three elements are satisfied, the activity constitutes an "industry."

Key Principles Laid Down

- Profit motive is irrelevant.
- Charitable purpose is irrelevant.
- The focus is on the functional and organisational aspects of the activity.
- The relationship between employer and employee is central.
- Religious or spiritual services aimed purely at spiritual fulfilment are excluded.

The Court held that non-profit and charitable organisations are not automatically excluded from the definition. Thus, hospitals, schools, and welfare institutions may qualify as industries if they satisfy the Triple Test. However, this position is **pending Reconsideration by the Supreme Court:**

- In *State of Uttar Pradesh vs. Jai Bir Singh*, a Constitution Bench referred the correctness of *Bangalore Water Supply* to a larger bench.
- In 2017, a seven-judge bench indicated that the matter would be placed before a nine-judge Constitution Bench.
- A Bench led by Chief Justice Surya Kant (along with Justices Joymalya Bagchi and V.M. Pancholi) has scheduled arguments from 17-18 March 2026 to reconsider the scope of Section 2(j).

The decision is expected to clarify long-standing confusion regarding the applicability of the Act to governmental and non-profit institutions.

C. Comparative Analysis: Classification of Not-for-Profit Organisations (NPOs) as an "Industry"

Parameter	Position under the Industrial Disputes Act, 1947 (Earlier Regime)	Position under the Industrial Relations Code, 2020 (Present Regime)	Analytical Shift
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Legislative Approach	Broad and open-ended statutory definition shaped primarily through judicial interpretation.	Definition legislatively refined with express inclusions and exclusions.	Shift from judge-made expansion to statutory structuring.
Core Basis of Determination	Functional nature of activity was decisive.	Functional activity examined along with statutory exclusions.	Movement from activity-based test to activity + institutional character test.
Governing Legal Test	Triple Test laid down in Bangalore Water Supply and Sewerage Board vs. A. Rajappa (systematic activity, employer-employee cooperation, service to human needs) but yet the position is unsettled	No judicial test prescribed; determination depends on dominant nature of organisation and applicability of charitable exclusion under Section 2(p).	Judicial test replaced by dominant nature statutory assessment.
Relevance of Profit Motive	Profit motive held irrelevant; even non-profit bodies could be industries.	Profit motive expressly irrelevant under statute.	Continuity maintained -- labour protection not linked to profit.
Treatment of NPOs	NPOs generally included if organisational activity satisfied Triple Test.	NPOs conditionally included; excluded if wholly or substantially charitable, social, or philanthropic.	Introduction of qualified exclusion for NPOs.
Employer - Employee Relationship	Central determining factor; existence of organised labour usually sufficient.	Still relevant but insufficient if charitable exclusion applies.	Employment relationship no longer automatically decisive.
Government / Welfare Institutions	Frequently included unless performing strictly sovereign functions (e.g., hospitals included in industry).	Sovereign and substantially charitable functions expressly excluded.	Legislative narrowing of earlier expansive inclusion.

Degree of Coverage of Labour Laws	Wide coverage -- most organised service institutions fell within industrial regulation.	Potentially narrower coverage depending on charitable character.	Possible reduction in regulatory reach over NPO sector.
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What Lies Ahead?

Under the Industrial Relations Code, 2020, Not-for-Profit Organisations are not automatically excluded from the definition of *industry*. While the Code introduces a statutory exclusion for institutions wholly or substantially engaged in charitable, social, or philanthropic activities, classification ultimately depends on the dominant nature of activities and the operational structure of the organisation. However, interpretational ambiguity continues to persist, particularly in assessing what constitutes "substantial" charitable activity, pending further judicial clarification.

Importantly, the scope of the term "*industry*" is presently under reconsideration before the Supreme Court in the case of State of Uttar Pradesh vs. Jai Bir Singh. The pending reference raises, inter alia, the following significant questions:

- Whether the Triple Test formulated in paragraphs in *Bangalore Water Supply* correctly lays down the law for determining whether an undertaking or enterprise falls within the definition of *industry*?
- Whether the Industrial Disputes (Amendment) Act, 1982 -- which was enacted but never brought into force and the coming into effect of the Industrial Relations Code, 2020 (effective from 21 November 2025) have any legal impact on the interpretation of the expression "*industry*" under the parent legislation?
- Whether social welfare activities, governmental schemes, or enterprises undertaken by Government departments or their instrumentalities can be construed as industrial activities within the meaning of Section 2(j) of the Industrial Disputes Act?

The outcome of this reference is expected to have a long-standing and decisive impact on the classification of welfare institutions, governmental bodies, and particularly Not-for-Profit Organisations, in determining whether they fall within the ambit of an *industry* for labour law purposes.

On the other hand, the Code has been brought into force; however, the Rules notified by both the Central Government and the State of Karnataka presently remain in the draft stage. Full clarity and operational visibility are expected to emerge only upon formal notification and implementation of the final Rules.

Pacta will continue to track regulatory developments and provide updates as and when further clarity evolves.

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