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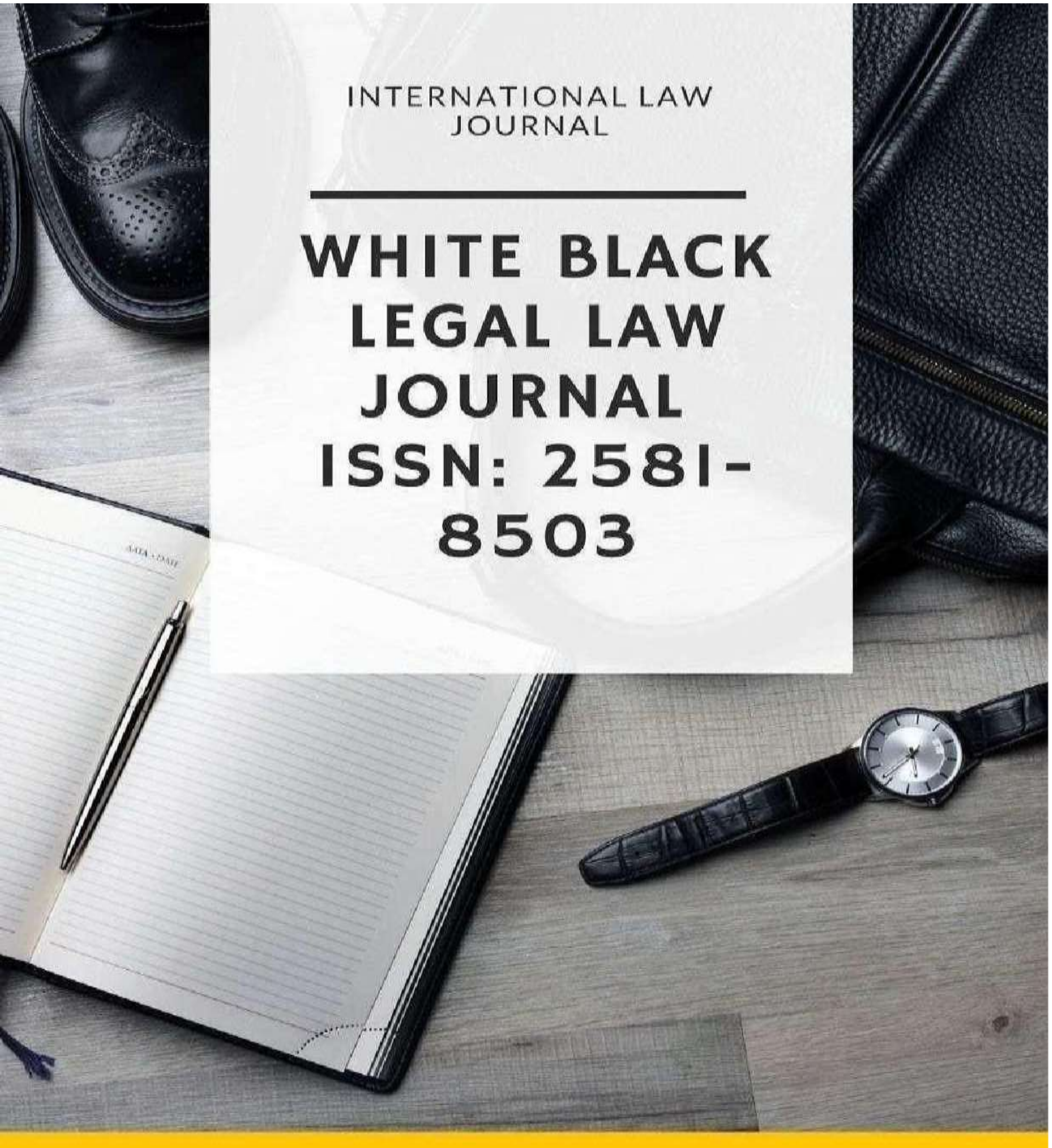

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# ANALYTICAL STUDY OF INDUSTRIAL RELATIONS CODE, 2020

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## ABSTRACT

*The purpose of the Industrial Relations Code, 2020 is to standardise definitions, streamline compliance, and consolidate and update regulations concerning trade unions, layoffs, and industrial disputes. The goal of the Code 2020 is to make it easier to do business in this age of globalisation while also protecting workers and allowing businesses some leeway. There have been a number of regulation changes or repeals in this Industrial Relations Code, 2020. New labour standards, which were recently implemented as part of an update of India's labour laws, represent a major step towards updating the employment landscape to accommodate changing work types including freelance, remote work, and the gig economy. Along with reflecting present trends, these adjustments also lay the groundwork for future changes in the nature of work in line with the goal of 2047 viksitbharat.*

*A framework that is progressive and well-balanced, the Industrial Relations Code, 2020 is created for the benefit of companies, employees, and the economy as a whole. Faster dispute settlement, more equitable representation, and job stability are all benefits to workers that this law provides. While simultaneously encouraging flexible hiring and streamlining compliance, it is pro-employment. With pro-women initiatives supporting equal representation and working flexibility. As a whole, Code 2020 is aiming for a more streamlined, quick, and effective system.*

**Keyword:** *Trade Unions, Industrial Disputes, Strike Regulations, Retrenchment & Closure.*

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## Introduction:

The Lok Sabha introduced the Industrial Relations Code, 2020 on September 19, 2020. There are three labour laws that it aims to reform: "(i) The Industrial Disputes Act, 1947, (ii) The Trade Unions Act, 1926, and (iii) The Industrial Employment (Standing Orders) Act, 1946." The recommendation made by the Second National Commission on Labour (2002) to streamline compliance by consolidating labour regulations into wider categories is supported by the Industrial Relations Code, 2020. It permits the federal and state governments to modify laws in accordance with the requirements of the Concurrent List Concurrent List,[1] (Entry-22[2], Entry-23[3], Entry-24[4], Entry-25[5]).

**Key Provisions of the Industrial Relations Code of 2020:** The Industrial Relations Code of 2020 addresses several aspects of employee and employer rights and duties in a thorough and all-encompassing manner. The Industrial Relations Code of 2020 addresses important provisions such as:

**Definition of term Workers:** The definition of "Worker" has been broadened to encompass anyone engaged in sales promotion, as well as reporting and other newspaper staff. Employees whose monthly salary is less than Rs. 18,000 (or any amount announced by the Central Government) now include those in supervisory positions.[6] This term is useful for making policies that pay workers a fair wage and acknowledge their contributions. At both the individual and society levels, economic resilience was enhanced by broadening the definition of workers. Benefits such as basic labour rights, healthcare, and sick leave are more widely available, and income disparity is reduced, when workers are viewed through an expanded lens.

**Definition of term Industry:** Any organised effort by employers and workers to create, stock, or distribute products or services with the end objective of meeting material, nonreligious human needs is deemed "Industry" under the Code. Excluded from the phrase "industry" are organisations that engage in domestic service, sovereign government functions, or provide

[1] Concurrent List - List III, 7th Schedule of Indian Constitution
[2] Trade unions; industrial and labour disputes.
[3] Social security and social insurance; employment and unemployment.
[4] Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions, and maternity benefits.
[5] Vocational and technical training of labour.
[6] Section 2 (zr) of Industrial Relations Code, 2020

charity, social, or philanthropic services. The federal government also has the power to rule that certain pursuits do not qualify as industries.[7] People working for organisations that aren't for profit or based on capital now have more protections under the law, including the ability to use Conciliation Officers and Industrial Tribunals to formally resolve workplace disputes.

**Change in definition of Wages:** This revised definition of wages has been implemented throughout all new labour regulations. The Industrial Relations Code, 2020 establishes a 50% cap on exclusions to guarantee that statutory benefits, including gratuity, retrenchment compensation, and social security contributions, are computed based on a fair and significant portion of actual earnings, thereby preventing employers from artificially dividing wages to diminish their obligations.[8] The revised concept of wages enhances transparency and mitigates wage-related conflicts.

**Statutory recognition to the Trade Unions and Negotiating Unions:** A trade union can seek registration if there are seven or more members, according to the Industrial Relations Code, 2020. A trade union will be considered registered if it can demonstrate that it represents 10% of the workforce or 100% of the employees, whichever is lower. Unions or federations of unions can be officially recognised as Central Trade Unions or State Trade Unions by the federal or state governments, respectively.[9] There is now an obvious route for trade unions to get official recognition. When at least half of an organization's employees join a union, that group gains the power to bargain collectively and resolve employee grievances. If this criterion is not satisfied, the Negotiating Council will be made up of delegates from all unions having a membership of 20% or more.[10]

Trade unions are now formally recognised and given the authority to represent workers in official capacities thanks to this new law. By protecting workers from unjust treatment by employers and providing them with legal protections for collective bargaining, unions improve job security. Facilitates more organised forms of worker-management communication and bargaining through the use of employee representatives on internal grievance committees.

[7] Section 2(p) of Industrial Relations Code, 2020
[8] Section 2 (zq) of Industrial Relations Code, 2020
[9] Section 6 of Industrial Relations Code, 2020
[10] Section 14 (4) of Industrial Relations Code, 2020

**New Concept about Fixed-term Employment:** A new legal framework known as "Fixed Term Employment" has emerged, allowing businesses to hire workers for set periods of time under a formal contract. These workers have the same rights as permanent employees when it comes to working hours, salaries, allowances, and statutory benefits.[11] Workers on fixed-term contracts have the same rights to a safe and healthy workplace as permanent employees, including the right to a gratuity. This idea promotes more adaptable hiring practices, which in turn increases the number of available jobs, particularly in industries that rely on temporary or project-based labour.

**Amended Definition of Strike: -** Workers at public utilities were the only ones allowed to go on strike after 14 days of notice under the previous statute.[12] Industrial workers are required to provide 60 days' notice before going on strike under the new Code 2020, and they are not allowed to go on strike until 14 days after notice has been given.[13] The regulations pertaining to lockouts are identical for employers.

The Code also broadens the definition of a strike to encompass any day when 50% or more of the workforce absents themselves without prior notification.[14] The goal of the updated Code 2020 is to prevent employers and employees from engaging in arbitrary lockouts and strikes. In 2020, the Industrial Relations Code made it illegal to go on strike or lockout for the following reasons: while an arbitration process is underway, for the first seven days after the arbitration, for the first sixty days after the arbitration or court process begins, and while any settlement or arbitration award is in place. Within five days of receiving or announcing a strike or lockout, employers are required to report to the appropriate government and arbitration officer.[15] During the course of conciliation or tribunal processes, strikes are not allowed.[16] Advance notification averts abrupt strikes or lockouts that interrupt production. These new regulations protect workers and companies from economic losses due to abrupt changes and permit authorities to act during the notice period to mediate and prevent escalation.

**Decriminalization and compounding of offences:** Chapter XIII of the Industrial Relations Code, 2020 has decriminalised certain minor violations that previously incurred jail or criminal

[11] Section 2 (o) of Industrial Relations Code, 2020
[12] Section 22 of the Industrial Disputes Act, 1947
[13] Section 2 (zk) of Industrial Relations Code, 2020
[14] Section 2 (zk) of Industrial Relations Code, 2020
[15] Section 62 (6) of Industrial Relations Code, 2020
[16] Section 62 (1) of Industrial Relations Code, 2020

liability, allowing some contraventions to be resolved by the payment of a set penalty. Upon compounding an offence, no prosecution shall be initiated against the offender. The provisions[17] of the new Labour Code 2020 mitigate legal harassment for both workers and employers. It facilitates expedited resolution of conflicts between employees and employers. This new code guarantees that minor procedural violations do not affect criminal proceedings. This new legislation transitions from incarceration to financial penalties, facilitating compliance for companies. The compounding of charges circumvents protracted judicial hearings, conserving time and resources for the employer.

**Streamlined Dispute Resolution Mechanism:** This new code 2020 introduces time-bound adjudication of disputes to guarantee fast settlement of the disagreement. A judicial and an administrative member will now make up industrial tribunals.[18] The two-person Industrial Tribunal will facilitate the expedited resolution of workplace issues. Disputes and conflicts in the workplace can now be resolved more quickly and efficiently thanks to this new rule. If the parties involved are unable to resolve their differences via conciliation within 90 days of receiving notice of the failure to do so, they have the option to apply directly to the tribunal.[19] A formerly laborious procedure, the discretionary referral of disputes by government personnel, is now unnecessary. Disputes in the workplace and legal cases are thus resolved more quickly.

**Worker Re-Skilling Fund:** The law requires that within 45 days after a layoff, employers must pay into a fund equal to 15 days' worth of a worker's last pay cheque.[20] Workers can get temporary relief and assistance in upgrading their skills to meet the needs of the present industry through the Worker Re Skill Fund. Workers who have been laid off have a better chance of finding new employment thanks to the Re Skilling Fund.

**Provisions for Lay-off, Retrenchment & Closure:** The Code of 2020 mandates that industrial establishments with 300 or more employees must obtain prior approval from the relevant Government authority for lay-offs, retrenchments, or closures.[21] This new rule grants small and medium firms operational autonomy, ensuring regulation while allowing flexibility for

[17] Section 84–89 of Industrial Relations Code, 2020
[18] Section 44 (2) of Industrial Relations Code, 2020
[19] Section 53 (6) of Industrial Relations Code, 2020
[20] Section 83 (2) of Industrial Relations Code, 2020
[21] Section 77 of Industrial Relations Code, 2020

expansion or restructuring without extensive governmental clearances.

**Women as member in the Grievance Redressal Committee:** The Code 2020 mandates sufficient representation of women in the Grievance Redressal Committee[22], so ensuring gender-sensitive dispute resolution and fostering equality and safety in the workplace. These expanding gender equity requirements for the workplace ensure that issues pertaining to workplace harassment, maternity rights, safety, discrimination, and conflicts can be more effectively addressed.

**Standing Orders**: In order to make it easier for businesses to comply, the rules about certified standing orders will now only apply to industrial firms that have 300 or more employees on any given day in the last 12 months, down from 100.[23]

**Unfair labour practices:** Unfair labour practices as defined in the Industrial Relations Code, 2020's II-Schedule are expressly forbidden under the Code 2020, which applies to both employers and employees as well as trade unions. Included in these provisions are: (i) prohibiting employees from establishing labour unions, (ii) creating an employer-sponsored labour union for employees, (iii) compelling employees to affiliate with labour unions, (iv) harm to the employer's property, and (v) prohibiting any employee from reporting to work. Individuals who engage in unfair labour practices are subject to a penalty ranging from ten thousand to two hundred thousand rupees.[24]

**Notice of change: -** It is illegal for employers to alter employees' terms of employment in certain ways without first informing them of the change or providing them with at least 21 days' notice. Things like pay, contributions, allowances, hours worked, and vacation time fall under this category.[25]

**Voluntary arbitration:** Employers and employees can voluntarily agree in writing to submit any industrial dispute to arbitration under the Industrial Relations Code, 2020. The arbitrator will report back to the government with the decision after conducting an investigation into the

[22] Section 4 (4) of Industrial Relations Code, 2020
[23] Section 28 of Industrial Relations Code, 2020
[24] Section 84 of Industrial Relations Code, 2020
[25] Section 40 of Industrial Relations Code, 2020

disagreement. Worker dismissal, retrenchment, or termination, as well as disagreements about other aspects of employment or non-employment, are examples of industrial disputes.[26]

**Resolution of industrial disputes:** In order to facilitate the resolution of labour disputes, the federal or state governments may designate individuals to serve as conciliation officers. In order to resolve the conflict in a fair and peaceful manner, these officers will conduct an investigation and then initiate conciliation procedures.[27] If the parties are unable to resolve their differences through negotiation, they have the option to seek redress through the Industrial Tribunal, which was established by the Industrial Relations Code, 2020. When national-level issues arise in industrial disputes, the federal government has the option to establish National Industrial Tribunals to resolve the issues. Each tribunal will consist of two members who meet the requirements: one from the judiciary and one from the administrative branch.[28]

**Digital Systems:** Information sharing, registration, and record-keeping can all take place digitally according to the Industrial Relations Code of 2020.[29] The use of digital filings and records increases openness by decreasing the likelihood of corruption and manipulation. A more efficient system is one in which registrations and compliance documents are processed more quickly. There is less paperwork, administrative expenses, delays, and money saved thanks to the digital method.

**Model Standing Orders:** Modified standing orders pertaining to many issues, including working conditions, will be issued by the Central Government.[30] Explicitly allowing remote work from home, subject to employer and employee permission, is now common in service sectors. Women benefit from this provision because it increases their flexibility. To account for the intricacies of remote employment, the new labour rules of 2020 offer a legislative framework that is both flexible and accommodating. This adaptability is vital since, in contrast to conventional office environments, remote work necessitates different policies for health and safety, staff monitoring, and working hours.

**Time limit for disciplinary action:** The Code 2020 stipulates that an investigation or inquiry

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[26] Section 42 of Industrial Relations Code, 2020
[27] Section 43 of Industrial Relations Code, 2020
[28] Section 46 of Industrial Relations Code, 2020
[29] Section 8,30,34,53,55,79 and 80 of Industrial Relations Code, 2020
[30] Section 29 of Industrial Relations Code, 2020

into complaints or allegations of misbehaviour against a worker, resulting in their suspension, shall be completed within 90 days.[31] The payment of subsistence allowance is the responsibility of the employers. Workers' rights will be better safeguarded with these kinds of provisions.

**Challenges/Drawbacks:** There may be implementation issues with the 2020 labour code transition from previous laws to the new codes, which will necessitate time and resources for adaptation and compliance. Strict compliance with the new regulations may still be tough to ensure, even with the streamlining of enforcement methods, especially in industries with inadequate regulatory monitoring. Implementation of the Industrial Relations Code 2020 may be fraught with difficulty if employers and unions oppose the changes it proposes. Contract labour, digital compliance, and the resolution of grievances are three areas that will require significant adaptation.

Possible future revisions to employment laws may comprise: Issues such as the right to disconnect, pay for home office settings, and guidelines for virtual employee monitoring are being considered for potential inclusion in future labour code revisions that might provide remote workers with additional safeguards. Consider gig work an integral part of the economy, and treat gig workers fairly just as you would any other employee. To better reflect workers' varying needs and priorities, labour laws may change to allow for more flexible work schedules and new forms of paid time off. The influence of artificial intelligence and automation on jobs may need to be addressed in future labour laws, given how pervasive these technologies are in company operations. Included in this category could be legislation pertaining to artificial intelligence (AI) governance, measures to mitigate employment losses caused by automation, and initiatives to retrain those who take a hit.

## Conclusion and Suggestions:

The Industrial Relations Code, 2020 streamlines compliance with labour rules and encourages amicable ties between employers and employees, thereby transforming the industry. The use of uniform provisions enhances collective bargaining, conflict resolution, and job security. By standardising definitions, the Code 2020 gives employees more agency while giving businesses more leeway to run their businesses as they see fit. In sum, the new code promotes harmony in the workplace, increases output, and encourages an atmosphere conducive to professional development. The Industrial Relations Code, 2020, brings India's labour laws up to date by

[31] Section 38 of Industrial Relations Code, 2020

making it easier to resolve disputes, limiting the number of strikes and lockouts, and streamlining the operations of trade unions.

Despite, the new law promotes versatility in business and stability in the industry. Stakeholders should monitor its implementation to ensure a harmonious employer-employee relationship and to advance economic growth without jeopardising worker wellbeing. Finally, we can state that the goal of the transition to four simplified labour rules 2020 is to make compliance easier, increase transparency, and promote more equitable practices in the workplace.