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THE INTERSECTION OF LABOURERS' RIGHTS AND HUMAN RIGHTS: A CRITICAL ANALYSIS OF LEGAL PROTECTIONS FOR UNORGANIZED AND MIGRANT WORKERS IN INDIA

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ABSTRACT:

This paper explores the relationship between labour law and human rights in India, specifically focusing on unorganized and migrant workers. It examines the country's legal framework and its impact on the lives of these workers, analyzing the social security provisions under the new labour laws and how they align with international human rights standards. The study highlights the significant challenges faced by these workers, such as exploitation, lack of access to basic rights, and inadequate protection under current labour laws. The paper argues for a more comprehensive approach to safeguard their rights, pointing out the gaps in legal provisions and their enforcement. Additionally, it delves into the ongoing discourse surrounding labour law reforms and human rights in India, providing a detailed analysis of the legal regime's effect on the most vulnerable sections of the workforce. Ultimately, the paper advocates for stronger measures to protect and empower these workers.

Keywords – Labour Law, Human Rights, Unorganized Workers, Migrant Workers, Social Security, International Labour Organization, Indian Constitution, Right to Life, Right to Livelihood.

Introduction:

In India's workforce, the intersection of labour law and human rights is a critical issue, especially for unorganized and migrant workers who face precarious working conditions. While the Indian Constitution guarantees fundamental rights like the "right to life" and livelihood, the reality for millions of workers remains starkly different. Exploitation, unsafe work environments, and lack of access to basic rights and social security are prevalent. Labour law plays a vital role in safeguarding workers' rights by ensuring welfare, fair treatment, and dignity in the workplace. However, the protection for vulnerable groups such as unorganized and migrant workers is insufficient,

highlighting the need for a more robust framework.

Labour rights and human rights are intrinsically linked because work is a fundamental part of human life. Ensuring fair treatment, dignity, and protection for workers is not just a labour issue—it is a human rights issue. The Universal Declaration of Human Rights (UDHR, 1948) explicitly states in Article 23 that "everyone has the right to work, to just and favourable conditions of work, and to protection against unemployment." The International Labour Organization (ILO) sets global labour standards that reinforce these human rights principles.

The Indian Constitution's Articles 14, 19, and 21 lay the foundation for labour rights,



emphasizing equality, freedom of association, and the right to a dignified life. These provisions are central to workers' rights protection. The landmark case ***People's Union for Democratic Rights v. Union of India***⁴⁸⁶ reinforced the judiciary's stance that a dignified life is integral to the right to survival. Furthermore, India's ratification of international conventions, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), underscores the nation's commitment to aligning its labour laws with global human rights standards. The UDHR asserts the right to work and just conditions, while the ICESCR mandates the provision of social security and fair wages. The International Labour Organization (ILO) has consistently advocated for incorporating human rights principles into labour laws to protect workers in the informal sector.

Despite these legal frameworks, the implementation of protective measures remains challenging, especially for unorganized and migrant workers. The ***M.C. Mehta v. State of Tamil Nadu***⁴⁸⁷ case demonstrated the urgent need for stronger regulatory frameworks to ensure workers' rights and dignity in hazardous working conditions. These workers, contributing over 60% to India's GDP, often remain excluded from basic social security benefits and are subjected to exploitation.⁴⁸⁸ Their limited earnings are typically spent on essential needs such as education, healthcare, and family support.

Social security, a fundamental human right, remains out of reach for many unorganized workers due to legal gaps, bureaucratic hurdles, and low awareness. While labour laws have largely benefited workers in the organized sector, informal workers remain vulnerable. The ILO has recommended measures to extend social security to these

workers, and the Indian government has taken steps toward including them in the social security system.

This paper advocates for a comprehensive and integrated approach to labour law and human rights in India, proposing reforms to safeguard the rights of the nation's most vulnerable workers and create a more equitable labour landscape.

Unorganised Workers and Migrant Workers:

The unorganized sector in India refers to economic activities that are not recognized by the government or reflected in official statistics. It encompasses various jobs and businesses that fall outside the formal legal and regulatory framework, such as street vendors, small-scale enterprises, casual laborers, domestic workers, and self-employed individuals. These workers are typically excluded from the protections and benefits granted to formal sector employees.

The First National Commission on Labour, chaired by Hon'ble Justice Gajendra Gadkar, defined the unorganized sector as comprising workers who are unable to organize due to constraints like the casual nature of employment, illiteracy, small business sizes with low capital investment, scattered establishments, and the dominant position of employers.⁴⁸⁹

According to Section 2(zp)⁴⁹⁰ of the Industrial Relations Code, 2020, the term "unorganized sector" has the same meaning as outlined in Section 2(l)⁴⁹¹ of the Unorganised Workers' Social Security Act, 2008. The Act defines unorganized workers as those who are not covered by the formal sector's labor laws, leaving them without social security benefits like health insurance, pensions, and maternity benefits. Section 2(m) further specifies that unorganized workers include home-based workers, self-employed individuals, wage

⁴⁸⁶ AIR 1982 SC 1473.

⁴⁸⁷ AIR 1997 SC 1996.

⁴⁸⁸ Raghavendra, 'The State of India's Informal Economy', Indian Express (05.12.2024)

⁴⁸⁹ Government of India, Report of National Commission of Labour (1969), p. 417.

⁴⁹⁰ Industrial Relations Code, 2020; Section 2 (zp); No. 35, Acts of Parliament, 2008.

⁴⁹¹ The unorganised Workers' Social Security Act, 2008; Section 2 (l), No. 33, Act of Parliament, 2008.



workers, and even those in the organized sector not covered by any Acts listed in Schedule II of the Act.⁴⁹²

The unorganized sector remains largely overlooked by beneficial laws such as the Employees' State Insurance Act (1948), the Employees' Provident Funds and Miscellaneous Provisions Act (1952), and the Maternity Benefit Act (1961). The workers in this sector are highly diverse and can be categorized into several groups:

1. **Occupational Groups:** Small-scale farmers, landless laborers, and workers in industries like fishing, construction, beedi rolling, and animal husbandry.
2. **Employment Types:** This includes laborers attached to a particular employer, migrant workers, bonded laborers, contract workers, and casual laborers with little job security.
3. **Service-Based Workers:** Individuals providing essential services such as domestic work, street vending, or midwifery.
4. **Vulnerable Groups:** Workers engaged in physically demanding tasks or dangerous jobs, such as toddy tappers, scavengers, and those working in the loading and unloading of cargo.

These categories highlight the diverse and often vulnerable nature of India's unorganized workforce, many of whom lack basic legal protections, leaving them exposed to exploitation and marginalization.

Inter-State Migrant Workers:

Interstate migrant workers are a significant part of India's workforce, with around 120 million people migrating across states in search of employment. These workers often face several challenges due to their mobility, including language barriers, discrimination, and limited access to essential services. According

to the Occupational Safety, Health and Working Conditions Code, 2020, interstate migrant workers are those who are employed in one state but are recruited for work in another, either directly by the employer or through contractors. These workers typically earn wages below ₹18,000 per month, making their employment precarious and leaving them vulnerable to exploitation.⁴⁹³

A major challenge faced by unorganized and migrant workers is the lack of social security benefits. Without access to welfare schemes such as healthcare, pension, or maternity benefits, these workers are exposed to poverty and insecurity. Additionally, their working conditions are often poor, with long working hours, low wages, and unsafe environments. These factors put their health and safety at risk, exacerbating their vulnerability.

Furthermore, migrant workers often struggle to access basic services like healthcare and education, which are essential for improving their socio-economic status. Their informal employment status prevents them from availing these services, trapping them in a cycle of poverty. This lack of access further limits their chances for upward mobility.

International human rights standards, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), provide a framework for protecting the rights of migrant and unorganized workers. Additionally, the ILO Convention on Rights of Indigenous and Tribal Peoples (No. 169) and the Convention on Forced Labour (No. 29) aim to safeguard vulnerable workers. However, despite these international protections, enforcement remains weak, leaving many migrant workers exposed to exploitation and denial of their basic rights.

⁴⁹² The Unorganised Workers' Social Security Act, 2008; Section 2 (m), No. 33, Act of Parliament, 2008.

⁴⁹³ The Occupational Safety, Health and Working Conditions Code, 2020; Section 2(zf), No. 37, Acts of Parliament, 2020.



Labour Rights as Fundamental Human Rights:

Labour rights are essential to preserving human dignity. Some key labour rights that are recognized as human rights include:

a. Right to Fair Wages and Decent Work

Every worker has the right to fair compensation that ensures a decent standard of living. ILO Convention 131 sets guidelines on minimum wage policies to combat exploitative pay. Many workers, especially in low-income countries, face poverty wages despite working long hours.

b. Freedom from Forced Labour and Child Labour

Forced labour and child labour violate human rights and disproportionately affect marginalized communities. ILO Conventions 29 & 105 prohibit forced labour. ILO Convention 138 sets a minimum working age to protect children from exploitation. Over 160 million children worldwide are still engaged in child labour, according to ILO.

c. Right to Freedom of Association & Collective Bargaining

Workers should have the right to unionize and negotiate for better wages and conditions. ILO Convention 87 guarantees freedom of association. However, in many countries, union leaders face harassment, job loss, and even violence for organizing workers.

d. Right to Safe and Healthy Working Conditions

Unsafe workplaces contribute to over 2.3 million deaths annually due to work-related accidents or diseases (ILO). ILO Convention 155 emphasizes the need for proper safety measures at workplaces. The 2013 Rana Plaza factory collapse in Bangladesh, which killed 1,134 garment workers, highlighted the urgent need for stronger workplace safety regulations.

Key Issues at the Intersection of Labour and Human Rights

Labour abuses often go beyond workplace conditions and reflect broader human rights violations:

a. Exploitation & Modern Slavery

Millions of workers, especially migrants and vulnerable groups, are trapped in forced labour.

Sectors such as agriculture, construction, and domestic work have high levels of abuse, with workers subjected to confiscated passports, withheld wages, and inhumane living conditions.

Example: Migrant workers in the Middle East under the Kafala system face restricted movement and are often unable to leave abusive employers.

b. Discrimination in the Workplace

Workers face discrimination based on gender, race, disability, and nationality. Gender Pay Gap: Women earn, on average, 20% less than men globally for the same work (ILO).

Migrant Workers: Often earn less than native workers and face workplace abuse.

c. Union Suppression & Retaliation

Many companies and governments actively suppress union activities. Workers who attempt to organize face dismissal, intimidation, or even arrest.

Example: In 2021, Amazon warehouse workers in the U.S. were threatened and monitored for attempting to unionize.

d. Precarious Work and the Gig Economy

The rise of temporary contracts, platform-based work (e.g., Uber, DoorDash), and informal employment has led to increased job insecurity. Gig workers often lack health benefits, job security, and legal protections.

Legal and Institutional Frameworks Protecting Labour Rights

United Nations (UN)

Universal Declaration of Human Rights (UDHR) – Article 23 & 24



UN Guiding Principles on Business and Human Rights (responsibility of corporations to HR).

International Labour Organization (ILO)

Established in 1919, the ILO sets global labour standards.

Key conventions: Freedom of Association (87), Forced Labour (29), Child Labour (138), and Discrimination (111).

National Labour Laws

Countries have their own labour laws, but enforcement varies.

Some nations have weak labour protections, leading to exploitation.

Corporate Social Responsibility (CSR) & Ethical Supply Chains

Companies are increasingly expected to ensure fair wages and working conditions.

Fair Trade Certifications help promote ethical production.

Social Security:

Social security is crucial for inter-state migrant workers and unorganized workers as they are often among the most vulnerable sections of society. These workers are usually employed in informal economic activities and lack the protection and benefits that come with formal employment. They face a number of challenges in comparison to organised workers such as:

- (i) **Inability To Secure Minimum Wages And No Bargaining Power:** The Supreme Court, in *People's Union for Democratic Rights vs. Union of India*,⁴⁹⁴ held that paying wages below the minimum rate amounts to forced labor, prohibited under Article 23 of the Indian Constitution. Despite this, unorganized and migrant workers in India continue to receive low wages and lack bargaining power. Workers

are often excluded from trade unions, and the Government of India's report on the Minimum Wages Act reveals a lack of uniformity in wage structures across states, leading to poor living conditions.

- (ii) **Job Insecurity:**

Unorganized workers face significant job insecurity. While formal sector employees are entitled to job security, workers in informal sectors are employed temporarily, with no fixed duties or stability. Their employment depends on the employer's discretion, often resulting in job loss and financial instability.

- (iii) **Hazardous Working Conditions and Ignorance of Occupational Safety:**

Workers in high-risk sectors like construction and mining face hazardous conditions, such as exposure to toxins, dust, and machinery noise. Many workers lack awareness of these risks, and employers often neglect safety measures, leading to serious health issues and a reduced life expectancy.

- (iv) **Lack Of Social Security Cover:**

A large proportion of migrant and unorganized workers in India lack access to social security. Historically, social security laws have applied only to the organized sector, leaving informal workers vulnerable to poverty and exploitation. The absence of social security benefits increases the risk of poor health outcomes and diminishes their quality of life.

- (v) **Insecurity During Natural Disasters:**

Migrant workers, especially during natural disasters, are highly vulnerable. During the COVID-19 lockdowns, millions of migrant workers were forced to leave their

⁴⁹⁴ AIR 1982 SC 1473.



jobs and travel long distances on foot due to a lack of support, highlighting the extreme vulnerability of these workers in times of crisis.

(vi) **Unhygienic Workplace Environment and Extended Working Hours:**

Unorganized sector workers often work in unhygienic conditions without basic amenities like clean water and washrooms. They are also required to work extended hours beyond regulatory norms in order to earn more. This leads to exhaustion, poor health, and further exploitation.

How the Old Labour Laws Impacted Unorganized and Migrant Workers:

The existing labour legislation provided for meager benefits for the unorganized workers and the migrant workers. "The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979",⁴⁹⁵ provided for the employment of inter-state migrant workers and their conditions of service.

Before 2008, there was no provisions for the Social Security cover for the unorganised workers and inter-state migrant workers. With the aim to provide social security to such workers. "Unorganized Workers' Social Security Act, 2008"⁴⁹⁶ came into effect in 2008.

This Act expanded on the previous experience with social security for the unorganized workers, particularly the numerous existing welfare boards, as well as other existing laws and schemes. It is considered enabling legislation and included the following provisions:

- (i) It divides workers into three categories: self-employed, unorganised, and wage workers.
- (ii) It identifies each worker and assigns him or her unique social security

number as well as a social security card.

- (iii) It provides a range of social security benefits to such workers. Health insurance, maternity benefits, and pensions are among them.
- (iv) It requires the government to provide a certain level of benefits and funds.
- (v) It encourages unorganised workers to band together around such social structures and benefits, thereby providing a platform for voice.

Unorganised Workers Social Security Act 2008 was intended to be a revolutionary legislation which did not only compile various legislations for various categories of unorganized workers into one legislation but also provided and protected, firstly in the country, social security of the unorganized including migrant workers. However, several criticisms have been levelled at the legislation's implementation, which will be discussed here. It is worthy of mentioning that the main purpose of this bill was to develop measures towards providing social security and welfare to the unorganised sectors members which also include domestic workers.

It was further aimed at setting up a Central level board that would make necessary recommendations on social security schemes like health and maternity and retirement benefits for the domestic worker. It should also be noted that the Supreme Court, in the case of ***Shramjeevi Mahila Samiti v. State of NCT of Delhi***,⁴⁹⁷ has highlighted the failure to implement certain provisions of the Act. In this case, the Court directed the respective governments to establish National and State Boards as required by the Act.

⁴⁹⁵ Inter – State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, No. 30 Acts of Parliament.

⁴⁹⁶ The Unorganised Workers' Social Security Act, 2008, No. 33, Acts of Parliament, 2008.

⁴⁹⁷ WPCRL No. 879/2007.



New Labour Laws: A Hopeful Change for Unorganized and Migrant Workers:

The Second National Commission on Labour (2002) proposed grouping central labour laws into four categories:

- (i) wages,
- (ii) industrial relations,
- (iii) social security, and
- (iv) occupational safety, health, and working conditions.⁴⁹⁸

Owing to these, four new labour codes were enacted in 2020 amending and compiling a string of labour laws which were in action in the country. These 4 laws compiled 29 labour laws in total into 4 thereby reducing the effort of looking into and going through various labour Laws. The Social Security Code, 2020 and OSH Code, 2020 are the new labour codes which aim to improve the conditions of the unorganized and migrant workers.

OSH Code, 2020:

The OSH Code is a well-developed legal regime and an umbrella law that sets about bringing about a comprehensive set of rules and regulations in order to bring about safety, health, and welfare to the workers working in India. The code includes, by its substitution 13 other labor laws into it related to Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979. It incorporates all sectors of workers be they, unorganized or organized.⁴⁹⁹

The OSH Code covers a range of issues, “including the responsibilities of employers” and “workers”, the establishment of safety committees, and penalties for non-compliance. The code also emphasizes the importance of creating a safe and healthy work environment

and promoting worker participation in decision-making related to safety and health.⁵⁰⁰

One of the key features of the OSH Code is its emphasis on “the prevention of accidents” and “illnesses in the workplace”. Employers are required to identify and assess workplace hazards and take necessary measures to eliminate or control them. They are also required to provide workers with personal protective equipment, training, and information on workplace hazards.⁵⁰¹

The OSH Code also establishes a framework for addressing “accidents and illnesses in the workplace”. Employers are required to maintain records of accidents and illnesses, investigate accidents and incidents, and report them to the relevant authorities. The code also provides for compensation to workers who suffer work-related injuries or illnesses.

The OSH Code, 2020 also contains provisions for Inter-State Migrant Workers. In Part II of Chapter XI of the OSH Code, provisions related to Inter-State Migrants Workers are mentioned.

Section 60 of the OSH Code, 2020 mandates every employer or contractor (whatever the case may be) who employs inter-state migrant workers in his establishment shall provide such facilities and ensure suitable conditions of work for such employees and provide facilities which are available to other workers of the establishment under the statutes such as Employees' State Insurance Act, 1948, or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or any other law for the time being in force and the facility of medical check-up as available to a worker under clause (c) of “subsection (1) of section 60.⁵⁰²

Section 61 of the OSH Code provides for “travel allowances to the inter-state migrant

⁴⁹⁸ Industrial Relations Code.

⁴⁹⁹ The Occupational Safety, Health and Working Conditions Code, Section 6, No. 37, Act of Parliament, 2020.

⁵⁰⁰ Occupational Safety, Health and Working Conditions Code, Section 13, No. 37, Act of Parliament, 2020.

⁵⁰¹ Occupational Safety, Health and Working Conditions Code, Section 22, No. 37, Act of Parliament, 2020.

⁵⁰² The Occupational Safety, Health and Working Conditions Code, Section 60, 6(1) (c), No. 37, Act of Parliament, 2020.



workers. Employers are required to pay a lump sum amount of fare every year for to and fro journey to the native place of the migrant worker from the place he is employed”.⁵⁰³

In *“Re Problems and Miseries of Migrant Labourers”*,⁵⁰⁴ The Supreme Court has ordered the Central Government to implement the scheme of One Nation One Ration Card (ONORC) so that migrant workers who can't avail benefits of Public Distribution System (PDS) as their Ration Cards are made in their native state and they can avail its benefits only there can also now avail benefits of PDS in the place where they are working.

Due to these, provisions have been made in OSH Code, Section 62 of the OSH Code has provided an option for extending the benefit of the Public Distribution System. It provided an option for an “Inter – State migrant worker for availing the benefit of public distribution system either in his native State or the destination State where he is employed”. and “for portability of the benefits of the inter-State migrant worker working for building or other construction work out of the building and other construction cess fund in the destination State where such inter-State migrant worker is employed”.⁵⁰⁵

Section 63 of the OSH Code provides that facility of “Toll-free helpline to the inter-State migrant workers shall be provided by that Governments that they can contact them in case of any emergency”.

The Code On Social Security, 2020:

The Government of India has sought to integrate nine labor laws into one by forming the Social Security Code, 2020 to ensure workers' rights. This further encompasses Unorganised Workers Social Security Act 2008 that was brought only 12 years ago and has been much maligned for not bringing any

concrete and life-transferring changes in the lives of Unorganised Workers.

The Social Security Code 2020 can be an ace for the Ministry of Labour and Employment in revamping social security laws and incorporating a majority of the population that works in the unorganised sector. The trend of employment during the globalisation and information and technology era has created sectors such as gig employment and platform employment, which involve a massive population of the workforce than that being registered in the organised sector, hence this sector should be included in getting social security benefits.

The Government has identified categories of laborers as including gig workers, platform workers, plantation workers, mine workers and hazardous workers, all falling into the large umbrella of the unorganized sector under the Social Security Code, 2020.

Section 2 (78) Of the code defines 'social security' and it refers to measures of protection of unorganised workers, gig workers and platform workers which will ensure access to health care benefits, income security, unemployment, maternity, etc.⁵⁰⁶

The Code empowers the central government to establish social security programs for unorganized workers, gig workers, and platform workers and their families for benefit provisions under ESIC. Following are some important provisions which provide social security to the unorganized workers:

Gratuity:

Chapter 5 of the new social security code 2020 elucidated the provisions of the gratuity act by separately defining both permanent and fixed tenure employees with broader coverage; employees hired by small shops or other establishments with more than 10 employees or workers for a period of more than 12 months are now also eligible for the

⁵⁰³ Occupational Safety, Health and Working Conditions Code, Section 63, No. 37, Act of Parliament, 2020.

⁵⁰⁴ (2020) 7 SCC 226.

⁵⁰⁵ The Occupational Safety, Health and Working Conditions Code, Section 6, No. 37, Act of Parliament, 2020.

⁵⁰⁶ Social Security Code, 2020, Section 2 (78), No. 36, Act of Parliament, 2020.



gratuity. Gratuity is paid to employees in a lump sum amount upon termination of employment due to factors such as "superannuation, retirement or resignation, completion of contract employment, death or disability due to accident or disease, or the occurrence of any such event described by the central government." (section 52).

Employees will be eligible to receive gratuity payments after termination of employment only if they complete the tenure of 5 years continuous services, according to a social security bill proposed in 2019 at Lok Sabha and Rajya Sabha, and the bill was accepted and will be implemented in August 2019. Following the recommendations of standing committees under the new code 2020, the 5-year service completion tenure is reduced to 3 years under Chapter 5. As a result, employees in both the sectors will be eligible for the gratuity amount.

Employees Provident Fund:

The Employees Provident Fund Organization, which is overseen by the Ministry of Labour and Employment, manages the implementation of schemes such as superannuation pensions and family pensions in the event of death while performing service. And, according to its current data, only 30 million out of 400 million of India's labour work force are covered by any old age pension scheme, and of these 35 million, 26 million are from the organised sector, implying that only 9 million are from the unorganised sector, reflecting the vulnerability status. Under the new code, every establishment with 20 or more employees will be covered by the Employees Provident Scheme.

According to Chapter 3 (Section 17) of Social Security Code 2020, an employer is obligated to contribute 10% of wages or salary given to its employees, and employees are also required to deduct 10% or more of their monthly income to provident fund maintained by the central government, and the central government can increase this percentage to

12%⁵⁰⁷. Employers and employees are required to contribute to EPF if their monthly earnings exceed INR 15000 (US\$205), which means that both the employer and the employee must contribute 1500 rupees each to the worker's EPF account. According to the section 15 (1)(d) of the Social Security Code, 2020, central government will frame the several social security schemes for self-employed and other classes of workers, to protect their financial interest and encourage their work.

Maternity Benefits:

Due to India's restrictive maternity laws, maternity is one of the most common reasons for women to leave their jobs. According to the amended maternity act of 2017, only women working in the organised sector are eligible for its benefits. To address this exclusion error, Chapter 6 of the Social Security Code attempted to broaden the provisions of the laws by including women workers from the unorganized sector under its protection. Section 72 of the code empowers an Inspector Cum Facilitator to ensure the application of maternity laws. The Inspector Cum Facilitator will be informed by employers about their female employees, what kind of work they do, how much they are paid, and so on. According to Section 67, any establishment with 50 or more employees, as defined by the central government, must establish a creche facility for female employees, which they will be permitted to visit four times per day. According to Chapter 12, if an establishment fails to provide the maternity benefits prescribed by law, it will be punished with imprisonment for upto 6 months or a fine of INR 50000, or both.

Employees State Insurance Corporation (ESIC):

Under Chapter 5 of the Social Security Code, any establishment with ten or more workers (excluding seasonal factories), engaged in hazardous or life-threatening occupations as notified by the central government, in which even if there is a single employee employed,

⁵⁰⁷ Social Security Code, 2020, Ch: 3, Sec: 17, No. 36, Act of Parliament, 2020.



plantation employers engaged in ESIC, gig, platform, and unorganised workers under its security net, providing medical benefits to employees and their family members, cash benefit during sickness and maternity, and monthly payments in case of the death of an employee.⁵⁰⁸

Employment Insurance And Monitoring:

The ministry of labor and employment has tried to introduce transparency while selecting employees for the post of employment through institutions as per Chapter 13 of the Social Security Code 2020. As stated by the provisions of section 139 of the code, "carrier centres" has been brought; any carrier service establishment should intimate the carrier centre regarding details of vacancy before filling it, and the code has given authority to inspect records at any time to the executive officer.⁵⁰⁹

Disability Benefits:

Chapter 7 of the Social Security Code 2020 contains provisions for employee compensation to meet accidental disability claims in the event of worker injuries, disabilities, or death while on the job. Workmen Compensation Act 1923, now known as Employees Compensation Act 1923, establishes guidelines for employers regarding compensation, wages, medical claims, and so on, as well as penalties for failure to comply. Section 75 of the code contains specific provisions for plantation workers. The chapter has clearly described the compensation guidelines, as well as the implementation obligation on unorganized labourers who work in dangerous jobs.⁵¹⁰

Social Security And Human Rights:

One of the most significant measures to extend human rights to unorganized and migrant workers in India is the introduction of social security provisions under the

Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code) and the Social Security Code, 2020 (SS Code). These laws aim to protect the life, dignity, and social security of vulnerable workers in informal sectors.

The OSH Code consolidates 13 existing labor laws related to worker safety, health, and welfare. It emphasizes accident prevention, identification of workplace hazards, and measures to mitigate risks, aligning with the International Labour Organization's (ILO) standards. The Code mandates the creation of safety committees to ensure worker participation in safety decisions, a principle supported by ILO's 1979 Convention. It also obliges employers to provide personal protective equipment and adequate training, in line with ILO conventions on workplace safety.

The SS Code addresses the social security needs of unorganized and migrant workers, covering healthcare, income security, unemployment, and maternity benefits. It defines social security as protection for gig, platform, and unorganized workers, ensuring access to essential benefits. The Code is in compliance with ILO's Social Security (Minimum Standards) Convention, 1952, which calls for a basic level of social security for all workers. It also establishes a social security fund, to which employers are required to contribute, further supported by ILO's 1981 Convention.

These provisions represent a significant step forward in protecting the human rights of migrant and unorganized workers, ensuring their access to a safe working environment and social security. However, the effectiveness of these laws will depend on proper implementation. Employers and the government must ensure that workers are aware of their rights and have access to the resources necessary to utilize social security benefits. Monitoring and enforcement will be key to ensuring that these protections are realized in practice.

⁵⁰⁸ Social Security Code, Ch: 5, No. 36, Act of Parliament.

⁵⁰⁹ Social Security Code, Section 139, No. 36, Act of Parliament.

⁵¹⁰ Social Security Code, Ch: 7, No. 36, Act of Parliament.



Case studies:

a. The Rana Plaza Disaster (Bangladesh, 2013)

A garment factory collapsed due to unsafe working conditions, killing 1,134 workers.

Highlighted the need for stronger international labour safety regulations.

Led to initiatives like the Accord on Fire and Building Safety in Bangladesh.

b. Gig Workers & Labour Struggles (Amazon, Uber, etc.)

Workers face low wages, long hours, and lack of job security.

Amazon warehouse workers have reported unsafe working conditions, high injury rates, and anti-union tactics.

c. Migrant Workers in the Gulf

Qatar's Kafala system restricted workers from changing jobs or leaving without employer permission. Under international pressure, Qatar reformed its labour laws before the 2022 FIFA World Cup, but enforcement remains a challenge.

Case Laws:

1. Vishaka v. State of Rajasthan⁵¹¹ (India, 1997) – Sexual Harassment in the Workplace

Ensured the right to a safe and dignified work environment.

Affirmed gender equality and non-discrimination in the workplace.

2. Janus v. AFSCME⁵¹² (USA, 2018) – Right to Union Representation & Fees

The case challenged the requirement for public-sector workers to pay union fees, even if they were not union members.

The U.S. Supreme Court ruled (5-4) that forcing non-union public employees to pay fees violated their constitutional rights.

Weakened collective bargaining rights of unions.

Made it harder for unions to represent workers effectively.

Clash between freedom of association and workers' rights to fair representation.

3. R v. Big M Drug Mart Ltd.⁵¹³ (Canada, 1985) – Right to Rest & Labour Protections

Challenged the constitutionality of Sunday closing laws that restricted businesses from operating on Sundays.

The Supreme Court of Canada struck down the law, stating it infringed on individual freedom of religion.

Highlighted balance between workers' rights to rest and freedom from religious imposition.

Opened discussions on universal rest periods and fair working hours.

4. UK Supreme Court Uber Case⁵¹⁴ (UK, 2021) – Gig Workers' Rights

Whether Uber drivers should be classified as employees or independent contractors.

The UK Supreme Court ruled that Uber drivers are workers, not independent contractors.

Guaranteed them minimum wage, paid leave, and legal protections.

Labour & Human Rights Connection: – Strengthened protections for gig economy workers. Reinforced the right to fair pay and decent work conditions.

5. International Transport Workers' Federation v. Viking Line⁵¹⁵ (EU, 2007) – Right to Strike vs. Business Freedom

A conflict between workers' right to strike and corporate freedom of establishment.

The European Court of Justice (ECJ) ruled that while strikes are a fundamental right, they cannot unduly restrict businesses' freedom of movement.

⁵¹¹ AIR 1997 SC 3011.

⁵¹² 585 US 878 (2018)

⁵¹³ (1985) 1 SCR 295

⁵¹⁴ Uber BV v. Aslam – (2021) UKSC 5

⁵¹⁵ ABP (2007) C – 438/05



Impact on Labour Rights:

Recognized the right to collective action but balanced it against business rights.

Sparked debates about labour protections in a globalized economy.

6. **National Union of Metalworkers of South Africa (NUMSA) v. Dunlop⁵¹⁶ (South Africa, 2019)** – Right to Strike & Employer Retaliation

Can an employer fire striking workers for misconduct during a strike?

The South African Constitutional Court upheld the dismissals, stating that the right to strike does not include violent or unlawful conduct.

Labour & Human Rights Connection:- Reinforced the right to strike but clarified its limitations.

Balanced workers' rights with public order and employer protections.

Suggestions:

a. Strengthening International Labour Laws & Enforcement

Governments must ratify and enforce ILO conventions to protect workers' rights.

Strengthen monitoring mechanisms to ensure compliance.

b. Corporate Accountability & Ethical Sourcing

Multinational corporations (MNCs) must ensure their supply chains follow ethical labour practices.

Consumer pressure and advocacy can push companies to improve conditions.

c. Encouraging Worker-Led Movements & Unionization

Governments should protect the right to unionize and penalize employers that retaliate against unionized workers.

Supporting grassroots worker movements helps empower labourers.

d. Government Policies to Protect Vulnerable Workers

Introduce minimum wage laws, workplace safety regulations, and protections for informal workers.

Special protections for migrant and gig workers to ensure they are not exploited.

e. Consumer Awareness & Ethical Purchasing

Consumers can drive change by supporting brands that follow fair labour practices.

Look for Fair Trade, ethical sourcing labels, and boycott exploitative companies.

Conclusion:

Labour rights are not separate from human rights; they are at the core of human dignity and social justice. Governments, corporations, and consumers all have a role in ensuring fair, safe, and equitable work conditions globally. Enforcing existing laws, supporting worker-led movements, and promoting ethical labour practices are key to protecting human dignity in the workplace

Labour rights are the protections and entitlements that ensure workers can live with dignity and access fair treatment in the workplace. These rights include the right to collective bargaining, a safe working environment, freedom to form trade unions, protection against discrimination, equal pay for equal work, wage protection, and access to grievance redressal and social security schemes.

Human rights, more broadly, encompass fundamental rights that every individual is entitled to, such as the right to life and personal liberty, freedom from slavery and torture, the freedom of opinion and expression, and the right to work and education. These rights are universal and apply to all individuals, without discrimination.

In India, the Occupational Safety, Health and Working Conditions Code, 2020, and the Social Security Code, 2020, are key legislative

⁵¹⁶ (2019) ZACC 25



advancements aimed at protecting the rights of unorganized and migrant workers. These laws align with the International Labour Organisation's (ILO) principles on worker safety, health, and social security. They not only improve working conditions but also empower workers by ensuring access to benefits and the right to participate in decisions affecting their welfare.

However, the effectiveness of these laws hinges on proper implementation and enforcement. It is crucial that the government and employers play an active role in educating workers about their rights and making these protections accessible. Strengthening social security frameworks is vital not just for legal compliance, but for achieving social justice and equity, ensuring that dignity and security form the foundation of the working environment and supporting the broader human rights framework.

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