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**Right to Work, Wages, and Social Security: Constitutional Dimensions  
of India's New Labour Laws**

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**Abstract**

The recent consolidation of India's labour legislation into four comprehensive labour codes marks a watershed moment in the country's labour law regime. While these reforms aim to simplify compliance, promote ease of doing business, and adapt to changing labour markets, they also raise serious constitutional questions. This chapter critically examines the constitutional dimensions of the right to work, right to wages, and right to social security in the context of India's new labour laws. Anchored in Fundamental Rights, Directive Principles of State Policy, and judicial interpretation, the chapter evaluates whether the new labour codes advance the constitutional vision of social justice, dignity of labour, and inclusive growth. It argues that labour law reforms must be constitutionally aligned to ensure that economic efficiency does not undermine workers' rights and welfare.

**Keywords: Labour Codes, Right to Work, Minimum Wages, Social Security, Indian Constitution, Article 21, DPSPs, Social Justice**

**Introduction**

Labour law in India has always been deeply rooted in the constitutional vision of social justice, equality, and dignity of labour. <sup>1</sup>The Constitution of India does not merely function as a political document; it is also a socio-economic charter that recognizes the vulnerability of workers in an unequal bargaining framework.<sup>2</sup> In recent years, India has undertaken a major overhaul of its labour law regime through the enactment of four comprehensive labour codes: the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020. These codes consolidate and replace 29 central labour legislations, marking a paradigm shift in labour regulation.

This chapter undertakes a comprehensive examination of the constitutional dimensions of the right to work, the right to fair and equitable wages, and the right to social security within the framework of India's newly enacted labour laws. It critically evaluates the extent to which the four labour codes—namely the Code on Wages, the Industrial Relations Code, the Code on Social Security, and the Occupational Safety, Health and Working Conditions Code—align with or depart from the constitutional guarantees embodied in the Fundamental Rights and the

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<sup>1</sup>INDIA CONST. pmb.; INDIA CONST. arts. 14, 21, 23;

<sup>2</sup>*Minerva Mills Ltd. v. Union of India*, (1980) 3 S.C.C. 625, 652–54 (India); *People's Union for Democratic Rights v. Union of India*, (1982) 3 S.C.C. 235, 241–43 (India).

Directive Principles of State Policy. By engaging with established judicial interpretations, particularly the evolving jurisprudence under Article 21 of the Constitution, the chapter assesses whether these legislative reforms strengthen the constitutional commitment to social justice, dignity of labour, and livelihood security, or whether they signal a dilution of worker protections in favour of market-driven flexibility. The analysis further explores the federal implications of centralized labour codification in a constitutionally concurrent domain, the adequacy of welfare mechanisms for organized and unorganized workers, and the broader challenge of reconciling economic efficiency, ease of doing business, and labour market flexibility with the Constitution's transformative vision of social and economic justice.<sup>3</sup>

### **Constitutional Framework of Labour Rights in India**

#### **Labour Rights and Fundamental Rights**

Although the Indian Constitution does not explicitly enumerate labour rights as separate Fundamental Rights, several provisions directly and indirectly protect workers' interests. Article 14 ensures equality before law and equal protection of laws, which applies to employment conditions and labour regulation. Article 19(1)(c) guarantees the right to form associations and unions, forming the constitutional basis for trade unions. Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted by the judiciary to include the right to livelihood, humane working conditions, and social security.<sup>4</sup>

Articles 23 and 24 prohibit forced labour and child labour in hazardous industries, reinforcing the constitutional commitment to dignified labour. These provisions collectively reflect the Constitution's intent to protect workers from exploitation and to promote fair labour practices.

#### **Directive Principles of State Policy and Labour Welfare**

The Directive Principles of State Policy (DPSPs) constitute the normative foundation of India's labour welfare framework and reflect the Constitution's commitment to building a socially and economically just order. Although they are expressly declared non-justiciable under Article 37, the DPSPs are nevertheless fundamental in the governance of the country and impose a constitutional obligation upon the State to shape its policies and legislation in furtherance of social welfare objectives. In the realm of labour law, the DPSPs provide explicit and substantive guidance for protecting workers against exploitation, insecurity, and inequality. Article 38 mandates the State to strive to promote the welfare of the people by securing and protecting a social order in which justice—social, economic, and political—shall inform all institutions of national life.<sup>5</sup> This provision imposes a positive duty upon

<sup>3</sup>*Ministry of Labour & Employment v. M. V. Gopal*, (2022) 5 S.C.C. 373, 389–91 (India); International Labour Organization, *Decent Work Agenda* (1999), <https://www.ilo.org>.

<sup>4</sup>*Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545, 573–74 (India) (holding that the right to livelihood is an integral facet of the right to life under Article 21).

<sup>5</sup>*State of Kerala v. N.M. Thomas*, (1976) 2 S.C.C. 310, 347–48 (India) (emphasizing substantive equality and the State's obligation to reduce social and economic inequalities).

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the State to minimize inequalities in income, status, facilities, and opportunities.<sup>6</sup> In the context of labour relations, Article 38 underlines the constitutional responsibility to address structural imbalances between capital and labour and to ensure that economic growth does not result in disproportionate accumulation of wealth at the expense of workers' welfare. Article 39 further operationalizes this commitment by directing the State to ensure that all citizens have adequate means of livelihood, that there is equal pay for equal work for both men and women, and that the health and strength of workers are not abused. These principles collectively aim to prevent exploitative labour practices, wage discrimination, and hazardous working conditions. Judicial interpretation has repeatedly invoked Article 39(d) to reinforce wage parity and non-discrimination, thereby transforming a directive principle into a constitutional standard influencing enforceable rights. Article 41 introduces the notion of the right to work, education, and public assistance in cases of unemployment, sickness, disablement, and old age, subject to the economic capacity and development of the State.<sup>7</sup> While this provision stops short of guaranteeing an enforceable right to employment, it establishes a constitutional expectation that the State must actively pursue employment-generating policies and social security measures. This directive assumes particular significance in a labour market characterized by informality, precarious employment, and limited social protection. Articles 42 and 43 reinforce the dignity-centric approach to labour welfare. Article 42 mandates the provision of just and humane conditions of work and maternity relief, recognizing the gendered dimensions of labour and the need for workplace protections for women. Article 43 goes a step further by emphasizing the right of workers to a living wage, conditions of work ensuring a decent standard of life, and full enjoyment of leisure and social and cultural opportunities. The concept of a living wage under Article 43 transcends mere subsistence and reflects the constitutional vision of dignified human existence. Although the DPSPs are not enforceable by courts, they have played a decisive role in shaping labour legislation and judicial interpretation. The Supreme Court has consistently held that Fundamental Rights and Directive Principles must be read harmoniously, with the latter serving as interpretative aids in expanding the scope of enforceable rights under Part III of the Constitution<sup>8</sup>. Consequently, contemporary labour reforms, including the new labour codes, must be evaluated against the normative benchmarks established by the DPSPs. Any legislative reform that prioritizes economic efficiency or ease of doing business at the cost of labour welfare risks undermining the Constitution's transformative mandate of social justice and inclusive development.

<sup>6</sup> INDIA CONST. art. 39, cls. (a), (d) & (e)

<sup>7</sup> *D.S. Nakara v. Union of India*, (1983) 1 S.C.C. 305, 319–21 (India) (recognizing social security and State responsibility toward the aged and disabled).

<sup>8</sup> *Minerva Mills Ltd. v. Union of India*, (1980) 3 S.C.C. 625, 652–54 (India) (holding that Fundamental Rights and Directive Principles are complementary and must be harmoniously construed).

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**Right to Work: Constitutional and Legal Perspectives**

**Right to Work under the Indian Constitution**

The Indian Constitution does not expressly confer a justiciable and enforceable right to work as a Fundamental Right. Unlike certain constitutions that explicitly recognize employment as a guaranteed right, the Indian constitutional framework adopts a more nuanced approach by incorporating the right to work within the Directive Principles of State Policy. Article 41 directs the State, within the limits of its economic capacity and development, to make effective provision for securing the right to work, education, and public assistance in cases of unemployment, old age, sickness, and disablement. This conditional formulation reflects the framers' awareness of economic constraints while simultaneously imposing a constitutional obligation upon the State to progressively pursue employment-oriented policies<sup>9</sup>. Judicial interpretation has played a crucial role in expanding the constitutional significance of the right to work by linking it with the broader right to life under Article 21. In the landmark decision of *Olga Tellis v. Bombay Municipal Corporation*, the Supreme Court held that the right to livelihood is an integral component of the right to life, as deprivation of livelihood would render the right to life meaningless. While the Court stopped short of recognizing an absolute right to employment, it emphasized that the State cannot deprive individuals of their livelihood without a just, fair, and reasonable procedure. This interpretation has transformed the right to livelihood into a constitutionally protected interest, particularly in cases involving arbitrary termination of employment or displacement of workers<sup>10</sup>. The constitutional recognition of the right to work has also found expression in legislative initiatives, most notably the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA)<sup>11</sup>. The Act represents a significant departure from traditional welfare schemes by creating a statutory entitlement to a minimum number of days of wage employment for rural households. Although the scheme is geographically and sectorally limited, it reflects legislative acknowledgment of the State's obligation under Article 41 to address unemployment and livelihood insecurity. The judiciary has viewed MGNREGA as an instrument for advancing social justice, poverty alleviation, and rural employment<sup>12</sup>.

In contrast, the industrial and urban employment landscape operates on a different constitutional and legal footing. Labour laws governing industrial relations, wages, and working conditions do not guarantee employment but instead seek to regulate the terms under which employment is offered and maintained.<sup>13</sup> Statutes such

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<sup>9</sup> Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 80–83 (Oxford Univ. Press 1966)

<sup>10</sup> *Delhi Dev. Auth. v. Skipper Constr. Co.*, (1996) 4 S.C.C. 622, 641 (India).

<sup>11</sup> Mahatma Gandhi National Rural Employment Guarantee Act, No. 42 of 2005, **INDIA CODE** (2005).

<sup>12</sup> *Swaraj Abhiyan v. Union of India*, (2016) 7 S.C.C. 498, 533–36 (India)

<sup>13</sup> *Harish Chandra v. Union of India*, (1996) 9 S.C.C. 309, 316 (India).

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as the Industrial Relations Code, 2020 primarily address issues of job security, retrenchment, layoffs, and dispute resolution, rather than imposing a duty upon employers or the State to provide employment. This regulatory approach reflects the constitutional balance between economic freedom, contractual autonomy, and social protection. Consequently, while the Constitution and judicial interpretation recognize livelihood as a protected interest, the realization of the right to work in urban and industrial contexts remains contingent upon labour market dynamics, state policy, and the effective implementation of labour welfare legislation.<sup>14</sup>

### **Industrial Relations Code and Employment Security**

The Industrial Relations Code, 2020 governs trade unions, conditions of employment, layoffs, retrenchment, and dispute resolution. While the Code aims to promote ease of doing business and industrial harmony, critics argue that it weakens job security by increasing thresholds for government approval for layoffs and retrenchment. From a constitutional standpoint, this raise concerns under Articles 21 and 38, as employment insecurity directly affects workers' right to livelihood and social justice.

At the same time, proponents argue that flexibility in labour markets can generate employment opportunities, indirectly supporting the right to work. The constitutional challenge lies in ensuring that flexibility does not come at the cost of dignity and livelihood security.<sup>15</sup>

### **Right to Wages: Constitutional Guarantees and the Code on Wages Equal Pay and Fair Wages**

The principle of equal pay for equal work, though not a Fundamental Right, has been judicially recognized under Articles 14 and 39(d). In *Randhir Singh v. Union of India*, the Supreme Court held that equal pay for equal work is a constitutional goal capable of enforcement through Article 14.<sup>16</sup>

The Code on Wages, 2019 consolidates laws relating to minimum wages, payment of wages, bonus, and equal remuneration. It extends minimum wage coverage to all employees, including those in unorganized sectors, reflecting constitutional commitments under Articles 39 and 43.

### **Minimum Wages and Living Wage Debate**

The Code introduces the concept of a national floor wage, allowing states to fix minimum wages above it. While this promotes uniformity, concerns have been raised about regional disparities and the adequacy of wages to meet living standards<sup>17</sup>. Article 43's emphasis on a living wage goes beyond minimum wages, calling for conditions that ensure dignity and social participation.

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<sup>14</sup>*State of Haryana v. Piara Singh*, (1992) 4 S.C.C. 118, 135–36 (India).

<sup>15</sup>*Consumer Educ. & Research Ctr. v. Union of India*, (1995) 3 S.C.C. 42, 67–68 (India).

<sup>16</sup>*Randhir Singh v. Union of India*, (1982) 1 S.C.C. 618, 622–23 (India).

<sup>17</sup> International Labour Organization, *Global Wage Report 2020–21*, at 78–80 (2021).

The effectiveness of the Code on Wages therefore depends on robust implementation, enforcement mechanisms, and periodic revision of wage standards in line with constitutional ideals.<sup>18</sup>

**Right to Social Security: Constitutional Vision and the Social Security Code  
Constitutional Basis of Social Security**

Social security occupies a central position in the constitutional scheme of labour welfare and reflects the Indian Constitution's commitment to safeguarding human dignity and social justice. Articles 41, 42, and 43 of the Directive Principles of State Policy collectively provide a robust normative foundation for social security by obligating the State to make effective provision for public assistance in situations of unemployment, old age, sickness, disability, and maternity, and to ensure just and humane conditions of work and a living wage. These provisions recognize that workers are vulnerable to socio-economic risks arising from contingencies beyond their control and that the State has a constitutional responsibility to mitigate such risks through institutional mechanisms of social protection. Although the Directive Principles are not enforceable by courts, the judiciary has consistently elevated the right to social security to a constitutional plane by interpreting it as an essential component of the right to life and personal liberty under Article 21. The Supreme Court has held that the right to life does not merely signify animal existence but encompasses the right to live with dignity, which necessarily includes access to basic social security measures<sup>19</sup>. In this context, social security has been judicially linked to the rights to health, livelihood, and humane working conditions, thereby transforming a directive obligation into a constitutionally protected entitlement. Judicial pronouncements have emphasized that social security measures are indispensable for protecting workers against contingencies such as illness, employment injury, disability, old age, maternity, and involuntary unemployment<sup>20</sup>. In *Consumer Education and Research Centre v. Union of India*, the Supreme Court recognized the right to health and medical care of workers as an integral part of Article 21, highlighting the State's duty to ensure conditions that enable workers to lead a life of dignity. Similarly, in *Bandhua Mukti Morcha v. Union of India*, the Court underscored that the dignity of labour requires protection from exploitation and access to welfare measures that address socio-economic vulnerabilities. Social security also assumes heightened importance in the context of India's labour market, which is characterized by a high degree of informality, precarious employment, and limited access to institutional welfare mechanisms. A vast majority of workers remain outside traditional employer-employee relationships, making them particularly susceptible to economic shocks and health risks. Constitutional recognition of social

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<sup>18</sup>*People's Union for Democratic Rights v. Union of India*, (1982) 3 S.C.C. 235, 241–43 (India).

<sup>19</sup>*Francis Coralie Mullin v. Union Territory of Delhi*, (1981) 1 S.C.C. 608, 618 (India).

<sup>20</sup>*State of Kerala v. N.M. Thomas*, (1976) 2 S.C.C. 310, 347–48 (India).

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security therefore serves as a corrective to market failures and structural inequalities inherent in the labour system<sup>21</sup>. It reinforces the idea that social security is not a matter of charity or policy discretion but a constitutional imperative rooted in the values of dignity, equality, and social justice. In this constitutional backdrop, social security legislation must be evaluated not merely on administrative efficiency or fiscal considerations but on its ability to fulfil the transformative promise of the Constitution. Statutory frameworks governing provident funds, health insurance, maternity benefits, gratuity, and unemployment assistance represent concrete expressions of constitutional mandates under Articles 41 to 43, read in conjunction with Article 21. Consequently, contemporary labour law reforms, including the Code on Social Security, 2020, must be assessed in terms of their effectiveness in extending comprehensive, inclusive, and enforceable social security protections to all categories of workers, including those in the unorganized, gig, and platform sectors.

#### **Code on Social Security, 2020**

The Code on Social Security, 2020 consolidates laws relating to provident fund, employee state insurance, gratuity, maternity benefit, and welfare of unorganized, gig, and platform workers. One of the significant features of the Code is the inclusion of gig and platform workers within the social security framework, acknowledging the changing nature of work.

However, the Code largely leaves the implementation of social security schemes to executive discretion, raising concerns about enforceability and adequacy<sup>22</sup>. From a constitutional perspective, social security should not remain a policy option but should move toward a rights-based framework aligned with Articles 21 and 41.

#### **Occupational Safety, Health, and Dignity of Labour**

The Occupational Safety, Health and Working Conditions Code, 2020 addresses working conditions, safety standards, and welfare facilities. Safe and humane working conditions are integral to the right to life under Article 21 and are explicitly recognized under Article 42.

While the Code consolidates multiple laws and introduces uniform standards, exemptions and threshold limits may exclude large sections of workers, particularly in small establishments<sup>23</sup>. This raises constitutional concerns regarding equality and dignity of labour.

#### **Federalism and Constitutional Challenges**

Labour is a subject in the Concurrent List, allowing both the Union and States to legislate. The labour codes, being central legislations, have significant implications

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<sup>21</sup> Amartya Sen, *Development as Freedom* 87–90 (Oxford Univ. Press 1999).

<sup>22</sup> Shruti Rana, Social Security Code and the Gig Economy, *Econ. & Pol. Wkly.*, Vol. 56, No. 3, at 14–16 (2021).

<sup>23</sup> Shruti Rana, India's Labour Codes and the Question of Exclusions, *Econ. & Pol. Wkly.*, Vol. 56, No. 1, at 12–14 (2021).

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for federal autonomy. States retain the power to frame rules, but the centralization of labour regulation may limit states' ability to address local labour conditions.

From a constitutional perspective, cooperative federalism must guide labour reforms to ensure that workers' welfare is not compromised in the pursuit of uniformity and economic growth.

### **Judicial Review and Constitutional Validity of Labour Codes**

Several provisions of the newly enacted labour codes have been subjected to constitutional scrutiny before various High Courts and are likely to reach the Supreme Court, primarily on grounds of alleged violations of Fundamental Rights, dilution of long-standing labour protections, and the absence of meaningful stakeholder consultation in the legislative process. Challenges have been raised questioning whether increased thresholds for layoffs and retrenchment, restrictions on collective action, discretionary social security schemes, and broad executive powers undermine workers' rights to equality, livelihood, and dignity guaranteed under Articles 14, 19, and 21 of the Constitution. These legal challenges reflect deeper concerns that labour law reforms, framed predominantly through the lens of economic liberalization and ease of doing business, may have disproportionately shifted the balance of power in favour of employers at the cost of labour welfare. In this context, judicial review assumes critical importance as a constitutional mechanism to ensure that labour legislation conforms to the substantive and procedural requirements of constitutional morality.

The courts are tasked not merely with examining the formal validity of the labour codes but with interpreting their provisions in a manner that harmonizes economic objectives with the Constitution's commitment to social justice. The doctrine of proportionality, the principle of non-arbitrariness, and the requirement of reasonableness under Article 14 are likely to play a decisive role in evaluating whether restrictions on labour rights are constitutionally permissible. Judicial interpretation will therefore determine whether flexibility introduced by the labour codes is accompanied by adequate safeguards to prevent exploitation and insecurity<sup>24</sup>. Historically, the Indian judiciary has functioned as a vigilant guardian of labour rights, consistently emphasizing that economic development cannot be pursued at the expense of human dignity. Through purposive interpretation, the Supreme Court has expanded the scope of labour protections by reading socio-economic rights into Article 21 and by harmonizing Fundamental Rights with the Directive Principles of State Policy. Decisions recognizing the right to livelihood, health, humane working conditions, and social security illustrate the judiciary's role in advancing a rights-

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based approach to labour welfare<sup>25</sup>. Future judicial engagement with the labour codes will be decisive in shaping the trajectory of labour rights in India. Courts may be called upon to clarify the constitutional limits of labour market flexibility, to assess the adequacy of welfare provisions for unorganized and gig workers, and to ensure that delegated legislation under the labour codes does not result in arbitrary or exclusionary outcomes. Ultimately, whether the constitutional promises of dignity, equality, and social security are meaningfully realized will depend not only on legislative intent but on sustained judicial vigilance in interpreting and enforcing labour reforms in consonance with the transformative vision of the Constitution.

**Conclusion:**

India's new labour laws represent a significant shift in labour regulation, aiming to simplify compliance and promote economic growth. However, labour reforms cannot be assessed solely through the lens of efficiency and investment. The Constitution of India envisions a social order where economic development goes hand in hand with social justice and dignity of labour.

The rights to work, wages, and social security, though articulated differently across constitutional provisions, form the core of labour welfare jurisprudence. The new labour codes must be implemented and interpreted in a manner that strengthens these rights rather than diluting them. A constitutional approach to labour law reform requires balancing flexibility with protection, growth with equity, and efficiency with justice. Only then can India's labour law regime truly reflect the constitutional vision of a just and inclusive society.

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<sup>25</sup>UpendraBaxi, Labour Law Reform and Constitutional Justice, *Indian J.L. & Soc'y*, Vol. 11, at 45–47 (2021).