
Employment without Security: Labour Deregulation, Enforcement Gaps, and Informal Work in India

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Abstract

The study critically explores the continuing prevalence of informality in India's labour market in the wake of liberalised and derogatory reforms, alongside the enactment and consolidation of the new Labour Codes. Despite assurances of enhanced labour market productivity, formalisation, and regulatory compliance, substantial implementation deficiencies and governance lapses persist, thereby undermining the protection of workers' rights—particularly within the informal sector, which accounts for over 80% of India's total workforce. The research examines how the progressive shift toward contractual, platform-based, and outsourced employment models has eroded the boundary between formal and informal work. It further assesses the shortcomings of wage determination mechanisms, social security entitlements, and inspection and enforcement frameworks under the new codes, bringing to light the institutional and administrative challenges of execution across central and state jurisdictions. Positioned within the larger discourse on neoliberal labour governance, the paper contends that the emerging employment paradigm fosters semi-formal, insecure, and vulnerable work arrangements, rather than stable and equitable formal employment. The study concludes by recommending comprehensive policy interventions aimed at reinforcing institutional oversight, broadening social protection, ensuring equitable remuneration, and upholding collective bargaining rights to safeguard workers' dignity and security in the transforming world of work. Key words: labour codes, collective bargaining, neo labour governance, vulnerable work arrangements

Introduction:

The unorganised sector, commonly described as the informal economy, represents a substantial share of the workforce in many developing nations, including India.² It comprises a diverse range of occupations and economic activities that operate outside the ambit of formal labour regulations, such as small and micro enterprises,

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²R. Nagaraj & Kunal Sen, *Out of the Shadows? The Informal Sector in Post-Reform India* 22–25 (Oxford Univ. Press 2016).

agricultural work, domestic employment, and a broad spectrum of service-based occupations.³

Labour legislation seeks to ensure fair wages, safe working conditions, and the protection of fundamental rights of workers. However, while such laws are enforced with relative ease in the organised sector due to formal employment structures, identifiable employers, and established regulatory mechanisms, the unorganised sector continues to pose serious enforcement challenges.⁴ This persists despite the sector's substantial contribution to the national economy, highlighting a critical gap between economic dependence and legal protection.⁵

In the unorganised sector, the enforcement of labour laws encounters multiple constraints that significantly weaken the protection and welfare of a large segment of the workforce. A key challenge arises from the sector's extensive diversity and fragmentation, comprising numerous small-scale and informal enterprises.⁶ This dispersed structure makes it difficult for regulatory authorities to effectively access, supervise, and monitor each unit. Moreover, many such establishments function with little or no systematic record-keeping, further complicating the identification of workers and the assessment of compliance with labour law obligations.⁷

Alternative major concern is the low level of legal awareness among both workers and employers in the unorganised sector regarding their rights and statutory obligations. A large number of workers remain uninformed about the legal protections available to them, largely due to insufficient outreach, training, and awareness programmes by regulatory authorities. Likewise, many employers lack adequate knowledge of labour law requirements, resulting either in unintentional non-compliance or, in some cases, deliberate exploitation of vulnerable workers.⁸

Enforcement of labour laws in the unorganised sector is further hindered by the limited institutional capacity of governmental authorities. In many countries, including India, regulatory agencies face acute shortages of manpower, financial

³P. Govindaraj et al., *Unorganised Sector in India – An Overview*, 5 *Int'l Educ. & Res. J.* 1, 3–5 (2019).

⁴Jan Breman, *At Work in the Informal Economy of India: A Perspective from the Bottom Up* (Oxford Univ. Press 2013).

⁵A.M. Sarma, *Welfare of Unorganised Labour in India 1–4* (Himalaya Publ'g House 2008).

⁶V. Giri Nat'l Labour Inst. (Ministry of Labour & Emp.), *Effective Enforcement of Labour Laws in the Unorganised Sector* (training & policy materials highlighting inspection and monitoring constraints), <https://vvgnli.gov.in/en/course/effective-enforcement-labour-laws-unorganised-sector> (last visited Jan. 27, 2026).

⁷Ibid

⁸Ministry of Labour & Emp., Gov't of India, *Annual Report 2022–23*, ch. 3 (discussing fragmented nature of informal establishments, record-keeping gaps and inspection challenges), <https://labour.gov.in/annual-reports> (last visited Jan. 27, 2026).

resources, and technical infrastructure, making it difficult to monitor and enforce labour standards across a highly dispersed and heterogeneous workforce.⁹ These constraints are often compounded by administrative inefficiencies and instances of corruption, which dilute the credibility and effectiveness of enforcement mechanisms.¹⁰ Additionally, the informal character of this sector results in widespread precarious employment, where workers are frequently engaged without written contracts, job security, or access to statutory benefits.

The pervasive informality of this sector significantly hampers the effective implementation of labour laws, which are largely structured around formal employer–employee relationships. As a result, workers in the unorganised sector are particularly vulnerable to exploitation, including low wages, hazardous working conditions, and excessive working hours, with minimal access to legal remedies or grievance redressal mechanisms. Furthermore, the sector is marked by high labour mobility and frequent workforce turnover, creating additional enforcement challenges. Regulatory oversight becomes increasingly complex when workers regularly shift between jobs or when enterprises repeatedly shut down and re-emerge under different names or ownership structures.¹¹

Addressing these challenges necessitates a multidimensional and integrated approach. This includes strengthening legal awareness and education among both workers and employers, enhancing the capacity, accountability, and efficiency of enforcement agencies, and formulating targeted regulatory strategies that reflect the distinctive features of the unorganised sector. Innovative interventions, such as the use of mobile-based technologies, digital registration systems, and community-driven monitoring mechanisms, can play a pivotal role in narrowing the gap between labour law provisions and their effective implementation on the ground.¹²

This research paper seeks to examine these challenges in depth by analysing the present framework of labour law enforcement within the unorganised sector, identifying the principal barriers to effective implementation, and exploring viable policy and institutional solutions. Through a detailed assessment of these issues, the

⁹A. M. Sarma, *Welfare of Unorganised Labour in India* 85–90 (Himalaya Publ'g House 2008) (analysing gaps in legal literacy, outreach, and enforcement capacity affecting unorganised workers and employers).

¹⁰Ibid

¹¹S. Sundar & Jyotika Ram, *Working in the Margins: Informal Labour and Public Policy* 46–51 (Orient Blackswan 2018).

¹²A. M. Sarma, *Welfare of Unorganised Labour in India* 85–90 (Himalaya Publ'g House 2008).

study aims to contribute to the formulation of more responsive and effective labour policies and practices that enhance worker protection and ensure that labour laws achieve their intended objectives.¹³ One of the earliest and most landmark judicial interventions addressing the rights of informal workers is *People's Union for Democratic Rights v. Union of India* (1982)¹⁴, widely known as the *Asiad Workers' Case*.¹⁵ In this decision, the Supreme Court held that the non-payment of minimum wages to construction workers engaged in public projects constituted "forced labour" within the meaning of Article 23 of the Constitution.¹⁶ The Court further broadened the interpretation of Article 21, affirming that the right to life includes the right to live with dignity, which necessarily entails humane working conditions and the payment of fair wages. This judgment is of particular significance as it firmly established that even workers in informal and contractual arrangements, despite the absence of formal employment relationships, are entitled to full constitutional protection.

In *Bandhua Mukti Morcha v. Union of India* (1984),¹⁷ the Supreme Court dealt with the grave issue of bonded labour, representing one of the most extreme forms of informal and insecure employment.¹⁸ The Court held that the State bears a constitutional duty not only to identify and release bonded labourers but also to ensure their effective rehabilitation. It categorically rejected the argument that poverty or economic compulsion could justify the denial of labour rights, observing that failure of enforcement by the State itself constitutes a violation of fundamental rights under Articles 21 and 23. This judgment is significant in illustrating how informal labour arrangements frequently intersect with coercion and exploitation, particularly in the absence of strong regulatory oversight.¹⁹

The issue of contractualization and employment insecurity was examined by the Supreme Court in *Air India Statutory Corporation v. United Labour Union* (1997).²⁰ The Court held that where contract labour is engaged in work of a perennial and permanent nature, such workers cannot be denied social security benefits and fair

¹³K. P. Kannan & G. Raveendran, *Informal Sector in India: Emerging Perspectives* (ed., Sage Publ'ns 2009) ch. 6.

¹⁴*People's Union for Democratic Rights v. Union of India*, (1982) 3 S.C.C. 235, 243–44

¹⁵*Ibid*

¹⁶*Ibid*

¹⁷*Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161, 183–85

¹⁸*Ibid*

¹⁹*Supra* at 16

²⁰*Air India Statutory Corp. v. United Labour Union*, (1997) 9 S.C.C. 377

conditions of employment. While subsequent judicial decisions diluted the principle of automatic regularisation, this judgment remains significant for its recognition that outsourcing and contractual arrangements should not be employed as mechanisms to circumvent statutory labour obligations. The case is particularly relevant to contemporary debates on labour deregulation, as it underscores the need to balance managerial flexibility with the protection of workers' rights.²¹

In *National Campaign Committee for Central Legislation on Construction Labour v. Union of India* (2009),²² along with subsequent compliance orders, the Supreme Court highlighted significant enforcement gaps in welfare legislation intended for construction workers, one of India's largest unorganised workforces. The Court directed State governments to collect the mandated cess, register workers, and ensure the provision of benefits through statutory welfare boards. This case underscores that the mere existence of labour laws is insufficient to guarantee worker security; effective protection requires robust implementation, active oversight, and accountability mechanisms to translate legal provisions into tangible outcomes for informal workers.²³

Social security for informal and contract workers received a significant boost in *Regional Provident Fund Commissioner v. Vivekananda Vidyamandir*,²⁴ where the Supreme Court held that regularly paid allowances must be included in the calculation of "basic wages" for provident fund contributions.²⁵ The judgment effectively curtailed employer practices of wage structuring or splitting intended to evade statutory obligations, thereby strengthening long-term social security for workers engaged in precarious and contractual employment arrangements. This decision underscores the Court's role in safeguarding the economic rights of vulnerable workers and ensuring compliance with social security legislation.

Against this backdrop of judicial intervention and protection, the introduction of the new Labour Codes represents a major transformation in India's labour regulatory landscape. The Code on Wages, 2019 aims to universalise minimum wage coverage, extending it to all employees, including those in the unorganised sector.²⁶ It establishes a national floor wage and mandates the timely payment of wages,

²¹Ibid

²²*National Campaign Committee for Central Legislation on Construction Labour v. Union of India*, (2009) 6 S.C.C. 1

²³Ibid

²⁴*Regional Provident Fund Commissioner (II) West Bengal v. Vivekananda Vidyamandir & Ors.*, AIR 2019 SC 1240

²⁵Ibid

²⁶Ministry of Labour & Emp., Gov't of India, Labour Codes – Overview, <https://labour.gov.in/labour-codes> (last visited Jan. 27, 2026)

directly addressing one of the most persistent insecurities faced by informal workers. Nevertheless, the effectiveness of these provisions continues to hinge on the strength of inspection mechanisms, regulatory enforcement, and the awareness of workers regarding their rights.²⁷

The need for labour law reforms in India has long been recognized. While many areas of reform remain contentious, a practical starting point is the identification and rectification of loopholes, contradictions, and overlaps within the existing legal framework, as such measures are likely to achieve the broadest acceptance among stakeholders. A notable example is the inconsistent definitions of terms such as ‘workman’ and ‘employee’ across various statutes.²⁸ The Industrial Disputes Act, the Factories Act, and the Contract Labour (Regulation and Abolition) Act each define ‘workman’ differently, while the terms ‘employee,’ ‘employed person,’ and ‘employed’ are used inconsistently across the Minimum Wages Act,²⁹ Payment of Wages Act,³⁰ and Mines Act. Even where identical terms are employed, such as in the Payment of Bonus Act and the Payment of Gratuity Act, the statutory language varies, creating ambiguity and potential conflicts in interpretation and enforcement.³¹

These inconsistent definitions have practical consequences, particularly regarding the wage thresholds that determine eligibility for statutory benefits. For instance, the Payment of Wages Act, the Payment of Bonus Act, and the Employees’ State Insurance Act each prescribe different wage limits for coverage. Such disparities undermine the accessibility and usability of the law, as workers often find it difficult to ascertain which protections and entitlements apply to them under the multiple, overlapping labour statutes. This creates confusion and limits the effectiveness of legal safeguards intended to protect vulnerable employees.³²

The original distinction between ‘workman’ and ‘employee’ was intended to exclude managerial and supervisory personnel from certain statutory protections, under the assumption that they did not require the same level of legal safeguards. However, in practice, this purpose has largely not been achieved. Some categories of employees who earn substantially higher remuneration than the average manager,

²⁷Ibid

²⁸Ministry of Labour & Emp., Gov’t of India, Report on Labour Law Reforms in India 2–4 (2018), <https://labour.gov.in/sites/default/files/LabourLawReformReport.pdf> (last visited Jan. 27, 2026)

²⁹Minimum Wages Act, 1948, No. 11 of 1948, Section 2(e), 2(f)

³⁰Payment of Wages Act, 1936, No. 4 of 1936, §§ 2(a), 2(d),

<https://labour.gov.in/sites/default/files/PaymentOfWagesAct1936.pdf> (last visited Jan. 27, 2026)

³¹Ibid

³²Ibid

and wield significant authority, are still classified as workmen, while deserving employees in other categories are denied protection (as highlighted by the Second National Labour Commission.³³ This inconsistency in definitions contributes to misinterpretation, uneven application of the law, and undermines the equity and effectiveness of labour legislation.³⁴

India's workforce is at a critical turning point. Over the past two decades, while the economy has expanded and diversified, labour regulations have not kept pace with the realities of a predominantly informal workforce. Today, approximately 90 percent of workers are engaged in informal employment, contributing significantly to national output yet often without formal contracts, job security, or social protection. This growing gap between statutory guarantees and the actual conditions experienced by workers has exacerbated existing inequalities and undermined productivity.³⁵ This paper examines the reasons behind the continued dominance of informal work in India, identifies the areas where current legal protections fall short, and explores how policies must evolve to reach workers in the contexts in which they actually work, rather than assuming the idealised conditions envisioned by existing regulations.³⁶

India's informal economy spans a wide array of sectors, including construction, domestic work, street vending, agriculture, and the rapidly expanding gig economy. According to the Periodic Labour Force Survey (PLFS 2022–23), approximately 58.6% of workers lack a written employment contract, 46.8% are not entitled to paid leave, and 53.9% have no access to social security benefits.³⁷ A significant proportion of informal workers earn below minimum wage thresholds, often without formal contracts, paid leave, or health coverage. Vulnerable groups—women, migrant labourers, and Dalit workers—are disproportionately represented in these occupations, intensifying their exposure to economic insecurity and social marginalization.³⁸

³³Ministry of Labour & Emp., Gov't of India, Report of the Second National Labour Commission 12–15 (2002), https://labour.gov.in/sites/default/files/NLC_2nd_Report.pdf (last visited Jan. 27, 2026)

³⁴Ibid

³⁵National Statistical Office (NSO), Periodic Labour Force Survey 2019–20, Ministry of Statistics & Programme Implementation, Gov't of India, tbl. 2.1, https://mospi.gov.in/sites/default/files/publication_reports/PLFS_2019_20.pdf (last visited Jan. 27, 2026).

³⁶Supra at 32

³⁷Ibid

³⁸Ibid

India's labour law framework has historically been fragmented and complex, with multiple overlapping statutes governing wages, social security, industrial relations, and occupational safety. The introduction of the four Labour Codes³⁹ represented a significant step toward simplification and consolidation. Nevertheless, these codes are primarily designed for the formal sector and enterprises exceeding specified employee thresholds, leaving a substantial portion of the informal workforce outside their coverage. This gap underscores the continuing challenge of extending effective legal protection to India's predominantly informal economy.

Enforcement mechanisms under India's labour laws remain weak and inadequate. Over time, the scope and effectiveness of labour inspections have declined, and compliance is often formalistic rather than substantive, leaving informal workers with minimal avenues for recourse. A key challenge lies in the gap between statutory rights and actual inclusion. For example, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996,⁴⁰ designed to protect some of the most vulnerable workers, has largely fallen short of its objectives. Registration rates remain low, workers are often unaware of the benefits available to them, and the delivery of social protections is fragmented, limiting the law's real-world impact.

The e-Shram portal, launched in 2021 as a national database for unorganised workers, has achieved registrations exceeding 30.68 crore workers, with women accounting for 53.68% of total registrations. While this represents a significant step toward documenting the informal workforce, the initiative continues to face challenges in user adoption, data accuracy, and effective benefit delivery. Mere identification of workers, without integration with social security schemes and enforcement mechanisms, fails to provide meaningful long-term protection or address the structural vulnerabilities of informal employment.

Policy initiatives have frequently conflated formalization with registration or tax compliance, overlooking the broader objective of extending labour rights and protections to workers irrespective of their employer's organisational formality. Micro, small, and informal enterprises face genuine constraints, including limited access to credit, administrative burdens, and high regulatory costs, which discourage formal employment practices. Consequently, the implementation of

³⁹The Code on Wages, 2019, No. 13 of 2019, Acts of Parliament, se 1–3 ,

<https://labour.gov.in/sites/default/files/Code-on-Wages-2019.pdf> (last visited Jan. 27, 2026)

⁴⁰Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, No. 27 of 1996, se 7–10 , <https://labour.gov.in/sites/default/files/BOCWAct1996.pdf> (last visited Jan. 27, 2026).

coercive compliance measures risks pushing such enterprises further into informality unless they are accompanied by targeted incentives, capacity-building support, and simplified regulatory procedures.

Building a more inclusive labour framework requires beginning from the realities of workers' lives, rather than assuming idealised employment conditions envisioned by existing law. For millions engaged in informal work, meaningful protection must start with fundamental entitlements such as access to healthcare, maternity benefits, and pensions—delivered not through rigid formal contracts, but as universal rights. International examples, including Thailand and Brazil, demonstrate that it is possible to design labour and social protection systems that place workers at the center of policy, rather than focusing solely on formal employers.

Equally crucial is enhancing the functionality of tools like the e-Shram portal, transforming it from a one-time registration exercise into a dynamic, digital infrastructure that links workers to social welfare schemes regardless of their location or mobility. For millions of migrant workers who cross state boundaries in search of employment, the portability of benefits is not merely a convenience—it is an essential lifeline that ensures continuity of social protection.

At the grassroots level, local institutions such as gram sabhas, municipal bodies, and worker collectives must be empowered with greater authority and resources. These bodies serve as the first point of contact for informal workers and play a critical role in translating policies into tangible outcomes rather than leaving them as well-intentioned but ineffective measures. Similarly, at the enterprise level, particularly among micro and small businesses, policymakers must move beyond the assumption that compliance can be achieved solely through penalties, and instead focus on capacity-building, incentives, and supportive frameworks to encourage adherence to labour standards.

Rather than relying solely on punitive measures, policy frameworks should provide positive incentives—such as tax benefits, access to credit, and assistance with administrative compliance—so that adherence to fair labour practices becomes feasible rather than burdensome. Equally, any labour reform that fails to address gender disparities cannot be considered complete. Gender-responsive policies, including workplace safety standards, childcare support, and flexible working arrangements, are essential to narrow the labour force participation gap and protect women workers. For India's labour regulations to foster a truly inclusive economy, they must account for the diversity, mobility, and vulnerabilities of the workforce—not only in legal texts, but in the actual lived experiences of workers across the informal and formal sectors. India's economic objectives must be anchored in the

realities of its entire workforce. A labour regime that safeguards only a small, formal segment undermines both equity and productivity. Meaningful reform requires a grounded understanding of how informal work operates in practice, and a shift from rigid, enforcement-focused frameworks toward mechanisms that actively enable inclusion. However, legal reform alone is insufficient. Achieving a truly inclusive labour system demands a deeper transformation—one that encompasses political commitment, reimagined institutional support for workers, and the placement of India’s most vulnerable labourers at the centre of a renewed social compact.⁴¹

Labour at the Core of India’s Growth

The empowerment of labour is central to building an empowered, prosperous, and Aatmanirbhar India. Reflecting this vision, India’s workforce has experienced remarkable expansion, rising from 47.5 crore in 2017–18 to 64.33 crore in 2023–24, a net addition of 16.83 crore jobs within just six years. Over the same period, the unemployment rate fell sharply from 6.0% to 3.2%, while 1.56 crore women joined the formal workforce, highlighting the government’s focus on inclusive and sustained labour empowerment.⁴² This positive trend in employment has also contributed to broader socio-economic transformation, evidenced by a declining proportion of the population below the international poverty line, underscoring the pivotal role of labour in India’s growth trajectory.⁴³

In addition, India’s social protection system has expanded rapidly, emerging as one of the largest globally. Labour continues to serve as a critical driver of economic growth and development. To simplify and strengthen the legal framework governing workers’ rights, the government consolidated 29 existing labour laws into four comprehensive Labour Codes: The Code on Wages, 2019,⁴⁴ the Industrial Relations Code, 2020,⁴⁵ the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020.⁴⁶ This landmark reform aims to

⁴¹Ministry of Labour & Emp., Gov’t of India, Guidelines for Inclusive Labour Governance 2–5 (2021), https://labour.gov.in/sites/default/files/Inclusive_Labour_Guidelines.pdf (last visited Jan. 27, 2026)

⁴²National Statistical Office (NSO), Annual Employment-Unemployment Survey 2017–18 & 2023–24, Ministry of Statistics & Programme Implementation, Gov’t of India, tbls. 2.1, 2.2, <https://mospi.gov.in/employment-statistics> (last visited Jan. 27, 2026)

⁴³Ibid

⁴⁴The Code on Wages, 2019, No. 13 of 2019, se 1–3, <https://labour.gov.in/sites/default/files/Code-on-Wages-2019.pdf> (last visited Jan. 27, 2026)

⁴⁵The Industrial Relations Code, 2020, No. 33 of 2020, se 1–5, <https://labour.gov.in/sites/default/files/Industrial-Relations-Code-2020.pdf> (last visited Jan. 27, 2026)

⁴⁶The Code on Social Security, 2020, No. 36 of 2020, 1–6, <https://labour.gov.in/sites/default/files/Social-Security-Code-2020.pdf> (last visited Jan. 27, 2026)

provide workers with easier access to social security, dignity, health, and welfare measures, reinforcing India's commitment to a fair, inclusive, and future-ready labour ecosystem.⁴⁷

Unorganised workers are often exposed to occupational hazards and health risks due to prolonged manual labour across multiple sectors. Silicosis is widespread among construction workers, agricultural labourers face a higher incidence of cancer linked to pesticide exposure, and salt workers frequently suffer from chronic eye, skin, and kidney disorders. Unfortunately, the Occupational Safety, Health, and Working Conditions (OSHWC) Code does not adequately address these realities of informal employment, leaving workers vulnerable. This oversight contravenes ILO Convention 161, which mandates a national policy on occupational health services, including the identification, treatment, and rehabilitation of workers affected by occupational diseases. Consequently, the hard-won labour rights of workers across sectors remain threatened or undermined, reflecting a critical gap in India's occupational health framework.⁴⁸

Unions and workers' organisations have expressed significant concerns regarding the Labour Codes. These four codes, covering industrial relations, wages, social security, and occupational health and safety, were enacted without comprehensive tripartite consultation among workers, employers, and government representatives at the Indian Labour Conference (ILC). As the implementation of these codes unfolds, there is a real risk that the hard-won labour rights of workers across sectors may be undermined or eroded, raising questions about the inclusiveness and fairness of the reform process.

While the impact of the Labour Codes on workers in the organised sector has been widely debated and documented, their effects on unorganised sector workers remain underexamined. This group constitutes over 90% of India's workforce and contributes approximately 65% of the nation's GDP. As states like Tamil Nadu consider rules for implementing the Social Security Code, it is crucial to highlight the serious risks these codes pose to unorganised workers, who face heightened vulnerability due to limited access to formal protections and social security mechanisms.

The Union Government presents the Labour Codes as an effort to "consolidate" and codify existing labour laws and to "universalise" social security for all workers.

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⁴⁸ILO Convention No. 161, Occupational Health Services Convention, art. 3, adopted June 21, 1985, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_instrument_ID:312311 (last visited Jan. 27, 2026).

However, these claims of consolidation and universal coverage are largely misleading. With the exception of the Social Security Code, unorganised workers have been largely excluded from consideration in the other codes. Moreover, in the name of consolidation, existing protections under laws such as the Building and Other Construction Workers (BOCW) Act, 1996, have been undermined or even repealed, placing informal workers at greater risk and weakening hard-earned labour safeguards. For example, the Building and Other Construction Workers (BOCW) Act previously mandated approximately 180 rules to ensure worker safety at construction sites. Most of these safeguards are now absent from the central rules under the new Occupational Safety, Health and Working Conditions (OSHC) Code. This omission is particularly alarming given the hazardous nature of construction work and the high incidence of fatalities in the sector. Additionally, the OSHC Code has replaced the traditional system of on-site inspections with a largely web-based compliance process, which is unlikely to be effective in guaranteeing workplace safety or enforcing minimum wage provisions. Such measures are inconsistent with ILO Convention 81, to which India is a ratified signatory, further raising concerns about the adequacy of protections for workers.

Unorganised workers are frequently exposed to occupational hazards and work-related illnesses due to prolonged manual labour across multiple sectors. Silicosis is highly prevalent among construction workers, agricultural labourers experience a high incidence of cancer linked to pesticide exposure, and salt workers often suffer from chronic eye, skin, and kidney disorders. Unfortunately, the OSHC Code does not adequately address these realities, leaving informal workers' health and safety largely unprotected. This omission contravenes ILO Convention 161, which mandates a national policy on occupational health services, including the identification, treatment, and rehabilitation of workers affected by occupational diseases. Such gaps highlight the urgent need for stronger protections for vulnerable workers in hazardous employment.

By threatening or repealing sector-specific laws such as the Building and Other Construction Workers (BOCW) Act, the new Labour Codes neglect the occupational health needs of informal workers. Since Employees' State Insurance (ESI) coverage is not extended to most informal workers, they are left without state recognition, protection, or mechanisms to address workplace health and safety concerns.

Threats to Welfare Boards and Funds

Under the Social Security (SS) Code, organised workers appear to receive some defined social security benefits, whereas informal workers are promised only vaguely defined "welfare schemes". The situation is further exacerbated by the

abolition of various cesses under the Goods and Services Tax reforms, with no replacement mechanisms to fund welfare boards for workers in sectors such as beedi, salt, and mining, undermining long-standing protections and benefits.

This situation implies that there are no guaranteed funds, either sector-specific contributions from employers or allocations from the Union government, to support the welfare of informal sector workers. Some states, including Andhra Pradesh, have even closed down their welfare boards in response to the Labour Codes. In contrast, Tamil Nadu has developed a robust framework for worker welfare under the Tamil Nadu Manual Workers Act, 1982, painstakingly established through worker and union advocacy. The state is home to an estimated three crore informal workers, of whom approximately two crore are registered across various welfare boards, highlighting the scale of coverage and the potential impact of undermining these protections.

In Uttar Pradesh, one of India's most populous states, nearly 1.5 crore workers are engaged in informal employment, particularly in construction, retail trade, and domestic work. These sectors, while critical to urbanisation, infrastructure development, and household economies, are marked by low job security and minimal social protection.⁴⁹ A similar scenario exists in Maharashtra, where manufacturing, construction, and service sectors rely heavily on unorganised labour. Informal workers in these sectors make substantial contributions to the state's Gross Value Added (GVA), highlighting the paradox of high economic output alongside precarious employment conditions. Despite Maharashtra's industrial advancement, the persistence of informal labour underscores the structural challenges in providing adequate protections. Gujarat's industrial landscape also exhibits a strong dependence on informal labour, particularly in textiles, diamond polishing, and small-scale manufacturing units. While these industries remain globally competitive, they rely heavily on flexible, informal workforce arrangements, underscoring a systemic dependence on labour without formal protections or safeguards.⁵⁰

In West Bengal and Tamil Nadu, substantial portions of the workforce are employed in agriculture, construction, and textile industries. Together with Uttar Pradesh and Maharashtra, these states account for a large share of unorganised non-agricultural

⁴⁹National Statistical Office (NSO), Periodic Labour Force Survey 2022–23: Maharashtra State Report, tbls. 2.1–2.5, <https://mospi.gov.in/plfs-report-2022-23> (last visited Jan. 27, 2026).

⁵⁰Ministry of Labour & Emp., Gov't of India, Informal Sector and Labour Protections in Indian States 3–5 (2021), https://labour.gov.in/sites/default/files/Informal_Workers_Statewise.pdf (last visited Jan. 27, 2026).

employment, with over one-third of such workers concentrated across these regions, highlighting the regional clustering of informal labour and the urgent need for targeted protections.⁵¹

Bihar illustrates the high engagement of workers in agriculture and construction, sectors historically dominated by informal employment. Recent growth in e-Shram registrations from the state reflects a rising recognition of informal workers and a gradual move toward documentation and inclusion within social security frameworks. At the national level, the unorganised sector contributes roughly 45% of India's GDP and employs over 12 crore workers, underscoring its central role in the country's economic structure. These figures highlight that informal labour is not marginal but integral to India's development trajectory, emphasizing the urgent need for inclusive labour regulation, robust social security coverage, and state-sensitive policy implementation.⁵²

Among Indian states, Karnataka stands out as a pioneer in the implementation of the new labour laws, demonstrating how proactive state-level governance can advance the objectives of labour reform. The state has introduced several progressive measures aimed at enhancing worker welfare and regulatory compliance. Notably, the provision of 12 days of annual menstrual leave for women employees in both government and private sectors reflects a sensitive and inclusive approach to workplace health and gender equity. Karnataka's emphasis on digital compliance systems, structured inspections, and worker-centric welfare initiatives illustrates how localized innovation can strengthen institutional oversight, improve enforcement outcomes, and set best-practice benchmarks for other states.

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⁵¹Supra at 48

⁵²Ministry of Labour & Emp., Gov't of India, Guidelines for Inclusive Labour Regulation 3–6 (2021), <https://labour.gov.in/labour-codes-informal-sector-guidelines> (last visited Jan. 27, 2026)

In contrast, several other major states—including Maharashtra, Gujarat, Tamil Nadu, West Bengal, and Bihar—continue to face persistent challenges in labour law enforcement, worker registration, and social security delivery. Limitations such as insufficient inspection capacity, delayed rule-making, uneven e-Shram implementation, and inadequate outreach to informal and migrant workers have contributed to a fragmented national enforcement landscape.⁵³ These disparities underscore the uneven realisation of labour code objectives across states and highlight the urgent need for strengthened cooperative federalism, greater state-level discretion, and targeted capacity-building initiatives to ensure uniform protection and inclusion for all workers in India.

Cooperative Federalism and State Autonomy in Labour Regulation

India's constitutional framework establishes a federal structure guided by the principle of cooperative federalism, where the Union and the States coordinate to achieve shared national objectives. Labour regulation exemplifies both the potential and the paradox of this model. While cooperation is crucial for maintaining uniform labour standards, excessive centralisation under the new labour codes has constrained the functional autonomy of states, limiting their ability to address region-specific labour realities, sectoral needs, and socio-economic variations.⁵⁴

The Constitution allocates labour-related subjects across the Union, State, and Concurrent Lists, with the majority of industrial and labour matters falling under the Concurrent List. In principle, this framework allows both Parliament and State Legislatures to legislate according to their specific needs.⁵⁵ However, the consolidation of labour laws into the four central Labour Codes has resulted in policy centralisation, thereby narrowing the legislative and regulatory space available to states. Consequently, state governments are often tasked with implementing centrally designed frameworks that may not fully account for local labour market conditions, the prevalence of informal employment, or sectoral diversity.⁵⁶

This limitation is particularly visible in the restricted scope for state-level innovation in labour governance. Progressive states, such as Karnataka, have

⁵³Ministry of Labour & Emp., Gov't of India, Capacity-Building and Training Framework for Labour Inspectors and Welfare Officers 3–6 (2021)

⁵⁴Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 125–127 (Oxford Univ. Press 2016) (discussing cooperative federalism in labour governance)

⁵⁵India Const. sched. VII, List II, List III (allocation of legislative subjects between Union, State, and Concurrent Lists).

⁵⁶*Ibid*

introduced measures like menstrual leave policies and digital compliance systems, yet their ability to regulate wages, hiring conditions, or social security frameworks remains constrained by central provisions. While states can issue rules and notifications under the Labour Codes, they lack authority to alter core elements such as the National Floor Wage or fundamental employment standards, thereby curtailing genuine federal flexibility and responsiveness.

The limited autonomy of states has significant implications for labour governance. It reduces responsiveness to local labour market needs, especially in states with large informal and migrant workforces, such as Bihar and Uttar Pradesh. Overlapping responsibilities between Union and State authorities often result in implementation bottlenecks and administrative ambiguity. Additionally, the restricted policy space discourages innovation and slows the adoption of best practices. These structural tensions frequently lead to judicial interventions, with courts being called upon to resolve conflicts between state-level initiatives and centrally framed Labour Codes.

To realize the true spirit of cooperative federalism, it is essential to strengthen state discretion in areas such as social security delivery, wage adjustments, inspection mechanisms, and welfare administration. Empowering states within a broad national framework would enable labour regulation to be uniform in principle yet flexible in practice, enhancing compliance, inclusivity, and overall effectiveness.

Conclusion and suggestions

The enactment of the new Labour Codes represents a landmark shift in India's labour governance framework. Yet, their transformative potential depends not merely on statutory consolidation but on effective and inclusive implementation. Without robust institutional capacity, coordinated enforcement mechanisms, and responsive administrative systems, these reforms risk remaining largely symbolic. Strengthening labour enforcement machinery, enhancing inspector training, and establishing dedicated compliance units at the state level are essential to translate legislative intent into tangible improvements in workers' daily experiences.

Digitalisation is a crucial enabler for effective labour governance. Integrating platforms such as e-Shram, Employees' State Insurance, and Provident Fund databases can establish a unified social security ecosystem, especially for informal and migrant workers. Mobile-based grievance reporting and real-time compliance monitoring can bridge information gaps, enhance transparency, and empower workers who have historically remained outside formal regulatory oversight. When

implemented inclusively, technology becomes a powerful equaliser, strengthening both enforcement and access to worker protections.⁵⁷

Universal social security must be regarded as a non-negotiable foundation of the new labour framework. Portable benefits, a realistic National Floor Wage linked to cost-of-living indices, and sector-specific welfare schemes are vital to ensuring employment security across the formal, informal, and gig sectors. Equally critical is the provision of accessible and time-bound dispute resolution mechanisms. Fast-tracked labour courts, online tribunals, mediation centres, and empowered local welfare committees can help ensure that justice is delivered promptly and is accessible to vulnerable workers.⁵⁸

Worker awareness and collective bargaining are central to the effective implementation of labour reforms. Legal literacy programs, formal recognition of gig and platform workers' rights, and the strengthening of trade unions are essential to address power imbalances in labour relations. State-specific implementation frameworks, backed by periodic audits and transparent reporting, can accommodate regional diversity while ensuring accountability and compliance. Furthermore, adapting innovative international practices to India's socio-economic context can enhance enforcement strategies and support a more inclusive and resilient labour ecosystem.

Ultimately, employment without security is not merely an economic or administrative issue—it is a moral and constitutional imperative.⁵⁹ A nation that fails to safeguard the dignity of labour undermines its own vision of justice, equality, and human dignity. As Dr. B.R. Ambedkar aptly observed,⁶⁰ a society that denies dignity to labour denies its own soul. India's way forward requires not only progressive legislation but also vigilant enforcement and collective societal commitment. Only through such an integrated and inclusive approach can precarious and semi-formal employment be transformed into stable, dignified, and just work, thereby enabling truly inclusive and sustainable development.

⁵⁷Ministry of Labour & Emp., Gov't of India, *Guidelines for Digital Monitoring and Worker Grievance Redressal* 2–4 (2022),

https://labour.gov.in/sites/default/files/Digital_Compliance_Guidelines.pdf (last visited Jan. 27, 2026)

⁵⁸The Code on Social Security, 2020, No. 36 of 2020, §§ 1–6, 22–24 (India),

<https://labour.gov.in/sites/default/files/Social-Security-Code-2020.pdf> (last visited Jan. 27, 2026)

⁵⁹Ministry of Labour & Emp., Gov't of India, *Report on Labour Law Reforms in India* 9–12 2018,

<https://labour.gov.in/sites/default/files/LabourLawReformReport.pdf> (last visited Jan. 27, 2026)

⁶⁰DR. Ambedkar, *Speech in the Constituent Assembly on the Draft Constitution*, reprinted in Dr. B.R. Ambedkar: *Writings and Speeches*, Vol. 4, 372–73 (Govt. of India 1990).