
REIMAGINING LABOUR JUSTICE: A SOCIO-LEGAL ANALYSIS OF INFORMAL SECTOR WORKERS AND THE CRISIS OF PRECARIOUS EMPLOYMENT

Mohd Atif Raza, Aligarh Muslim University

Mohd Saifullah Khan, Aligarh Muslim University

ABSTRACT

This paper explores the crisis of insecure employment facing many within India's informal sector. Despite legal protections and social programs, informal workers continue operating on society's margins with little job security, fair wages, workplace safety, or access to healthcare and pensions. While acknowledging their rights rhetorically, the legal system fails to address the complexity and fluidity of these informal labour relations through strong enforcement mechanisms. This research identifies a gap between statutes and their practical application. Even as the discourse includes informal workers, absent robust institutions, fragmented implementation, and lack of recognition as rights-holders undermine progress. Moreover, new forms of precarious gig work now permeate technologically-enabled jobs, expanding informality's scope. By evaluating national and international frameworks, judicial interventions, and grassroots movements, this study argues for a transformative approach to labour justice. It advocates participatory lawmaking, inclusive social models, and rights-based recognition of informal workers across sectors. As Ambedkar emphasized, "Labor is not a commodity; it is a measure of human dignity." Ensuring informal workers' invisibility dissipates in law and policy is a legal necessity and moral imperative.

Keywords: Unregulated Labor, Legal Reform, Unstable Employment, Socioeconomic Rights, Exclusion from Protections.

Introduction

The informal sector, though largely unregulated and under-recognized, forms the backbone of many emerging economies, including India. It hires a significant bulk—estimated to be over 90%—of workers and contributes substantially to the country's GDP.¹ Yet those powering this sector regularly remain outside the protective umbrella of official legal systems. These individuals regularly face uncertain job situations, inadequate or no social security, lack of written contracts, low and inconsistent wages, and an absence of occupational safety—all amounting to what is now widely characterized as precarious work.

In most cases, informal labourers are not only legally unacknowledged but also socially and economically marginalized. Their contributions are essential, but their rights are overlooked. This paradox of prominence in labour yet obscurity in law raises fundamental issues about equality, justice, and the genuine reach of legal protection in democratic societies. Despite numerous legislative and policy initiatives—such as India's Labor Codes, the Unorganized Workers Social Security Act (2008), and various state-level welfare schemes—informal workers continue struggling to access basic entitlements like healthcare, pensions, maternity benefits, and safe working environments².

This analysis argues that the current legal and policy frameworks suffer from both structural and conceptual limitations. Legal definitions often fail to capture the fluid and ever-changing nature of informal work, while enforcement mechanisms are either weak or completely absent. Additionally, the rapidly expanding gig and platform-based economy has introduced new forms of informality challenging traditional legal categories of 'worker' and 'employer.' Hence, there exists an urgent need to reimagine labour justice—to transition from token legal acknowledgement to robust, inclusive, and enforceable safeguards that reflect work's ever-evolving nature. This paper employs a socio-legal lens to explore the lived experiences of informal workers, assess existing frameworks' adequacy, and propose pathways toward a more equitable and rights-based approach to labour regulation.³

¹ India's economy and the challenge of informality, *The Hindu* (31 Jan. 2022), available at: <https://www.thehindu.com/opinion/op-ed/indias-economy-and-the-challenge-of-informality/article38335803.ece> (last visited July 09, 2025)

² Santosh Mehrotra & Kingshuk Sarkar, *A collage of laws that leaves the worker out in the cold*, *The Hindu* (20 May 2021)

³ Kamala Sankaran, *Re-visioning Labour Law for Informal Workers in India*, in *Social Justice and Labour Jurisprudence* 231 (Sharit Bhowmik ed., Oxford Univ. Press, 2021).

Theoretical Perspectives

Analysing informal sector employment and job insecurity necessitates an interdisciplinary theoretical foundation extending beyond conventional legal paradigms. This study draws from three interrelated viewpoints: social justice theory, Amartya Sen's capability approach, and legal pluralism, to critically examine informal invisibility and vulnerability within legal systems.⁴

Social justice theory sits at labour justice's core, aligned with broader social justice ideas concerning fair distribution of rights, opportunities, and resources. Philosophers like John Rawls argue policies and laws should ensure the most disadvantaged members of society fare better. Applying this to informal work, vast portions of the workforce's lack of legal and social protection highlights a massive injustice, interrogating why certain groups remain excluded from formal regimes and emphasizing states' ethical duty to remedy imbalances.⁵

Amartya Sen's Capability Approach proposes redefining development as an expansion of individual freedoms and capabilities rather than merely economic terms. From this perspective, labour justice must focus not only on legal provisions but also on the real ability of workers to live with dignity, security, and choice. Those in informal work often lack such agency due to structural barriers including poverty, job insecurity, illiteracy, and weak bargaining power. This framework allows an assessment not just of laws on paper but of their practical impact on human growth and well-being.

The theory of legal pluralism acknowledges that multiple legal systems can coexist within a single social sphere—state law, cultural practices, informal norms, and institutional frameworks. For informal labourers, navigating a blend of formal rules, unofficial agreements, and local customs is a reality. Legal pluralism challenges the primacy of formal law and promotes the inclusion of community-driven solutions, unions, and civic involvement as valid means of dispensing justice. It facilitates a more nuanced understanding of how law is experienced in daily life by those in informal work.⁶

Together, these perspectives offer a comprehensive lens through which to evaluate

⁴ Amartya Sen, *Development as Freedom* (Oxford Univ. Press, 1999).

⁵ John Rawls, *A Theory of Justice* 266–283 (Harvard Univ. Press, rev. ed. 1999).

⁶ John Griffiths, *What is Legal Pluralism?*, 24 *Journal of Legal Pluralism and Unofficial Law* 1 (1986).

shortcomings of current labour legislation, real challenges faced by informal workers, and the transformative potential of legal reforms grounded in equity, empowerment, and inclusion.

The governing framework for labour incorporates both domestic and international statutes and agreements, as well as an examination of the institutions and enforcement mechanisms that do or do not back those laws. While many rules and accords aim to safeguard workers' rights, most were historically designed for standard employment situations, leaving informal labourers marginalized or entirely unprotected.⁷

Provisions under the Indian Constitution and related statutes

The constitution of India establishes crucial commitments to labour justice through several provisions especially within the Directive Principles of State Policy. Key articles protecting informal workers include equality before the law under Article 14; Articles 21's interpretation including the right to livelihood, dignity, and safe work; Articles 39(a) and (e) mandating adequate livelihood and preventing exploitation. Article 43 directs ensuring a living wage and decent working conditions. While non-justiciable, these guide law and policy development while expanding informal protection under Article 21 via court interpretation.

Despite the focus, informal protection has historically been fragmented. Recent progress includes the Social Security Code of 2020 consolidating previous welfare laws and promising coverage for unorganized, gig, and platform employees. However, actual registration and benefit delivery mechanisms remain vague and underdeveloped. The Wages Code of 2019 ensures minimum pay and timely payment applying to all irrespective of contracts, in theory widely covering the informal sector but practical enforcement is minimal. The Building and Other Construction Workers Act of 1996 was landmark for one group, establishing welfare boards, cess collection and registration though registration levels stay low and funds often underused. The Unorganised Workers Social Security Act of 2008 aimed extending social protection but vague definitions, lack of enforceable rights and reliance on schemes over entitlements limited impact.⁸

⁷ Rina Agarwala, *Informal Labour, Formal Politics, and Dignified Discontent in India* 112–130 (Cambridge Univ. Press, 2013).

⁸ Kamala Sankaran, *The Social Security Code and Informal Workers: Missed Opportunities and Future Prospects*, 58 *Indian Journal of Labour Economics* 591 (2021).

Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 – This law acknowledges the rights of street vendors, trying to legitimize and organize their work areas, though enforcement differs amongst states. Judicial decisions have played an important role in broadening legal protections for informal workers through public interest litigation and dynamic interpretations of constitutional rights.

The Supreme Court decision in *Olga Tellis v. Bombay Municipal Corporation*⁹ established that the right to earn a living is part of the fundamental right to life. Another significant ruling in *Bandhua Mukti Morcha v. Union of India*¹⁰ addressed bonded labour conditions, emphasizing the state's duty to ensure decent working situations. Courts have likewise directed governments to operationalize welfare boards, distribute unpaid benefits owed, and safeguard the rights of street vendors as well as domestic employees.

While judicial activism has supplied moral and legal backing, actual implementation remains restricted by bureaucratic inefficiencies and lack of political will. India's commitments under international law also influence its labour policies. Key agreements include ILO conventions and recommendations - India has ratified several essential ILO conventions covering child labour, forced labour, and discrimination.

The ILO Recommendation No. 204 on Transitioning from the Informal to the Formal Economy encourages nations to adopt inclusive policies for informal workers. However, as a recommendation, it lacks binding force. ILO Convention No. 102 on Minimum Standards of Social Security and Convention No. 189 on Domestic Workers remain unratified by India, displaying its cautious approach toward enforceable international commitments.

Universal instruments like the Universal Declaration of Human Rights and International Covenant on Economic, Social and Cultural Rights acknowledge the right to fair and favourable working conditions, such as living wages and security. Sustainable Development Goal 8 calls for "decent work for all" by 2030, including those who work without formal protections or benefits. While India engages with international agreements, domestic law must change to enforce new rights.¹¹

⁹ *Olga Tellis v. Bombay Municipal Corporation*

¹⁰ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

¹¹ United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development*, U.N. Doc. A/RES/70/1, Goal 8 (2015), available at: <https://sdgs.un.org/goals/goal8> (last visited July 09, 2025).

Policies targeting informal sector employees vary between regions and occupations. Kerala's welfare boards cover sectors such as coir, beedi, and construction, offering one of India's most advanced social protection models. Delhi and Maharashtra provide health insurance, pensions, and identification for some workers, but implementation is inconsistent and fragmented. Domestic employees, street vendors, and app-based gig employees still lack nationwide protections—most programs offer aid rather than legally binding rights. India recognizes informal job precarity but responses remain scattered, unequal, and nonmandatory. Definitional haziness and failed implementation widen the gap between acknowledged rights and realized protections. Additionally, informal workers are chiefly seen as recipients rather than empowered claimants of workplace justice. A transformational framework must therefore combine all-encompassing definitions with enforceable entitlements, strong administrations, and participatory governance to fully achieve labour equity.¹²

To grasp informal labour's realities, generalizations must give way to sector-specific scrutiny. This explores three illustrative cases—domestic employees, construction workers, and app-based gig employees—to highlight industry challenges and systematic governance failures. Live-in housekeepers comprise an unseen workforce facing distinct hardships. Domestic staff are among society's most neglected segments of the informal labour pool. Working within private homes, they carry out essential duties like cleaning, cooking, and care yet are excluded from the majority of official protections. Despite contributing significantly, domestic staff remain unregulated by central labour laws. While some states similar to Kerala and Maharashtra have enacted welfare board schemes for domestic workers, this stays limited in coverage and underfunded. Numerous workers are unaware of their rights, and the lack of a formal employer-employee relationship complicates grievance redressal.

The National Policy for Domestic Workers, proposed over a decade ago, has not been enacted, leaving a legislative vacuum. Social security, minimum wage guarantees, and protections against harassment are missing or inconsistently applied. This case underscores how traditional labour law frameworks fail to address employment within private households, where power imbalances and gendered dynamics often exacerbate vulnerability.¹³

¹² Rina Agarwala, *From Work to Welfare: Informal Worker Politics in India*, in *Social Movements and the State in India* 96–118 (Kenneth Bo Nielsen & Alf Gunvald Nilsen eds., Palgrave Macmillan, 2016).

¹³ Neetha N., *Regulating Domestic Work: Domestic Workers' Experiences in India*, 47(43) *Economic and Political Weekly* 63 (2012).

However, actualizing this on the ground has been plagued with challenges. Many eligible workers remain unregistered, either due to bureaucratic hurdles or lack of awareness. In several states, substantial funds collected through the cess remain unutilised or are diverted for nonwelfare purposes. In some instances, workers have gone years without receiving pensions, health benefits, or accident compensation, despite being legally entitled.

Court rulings have repetitively directed state administrations to operationalize welfare boards proficiently, nevertheless, enforcement stays feeble. The construction industry accordingly mirrors a traditional case where policy exists in precept but practice lags behind.¹⁴

System and Gig Workers: A Fresh Type of Informality

The rapid ascent of app-established service platforms—such as ride-sharing, meals delivery, and logistics—has given birth to a new class of informal employees regularly referred to as gig or system workers. These persons work through digital platforms but lack formal work contracts, public security, or collective bargaining rights. While the Code on Social Security, 2020 incorporates provisions for the enrolment of gig and system workers, it does not mandate employer contributions towards welfare schemes. The classification of these employees as “autonomous contractors” allows platforms to avoid legal responsibilities typical of conventional employers.

Issues like wage instability, lengthy working hours, algorithmic oversight, and lack of accident insurance remain to plague this workforce. Current demonstrations and legal petitions—like those by delivery workers demanding reasonable pay and public protection—mirror growing unrest and the necessity for regulatory lucidity and justice.

These 3 case reports—across traditional, manual, and digital informal sectors—demonstrate the diverse yet common vulnerabilities of informal workers. Regardless of varied work settings, the shared threads include lack of legal acknowledgment, inconsistent welfare access, minimal bargaining power, and absence of enforceable rights. These examples reinforce the need to rethink the legal imagination surrounding labour—not as a static, formal idea but as a dynamic,

¹⁴ R. Ramakumar, *Funds Lie Idle as Construction Workers Struggle: A Structural Crisis in Welfare Delivery*, 54(3) *Economic and Political Weekly* 10 (2019).

inclusive structure that evolves with the changing world of work.¹⁵

Socio-Legal Challenges in Implementation

While the legal protections for informal labourers in India have gradually expanded through ongoing policy discussions, successfully implementing these reforms remains a significant hindrance. Numerous social and legal barriers obstruct the realization of workplace rights for non-standard employees. These obstacles are deeply entrenched both in societal structures and within the very frameworks intended to safeguard their wellbeing. Below is an in-depth exploration of the core issues:¹⁶

Ambiguous Definitions and Cloudy Coverage

One of the foremost difficulties lies in the vague terminology employed in legislation and programs. Terms like "unorganized", "temporary", or "gig worker" frequently lack clear, uniform, and operational definitions, leading to confusion over benefits and qualification standards. This lack of clarity inhibits not just law enforcement but also effective targeting of social assistance.

Additionally, many labour codes are designed with formal, contracted employment in mind, leaving wide swaths of informal work outside their purview. Even the recent Social Security Code (2020)—while progressive in spirit—heavily relies on voluntary registration and fails to establish robust, enforceable protections. Consequently, non-standard workers regularly find themselves acknowledged yet practically excluded from legal safeguards.¹⁷

Administrative and Institutional Gaps

The agencies tasked with implementing labour protections are often weak, fragmented, and under-resourced. Social boards, labour departments, and inspection services regularly experience staff shortfalls, inadequate training, and constrained outreach abilities.

¹⁵ A. Sundararajan, *The Gig Economy and the Future of Employment and Labor Law*, 52(1) *Harvard Journal on Legislation* 1 (2021).

¹⁶ Upendra Baxi, *The Struggle for Human Rights: Some Problems of Human Rights Culture in India*, in *The Right to be Human* 145–159 (R. Falk ed., Martinus Nijhoff, 1981).

¹⁷ V. Srivastava, *Labour Codes and the Informal Economy: A Legal Analysis*, 58(34) *Economic and Political Weekly* 44 (2023).

Even where funds exist—such as for the construction cess collected under the BOCW Act—they are drastically underutilized due to bureaucratic red tape, lack of coordination between agencies, and cumbersome verification procedures. This results in a situation where rights are acknowledged on paper yet remain inaccessible for most workers.

Additionally, policy makers are often disconnected from realities on the ground as they implement reforms with little input from the workers impacted. This erosion of trust in institutions and noncompliance weakens the effectiveness of laws.

Registration is key to accessing entitlements yet fraught with difficulties for informal labourers. Many lack documents confirming their identity or residence, while employment records are scant. Mobility across state lines further complicates registration under local schemes for migrant workers. Technical issues also impede the digitization efforts meant to simplify processes. Rural connectivity and minor data errors can mean exclusion from crucial benefits for those without smartphones or digital proficiency.¹⁸

The informal sector exhibits profound gender inequities. Women disproportionately take up low-paid, temporary domestic work or home-based tasks like sewing and vending—

occupations rarely reflected in labor statistics or regulations. They additionally shoulder unpaid care responsibilities. Laws seldom account for these overlapping roles, and few programs address maternity leave, harassment, or women's safety transportation to informal jobs. Entrenched social norms also deter women from accessing information about rights or negotiating working conditions, amplifying their legal vulnerabilities.

The rise of app-centric platforms such as Uber, Swiggy, and Zomato has spawned a new class of loosely regulated digital labourers whose status remains ambiguous. By classifying contractors as "independent," these companies evade responsibilities tied to salaries, social security benefits, or workplace health and safety protocols. While the Social Security Code of 2020 introduces terminology like "gig worker" and "platform employee," it stops short of formally recognizing them as staff.

¹⁸ Srivastava, R., *Social Protection for Informal Workers in India: Status, Issues, and Challenges*, ILO Working Paper No. 59 (2021), available at: https://www.ilo.org/global/publications/working-papers/WCMS_820819/lang-en/index.htm (last visited July 10, 2025)

This permits platforms to leverage manpower without shouldering corresponding duties involving insurance, paid leave, retirement packages. Workers have their work allocation, ratings, and penalties governed by inscrutable algorithms, limiting their negotiating clout. Present laws lack nuance to moderate employment relations dictated by code, exacerbating instability for these digital employees.¹⁹

Collectively, these sociolegal issues undermine India's ability to safeguard informal sector jobholders. Legal haziness, lax implementation, systematic exclusions - especially confronting women and tech-based toilers - reveal a chasm between justice promised and work actually experienced. Closing this requires not only revised statutes but strengthened institutions, technological accessibility, and participatory policies attentive to marginalized labourers.

Labour justice in the informal sector will not come through one-off or symbolic actions alone. It demands a complete restructuring founded on principles of equality, dignity, and empowerment under law. All work - whether visible or hidden, physical or virtual - should be valued and receive protection regardless of formal agreements or place. To achieve this vision will require addressing inequities of both the present system and those of the past.²⁰

Recommendations

Advancing labour justice for informal workers calls for a multifaceted approach respecting their rights. Laws must be revised to define "workers" and "employers" in a more comprehensive manner that covers all, not just those engaged in traditional employment. Registration systems also need reform, through simplification, translation into many tongues, and design for accessibility, so that social protections and benefits may connect with informal labourers without excessive paperwork or digital proficiency.

Furthermore, universal and portable social protection must be prioritized to guarantee basic necessities for all. These include access to healthcare, maternity care, disability assistance, retirement plans, and minimum compensation, particularly for migrant laborers who routinely change locations between states. Labor codes and welfare programs must account for the

¹⁹ A. Choudhury, *Gig Workers and Platform Labour in India: Policy Gaps and Legal Ambiguities*, 57(14) *Economic and Political Weekly* 20–25 (2022).

²⁰ Bhattacharjee, D., *Reform and the Informal Workforce: Labour Market Trends and Policy Options in India*, in S. Raju & P. Kumar (eds.), *Labour, Employment and Economic Growth in India*, Cambridge University Press (2017).

gendered nature of informal work by ensuring support for caregivers' duties and protection from mistreatment and harassment for women employees. Empowering enforcement bodies and tripartite boards with oversight is likewise pivotal. These institutions require adequate funding, personnel, and authority to monitor adherence and ensure prompt addresses of workers' grievances.

Meaningfully inclusive policy creation should be promoted by institutionalizing participation of worker collectives, trade unions, and civic groups in the legislative and regulatory process. Finally, technology diffusion must be democratized—developing user-friendly mobile platforms where employees can register, report violations, and access benefits, while also guaranteeing protection of their data privacy. Together, these measures can establish the foundation for a labour justice framework that is legally sound as well as socially responsive and broadly inclusive economically.

Conclusion

India's informal sector remains the backbone of its economy, employing most of the nation's labourers. Yet, legal and institutional support for these workers has consistently fallen short. This research revealed informal personnel—whether domestic helpers, builders, street merchants, or gig employees—endure a precarious existence marked by fuzziness of rules, administrative neglect, and socioeconomic marginalization. Persistent failures enforcing labor rights, lacking social security, exclusionary registration, and gender biases all aggravated job insecurity. While India's recent laws like the Social Security Code advance protections, stronger implementation, inclusive definitions, and participatory governance are still needed. The time is ripe to reconsider occupational justice beyond policy but as a fundamental human and constitutional requirement. As Amartya Sen said, *"Poverty isn't merely a lack of money; it's an inability to achieve one's full potential as a human."* This insight demands we see informal workers not just as aid beneficiaries but rightful citizens deserving dignity, equality, and shelter. Guaranteeing justice demands a modified approach—beyond fragmented assistance to a comprehensive, inclusive, and enforceable sociolegal framework. Combining legislative clarity, institutional overhaul, universal social protection access, and empowerment via technology and representation is crucial. Only then can India start bridging the gap between constitutional promises and lived realities of its most vulnerable workforce.