
JUST AND HUMANE CONDITIONS OF WORK: A CONSTITUTIONAL PROMISE UNDER ARTICLE 42 OF THE CONSTITUTION OF INDIA

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1. ABSTRACT

The social justice vision in India is largely characterized by labour welfare. Directive Principles of State Policy aims at making sure that the State does not exploit workers but works to their welfare. One of such principles is the Article 42 of the Constitution of India, which guides the State to offer just and humane conditions of work and maternity relief. Directive Principles do not apply to courts but are useful principles of legislation and policy. These principles have over the years been interpreted by the judiciary in line with fundamental rights to provide more protection to the workers. This paper discusses the constitutional philosophy underlying the Article 42, the history of labour welfare in India, judicial interpretation, and legislative attempts to achieve the goals of humane working conditions. It also analyses the modern issues like the informal sector and gig economy and proposes a reform to enhance the welfare of labour.

Keywords: Article 42 of the Constitution of India, Humane working conditions, Labour welfare, Maternity relief, Gig economy.

2. INTRODUCTION AND CONSTITUTIONAL BACKGROUND

The Indian Constitution reflects the concept of justice, equality and human dignity. Such ideals are not just restricted by political rights but also social and economic circumstances that promote a dignified life to every citizen. Labour welfare is one of the very important components of this vision of the constitution since workers are an enormous element of the national economy. Having realised the weak position of the workers in the industrial and economic systems, the framers of the Constitution provided the provisions, planned to improve the working conditions and safeguard labour rights.¹

In this context, the Directive Principles of State Policy is crucial. These ideals are supposed to help the State to develop a social order that is based on welfare. They do not have any legal binding force; however, they enforce a moral and constitutional liability on the State to implement the policies that would facilitate social and economic justice. Of these provisions, Article 42 of the Constitution of India takes a centre stage. It guides the State on providing the humane terms of work and maternity relief of the women workers. This addition can be attributed to the acknowledgement that labour welfare is a vital goal of social justice which is a broader constitutional objective.

The framers of the Constitution were actually guided by the international labour standards and the experiences of the industrial societies that had seen the unregulated labour practices being exploitative and unsafe in working conditions. The constitutional obligation on labour welfare is thus an attempt to make sure that economic development in India is not at the expense of human dignity and welfare of workers.

3. LABOUR WELFARE IN INDIA DEVELOPMENT

Labour welfare in India is a concept that has developed with time. The labour laws used in the colonial era were set with the main aim of regulating industrial production and not to protect the workforce. Initial laws like the Factories Act 1881 were aimed at controlling the working hours and conditions more so to women and children. These were however measures that were scanty and poorly executed. Increasing awareness about the necessity of labour protections was due to the expansion of industrialisation in the late nineteenth century and the early twentieth century. The demand of the working conditions was a result of the trade union activities and

¹ Factories Act, 1881

social reform movements. Consequently, more labour laws were enacted among them law governing trade unions and industrial disputes.

After independence, the Constitution of India became a turning point in the labour policy. The Constitution made India a state of welfare that was determined to enhance the welfare of its people. One component of this commitment was identified as labour welfare. A number of labour laws were made during the post-independence era to realise the goals of the Directive Principles. The Factories Act 1948 is an example that proposed issues concerning the working hours, safety at the workplace, and work facility to the workers. Equally, in the same light, the Maternity Benefit Act 1961 was introduced to secure maternity leave and financial compensations to pregnant and child-birthing female employees. These legislature processes show how the Indian state strived to operationalise the constitutional principles and turn them into labour protection measures.

4. COURTS INTERPRETATION AND DEVELOPING THE RIGHTS OF LABOUR

Directive Principles even though not expressly enforceable have been of great significance by the Indian judiciary as they have provided them with practical use. There have been numerous occasions when courts have understood Directive Principles alongside basic rights to extend the labour protections. Article 21 of the Constitution of India on the right to life has, in particular, been interpreted to mean the right to live with dignity and to human working conditions.²

In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court discussed the problem of bonded labour and highlighted the fact that the right to live with dignity presupposes non-exposure to exploitation and inhumane working conditions. The Court took recourse to the Directive Principles, such as Article 42 that underlines the role of the State in providing human working conditions.³

On the same note, in *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, the Supreme Court made a decision that maternity benefits should not be limited to permanent employees only. The Court brought maternity benefits to women working casually, the Court acknowledged that maternity leaves are an essential element in labour welfare and gender

² Constitution of India, Art 21

³ *Bandhua Mukti Morcha v Union of India*, AIR 1984 SC 802

equity. In these rulings, the courts have converted the Directive Principles into an abstract notion into a realistic standard to shape labour rights.⁴

5. MODERN FEETBALLING THE ARTICLE 42 IMPLEMENTATION

Although the constitution guarantees labour welfare, adoption of humane working practices in India is an intricate and dynamic issue. Article 42 of the Constitution of India gives a directive that the State must provide just and humane working conditions and maternity reliefs. Nevertheless, the realities of India labour market, which include high rate of informal work force, fast changing technology, and poorly functional mechanisms of enforcement, chiefly frustrate the realisation of these constitutional ideals.

Domination of the informal sector in the Indian economy is also one of the greatest barriers to the implementation of Article 42. A significant percentage of the labour force is engaged in the informal regulatory system, such as in the agricultural sector, small-scale industry, household labour, street hawking, and building. The sectors usually work outside the scope of labour laws and workers are exposed to exploitation and poor working conditions. The informal workers are not usually entitled to an agreement in writing, consistent wages, social benefits like maternity leave, medical and other workplace safety provisions.

Without a formal employment relationship, there is a lack of an easy means to implement statutory safeguards aimed at fostering humane working conditions. Despite the fact that the labour laws like the Factories Act 1948 and Maternity Benefit Act 1961 offer vital protection, these legislations are usually applicable in the case of organised establishments that satisfy some threshold of employee count. Consequently, small businesses have millions of employees who are not effectively covered by labour laws.

This is even more difficult on women working in the informal sector. Most of the women are involved in domestic labour, home based industries or agricultural labour where they have the least or no protection in the workplace. Maternity leave and maternity accommodations at work are not common in such settings. The lack of a maternity relief is a direct contradiction of the constitutional requirement of Article 42 and it is a factor that discourages gender equality in workforce.

⁴ Municipal Corporation of Delhi v Female workers, AIR 2000 SC 1274

The other structural problem is due to the fractured labour legislation in India. In the past the labour laws have been diffused in various statutes that regulate various facets of employment such as wages, industrial disputes, social security and safety at work. Even though the present legislative changes, like the Code on Social Security 2020, are designed to streamline these laws and unite them to enhance their enforcement and performance in various fields, certain problems continue to arise in the area of effective enforcement and adherence to the laws.

The presence of economic pressures also promotes the inhumane working conditions. When the markets are very competitive, the employers might be interested in reducing the costs rather than protecting the labour so that they tend to engage in activities like overworking, work safety, and denying of benefits. Employees who have few other employment options often become forced to accept such terms and this further undermines enforcement of labour standards as envisaged in Article 42.^{5 6}

6. New Labour Formations and the Gig Economy.

Besides the problems of informal sector, emerging employment opportunities brought about by technological developments have also made the application of principal labour welfare principles more difficult. The emergence of the gig economy and digital platforms has brought about flexible forms of employment that are very different to the employer-employee relationships. Uber, Swiggy, and other app-based organisations use digital platforms which depend on workers who offer on-demand services as opposed to contractual employment. These employees are usually categorized as independent contractors but not employees and this enables firms to evade most of the legal liabilities that come along with the conventional employment relations.

Although the gig economy has brought some new economic possibilities and relaxed the labour market, a concern has been raised over the issue of labour protections. The basic employment benefits that gig workers do not usually have include minimum wage provisions, health coverage, social security benefit, and maternity leave. Most of the labour laws that exist to protect workers are inapplicable to them because they are not legally considered as employees. This distinction establishes a large disconnection between what the constitution ideally represents in Article 42 and what is happening in the contemporary labour markets. The idea

⁵ International Labour Organisation, Women and Men in the informal economy

⁶ Code of Social Security, 2020

of the humane working conditions should evolve to meet the shifts in the employment relationships. Employees working under gig-based services are commonly subjected to unstable working schedules, wage irregularities, and algorithmic human resource management where they are assigned duties and salaries anonymously.

Female employees of the gig economy could encounter other challenges. As an example, ride-hailing or delivery services can offer no maternity and flexible working options when a person is pregnant. These workers have been largely left out of the cover of Article 42 because they are not legally acknowledged as employees. Moreover, digital platforms make use of technological management systems, which may generate new types of pressure at the workplace. Algorithms can track the work of workers and allocate tasks according to their efficiency indicators, as well as find fault in the workers who have not provided their product on time or cancelled their services. The result of such systems is excessive working hours as the workers seek to maximise their earnings or high performance ratings.

India is not an exception as the legal framework of gig work is still developing in most countries. One of the challenges facing policymakers is the problem of ensuring a balance between innovation and economic growth and the need to safeguard the rights of workers. Recent changes in labour laws are trying to extend some social security benefits to the gig workers, however the success of such policies will be depended on how well these policies will be implemented and enforced.⁷

Finally, the appearance of gig-based jobs demands a reconsideration of the conventional labour law concepts. The constitutional principles of dignity, fairness and humane working conditions should be interpreted in the way that the digital labour markets realities are represented.⁸

7. The Way Forward and Enforcement Weaknesses

Although there are labour laws, in many cases, their quality remains to be enforced through effective mechanisms. The small capacity of the labour inspection systems and regulatory bodies is one of the biggest problems with the implementation of the mandate of Article 42. Labour departments in most of the regions are characterised by a lack of personnel, financial

⁷ N. Bhattacharya, Gig economy and Labour law challenges in India, *Indian journal of Labour Economics* (2021)

⁸ International Labour Organization, *World employment and Social outlook report* (2022)

resources, and institutional support that limits enforceability of labour standards. Labour checks are key in determining the existence of unsafe working environment, observing the laws related to wages, and safeguarding the workers against exploitation. But the inspection is usually very rare or only to the larger industrial facilities. Small businesses and unofficial work places are hardly inspected and the breach of labour laws is never held to account.

The other concern is connected to the fact that workers do not understand their legal rights. A number of employees especially in the rural or informal professions do not know about the protection offered through labour laws. The workers can fail to regret exploitative practices or pursue legal action without having necessary information about their rights. Labour laws can also be hampered by administrative inefficiencies and bureaucracies. Employees who wish to receive maternity leave or other workplace benefits might be faced with procedural slowdown, paperwork and barriers within the institution that will make them not want to claim their benefits. Of particular concern to these are the vulnerable populations that include migrant workers, women working in informal jobs, and the economically-disadvantaged communities. The court has tried to overcome some of these obstacles by making a progressive interpretation of the provisions of the Constitution. It has been stressed on several occasions by the courts that labour welfare is a part and parcel of the right to live with dignity under Articles 21 of the Constitution of India. Court rulings have increased the limit of labour rights and pushed governments towards tightening regulatory mechanisms.

However, the judicial action cannot prove to be a guarantee of total labour protection. This should be carried out effectively through concerted actions of various stakeholders such as the government agencies, employers, trade unions and the civil society organizations. The policy changes should aim at enhancing the labour inspection, increasing the coverage of social security and increasing the awareness of labour rights among workers. It is also possible that technological tools can enhance the enforcement mechanisms. The use of digital platforms to register workers, supervise the workplace situation, and other social security benefits may advance transparency and accountability. Also, the policies that would promote the formalization of employment relationships can assist in bringing more workers under the protection of the labour laws.⁹

⁹ Government of India, Ministry of Labour and Employment, Labour welfare reports

8. Conclusion

Indian social justice model is one of the most important aspects of the constitutional commitment to the welfare of labour. The adoption of the Constitution of India in Article 42 shows that economic development should be supported by the human dignity and welfare of the workers. India has achieved a lot in enhancing labour protection, and provision of maternity benefits to women employees through legislation, policy measures, and judicial interpretation. These accomplishments notwithstanding, there are still significant difficulties in the conversion of constitutional ideology into realities. Low rates of informal employment, the formation of the gig-based labour market, and the ongoing enforcement loopholes remain factors that undermine the success of labour welfare policies. Employees in most industries continue enduring poor working conditions, salary insecurities, and lack of social security perks. These issues need a holistic approach that involves legal restructuring, institutional reinforcement and social consciousness. The labour laws need to be modified towards responding to changes in economic set-ups without sacrifice of dignity, fairness and equality. Expanding the social security coverage, acknowledging new employment relationships and enhancing the enforcement of the regulations are the necessary steps to reach the accomplishment of the objective. Finally, the effective execution of Article 42 is conditional upon the unity of the State, the employers, and the society in terms of maintaining the principles of the humane working conditions and maternity protection. These initiatives can be reinforced in order to help India be a step closer to achieving the constitutional dream of social justice and to guarantee that all workers are provided with a healthy, decent and fair working environment.

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