

LABOUR RIGHTS AND CHALLENGES IN A DYNAMIC EMPLOYMENT: FACILITATING REGULATORY ENVIRONMENT

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BEST CITATION – M. AZIMATHUL MARSHIYA, LABOUR RIGHTS AND CHALLENGES IN A DYNAMIC EMPLOYMENT: FACILITATING REGULATORY ENVIRONMENT, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (2) OF 2024, PG. 1528-1534, APIS – 3920 – 0001 & ISSN – 2583-2344

a. ABSTRACT

Workers play an important role in bringing the visionary ideas of innovators to life. The Declaration on Fundamental Principles and Rights at Work by the International Labour Organization (ILO) establishes essential labour rights, fostering a joint responsibility between member states and the ILO. These rights are universally applicable, ensuring fair working conditions and treatment for all workers. They cover fair pay, workplace safety, the right to join unions, and protection against discrimination and exploitation. Additionally, they include Freedom of Association, Collective Bargaining, the Elimination of Forced Labour and Child Labour, and the Eradication of Employment Discrimination. Labour rights are the basic human rights which cannot be violated.

Despite these global rights, challenges persist. Informal employment, weak enforcement, and issues in global supply chains often lead to poor working conditions, especially in developing countries. In India, labour rights face significant hurdles despite extensive legal frameworks. The large informal sector, employing a substantial part of the workforce, frequently operates outside regulations, leading to labour welfare issues such as low pay, unsafe conditions, gender discrimination, poor industrial relations and a lack of social protection. Ineffective enforcement, monitoring, inadequate training and compliance mechanisms exacerbate the situation, allowing violations to persist. Advancements in automation and AI are challenging the labour force by displacing jobs, heightening job insecurity, and causing economic stress for workers.

Addressing these challenges requires a comprehensive approach. Strengthening legal frameworks, enhancing monitoring and compliance, improving enforcement and ensuring workers' participation are essential steps. International Co-operation is also essential in upholding labour standards and protecting workers' rights. Implementing these strategies will create a fair, safe, and equitable work environment for all workers, safeguarding their well-being and respecting their contributions to innovation and economic progress.

Keywords: Labour rights, International cooperation, compliance, legal frameworks, informal employment

1. INTRODUCTION:

“Labour is prior to, and independent of, capital. Capital is only the fruit of labour, and could never have existed if labour had not first existed. Labour is the superior of capital, and deserves much the higher consideration.”

– Abraham Lincoln²⁸

Labour rights are essential pillars of social justice and economic advancement in today's constantly changing world of work. In the ever changing employment landscape, managing labour rights and addressing related challenges

²⁸ Abraham Lincoln, Annual Message to Congress (Dec. 3, 1861), The Collected Works of Abraham Lincoln 49, 49 (Roy P. Basler ed., 1953).

has grown increasingly intricate. This environment is influenced by several pivotal factors, including technological progress, globalization, and evolving economic conditions. As Automation and Artificial Intelligence reshape traditional job roles, new forms of employment, such as the Gig economy, have emerged, altering job security and workplace dynamics. Globalization has heightened competition and decentralized labour markets, complicating the enforcement of labour standards internationally.

To tackle these complex challenges, a strong regulatory framework is essential. This involves modernizing existing labour laws and policies to align with current realities and ensuring they are adaptable to future changes. Strengthening enforcement mechanisms is crucial to ensure compliance and effectively protect workers' rights. Additionally, International Cooperation is vital in upholding global labour standards, preventing exploitation, and promoting fair labour practices.

Workers' participation is also a key component of this regulatory framework. Involving workers in decision-making processes ensures their needs and perspectives are represented, leading to more effective and inclusive labour policies. This can address issues such as low wages, unsafe working conditions, gender discrimination, and the lack of social protection. Moreover, fostering a culture of continuous education and skills development is necessary to help workers adapt to technological changes and new job requirements. Access to training programmes can mitigate the risks of job displacement. By addressing these issues through a comprehensive and adaptive regulatory approach, we can safeguard labour rights, promote worker welfare, and support sustainable economic progress. This not only benefits individual workers but also contributes to the overall prosperity of society.

2. TECHNOLOGICAL ADVANCEMENTS AND THEIR IMPACT ON LABOUR:

Concerns about technology replacing human work have always existed, resulting in massive unemployment. In 1930, John Maynard Keynes introduced the term "technological unemployment"²⁹ as a new disease. The interaction between man and machine was experiencing substantial changes. The economy and society are in a state of constant evolution, with technological transformation being one of the primary forces driving this change. Technology has become an integral part of our daily lives and has a profound impact on our society, economy and labour market.

The accelerating pace of technology improvements has drastically revolutionized the labour market, affecting almost every area of employment. Advances in technology have created opportunities for new products and services. However, challenges have also emerged, similar to those seen in previous industrial revolutions, creating new problems for employees. Digital technologies and services are changing working methods and redefining skills, knowledge, abilities and the attitudes required of their employees are driving the growth of online jobs and impacting local and international labour markets. Automation and Artificial Intelligence (AI) have replaced many functions previously performed by human labour, leading to changes in work patterns. While these developments have led to better efficiency, production and the creation of new businesses, they have also led to job losses in some regions.

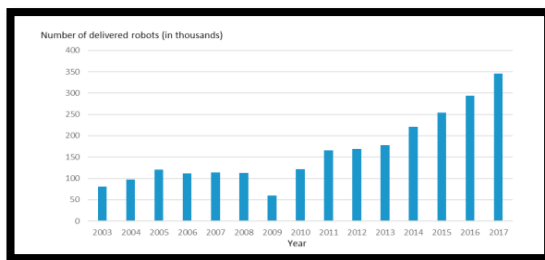
In the early 2000s, the OECD reported³⁰ that around 100,000 industrial robots were being deployed to companies globally each year. By 2016, this figure had more than tripled, exceeding 300,000 annually. As a result, some OECD countries are ramping up their use of robots. Economic models indicate that

²⁹ Keynes, J. M. (1930). *Economic Possibilities for Our Grandchildren*. In *Essays in Persuasion*, New York, Norton & Co.

³⁰ OECD Publication, *Job Creation and Local Economic Development* (2018). Available at: <https://www.oecd-ilibrary.org/> accessed on 7, Aug 202

increased digitalization and the adoption of industrial robots will drive growth in worker productivity. Concerns about automation and technology's impact on jobs continue to escalate, as discoveries have the potential to change the workplace environment.

Figure: 1



Source: Worldwide annual supply of robots in OECD countries

According to a 2016 World Bank report, 57% of the workforce in developing countries, including OECD members, is at risk of automation³¹. Employees may struggle to adjust to the new technical environment and may result in the loss of millions of employments. Some jobs will become less relevant and finally disappear, while others will flourish.

3. THE RISE OF THE GIG ECONOMY AND JOB INSECURITY:

According to Sir William Beveridge, the economist and social reformer, his 1942 Report famously known as Beveridge Report, states that "*Social security is an attack on five giants namely want, disease, ignorance, squalor and illness*"³².

The increasing population and swift urbanization have significantly influenced Indian society, particularly in the realm of employment. The expansion of the Gig economy plays a vital role in providing job opportunities for millions of Indian youth. Projections indicate that the number of non-farm jobs in India could rise from over 90 million to an estimated 8-18 million within the Gig

economy over the next eight to ten years. This new economic model has introduced a distinct category of labour, where individuals are engaged on a short-term, freelance, or contractual basis through online platforms. The emergence of the Gig economy has transformed traditional employment frameworks, presenting substantial challenges to the enforcement of labour laws. Historically, formal work culture has associated task-based work with the concept of a "Gig." Today, the Gig economy encompasses a diverse array of occupations, including housekeepers, babysitters, plumbers, electricians, security personnel, masons, builders, and transporters. As the modern work culture evolves, the nature of Gig work continues to adapt, reflecting the changing demands of the economy and striving for the betterment of society³³.

The number of gig workers is expected to rise in a labour-intensive market due to increased job opportunities and a growing preference for independent, project-based work among individuals, particularly the younger generation. This shift has led to the emergence of "Giggers," who view gig work as a legitimate and beneficial employment option. The International Labour Organization (ILO) Social Security (Minimum Standards) Convention of 1952 (No. 102) sets essential criteria for social welfare, requiring ratifying nations to establish comprehensive social security systems that provide benefits for illness, disability, unemployment, or retirement. It emphasizes social security as a fundamental human right and aims to alleviate poverty, enhance social solidarity, and improve global living standards through equitable access to social protection.

The economy is shifting from traditional employer-employee relationships to flexible, on-demand arrangements, yet employees still need essential health coverage. The Indian Code on Social Security, 2020, defines Gig

³¹ World Bank (2016). Digital Dividends. World Bank Development Report 2016

³² William Beveridge defined social security as, "Social security means the securing of an income to take the place of earnings when they are interrupted by unemployment, sickness or accident; to provide against loss of support by the death of the husband or parent; to provide for retirement through age; to provide against extraordinary expenses in the event of birth, death, or marriage" (William H. Beveridge, Social Insurance and Allied Services 6 (1942)).

³³ Orchie Bandyopadhyay, Indian Gig workers fight for social security benefits, 8 March 2022, <https://www.britsafe.in/publications-and-blogs/safety-management-magazine/safety-management-magazine/2022/indian-gig-workers-fight-for-social-security-benefits/> (accessed on: 08/08/2024)

workers as those working outside conventional frameworks. In response, the Indian government expanded social security benefits to these workers, including maternity leave and health insurance. However, many Gig workers remain unprotected by labour codes and lack access to vital benefits. Additionally, Gig workers often face fewer protections for injuries or illnesses and may earn less than traditional employees. Their classification as independent contractors excludes them from essential labour rights, such as minimum wage and overtime compensation, making it difficult for them to organize for better working conditions.

4. COMBATING GENDER DISCRIMINATION IN THE WORKPLACE:

Cultural stereotypes about gender impede women's progress in the workplace by implying they are less capable than men. This results in higher expectations for their performance, closer scrutiny, and inconsistent evaluations. Women also face challenges related to likability, motherhood, and limited access to professional networks. These biases have a negative impact on hiring, performance reviews, and career advancement. The International Labour Organization (ILO) promotes gender equality policies globally, aligned with international labour standards. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111), addresses workplace discrimination by advocating for equal opportunities and treatment regardless of factors like race or gender. It calls on member countries to integrate these principles into their national laws to create fairer work environments. Convention No. 111's enforcement mechanisms are key to addressing discrimination and ensuring equal opportunities in employment.

The Maternity Protection Convention, 2000 (No. 183), building on Convention No. 3, establishes a vital global standard for safeguarding the rights and well-being of pregnant and nursing women in the workplace. This convention ensures that female employees are granted adequate maternity leave, benefits, job security, and

access to medical care before and after childbirth. It highlights the importance of supporting women in maintaining a healthy work-life balance, easing their return to work post-childbirth, and combating maternity-related discrimination. By recognizing maternity protection as a fundamental human right and essential to gender equality, Convention No. 183 contributes to creating more inclusive and supportive workplaces worldwide.

The Maternity Benefit Act has greatly improved the lives of working mothers in India by supporting maternal and child health through paid leave. However, the exclusion of unorganized women workers from maternity benefits under the Social Security Code 2020 highlights ongoing gender inequality. Despite its aim to streamline social security laws, the Code's failure to cover these workers underscores persistent disparities in the labour market.

5. SAFEGUARDING LABOUR RIGHTS THROUGH COMPREHENSIVE REGULATION:

Labour rights are fundamental human rights, protecting workers from unfair and unsafe conditions that affect not only them but also their families and communities. These rights help create a fair working environment by establishing clear employment standards, promoting social justice, and reducing exploitation. Minimum wage regulations and equal pay laws are crucial in ensuring fair wages and reducing economic disparities, while occupational safety rules protect workers from dangerous conditions. Limiting working hours and providing paid leave are essential for work-life balance. Collective bargaining, supported by unions, strengthens workers' ability to secure fair wages and conditions. Corporate Social Responsibility (CSR) can further enhance ethical labour practices beyond legal requirements.

Advances in technology provide several potential to improve well-being and working circumstances, resulting in a healthy work-life balance. However, these developments provide concerns, particularly for those who are

vulnerable to job displacement. Critical issues such as gender equality, worker safety, and continual education are becoming increasingly important in today's technology-driven employment economy. Effective governance and social innovation are critical to achieving sustainable development and equitable growth. To effectively handle disruptive innovation, both institutions and individuals must be well-informed and actively engaged, ensuring that the benefits of economic development and higher productivity are spread equally.

6. THE IMPORTANCE OF INTERNATIONAL COOPERATION

"The trade union confederations must explore all the possibilities offered by international cooperation for developing projects and attracting funding to train grassroots unions and federations where applicable."

-Jean Assangbe³⁴

International labour law collaboration is essential for establishing fair working conditions globally, as interconnected economies mean labour practices in one country affect others. Governments and international organizations, like the ILO, work together to set common labour standards and address cross-border issues. Trade unions, facing declining influence, benefit from international cooperation by enhancing their visibility and effectiveness. Such collaboration provides training and participation in global initiatives, promoting workers' rights and well-being. Regional cooperation and trade agreements also help harmonize labour norms, making international cooperation crucial in adapting to technological and global changes to protect workers' rights.³⁵

³⁴ Jean Assangbe, general secretary of civil aviation and meteorology workers' union SUTRACIM.

³⁵ <https://www.ituc-csi.org/international-cooperation-and-sustainable-development-are-opportunities-to-ensure-more-effective-trade-union-action-for-workers> (accessed on:08/08/2024)

7. ENHANCING WORKER PARTICIPATION IN DECISION-MAKING:

Worker participation in decision-making enhances workplace democracy by fostering inclusion, empowerment, and shared responsibility, boosting both job satisfaction and organizational performance. Employee engagement can take forms like consultation, collective bargaining, and collaborative decision-making, providing practical insights that lead to informed decisions and fostering a culture of creativity. International standards, such as ILO conventions, and national regulations, like the EU's Directive on Information and Consultation, support worker participation. The European Union's Directive on Information and Consultation establishes a framework for worker engagement, ensuring that employees are informed and consulted about major company decisions. In India, worker involvement is crucial for improving industrial relations and productivity, though challenges like workforce diversity, fragmented trade unions, and resistance from employers hinder effective implementation. Despite legal frameworks, actual influence on decision-making can be limited.

8. CONCLUSION:

The conclusion emphasizes the critical role of labour rights in achieving social justice and driving economic progress, especially in the face of rapid technological advancements, globalization, and economic shifts. While technologies like automation and AI improve productivity, they also lead to job displacement and the need for reskilling. The gig economy has introduced job flexibility but often lacks protections found in traditional employment. Gender discrimination remains a key issue, with international conventions and national laws playing a vital role in promoting equality. Comprehensive regulation is essential to safeguard fair wages, safe working conditions, and collective bargaining rights, while corporate social responsibility (CSR)

encourages ethical practices beyond legal mandates. Lastly, international cooperation is vital to establish fair labour standards globally, as interconnected economies require a collaborative approach to protect workers' rights.

9. **References:**

1. The Constitution of India, 1950
2. The Maternity Benefit Act of 1961
3. The Social Security Code 2020
4. Industrial Dispute Act, 1948
5. Discrimination (Employment and Occupation) Convention, 1958 (No.111)
6. Social Security (Minimum Standards) Convention, 1952 (No. 102)
7. Hours of Work (Industry) Convention, 1919 (No.01)
8. The Maternity Protection Convention, 2000 (No.183)
9. Keynes, J. M. (1930). Economic Possibilities for Our Grandchildren. In Essays in Persuasion, New York, Norton & Co.
10. OECD Publication, "Job Creation and Local Economic Development" (2018). Available at: <https://www.oecd-ilibrary.org/>
11. World Bank Development Report 2016
12. Orchie Bandyopadhyay, Indian Gig workers fight for social security benefits, <https://www.britsafe.in/publications-and-blogs/safety-management-magazine/safety-management-magazine/2022/indian-gig-workers-fight-for-social-security-benefits/>
13. The Digital Hustle, Gig Worker Financial Lives Under Pressure, September 2020, <https://www.dvara.com/research/wp-content/uploads/2021/08/Literature-Review-Finances-of-Platform-Workers-in-India.pdf>
14. <http://www.ilo.org/travdatabase>
15. <https://www.ituc-csi.org/international-cooperation-and-sustainable-development-are-opportunities-to-ensure-more-effective-trade-union-action-for-workers>