

The Legal Landscape of Workplace Rights in India: Balancing Employer Interests and Employee Protections in the Post-Pandemic Era

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Abstract

The article discusses the changes in the legal framework surrounding workplace rights in India, focusing on the tension between the power of employers and the protection of employees after the COVID-19 pandemic. Historically, labor laws in India have their roots in colonial times and protective laws enacted in the post-independence period, which focused on the protection of workers in an industrial economy of formal employment (Babu Mathew, 2019). But due to globalization, liberalization, and technological change, new challenges have emerged in workplace governance (Debi S. Saini, 2010). The article analyzes constitutional guarantees provided under articles 14, 19, and 21, important statutes such as the Industrial Disputes Act, the Factories Act, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, and the recently combined labor codes (Government of India, 2020). Modern issues include the standards of safety at the workplace, the implementation of the law that protects sexual harassment, the right to privacy concerning digitalized monitoring, and the clarity of employment contracts (P. Sukumar, 2018). The pandemic has brought about a boom in remote work and expansion of the gig economy, which has raised questions on social security coverage, collective bargaining, and legal formalization of atypical working relationships (International Labour Organization (ILO), 2021). The article argues that current laws, despite their progressiveness, are fragmented and poorly equipped to deal with the new reality. The article concludes that there is an urgent need for adaptive and inclusive reforms in order to close the regulatory gaps, cover workers in the informal and

gig economy, and improve grievance redressal mechanisms. Some suggestions for policy include the improvement of labour inspections, digitization for transparency, and adaptation of national laws complying with international conventions on decent work (Martha Chen, 2021). Through this, India could create equitable, safe, and resilient workplaces amid the changing socio-legal landscape.

Keywords: Workplace law, labor rights, COVID-19, employment contracts, and labor reforms

Introduction

India's work environment has been undergoing significant changes due to globalization, technological innovations, and more recently, the disruptions brought about by the COVID-19 pandemic. The pandemic resulted in a shift in the dynamics of work as well as laid bare the deficiencies of India's labor system, especially in terms of health and safety, contractual uncertainty, and the advent of non-conventional forms of work, including remote work and the gig economy (International Labour Organization, 2021). These transformations have changed the employer-employee relationship, making the task of balancing work efficiency with the protection of basic workplace rights intricate and more urgent than ever before (Babu Mathew, 2019).

Labor laws in India traditionally stemmed from a welfare approach which emerged during the post-independence phase that aimed to protect those who worked in traditional industries (Debi S Saini, 2010). Over the years, however, economic reforms and the emergence of the service sector challenged these protections and led to passing laws that often

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struggled to adapt to the employment landscape (Constitution of India, Art. 14, 19, 21). The constitutional regime, particularly Articles 14, 19, and 21, has provided a backbone to labor rights, while various socio-economic legislations such as the Factories Act, 1948 (Factories Act, 1948), the Industrial Disputes Act, 1947 (Industrial Disputes Act, 1947), and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 have addressed specific issues (Sexual Harassment of Women at Workplace, 2013). The recent move to codify the labor laws into four main labor codes is an effort to simplify and update the framework, but many issues remain (Industrial Relations Code, 2020).

Within this context, the present article reviews the workplace rights framework in India with three connected aims: first, to analyze the historical and constitutional aspects of labor law; second, to identify contemporary challenges concerning workplace safety, privacy, harassment, and contractual ambiguity; and finally, to understand the influence of newly emerging work forms in a post-pandemic world. It ultimately calls for flexible, inclusive reforms that can protect employee rights without compromising legitimate business needs so that a more just and stronger working environment can be realized in India's changing socio-legal backdrop.

Historical Overview of Workplace Law in India

The origin of labor regulation in India can be traced back to the colonial period when legislation was primarily enacted for imperial economic motives rather than for the welfare of labor. The first of the factory legislation in the late 19th century, such as Factories Act 1881, was enacted under the stress of the British after the effect of criticism on the appalling working conditions, especially of women and children in the textile mills (Rajni Abbi, 1997), began to create public opinion. Subsequently, these statutes were extended and consolidated giving birth to the Factories Act 1948, which is still one of the key statutes governing workplace safety and health (Factories Act, 1948).

Similarly, the Industrial Disputes Act, 1947 was enacted to deal with employer-employee relations

and the mode of settlement of industrial disputes, strikers, and lockouts, retrenchment, and layoff for industrial workers. These legal provisions were an important feature of the institutionalization of industrial relations in independent India (Industrial Disputes Act, 1947).

After independence, the labor law framework was greatly expanded as it was based on the principles set forth in the Directive Principles of State Policy, as enshrined in Part IV of the Constitution, which emphasized aspects like social justice, the right to work, and conditions of work ensuring human dignity (The Constitution of India, 1950), and leisure. Legislation dealing with wages, such as the Minimum Wages Act, 1948, and the Payment of Wages Act, 1936, were enacted to guarantee economic dignity to the working class, while the Employees State Insurance Act, 1948, and the Employees Provident Fund Act, 1952, served as measures of social security (Minimum Wages Act, 1948). Proliferative steps like the Equal Remuneration Act, 1976, and recently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013 have sought to address gender equality and workplace dignity (Equal Remuneration Act, 1976).

Notwithstanding the above protections, the Indian labor law regime has always been overburdened and blighted by the proverbial long-windedness, complexity, and fragmentation of the laws, with a staggering proliferation of over 40 laws at the Center and more than 100 laws at the State level in both instances working at the same time (Debi S Saini, 2010).

Even with a plethora of vibrant statutes related to labor, coupled with all the safeguards and protections existing therein, the enforcement of these laws still remained a distant dream, attributable to inadequacies, delays, bureaucratic red tape in the system, and lack of regular inspections and coverage of workers, as a huge proportion of the workforce remained outside the purview of these laws (International Labour Organization, 2018). All of these ignited a wide chasm between the promise of legitimate rights in law and the despondent realities of Indian workers engendering the amalgamation of labor laws into a fourfold of labor codes in the years between 2019

and 2020, which attempt to mitigate the predicament though implementation snafus nag the enforcement (Industrial Relations Code, 2020).

Current Legal Framework Governing Workplace Rights

Workplace rights in India are primarily regulated through a matrix of statutes. Among the cornerstone laws are:

- **Industrial Disputes Act, 1947:** The Industrial Disputes Act 1947 was enacted for maintaining industrial harmony by establishing dispute investigation and settlement procedures between employers and workers. It governs strikes, lockouts, retrenchments, layoffs, and closures, ensuring justice in employer-employee relationships (Industrial Disputes Act, 1947). The Act created conciliation officers, labor courts, and tribunals for the effective resolution of disputes. Importantly, it lays down conditions for lawful retrenchment, including notice and compensation to affected workers. For larger establishments, government approval is mandatory before layoffs or closures, indicating its protective approach. Now replaced by the Industrial Relations Code 2020, it still forms the basis of India's labor law regime (Industrial Relations Code, 2020).
- **Factories Act, 1948:** The Factories Act 1948 is a significant law governing the safety, health, and welfare of workers in factories. It sets regulations on working conditions, including ambiance, cleanliness, lighting, and machinery safety to avert unhealthy practice conditions. The Act also mandates the provision of welfare amenities like canteens, restrooms, and crèches in larger companies. Women's and young workers' rights receive further protection through limitations on working days and hours, as well as a ban on child labor. With obligations placed on employers and the authority of inspectors to enforce provisions, the Act continues to be a key

tool for protecting worker rights in industrial workplaces. (Factories Act, 1948)

- **Payment of Wages Act, 1936 and Minimum Wages Act, 1948:** The Payment of Wages Act, 1936 was enacted to ensure timely payment of wages without unauthorized deductions to protect the worker against exploitation by the employer. (Payment of Wages Act, 1936) It covers a vast category of employees and mandates payment within the prescribed time limits and provides remedies in case of delay. In parallel with this, the Minimum Wages Act, 1948 empowers the government to fix minimum rates of wages in scheduled employment thus protecting the worker against unduly low wages and ensuring minimum economic security for the workers. (Minimum Wages Act, 1948) These two statutes together lay the foundation of the wage protection regime in India and protect the dignity and fairness in the employer-employee relationship.
- **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act):** The Prohibition of Sexual Harassment at Workplace (POSH) Act, 2013 is aimed at ensuring a safe and dignified working environment for all employees by dealing with sexual harassment, a pernicious and prevalent form of gender discrimination at workplaces. The POSH Act, 2013 defines sexual harassment very broadly to involve "any unwelcome physical, verbal or non-verbal conduct of a sexual nature. (Sexual Harassment of Women at Workplace, 2013) It requires the constitution of Internal Complaints Committees (ICC), Internal Complaints Committees (ICC) in every workplace with more than ten employees, thereby ensuring grievance redressal mechanisms accessible to every employee. It lays down requirements for awareness programmes and preventive policies. The POSH Act, 2013 is ultimately rooted in the Vishaka

guidelines given by the Supreme Court which was a landmark step in the right direction towards safeguarding the right of women to enjoy equality and dignity in their workplaces. (*Vishaka v State of Rajasthan*, 1997)

- **Employee Provident Funds and Miscellaneous Provisions Act, 1952 and the Employees' State Insurance Act, 1948:** The Employees' Provident Funds and Miscellaneous Provisions Act 1952 provides long-term financial security for workers through compulsory employer and employee contributions to provident, pension, and insurance schemes. (*Employees' Provident Funds and Miscellaneous Provisions Act, 1952*) The Employees' State Insurance Act 1948 offers medical treatment and cash benefits in the event of sickness, maternity, disability, or employment injury. (*Employees' State Insurance Act, 1948*) These acts together form the keystone of India's social security system, providing protection against economic insecurity due to contingencies of work and life. (*Employees' Provident Funds and Miscellaneous Provisions Act, 1952*) By integrating welfare into the employment relationship, they express the constitutional commitment to social justice under Part IV of the Constitution. (*The Constitution of India, 1950*)

The Constitution undergirds these protections through Articles 14 (Equality before law), 19(1) (c) (Right to profession, trade and occupation), 21 (Right to life and personal liberty), and 23 (Prohibition of trafficking and forced labor). These constitutional guarantees afford a substantive backdrop for safeguarding dignity and rights within workplaces.

Recent reforms, including labor law codification aimed at consolidation into four labor codes, strive to simplify and modernize regulations but have faced both acclaim for ease of doing business and criticism concerning potential dilution of worker protections.

Workplace Safety and Health

In India, employers have a legal responsibility to provide a safe, hygienic, and humane workplace, a duty entrenched in law under the Factories Act 1948 and more recently unified under the Occupational Safety, Health, and Working Conditions Code 2020. (*Factories Act, 1948*) These laws require protections for ventilation, sanitation, machinery safety, and welfare facilities, in line with the constitutional promise of the right to life and dignity under Article 21. (*Constitution of India, Art. 21*) The COVID-19 pandemic highlighted the importance of workplace health measures, forcing companies to develop stricter hygiene protocols, provide appropriate protection equipment, and implement work-from-home or staggered work strategies to minimize risk. (*International Labour Organization, 2020*) Rights-based litigation has built upon these laws, emphasizing the fiduciary responsibility of the state and workers to foresee and avoid workplace hazards. In the case of *Consumer Education and Research Centre v Union of India*, the Supreme Court found the right to health and medical care to be included in the right to life, making it the employer's prerogative to secure protections against workplace risks. (*Consumer Education and Research Centre v Union of India, 1995*) The Employees' Compensation Act of 1923 complements these provisions by holding employers responsible for injuries or occupational diseases incurred in work, offering workers and their dependents remedial justice. (*Employees' Compensation Act, 1923*) However, the implementation of occupational safety remains inconsistent. While workplaces in large formal enterprises are mostly compliant with the law, the huge informal sector, accounting for more than 80 percent of the labor supply in India, is still plagued by workplace safety violations, including a lack of inspections or welfare measures, and limited recourse for compensation. (*International Labour Organization, 2018*) Addressing this issue calls for stronger institutional oversight, public reporting mechanisms, and capacity-building programs that will extend workplace safety and health measures to informal and gig economy workers in accordance with international labor standards. (*International Labour Organization, 2021*)

Sexual Harassment and Workplace Equality

Competitive markets encourage innovation not just top products and services but to working practices such as programs of gender equality. (Abhijit Mishra & Nishi Kant Bibhu, 2025) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (POSH Act) marks a watershed moment in the Indian workplace jurisprudence that provides a legal framework for preventing and redressing sexual harassment at the workplace. The Act was the outcome of the Supreme Court's decision in *Vishaka v State of Rajasthan*, which had laid down mandatory guidelines under Articles 14, 15, 19, and 21 of the Constitution until the legislature enacted special law (*Vishaka v State of Rajasthan*, 1997).

The Act mandates all workplaces comprising more than ten workers to constitute an Internal Complaints Committee (ICC), whereas district-level Local Committees are intended for outreach to smaller workplaces and the informal sector (*Sexual Harassment of Women at Workplace*, 2013). Sexual harassment is defined in a comprehensive manner to include any unwelcome physical, verbal, or non-verbal conduct of a sexual nature. The protection is not confined to physical spaces alone but also extends to virtual workplaces and cyber spaces, as was later reaffirmed by judicial pronouncements (*Shanta Kumar v Council of Scientific and Industrial Research*, 2018).

The employer has statutory obligations to sensitize and train, formulate preventive policy, and, most importantly, to ensure prompt redressal of grievances while ensuring protection to the complainant from retaliatory steps (POSH Act, 2013). Breaking the silence through reporting, investigation, and punishment of the offender has been identified as the most effective deterrent to sexual harassment.

Notwithstanding the historical progress brought forth by the Act, various challenges continue to persist Underreporting triggered by fear of social stigma, challenge of procedural delay, and the lingering impact of patriarchal norms, which in most cases influence the decision-making process, continue to hinder the effective implementation of

the Act Building institutional support, ensuring impartial investigation, and awareness are critical to realizing the Act's potential to create pedagogical changes to achieve equitable representation among genders at the workplace (Flavia Agnes, 2014).

Workplace Privacy Rights and Monitoring

Privacy rights and employer monitoring have collided in the enforceable field of employment law. Following the recognition of privacy as a fundamental right by the Supreme Court in *Justice K.S. Puttaswamy v. Union of India* (2017), (*Justice K.S. Puttaswamy (Retd.) v. Union of India*, 2017) the tension between legitimate interests of employers and the privacy of employees has come under greater scrutiny. Employers typically contend that telephone monitoring, workplace mail, CCTV surveillance, and biometric attendance systems are all necessary to protect business interests, ensure productivity, and protect confidential information. However, such measures raise concerns in this regard about excessive intrusion into the employees' personal domain, especially when these practices are not limited to just the workplace.

There is no statutory framework in India that governs workplace privacy. Rather, courts have adjudicated disputes by invoking general principles of reasonableness and proportionality under Article 21 of the Constitution. (Article 21) For instance, in cases involving telephone tapping or digital surveillance, courts have stressed the need to balance an employer's right to protect business interests and the employee's rights related to dignity and autonomy. (*People's Union for Civil Liberties (PUCL) v. Union of India*, 1997) The absence of specific rules creates uncertainty both for employers regarding clarity on permissible practices of monitoring and employees regarding assurance against intrusive practices.

The issue has become more pressing due to the rapid emergence of remote and hybrid work models, where surveillance technologies such as keystroke monitoring, screen recording, webcam surveillance, and AI-based productivity trackers are used, creating an environment where professional supervision and personal intrusion are

indistinguishable. Unlike jurisdictions such as the European Union that have adopted comprehensive protections through the General Data Protection Regulation (GDPR), (Regulation (EU) 2016/679 of the European, 2016) India continues to rely on piecemeal regulatory provisions. Although the Digital Personal Data Protection Act of 2023 (The Digital Personal Data Protection Act, 2023) provides for certain obligations with respect to the collection and processing of data, it is not clear to what extent it will extend its arms to workplace surveillance.

There is thus an immediate need for clear legal standards which (i) delimit the reasonable scope of employer surveillance, (ii) require informed consent from employees, (iii) provide transparency in data usage, and (iv) Impose accountability on employers to prevent the misuse of collected data. The establishment of such a framework would protect employee privacy while acknowledging the genuine operational needs of employers

Employment Contracts and Termination

Employment relationships in India are primarily established through contracts of employment, which lay down the essential terms, such as remuneration, nature and responsibilities of work, working conditions, and provisions for termination of the contract (Indian Contract Act, 1872). These contracts serve as the primary instrument governing the relationships between employers and employees, thus ensuring clarity of terms and mutual obligations.

Simultaneously, the laws relating to labor and employment in India place important restrictions on arbitrary termination of employment. For example, the Industrial Disputes Act, 1947 requires employers to prove the existence of just cause and follow due process before dismissing some categories of workers, particularly those employed in any of the "workman" capacities (Industrial Disputes Act, 1947). This prevails in the interest of preventing misuse of power, such as exploitation of employees, wrongful terminations, etc. In addition to such protections in case of retrenchment, layoffs, or wrongful dismissal, employees should also have clarity in their contracts.

Employment relationships can take several different forms, including fixed-term, permanent, temporary, and casual employment, all of which come with varying levels of protection (Employment forms recognized under Indian labour, 1975). While employees engaged in permanent employment are likely to have better protection against termination, fixed-term and casual employment can sometimes lead to precarious conditions, particularly in the absence of clear provisions in statutes for protection of certain rights. Consequently, clarity in contracts of employment should be regarded as significant in preventing exploitation and ensuring fairness in workplace relationships.

Dispute resolution mechanisms are yet another vital ingredient in the employment law landscape of India, which consists of labour courts, industrial tribunals, and arbitration mechanisms that are integral for resolving disputes concerning termination of employment, wages, unfair labor practices, and conditions of service (Industrial Disputes Act, 1947). Such mechanisms should be understood in light of the asymmetrical bargaining power between employers and employees. Their primary objective should be the establishment of a level playing field as an essential prerequisite for ensuring access to justice, participating in an efficient dispute resolution process, and furthering industrial peace.

Against the background of changes in the economy, particularly with the enactment of the Code on Wages, 2019 and the Industrial Relations Code, 2020 (Industrial Relations Code, 2020), an effort is now being made to consolidate and modernize labour laws. However, the success of these reforms will heavily rely upon the enforcement of the laws post-enactment and further protection of vulnerable categories of workers.

The Future of Work and Emerging Legal Challenges

The rapid shift to remote work, along with the spread of the gig economy, has been ushered in by technological advancements complemented by the COVID-19 pandemic. (See ILO Policy Brief on COVID-19, 2020) These transformations lay bare

the limitations of India's erstwhile labour laws, which are designed primarily with the economic landscape of the past, dominated by traditional factory-based employment patterns, in mind, and which pay scant attention to newer forms of work.

Workers engaged in the gig economy---be they delivery personnel, ride-hailing drivers, home-cleaners or other platform-based service providers---are often categorized as independent contractors rather than employees. (Gig workers in India are generally) This legal fiction denies them access to crucial protections normally afforded to employees, such as minimum wages, job security, the right to collective bargaining and social security benefits. At the same time, they are left exposed to greater economic precarity, the absence of critical benefits like health insurance and pensions, and susceptibility to sudden disruptions in income.

Acknowledging these risks, several beginnings have been made, even if imperfectly. The Code on Social Security, 2020 recognizes the need to extend the social security umbrella to 'gig and platform' workers as specific categories of workers entitled to welfare schemes, (The Code on Social Security, 2020)and some state governments have embarked on pilots for social security funds for gig workers, (For example, 2023)though these have been few and far between. While incremental steps forward, these changes offer some promise of formal recognition for the changing nature of work and the workforce.

Yet, these strides remain patchy and uneven. A more robust policy and legal framework is warranted, one which ensures that the right to work is not confined to employees in the conventional sense, but which embraces emerging trends in work such as social protection, collective representation, grievance redressal, and minimum guarantees of income adapted to the context of gig and remote work. In the absence of such measures, the gulf between traditional employees and non-traditional workers is likely to widen, effectively undermining the constitutional commitment to equality and dignity of labour.

Conclusion

The legal regime in India pertaining to workplace rights is strong but is always at a dynamic intersection with socio-economic progress. On the one hand, there are statutory safeguards and constitutional guarantees for the safeguarding of welfare, dignity, and equality of employees. On the other hand, the law acknowledges the justifiable prerogatives of employers to operate with the freedom that allows for efficiency, flexibility, and competitiveness. This commensurate equilibrium between the two extremes is critical to preserving worker protection and economic growth.

However, recent times have been introducing new challenges. The post-COVID scenario has transformed working patterns, hastening the acceptance of work from remote locations and flexibility. The increasing dependence on digital surveillance mechanisms has underscored new issues on employee privacy. At the same time, the surge in instances of non-traditional forms of work such as the gig and platform economy has highlighted the weaknesses of existing laws and regulations with these kinds of workers falling outside the realm of conventional protections.

The solution to the aforementioned issues is contingent upon stimulating dynamic and futuristic reform. Laws have to be modified so that technological and economic progress is not realized at the cost of basic worker rights. This necessitates an integrated way---an amalgamation of clarity in legislation, proactive judicial interpretation, responsible employer, and active involvement of workers.

In the end, the destiny of rights at the workplace in India will be determined by building an inclusive, equitable, and safe working environment that protects workers' dignity and, at the same time, nurtures innovation, growth, and enterprise.

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Employment forms recognized under Indian labour jurisprudence include permanent, temporary, fixed-term, and casual arrangements. See also *Hindustan Aeronautics Ltd. v. Workmen*, (1975) 4 SCC 679.

Industrial Disputes Act, 1947, Chapter II, establishes Labour Courts and Industrial Tribunals for adjudication of disputes.

The Code on Wages, 2019 and the Industrial Relations Code, 2020 (yet to be fully implemented) seek to consolidate labour laws relating to wages, employment conditions, and industrial disputes.

See *ILO Policy Brief on COVID-19 and the World of Work* (2020), highlighting the global acceleration of remote and gig work.

Gig workers in India are generally treated as independent contractors under contract law, not employees under labour law.

The Code on Social Security, 2020, Sections 2(35) and 2(60), defines "gig workers" and "platform workers" and extends social security schemes to them.

For example, Rajasthan introduced the *Platform-Based Gig Workers (Registration and Welfare) Bill, 2023*, establishing a welfare board and fund for gig workers.