

RIGHT TO WORK IN CONTEMPORARY INDIA: A LEGAL AND POLICY ANALYSIS OF SKILL DEVELOPMENT AND EMPLOYMENT FRAMEWORKS

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Abstract

The Right to Work has become even more important in the twenty-first century as a result of post-pandemic unemployment, the gig economy, and technological advancements. The Right to Work is a fundamental socioeconomic right that ensures a dignified livelihood and is rooted in the Directive Principles of State Policy as stated in Articles 38, 39, 41, and 43 of the Indian Constitution. The legal meaning of the Right to Work in India has changed over time, and this paper critically analyses how it is currently operationalized through skill development initiatives including the Pradhan Mantri Kaushal Vikas Yojana (PMKVY), the National Education Policy (NEP) 2020, and the Skill India Mission. The paper assesses how India's policy architecture aims to make employability a moral and legal right by drawing on international labor norms and constitutional law. The paper contends that although there has been a lot of progress, the Right to Work cannot fulfill its constitutional potential because it lacks institutional accountability and statutory enforceability. In order to create a rights-based and inclusive employment framework appropriate for India's digital and knowledge economy, it ends by suggesting legislative changes.

Keywords: Constitutional Rights, Digital Economy, Employment Law, Gig Workers, Labour Policy, Right to Work, Skill Development.

INTRODUCTION

One of the most basic socioeconomic rights, the right to work is inextricably tied to the larger principles of equality, social justice, and human dignity that are contained in the Indian Constitution. It captures the idea that livelihood is a fundamental aspect of human existence rather than just an economic necessity, and that denying it jeopardizes the very right to life and liberty. This right holds a crucial normative place in the Indian constitutional framework, acting as a link between the right of the person to live in dignity and the duty of the State to guarantee welfare.¹

India's economy has been growing steadily, yet the dilemma of underemployment, unemployment, and informal labor remains. The Periodic Labour Force Survey (PLFS), 2023, reports that around 80% of India's workforce is still working in the unorganized sector, which reflects the fragmented realization of the right to work and the narrow scope of official labor safeguards.² Half The material realization of equality guaranteed by Article 14 and the maintenance of democracy depend on this right, which is therefore fundamental to the constitution and goes beyond economic considerations.³

Article 41 of the Constitution explicitly directs the State to “make effective provision for securing the right to work, to education, and to public assistance in cases of unemployment.” Although situated within the **Directive Principles of State Policy (DPSPs)** and thus non-justiciable, Article 41 provides a **moral-constitutional framework** that guides governance towards ensuring livelihood security.⁴ Judicial creativity, particularly through the interpretative expansion of **Article 21**, has gradually infused justiciability into this right, thereby transforming the *Right to Work* from a **directive ideal into a substantive, enforceable entitlement**.

The Supreme Court ruled in *Olga Tellis v. Bombay Municipal Corporation*⁵ that the "right to livelihood" is a fundamental component of the right to life and that denying someone their means of subsistence is equivalent to denying them their life. Similar to this, the Court acknowledged in *Bandhua Mukti Morcha v. Union of India*⁶ that the right to work in a humane

¹ Upendra Baxi, *The Crisis of the Indian Legal System* (Delhi: Vikas Publishing, 1982), p. 143.

² Government of India, *Periodic Labour Force Survey (PLFS), 2023–24*, Ministry of Statistics and Programme Implementation.

³ B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study* (New Delhi: Indian Institute of Public Administration, 1968), Vol. IV, p. 112.

⁴ Constitution of India, Art. 41 (Government of India, 1950).

⁵ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

⁶ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

environment and get fair compensation is part of the right to live with dignity. These court rulings have operationalized the welfare state concept envisioned in the Preamble and Part IV of the Constitution by integrating livelihood jurisprudence within the framework of constitutional rights.

However, the nature of work has changed significantly in the modern, global setting. Traditional ideas of employment have been transformed by technological disruption, digitization, and the growth of the gig and platform economies. Flexibility, informality, and precarity are becoming more prevalent in the workforce, which calls into question the relevance of traditional labor laws that date back to the industrial era.⁷ Conventional labor laws like the Factories Act of 1948 and the Industrial Disputes Act of 1947, which were first created to govern employer-employee relations in organized industries, find it difficult to handle the complexity of contract, freelance, and digital labor that characterizes today's economic environment.⁸

A thorough re-examination of the Right to Work in light of contemporary legal, economic, and technological circumstances has become necessary due to the rise of algorithmic management, remote work models, and platform-based employment. Retraining, lifelong learning, and skill development are now essential processes for converting the constitutional right to work into real employment and income prospects.⁹ This change is reflected in the Government of India's flagship Skill India Mission (2015) and the National Education Policy (NEP), 2020, which mainstreams digital literacy, entrepreneurship, and vocational education.¹⁰ Both of these measures are in line with the International Labour Organization's Employment Policy Convention (No. 122, 1964), which calls on nations to support full, productive, and freely chosen employment, and Sustainable Development Goal (SDG) 8, which emphasizes "decent work and economic growth."¹¹

⁷ International Labour Organization, *World Employment and Social Outlook: The Role of Digital Labour Platforms in Transforming the World of Work* (Geneva: ILO, 2021).

⁸ K. Vaidyanathan, "Precarious Work and Legal Protection in India," *Economic and Political Weekly*, Vol. 57, No. 2 (2022), pp. 33–41.

⁹ N. Kumar, "Right to Work and Employability: Revisiting Constitutional Mandates," *Indian Journal of Labour Economics*, Vol. 65, No. 3 (2022), pp. 475–491.

¹⁰ Government of India, *National Education Policy*, Ministry of Education, 2020.

¹¹ International Labour Organization, *Employment Policy Convention (No. 122)*, 1964.

CONSTITUTIONAL AND LEGAL FRAMEWORK OF THE RIGHT TO WORK IN INDIA

The Directive Principles of State Policy (DPSPs), which together constitute the moral and socioeconomic cornerstone of the Indian Constitution, are the intellectual and normative basis for the Right to Work in India.¹² These principles are essential to the nation's government, directing legislative and policy actions toward the establishment of a welfare-oriented and egalitarian social order, despite the fact that they are not legally binding. By guaranteeing that everyone in society has access to employment and livelihood possibilities, the Indian constitutional framework demonstrates a deliberate commitment to striking a balance between distributive justice and economic progress.¹³

Constitutional Foundation

The State is required to establish conditions for social welfare and dignified life by the Directive Principles of State Policy, which are incorporated in Part IV of the Constitution.¹⁴ A number of clauses express the legal theory underlying the Right to Work. Article 39(a) recognizes work as vital to human dignity and requires the State to focus its policies on ensuring citizens have the right to a sufficient standard of living.¹⁵ Article 41 instructs the State to ensure that the rights to employment, education, and public assistance in the event of unemployment, old age, illness, or disability are effectively secured.¹⁶ According to Article 43, the State is required to give all workers a livable salary, reasonable living standards, and fair working conditions.¹⁷

The Supreme Court ruled in *Olga Tellis v. Bombay Municipal Corporation* that "the right to livelihood is an integral part of the right to life," noting that denying someone their means of subsistence is equivalent to denying them their life.¹⁸ In a similar vein, the Court highlighted the State's duty to guarantee humane working conditions and stop labor exploitation in *Bandhua Mukti Morcha v. Union of India*.¹⁹ With these decisions, the Court dissolved the distinction between fundamental rights and directive principles, turning socioeconomic rights

¹² B. Shiva Rao (ed.), *The Framing of India's Constitution: A Study*, Vol. IV (Indian Institute of Public Administration, New Delhi, 1968), p. 112.

¹³ *Constitution of India, Part IV* (Government of India, 1950).

¹⁴ D.D. Basu, *Commentary on the Constitution of India*, Vol. E (LexisNexis, 9th edn., 2019), p. 201

¹⁵ *Constitution of India, Art. 39(a)* (Government of India, 1950).

¹⁶ *Constitution of India, Art. 41* (Government of India, 1950).

¹⁷ *Constitution of India, Art. 43* (Government of India, 1950).

¹⁸ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

¹⁹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

from moral precepts into legally binding elements of the constitutional order.²⁰

With its normative foundation in Part IV and judicial reinforcement in Part III, the Right to Work in India thus occupies a hybrid constitutional space that reflects the dynamic and changing character of Indian social justice jurisprudence.²¹

Statutory Recognition

By converting directive ideas into concrete socio-economic programs, a number of legislative and policy frameworks operationalize the constitutional commitment to the right to work.

(a) The Mahatma Gandhi National Rural Employment Guarantee Act of 2005 (MGNREGA): MGNREGA offers rural households whose adult members volunteer to perform manual labor that requires little skill a legal guarantee of 100 days of pay employment annually.²² It is the first time that the Right to Work has been explicitly recognized by legislation, giving Article 41 statutory authority and turning a directive principle into a justiciable entitlement.²³

(b) Apprentices Act, 1961: This Act ensures that industries contribute to the production of human capital by encouraging skill development through apprenticeship training.²⁴ Through the connection between employability and technical education, it operationalizes Articles 41 and 43.

(c) The 2015 National Policy on Entrepreneurship and Skill Development: The goal of the policy is to establish a demand-driven skill ecosystem by combining education, vocational training, and entrepreneurship.²⁵ It links national priorities with the goals of Atma Nirbhar Bharat and the Skill India Mission and acknowledges employability as essential to the attainment of the Right to Work.

(d) 2019–2020 Labor Codes: India's labour laws are modernised by the four consolidated labour codes, which provide a single framework for welfare, safety, and decent work. These

²⁰ Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company, Lucknow, 1980), p. 215.

²¹ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, New Delhi, 2002), p. 85.

²² *Mahatma Gandhi National Rural Employment Guarantee Act*, No. 42 of 2005, India Code (2005).

²³ A. K. Mehta, "Employment Guarantee as Social Protection: Indian Experience," *Indian Journal of Labour Economics*, Vol. 58, No. 4 (2015), pp. 487–505.

²⁴ *Apprentices Act*, No. 52 of 1961, India Code (1961).

²⁵ Government of India, *National Policy on Skill Development and Entrepreneurship* (Ministry of Skill Development and Entrepreneurship, New Delhi, 2015).

codes are on wages (2019), social security (2020), industrial relations (2020), and occupational safety, health, and working conditions (2020).²⁶ The constitutional ideas of Articles 41 and 43, which connect labor justice and economic efficiency, are embodied in these measures. Even though the Right to Work is still fragmented and conditional, taken as a whole, these statutes show India's slow transition from policy to rights-based governance. Fulfilling the constitutional guarantee of a dignified livelihood requires enhancing legislative enforceability, extending safeguards to gig and informal workers, and establishing skill development as a legal entitlement.²⁷

INTERNATIONAL PERSPECTIVES AND HUMAN RIGHTS FRAMEWORK

The right to work, which represents the inseparable link between social fairness, economic participation, and human dignity, holds a prominent place in the international human rights discourse. Work has long been acknowledged by the international community as a basic human right that protects people from poverty and social marginalization.²⁸

"Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment," according to Article 23(1) of the 1948 Universal Declaration of Human Rights (UDHR).²⁹ Similarly, * "the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts" is recognized in Article 6(1) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966.

This right is further developed by the International Labour Organization (ILO) through its 1964 Convention No. 122 on work Policy, which requires member governments to implement measures to guarantee * "full, productive, and freely chosen employment."³⁰ The Convention advocates for an integrated strategy that combines labor market regulation and economic development to guarantee that everyone has access to good jobs. Despite having ratified a

²⁶ *Code on Social Security*, No. 36 of 2020, India Code (2020); *Code on Wages*, No. 29 of 2019, India Code (2019).

²⁷ International Labour Organization, *Employment Policy Convention (No. 122)*, 1964.

²⁸ United Nations, *Universal Declaration of Human Rights*, adopted 10 December 1948, G.A. Res. 217A (III).

²⁹ *Ibid.*, Art. 23(1).

³⁰ International Labour Organization, *Employment Policy Convention (No. 122)*, adopted 9 July 1964, 554 U.N.T.S. 65.

number of ILO conventions pertaining to labor standards, India has not yet passed complete home legislation that would make these international obligations legally obligatory.³¹

The Right to Work has been constitutionalized or statutorily codified in a number of jurisdictions worldwide. For instance, South Korea's Framework Act on Employment Policy, 1995, enshrines people's right to skill acquisition and re-employment aid, while France's Article 5 of the Labour Code ensures access to vocational training and ongoing professional development.³² India could benefit from adopting the proactive legislative approach exemplified by these models, which connect the improvement of employability with the wider realization of socio-economic rights.

Furthermore, by calling on governments to support "inclusive and sustainable economic growth, full and productive employment, and decent work for all," the Sustainable Development Goals (SDG 8) of the UN further solidify international agreement.³³ India's constitutional commitment to social and economic fairness under Articles 41 and 43 would be strengthened if these international norms were incorporated into local legislation.

DIFFICULTIES IN ACHIEVING THE RIGHT TO WORK

The right to work in India is still not fully fulfilled because of institutional, legal, and structural barriers, despite having a strong constitutional and policy basis. Its full operationalization is still hampered by the following issues:

Lack of Legal Enforceability: Despite being recognized by Article 41 of the constitution, the Right to Work is not enforceable by law. Apart from MGNREGA, 2005, no comprehensive law ensures employment as a legal right, and the Directive Principles are not subject to judicial review.³⁴ The right is thus still subject to administrative and financial discretion and remains policy-contingent.

Job-Skill Mismatch: The demand for employment and training in India's workforce remain significantly out of sync. Less than 30% of skilled millennials find work in their field of expertise, according to a 2024 NITI Aayog Report, which highlights a lack of coordination

³¹ Vaidyanathan, K., "Precarious Work and Legal Protection in India," *Economic and Political Weekly*, Vol. 57, No. 2 (2022), p. 34.

³² OECD, *Employment Outlook 2023: Building Resilient Labour Markets* (Paris: OECD Publishing, 2023), pp. 142–145.

³³ United Nations, *Transforming Our World: The 2030 Agenda for Sustainable Development*, Goal 8 (2015).

³⁴ *Mahatma Gandhi National Rural Employment Guarantee Act*, No. 42 of 2005, India Code (2005).

between skill development institutes and market demands.³⁵ The goal of employability is undermined by this "educated unemployment," which also leads to underutilization of human capital.

Inequality of Gender : Despite legislative initiatives like the Skill India Mission and NEP 2020, women's employment participation is still below 25%.³⁶ This exclusion is made worse by sociocultural barriers, occupational segregation, and insufficient workplace safety. Because women are overrepresented in low-wage or informal industries, gendered training patterns contribute to the persistence of inequality.³⁷

Informality and Precarity: With no official contracts, legal protection, or social security coverage, over 80% of India's labor continues to work in the unorganized sector.³⁸ Traditional ideas of employment stability have been undermined and socioeconomic gaps have grown as a result of the rise of precarious employment, including contract, gig, and casual work. Even while gig and platform workers are partially recognized in the 2020 Code on Social Security, its application is still restricted and primarily declaratory.³⁹

RECOMMENDATIONS AND LEGAL REFORMS

India's Right to Work has not yet achieved structural coherence and legal enforcement within the current system of employment and labor laws, despite being constitutionally acknowledged within the Directive Principles of State Policy. A rights-based legal system that ensures access to work, skill development, and social protection must replace policy-driven welfare measures in India in order to fulfill the constitutional promise enshrined in Articles 41 and 43. The multifaceted reform framework outlined in the following recommendations is intended to enhance the legal fulfilment of the right to work in the twenty-first century.

1. Enactment of a Right to Work and Employability Act, 2025: To ensure that all citizens have the right to skill development, reskilling, and employment facilitation, a comprehensive central law called the Right to Work and Employability Act, 2025, should be introduced. Existing programs like Pradhan Mantri Kaushal Vikas Yojana

³⁵ NITI Aayog, *India Employment Report 2024: Youth, Employment and Policy Imperatives* (Government of India, New Delhi, 2024), p. 33

³⁶ Government of India, *Periodic Labour Force Survey (PLFS), 2023–24* (Ministry of Statistics and Programme Implementation, New Delhi, 2024).

³⁷ Pandey, S., "Skill India and Constitutional Goals: Linking Employability with Right to Livelihood," *Indian Journal of Labour Economics*, Vol. 64, No. 2 (2021), pp. 221–225.

³⁸ *Code on Social Security*, No. 36 of 2020, India Code (2020).

³⁹

(PMKVY), MGNREGA, and Skill India Mission should all be incorporated into the law within a single framework. Additionally, it must establish digital job-matching systems and Employment Facilitation Centers to guarantee open access to chances for employment.

2. **Social Security Code Integration:** The bulk of India's workforce is employed in the gig, platform, and informal sectors; therefore, the 2020 Code on Social Security and the 2019 Code on Wages should be extended to include these workers. By guaranteeing universal access to health insurance, pension benefits, and minimum wages, this would bring national law into line with the social and economic justice envisioned in Article 43 of the Constitution.⁴⁰
3. **Gender-Responsive Skilling Framework:** Given the persistent gender gap in employment, a gender-responsive skilling policy must be institutionalized through statutory quotas, financial incentives, and flexible learning modules for women in vocational and digital training programs. Legal compliance with the *Maternity Benefit Act, 2017* and *POSH Act, 2013* should be strengthened to promote workplace inclusion and safety.
4. **Public–Private Accountability Mechanism:** It is not possible for the state to generate employment alone. A structured skill and employment fund, akin to the Corporate Social Responsibility (CSR) model under the Companies Act of 2013⁴¹, must be used to compel industries to take part in skill development and placement programs. This would formally establish joint accountability between the public and private sectors.
5. **Recognition of the Right to Digital Workplace Facilities:** Technology knowledge and internet connection are essential for employment in the digital age. It would guarantee inclusion in the digital economy to acknowledge these as enabling conditions of the Right to Work. This claim is supported by the Supreme Court's ruling in *Anuradha Bhasin v. Union of India*⁴², which acknowledged internet connectivity as essential to freedom of expression and trade.

When taken as a whole, these changes would make the Right to Work a legally binding, inclusive, and forward-thinking right that would guarantee social justice, economic

⁴⁰ *Code on Social Security*, No. 36 of 2020, India Code (2020).

⁴¹ *Companies Act*, No. 18 of 2013, India Code (2013).

⁴² *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

stability, and constitutional justice in a society that is becoming more digitally and globally integrated.

CONCLUSION

In modern India, the Right to Work is much more than just a socioeconomic goal; it is a constitutional obligation that must constantly change to reflect the country's changing social, technological, and economic realities. Based on the Preamble's goal of justice, equality, and dignity and operationalized through Articles 38, 39, 41, and 43 of the Constitution, it is a dynamic constitutional obligation rather than a static or peripheral value. The Indian State, which was established as a welfare state, is still responsible for making sure that all citizens have the ability to work and lead respectable lives.⁴³

The lack of legislative enforceability is still a major barrier, even in light of major policy advancements that have institutionalized lifelong learning, digital literacy, and vocational training, such as the Skill India Mission (2015) and the National Education Policy (NEP), 2020. Even if these programs are progressive, they are still based on policy frameworks rather than legal guarantees, therefore their execution is dependent on administrative will and financial resources. As a result, Article 41's constitutional guarantee of the right to work still functions more as a guiding concept than an actual right.⁴⁴

It is imperative that India shift from policy rhetoric to legal entitlement in order to fully realize its constitutional ambition. This shift necessitates the implementation of a rights-based framework that incorporates three interrelated pillars: (i) skill development as the basis for employability; (ii) employment guarantees as a legally binding promise of employment opportunities; and (iii) social security mechanisms that provide protection against unemployment, economic vulnerability, and precarious employment. In this way, national law would be in line with international labor norms, such as the ILO Employment Policy Convention (No. 122, 1964), and developmental goals would be in harmony with constitutional morals, accomplishing the purpose of the Directive Principles.⁴⁵

As automation, artificial intelligence, and platform-based work become more prevalent, the Right to Work must adapt to include new digital and non-traditional forms of labor.

⁴³ Upendra Baxi, *The Indian Supreme Court and Politics* (Delhi: Eastern Book Company, 1980), p. 215.

⁴⁴ *Constitution of India, Arts. 38, 39, 41 and 43* (Government of India, 1950).

⁴⁵ International Labour Organization, *Employment Policy Convention (No. 122)*, 1964; see also, N. Kumar, "Right to Work and Employability: Revisiting Constitutional Mandates," *Indian Journal of Labour Economics*, Vol. 65, No. 3 (2022), pp. 475–491.

Safeguarding the inclusive nature of India's labor regime requires addressing the digital gap, ensuring fair conditions for gig and platform workers, and formally acknowledging new professional identities. Realizing this right would not only assess the country's economic resiliency and productivity, but it will also act as a yardstick for evaluating the morality and constitutional soundness of India's democratic welfare state. Ultimately, the Constitution's revolutionary promise that every person, regardless of socioeconomic background, shall have the right to live, learn, and work with dignity in a world that is changing quickly would be reaffirmed if the Right to Work were incorporated into a justiciable, enforceable, and future-ready legal framework.

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