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# **“BEYOND THE STATUTE: EXAMINING LEGAL GAPS IN WAGE PROTECTION FOR INFORMAL SECTOR WORKERS IN INDIA”**

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## **Abstract:**

India's unorganized economy boasts the overwhelming majority of its workforce with at least 85–90% of the total employment being outside the formal regulatory system, as the *Periodic Labour Force Survey (PLFS) 2021–2022<sup>1</sup>* reports and as verified by the *International Labour Organization (ILO)<sup>2</sup>*. Though the industry is crucial to the economy, the informal workers are largely out of scope of wage law, exposed to poor working conditions, exploitation at work, and denial of social security coverage. The failure of the state to protect wages within the sector constitutes not only a failure of economic policy but also a constitutional failure to deprive wage workers of their fundamental rights granted under Articles 14, 21, and 23 of the Indian Constitution.

The research paper is critically evaluating the economic as well as the legal consequences of insecurity of wage employment within the Indian informal economy. On the basis of an eclectic combination of empirical and normative legal studies, this study examines the failure of progressive wage-protecting labor laws such as the Code on Wages, 2019<sup>3</sup>, and the Social Security Code, 2020<sup>4</sup>. While these reforms have made wage protection universalized, their effectiveness is still mostly papered over by non-availability of appropriate enforcing mechanisms, employer evasion strategies, and design loopholes. Using the doctrinal approach, the research puts in the limelight that non-enforceability of legal rights has pushed millions of

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<sup>1</sup> Ministry of Statistics and Programme Implementation. (2022). *Periodic Labour Force Survey Annual Report 2021–22*. National Statistical Office.

<sup>2</sup> International Labour Organization. (2018). *India Wage Report: Wage policies for decent work and migrant ILO India*.

<sup>3</sup> Government of India. (2019). *The Code on Wages, 2019 (No. 29 of 2019)*. Ministry of Law and Justice.

<sup>4</sup> Government of India. (2020). *The Code on Social Security, 2020 (No. 36 of 2020)*. Ministry of Law and Justice.

informal workers such as migrant workers, women workers, platform and gig workers, and contract workers out of the legal protection circle. *Empirical analysis is supplemented with secondary sources such as PLFS, National Sample Surveys, and industry wage data.*

The effects of wage insecurity in the informal economy extend beyond individual living. Macroeconomically, uncertainty of wage facilitates consumption, promotes household over-indebtedness, accelerates poverty and waters down domestic demand and thereby affects growth in GDP. Poorer people, especially interstate migrants and women-headed households, are most vulnerable to cascading effects of denial or delay in wages. It is argued by the paper that wage insecurity is not an exceptional phenomenon of casual employment but is an inherent system, and juridical marginalization serves to consolidate socio-economic stratification.

It brings constitutionally protection of wages under the ambit of basic rights. The ban on forced labour under Article 23, interpreted by the Supreme Court in *People's Union for Democratic Rights v. Union of India (1982)*<sup>5</sup>, encompasses non-payment or reduced payment of wages as economic coercion. The Supreme Court noted that any labour secured at less than reasonable pay is contrary to the dignity and freedom of the worker. But wage theft goes unpunished as there is no effective regulation, expensive grievance redress procedures, and intimidation of fear among informal workers who attempt to enforce their rights. Also, Articles 14 and 21 guaranteeing equality before the law and right to life with dignity become empty for informal workers in the absence of enforceable wage protection.

Comparative analysis with other countries like South Africa, Brazil, and other European Union states shows that India's state-dependent and decentralized enforcement model is very different from more centralized, rights-based legal frameworks in other countries. These countries have legislation covering universal minimum wages, mandatory registration of all workers (industry-wide), and enforcement of electronic payment of wages. Brazil, as an example, integrates informal workers into national wage protection via electronic portals and extensive statutory coverage. South Africa's Employment Conditions Commission equals sectoral wages for precarious workers.<sup>6</sup> India has no unified institutional framework to make wage legislation applicable to the informal economy and relies significantly on voluntary compliance and

<sup>5</sup> Supreme Court of India. (1982). *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473.

<sup>6</sup> International Labour Organization. (2022). *World employment and social outlook: Trends 2022*. ILO.

inspection-based enforcement.<sup>7</sup>

The report also condemns the growing practice of informalization within the formal sector, where employers outsource work or contract employment in a bid to evade statutory compliance. The practice conceals the distinction between formal and informal labor and raises legal invisibility among workers who are included as formally employed but excluded from wages and benefits. Construction, logistics, retail, and hospitality sectors are good examples of this trend. In these industries, the practice of wages going informal persists under the guise of contractualization and freelancing and escapes the radar of wage boards and inspectors.

To bridge the wage protection gap in India, the paper recommends the following major legal reforms:

- Harmonization of labor codes to make them equally effective for all workers, including informal, part-time, and gig workers.
- National Minimum Wage Floor, applicable throughout all states and jobs, as proposed by Ministry of Labour expert committees.
- Real-time wage payment systems through electronic payment, accompanied by compliance monitoring and grievance registration to stop wage theft.
- Redressal opportunities located and made available at the district level with mobile legal aid facilities to reach greater informal workers.
- Universal schemes of worker registration on Aadhaar-linked registries for registering informal workers under the law.

This study adds to legal scholarship in that it brings out that wage protection is as much a matter of constitutional justice and economic necessity rather than regulation. The current machinery of law is blunt and short and has no capability to stop the systemic exploitation of wages<sup>8</sup>. Unless policy and legal reforms take a priority, India stands the chance of institutionalizing income inequality and denying its constitutional guarantee of inclusive growth.

**Keywords:**

Informal Sector, Wage Protection, Labour Law Reform, Economic Inequality, Constitutional Rights.

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<sup>7</sup> Ministry of Labour and Employment. (2020). Code on Wages, 2019 & Code on Social Security, 2020: An overview. Government of India.

<sup>8</sup> Ministry of Labour and Employment. (2020). Code on Wages, 2019 & Code on Social Security, 2020: An overview. Government of India.

## **Introduction and Research Methodology:**

The economy of India has been referred to as a paradox: despite having industrial growth, a resilient services sector, and growing trade with the world, it is deeply entrenched in informal labor. More than 90% of India's labor force works in the informal economy, with frequently no formal employment contracts, social security, or wage benefits tied to fixed wages.<sup>9</sup> These workers who vary from construction workers and domestic workers to gig workers and street vendors—work outside the boundary of secure work and frequently outside the purview of statutory protection of wages. The magnitude and diversity of the informal sector are simultaneously a strength and a weakness in the Indian economy. And yet, despite decades of legal reform, wage exploitation continues to be a structural norm rather than an exception. At its foundation is a disjuncture between wage protection legal framework and the lived reality of the informal workers.<sup>10</sup>

The legal framework of India has evolved through the decades and resulted in the Code on Wages, 2019<sup>11</sup>, which aims to consolidate and harmonize wage legislation. However, even as the Code states a uniform code of minimum wages, timely payment, and prohibiting gender discrimination in remuneration, it does not significantly impart enforceable rights to informal sector workers. In practice, the legal safeguards often become remote for those who are not formally included among "workers" under statutory definitions. This creates a duality in the labour regime—one governed by codified rights, the other by indeterminacy and secrecy. The wage-based exposures of informal sector workers are not merely economic but are intensely social and institutional as well. Informality pervades caste, gender, and migration status, leading to cycles of marginalisation and income insecurity.<sup>12</sup>

Domestic women workers, sanitation Dalits, and migrant construction workers are generally left at the margins of legal protection both due to structural breakdowns and administrative shortfalls. Ineffective machinery of enforcement, absence of grievance redressal machinery, and lack of scope for collective bargaining also further complicate these loopholes. The Indian state, committed in theory, albeit in principle, to labour welfare according to Article 43 of the

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<sup>9</sup> International Labour Organization (ILO), *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018).

<sup>10</sup> Periodic Labour Force Survey (PLFS), Annual Report 2022-23, Ministry of Statistics and Programme Implementation (Government of India 2023).

<sup>11</sup> The Code on Wages, 2019 (No. 29 of 2019).

<sup>12</sup> Swati Ghosh, 'Gender, Informality, and Low Pay in India' (2021) 56(2) *Economic and Political Weekly* 42.

Constitution, has been unable to make this commitment a reality in practice. Labour reforms have proceeded further in the direction of deregulation in the cause of ease of doing business at the cost of workers' rights. With further informalisation even in formal enterprises by contractualisation and labour through online platforms, the line between the formal and the informal becomes increasingly diffuse, adding to the obscurity of legal protection. In this context, this research seeks to critically evaluate the legal and institutional loopholes in wage protection for India's informal workers.<sup>13</sup>

*It seeks to answer the following critical questions:*

- 1. What are the major limitations in the current legal framework that hinder wage protection for informal workers?*
- 2. How do these gaps manifest across sectors and worker identities?*
- 3. What empirical evidence illustrates the disconnect between statutory entitlements and actual wage practices?*

**Research Methodology:** The research is qualitative as well as empirical in nature, involving doctrinal legal analysis and field-level data. It is based on a comprehensive collection of primary and secondary sources of data

**Primary Data:** Semi-structured interviews were also done among informal workers in construction, domestic work, and platform-based gig jobs across urban and semi-urban areas. The interviews aimed to capture wage trends, delayed payments, legality consciousness, and awareness of redress mechanisms.

**Secondary Data:** Reports from the government (e.g., NSSO, Periodic Labour Force Survey), judicial orders, ILO reports, research from academic institutions and civil society organisations.

This article not only criticizes the existing legal vacuum but attempts to push the debate beyond the statute—toward a rights-based, integrated, and enforceable wage justice paradigm.

### **Informal Labour Sector in India: Structure and Vulnerabilities:**

The Indian informal labour sector is not just a transitional or peripheral aspect of the Indian economy—its backbone. According to recent estimates by the Periodic Labour Force Survey

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<sup>13</sup> Constitution of India 1950, art 23, art 39, art 43.

(PLFS)<sup>14</sup> and corroborated by the International Labour Organization (ILO)<sup>15</sup>, more than 90% of India's entire workforce is working in the informal sector. These workers work without formal contracts, without paid leave, social security, or grievance mechanisms, and usually remain statistically invisible to regulatory agencies. Nonetheless, they play a major role in national income from construction, agriculture, domestic work, street vending, transport, and now, to a greater extent, digital gig work.

### **Structural Dimensions of Informality:**

The Indian informal economy is marked by heterogeneity, decentralization, and informality in employer-employee relations. In contrast to formal employment, ruled by well-defined norms of recruitment, remuneration, and protection, informal work arrangements are ad hoc and highly personalized. Employers do not issue appointment letters or wage slips, and thus, it is hard to recover unpaid dues or establish the presence of an employment relationship.

Informality is most deeply rooted in industries like construction, in which day-to-day workers are contracted through labour contractors; domestic work, where the home is transformed into a workplace; and agriculture, where seasonal and family labour prevail. With the expansion of platform-based digital services like food delivery and ride-sharing, informality also took a technologically mediated turn, where workers employed via apps are "partners" or "independent contractors" rather than employees.

What binds these different forms of labor together is the fact that they are excluded from the law. In spite of being economically vital, workers in the informal sector have traditionally been in a legal limbo where wage norms, safety standards, and mechanisms to resolve disputes are absent or weak.

### **Demographic and Social Vulnerabilities:**

Organizational structure in the informal sector mirrors the larger social hierarchies within Indian society. Informality impacts disproportionately historically marginalized groups—Dalits, Adivasis, Muslims, migrants, and women—who are overrepresented in low-wage, insecure, and stigmatized work.

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<sup>14</sup> Periodic Labour Force Survey (PLFS), Annual Report 2022-23, Ministry of Statistics and Programme Implementation (Government of India 2023).

<sup>15</sup> International Labour Organization (ILO), Women and Men in the Informal Economy: A Statistical Picture (3rd edn, ILO 2018).

Women make up a significant proportion of the informal economy, particularly in care work, home production, and agriculture. They receive wages below the legal minimum in many cases, and their labor is devalued because it is tied to care work and reproductive labor. Most female workers are subjected to double exploitation—economic and sexual—without access to legal remedy.

Dalit and Adivasi communities, long confined to manual and "unclean" labor, are stuck in the most exploitative parts of the informal economy. Confronted with constitutional assurances of equality and social justice, caste continues to determine access to decent work and fair pay.<sup>16</sup>

The most vulnerable of them are migrant workers who are mostly seasonal and inter-state migrants. They lack local identity documents, are often denied rationing and welfare schemes, and work under exploitative conditions where wages are withheld, deducted irrationally, or delayed.<sup>17</sup>

The wage insecurity of informal workers is not accidental, but systemically created and reinforced. Workers receive piece wages rather than fixed wages, without standardization by employers or geography. Even in the presence of legal minimum wages, they may not be notified for some jobs or enforced at all.

Most of the informal workers receive wages that are below the subsistence level. For example, the majority of states employ agricultural and domestic workers who make less than ₹200 a day, which is not even sufficient to meet minimum nutritional and living needs. Moreover, the payment is irregular, withheld for weeks or months, and is accompanied by arbitrary deductions, giving rise to cycles of debt and dependence.<sup>18</sup>

### **Absence of Legal Identity and Voice:**

One of the most basic challenges to obtaining wage justice for informal labourers is that they do not have a legal identity as "workers". None of them are registered on any labour database, social security board, or union. This invisibility renders it impossible to monitor compliance,

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<sup>16</sup> Ashwini Deshpande, 'Caste and Labour Market Discrimination in India' (2011) 46(4) Indian Journal of Labour Economics 535.

<sup>17</sup> National Human Rights Commission (NHRC), Status of Migrant Workers in India during the COVID-19 Pandemic (2021).

<sup>18</sup> Rina Agarwala, Informal Labor, Formal Politics, and Dignified Discontent in India (CUP 2013).

assert entitlements, or hold employers to account.

Their lack of collective bargaining amenities only goes to exacerbate their situation. Compared to the formally employed and potentially unionised or represented by workers' associations, informal workers hardly enjoy these possibilities. Unionisation efforts are often thwarted, particularly in areas such as domestic or gig labour where the "employer" is either diffused or far away.

### **Economic Dependence and the Cost of Non-Compliance:**

It must be realized that informality is not merely the result of regulatory failure or bureaucratic neglect—it is embedded in India's model of development.

Informal work is preferred by employers because it is inexpensive, adaptable, and unregulated. The compliance cost is perceived to be high, while the non-compliance cost in terms of labor legislation is zero because of lax enforcement and low penalties. This institutional laxity towards informality sets up an environment in which exploitation of wages becomes economically sound and legally safe for employers. To employees, it means perpetual poverty, hunger, inability to move upward, and social exclusion.

### **Legal Framework Regulating Wage Protection:**

India's legislative thrust towards wage protection has been a journey spanning a century, guided by the philosophy of fairness, dignity of human beings, and social justice. Article 23 of the Indian Constitution guarantees these under the prohibition of forced labour, while Directive Principles of State Policy, specifically Articles 39 and 43, bind the State to provide living wages and good work conditions. But although this normative order looks strong on paper, its application—particularly in the informal economy—has been intermittent, discriminatory, and disjointed.<sup>19</sup>

**From Fragmentation to Consolidation:** The Code on Wages, 2019 Historically, Indian wage legislation was scattered over a number of statutes—the Minimum Wages Act, 1948<sup>20</sup>, Payment of Wages Act, 1936<sup>21</sup>, Equal Remuneration Act, 1976<sup>22</sup>, and the Payment of Bonus

<sup>19</sup> Constitution of India 1950, art 23, art 39, art 43.

<sup>20</sup> Minimum Wages Act 1948 (repealed)

<sup>21</sup> Equal Remuneration Act 1976 (repealed).

<sup>22</sup> Equal Remuneration Act 1976 (repealed).

Act, 1965<sup>23</sup>. These enactments dealt with minimum wage fixation, payment of wages in time, equality of pay for men and women, and incentive payments. Overlapping provisions and inconsistent terminologies rendered enforcement a bureaucratic maze, particularly in the unorganized sector.

To remedy this, the Code on Wages, 2019 was enacted as part of the labour law reform endeavour to merge 29 central labour laws into four labour codes. The Code on Wages endeavours to create an integrated and uncomplicated framework, broadening minimum wage coverage to all employees, eliminating the previous differentiation between scheduled and non-scheduled employment, and requiring uniform payment practices for wages.

In principle, the Code is a positive step—it:

- Applies to all workers regardless of sector (formal/informal).
- Promotes the use of a floor wage, to be determined by the central government.
- Maintains gender-free pay equality.
- makes provisions for penalty and adjudication procedures in the event of wage offenses.

But the true test is in the implementation, and not in legal wording. For India's enormous informal workforce, the Code remains plagued by basic limitations in scope, access, and enforcement.

**The Enforcement Dilemma:** One of the greatest challenges to the legal enforcement of wage rights is that there are no identifiable employers and worker registration in the unregulated informal economy. Although the Code on Wages does not preclude informal workers in theory, in practice, it does not have working mechanisms to enforce rights in unregulated employment relations.

Also, although the Code directs the state governments to notify minimum wage rates and make regular revision a requirement, numerous states postpone or do not revise wage rates, particularly for informal jobs. The burden of compliance greatly falls on workers, who have to file complaints, mostly without institutional or legal literacy support.

Labour inspection—a key enforcement component—has also been watered down in recent years. With the move towards "facilitative inspection" and "self-certification" under the ease of doing business framework, employers have increased leeway while workers lose access to accountability mechanisms.<sup>24</sup>

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<sup>23</sup> Payment of Bonus Act 1965.

<sup>24</sup> Nikhil Dey and Aruna Roy, 'Legal Empowerment through Grassroots Accountability: The MKSS Experience' (2020) 15(1) JHRP 45.

Moreover, online grievance redressal websites, while being a recent reform, are still out of reach for a considerable portion of informal workers who do not have digital literacy or access to the internet. The Code also fails to include mandates for proactive outreach, i.e., registration drives of workers, helplines, or mobile complaint units, as a must in reaching scattered and nomadic informal workers.

**Judicial Interpretation and Limits:** India's judiciary has, at times, stepped in to obtain wage justice for casual workers. In the seminal case of *People's Union for Democratic Rights v. Union of India (1982)*<sup>25</sup>, the Supreme Court concluded that default in payment of minimum wages was tantamount to forced labour under Article 23. The Court instructed state officials to enforce minimum wage payments in state-run projects even where the employment was intermediated through contractors.

In like manner, in *Bandhua Mukti Morcha v. Union of India (1984)*<sup>26</sup>, the Court reiterated the obligation of the State to eliminate bonded labour and provide humane working conditions. The said cases portrayed the activist role of the Court in the 1980s to widen the ambit of labour rights.

Yet, judicial momentum has slowed over the years. Judges have been hesitant to apply positive rights enforcement in informal settings, protesting on grounds of insufficient evidence or jurisdictional limitations. In app-based gig worker disputes, courts have been hesitant to categorize them as employees under the prevailing labour statutes, leaving tens of millions in a regulatory limbo.

**Informality Inside Formal Systems:** Yet another area of concern is the informalisation of the formal sector by means of contract workers, apprentices, and third-party aggregators. Large numbers of workers formally employed in formal industries (e.g., manufacturing, logistics, services) are actually working on short-term, unprotected arrangements with little wage security. The Code does not adequately deal with this fragmentation of responsibility, particularly when the employer is uncertain or was denied.<sup>27</sup>

The emergence of gig and platform work further muddles the regulatory landscape. Food delivery or taxi companies, for example, categorize workers as independent contractors, thus avoiding statutory wage requirements. There is no legal framework in place that can address

<sup>25</sup> *People's Union for Democratic Rights v Union of India (1982) AIR 1473 (SC)*.

<sup>26</sup> *10. Bandhua Mukti Morcha v Union of India (1984) AIR 802 (SC)*.

<sup>27</sup> *Unorganised Workers' Social Security Act 2008*.

these emerging forms of employment that lack standard employer-employee hierarchies.

### **Gaps in Law and Implementation:**

Since wage rights have been formally acknowledged by Indian legislation, a large gap exists between legislative intent and actual experience—particularly for workers in the informal sector. The continuance of wage-related exploitation within a legally regulated economy not only speaks of administrative failure, but also structural and ideological failure that goes deeper. This part critically examines the multilayered gaps which make legal protections unworkable on the ground, with a focus on the breakdown of enforcement, institutional lethargy, and the exclusionary character of current labour regulation.

**1. Legal Recognition Without Functional Capacity:** Even though the Code on Wages, 2019 enlarges the scope of protection of wages in theory, it has no enabling measures to allow practical implementation in the informal economy. The majority of informal workers work outside the purview of any written employer-employee relationship, and no special institutional machinery exists in the Code to reach them. Legal paperwork, employment proof, or identity at the workplace become the initial hurdle—making wage claims almost impossible for workers without appointment letters, salary receipts, or contracts.

Secondly, registration of workers—a key initial step in tracking and providing wage protection—is not required under the Code. Without it, enforcement departments cannot trace violations, collect industry-level data, or develop focussed interventions. Denial of legal identity and evidence of work not only undermines the worker's bargaining power in conflict but also deprives them of access to social security boards, minimum wage notifications, and grievance redressal forums.<sup>28</sup>

**2. Weakened and Watered-Down Labour Inspection:** One of the most worrisome trends over the last few years has been the deliberate weakening of labour inspection mechanisms under the pretext of facilitating ease of business and eradicating 'inspector raj'. The shift towards self-certification and randomised electronic inspections under the new labour codes has resulted in less field-level monitoring—particularly in small units and informal clusters where exploitation is at its worst.

In reality, it has led to:

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<sup>28</sup> Supreme Court Legal Services Committee v Union of India (2016) 15 SCC 24.

- Minuscule violation detection because the majority of informal workplaces are outside of inspection plans.
- Ineffective real-time grievance follow-up, as complaints are not given priority or rather are diverted to bureaucratic websites.
- Intimidation or retaliation, when employees live in fear of job loss for reporting wage theft.
- Without a pro-active and vested labour inspection regime, the law remains an inactive text, which is unfettered by enforcement.

**3. Apathy of the Judiciary and Administration:** Though judicial rulings have traditionally favored labor rights, a visit to courts and tribunals is a remote and costly endeavor for informal workers. A majority of wage complaints are resolved informally, usually against workers' interests, as a result of legal delays, inaccessibility of legal aid, and employer reprisals. The procedural intricacies of making a complaint and language and literacy limits discourage workers from availing formal recourse.

Additionally, Labour Commissioners and conciliation officers, under the mandate to settle wage disputes, are understaffed and overworked. In most districts, one officer is assigned to more than one region and sector, and this creates administrative slowdown and backlog. Where cases are accepted, they can remain unresolved for years, and this erodes confidence in the system and encourages informal settlements that usually withhold deserving compensation.<sup>29</sup>

**4. Discriminatory:** Exclusions under Law Certain jobs that are largely done by informal workers—domestic work, sanitation labour, and piece-rate home work—remain implicitly excluded from the law. Although minimum wages may be notified for such categories in some states, non-uniformity and lack of centralised guidelines result in glaring disparities.

For instance, the home work industry is still under-regulated, although it employs several million women. The majority of state governments have yet to notify wage rates or compel compliance on the grounds of "private home" as a non-workplace.<sup>30</sup> Also, home-based workers in the textile, agarbatti rolling, or packaging units are remunerated by items produced, rather than hours spent, which enables employers to circumvent minimum wage laws entirely.

This de facto exclusion demonstrates that legal protections are commonly designed with

<sup>29</sup> Martha Chen, *The Informal Economy: Definitions, Theories and Policies* (WIEGO Working Paper No 1, 2012).

<sup>30</sup> Ravi Srivastava, 'Structural Change and Non-Standard Forms of Employment in India' (ILO, 2019) 23.

the formal labour force in mind, recapitulating hierarchies of whose work is worthy of protection as "deserving".

- 5. Inclusion-less Technology:** Digitalisation has been branded as a panacea for labour enforcement issues—specifically through the establishment of e-shram portals<sup>31</sup>, online wage claim schemes, and minimum wage notifications in digital form. These platforms, however, are inaccessible to most informal workers who do not own smartphones, are not connected to the internet, or are not technologically literate. Even where registrations occur, lack of proper follow-up and lack of real-time support render such tools ineffective.

Additionally, gig and platform workers, even operating in algorithmic workplaces, are outside the ambit of the labour codes. App-based employers pragmatically label them as "independent contractors," exonerating themselves from duties regarding wage protection, social security, or conflict resolution. Law as it exists today does not recognize this new grey area, where digital-savvy informal work remains unprotected by law.<sup>32</sup>

- 6. Political Economy of Policy Ambiguity:** The growth of the informal sector has most often been politically expedient—enabling flexible labour markets, low costs of operation, and less state burden. Efforts at legal reform have been lofty but generally do not seek to disturb the structural incentives favouring informalisation. Wage protection thus becomes a right on paper, enunciated in speeches and legislation but not realised in budgetary practices, field-level training, or institutional change.

Government programs for the welfare of workers—like the Unorganised Workers' Social Security Act (2008) or e-Shram—continue to be underfunded and weakly connected with wage regulation initiatives. Lacking budgetary allocations, transparent rules of implementation, and enforcement at the local level, policy intentions remain mere gestures.<sup>33</sup>

### **Empirical Findings and Case Illustrations:**

Legal loopholes, while deep-seated in theory, become pressing only when mirrored in the day-to-day hardships of the most impacted. In India's informal labor economy, denial of wage rights is not an infrequent exception—it is a structural norm inherent in employer culture, social

<sup>31</sup> e-Shram Portal, Ministry of Labour and Employment, <https://eshram.gov.in> accessed on 18 June 2025.

<sup>32</sup> International Labour Organization, *Digital Labour Platforms and the Future of Work* (ILO 2021) 132.

<sup>33</sup> Jean Drèze and Amartya Sen, *An Uncertain Glory: India and its Contradictions* (Penguin 2013)19.

hierarchies, and administrative abandonment. This section introduces some empirical evidence and case studies based on fieldwork and written reports that expose how the gap between legislative wage protections and enforcement in practice is felt by informal workers in different sectors.<sup>34</sup>

**1. Construction Labourers: Delayed Wages and Vanishing Employers** In Delhi's National Capital Region, the workers working on high-rise residential buildings in Gurugram frequently complained of delayed wages for weeks or even months. Interviews with a sample of 17 male workers showed that the majority of them were hired by subcontractors who vanished into thin air after the projects were over. The workers were paid in part in cash, below notified minimum wages, and without any record.

Even when the workers tried to file grievances, they did not have employer information, employment contracts, or pay slips to support their employment relationship. Labour officials were either non-responsive or suggested informal settlements. In a few instances, the police were approached—again, not under labour legislation, but as a civil or criminal issue—demonstrating the lack of a specific legal avenue for informal wage claims.

**2. Domestic Workers: Exploitation in the Domestic Sphere** Domestic employment, which relies mainly on women, is one of the most vulnerable informal jobs. Out of the 12 domestic workers interviewed in Lucknow and Pune, a disturbing trend emerged: payment in kind (e.g., food or clothing) rather than wages, arbitrary withholdings, and regular termination without notice or pay.

In spite of acknowledgement of domestic workers at the state-level welfare boards, few of the women knew of any provisions by law. They were treated as "family help," not workers, and this was used by employers to justify irregular or partial payment. The home-based nature of the workplace rendered labour inspections virtually impossible, and efforts to unionise were threatened with loss of job. Legal invisibility in this instance intersected with gendered and cultural expectations, making rights privileges dispensed at will.

**3. Platform Workers, Algorithmic Control, No Legal Recourse:** The so-called new and flexible gig economy has brought new challenges in wage protection. Interviews with delivery workers for the large food apps in Pune and Bengaluru exposed the

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<sup>34</sup> India Labour and Employment Report 2022, Institute for Human Development (IHD), New Delhi, 5.

precarity of digital work. They were employed on a per-delivery basis, with their income subject to algorithmic incentives, surge bonuses, and customer ratings.

But they paid the costs of fuel, telecom charges, and wear-and-tear on automobiles—expenses that often nibbled into their actual income. Some indicated net pay of as little as ₹180–200 for a 10-hour shift, far less than state minimum wages. When payment mistakes were made or accounts were put on hold, there was no helpline, human manager, or judicial avenue to recover dues. Courts have thus far declined to consider these workers as "employees," leaving them in limbo.

- 4. Women Home-Based Workers: Piece-Rate Wage Exploitation** Rural women workers in Rajasthan and Uttar Pradesh who were working as bindi-packing, garment-stitching, and agarbatti-rolling home-based workers provided experiences around piece-rate exploitation of wages. The majority earned ₹70–100 per day for repetitive work hours with unclear wage calculation norms. They received weekly or fortnightly cash payments, and every defect in the product attracted deductions.<sup>35</sup>

They were isolated in their work, hardly even knowing minimum wage standards, and without any connection to a welfare board or trade union. This informal subcontracting status enabled middlemen to evade all the duties of an employer, taking advantages of both their economic marginalization and spatial isolation.

- 5. Migrant Labourers: Legal Exclusion on the Move** Seasonal migrant workers from Odisha and Bihar employed in Maharashtra's textile centers described tales of verbal harassment, delayed payments, and 16-hour workdays. Because of language differences, absence of local identity documents, and frequent mobility, they were unable to access state-provided legal assistance, ration provisions, or grievance redressal mechanisms. Frequently, fear of job loss and police intimidation deterred them from getting help.

Although there are migrant worker registration programs in some states, field interviews found that contractors do not typically register workers, and receiving states fail to coordinate monitoring. This fragmented system is directly to blame for wage theft and unsafe working conditions.

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<sup>35</sup> Shram Sarathi, Migrant Labour and Financial Exclusion in Rajasthan (2020) 14.

### **Intersectionality and Wage Discrimination:**

Wage insecurity in India's informal labour economy cannot be fully understood without examining the complex interplay of identity-based discrimination. Informal employment is not only precarious because of its legal invisibility or lack of contracts, but also because of how social hierarchies—especially caste, gender, religion, and migration status—shape the very structure of work and remuneration. Intersectionality, therefore, is not an academic lens alone, but a lived experience that defines the degree and depth of exploitation.

- 1. Gendered Labour and the Undervaluation of Women's Work:** In India as a whole, women are disproportionately found in the worst-paid and most hidden forms of informal employment: domestic work, support labor in agriculture, home-based production, and care work. The undervaluation of women's work is based on patriarchal assumptions that treat their efforts as supplementary or non-economic. This creates systemic wage differentials, regularly justified as "less skilled" or "natural" labor.

For example, women domestic workers in Delhi receive 30–40% lower wages than their male counterparts for similar cleaning or maintenance work. Women agricultural labourers in rural Karnataka claim to get ₹50–100 less per day than men for doing the same work. The Equal Remuneration Act, now incorporated within the Code on Wages, legally forbids this on paper. However, the enforcement is practically non-existent in informal establishments, where the privacy of workplaces and lack of paperwork hinder access to legal remedies.

In addition, women experience twin vulnerabilities: economic vulnerability and gender violence. They are mostly exposed to verbal abuse, harassment, and arbitrary dismissal, especially within home and piece-rate work, where male supervisors or bosses have untrammelled authority. Threat of job loss usually mutes any call for just pay.

- 2. Caste and Occupational Traps:** Caste still regulates the entry into decent work and equitable pay. Dalits and Adivasis, who were previously relegated to manual and demeaned labour, are overrepresented in sanitation work, construction, leather processing, and street cleaning—highly informal industries with weak wage enforcement.

Manual scavenging, a practice legally prohibited, continues in different forms. Scavengers work on an informal basis without contracts, safety gear, or wage payment slips, earning below statutory minimum wages. As caste-based jobs are seldom recognised as formal employment, these workers slip through the gaps of both labor law and social protection.

Dalit laborers across much of Uttar Pradesh and Madhya Pradesh are remunerated in kind or cash, without the formality of records or a mechanism for redress. Even bargaining strength is subject to caste influence—contractors from higher castes will not bargain or permit unionization among Dalit workers. All these forms of exclusion indicate a more profound contradiction between India's constitutional promise of equality and the reality of caste-stratified wage labor.

- 3. Migrant Status and Legal Marginalisation:** Internal migrants, especially from Bihar, Jharkhand, Odisha, and Chhattisgarh, form a significant proportion of the urban informal economy. Their status as outsiders renders them susceptible to low wages, wage appropriation, and exclusion from local legal orders. The majority do not possess ration cards, voter IDs, or bank accounts at work, which works against access to grievance facilities, welfare programs, or even rudimentary identification for legal complaints.

In places such as Maharashtra, the migrant laborers employed in textile or construction industries tend to claim that they are paid differently than residents, even if performing the same work. Language issues and fear of retaliation by their employers also keep them away from legal assistance.<sup>36</sup>

### **Comparative Perspective and Best Practices:**

India is not unique in dealing with the informal labour and wage insecurity challenges. Indeed, most developing economies have been confronted with such structural problems and responded in creative legal, institutional, and community-based ways to cover informal workers. Since no model is ideal, there are comparative experiences from nations such as Brazil, South Africa, and Bangladesh that could prove useful to India's evolving labour policy.

- 1. Brazil:** Legal Integration of *Informal Workers Through Formalisation* The Brazilian approach to informal labour has mixed legal recognition with particular integration into formal protection regimes. The Consolidation of Labour Laws (CLT) was extended to cover specific types of informal workers, particularly domestic and construction workers. Most significantly, the 'Simples Nacional' fiscal regime streamlined business

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<sup>36</sup> PRS Legislative Research, 'Labour Code on Wages: Summary and Analysis' (2020) <https://prsindia.org> accessed 12 June 2025.

registration and invited small businesses to register workers, thus integrating them into the coverage of wage protection and social security.<sup>37</sup>

Brazil also established the Cadastro Único—a unified registry that enables data to identify and serve poor workers. Through conditional cash transfers and wage subsidies, the state incentivized registration and adherence to minimum wages. Even though there are still issues, the integration model has achieved reducing wage violations in large urban industries.<sup>38</sup>

## 2. South Africa: Collective Bargaining and Sectoral Determinations

It is a strong example to use sectoral minimum wage determinations and collective bargaining councils to extend wage protection to informal and vulnerable workers. The Basic Conditions of Employment Act (BCEA) provides powers to the government to implement mandatory wage and condition standards for the extremely informal sectors—e.g., hospitality, agriculture, and domestic work.

In addition, labour inspectors have proactive powers to investigate and enforce compliance, including in the private home. Most importantly, South Africa has support for centralised systems of bargaining, in which worker groups and employers bargain region-wide wage floors—preventing the "race to the bottom" prevalent in decentralized labour markets.<sup>39</sup>

## 3. Bangladesh: Community-Driven Wage Monitoring Bangladesh's Ready-Made Garment (RMG) industry, once infamous for exploitative labor conditions, has witnessed community-driven wage monitoring systems take root, with the help of NGOs and global labor institutions. These mechanisms, though not actual courts, are quasi-judicial grievance redressal bodies providing expeditious settlement of wage disputes.

Despite being informal in organization, these forums have the advantage of providing worker-friendly, non-intimidating arenas for employees to express wage claims without fear of reprisal. They also created a culture of wage negotiation and awareness among women workers.<sup>40</sup>

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<sup>37</sup> Government of Brazil, 'Consolidation of Labour Laws (CLT)', Ministry of Labour and Employment, <https://www.gov.br> accessed 08 June 2025.

<sup>38</sup> National Commission for Enterprises in the Unorganised Sector (NCEUS), Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector (2007).

<sup>39</sup> South Africa Department of Employment and Labour, Sectoral Determination Guidelines (2023) <https://labour.gov.za> accessed 15 June 2025.

<sup>40</sup> WIEGO, Home-Based Workers in South Asia: Strategies for Change (WIEGO Policy Brief No 21, 2022) 5.

## **Recommendations and Conclusion:**

India's struggle to secure wage justice for informal workers is not merely a legislative or administrative failure—it is a systemic crisis rooted in economic priorities, political inertia, and entrenched social hierarchies. As this study has shown, despite constitutional ideals and progressive labour reforms like the Code on Wages, 2019, millions of workers continue to experience wage theft, underpayment, and legal invisibility. Bridging the gap between legal entitlements and actual enforcement will require a fundamental reimagining of how the Indian state, judiciary, and civil society engage with informal labour. The following recommendations aim to translate legal intent into transformative impact.

### **1. Localised Wage Boards with Caste- and Gender-Sensitive Norms:**

Instead of a centralised wage fixation approach, state governments should establish district-level wage boards, especially in labour-intensive sectors like construction, agriculture, sanitation, and domestic work. These boards should:

- Involve local NGOs, labour unions, women's organisations, and panchayats.
- Consider region-specific cost of living and social vulnerabilities (e.g., Dalit women in domestic work, migrant workers in brick kilns).
- Recommend not just minimum wages, but also in-kind support (like subsidised housing or rations), which directly offsets cost of living without overburdening small employers.

This bottom-up model accommodates population diversity and economic disparities.

### **2. Mandatory Job Cards or Work Receipts for Informal Labour:**

Similar to the MNREGA job card model, every employer should be mandated to provide a work receipt or passbook—even if hiring a worker for a day. This can be done using:

- Paper-based systems for offline, rural areas.
- Simple mobile apps/WhatsApp formats for urban or semi-literate workers.

A receipt doesn't require full formalisation but serves as basic proof of work, which can be used for wage claims or insurance eligibility.

### **3. Cash Transfer and Incentive Schemes for Wage-Delayed:**

Workers Instead of relying solely on delayed legal enforcement, the government can create a contingent cash transfer system:

- Workers who file wage complaints and pass basic verification (through NGOs or local officials) receive partial immediate relief from a public fund.
- This avoids deepening poverty during dispute resolution.
- The state can recover the amount from the employer if guilt is established. This “wage bridge fund” model helps maintain livelihood continuity for the poor.

#### 4. **Expansion of Urban Labour Helplines and Mobile Legal Aid:**

Legal aid is often inaccessible. A realistic low-cost solution is to:

- Expand state-level Labour Helplines that operate in local languages.
- Deploy mobile legal aid vans to labour-dense areas (construction sites, slums, bus depots).
- Partner with law schools and paralegals for free assistance in drafting complaints and documents.

This makes access to justice less intimidating and more immediate.

#### 5. **Incentivise Informal Worker Cooperatives and Micro-Union Models:**

Recognising that formal unions don't reach most informal workers, the government should support:

- Micro-unions (10–50 workers) based on caste, trade, or locality.
- Provide small grants, capacity-building, and legal recognition.
- Encourage worker cooperatives in domestic work, tailoring, and food services that can negotiate collectively with clients or aggregators.

This empowers marginalised workers, especially women and Dalits, who are excluded from mainstream union platforms.

#### 6. **Digital Literacy Through Panchayats and Anganwadis :**

To bridge the digital divide in wage protection:

Conduct monthly sessions at panchayat bhavans or anganwadi centres to teach workers how to use mobile-based wage claim tools.

- Use audio-visual materials in local languages.
- Train ASHA workers or SHG leaders to assist others.

This approach leverages existing community infrastructure rather than building expensive new ones.

#### 7. **Encourage States to Notify Sector-Specific Wage Floors Promptly :**

States should be nudged through fiscal incentives to:

- Notify minimum wages regularly in high-informality sectors (e.g., domestic work, bidi rolling, rag-picking).
- Translate wage orders into local languages and disseminate them through posters, WhatsApp groups, and radio.

Without this, most workers remain unaware of what they're entitled to.

8. **Build Caste-Gender Equity into Labour Policies** All government schemes related to informal labour should include:

- Caste-disaggregated data collection.
- Gender budgeting to ensure targeted schemes for Dalit women, trans workers, and Muslim artisans.
- Prioritise women-headed households and single women labourers in housing and wage security schemes.

Only with such embedded equity can laws reach the most marginalised.

### **Conclusion:**

Wage justice is not only an economic problem—it is one of human dignity, fairness, and constitutional guarantee. India's informal workers are the backbone of its economy, and they are last in line for the protection that they need most. Legal structures such as the Code on Wages, although progressive in vision, fail to catch up with the working conditions of informality, exclusion based on identity, and enforcement failure.

To break free from the statute, India needs to transition from a compliance-based and reactive regime towards a proactive and worker-centered model. It involves strengthening workers with legal identity, institutional support, and wage protection integrated into larger systems of social justice.

The success of India's labour law reforms will ultimately be measured not by the beauty of their drafting, but by the degree to which they help elevate those who have toiled long and in obscurity and without pay.