

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

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# **RIGHT TO HEALTH OF WORKERS IN THE UNORGANISED SECTOR IN INDIA: A SOCIO-LEGAL ANALYSIS**

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## **ABSTRACT**

Over 90% of Indian workers are employed in the unorganized sector, which forms the foundation of the nation's economy. Notwithstanding its vital role, employees in this industry are still susceptible to workplace dangers, unfavourable working conditions, and restricted access to medical facilities. Despite not being specifically mentioned in the Indian Constitution, the right to health has been seen as an essential part of the right to life under Article 21. The legal, constitutional, and policy framework governing unorganized workers' rights to health in India is examined in this essay. It examines current labor laws, social security programs, court rulings, and institutional safeguards for employees' health. The research identifies structural obstacles that impede efficient access to healthcare, including informality, poverty, ignorance, and administrative inefficiencies. This article uses a socio-legal approach to make the case for a rights-based, inclusive, and all-encompassing healthcare system that incorporates social security, public health governance, and occupational safety. Policy proposals for bolstering unorganized workers' health protection systems are included in the paper's conclusion.

**Keywords:** Right to Health; Unorganised Sector; Social Security; Occupational Safety; Labour Welfare

## INTRODUCTION

A vital part of social justice and a fundamental human right is the right to health.<sup>1</sup> Ensuring access to healthcare is still a major policy concern in developing nations like India, where a large section of the population works informally.<sup>2</sup> Workers who are not protected by statutory employment laws, social security benefits, or formal labor contracts make up the unorganized sector.<sup>3</sup>

Over 90% of India's workforce is estimated by the government to be working in unorganized jobs.<sup>4</sup> These workers include those employed in construction, agriculture, street vending, household work, migrant labor, small-scale crafts, and other occupations. They are vulnerable to things like low pay, unstable employment, dangerous working conditions, and no health insurance.<sup>5</sup>

Long hours, exposure to chemicals, dust, noise, and ergonomic stress, as well as hazardous working conditions, all increase health hazards in the unorganized sector.<sup>6</sup> Chronic illnesses, emotional stress, injuries, and occupational disorders are frequently caused by these variables. However, the majority of workers do not have access to inexpensive treatment or preventive healthcare.<sup>7</sup>

The right to health is not specifically acknowledged as a fundamental right in the Indian Constitution. However, court interpretation has broadened the scope of Article 21 to encompass healthcare and a safe workplace.<sup>8</sup> The practical realization of unorganized workers' health rights is still limited, despite this advanced law.<sup>9</sup>

This paper explores the discrepancy between legal guarantees and social reality by analyzing the constitutional, statutory, and policy framework guaranteeing unorganized workers' right to health.

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<sup>1</sup> Amartya Sen, *Development as Freedom* (Oxford University Press 1999) 87.

<sup>2</sup> World Bank, *India Health Report* (2020) 12.

<sup>3</sup> S C Srivastava, *Industrial Relations and Labour Laws* (6th edn, Vikas 2012) 214.

<sup>4</sup> Ministry of Labour and Employment, *Annual Report 2022–23* (GOI 2023) 45.

<sup>5</sup> Jan Breman, *Footloose Labour* (Cambridge University Press 1996) 112.

<sup>6</sup> ILO, *Safety and Health at Work* (2019) 33.

<sup>7</sup> Jean Drèze and Amartya Sen, *An Uncertain Glory* (Penguin 2013) 205.

<sup>8</sup> *State of Punjab v. Mohinder Singh Chawla*, (1997) 2 SCC 83.

<sup>9</sup> Upendra Baxi, 'Judicial Activism and Social Justice' (1985) 4 SCC (J) 10.

## 2. CONCEPTUAL FRAMEWORK: RIGHT TO HEALTH AND UNORGANISED SECTOR

### 2.1 Meaning of Right to Health

A state of total physical, mental, and social well-being is what the World Health Organization refers to as health.<sup>10</sup> Access to prompt, acceptable, and reasonably priced healthcare services as well as the underlying factors that influence them, such as housing, food, water, sanitation, and workplace safety, are all part of the right to health.<sup>11</sup> The 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Economic, Social, and Cultural Rights both acknowledge the right to health under international human rights law<sup>12</sup>. States are required by these instruments to guarantee non-discriminatory access to healthcare.<sup>13</sup>

The quality, acceptability, accessibility, and availability of healthcare services are all part of the right to health.<sup>14</sup> It also includes occupational illness prevention, accident compensation, and workplace safety for employees.<sup>15</sup>

### 2.2 Meaning of Unorganised Sector

Economic operations that are not governed by official labor rules and do not have institutional support are referred to as the unorganized sector<sup>16</sup>. The lack of written contracts, irregular employment, poor remuneration, lack of social protection, and limited unionization are characteristics of workers in this sector.<sup>17</sup> Informal workers are individuals who are not covered by social security and labor laws, according to the National Commission for Enterprises in the Unorganized Sector (NCEUS).<sup>18</sup> The industry continues to be marginalized in policy planning despite its contribution to economic development.<sup>19</sup>

## 3. CONSTITUTIONAL AND LEGAL FRAMEWORK

The right to health is not specifically guaranteed by the Constitution, but it is indirectly supported by a number of provisions.<sup>20</sup>

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<sup>10</sup> WHO, *Constitution of WHO* (1946).

<sup>11</sup> CESCR, General Comment No 14 (2000).

<sup>12</sup> UDHR 1948, art 25; ICESCR 1966, art 12.

<sup>13</sup> Ibid

<sup>14</sup> CESCR (n 11).

<sup>15</sup> ILO Convention No 155 (1981).

<sup>16</sup> K P Kannan, 'Informal Employment' (2010) 45 EPW 23.

<sup>17</sup> NCEUS, *Report on Conditions of Work* (2007) 15

<sup>18</sup> Ibid.

<sup>19</sup> Planning Commission, *Evaluation Study* (2014).

<sup>20</sup> M P Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2018) 1360.

### **Article 21: The Right to Life**

Health, medical care, and environmental protection are all part of the right to live with dignity, according to the Supreme Court's interpretation of Article 21.<sup>21</sup> The right to life is thought to be inextricably linked to the right to health.<sup>22</sup>

### **Directive Principles that Guide State Policy**

Public health, humane working conditions, and social justice are all directed by Articles 38, 39(e), 41, 42, and 47.<sup>23</sup> They direct governance and legislation despite not being subject to judicial review.<sup>24</sup>

### **Judicial Interpretation**

Recognizing and bolstering the right to health as an essential part of the right to life protected by Article 21 of the Constitution has been made possible in large part by the Indian judiciary. The Supreme Court has broadened the definition of fundamental rights to include access to healthcare, workplace safety, and humane working conditions through progressive and purposeful interpretation. This is especially important for marginalized groups in society, such as unorganized laborers.<sup>25</sup>

In the case of *Union of India v. Consumer Education and Research Centre*<sup>26</sup>, the Supreme Court ruled that workers' strength and health are fundamental components of their right to life. The lawsuit dealt with the risks that workers in the asbestos industry faced at work, where they were exposed to potentially fatal illnesses like asbestosis. The Court noted that when employees are forced to labor in situations that compromise their health and dignity, the right to a living becomes meaningless. The State and employers are required by the Constitution to provide medical facilities, regular health examinations, and compensation for occupational illnesses, it further decided. By highlighting that workers' health and safety cannot be sacrificed for economic success, the ruling upheld the sustainable and humane development.<sup>27</sup>

Similarly, the Supreme Court acknowledged the right to emergency medical treatment as a

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<sup>21</sup> *Francis Coralie Mullin v. UT of Delhi*, (1981) 1 SCC 608.

<sup>22</sup> *Parmanand Katara v. Union of India*, (1989) 4 SCC 286.

<sup>23</sup> Constitution of India, arts 38, 39(e), 41, 42, 47.

<sup>24</sup> *Jain* (n 20) 1365.

<sup>25</sup> *Baxi* (n 9).

<sup>26</sup> *Consumer Education and Research Centre v. Union of India*, (1995) 3 SCC 42.

<sup>27</sup> *Ibid* 51–54.

basic right under Article 21 in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*.<sup>28</sup> Due to a lack of infrastructure, many government hospitals in this case refused to treat a traffic accident victim. The Court ruled that the State cannot use administrative or financial limitations as an excuse to avoid its constitutional obligations. It was decided that emergency services and a sufficient medical infrastructure are crucial elements of the right to life. The Court ordered state governments to improve healthcare facilities and develop plans for rapid medical aid. For unorganized workers, who frequently experience treatment denials because of poverty and a lack of documentation, this ruling is extremely pertinent.<sup>29</sup>

The Supreme Court addressed the cruel working conditions of bonded laborers in stone quarries in *Bandhua Mukti Morcha v. Union of India*.<sup>30</sup> The Court ruled that protection from exploitation, hazardous workplaces, and bodily degradation are all part of the right to live with dignity. It gave the State instructions to put labor welfare laws into effect, supply healthcare, and guarantee decent living and working circumstances. The ruling acknowledged that social justice and human dignity are inextricably linked to health. It further observed that bonded and informal workers are entitled to special protection due to their socio-economic vulnerability.<sup>31</sup> When taken as a whole, these historic rulings show the judiciary's dedication to using constitutional interpretation to protect workers' health and dignity. The courts have turned welfare duties into legally binding rights by interpreting the right to health into Article 21. However, because of ineffective administrative procedures, a lack of worker awareness, and inadequate enforcement mechanisms, these progressive declarations have had little effect on the unorganized sector.<sup>32</sup>

In order to translate constitutional principles into social reality for unorganized workers, robust institutional assistance and policy execution are urgently needed, even though judicial activism has established a solid normative foundation for health rights.

### **Labour and Social Security Framework under the New Labour Codes**

Between 2019 and 2020, Parliament passed four comprehensive labor codes aimed at modernizing and rationalizing India's labor law system. The goals of these codes, which include

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<sup>28</sup> *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37.

<sup>29</sup> *Ibid* 46–49.

<sup>30</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

<sup>31</sup> *Ibid* 183–186.

<sup>32</sup> CAG, *Labour Welfare Audit Report* (2020).

29 basic labor laws, are to increase compliance, expand social security, and simplify regulation. Although they signify structural change, there is ongoing discussion on how well they protect unorganized workers' health rights.<sup>33</sup>

The four Codes are:

1. Code on Wages, 2019
2. Industrial Relations Code, 2020
3. Occupational Safety, Health and Working Conditions Code, 2020
4. Code on Social Security, 2020

Among these, the Occupational Safety Code and the Social Security Code are most directly relevant to the right to health of unorganised workers.

#### **A. Occupational Safety, Health and Working Conditions Code, 2020**

Thirteen labor statutes pertaining to workplace safety and health are combined into the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code).<sup>34</sup> It offers a consistent legal framework for guaranteeing humane and safe working conditions in all industries.

Provisions for Health and Safety

Employers are required by the Code to guarantee:

- Secure Workplaces
- Appropriate Illumination, Ventilation, And Hygiene
- Facilities For Drinking Water
- Medical Tests for Employees in Dangerous Jobs
- Safety Officer Appointments in Designated Establishments<sup>35</sup>

Additionally, it has additional protections for contract workers, construction workers, and migratory workers from other states. Welfare facilities and protection gear must be provided by employers.<sup>36</sup>

The Code gives the relevant government the authority to establish safety regulations and carry out inspections.<sup>37</sup>

Despite its comprehensive nature, the OSH Code retains threshold requirements based on the

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<sup>33</sup> Ministry of Labour and Employment, *Report on Labour Reforms* (Government of India 2021) 12.

<sup>34</sup> Occupational Safety, Health and Working Conditions Code, 2020.

<sup>35</sup> Ibid s 6–9.

<sup>36</sup> Ibid s 60–65.

<sup>37</sup> Ibid s 16.

number of workers employed in an establishment.<sup>38</sup> Many small and informal enterprises fall below these thresholds, thereby excluding a significant portion of unorganised workers. Further, enforcement depends heavily on State administrative machinery, which historically has faced capacity constraints.<sup>39</sup>

### **B. Code on Social Security, 2020**

The 2020 Code on Social Security unifies regulations pertaining to maternity benefits, provident funds, employees' insurance, and the welfare of unorganized workers.<sup>40</sup> It is especially important for providing security to gig, platform, and informal workers.

#### Coverage of Unorganized Laborers

According to the Code,

- Unorganised workers
- Gig workers
- Platform workers
- Inter-State migrant workers<sup>41</sup>

In order to grant access to assistance programs, it requires unorganized workers to register on a government portal.<sup>42</sup>

The Code provides for the formulation of schemes relating to:

- Life and disability cover
- Health and maternity benefits
- Old age protection
- Education benefits<sup>43</sup>

A Social Security Fund is envisaged for unorganised workers, funded by government contributions and other sources.<sup>44</sup>

Through notification, the Code also permits the extension of Employees' State Insurance (ESI) coverage to smaller businesses and all districts.<sup>45</sup> This could increase the number of informal workers covered by health insurance.

Despite introducing an inclusive framework, the Code's execution is contingent upon budgetary

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<sup>38</sup> Ibid s 1(4).

<sup>39</sup> ILO, *India Labour Market Update* (2021) 33.

<sup>40</sup> Code on Social Security, 2020.

<sup>41</sup> Ibid s 2(86), s 2(35).

<sup>42</sup> Ibid s 113.

<sup>43</sup> Ibid s 109.

<sup>44</sup> Ibid s 141.

<sup>45</sup> Ibid s 1(5).

allocation, rule-making, and digital registration.<sup>46</sup> Effective enrolment may be hampered by the digital illiteracy, lack of documentation, and unpredictable working patterns faced by many informal laborers.<sup>47</sup>

### C. Code on Wages, 2019

The 2019 Code on Wages is applicable to all workers in both the organized and unorganized sectors.<sup>48</sup> It forbids wage discrimination based on gender and guarantees the payment of minimum wages.

A fair wage is necessary to ensure access to healthcare, nourishment, and a good standard of living, even though it is not a health law per se. Thus, the realization of the right to health is indirectly related to fair compensation.<sup>49</sup>

### D. Industrial Relations Code, 2020

Trade unions, collective bargaining, and dispute resolution procedures are governed under the Industrial Relations Code, 2020.<sup>50</sup> Collective representation allows workers to bargain for better working conditions and health benefits, even if it is mostly focused on industrial harmony. However, strict requirements for trade union recognition could reduce informal workers' negotiating leverage.<sup>51</sup> The Labour Codes mark the transition from a disjointed welfare law system to a unified regulatory framework. They try to provide social security and health insurance to gig and unorganized workers in theory. Nonetheless, there are still practical difficulties:

- Using threshold-based applicability does not apply to microbusinesses.
- Reliance on online registration could push out vulnerable employees.
- Ineffective inspection procedures decrease the efficacy of enforcement.
- Delays in implementing rules hinder operationalization.<sup>52</sup>

Thus, while the Codes provide a statutory foundation for health protection, their transformative potential will depend on effective implementation, adequate funding, and proactive State intervention.

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<sup>46</sup> NITI Aayog, *Labour Code Implementation Review* (2023).

<sup>47</sup> EPW Research Foundation, 'Digitalisation and Informal Labour' (2022) 57 EPW 24.

<sup>48</sup> Code on Wages, 2019.

<sup>49</sup> Amartya Sen, *Development as Freedom* (Oxford University Press 1999) 92.

<sup>50</sup> Industrial Relations Code, 2020.

<sup>51</sup> Upendra Baxi, 'Labour Rights and Constitutionalism' (2020) 55 EPW 14

<sup>52</sup> CAG, *Audit Report on Labour Administration* (2022).

## GOVERNMENT POLICIES AND WELFARE SCHEMES

Apart from legally mandated labor safeguards, the Indian government has implemented a number of policy initiatives and welfare programs to provide healthcare and social security for economically disadvantaged populations, such as unorganized laborers. The objective of these programs is to close the gap between constitutional obligations and actual execution. Nevertheless, administrative, budgetary, and structural constraints continue to limit their efficacy.<sup>53</sup>

### National Health Mission

In order to improve public healthcare systems in both rural and urban areas, the National Health Mission (NHM) was established.<sup>54</sup> To guarantee that everyone has access to basic medical care, it combines the National Urban Health Mission with the National Rural Health Mission.

The government prioritizes the following under the NHM:

- expansion of community and primary health facilities
- Healthcare services for mothers and children
- Immunization campaigns
- Monitoring and managing diseases
- Accessibility of necessary medications and diagnostics<sup>55</sup>

The NHM is essential in delivering basic medical treatments at reasonable or subsidized costs for unorganized workers, who mostly rely on public healthcare facilities. Street sellers, construction workers, and migrant workers frequently depend on government dispensaries and hospitals set up under this structure.

However, the NHM's efficacy is constrained by enduring problems like staff shortages, poor infrastructure, overcrowding, and uneven regional growth.<sup>56</sup> Poor healthcare delivery is still a problem in rural and peri-urban areas, which are home to a large number of informal laborers.

### Ayushman Bharat Scheme

One of the biggest public health insurance programs in the world is Ayushman Bharat, which was introduced in 2018.<sup>57</sup> There are two main components to it:

- WCs, or health and wellness centers

<sup>53</sup> Planning Commission, *Twelfth Five Year Plan* (Government of India 2013) 112.

<sup>54</sup> Ministry of Health and Family Welfare, *National Health Mission Framework* (2021).

<sup>55</sup> Ibid 18–25

<sup>56</sup> CAG, *Report on Public Health Infrastructure* (2020).

<sup>57</sup> Government of India, *Ayushman Bharat Operational Guidelines* (2018).

- PM-JAY, or Pradhan Mantri Jan Arogya Yojana

For secondary and tertiary hospital stays, the PM-JAY offers health insurance coverage up to ₹5 lakh per family annually.<sup>58</sup> The program mainly targets economically disadvantaged groups, which includes a sizable percentage of unorganized laborers.

Preventive, promotional, and rehabilitative treatment are all part of the comprehensive primary healthcare services that the Health and Wellness Centers seek to provide.<sup>59</sup>

Ayushman Bharat, which was launched in 2018, is one of the largest public health insurance schemes worldwide. It consists of two major parts:

HWCs, or health and wellness facilities.

Pradhan Mantri Jan Arogya Yojana, or PM-JAY,

Hospital access for informal laborers with severe illnesses and occupational injuries has been greatly expanded under Ayushman Bharat. It has enhanced financial security and decreased out-of-pocket expenses.<sup>60</sup>

However, its reach has been limited by issues like administrative delays, limited empanelment of private hospitals in remote areas, lack of awareness, and exclusion errors in beneficiary identification.<sup>61</sup> Portability concerns also make it difficult for many migratory workers to receive benefits.

### **State Welfare Boards**

For certain types of unorganized laborers, such as construction workers, domestic workers, street sellers, and transport workers, several state governments have set up Welfare Boards.<sup>62</sup> Typically, government subsidies, welfare cess, and employer payments are used to fund these boards.

The functions of Welfare Boards include:

- Provision of medical assistance
- Accident and disability compensation
- Maternity benefits
- Pension schemes
- Educational support for workers' children<sup>63</sup>

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<sup>58</sup> Ibid s 4.2.

<sup>59</sup> Ministry of Health, *Health and Wellness Centre Guidelines* (2019).

<sup>60</sup> NITI Aayog, *PM-JAY Impact Assessment* (2022).

<sup>61</sup> World Bank, *India Health Financing Report* (2021).

<sup>62</sup> Labour Bureau, *Welfare Boards Survey* (2020).

<sup>63</sup> Ibid 45–48.

Among the most notable instances are Construction Workers' Welfare Boards, which were set up under the Building and Other Construction Workers framework. These boards oversee significant welfare funds and offer financial support for hospital stays and medical care.

Despite their promise, Welfare Boards are plagued by low registration numbers, underfunding, ineffective bureaucracy, and political meddling.<sup>64</sup> Many eligible workers either don't know they exist or encounter obstacles when trying to receive benefits.

### **Occupational Health Programmes**

To stop work-related illnesses and injuries, the Indian government has implemented a number of occupational health and safety initiatives. State labor departments, the Ministry of Labor and Employment, and affiliated organizations carry out these programs.<sup>65</sup>

Key objectives of occupational health programmes include:

- Promotion of workplace safety standards
- Training in use of protective equipment
- Health screening for hazardous occupations
- Prevention of occupational diseases
- Awareness campaigns on workplace risks<sup>66</sup>

Organizations like the National Institute of Occupational Health and the Directorate General of Factory Advice Service and Labor Institutes (DGFASLI) are crucial to the development of policy and research.

However, organized industrial facilities are the focus of the majority of occupational health programs. Small workshops, building sites, and home-based units are examples of informal workplaces that are still mainly unregulated.<sup>67</sup> Outreach is further diminished by inadequate technical staff, a lack of inspections, and inadequate monitoring systems.

Because there is insufficient institutional protection, unorganized laborers are nonetheless subjected to hazardous working circumstances.

The impact of government regulations and social programs is still unequal, despite their apparent dedication to enhancing unorganized workers' access to healthcare. Their efficacy is compromised by low knowledge, digital exclusion, fragmented execution, and a lack of interdepartmental collaboration.<sup>68</sup>

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<sup>64</sup> CAG, *Audit on Welfare Cess Utilisation* (2021).

<sup>65</sup> Ministry of Labour and Employment, *Annual Report 2022–23* (GOI 2023).

<sup>66</sup> ILO, *Occupational Safety and Health in India* (2019).

<sup>67</sup> National Institute of Occupational Health, *Status Report* (2020).

<sup>68</sup> EPW Research Foundation, 'Social Security and Informal Labour' (2022) 57 EPW 36.

Furthermore, the majority of programs prioritize curative healthcare over occupational and preventive health. There is still a lack of a comprehensive strategy that integrates public health governance, social security, and workplace safety.

Therefore, in order to guarantee the meaningful realization of health rights in the unorganized sector, policy reforms must place a high priority on decentralized delivery, worker involvement, and institutional accountability.

## CHALLENGES IN REALISING THE RIGHT TO HEALTH OF UNORGANISED WORKERS

The right to health of unorganized workers is still not sufficiently guaranteed in practice, despite constitutional recognition, judicial activism, labor rules, and social programs. Effective access to healthcare and workplace safety is nevertheless hampered by a number of administrative, financial, and structural obstacles. Deeply ingrained disparities in India's labor and social welfare systems are reflected in these difficulties.<sup>69</sup>

- **Informality and Lack of Documentation:** For unorganized workers, the lack of official paperwork is one of the biggest challenges. Many employees lack registration certificates, identity cards, employment contracts, and proof of residency.<sup>70</sup> Undocumented workers cannot access healthcare facilities, insurance coverage, and compensation schemes because most welfare programs and social security benefits require official registration. Workers without internet connection or digital literacy are further excluded by Social Security Code digital registration systems.<sup>71</sup> Street sellers, seasonal laborers, and migrant workers are especially impacted because of their nomadic lifestyles, which make official registration challenging. Consequently, many members of the informal workforce are not included in government databases.<sup>72</sup>
- **Poverty and Financial Barriers:** Low and irregular income is a persistent feature of unorganised employment.<sup>73</sup> Most informal workers earn subsistence-level wages, leaving little scope for healthcare expenditure. Although public hospitals provide subsidised treatment, overcrowding, medicine shortages, and long waiting periods

<sup>69</sup> Upendra Baxi, 'Social Justice and Labour Rights' (2019) 54 EPW 15.

<sup>70</sup> National Commission for Enterprises in the Unorganised Sector (NCEUS), *Report on Conditions of Work and Promotion of Livelihoods* (Government of India 2007) 42.

<sup>71</sup> EPW Research Foundation, 'Digital Exclusion and Social Security Access' (2022) 57 *Economic and Political Weekly* 28.

<sup>72</sup> International Organization for Migration, *Internal Migration in India* (2021).

<sup>73</sup> Jan Breman, *At Work in the Informal Economy of India* (Oxford University Press 2013) 91.

compel many workers to seek private healthcare, which is often unaffordable.<sup>74</sup> Consequently, out-of-pocket expenditure remains high, pushing families into debt and poverty.<sup>75</sup> Health emergencies frequently result in distress borrowing, sale of assets, or withdrawal of children from education, thereby perpetuating intergenerational poverty.<sup>76</sup>

- **Occupational Hazards and Unsafe Working Conditions:** Without proper safety precautions, unorganized laborers are frequently exposed to dangerous working conditions.<sup>77</sup> While industrial workers are exposed to chemicals, pollution, and noise, construction workers are at danger for falls and structural accidents. Workers in agriculture are susceptible to heat stress and pesticide toxicity. The majority of unofficial workplaces lack medical facilities, risk assessment tools, and safety equipment.<sup>78</sup> Labor inspections are uncommon, and employers frequently put profit ahead of worker safety. The diagnosis of occupational diseases such as silicosis, asbestosis, and respiratory problems is delayed when preventative healthcare and routine medical exams are not provided.<sup>79</sup>
- **Gender and Social Inequality:** Women make up a sizable share of the unorganized labor force, especially in caregiving, domestic work, agriculture, and home-based industries.<sup>80</sup> They experience many types of discrimination on the basis of class, caste, and gender. Access to childcare facilities, maternity benefits, and reproductive healthcare is inadequate for female employees. Their health is further compromised by unpaid care obligations and wage inequities.<sup>81</sup> Due to social marginalization and restricted access to public services, employees from Scheduled Castes, Scheduled Tribes, and minority communities also face exacerbated disadvantages.<sup>82</sup> These intersecting disparities limit access to institutional support systems and increase health vulnerability.
- **Weak Institutional Implementation and Governance Deficit:** Ineffective administration and poor governance continue to be significant barriers to efficient

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<sup>74</sup> CAG, *Public Health Performance Audit* (2020).

<sup>75</sup> World Bank, *Out-of-Pocket Health Expenditure in India* (2021).

<sup>76</sup> UNICEF, *Health and Poverty Nexus* (2020).

<sup>77</sup> ILO, *Safety and Health at Work in India* (2019).

<sup>78</sup> National Institute of Occupational Health, *Status Report* (2020).

<sup>79</sup> ICMR, *Occupational Diseases Study* (2018).

<sup>80</sup> UN Women, *Women in Informal Economy* (2020).

<sup>81</sup> Martha Chen, *Informal Labour and Gender* (Routledge 2012) 134.

<sup>82</sup> National Human Rights Commission, *Social Exclusion Report* (2019).

healthcare delivery.<sup>83</sup> Service delivery is fragmented as a result of several government departments operating independently. Staffing shortages, poor training, and insufficient inspection capability plague labor bureaus. Welfare boards are frequently understaffed and poorly run.<sup>84</sup> Lack of transparency, bureaucratic hold-ups, and corruption all erode public institutions' credibility. Due to lengthy litigation and complicated procedures, many employees give up on their claims.<sup>85</sup> Additionally, irregular implementation at the state level and delayed rule-making under labor codes have hindered reform efforts.<sup>86</sup>

Unorganized workers encounter systematic and multifaceted obstacles when trying to receive healthcare. Persistent exclusion results from the interaction of gender inequality, migration, poverty, informality, and governance shortcomings. Preventive, occupational, and community-based health services are neglected in favor of curative healthcare and insurance coverage under current policy. Furthermore, the transition to digital governance runs the risk of further marginalizing poor workers in the absence of sufficient inclusion measures. Legislative and policy changes are unlikely to result in significant gains in health outcomes unless these structural obstacles are addressed. Therefore, in order to actually realize the right to health, a comprehensive strategy that incorporates public health governance, labor legislation, and social protection is necessary.

## CONCLUSION AND WAY FORWARD

Despite constitutional recognition, judicial interpretation, labor law improvements, and welfare programs, the right to health of workers in the unorganized sector is still not sufficiently guaranteed. Effective access to healthcare and workplace safety is nevertheless hampered by structural issues such as informality, poverty, migration, gender inequity, and inadequate institutional capacity. Despite reflecting legislative intent, contemporary labor rules and public health programs have been implemented in an uneven and exclusionary manner.

The expansion of Article 21 to include health and dignity has been made possible in large part by judicial activism. However, without robust administrative systems and financial support, legal recognition is insufficient on its own. There is a big disconnect between normative standards and social realities, as evidenced by the continued high out-of-pocket costs, hazardous working conditions, and inadequate social security coverage.

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<sup>83</sup> Jain (n 20) 1385

<sup>84</sup> CAG, *Labour Administration Audit* (2021).

<sup>85</sup> Ministry of Labour, *Grievance Redressal Review* (2022).

<sup>86</sup> NITI Aayog, *Labour Code Implementation Status* (2023).

The following actions are crucial to ensuring that unorganized workers' right to health is meaningfully realized:

- **All-inclusive and Comprehensive Coverage:** In order to provide universal access regardless of movement or documents, health and social security programs must be separated from employment status and place of residence.
- **Improved Portability and Registration:** To accommodate digitally marginalized workers and guarantee benefit portability, a streamlined, multilingual, offline-assisted registration mechanism should be created.
- **Combining Public Health and Occupational Health:** Primary healthcare systems should incorporate disease surveillance, preventative healthcare, and workplace safety.
- **Equity-focused and gender-responsive policies:** In health governance, special measures for marginalized populations, migrant workers, and women must be given priority.
- **Employee Involvement and Legal Knowledge:** Grievance redressal procedures and awareness campaigns should involve community organizations, trade unions, and non-governmental organizations.
- **Responsibility and Openness:** To guarantee successful implementation, regular audits, social accountability instruments, and judicial supervision should be established.

Assuring unorganized workers' health security is not just a welfare duty; it is also a constitutional and developmental need. Sustainable development, social justice, and inclusive growth all depend on a healthy workforce. Therefore, in order to turn legal promises into lived realities for millions of informal workers, the State must take a rights-based, participatory, and institutionally sound approach.

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