

Received: 11 August 2023, Accepted: 15 October 2023

DOI: <https://doi.org/10.33282/rr.vx8i4.315>

## **Want of Security in Transition of Unorganised workers to Gig Economy**

Sumathi S<sup>1</sup>, Suyambulingam S<sup>2</sup>, Ramanya Gayathri M<sup>3</sup>, and Dr. Balachandran S<sup>4</sup>

### **Abstract:**

The prosperity of a country can be achieved only when there is a strong co-operation between the government and the citizens. The prevalence of police state during ancient times primarily concentrated to protect its subjects from external and internal dangers. But at present, the responsibility of the state has been expanded to ensure welfare of its people. Now the government has to make laws not just to protect its citizens but also to guarantee them with a decent standard of living. The constitution of India through its Directive Principles of State Policy recommends the state to take necessary steps to give its citizens a decent and dignified living atmosphere. The labour force of a country plays a major role in its economic development. Therefore, their interest and well-being are of utmost importance. The government has enacted various legislations to give them fair wages, social security, bonus, safety mechanisms during employment and other essential benefits. It also set up dispute redressal forums to settle their grievances. But now the issue is Indian legislations for labourers are primarily concerned with the employees working under proper employment mentioned in the Act. The workers belong to unorganised sector doesn't get any of the privileges given compared to the other labour force. In order to include these workers, the government enacted a new Act called Unorganised Workers Social Security Act, 2008 and subsequently the enactment of code. Despite the fact that unorganised workers constitute majority of the India's workforce, the effective implementation of this Act is still a question. This paper tries to understand why the Act or the code can't be implemented to its fullest sense and what are the impeding obstacles preventing its fruitful implementation.

### **Key words:**

Unorganised, Workers, Social Security, Employment, Gig Economy,

---

<sup>1</sup> 3<sup>rd</sup> Year B. Com (LL. B) Student, Sastra Deemed to be University, Tanjore, Tamil Nadu

<sup>2</sup> 3<sup>rd</sup> Year B. Com (LL. B) Student, Sastra Deemed to be University, Tanjore, Tamil Nadu

<sup>3</sup> Assistant Professor, School of Law, Sastra Deemed to be University, Tanjore, Tamil Nadu

<sup>4</sup> Professor, School of Law, Sastra Deemed to be University, Tanjore, Tamil Nadu

### Background of the study:

India is a country rich in diversity and huge population. Ensuring better life for each and every person is a difficult task for a developing nation like India. Since ancient times the huge number of workers were from unorganised sector having no guarantee as to their job, wages, social security and other basic necessities. They were badly exploited by their employers as there are no regulations to govern employer as in the case of a laissez-faire state. Even the women workers were forced to work overtime till midnight for low wages and also subject to torture and sexual harassment. These underpaid workers work additional days each month, take on part-time employment, and work multiple jobs at once to cover their daily expenses<sup>5</sup>.

Despite the fact that they may easily surpass the official poverty threshold, due to their huge family sizes, low socioeconomic position, and limited access to social sector services, their living conditions are nevertheless subpar. Most unorganised workers battle are apprehended of uncertainty and failure in their daily life. In India, after the enactment of the Constitution in 1950 the workers were guaranteed right against exploitation as a fundamental right<sup>6</sup>. So, it is made mandatory for the employers to make the employees to work only for 8 hours a day. Considering the fact, the government takes steps to have a separate legislation for unorganised sector by providing them with social security benefits like insurance, bonus, Dearness Allowance etc. which a normal employee gets from his work. Social Security Code, 2020 was introduced under which the Act for Unorganised workers was also included. The Act was not able to be implemented to its fullest sense as there are practical lacunas associated with it<sup>7</sup>.

### I. Objective of the study:

The study aims to understand what are the practical challenges affecting the implementation of the legislation for Unorganised Workers. As a welfare state, the government must take actions to ensure that all its citizens get benefitted from their plans and policies thus promoting safe and dignified living. Informal workers in urban and rural areas were most hit during the pandemic, because of their seasonal employment and lack of formal employer- employee relationship. These kinds of issues will be highlighted and the importance of a legislation will be stressed to avoid future consequences. Finally, the paper will give suggestions as to the proper implementation of the Law.

### II. Unorganised sector in India:

---

<sup>5</sup>NCEUS: 'Social Security for Unorganised Workers', GoI, May 2006.

<sup>6</sup>Article 23 and Article 24 of the Constitution of India

<sup>7</sup>V. M. Rao, D. Rajasekhar and J. Y. Suchitra, Unorganised Workers: Deprivation, Social Security Needs, Policy Implications, Economic and Political Weekly, May 13-19, 2006, Vol. 41, No. 19 (May 13-19, 2006), pp. 1913-1919

Unorganised sector also termed as informal sector or shadow economy comprises basically of small MSMEs, gig workers, independent contractors and household employment. Informal economy refers to the enterprises which are not registered whereby the employer refuses to give social security benefits to its workers. This sector mainly contributes about half of country's GDP as per the statistics of Stats SA (2021)<sup>8</sup>. They hold the one-third population of nation's workforce whose interests would largely affect the country's economic growth. Majority of the workers were employed in rural areas as compared to the urban areas.

Workforce-intensive businesses make up the informal sector. The majority of the labour force in unorganised economic activities is made up of low-skilled labourers who are willing to work for pitiful salaries in order to meet their basic needs. Workers employed by unorganised businesses are not guaranteed either job security or social protection because these businesses operate outside the purview of corporate law. Due to the enormous size of the country's population, an excess of low-skilled labour is making it simple for unscrupulous business people to exploit workers. But the future of work of both formal and informal sector is now in question because of automation and the influence of artificial intelligence<sup>9</sup>. It should be underlined that there must be some reason to assume that the Indian workforce can improve their skill-sets to adapt to such shifts before automation can be seen as a possible investment in the country's human capital. It is crucial to remember that the informal sector will find it difficult to remain relevant in such a paradigm, and even if it does, it will likely lead to an even greater rift between the people working in the official and informal sectors.

We need to start considering the elderly who are more vulnerable as India's ageing populations. The unorganised sector, which employs more than 90% of the workforce in the country, includes older people. The informal sector does not have a cut-off age for participants that are comparable to retirement in the formal sector. People eventually reach the point where they must labour every day in order to make money due to the low pay and income instability of the informal sector. In the unorganised sector, there is no set retirement age, thus people continue to work as long as they can. Low wages are dependent on each individual day's ability to find employment. Due to the current economic climate, many people are in continual need of daily employment. An individual's "market value" appears to decline as they age. Older workers want to work every day to support themselves, but they find it harder to compete with large groups of younger individuals who show up at establishments (who themselves are experiencing a struggle with unemployment and must turn to the informal sector).

### III. Unorganised Workers Social Security Act, 2008:

---

<sup>8</sup>What is that ails our informal sector?, The New Indian Express, BY Ashoke K Maitra,2020 – Referred in <https://www.newindianexpress.com/opinions/2020/may/30/what-is-it-that-ails-our-informal-sector-2149869.html>

<sup>9</sup>Lane, M. and A. Saint-Martin (2021), "The impact of Artificial Intelligence on the labour market: What do we know so far?", *OECD Social, Employment and Migration Working Papers*, No. 256, OECD Publishing, Paris, <https://doi.org/10.1787/7c895724-en>.

This Act was enacted by the Parliament of India to provide for social security and welfare measures to be undertaken by the government exclusively for unorganised workers in India. The President of India gave assent to this Act on 30 December 2008. Later it was replaced by the Code on social security 2020. Though the initiative of the Government is laudable as this was a first attempt made for the welfare of the unorganised workers, there are certain discrepancies in the provisions of the Act which affects its proper implementation. Prior to this Act, people under the informal sector were working as hard as slaves in order to earn their living.

The Unorganised Workers' Social Security Act applies to sector of workers who are not covered by any of the Acts listed in Schedule-II of Act 2008<sup>10</sup>. It also classifies unorganised workers as home-based, self-employed, or wage workers<sup>11</sup>. Ensuring that the requirements of the people employed in the unorganised sector are met as it contributes to the nation's sustainable economic growth is another goal of the act. In addition to Social Security, there is a need for infrastructure, access to financing, skill development, the use of contemporary technologies, and a contractual agreement between the employer and employee.

The importance of this Act is mentioned in the case of **National Domestic Welf. v. State of Jharkhand & Ors**<sup>12</sup>.(2012), where it was pointed out that the present labour laws in force such as the Minimum Wages Act, Industrial Disputes Act, Workmen Compensation Act, Factories Act etc. are applicable only to fewer sections of labourers. The state has a duty to provide rules that provide social security to both organised and unorganised sector workers.

#### IV. Interpretation of social welfare legislation:

A welfare state is a form of governance where the government actively safeguards and advances the economic and social well-being of its citizens. Social laws are those that have been passed with the intention of helping the underprivileged, oppressed, or working class in our society. To maintain social and economic balance soon after independence, the government aimed for a socialistic design of society. The majority of the population was working class, and the country's literacy rate was egregiously low. In the years leading up to independence, the working class did not even get the minimum wage, making them an oppressed class. The Minimum Wages Act, 1948 was passed by the legislature in response to this situation in order to enforce the minimum pay set by the government or a government agency. Throughout time, other pieces of legislation were eventually passed to guarantee social justice for the downtrodden and underprivileged class. Quasi-judicial authorities have been appointed to administer the Act and interpret the statutes in the social legislations, such as the Payment of Wages Act, Minimum Wages Act, Payment of Gratuity Act, Employees Provident Fund and Miscellaneous Provisions Act, and Equal Remuneration Act, among

---

<sup>10</sup>

<sup>11</sup>Second National Commission on Labour, 2002.

<sup>12</sup>W.P. (PIL) No.7032 of 2012

others. These authorities are expected to use their extraordinary skills to interpret the statute, which is a highly professionalised task.

To the advantage of the working class and to promote social fairness, liberal interpretations rather than rigorous constructions should be used when deciding matters on social legislation. The Supreme Court in the case of **Thangliana v. Bawichhuaka**<sup>13</sup>, stated that the correct course of action in interpreting social legislation is to use the broad general rule of construction, which states that a section or statute must be viewed as a whole, each casting light, if necessary, on the other provisions. The principles for interpreting social laws differ significantly from those for constructing other types of laws, such as civil, criminal and taxation laws. In non-welfare legislations, the judicial fraternity sticks to the principle of "Strict Construction" else the society will be in monotonous grind and anarchy will prevail all over. There are various types of construction like rigorous construction, liberal/harmonious construction, and grammatical/lexical/literal constructions when interpreting laws. They ought to be utilised in cases in accordance with their type, facts, and level of importance. Liberal interpretations of the criminal and penal laws should never be followed because they are intended to be preventative and protective rather than punitive. Similar is the case in social welfare legislations. The main object is only beneficial and so strict interpretation would make it ambiguous.

#### V. Reasons for non-effective implementation:

There are many reasons responsible for non-effective implementation of the Laws. They are;

- Ambiguity in provisions:

The sections contained in this Act are not clear as to they were of merely loose in nature and it cannot be implemented to its full sense. For example, the Act establishes National Social Security Boards at the central level and State Social Security Boards at the state level. These boards must recommend suitable schemes for different sections of the unorganised work force to the central or state government. To ensure these bodies act strictly, the section may be mandatory.

- Women workers omission:

There is absence of specific provisions in the Act concerning women workers particularly about equal remuneration, decent working conditions and proper sanitation in workplace. The question now arises is that whether the person to whom the unorganised women works come within the purview of employer. The sections are silent about this. But according to Prevention of women from sexual harassment act comes to rescue as it includes any aggrieved women in any workplace can invoke the provision which is not so as per this Act. Because of this essential provision not being included it is difficult for implementing it.

---

<sup>13</sup> Civil rule 678 of 1968 Guwahati High court, July 20, 1970.

- Ignorance and illiteracy among people:

The main reason for the failure of its implementation is due to illiteracy among people of unorganised sector. They are not aware of this kind of legislation or the policies and schemes that the government introduce from time to time. The people in rural areas are more prone to ignorance as they are not interested in knowing about this because of their incapability to understand the technical provisions involved in it. So the government should create camps and awareness programmes in order to keep them updated and dealing with their queries to make the act more effective.

- Population:

India is a country having huge population of which 93% belong to unorganised sector<sup>14</sup>. It is not possible for the government to ensure that each and every worker get benefitted out of this Act. On the other hand, it will cost huge expenditures in implementing the schemes mentioned in the Act as it depends upon the financial strength of the country. Despite there are provisions in the Act, the directive principles mentioned in the Constitution was mainly drafted with the motive that, being a democratic country, the government should guarantee the welfare of its citizens. It is advisory in nature because it is the recommendations for every state to introduce welfare and social security schemes when they are financially stable. This is however not mandated by the Constitution. So, the Government takes it as a loophole to escape their responsibility in non-implementing this Act.

- Automation:

The future of work of every nation depends on automation, which imposes a mandatory duty on every employee to have technical skills to secure their jobs in the future. Not only the unorganised workers will be affected, but those who are medium skilled and low skilled employees in organised sector is also heavily affected. But the government has introduced numerous schemes to overcome this difficulty. For example, the government of India's policy of Pradhan Mantri Kaushal Vikas Yojana (PMKVY) aims to provide skill training programmes which involve digitally upgrading skills to every drop out students and unemployed youths to find employment in the future<sup>15</sup>. This policy may be extended to give skill training programmes to workers of informal sector to secure their job. But the Act concentrates only on social security and other benefits omitting the safe and secured environment.

- Lack of checks:

---

<sup>14</sup> NSSO Employment-Unemployment survey 1999-2000.

<sup>15</sup> Referred in <https://www.pmkvyofficial.org/>

The legislation does not impose proper checks as it only makes provisions to appoint a person who has to see whether the act has been properly implemented or not. It is not made mandatory for him to make regular inspections and suggest any schemes to the government. No state as of now has not appointed a facilitator to act upon this. With a lower rate of pay, this industry employs a greater proportion of migrants. Children are widely employed in the unorganised sector of India's economy as low-wage workers in tea shops, dhabas, small stores, as personal servants, and as errand boys. There is no top authority to report the functioning of the authorities employed under this act.

- **Welfare schemes:**

There are problems with the current system of funding ventures. Referring back to the schedule's example of welfare programmes for unorganised workers, the Code notes that any such programme may be funded through a combination of partial funding by the federal and state governments, contributions from programme participants or their employers, and the use of CSR funds. The practicality of enacting and administering such schemes is called into question when they are left so open to misinterpretation.

- **Non- clarity in definitions:**

Despite the fact that the Code on Social Security has provided distinct definitions for gig workers, platform workers, and unorganised workers, there are situations (for instance, drivers who work simultaneously for multiple ride-sharing aggregators) where these definitions will overlap because the same person will meet the requirements of one or more of these categories of workers. It is uncertain which of the Code's schemes will apply to them in this situation. There are also worries that while the Code on Social Security regulations will help gig workers, they will increase expenses for aggregators, who may then pass those costs on to gig workers by withholding an equivalent amount from their pay.

## VI. Irresistible importance of unorganised sector in India:

There are numerous aspects to the Indian labour market of which the proportion of the unorganised, informal economy is significant. Although this sector significantly contributes to manufacturing, social security for its employees is virtually nonexistent. Either there are no legal requirements for these workers' social security, or there are requirements but they simply exist on paper. The protective social security measures do not have the same meaning and impact as the promotional social security programmes, which are available to formal/organized workers. An unemployed person values their employment more than their job security. The unemployed person is willing to work without a guarantee of employment. An excellent form of social security is job stability. The job security has become less secure over time.

More and more casualisation and self-employment is coming out as a result. Nowadays, social security has little significance for unorganised or informal labour. Decency is really a pipe dream for most workers in India. Prior to the start of COVID-19, India's unorganised sector labour was at the frontline of driving the economy's rapid expansion; yet, exploitation, poverty, and a lack of basic requirements are remained pervasive despite growing economic success. According to the country's economic survey for 2018–19, the proportion of all informal employees who participate in the labour force is anticipated to be around 93%<sup>16</sup>. The inclusion of home-based workers in the meaning of the phrase "Unorganised Worker" has been questioned. This is due to the fact that home-based employees already have a demand for their own independent law, for which the ILO has also enacted Home Work Convention, 1996 (No. 177)<sup>17</sup>. Perhaps there is no particular need to exclude home-based workers if the statute's coverage is limited to social security and welfare, as it is under the current law. Yet, since piece rate pay is the foundation of home-based work, regulation of both employment and pay would be justified by a law that also addresses both issues.

#### VII. Challenges in availing social security:

- **Registration provision:** In order to receive social security, an unorganised worker must register on the designated internet portal that the central government had introduced. This has been successfully done with the introduction of e- shram portal where the unorganised worker can register themselves for which they were given identity card to avail social benefits. But only almost 1 crore people in India has been registered where the southern states are poor where the people are not even aware about such a portal.
- **Lack of definition:** Achieving universal registration would be made more difficult by the current code's lack of explicit and unambiguous regulations.
- **Lack of paperwork:** It can be challenging for informal employees to provide all the paperwork needed for registration. Because there are no real employer-employee relationships, it is exceedingly challenging to provide proof of employment and information on income. These demands dissuade informal workers from registering, thus they continue to be exempt from social security coverage.
- **Lack of knowledge:** According to experience, informal employees are horribly uninformed on social security programmes. Online registration is made more

---

<sup>16</sup> As per the Information Bulletin by Lok Sabha Secretariat Research and Information Division, No. LARRDIS (Pol) 2014/IB-13, Unorganised Workers – Issues and Challenges, December 2014.

<sup>17</sup>C177 - Home Work Convention, 1996 (No. 177), Referred in

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312322](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312322)



difficult by the majority of informal workers' lack of connectivity and digital competence.

#### VIII. Gig workers and the code:

The "gig economy" is the term used to describe the transition from the formal to the casual nature of employment. The term "gig economy" describes those labour markets where independent Contracting is done through internet and offline platforms. The nature of the labour performed by gig workers is temporary and casual. The labour market has seen a clear transformation as a result of technological advancement. The gig economy is expanding daily. The first significant factor in the emergence of the gig economy, as we go back in time, is unemployment. People will, by whatever means necessary, seek an alternative, as seen by the growth of the gig economy. Here, there occurs a transition that makes the formal nature of employment into an informal one. The advent of new kinds of work is reflected in the growth of the gig economy<sup>18</sup>.

The Karnataka High Court was forced to dismiss the writ petition in the case of **Ayantika Mondal v. State of Karnataka**<sup>19</sup> on May 12, 2020 simply because there was no legal basis for ordering the State overnment to establish legislation on protection for gig workers. Few unorganised workers were protected by the Unorganized Worker's Social Security Act of 2008 even before the proposed Social Security Code of 2020 was introduced. The Act of 2008, however, had limited its application to unorganised labour force. Wide scope of protection has been granted for the gig worker, platform workers and the unorganised workers through subsequent inclusions. In addition, the Social Security Code has been streamlined and rationalised. Furthermore, the Act of 2008 lacked any measures for punishment, not even for administrative violation. Nonetheless, the Social Security Code addressed the issue and created chapter XII, which covers offences and punishments.

In accordance with chapter nine Section 112 of the Code on Social Security, the Central Government may establish a Helpline Number or facilitation centre in the aforementioned chapter to assist registered gig workers in learning about the social security programmes that are available, enrolling in them, and registering for those programmes. It is crucial to highlight that registration is a requirement for gig workers in order to participate in the programmes established by this regulation and receive their benefits. Moreover, one must have reached the age of sixteen, have submitted a self-declaration and have their Aadhar number processed in order to register.

#### IX. Implementation of schemes:

---

<sup>18</sup> India's Booming Gig and Platform Economy, Perspectives and Recommendations on the Future of Work, NITI Aayog, June 2022.

<sup>19</sup>WRIT PETITION NO.6757 OF 2020 (L-RES) PIL.

The government of India had introduced numerous schemes for unorganised sector. E-shram portal was created on August 26, 2021, the nationwide unorganised worker registration platform opened. This portal provides a comprehensive National Database of Unorganised Workers (NDUW). The platform would help deliver benefit services to over 38 crore unorganised workers. Workers can register for free<sup>20</sup>.

The Pradhan Mantri Shram Yogi Maan-dhan (PM-SYM) was established to protect informal sector workers like rag pickers, woodworkers, Hamals, and fishermen as well as hawkers, agricultural labourers, construction site workers, employees of the leather, handicraft, mid-day meal, rikshaw, or auto trucks industries. Programme participants must be between the ages of 18 and 40 and not be eligible to work for EPFO or ESIC or to pay income tax.<sup>21</sup>

The AamAadmi Yojana scheme functions as a social security programme by offering insurance coverage to those who fall into occupational categories or rural landless households, such as fishers, rikshaw drivers, beedi labourers, woman tailors, tannery workers, pottery making workers, primary dairy producers, tendu leaf collectors, and woods workers, and some others<sup>22</sup>. When an accident results in a permanent total disability, accidental death, the loss of an eye, or the loss of a limb due to an accident, the persons who have benefited from this scheme can file an insurance claim with the nodal agency.

With a budget of 50,000 crore rupees, the Indian government launched the Garib Kalyan Rozgar Yojana scheme in June 2020 to improve employment prospects for migrant workers. This programme was launched as a result of COVID-19, a period in which many unorganised workers were relocated, suffered significant financial losses as a result of losing their jobs during the lockdown. Subsequently it has been renamed as Antodaya Ann Yojna (AAJ) and Primary Household (PHH)<sup>23</sup>.

#### X. Suggestions:

A good way to reduce violations is to increase public enforcement, which includes inspections, fines and workers access to the courts. For example, by increasing the proportion of employees earning more than the minimum wage. Reducing the market failures, levelling the playing field, reducing work-related injuries, increasing income distribution, the enforcement of labour laws can increase efficiency. The socially, educationally and economically backward castes and tribes

---

<sup>20</sup> As per the Ministry of Labour and Employment, National Database of Unorganised Workers, Referred in <https://app.powerbi.com/view?r=eyJrIjoiNTRjOGUwMmEtYmJlMmM0NGZkLWJkNDItNTgwZTA2MzBkZWNIiwidCI6IjA2ZjUzMmJmLTk3NTItNGVjNi04Y2Y4LTlzM3YmM2ZDQ2MSJ9>

<sup>21</sup> About Unorganised Worker, Referred in <https://labour.gov.in/unorganized-workers>.

<sup>22</sup> Ibid

<sup>23</sup> News Article Referred in - [https://www.pmindia.gov.in/en/news\\_updates/pm-launches-garib-kalyan-rojgar-abhiyaan-on-20th-june-2020-to-boost-employment-and-livelihood-opportunities-for-migrant-workers-returning-to-villages-in-the-wake-of-covid-19-outbreak/](https://www.pmindia.gov.in/en/news_updates/pm-launches-garib-kalyan-rojgar-abhiyaan-on-20th-june-2020-to-boost-employment-and-livelihood-opportunities-for-migrant-workers-returning-to-villages-in-the-wake-of-covid-19-outbreak/)

of the nation are known as scheduled castes and scheduled tribes. These people are occasionally underpaid in terms of wages due to ignorance. To safeguard their interests and hasten their socioeconomic development, special consideration must be given to them. The government should organise awareness campaigns for them so that they are aware of their rights. The needs of the less fortunate people in society in terms of education and finances should receive special consideration from the state.

Because the employees in these unorganised sectors already makes less money, they cannot afford to pay for their children's education or proper food. Most of these people will be able to study if they receive free education from the government in such a situation. The government should provide them with basic diet so that they can consume vital nutrients and maintain good health. These are guaranteed by our Indian Constitution in directive principles of state policy for promoting the welfare of the state.

#### XI. Need for the time:

Almost 88 percent of India's labour force, or more than 400 million people, work as daily wage labourers without contracts, landless farm labourers, or small shopkeepers<sup>24</sup>. Most of these unorganised employees, together with their families, lack access to adequate social security. Families may become poor owing to unanticipated costs, a loss of income from a sickness, an accident, the death of the main breadwinner, or a decline in earning potential brought on by ageing. The national and state governments of India provide a variety of social security programmes. Yet, these programmes are frequently mismanaged and challenging for workers in the unorganised sector to utilise.

Only 9.3% of India's 466 million-strong labour population gets social security, even 73 years after the country gained its independence<sup>25</sup>. This means that the remaining 90.7% of the population still lacks the protections that politicians, judges, bankers, civil servants, and employees of the majority of registered private sector businesses take for granted. Unorganised workers should be given information about their salaries, living conditions and health, and the persons who employ should not take advantage of them at work.

#### XII. Conclusion:

Before the introduction of the Social Security Code in 2020, Indian employment laws will use a number of tests, such as the degree to which the employer has control over the

---

<sup>24</sup> As per the report submitted in India's Booming Gig and Platform Economy, Perspectives and Recommendations on the Future of Work, NITI Aayog, June 2022.

<sup>25</sup> Centre for Sustainable Employment, Building a social security architecture for informal workers in India, Finally! By. Santosh Mehrotra, Azim Premji University, July 2020.

employee, who has the authority to hire and fire employees, who is responsible for paying salaries, etc., to determine whether a person is an employee. But the consultant or freelancer finds that the same is useless. It is not a good idea for elderly people to work physically demanding jobs. They face an additional concern from the lousy safety environment in the informal economy. The national strategy can concentrate on ensuring that these people are included in a hospice health care system's safety net. The social legislation must be understood in a way that is harmonious, and if there is any uncertainty or doubt despite this harmonious construction or interpretation, the courts and tribunals should follow the principle of beneficial construction. Trade unions, who have been completely disregarded in the Act's overall system, should be encouraged to fulfil their legally mandated duties, such as registering workers and advocating for their interests. This will assist the trade unions work closely with the employees and also provide them a chance to become stronger.

### References:

1. Politics overpowering welfare, Tina Dutta, 2012, Economic & political weekly: <https://www.jstor.org/stable/41419792>.
2. Social security for unorganised workers in India, Satyam Mishra. Journal of social sciences: <https://doi.org/10.1080/0971823.2017.1340114>.
3. Bare Act of Unorganised workers social security Act, 2008.
4. Social Security in Developing Countries, Ehtisham Ahmad (ed.) et al. Oxford University Press, 2020.