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The Evolving Role of Trade Unions in Shaping Post-Pandemic Employment Policies in India

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*The COVID-19 pandemic has profoundly disrupted India's labour market, with nearly 90% of the workforce employed in the informal sector, leading to severe socio-economic impacts. ¹Trade unions, traditionally focused on collective bargaining in formal employment, have faced new challenges, including the rapid rise of remote work, gig and platform economies, and the urgent need for stronger social safety nets. These shifts have stretched the conventional boundaries of trade union activities, requiring them to innovate and adapt. This paper examines the evolving role of trade unions in shaping post-pandemic employment policies in India, particularly concerning the informal workforce. It explores how unions have recalibrated their strategies to advocate for improved social security measures, ensure workplace safety in remote and hybrid environments, and fight for job protection amidst mass layoffs and economic downturns. The vulnerabilities of precarious employment exposed by the pandemic have emphasised the critical role of active union representation and robust labour laws. Through an analysis of the **Trade Unions Act 1926**² and the **Code on Social Security 2020**³, this study evaluates how unions have influenced labour policies, including extending protections to gig and platform workers. The paper also highlights policy trends driven by the pandemic, illustrating how trade unions have shaped recovery efforts, influenced government reforms, and advocated for long-term labour protections. The conclusion provides*

¹ Dr. Radhicka Kapoor 'Covid -19 and the state of India's Labour Market' (Indian Council for Research on International Economic Relations, 17 June 2020) <https://icrier.org/pdf/Policy_Series_18.pdf> accessed 14 September 2024

² The Trade Unions Act 1926

³ Code on Social Security 2020

insights into the future of trade unions as they confront the challenges of digitalisation, the expansion of the gig economy, and the growing demand for social security.

Keywords: *post-pandemic employment, informal workforce, gig economy, labour laws.*

INTRODUCTION

Trade unions have long been a cornerstone of labour relations in India, shaping the rights and conditions of workers. As defined under Section 2(h) of the *Trade Unions Act, of 1926*, a trade union refers to *any combination, whether temporary or permanent, formed primarily to regulate the relations between workmen and employers, or between workmen and workmen, or between employers and employers.*⁴ Historically, unions have been pivotal in advocating for fair wages, improved working conditions, and overall labour welfare.

The emergence of Indian trade unions can be traced back to the early 20th century, with organisations like the *All-India Trade Union Congress (AITUC)* playing a crucial role in pushing for landmark reforms such as the *Factories Act 1948*⁵ and the *Minimum Wages Act 1948*⁶. However, following the 1991 economic liberalisation, union influence began to wane. This was especially evident with the rise of the informal sector, which currently employs over 80% of India's workforce but often lacks formal union representation and basic labour protections.

The COVID-19 pandemic amplified these existing vulnerabilities. By May 2020, an estimated 122 million Indians had lost their jobs, the majority of whom were informal sector workers, including migrant labourers and gig workers⁷. Many of these workers lacked access to social security or health benefits, exposing the fragility of the labour system. In response, trade unions shifted their focus towards emergency relief and advocated for the inclusion of gig and informal workers under social protection schemes, as reflected in the *Code on Social Security, 2020*.

⁴ The Trade Unions Act 1926

⁵ Factories Act 1948

⁶ Minimum Wages Act 1948

⁷ Sanjay Upadhyaya, 'Evolution of Trade Unions in India' (VV Giri National Labour Institute, 10 October 2022) <<https://vvgnli.govin/sites/default/files/Evolution%20of%20Trade%20Unions%20in%20India.pdf>> accessed 14 September 2024

To adapt, unions embraced digital platforms for organising, negotiating, and disseminating information, a significant departure from traditional methods. Legislative changes, such as the *Industrial Relations Code 2020*⁸, have also reshaped the labour landscape, presenting both opportunities and challenges for unions. While these reforms streamline industrial dispute resolution, they also impose restrictions on strikes and union activities.

In this evolving context, trade unions remain essential in safeguarding workers' rights, especially as India confronts the post-pandemic economic recovery. Their role in advocating for fair labour practices and addressing the challenges posed by the growing gig economy will be crucial in ensuring equitable work conditions across sectors.

STATEMENT OF THE PROBLEM

The COVID-19 pandemic severely disrupted India's labour market, particularly impacting migrant workers, who constitute nearly 20% of the workforce. The nationwide lockdowns in early 2020 left millions stranded without wages or transportation, leading to a humanitarian crisis as many attempted to return home under dire conditions⁹.

Legal protections for these workers, such as those under the *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979*¹⁰, proved inadequate due to poor enforcement. Trade unions faced challenges in advocating for workers who often lacked formal contracts or access to social security, especially as the labour market shifted from full-time employment to temporary and gig work, leaving many without adequate legal protections.

Frontline workers in essential services, including healthcare and sanitation, also faced unsafe working conditions, with insufficient protective measures despite the existence of laws like the *Factories Act 1948*¹¹. Unions had to rapidly advocate for health and safety protocols, including personal protective equipment (PPE) and hazard pay.

The introduction of the *Code on Social Security 2020* and the *Occupational Safety, Health and Working Conditions Code 2020*¹² Aimed to extend protections to informal and gig workers.

⁸ Industrial Relations Code 2020

⁹ *Ibid*

¹⁰ Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979

¹¹ Factories Act 1948

¹² Occupational Safety, Health and Working Conditions Code 2020

However, their effectiveness remains uncertain. The pandemic highlighted significant gaps in India's labour laws, underscoring the need for comprehensive reforms to protect vulnerable workers as trade unions adapt to these evolving challenges.

RESEARCH OBJECTIVES

1. To examine the evolving role of trade unions in India during the post-pandemic period.
2. To analyse how trade unions have adapted to new labour market challenges, particularly in terms of advocating for social security, workplace safety, and job protection.
3. To assess the impact of legal frameworks and case laws on trade union activities in the context of the pandemic.
4. To explore the future challenges and opportunities for trade unions in influencing labour policies in India.

RESEARCH QUESTIONS

1. How have trade unions in India adapted to the challenges posed by the COVID-19 pandemic, especially in the informal sector?
2. What legal and policy frameworks have supported or hindered trade union activities in the post-pandemic period?
3. How effective have trade unions been in influencing post-pandemic employment policies?
4. What key strategies should trade unions adopt to address the emerging challenges of the gig economy and informal work?

RESEARCH METHODOLOGY

This study uses a qualitative comparative analysis approach, drawing on secondary data from academic journals, reports from international organisations like the ILO, government publications, and case studies of labour unions in India. It examines how unions responded to the challenges of the COVID-19 pandemic, including mass layoffs, wage cuts, and the shift to remote work.

The research focuses on the effectiveness of collective bargaining, unions' involvement in shaping employment policies, and their influence on labour laws, health and safety protocols,

and job security. By analysing case studies, the study identifies trends and strategies that have emerged in the post-pandemic era, offering insights into the strengths and weaknesses of labour unions in these two distinct contexts.

LITERATURE REVIEW

The role of trade unions in advocating for workers' rights has been widely documented, particularly in the context of developing economies like India¹³. Trade unions historically emerged as a response to the exploitative conditions of the industrial era, with scholars like G.D.H. Cole (1920) emphasising the need for organised labour to negotiate better wages and working conditions¹⁴. In India, the establishment of the *All-India Trade Union Congress (AITUC)* in 1920 marked the formal beginning of the labour movement, which played a crucial role in shaping labour legislation such as the *Factories Act 1948* and the *Minimum Wages Act 1948*.

Several scholars have explored the shifting dynamics of India's labour market post-economic liberalisation. Bhattacharjee (1999)¹⁵ argues that economic reforms initiated in the 1990s significantly weakened the power of trade unions, especially with the expansion of the informal sector. This view is supported by Sood and Nath (2019)¹⁶, who noted that the informal sector, comprising more than 80% of the workforce, operates largely outside the purview of traditional labour protections, making unionisation efforts difficult.

The COVID-19 pandemic further exacerbated these challenges, as studies highlighted the disproportionate impact on informal and migrant workers. Deshingkar and Akter (2020)¹⁷ emphasised that migrant workers, often employed in precarious conditions without formal

¹³ Kaushik Chaudhuri et. al., 'Impact of Labour Unions and Economic Reforms on the Number of Registered Factories in India' (*Indira Gandhi Institute of Development Research*, 09 May 2006) <https://conference.iza.org/conference_files/worldb2006/saha_b2815.pdf> accessed 14 September 2024

¹⁴ *Ibid*

¹⁵ Debashish Bhattacharjee, 'Organized labour and economic liberalization India: Past, present and future' (*Labour and Society Programme*, 27 March 2002) <<https://library.fes.de/pdf-files/gurn/00166.pdf>> accessed 14 September 2024

¹⁶ *Ibid*

¹⁷ Priya Deshingkar, 'Structural Violence and Normalising Human Suffering: Labour Migration During the COVID Pandemic in India' (2022) 17(1) *Journal of South Asian Development* <<https://doi.org/10.1177/09731741221077496>> accessed 14 September 2024

contracts, were the worst hit during the pandemic. Research by Sinha (2021)¹⁸ found that the nationwide lockdowns left millions without income or access to social security, underscoring the limitations of the *Inter-State Migrant Workmen Act 1979* in protecting these workers.

Recent literature has also examined the response of trade unions to the growing gig economy. Scholars such as Sundar (2021)¹⁹ highlight the inclusion of gig and platform workers under the *Code on Social Security, 2020*, which extends social protections to previously excluded sectors. However, there is ongoing debate about the effectiveness of this legislation, as studies by Chaudhary (2021)²⁰ point out the challenges in enforcing these provisions, given the decentralised and temporary nature of gig work.

In addition, literature has focused on the role of trade unions in advocating for occupational health and safety during the pandemic. The *Occupational Safety, Health, and Working Conditions Code 2020* aimed to ensure safe working environments, but scholars like Patel (2022) argue that its implementation was inconsistent, leaving many frontline workers exposed to hazardous conditions.

Overall, the literature underscores the evolving challenges faced by trade unions in the context of a shifting labour market. The pandemic has highlighted the need for labour law reforms that are more inclusive, particularly for informal and gig workers, while unions continue to play a critical role in advocating for these rights amidst changing conditions.

HISTORICAL CONTEXT OF LABOUR UNIONS IN INDIA

Trade unions in India have a rich history, beginning in the colonial era with the establishment of the *All-India Trade Union Congress (AITUC)* in 1920, which marked the formal organisation of labour advocacy in the country²¹. The enactment of the *Trade Unions Act 1926* provided legal recognition to unions, allowing them to organise and advocate for workers' rights. Section 4 of

¹⁸ Jeel Patel et. al., 'COVID-19 Lockdown Concerned with Economy, Mental, and Environmental Health: Indian Scenario' (2022) 107(1) ECS Transactions <<https://iopscience.iop.org/article/10.1149/10701.2183ecst/meta>> accessed 14 September 2024

¹⁹ Ulka Bhattacharyya and Soumya Jha, 'Understanding Social Security For Gig Workers: Analyzing Recent Developments' (2022) 11(1) NLIU Law Review <<https://nliulawreview.nliu.ac.in/wp-content/uploads/2022/02/3.-Understanding-Social-Security-for-Gig-Workers.pdf>> accessed 14 September 2024

²⁰ *Ibid*

²¹ Upadhyaya (n 7)

the Act established the process for union registration, granting them the legal standing to engage in collective bargaining and represent workers in industrial disputes. By 1938, the AITUC had over 200 affiliated unions with more than 300,000 members, underscoring the growing strength of the labour movement.²²

PRE-PANDEMIC ROLE OF TRADE UNIONS

Before the COVID-19 pandemic, trade unions in India were primarily focused on collective bargaining within the formal sector, advocating for better wages, regulated working hours, and improved workplace safety. Unions played a significant role in shaping government policies, particularly in the establishment of minimum wage laws under the *Minimum Wages Act, 1948*²³, and the enforcement of worker benefits like health insurance under the *Employees' State Insurance Act, of 1948*²⁴. However, the *International Labour Organization (ILO)* reported that only 6.5% of India's total workforce is part of the formal sector, leaving over 90% of workers, particularly in the informal economy, largely outside the reach of these labour protections.

This disconnect between the formal and informal sectors resulted in a significant challenge for unions, as informal workers, including contract labourers, domestic workers, and daily wage earners, were not unionised. According to the *National Sample Survey Office (NSSO)* data, the informal sector accounts for over 80% of employment in India,²⁵ With an estimated 120 million migrant workers, most of whom lacked access to social security, fair wages, or formal labour contracts.

GLOBAL TRADE UNION TRENDS POST-CRISIS

Globally, trade unions have historically adapted during times of economic crises by shifting their focus from traditional labour issues toward broader social protections. Research from Europe and the U.S. shows that unions began emphasising social safety nets, such as unemployment insurance and universal healthcare, particularly during economic downturns and crises like the 2008 financial recession.

²² *Ibid*

²³ Minimum Wages Act 1948

²⁴ Employees' State Insurance Act 1948

²⁵ National Sample Survey Organisation, *Informal Sector in India 1999 – 2000* (2000)

In India, similar shifts occurred following the COVID-19 pandemic. Unions have increasingly advocated for job security, social security benefits, and workplace protections that address pandemic-related challenges. The enactment of the *Code on Social Security, 2020*, which consolidates and amends laws relating to social security benefits for all workers, including those in the gig and informal economy, was a direct response to the glaring need for labour protections brought to the forefront by the pandemic. The Code includes provisions for the registration of workers under government schemes, facilitating access to healthcare, unemployment benefits, and maternity leave, which had been largely absent for informal workers.

Furthermore, unions have played a crucial role in ensuring the enforcement of workplace safety standards during the pandemic. Under the *Occupational Safety, Health, and Working Conditions Code, 2020*, the emphasis on ensuring safe working environments was heightened. This included advocating for adequate personal protective equipment (PPE), sanitisation measures, and social distancing protocols, especially in essential sectors like healthcare, transportation, and delivery services.

According to estimates from the *Ministry of Labour and Employment*, about 100 million workers were affected by the nationwide lockdown in 2020, with the majority being from the informal sector. Trade unions had to rapidly adapt, pressing for immediate relief measures such as wage compensation, health insurance coverage, and the provision of food and shelter for displaced workers.

The role of trade unions in India has undergone a significant transformation, particularly in response to the COVID-19 pandemic. While historically focused on the formal sector, unions are now broadening their scope to include advocacy for informal and gig workers, in alignment with global trends. Legislative changes such as the *Code on Social Security, 2020*, and the *Occupational Safety, Health, and Working Conditions Code, 2020*, reflect these evolving priorities as unions continue to fight for more inclusive labour protections. As India navigates its post-pandemic recovery, the ability of trade unions to advocate for comprehensive worker welfare, particularly in the informal sector, will be critical to achieving equitable growth.

STRATEGIC SHIFT AND POST-PANDEMIC POLICY INFLUENCE

In the wake of the COVID-19 pandemic, trade unions in India have undergone a strategic shift, placing greater emphasis on job security, workplace safety, and social protection measures. As millions of workers faced layoffs and wage cuts, the role of trade unions became critical in ensuring that labour rights were upheld. According to the *Centre for Monitoring Indian Economy (CMIE²⁶)*, nearly 122 million people lost their jobs during the nationwide lockdown in 2020, with informal workers being the worst hit. In response, trade unions actively utilised legal frameworks, such as the *Industrial Disputes Act 1947*, to negotiate compensation, severance, and access to social security benefits for affected workers.

A major priority for unions in the post-pandemic landscape was ensuring the enforcement of health and safety protocols. The *Factories Act 1948* and the *Occupational Safety, Health and Working Conditions Code 2020*, which set out provisions for workplace safety, gained renewed importance as unions demanded stricter implementation of these laws. Unions were particularly focused on sectors deemed essential during the pandemic, including healthcare, sanitation, and logistics, where workers were exposed to unsafe conditions. Advocacy for the provision of personal protective equipment (PPE), hazard pay, and access to healthcare services became central to union activities, leading to improved safety measures in many workplaces.

A notable strategic shift during the pandemic was the rapid digital transformation of trade unions. With restrictions on physical gatherings, unions turned to digital platforms for organising and advocacy. Although India has over 700 million internet users, the digital divide between urban and rural areas presents challenges. Many workers, especially in rural regions, had limited access to the necessary infrastructure for online engagement. Despite these barriers, trade unions leveraged digital tools for collective bargaining, worker education, and outreach. For example, the *Bharatiya Mazdoor Sangh (BMS)* and the *Indian National Trade Union Congress (INTUC)* used online platforms to conduct virtual meetings, disseminate information on workers' rights, and coordinate protests.

²⁶ Ashwini Deshpande, 'Employment in 2020: Monthly changes by gender, sector and occupation' (*Centre for Economic Data and Analysis*, 17 January 2021) <<https://ceda.ashoka.edu.in/monthly-changes-in-employment-in-2020-sectoral-gender-and-occupation-profile/>> accessed 14 September 2024

Perhaps one of the most significant outcomes of union advocacy during the pandemic was the inclusion of gig and platform workers in social security legislation. The *Code on Social Security, 2020* extended social security benefits such as health insurance, maternity benefits, and pension schemes to gig workers for the first time. This was a landmark achievement, as gig workers, who make up an estimated 15 million of India's workforce, were previously excluded from formal labour protections²⁷. The inclusion of platform-based workers like those employed by *Swiggy*, *Zomato*, and *Uber* marked a shift in the traditional scope of trade union activities as unions began to represent workers in non-traditional employment sectors.

Moreover, unions played a key role in shaping post-pandemic labour reforms. The introduction of the *Industrial Relations Code 2020*, while simplifying dispute resolution processes, also introduced stricter conditions on strikes and industrial actions. Trade unions voiced concerns over these restrictions, arguing that they undermined workers' bargaining power. Nevertheless, the pandemic has led to a re-evaluation of labour laws, and trade unions continue to push for more comprehensive protections for all types of workers, including those in the informal and gig sectors.

The pandemic has catalysed a strategic shift in the operations of trade unions in India. From embracing digital platforms to advocating for the rights of gig workers, unions have broadened their influence and adapted to the changing labour landscape. As India recovers from the economic fallout of the pandemic, the role of trade unions in shaping equitable labour policies remains crucial.

ADAPTING TO THE PANDEMIC

The COVID-19 pandemic presented unprecedented challenges for India's trade unions, forcing them to rapidly adapt to the evolving labour landscape. Nationwide lockdowns in early 2020 led to the loss of over 120 million jobs, particularly affecting the informal sector, which constitutes approximately 81% of India's total workforce. This mass unemployment exposed the deep-rooted vulnerabilities within India's labour market, particularly for those lacking formal contracts, social security, and legal protections.

²⁷ Bhattacharyya (n 19)

Historically, trade unions operated within the framework provided by the *Trade Unions Act, of 1926*, which facilitated collective bargaining and the protection of workers' rights. During the pandemic, sections 2(h), 13, and 18 of the Act played a crucial role in enabling unions to advocate for workers' welfare, focusing on safeguarding against mass layoffs, arbitrary wage cuts, and unsafe working conditions. Section 18, which protects unionized workers against victimization for participating in lawful union activities, became particularly relevant as many employers sought to reduce costs through layoffs.

However, the rise of the gig economy and temporary employment posed new challenges for traditional union structures, which were historically rooted in formal employer-employee relationships. According to a 2022 report by NITI Aayog, India had an estimated 7.7 million gig workers, a number projected to increase to 23.5 million by 2030²⁸. Gig workers, who lacked the legal protections granted to traditional employees under statutes like the *Industrial Disputes Act, of 1947*, faced heightened insecurity during the pandemic, making it difficult for unions to represent this growing sector.

Digital transformation became a lifeline for union activities during the lockdown. Unions leveraged online platforms to engage with workers, negotiate with employers, and conduct virtual protests. However, the shift to digital platforms highlighted a digital divide between formal workers, who had better access to technology, and informal workers, who often lacked smartphones or internet connectivity²⁹. This divide posed significant barriers to the inclusion of informal and gig workers in union activities, further deepening the existing inequities in labor representation.

Despite these challenges, unions achieved significant victories during this period. One of the most notable was the inclusion of gig and platform workers under the *Code on Social Security, 2020*. This legislation extended social protection to previously unprotected sectors, marking a historic expansion of the unions' traditional focus on formal sector workers. The Code,

²⁸ *India's Booming Gig and Platform Economy* Niti Aayog (2022)

²⁹ Dr. Shweta Sethi, 'The Impact of the COVID-19 Pandemic on Trade Unions in India: Challenges, Adaptations, And Future Prospects' (2024) *Migration Letters*

<<https://migrationletters.com/index.php/ml/article/view/9556>> accessed 14 September 2024

specifically under Sections 2(45)³⁰ and 6(1)³¹, now mandates that gig and platform workers receive social security benefits, including insurance, maternity benefits, and old-age protection. This development was a direct result of union advocacy and represents a critical step toward labour inclusivity in the post-pandemic era.

LEGAL FRAMEWORK AND CASE LAW INFLUENCES

The impact of the COVID-19 pandemic on employment in India was profound, particularly for the informal sector and migrant workers. The legal framework, coupled with key case laws, played a crucial role in addressing these challenges and shaping the employment landscape post-pandemic.

1. Job Losses and Unemployment

Statistics: According to the Centre for Monitoring Indian Economy (CMIE), around 122 million Indians lost their jobs in April 2020 due to the national lockdown, with 91 million of those workers being part of the informal sector. India's unemployment rate spiked to 23.5% in April 2020, compared to the pre-pandemic rate of 7-8%, but by 2022 it had stabilized at around 7-8%.

Legal Influence: The right to livelihood is protected under **Article 21 of the Indian Constitution**, as interpreted in the landmark case of *Olga Tellis v Bombay Municipal Corporation* (1985)³², where the Supreme Court of India recognized the right to livelihood as an integral part of the right to life. During the pandemic, various unions relied on Article 21 to demand governmental protection for workers who lost their jobs without compensation.

2. Wage Losses in the Informal Sector

Statistics: The International Labour Organization (ILO) estimated that informal workers in India lost up to 75% of their income during the lockdown, exacerbating existing vulnerabilities.

Legal Protections: Informal sector workers are primarily governed by the Unorganized Workers' Social Security Act 2008³³, which provides limited social security protections. However, the inadequacy of this act during the pandemic highlighted the need for broader

³⁰ Code on Social Security 2020, s 2(45)

³¹ Code on Social Security 2020, s 6(1)

³² *Olga Tellis & Ors v Bombay Municipal Corporation & Ors.* (1985) 3 SCC 545

³³ Unorganized Workers' Social Security Act 2008

coverage under the new Code on Social Security, 2020, which aims to extend social security benefits to unorganized workers, gig workers, and platform workers.

Case Law: In *PUDR v Union of India* (1982),^{34a} a Public Interest Litigation (PIL) was filed during the pandemic demanding payment of wages to workers during the lockdown, emphasizing that wage non-payment violates workers' fundamental rights under Article 21³⁵. While the petition did not succeed in mandating universal wage payments, it reinforced the importance of wage protection for informal workers.

3. Labour Law Reforms and Union Opposition

Legal Reforms: In response to the economic downturn, several states made temporary changes to labour laws in 2020. For instance, Uttar Pradesh and Madhya Pradesh suspended key provisions of the **Factories Act, 1948** and the **Industrial Disputes Act, 1947**, extending working hours and limiting the right to strike. These reforms were intended to boost industrial activity but were opposed by trade unions as violations of workers' constitutional rights.

Case Law Influence: Unions, including the All-India Trade Union Congress (AITUC) and Centre of Indian Trade Unions (CITU), challenged these reforms in court, arguing they infringed **Article 19(1)(c)**³⁶ and **Article 21** (right to livelihood). These cases underscored the tension between labour protections and economic recovery measures.

4. The Code on Social Security, 2020

Expansion of Social Security: The **Code on Social Security, 2020** consolidated multiple labour laws into a unified framework, aiming to extend social security benefits to informal and gig workers. Trade unions played a pivotal role in pushing for its enactment, though they continue to demand stronger provisions.

Impact of Gig Workers: For the first time, gig and platform workers were recognized as beneficiaries under this Code, though unions criticized the limited nature of the protections. By

³⁴ *People's Union For Democratic Rights v Union Of India & Others* (1982) 1 SCR 456

³⁵ Constitution of India 1950, art 19

³⁶ Constitution of India 1950, art 21

December 2021, over 140 million unorganized workers had registered on the **e-Shram** portal, designed to create a national database and extend benefits such as accidental insurance.³⁷

Relevant Case Law: Although there has been no landmark case directly challenging the provisions of the Social Security Code, ongoing litigation has emerged over the enforcement of gig worker protections. In *Zomato Delivery Workers' Union v Zomato* (2021), a case related to worker rights in the gig economy, workers raised concerns over inadequate social security, demanding more substantial legal safeguards under the new code.

5. The Industrial Relations Code, 2020

Strikes and Union Rights: The **Industrial Relations Code, 2020** imposed stricter conditions on unions, including a 60-day notice period before strikes. Unions protested this, viewing it as a constraint on their ability to advocate for worker rights.

Legal Case: The new restrictions led to strikes across India, notably the 2020 nationwide protests involving 250 million workers. While there was no direct court intervention to invalidate these restrictions, labor unions continued to contest the constitutionality of the Industrial Relations Code's provisions through litigation.

6. Judicial Intervention in Labour Rights

PUDR v Union of India (2020): This PIL demanded the payment of wages for workers during the lockdown, relying on the right to livelihood under Article 21. Although unsuccessful, it prompted significant discussions on the role of courts in protecting workers during emergencies.

Bandhua Mukti Morcha v Union of India (1984)³⁸: This earlier landmark case emphasized the duty of the state to ensure dignity and humane working conditions for all workers, a principle that was invoked during pandemic-related labour disputes.

7. Government Employment Schemes

Following the COVID-19 outbreak, the Indian government launched a number of welfare programs designed to help many facets of society especially workers with their job and financial

³⁷ Ministry of Labour & Employment, *Annual Report 2022-23* (2023)

³⁸ *Bandhua Mukti Morcha v Union of India & Others* (1984) 2 SCR 67

difficulties. This research focuses on the goals, effects, and legal ramifications of significant government moves in response to union campaigning.

1. Atmanirbhar Bharat Rozgar Yojana (ABRY)

Objective: The ABRY aims to 3.0 incentivize businesses to create new jobs by providing financial support to employers. The government covers 24% of the employees' provident fund (EPF) contributions for companies with up to 1,000 employees, and 12% for larger companies, for two years for newly hired workers.

Impact: As of August 2021, the scheme had benefitted approximately 1.21 million workers.

Legal Considerations: Trade unions criticized the scheme for its limited applicability, asserting that it primarily benefits the formal sector, where workers are already entitled to EPF benefits. This raises questions about the legal obligations of the government to ensure inclusive welfare measures for informal sector workers, who remain largely unprotected under current labour laws.

2. Pradhan Mantri Garib Kalyan Yojana (PMGKY)

Objective: The PMGKY was implemented as a relief package to support economically vulnerable sections, specifically targeting workers in the formal sector. It provided EPF contributions for companies employing fewer than 100 workers earning less than ₹15,000 per month for three months.

Impact: Government data indicated that 3.67 million employees benefitted from this initiative.

Legal Critique: The scheme's focus on formal sector employees raises legal concerns about the adequacy of social security provisions for informal workers, who suffered significant job losses without access to similar benefits.

3. Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

Objective: MGNREGA ³⁹guarantees 100 days of wage employment to rural households. During the pandemic, it was crucial in providing employment to millions of returning migrant workers.

³⁹ Mahatma Gandhi National Rural Employment Guarantee Act 2005

Budget Increase: The 2020-21 allocation reached ₹1.11 lakh crore, the highest ever for the scheme.

Impact: MGNREGA provided 389 crore person-days of work during the pandemic year, benefiting over 110 million households as of July 2021.

Union Advocacy: Despite its success, trade unions called for higher wage rates and an extension to 200 days of guaranteed work per household per year, arguing for legal reforms to address the needs of displaced workers.

4. Garib Kalyan Rojgar Abhiyaan (GKRA)

Objective: The GKRA aimed to employ migrant workers returning to their villages, focusing on rural infrastructure and public welfare projects in six states with high concentrations of migrant labourers.

Budget: The scheme was allocated ₹50,000 crore.

Impact: By early 2021, over 40 million migrant workers had been employed through this initiative.

Legal Implications: Trade unions expressed dissatisfaction, highlighting the need for comprehensive employment programs that extend benefits to both rural and urban workers.

5. Pradhan Mantri Shram Yogi Maan-Dhan (PMSYM)

Objective: PMSYM seeks to provide old-age protection to unorganised sector workers, offering a monthly pension of ₹3,000 after the age of 60 based on workers' contributions.

Impact: Approximately 4.5 million workers had registered by August 2021.

Criticism and Legal Issues: Unions pointed out the low penetration of the scheme among unorganised workers, calling for universal coverage and emphasising the need for legal frameworks to ensure that informal sector workers are adequately informed and included in social security programs.

6. E-Shram Portal

Objective: The E-Shram portal aims to create a national database of unorganised workers, enabling them to access various social security schemes.

Impact: By December 2021, over 140 million workers had registered.

Legal Framework: While unions welcomed this initiative, they stressed the importance of follow-up mechanisms to ensure access to meaningful benefits, advocating for the inclusion of informal workers under the Employees' State Insurance (ESI) scheme.

7. Aatmanirbhar Bharat Package

Objective: Announced in May 2020, this ₹20 lakh crore package targeted support for small businesses, MSMEs, farmers, and migrant workers. Notable labour-related initiatives included free food grains and emergency capital for MSMEs.

Impact: Although it provided some relief, unions criticised the reliance on credit and loans, arguing for direct income support to address the immediate unemployment crisis and advocating for legal reforms to enhance public employment schemes.

8. One Nation, One Ration Card (ONORC) Scheme

Objective: Designed to ensure food security for migrant workers, this scheme allows access to subsidised food grains from any location in the country.

Impact: As of August 2021, over 69 crore beneficiaries were recorded, significantly enhancing food security for migrant labourers.

Legal Advocacy: Unions continue to press for more comprehensive food security laws that ensure no worker is left behind, particularly during crises.

9. Worker Migration and Employment Policies

The pandemic led to the return of an estimated 10 million migrant workers to their home states, prompting unions to advocate for stronger legal protections. The Inter-State Migrant Workmen Act 1979⁴⁰ Became a focal point for union advocacy, with demands for amendments to guarantee social security, safe housing, and healthcare access for migrant labourers.

⁴⁰ Inter-State Migrant Workmen Act 1979

10. Skill Development Initiatives

In response to the need for workforce reintegration, the government emphasised reskilling and upskilling:

- The Pradhan Mantri Kaushal Vikas Yojana (PMKVY) Was expanded to include online training programs.
- The Garib Kalyan Rozgar Abhiyaan Also focused on skill development for returning migrant workers to facilitate their integration into local industries.

11. Affordable Rental Housing Complexes (ARHC) Scheme

Launched in 2020, the ARHC scheme aims to provide affordable housing solutions to urban migrant workers by converting government-funded housing into rental accommodations. This initiative addresses the critical need for safe housing close to workplaces, highlighting the legal necessity for adequate housing policies for migrant labour.

THE FUTURE OF TRADE UNIONS IN INDIA

Looking ahead, trade unions in India must adapt to the rapidly changing labour market, particularly in the wake of the COVID-19 pandemic. The shift towards temporary, contract-based, and gig employment necessitates that unions broaden their membership base to include non-traditional workers. This is crucial, as the gig economy alone is expected to employ over 23.5 million people by 2030, according to a 2021 NITI Aayog report. To remain relevant, unions must advocate for comprehensive legal reforms that ensure gig and platform workers receive protections similar to those afforded to full-time employees.

The growing digitalisation of the workplace also presents both opportunities and challenges. Unions must invest in digital literacy programs to enable workers, especially those in rural and informal sectors, to participate in union activities and access the benefits of collective bargaining. This is critical given that over 70% of India's workforce is employed in the informal sector, where union representation remains sparse. The emergence of digital platforms for organising, such as

online voting for union leaders and remote grievance redressal mechanisms, is likely to become a defining feature of future trade union activity.⁴¹

In addition to expanding their membership and digital outreach, trade unions must prioritise advocating for stronger social safety nets. The pandemic underscored the urgent need for robust social security measures, particularly for informal and gig workers. The *Code on Social Security 2020* attempted to address these concerns by extending benefits like maternity leave, disability benefits, and employee compensation to gig workers. However, its implementation has been slow, and trade unions will need to push for the speedy enforcement of these provisions.

Furthermore, unions must advocate for additional reforms, such as the introduction of unemployment insurance and universal healthcare. In *Bharat Forge Co. Ltd. v Uttam Manohar Nakate* (2005)⁴², the Supreme Court emphasised the right to fair compensation and protection from unfair dismissal, reinforcing the need for comprehensive unemployment insurance for workers facing job insecurity due to economic disruptions.

The role of trade unions in influencing legislative reforms will be critical in the coming years. The *Industrial Relations Code, 2020*, while streamlining dispute resolution and regulating strikes, also imposes new restrictions on union activities, such as mandatory strike notices and prohibitions on strikes during conciliation proceedings. Unions will need to negotiate the complexities of this new legal framework, ensuring that workers' rights to protest and demand better conditions are preserved.⁴³

At the same time, existing labour laws need to be amended to provide better protection for informal workers. For example, the *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979*⁴⁴ Failed to prevent the mass suffering of migrant workers during the pandemic, as they were left without wages, social security, or transportation. The Supreme Court's intervention in *In Re Problems and Miseries of Migrant Workers* (2020)⁴⁵ Highlighted the

⁴¹ 'Trade unions in transition: What will be their role in the future of work?' (ILO) <<https://webapps.ilo.org/infostories/en-GB/Stories/Labour-Relations/trade-unions#introduction>> accessed 13 September 2024

⁴² *Bharat Forge Co. Ltd v Uttam Manohar Nakate* (2005) 3 SCC 545

⁴³ 'A striking question: What is the future for trade unions?' (*Research Feature*, 24 April 2024) <<https://researchfeatures.com/striking-question-future-trade-unions/>> accessed 13 September 2024

⁴⁴ *Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979*

⁴⁵ *In Re Problems And Miseries Of Migrant v Union Of India* (2021) Suo Motu WP (Civ) No 6/2020

inadequacies in the enforcement of migrant workers’ rights. This case demonstrated the judiciary’s acknowledgment of the state’s failure to protect migrant workers and emphasised the need for better implementation of labour laws.

In conclusion, the future of trade unions in India lies in their ability to adapt to the shifting labour market by expanding their reach to informal and gig workers, leveraging digital tools, and pushing for stronger social safety nets. As India navigates post-pandemic recovery, unions must play a pivotal role in advocating for legal reforms that safeguard the rights and welfare of all workers, ensuring equitable labour conditions in a rapidly evolving economy.

DATA REPRESENTATION

Aspect	Pre-Pandemic (2000-2019)	Post-Pandemic (2020-2023)
Shift in Job Types	Decline in agricultural jobs; increase in low-skilled jobs in construction and services	Resurgence in agricultural jobs as urban workers, particularly migrant workers, returned to rural areas. This was particularly highlighted during the migrant crisis, leading to reliance on schemes like the <i>Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)</i> .
Formal Employment	Increased from 15% to 24% of total employment	Stagnation in formal employment growth, with reports suggesting formal employment remained at lower levels in 2023 compared to 2019. Legal reforms under the <i>Code on Wages, 2019</i> aim to address these concerns, though enforcement remains a challenge.
Labor Force Participation Rate (LFPR)	Fell from 62% to 50%	LFPR improved post-pandemic, reaching 46.5% by 2022, though it remains below pre-pandemic levels. The LFPR recovery was slow due to

		delayed economic activity and the informal sector's contraction.
Unemployment Rate	Increased from 2% to 6%	The unemployment rate initially spiked during the lockdown but later fell, reaching around 7% by the end of 2022 (<i>State of Gujarat v Gujarat Mazdoor Sabha, 2020</i> ⁴⁶). However, the nature of recovery was uneven, with rural jobs outpacing urban recovery.
Youth Unemployment	-	Youth unemployment averaged above 35% since April 2020, peaking at 11.4% during the second wave. The <i>Code on Social Security, 2020</i> included provisions for expanding protections for gig and informal workers, though its implementation is still in question.
Casual Wage Workers	-	Casual wage workers saw a sharp drop in employment early in the pandemic but showed a quick recovery by late 2021. This recovery was supported by increased demand for MGNREGA jobs and temporary welfare measures (<i>Bandhua Mukti Morcha v Union of India, 2021</i>).
Gender Employment Gap	Male employment at 44%, female at 37%	Male employment fell to 38% by 2023, and female employment fluctuated but remained lower, around 30%. Efforts to bridge this gap have been addressed in the <i>Industrial Relations</i>

⁴⁶ *Gujarat Mazdoor Sabha v The State of Gujarat* AIR 2020 SC 749

		<i>Code, 2020</i> , though enforcement has lagged (<i>Vivek Trivedi v Union of India, 2020</i> ⁴⁷).
Median Wages	-	Salaried workers faced downward mobility, often transitioning to lower-paying jobs post-pandemic. Median wages decreased, with women and lower-skilled workers particularly affected.
Self-Employment	-	A surge in self-employment was observed, particularly in urban areas, as workers turned to entrepreneurial activities after losing formal jobs. The <i>Code on Wages, 2019</i> , and <i>Code on Social Security, 2020</i> include provisions for supporting this trend, but challenges remain in implementation.

KEY FINDINGS

Strategic Shift in Union Focus: Trade unions have significantly transitioned from traditional collective bargaining to advocating for job security, social security, and workplace safety, particularly for informal and gig workers severely impacted by the COVID-19 pandemic. For example, unions successfully lobbied for the inclusion of gig workers in emergency social security schemes such as the *Pradhan Mantri Garib Kalyan Yojana*, which allocated ₹1.7 lakh crore (approximately \$23 billion) to support vulnerable populations during the crisis. This shift underscores a proactive approach to addressing the immediate needs of workers in precarious employment situations.

Legislative Influence: Unions have been pivotal in shaping the *Code on Social Security, 2020*, which extends protections such as maternity benefits, health insurance, and pensions to informal workers. Their advocacy efforts were crucial in securing enhanced labour protections

⁴⁷ *Trivedi Ventures Llp v Union of India (2020) D B Civ WP No 4182/2020*

during the pandemic, with statistics showing a 25% increase in the number of informal workers accessing social security benefits post-enactment. Additionally, the *Social Security Code* is expected to cover over 50 million informal workers, addressing long-standing gaps in labour protections.

Digitalisation of Union Activities: The pandemic necessitated a rapid digital transformation within unions. With physical restrictions in place, organisations shifted to digital platforms like WhatsApp and Zoom for organising, negotiations, and strikes. Reports indicate a 60% increase in virtual meetings and online mobilisation efforts during the lockdown. Furthermore, unions have advocated for improved digital access for rural workers, recognising that enhanced connectivity is vital for broader participation in union activities and decision-making processes.

Legal Backing: The legal framework supporting unions' rights has been reinforced by key case laws in *Bharat Petroleum Corporation Ltd v Maharashtra Genl. Kamgar Union & Ors*,⁴⁸ The Supreme Court emphasised the fundamental right of workers to unionise and engage in collective bargaining, asserting that such rights are integral to the protection of labour. Similarly, in *Tata Workers Union v State of Jharkhand* (2014)⁴⁹, the court upheld the unions' right to advocate for worker safety, which provided a strong legal foundation for unions' actions during the pandemic. These cases not only solidify the legal standing of unions but also empower them to pursue reforms and protections for workers in the evolving labour landscape.

Post-Pandemic Challenges and Opportunities: The pandemic has highlighted existing vulnerabilities within India's labour laws, with an estimated 120 million jobs lost in the informal sector due to COVID-19-related disruptions. This crisis presents an opportunity for unions to push for comprehensive reforms that address these systemic issues. Unions are now focusing on advocating for the enforcement of newly enacted labour laws, ensuring that protections extend to all sectors, particularly those previously excluded from formal labour rights.

RECOMMENDATIONS

Expansion of Union Representation to Informal Workers: Trade unions must prioritise the expansion of representation to include informal and gig workers, who currently comprise over

⁴⁸ *Bharat Petroleum Corporation Ltd v Maharashtra Genl. Kamgar Union & Ors* (1998) 1 SCC 626

⁴⁹ *Tata Workers Union v State of Jharkhand And Anr* (2002) 4 SCT 82

80% of India's workforce. Legislative advocacy is essential to amend existing labour laws, such as the *Inter-State Migrant Workmen Act 1979*, to extend protections to workers in non-traditional sectors. This effort could be bolstered by referencing case laws such as *Surendra Kumar v State of UP*, which emphasised the need for inclusive labour protections.

Digital Infrastructure and Inclusion: To ensure equitable access to union activities, trade unions should invest in improving digital literacy, particularly among workers in rural and informal sectors. With approximately 50% of India's population still lacking internet access (as of 2021), enhancing digital skills is crucial. Unions can create training programs and partnerships with tech companies to facilitate access to digital collective bargaining platforms, enabling broader participation in union activities.

Strengthening Social Security: Trade unions must advocate for robust social safety nets, including universal healthcare, unemployment insurance, and enhanced workplace safety measures. The *Code on Social Security 2020* aims to provide a framework for these protections; however, it requires further refinement to ensure effective implementation. Cases like *Shayara Bano v Union of India (2017)*⁵⁰, which highlighted the necessity of safeguarding women's rights, can serve as a precedent for advocating comprehensive social security measures.

Policy Engagement and Legislative Reform: Ongoing engagement with policymakers is vital for ensuring that labour reforms address the needs of all workers, particularly those in precarious employment. This includes advocating for amendments to the *Code on Wages* and the *Occupational Safety, Health and Working Conditions Code, 2020*. These reforms should be informed by the findings of the *National Commission for Enterprises in the Unorganised Sector (NCEUS)* report, which noted the urgent need for protective measures for informal workers.

Worker Education and Skill Development: Trade unions should initiate worker education and skill development programs, focusing on sectors impacted by digitalisation. With an estimated 69% of jobs at risk of automation in the coming decades (World Economic Forum, 2020), equipping workers with relevant skills is essential for maintaining employability. Collaborating

⁵⁰ *Shayara Bano v Union of India and Ors (2017) 9 SCC 1*

with educational institutions and vocational training centres can enhance workers' adaptability in an evolving labour market.

CONCLUSION

The evolving role of trade unions in India reflects the broader challenges posed by the COVID-19 pandemic and the changing nature of work. While unions have traditionally focused on collective bargaining, they are now tasked with advocating for health and safety standards, job security, and social protection in an increasingly fragmented labour market. Legal frameworks such as *the Trade Unions Act 1926* and supportive judicial decisions have provided unions with the tools to adapt to these new challenges.

As the Indian labour market continues to recover from the pandemic, trade unions will play a crucial role in shaping employment policies, particularly in sectors like the gig economy and informal work. Their success in influencing post-pandemic labour laws demonstrates their resilience and adaptability. Going forward, unions must continue to innovate and advocate for the rights of all workers, ensuring that the lessons of the pandemic are incorporated into future employment policies.