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THE EMPLOYMENT DIVIDE: LEGAL CHALLENGES AND POLICY INNOVATIONS FOR JOB CREATION IN INDIA

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ABSTRACT

The country, like India, aspired to generate meaningful employment for its people, but it still faces a multifaceted employment divide. The disparities of employment fall into both the buckets of rural and urban arenas. This paper highlights the critical analysis of this divide through several bases in the socio-economic model. It underlines the legal framework and related challenges that imbalance the economic structure. This paper also examines the policy innovations that help to break the cycle of disparity running on the roads of employment. The major causes of underemployment and labour market exclusion are frequently not addressed by these different government initiatives to create jobs, which continue to be dispersed and uneven. Hence, this paper delves into the realm of employment divide, where both legal challenges and policy initiatives for job creation shall be examined as a tool of constitutional justice and social equity.

KEYWORDS: disparity, economy, employment, schemes, state

1. INTRODUCTION

India has the third-largest economy in the world, but its capacity to create employment for its citizens fairly and effectively across all skill levels and industries will be a better indicator of its success than GDP alone. It is a developing economy that is frequently facing the particular challenge of economic expansion without proportionate job creation, sometimes known as "jobless growth". There are several ways that India's employment divide emerges on the basis of gender, status, unit locations, digital opportunities and gaps in generations. The primary goal of the Periodic Labour Force Survey is to estimate the major employment and unemployment

indicators for metropolitan regions exclusively in the "Current Weekly Status" (CWS) over a brief three-month period. The second is to calculate the annual employment and unemployment statistics for both CWS and "usual status" in both rural and urban locations. Hence, according to the survey of 2023-24, Youth unemployment between the ages of 15 and 29 is still much higher than the national average, especially in cities where structural change has not adequately absorbed labour.¹ The formal sector still employs fewer than 25% of the personnel, despite numerous reforms, including the new Labour Codes of 2020. The other 60%, who work in majorly unorganized services, frequently do not have access to employment security and minimum wage protection. A new legal concept is also required to safeguard the current personnel, since the gig economy's explosive growth has further obliterated the boundaries between formal and informal employment.

Employment is a key to the solution of several problems that fall under the umbrella of livelihood for any person. Nonetheless, people have consistently been oppressed and repressed due to the employment divide. Therefore, affirmative action measures were one of the steps that started for the classes in need by the government to guarantee their interest and advantages. The government policies in India are now prioritizing the creation of jobs because of the nation's sizable and expanding population, as well as the necessity for a sustainable economic expansion. The objective of many sectors, programs, and projects is to generate jobs, with a focus on the informal and rural economies as well as more recent areas like green energy and technology. One of the important issues that impacts not only people but also the larger economy and social equity is the employment divide that will be discussed in this paper, along with legal challenges and state actions towards policy innovations.

2. AN OUTLINE OF THE EMPLOYMENT DIVIDE

What is the Employment Divide? The term 'employment divide' refers to the multi-faceted disparities in employment opportunities and outcomes between high-income and low-income countries. It is distinguished, especially in emerging nations, by a notable disparity in access to economic opportunities, employment, and skills. The digital divide and growing debt levels, which erect obstacles to involvement in the cutting-edge economy and society, are two elements that deepen this divide. The obstacle of employment divide argues compellingly for government assistance in the creation of jobs and social protection in the face of several crises

¹ Press Information Bureau, *Employment Generation and Skill Development Schemes*, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2057970> (last visited July 29, 2025).

and shocks in order to guarantee that no one is left adrift during recovery and reconstruction and to promote long-term structural change. As part of the ongoing global debate on the reform of the international financial architecture, it is imperative that the crucial significance of establishing budgetary room for social investments in low-income nations be given immediate consideration.²

“Investing in people through jobs and social protection will help narrow the gap between rich and poor nations and people.”

- **Gilbert F. Hougbo, ILO Director-General**

The digital economy is also booming with growing startups and the construction of more and more urban industries. Whereas if we speak of rural areas, the problems of poverty and informal work are still prevailing in the cycle of employment. In other terms, the "employment divide" refers to the unequal distribution of employment, opportunity, and monetary security among various societal groups in India. In addition to a shortage of jobs, the difference also affects who has access to good jobs, how they are paid, and what safeguards are in place. The divide begins from the unit location, i.e., rural and urban, where urban areas have more access to IT services and secondary sectors, whereas rural areas rely upon the primary sector as a source of income. People who are employed in rural areas are insecure or poorly compensated and suffer from chronic underemployment. The young people from rural areas are often forced to travel to cities due to the lack of steady work possibilities in their communities, also known as urbanization, where they frequently find themselves in low-wage, exploitative, and informal professions.

Since over 90% of Indian workers are employed in the informal sector, which confronts obstacles to formalization and tax evasion, resolving such challenges calls for comprehensive initiatives such as database development, equal wage enforcement, and formal arrangement integration.³ The formal sector has a severely restricted potential to take on workers, while being generally linked to stability, benefits, and legal protections. This is because the workers who bear all the risks without equal rights or safeguards make employment even more

² International Labour Organization, *Mutually Reinforcing Crises Have Worsened Global Employment Divide*, <https://www.ilo.org/resource/news/mutually-reinforcing-crises-have-worsened-global-employment-divide> (last visited July 30, 2025).

³ Only IAS, *India's Informal Economy: Over 90% Workforce, Half of GDP*, <https://pwonlyias.com/current-affairs/informal-economy/> (last visited July 30, 2025).

precarious. The most crucial factor is gender in the context of the employment divide, where India's women confront some of the world's most severe limitations for employment. According to the World Economic Forum's Global Gender Gap Report (2020), India ranks 149th out of 153 countries in terms of female participation in the workforce.⁴ Their exclusion from excellent positions is further reinforced by gender discrimination, paying them a certain way, and not providing maternity or childcare support.

Another crucial factor is education, which links with employment through many dimensions. The system frequently fails to produce grads who are prepared for the workforce, even if admission in higher education is booming. Businesses continue to struggle to locate competent workers, and millions of educated but unemployed teenagers are the paradoxical result of this employment divide. The digital economy, which includes gig work, e-commerce, and IT, has enormous job potential, yet the majority of these prospects exist in major metropolitan areas. The marginalized communities continue to be excluded because they fall under the disadvantaged group of the digital divide, particularly women and young people living in remote locations. Furthermore, new fields like artificial intelligence offer high-paying professions, but most people outside of prestigious universities or big tech hubs are unable to obtain them. Therefore, India's employment divide is the consequence of a number of overlapping and exacerbating imbalances rather than one particular issue. In order to shut down this gap, targeted, inclusive, and equity-focused policies are needed, not merely a rise in employment. India must assert that it has resulted in an employment ecosystem that is genuinely equitable, inclusive, and consistent with the social and economic justice envisioned in its constitution.

3. LEGAL FRAMEWORK AND CHALLENGES IN EMPLOYMENT CREATION

The right to work has taken center stage in debates over human rights and is becoming more widely recognized as being closely related to a number of other essential rights, including human dignity, life, identity, and privacy. The UDHR of 1948 recognized it as one of the universally applicable human rights. It was acknowledged by the UDHR of 1948 as one of the broadly valid human rights. Article 23 states that⁵...

⁴ World Economic Forum, *Global Gender Gap Report 2020*, at 112 (Dec. 16, 2019).

⁵ Universal Declaration of Human Rights, art. 23, G.A. Res. 217 (III) A, U.N. Doc. A/810, at 76 (Dec. 10, 1948).

“1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work...”

The Constitution of India also states several provisions to break the employment divide among the people of India. It outlines the reservation policy in both education and public employment. The state has an obligation to guarantee equal opportunities for all people. The state may additionally formulate special programs for underrepresented backward classes to increase their employment opportunities.⁶ It further states that the effective measures must be taken by the state to guarantee the rights to employment, education, and public support in the event of unemployment.⁷ The well-being and education of the children are influenced by employment quotas or the reservations offered to minorities in the public sector. This is because the reservation policy entails parents employed in salaried positions, giving them an air of stable employment and monetary assistance. The constitution's preamble and the objective resolution that Pandit Nehru enacted, which promoted social justice and equality, gave origin to the reservation policy designed for the underprivileged. The Mandal Commission suggested a 27% reservation for members of OBCs, which would apply to all central and state government services.⁸

In the case of *Delhi Transport Corporation v. DTC Mazdoor Congress*⁹, the Supreme Court ruled that many fundamental rights are based on financial resources, and that the right to work becomes even more essential where such work is the source of income. However, a two-judge bench noted in the *Delhi Development Horticulture Employees' Union v. Delhi Administration*¹⁰ case that the country has not yet determined that it is practical to encompass the right to livelihood as a fundamental right in the Constitution.

The new liberal capitalism policy is to blame for the rising inequality; as a result, there is slack in the labor market, which maintains low wages even as productivity rises. The share of people who live on the surplus, usually the wealthy and professional classes, rises as this share falls

⁶ INDIA CONST. art. 16.

⁷ INDIA CONST. art. 41.

⁸ Drishti IAS, *Mandal Commission*, <https://www.drishtiiias.com/daily-updates/daily-news-analysis/mandal-commission-1> (last visited July 31, 2025).

⁹ 1990 SCR SUPL. (1) 142.

¹⁰ 1992 SCR (1) 565.

since the wage-rate to labour productivity ratio is just the share of earnings. The majority of the Indian economy shifted to the private sector as a result of the liberalization, privatization, and globalization (LPG) policies that were implemented in 1991; numerous public sector projects were sold to the private sector. Hence, the employment prospects in the private sector are thereby growing while those in the public sector are steadily declining.

The enforcement and grievance redressal systems are also inadequate and personnel who are in the official and informal sectors often struggle to obtain remedies for workplace harassment or pay theft because of procedural obstacles and a lack of legal knowledge. Despite the existence of rules, they are not effectively enforced, leaving employers unregulated and workers at risk. Therefore, the employment laws in India are mired in a state of insufficient change and antiquated rigidity. India's labour laws need to change to reflect the reality of a contemporary, inclusive, and technologically advanced economy if it is to significantly close the gates of the employment divide.

4. POLICY INNOVATIONS AND INITIATIVES

India has put in place a number of job creation programs and other policy initiatives to create a skilled arena that is specifically designed to lower unemployment, lessen poverty, and promote economic expansion, particularly in rural and underdeveloped areas.

- A. The **MGNREGA programme** ensures 100 days of paid employment for rural households. For workers in rural areas, it is a major source of employment, particularly for marginalised groups. It was launched in 2005, with adult members providing their time to perform manual labour that is not their area of expertise. In addition to providing revenue for the marginalised in rural areas, it enhances rural infrastructure with structures like irrigation channels, ponds, and roads.
- B. **Pradhan Mantri Rojgar Protsahan Yojana (PMRPY)**: The employers' contributions to the Employees' Provident Fund (EPF) are supported by the government under PMRPY, which was introduced to encourage businesses to create new jobs. This makes it more possible for firms to hire more personnel.
- C. **Pradhan Mantri Employment Guarantee Programme (PMEGP)**: It was first introduced in 2008 with the goal of fostering self-employment by offering financial support to start-up microbusinesses in both urban and rural locations. The KVIC is in charge of implementing the program, which encourages entrepreneurship, particularly among underrepresented groups like women, SCs and STs.

- D. **National Urban Livelihoods Mission:** It was launched in 2013, aiming to build skills and offer sustainable self-employment decisions to urban dwellers, particularly the urban poor. It involves fostering micro-entrepreneurship, offering job skills training, and using self-help groups (SHGs) to provide financial assistance to impoverished urban households.
- E. **Pradhan Mantri Rojgar Protsahan Yojana (PMRPY):** It was introduced to encourage firms to create new jobs, and it went into effect in 2016. The Ministry of Labor and Employment carried out the action plan and the beneficiaries who registered before the end of the 2019 fiscal year will continue to receive benefits for three years following the date of their scheme registration.

The government has moreover endeavoured to offer training and skill development. The Apprentice Act of 1961 has the main objective of giving people experiential instruction in their crafts. This Act applies to nearly every industry. Following the completion of the apprenticeship program, each apprentice must take an exam administered by the National Council to assess their skills in the linked trade for which they have received apprenticeship training. This is carried out to determine the impact of the training. Now that the Act has been amended, agency and contract workers must also be included in the definition of workers.

The goal of several programs is also to offer young Indians vocational skills that meet industrial expectations. The program, namely Pradhan Mantri Kaushal Vikas Yojana, has been given a budget of 3000 crore, and NSDC is establishing sector skill councils to help fulfil its objectives. Through this government effort, young people will be able to obtain blue-collar occupations. The short-term training in a variety of fields is also being offered by PMKVY in order to increase employability, particularly in the manufacturing and service industries. Agriculture persists to be the main employer and agro-based sectors, including dairy and food processing, as well as modernization initiatives, are increasingly seen as means to generate jobs and enhance productivity. The ultimate objective of the Made in India campaign is to increase production and lessen reliance on imports. MSMEs are especially important since they create a lot of jobs and are now aided by digital infrastructure and better access to loans attributable to the Digital India initiative.

5. CONCLUSION AND SUGGESTIONS

India's current socioeconomic story is replete with contradictions, such that its labour market is nonetheless driven by numerous divisions. The government's top objective is creating jobs

and enhancing employability. It has taken a number of actions to create jobs in the nation. The initiatives include a number of long-term plans, programs, and policies aimed at fostering employment and national independence. However, these programs, however, frequently lack the institutional foundation required to ensure fair and long-term employment. The state needs to provide a statutory right to work in both rural and urban settings and also build on current rural programs like MGNREGA. They must aggressively encourage the formalization of the informal sector in order to counteract the prevalence of informal and insecure labour. It is also necessary to include informal workers in social protection programs.

In India, the right to employment has not yet been recognized as a fundamental right. This lack reduces the State's legal responsibility and erodes workers' bargaining leverage, especially during economic downturns. A new legal imagination is required, one that incorporates employment security into the very foundation of India's socioeconomic framework, given the widening gap between job supply & demand and the ongoing informalization of the workforce. Hence, the country must have an Employment Guarantee Act that establishes a framework for allocating labour to the most productive sectors in a way that is socially responsible. India needs to make investments in a skill ecosystem that is inclusive and flexible enough to meet the demands of businesses while also preparing for the employment of the future.