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## NO SAFETY NET, WHY THE LAW FORGOT INDIA'S CIRCUS WORKERS

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### Abstract

India's circus industry has a huge number of adults who do some of the most dangerous stunts in any known profession, including aerial acrobatics, fire manipulation, stunts at high altitudes, etc., but no laws cover them. A 'circus' is defined herein as an itinerant entertainment enterprise that is based in tents and that involves a continuous inter-state movement of its staff and equipment. Although it is obvious that adult circus performers are at risk of being exploited, there is no specific labour law in India that provides them with complete protection.

This paper uses a doctrinal socio-legal approach to look at that regulatory gap. It examines the historical failure of the Protection of Circus Employees Bill, 1964 to be enacted, how the Factories Act, 1948 does not apply to circuses, that circus workers are not on the list of covered workers under the Occupational Safety, Health and Working Conditions Code, 2020 and the jurisdictional gaps caused by the ongoing movement of circus companies from state to state. It also considers whether all four Labour Codes passed since 2019 have shifted this, and concludes that they have not. Based on the relevant Supreme Court decisions under Article 21 of the Constitution, such as *Olga Tellis v. the Bombay Municipal Corporation* (1985)<sup>1</sup> and *Consumer Education and Research Centre v. the Union of India* (1995)<sup>2</sup>, the paper holds that the absence of a legislative definition of this clearly hazardous profession is

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<sup>1</sup> *Olga Tellis v. Bombay Municipal Corporation*, A.I.R. 1986 S.C. 180.

<sup>2</sup> *Consumer Education & Research Centre v. Union of India*, A.I.R. 1995 S.C. 922.

unconstitutional. The paper concludes with an idea of a sui generis regulatory approach tailored to the "mobile high-risk performance.

The words used in the articles are: Circus workers, Article 21, Article 14, occupational safety, migrant labour, Labour Codes 2020, sui generis framework.

## **1. Introduction**

### **1.1 Context and Background**

The circus performer who performs a triple somersault at forty feet up in the air, performs without protection of any statute, without any inspector, without any safety standard that would be enforceable. This is not the same as an enforcement error, this is a lack of law. Circus Workers are one of the riskiest groups of adult workers in India, and they are also one of the least protected groups of workers in India. This research paper explores that paradox and contends that it is an infringement on the basic right to life protected by the Constitution of India under Article 21.

A circus is defined for the purpose of this research as an itinerant entertainment company that performs acts which includes acrobatics, aerial acts, fire manipulation, animal acts and physical feats of skill, and operates from temporary or semi-permanent structures like tents or pandals, with a constant movement of the entire workforce and infrastructure between the states. This is not just a definition it's a definition that has a legal impact. The mobile nature of the circus prevents it from being classified as a factory, a construction site, a plantation or a fixed establishment by the main classifications of Indian labour law. Now more than 60 years later, it is this definitional resistance that has kept this regulatory void alive.

The circus industry has been around in India since the early 1900s and there are known centres in Kerala, Karnataka and West Bengal. During their heyday, tens of thousands of people were involved in the Indian circus industry in dozens of circuses that were running in parallel throughout the country. These workers, aerialists, fire performers, animal handlers, riggers and ground crew, move back and forth, and spend, at best, a few weeks in any one place. They reside at the facility and the demarcation between work and home is practically

nonexistent. Much of them are internal migrants from economically marginalised communities who are attracted to the circus work due to lack of livelihood. Others are migrants from abroad, mostly from Nepal and Bangladesh, who are living in an irregular manner, thus being twice invisible to the state system.

## **1.2 Problem Statement**

Yet, at this size, visibility, and demonstrated risk, there seems to be no single law that can fully shed light on the Indian circus industry. The term “circus” is so broad that the Act of 1948, which underpins the laws on occupational safety in India, states that “there is no manufacturing process” and “no premises” within the act are permanent.

The schedule of covered establishments in the Occupational Safety, Health and Working Conditions Code, 2020 (which combines thirteen existing labour laws into one code) does not include circuses. The Inter-State Migrant Workmen Act, 1979 (which is particularly applicable to migrant workers who cross state lines for a specific project) is not applicable as circus workers are continuously migrating with the employer. Circuses are the only reference to circuses in any central labour legislation, and this is in the Maternity Benefit Act, 1961, which designates circuses as "establishments" for maternity benefits but not for workplace safety.

The end result is a group of workers who are working at night on the highest grounds, fire, and unpredictable animals, without any legal responsibilities for employers to ensure that they have safety nets, harnesses, medical insurance, and compensation if they get hurt. This was the genesis of the Protection of Circus Employees Bill which was introduced in Parliament in 1964. It was defeated. Since then, there have been no comparable laws made.

## **1.3 Research Questions**

This paper aims to address the following research questions:

1. Is a fundamental right of safe working conditions guaranteed to adult circus performers under Article 21 of the Indian Constitution?
2. Why have efforts to legislate for the protection of adult circus workers failed in history and continue to fail today?
3. Did the four Labour Codes that were passed from 2019 to 2020 change the substantive legal situation of circus workers?
4. What is the most appropriate 'sui generis' regulatory approach to circus work and the special hazards and characteristics of the circus occupation in India?

#### **1.4 Objectives of the Study**

The aim of this paper is four-fold. To trace the development of the law surrounding circus workers including the reasons for the Bill of 1964 not being enacted, its implications and the reasons for. Second, to assess whether some of the most significant labour statutes and new Codes of labour apply to circus work and to what extent are they applicable and have been found inapplicable. Thirdly, to establish a constitutional framework so that questions of occupational safety could become part of this fundamental right in Article 21. Fourth, to offer a proposed draft regulatory framework which is targeted and workable, and is based around the special nature of the itinerant, high-risk performance work.

#### **1.5 Scope and Limitations**

This paper only takes into account adult circus performers in India. The doctrinal analysis is limited to basic legislation, constitutional issues, Supreme Court cases and international labour instruments. However, only the state-level municipal licensing laws which illuminate the central licensing gap are discussed. There is no empirical field work in the paper (survey, interview); however, the lack of such empirical data is noted as a structural issue and as a future direction of research. Animal welfare in circuses is a separate legal question, to which different legislation applies, under the Prevention of Cruelty to Animals Act, 1960, which is not covered by the paper.

**The structure of the paper is as follows:**

The paper is organized as follows. Section 2 examines the scant work that has already been done in the field of legal rights of adult circus workers in India and fills the lacuna that this paper hopes to cover. The research method is explained in section 3. The Protection of Circus Employees Bill, 1964 is examined, using primary parliamentary documents, in Section 4 for its failure to pass. The applicability of the most relevant labour laws to circus work is explored in Section 5, which covers all four of the Labour Codes of 2019-2020. Section 6 deals with the constitutional argument of Article 21. Section 7 looks at the particular regulatory implications of the circus' migratory character.

The peculiar nature of the Maternity Benefit Act is discussed in Section 8. Section 9 provides a proposal to address the problem of sui generis regulatory regime. The results and recommendations from the study are presented in Section 10 of the report.

## **2. Literature Review**

### **2.1. The parliamentary debates and legislative history is furnished.**

Ananda Nambiar, Protection of Circus Employees Bill, 1964 (Bill No. 33 of 1964), Lok Sabha Secretariat, New Delhi (1964).

This Private Member's Bill was introduced on 10 April 1964 that would extend the Industrial Disputes Act 1947 and Workmen's Compensation Act 1923 to circus workers. It reported on the exploitation of more than 10,000 workers, such as child labour, abusive training, and abuse of women workers. It was defeated by 12 to 55 votes and is the first legislative move to take place for workers in circuses.

Lok Sabha Debate on the Protection of Circus Employees Bill (24 April 1964), Parliamentary Debates, Vol. VII, cols. 77–87.

The records of the debate include a serious description of the dangers at work, where performers lose their limbs, their health, and even their pregnancy, and they are forced to engage in dangerous performances. But the opponents said it was necessary to start training circus in childhood because of flexibility demands. The discussion also came up with the lack of compensation laws for circus workers at present.

### **2.2. Scholarly Reading and Analysis of Exclusion of Informal Workers**

Routh Supriya, 'Informal Workers' Aggregation and Law' (2016) 17(1) Theoretical Inquiries in Law 283–320.

Supriya says that labour law is too prescriptive in terms of worker categories and fails to accommodate many informal workers. The face of circus is mobile and hard to classify, as often do the circus performers who fall outside statutory protection, showing the need for a specialised legal framework.

### **2.3. Reports of Migrant and Informal Worker Safety**

British Safety Council & Work Fair and Free Foundation, Community Based OSH Training for Migrant Workers in India: Programme Report (2025).

The report enumerates the challenges faced by migrant workers and informal workers such as lack of supervision, lack of safety training, language issues, and fear of retaliation. The vulnerabilities of circus workers are similar to these findings.

Skylab Sahu, 'The Precarious Work, Livelihood Pressures and Health of Migrant Brick Kiln Labourers in India' (2024) 20(1) International Journal of Migration, Health & Social Care 165-179.

Sahu illustrates the ways in which workers are not covered by legal protection due to verbal contracts, migration, and the absence of registration. A salient point of the study is that it also identifies gender-specific health risks, which provides a helpful comparative lens to examine circus working conditions.

### **2.4. International Labour Standards**

India ratified Convention No. 155 by International Labour Organization (1981) Occupational Safety and Health Convention. Convention No. 155 calls on States to establish a comprehensive occupational safety and health policy for all workers. It backs the case for a global responsibility to safeguard the rights of circus workers, even if they are not covered by current labour laws in India.

## **2.5. Constitutional Law Scholarship**

Indian Constitutional Law, by M.P. Jain (8th edn, LexisNexis 2018).

Jain discusses how Article 21 has been expanded to include positive State duties such as protection of livelihood, dignity and worker safety. His analysis of *Olga Tellis*, *Francis Coralie* and *Consumer Education and Research Centre* gives the doctrinal basis for the arguments that the rights of circus workers should be protected by the State.

### **3. Research Methodology**

A doctrinal socio-legal methodology is used in this paper. The doctrinal component involves an analytical study of the main sources of law, the Constitution of India, central labour legislation, Parliament's proceedings and supreme court rulings, as a way of determining the principles, inconsistencies and omissions in the regulatory framework of the adult circus workers. The socio-legal element recognises that the lack of law exists within a social and political context: the lack of the ability of people to live in the circus; the history of trade union failure in the circus; and owners' opposition to protective legislation, which is ongoing. The four Labour Codes of 2019-2020, the Factories Act, 1948, the Protection of Circus Employees Bill, 1964 (Lok Sabha debates) and Supreme Court judgments on Article 21 are primary sources. Secondary sources comprise of socio-legal scholarship on informal and itinerant labours in India, Parliamentary committee reports, ILO instruments, ratification records etc. This research is qualitative. Empirical fieldwork, surveys or interviews with circus workers are not covered in this paper, but are acknowledged as necessary in the future to provide directions for research. Another structural challenge to the methodology is the circus industry's lack of official government statistics concerning the number of circus workers, the extent of injuries suffered and workplace conditions, which in itself is found to be a result and a research gap.

## **4. Anatomy of a Regulatory Void: Legislative History, Statutory Exclusion, Migratory Collapse and Constitutional Failure**

### **4.1 The Historical Legislative Failure, The Protection of Circus Employees Bill, 1964**

The current regulatory gap is no mere accident. Their planting was intentional in 1964 when the first and only comprehensive legislation for the protection of circus workers was introduced and defeated.

Protection of Circus Employees Bill, Bill No. 33 of 1964 was introduced in Lok Sabha on 10th April 1964 as a Private Member's Bill by Shri Ananda Nambiar. The Statement of Objects and Reasons clearly spelled out the issue: "The treatment of the artists and employees on the labour, sweat and life of whose the success of circus depends, is very bad... It is undesirable that such ill-treatment should continue in the industry which employs more than 10,000 men, women and children in this country after the coming of independence and with the advent of progressive labour laws which are meant to bring about improvement in the working and living conditions of labour in general in this country. The Bill aimed to provide for the first time a statutory framework for safety regulation, dispute resolution and compensation for injury in the circus industry for workers in the circus world.<sup>3</sup>

As the debate continued in the Parliament, Shri S.M. Banerjee presented the documented evidence of working conditions at the time, such as lack of compensation for permanent disability and loss of limbs, pregnant women forced to perform acrobatic acts that lead to serious injury, and training methods that involved physical coercion. Protective regulation was shown to be feasible by the international practice of the Russian circus model. The debate highlighted the point that Parliament was not considering a hypothetical harm – the dangers of the industry were on record.

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<sup>3</sup> Ananda Nambiar, Protection of Circus Employees Bill, Bill No. 33 of 1964 (Lok Sabha Secretariat, 1964).

#### **4.2 Statutory anomaly of the Maternity Benefit Act, 1961**

The most important textual evidence of Parliament's inconsistency on the question of circus workers is the Maternity Benefit Act, 1961. In that Act in section 2(1)(a)<sup>4</sup> it is applied to "every establishment, being a factory, mine or plantation... and every establishment in which persons are employed for the exhibition of performances of an equestrian or acrobatic nature or other performances. To implement this coverage, the Maternity Benefit (Mines and Circus) Rules, 1963<sup>5</sup>, were framed which clearly defines the concept of "circus" as "an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances." This definition is clear, measurable and unambiguous. It is the only definition of what is meant by the term 'circus' as a statutory establishment in all of the central labour laws of India.

This anomaly is significant under the constitution. The legislature has acknowledged in 1961 that a circus is an "establishment" that should be protected by law for maternity-related reasons; there is no rational basis, in line with the equality principle of Article 14, for which this particular "establishment" is not entitled to protection for occupational safety reasons. A legislature can't make sense of keeping a circus classified as an "establishment" one day, and a different one the next, when a female worker is pregnant but not the other day when she falls 40 feet from an aerial rig. A rational basis for classification offered by the legislating record is required for this to be considered as deliberate exclusion from another labour right.

#### **4.3 The Four Labour Codes of 2019-2020: No Substantive Change**

The Indian Parliament passed four Labour Codes from 2019 to 2020, creating a unified and streamlined set of laws for the country's twenty-nine existing central labour laws. The Occupational Safety, Health and Working Conditions Code, 2020 (Act No. 37 of 2020) was

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<sup>4</sup> Maternity Benefit Act, No. 53 of 1961, India Code (1961).

<sup>5</sup> Maternity Benefit (Mines and Circus) Rules, 1963.

passed by the Lok Sabha on 22nd September 2020 and received Presidential assent on 28th September 2020 and will come into force on 21st November 2025<sup>6</sup>. The OSH Code brings together all the provisions of 633 provisions in 13 major labour laws into a code with 143 provisions, including inter alia the Factories Act, Working Journalist Acts, and the BOCW Act, Cinema Workers and Cinema Theatre Workers Act, 1981<sup>7</sup>. Released workers in cinemas are covered. Journalists are covered. Construction workers are covered. Circuses are not.

The government can apply the OSH Code to any establishment, regardless of how many employees, even one, are engaged in hazardous or life-threatening occupations, under the enabling provision. A covering of the type that is directly applicable to circuses, which involves life-threatening performances, has not been issued to circus establishments. The will to use the enabling power is missing while the power is present.<sup>8</sup>

The Code on Wages, 2019<sup>9</sup> is a minimum wage protection for everyone, but requires a registered employer at a certain location – which the circus of itinerant workers cannot provide. Trade unions and dispute resolution are covered by the Industrial Relations Code, 2020, which does not include any specific process for workers who establish a trade union every couple of weeks across state lines. The Maternity Benefit Act is now included in the Social Security Code of 2020, and the coverage of the circus for maternity benefits is retained, but not extended to cover insurance coverage, provident fund or accident compensation. Overall effect of the reforms in the Labour Code, 2020, on circus workers is: none. Language has been modernized, structure refined and the difference between the old and the new system has been retained.

#### **4.4 The Migration Problem, Itinerancy as a Regulatory Collapse**

This layer focuses on the concept of migration and is referred to as the Migration Problem. The concept of migration is the focus of this layer of the thinking process and is known as the Migration Problem.

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<sup>6</sup> India's Labour Reforms: Simplification, Security, and Sustainable Growth, PRESS INFO. BUREAU, GOV'T OF INDIA (Nov. 21, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2192524&reg=3&lang=2>.

<sup>7</sup> Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, No. 27 of 1996, India Code (1996).

<sup>8</sup> Issues for Consideration: Labour Codes, PRS LEGIS. RSCH., <https://prsindia.org/billtrack/prs-products/issues-for-consideration-labour-codes-3580> (last visited May 31, 2026).

<sup>9</sup> Code on Wages, No. 29 of 2019, India Code (2019).

This is especially true of circus work, where not only is it potentially dangerous, but the dangerous place to work is mobile. The whole host of the show including tent, riggers, cooks, animals, performers, the entire cast and crew, is dismantled, loaded onto trucks and then put back together in another city, in another state, under another state's jurisdiction every few weeks. The circulation of circuses between states is a regular feature of the circus job and not an aberration. But it is this characteristic that is the reason any labour law, which would otherwise apply to some extent, just doesn't work.<sup>10</sup>

Consider jurisdiction. State labour inspectors work within their state's jurisdiction. A circus that is performing in October in Andhra Pradesh, December in Tamilnadu and February in Maharashtra is never under the control of any single State for long enough to be able to make any difference. A safety audit is carried out by the labour inspector of which state? Under what authority? What action of enforcement if the circus is gone? The current system, which is based on the premise that a workplace has a specific address, doesn't actually answer the question; it was never meant to.

Consider compensation. The Workers' Compensation Act (formerly the Employees' Compensation Act, 2010<sup>11</sup>) covers compensation for an injured employee if the injury occurs "in the course of and arising out of employment. The requirements for establishing a 'course of employment' and a 'place of employment' when an injury occurs in a temporary tent and the worker has been performing in 5 different states in the last year and 2 years has been registered by the employer in another state (if anywhere) is not just a procedural hurdle but actually a barrier to a claim being pursued. If one of the workers is not able to determine the jurisdiction of the claim, then they seem to have no claim at all.

Consider registration. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979<sup>12</sup>, which has now been incorporated in Chapter IX of the OSH Code, 2020, was enacted for workers recruited from one State for a specified project to be executed in another State. It involved a registration process that the employer-contractor

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<sup>10</sup> Empowering India's Migrant Workforce, DRISHTI IAS (Jan. 6, 2025), <https://www.drishtiiias.com/daily-updates/daily-news-editorials/empowering-indias-migrant-workforce>.

<sup>11</sup>

<sup>12</sup> Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, No. 30 of 1979, India Code (1979).

had to register with the source and destination state authorities. It is because they are not legally based that they are so exposed.

It is the State's positive obligation to create a healthy environment for our well-being. The positive duty of the State is in creating the environment in which we can thrive: Article 21.

#### **4.5 The Constitutional Argument: Article 21 & the State's Positive Obligation.**

Article 21 of the Constitution of India says that nobody's life or personal liberty can be taken away from them except through the procedure laid down by law. But in a series of landmark cases, the Supreme Court has given a much broader interpretation to the word 'life' than biological life. Circus workers are not direct employees, but contract for a contractor; and they do not go elsewhere for a specific function, but migrate as a part of their job. The model of contractor-based registration is continued in Chapter IX of the OSH Code, and circus workers are excluded from the model.<sup>13</sup>

The migration also creates what may be characterised as a structural vulnerability to coerced retention. Those working at the venue, whose families travel with the circus, who have no local language skills, local contacts, or alternative employment in any given city they work in, and who may have been charged travel expenses and/or be in debt for joining the circus, in any significant way, have the freedom to leave. Bonded Labour System (Abolition) Act, 1976<sup>14</sup> makes bonded labour illegal; Supreme Court in *Bandhua Mukti Morcha v. Union of India* (AIR 1984 SC 802)<sup>15</sup> made the right against bonded labour an integral part of Article 21. But that protection depends on the worker's ability to make a complaint to an authority, which assumes he or she knows of his or her rights, has access to a competent authority, and is not afraid of retaliation. None of these conditions reliably obtains for an individual circus worker in Rajasthan this week, and in Gujarat next week.

The foreign worker factor adds to that. Nepalis, Bangladeshis and Sri Lankans have been noted as circus performers in the past. They may be in an informal migration status and therefore not be able to seek justice in court, access labour inspectors or welfare boards without the risk of being detained or deported. There is no discrimination against workers on the basis of their nationality in the OSH Code, 2020, which is of a universal nature. However,

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<sup>13</sup> INDIA CONST. arts.21.

<sup>14</sup> Bonded Labour System (Abolition) Act, No. 19 of 1976, India Code (1976).

<sup>15</sup> *Bandhua Mukti Morcha v. Union of India*, A.I.R. 1984 S.C. 802

the implementation of this in practice for foreign nationals who are not documented in an itinerant establishment is a legal fiction.

In *Francis Coralie v Union Territory of Delhi* (AIR 1981 SC 746)<sup>16</sup>, the Court has ruled that the right to life is also a right to live with basic human dignity. In *Olga Tellis v. Bombay Municipal Corporation* (AIR 1985 SC 180) the Court observed that the right to life is a fundamental human right and an integral part of it is the right to livelihood inasmuch as without livelihood, the right to life cannot be enjoyed. In *Consumer Education and Research Centre v. Union of India* (AIR 1995 SC 922), a case specifically involving dangerous working conditions in the asbestos sector of the economy, the Court observed that the right to health and medical care is a part of the right to life and that an employee in an employment situation where the workplace could cause harm to him has the constitutional right to a workplace that does not destroy his health.

The closest precedent to the CERC judgment is the case itself. In that case, the Court was faced with an industry that had a well-established and documented occupational health problem, asbestos and asked if the failure by the State to implement adequate measures to protect the workers' health amounted to a violation of Article 21. The Court responded in the affirmative, affirming that the State has a positive duty to prevent workers in hazardous occupations from being denied their health and lives because the State failed to take steps to protect them. The constitutional basis for the argument made in this paper is the positive obligation doctrine, which holds that Article 21 is a positive right (one that requires the state to take action) rather than a negative right (one that imposes a prohibition on the state).

The argument on circus workers is as follows: First of all, the occupational hazard is clearly serious, at heights of twenty to forty feet, aerial acts are performed; interacting with unpredictable animals; the performance of rigged equipment whose safety depends on no mandatory standard. Second, the state had an intimate awareness of this hazard: the parliamentary debates of 1964 attributed the dangers of the industry in great detail, on the record and nothing since then has dealt with them. Third, the state has regulatory authority – the enabling provisions of the OSH code, 2020 gives the state the power to extend its regulatory reach to "hazardous or life-threatening occupations. The failure to use this power

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<sup>16</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, A.I.R. 1981 S.C. 746.

when it is known that there is a known hazard is not legislative oversight. Failure is a failure which is constitutional cognisable

A stronger constitutional case for the protection of a circus aerialist, who works 30 feet high without any safety net, than a construction worker who has a constitutionally guaranteed right to safe scaffolding under BOCW Act, or a factory worker who has a constitutionally guaranteed right to machine guards and notices of hazards under the Factories Act. The more serious the risk is, the more serious the positive obligation of the state to regulate that risk. The reverse of that is unconstitutional, namely that the most dangerous workers should be given the least protection.

Perhaps the most striking fact about the situation that this paper has identified is the lack of reported litigation by adult circus workers in Indian courts, despite the immense injustices that circuses inflict on children. For all the many injustices adult circuses inflict upon children, the lack of reported litigation in Indian courts is, in some ways, the best proof of the problem. Their occupational safety complaints do not exist because of no High Court or Supreme Court judgment on the matter, not because they do not exist structurally, they are a part of the system. A state cannot get jurisdiction over a worker who changes his state every couple of

weeks. If a worker doesn't have a registered employment contract he or she won't be able to assert. No worker can complain on the employer's property without losing his/her roof. The silence of judges is not here: it is the absence of regulation that is speaking.

## **5. Findings and Suggestions**

### **5.1 Summary of Findings**

The paper presented the four levels of analysis – historical, statutory, migratory and constitutional to explore the regulatory framework of the adult circus performers in India. The findings are very consistent and the conclusion is that the lack of any law to protect circus workers is no accident, but a political choice and hence unconstitutional within the scope of Article 21 of the right to life. Even though it is known that circus workers are subject to an occupational hazard, the Protection of Circus Employees Bill, 1964, died in Parliament. Circuses are not included in the definition of the Factories Act, 1948<sup>17</sup> and are excluded from the definition of the OSH Code, 2020 by definition; none of the four Labour Codes of 2019-2020 has made any substantive change to the status quo. The anomaly of the Maternity Benefit Act, 1961 is that circuses are covered establishments for reproductive health and not physical safety, which cannot be squared with Article 14.

### **5.2 Answers to Research Questions**

#### **Research Question 1: Do adult circus performers possess a justiciable right to safe working conditions under Article 21?**

Yes. The doctrinal foundations established in *Olga Tellis*, *Francis Coralie*, and *CERC v. Union of India* collectively support the proposition that the state's failure to legislate for a demonstrably high-risk occupation constitutes a violation of the right to life. The enabling

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<sup>17</sup> Factories Act, No. 63 of 1948, India Code (1948).

provision of the OSH Code, 2020 means the state has the legal instrument to act; the failure to use it is therefore a deliberate omission, not an incapacity.

**Research Question 2: What accounts for the historical and continuing failure of legislative protection?**

The 1964 Bill's defeat established a template: industry opposition, framed in the language of the circus's unique and ungovernable nature, was sufficient to block protective legislation. That template has held for sixty years because no subsequent political actor, no union, no PIL petitioner, no parliamentary committee, has applied sufficient pressure to disrupt it. The circus worker's invisibility is not only legal but political.

**Research Question 3: Have the four Labour Codes of 2019-2020 changed the legal position?**

No. The OSH Code, 2020 excludes circuses from its schedule of covered establishments. The other three Codes provide no special mechanism for itinerant high-risk workers. The Maternity Benefit Act anomaly continues within the Social Security Code. The consolidation of labour law has not extended its reach.

**Research Question 4: What sui generis framework is required?**

A framework that takes seriously the structural distinctiveness of circus employment, its itinerancy, its temporary infrastructure, its performance-based risk, and its collective residence model, and designs protections accordingly, rather than forcing the circus into statutory categories built for fixed industrial establishments.

**5.3 Suggestions and Recommendations**

### **Suggestion 1: Make sure you use the right instructions when using the OSH Code 2020 Schedule**

The first step of the legislation is to add "circus establishments" as a category to Schedule I of the Occupational Safety, Health and Working Conditions Code, 2020. The action here required is not a new law but just a scheduled amendment or a notification from the government under the power it currently has over the Code. Ministry of Labour and Employment is the implementing authority. The inclusion of the Code came into effect on 21st November 2025, and at this moment, when the rules and regulations of the state are yet to be finalised, there is a window of opportunity for this that may not be extended beyond its current state.

### **Suggestion 2: Submitting a proposal for a standalone Circus Workers (Safety and Welfare) Act to parliament. Suggestion 4: A national Circus Workers (Safety and Welfare) Act is called for.**

Protection cannot be guaranteed through a scheduled amendment; instead, a separate statute based on the Building and Other Construction Workers Act, 1996 is more ideal. The BOCW Act is instructive because it was passed because the Factories Act was never meant to cover the risks that construction workers encounter at sites and projects. The OSH Code is also unable to provide specific provisions to address the performance-specific, venue-specific risks circus workers are exposed to without such provisions. There should be a separate Act with the following minimum protections:

- National approval of each circus as a single concern under the auspices of the Ministry of Labour, giving it authority to operate in each state jurisdiction
- For aerial acts, nets are compulsory and for high altitude performance, harnesses and safety lines must be worn and isolation zones set up for fire acts.
- All medical insurance is required, including compensation for permanent disability, emergency transport and injuries related to performance.

- Coercive training practices are not allowed, as noted in the Parliamentary record from 1964
- Right to refuse work if the worker has reasonable grounds for believing that the act poses an imminent danger to life or health without any consequence or retaliation
- Interstate inspection co-ordination via a central register of registered circuses in an electronic system available to all state labour inspectors in all jurisdictions.

### **Suggestion 3: Exercise of Enabling Power – OSH Code 2020**

The Central Government should issue a notification under the enabling provision of OSH Code, 2020 to extend the provisions of hazardous occupation of the OSH Code to circus establishments, pending any legislative action. This is an executive action and may be implemented without parliamentary procedure. It would offer a temporary, although partial, safeguard until the permanent fix comes along in the form of legislation.

Article 43 of ILO Convention No. 155 was ratified during this period. During this time, ILO Convention No. 155 was ratified under article 43.

India has ratified 47 ILO Conventions, of which ILO Convention No. 155 (Occupational Safety and Health Convention, 1981) is an exception. That Convention calls on ratifying States to establish a coherent national policy on occupational safety and health, for all workers, in all sectors, including those not covered by the existing national legislation. The ratification will now put the case against the government's failure at home on the international statute book and will give India a basis for assessing its domestic policy on circus workers.<sup>18</sup>

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<sup>18</sup> Occupational Safety and Health Convention, 1981 (No. 155), June 22, 1981, Int'l Lab. Org., <https://www.ilo.org/resource/other/occupational-safety-and-health-convention-no-155-fundamental-convention>.

## **6. Conclusion**

Circus performer doing performances at night, with no safety net? Metaphor for their own legal status? In the performance of their work, they have extraordinary physical courage. It is duty of the Indian state to know of this danger, to know of a constitution which requires it, to know of a statute which would provide it, and knowing all this, it is bound by this knowledge for 60 years to account for its non-action for this reason only.

The right to life is a justiciable right that has enforceable content and that content is the right to work free from a foreseeable occupational risk of death or permanent injury. The recognition of the adult circus performers in India who have slipped through all the statutory provision, have no jurisdiction to which they belong, have gone without recognition, is long over-due. This paper has asserted that the legal underpinning of it is available. All that's left is political commitment to action.

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