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BETWEEN TRAINING AND LABOUR: THE REGULATORY GAP IN INDIA'S UNPAID INTERNSHIP REGIME

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ABSTRACT

The article argues that while the Bar Council of India explicitly mandates legal internships, they remain silent on remuneration at the structural, judicial, and professional levels. This emerges in the definitional structure of labor laws for the terms “employee” and “workers”. It also presupposes an employer-employee relation, which does not apply to internship arrangements. Furthermore, this is compounded when it burdens students differently, raising questions over equity. It raises concerns under Articles 14, 21, and 23 of the Constitution. The article brings recognition of the gig economy as an insight that labor laws can integrate non-traditional arrangements. At last, reform proposals, including a tiered stipend model, structural changes, and recognition of the definition of interns, are introduced.

Keywords: *Unpaid internships, labor laws, gig economy, informal economy, substantive equality, constitutional law.*

INTRODUCTION

Every semester, one constant in law school is the struggle to find a good internship. An internship is defined as a form of experiential learning that integrates knowledge and learning in the classroom with practical application and skill development in a professional or community setting.¹ The Bar Council of India mandates a minimum period of 12 weeks' internship for a three-year course and 20 weeks for a five-year course under NGOs,

¹ Nat'l Ass'n of Colls. & Emps., Internship Meaning and Definition: A NACE Guide (last visited Sept. 9, 2026), <https://www.nacweb.org/internships>.

advocates, law firms, judiciary, legislature, and other bodies stipulated by the university.² However, no rule or statute in India mentions the requirement of remuneration to the interns. This institutional concern got the attention of the Delhi High Court through a PIL, where the court issued directions to the BCI to formulate the implementation of a standardized stipend for young lawyers and law interns in India.³ In response to this, BCI in 2024 issued a circular for payment of a minimum stipend to junior advocates, i.e., Rs. 20,000 in urban areas and Rs. 15,000 in rural areas, about the economic realities of the profession.⁴ But the circular does not refer to legal interns, leaving a regulatory gap.

The article argues that the absence of statutory remuneration provisions for legal interns is a regulatory gap, often overlooked by the concerned authorities. It shows that the labour laws of India do not extend their protective guarantees to interns by excluding them from the definition of “employees” or “workers”. This gap raises serious concerns under Articles 21, 14, and 23⁵ by extending structural inequality to unprivileged and marginalised students. Furthermore, the article draws a lesson from the recognition extended to gig and platform workers to highlight continued ignorance of the interests of interns.

THE REGULATORY FRAMEWORK

The statutory architecture focuses on two major legal gaps: the first is the absence of binding remuneration, and the second is the definitional structure of wage laws in India.

As we have discussed, the BCI has rules on the duration of internships,⁶ but it is silent on remuneration. Even in the 2024 circular⁷, it did not mention regulated stipends for interns. Recently, in 2025, the Union Minister for Law and Justice, Mr. Arjun Ram Meghwal, stated that BCI is drafting a “*Model Code of Legal Internships*”.⁸ However, in response to a Lok Sabha query, he said that there is no minimum stipend guideline for interns, which is presently under formulation by the government.⁹

² Bar Council of India Rules of Legal Education, 2008, r. 25 (India).

³ *Ashish Sheoran v. Gov't of NCT of Delhi*, W.P. (C) No. 3026 of 2024 (Delhi H.C. Feb. 29, 2024).

⁴ Bar Council of India, *Circular to All State Bar Councils and Bar Associations Regarding Minimum Stipend for Junior Advocates*, BCID-5383-2024 (Oct. 15, 2024).

⁵ INDIA CONST. arts. 14, 21, 23 (1950).

⁶ Bar Council of India, *supra* note 2, r. 25.

⁷ Bar Council of India, *supra* note 4, at 2.

⁸ Lok Sabha Unstarred Question No. 1114, Mandatory Stipend Framework for Law Interns, Ministry of Law & Justice, Dep't of Legal Affairs, answered by Arjun Ram Meghwal, Minister of State (Independent Charge) (July 25, 2025),

https://images.assettype.com/barandbench/2025-07-25/rcowb6z3/UnstarredQuestion_LegalInternships.pdf.

⁹ *Id.*

India has other acts which govern the wage laws. The Code on Wages Act, 2019,¹⁰ which aims to consolidate laws related to wages and bonus. Section 2(k)¹¹ of the Act defines “employee” as persons on hire or reward to do skilled, unskilled, clerical, or manual work. Section 2(z)¹² defines “worker” as a person employed in industry to do manual, unskilled, skilled work. Both sections explicitly state that it does not cover “apprentices”. The major problem is the threshold requirement of an underlying contract between the employer and employee, which is particularly absent in the case of interns.¹³ The Apex Court has recognised a test for an employer-employee relationship in *International Airport Authority of India v. International Air Cargo Workers’ Union*,¹⁴ which also mentions the importance of a contract to define termination, remuneration and rights. This presumption of a wage contract makes the concerns of interns largely unseen by the legislature and judiciary.

Another statutory framework is the Apprentices Act, 1961,¹⁵ which provides regulation of apprentices. However, the definition of apprentices under Section 2(aa) defines it as a person undergoing apprenticeship training under a contract.¹⁶ The Act mentions minimum stipends only for persons under a contract of apprenticeship.¹⁷ Hence, this also excludes interns, as most internships are based on informal arrangements and not under registered frameworks. In 2021, a writ petition was filed in the Apex Court seeking to count interns as trainees and consider them for legal protection under the 1961 Act.¹⁸ However, the writ was dismissed by the court. This shows that the regular concerns of many interns are still unanswered or overlooked by the legislature and judiciary.

¹⁰ Code on Wages, 2019, No. 29 of 2019 (India).

¹¹ Code on Wages, 2019, § 2(k) (India).

¹² Code on Wages, 2019, § 2(z) (India).

¹³ Team AMLEGALS, *The Legal Framework for Apprenticeships and Internships in India*, AMLEGALS (last visited Sept. 9, 2026), <https://amlegals.com/the-legal-framework-for-apprenticeships-and-internships-in-india/>.

¹⁴ *Int’l Airport Auth. of India v. Int’l Air Cargo Workers’ Union*, (2009) 13 SCC 374.

¹⁵ The Apprentices Act, 1961, No. 52 of 1961, Acts of Parliament (India).

¹⁶ Apprentices Act, 1961, § 2(aa).

¹⁷ Apprentices Act, 1961, § 13.

¹⁸ *M.D. Imran Ahmad v. Union of India*, W.P. (C) No. 1120 of 2021 (S.C. Jan. 8, 2022); see also Lavanya Ambalkar, *Addressing the Need of Intern and Trainee Protection Labour Laws in India*, Legal Service India, <https://www.legalserviceindia.com/legal/article-11763-addressing-the-need-of-intern-and-trainee-protection-labour-laws-in-india.html> (last visited Sept. 9, 2026).

THE CONSTITUTIONAL DIMENSIONS

While internships are a positive source of “work-based learning”,¹⁹ it often comes with exploitative labor practices, as sometimes interns have an excessive workload equivalent to regular employees.²⁰ Interns are viewed as workers with little or no remuneration, along with no labor protections. Article 23 of the Indian Constitution enacts a prohibition against human trafficking, begar, and “other similar form of forced labour”²¹ in whatever form it may be found. In the landmark judgment of *People's Union for Democratic Rights v. Union of India*,²² the court said forced labor arises when labour is forced upon a person. It was further clarified that “force” is not limited to physical or legal force,²³ but also includes any other form of compulsion which deprives a person of choice and compels him to adopt, even if remuneration is less than minimum wage, which also includes economic circumstances.²⁴ This arrangement applies even if it was consented to, including in the case of interns. Interns accept unpaid internships to secure future job prospects and to compete with unemployment, which comes under economic compulsion or force, fitting them within the scope of forced labor.²⁵ Hence, unpaid internships may raise concerns under Article 23.

Another aspect is Article 21, which enjoins the state not to deprive any person of his life or personal liberty, except according to procedure established by law.²⁶ The Article has a negative connotation, but its scope is not limited. Through various judicial pronouncements, the Apex Court has established that the Article 21 right to life²⁷ is not just mere animal existence, but also includes the right to live with dignity.²⁸ Furthermore, in *Olga Tellis v. Bombay Municipal Corpn.*, the Court stated that “the right to livelihood” is an integral aspect of the right to life, i.e., “the easiest way to deprive a person of his right to life is to deprive him of the means of livelihood”.²⁹ One of the pillars of the right to livelihood is wages,³⁰

¹⁹ Kasiaman Pasaribu et al., *Criminal Accountability for Perpetrators of Human Trafficking in Overseas Internship Activities*, in *Advances in Social Science, Education and Humanities Research* (2025), https://doi.org/10.2991/978-2-38476-531-7_9.

²⁰ *Id.*

²¹ INDIA CONST. art. 23 (1950).

²² *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235, para. 14.

²³ *Id.*

²⁴ *Id.* para. 14.

²⁵ Ann Duffy & Norene Pupo, *Unpaid Work, Coercion and the Fear Economy*, 29 *Alternate Routes: J. Critical Soc. Research* (2018), <https://alternateroutes.ca/index.php/ar/article/view/22445>.

²⁶ INDIA CONST. art. 21 (1950).

²⁷ *Id.*

²⁸ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

²⁹ *Olga Tellis v. Bombay Municipal Corpn.*, (1985) 3 SCC 545.

³⁰ Neepta Jani & I.M. Nanavati, *Article 21 of Constitution of India and Right to Livelihood*, 2 *Voice of Research*, no. 2, at 61 (2013), http://voiceofresearch.org/doc/Sep-2013/Sep-2013_14.pdf.

which come under Article 43 of the Constitution, i.e., the state's duty to secure a living wage.³¹ Through BCI's mandatory internship duration with no statutory regulation, the unpaid internship may raise concerns relating to dignity and livelihood under Article 21. Along with this, the unpaid interns also face no fixed working hours, as they even work on weekends, are left out of employee protection policies,³² and receive no pocket remuneration to meet travel and food expenses, which also makes the guaranteed rights blur.³³

This burden extends to concerns under Article 14 of the Constitution, which ensures equality before law and equal protection of laws.³⁴ Under this, the state may differentiate between two classes; however, the classification must be reasonable and clear (intelligible differentia), and there must be a rational nexus between the object of the legislation and the differentia.³⁵ The distinction between "employee" and "intern" to determine remuneration should pass through this test to be qualified as reasonable. However, this classification fails when it is cited that interns make a significant contribution in drafting pleadings, heavy research, managing administration, etc., which substantially benefits the employer.³⁶ This issue was addressed by the US Court in *Glatt v. Fox Searchlight Pictures, Inc.*,³⁷ where the court drew the "primary beneficiary test" to determine whether an intern is an employee by examining the arrangement to show who is the primary beneficiary.³⁸ If the employer derives the benefit than intern is entitled to minimum wages; otherwise, if the intern is the primary beneficiary, then he/she is not entitled.³⁹ Even in *Irel (India) Limited v. P.N. Raghava Panicker*,⁴⁰ the Kerala High Court held that a "trainee" is considered an employee when he does work like a regular employee under the employer. This shows that there is an absence of reasonable classification and rational nexus between the distinction and the protective objective of the wage laws in India.

³¹ INDIA CONST. art. 43 (1950).

³² Chetana Mohapatra, *The Gendered Burden of Unpaid Labour in Everyday Life: A Legal and Social Analysis* (Apr. 13, 2025), <https://ssrn.com/abstract=5314882>.

³³ Karly Wildenhaus, *Wages for Intern Work*, 2 J. Critical Libr. & Info. Stud., no. 1 (2018), <https://doi.org/10.24242/jclis.v2i1.88>.

³⁴ INDIA CONST. art. 14 (1950).

³⁵ *State of W.B. v. Anwar Ali Sarkar*, A.I.R. 1952 S.C. 75.

³⁶ Saktham Singh Parmar, *Legal Internships in India: Fair Stipends or Unpaid Privilege? A Comprehensive Debate*, SSRN (Aug. 30, 2025), <https://doi.org/10.2139/ssrn.5954554>.

³⁷ *Glatt v. Fox Searchlight Pictures, Inc.*, 811 F.3d 528, 536-37 (2d Cir. 2016).

³⁸ *Id.*

³⁹ U.S. Dep't of Labor, Wage & Hour Div., Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act (Jan. 2018), <https://www.dol.gov/agencies/whd/fact-sheets/71-flsa-internships>.

⁴⁰ *Irel (India) Limited v. P.N. Raghava Panicker*, 2020 SCC OnLine Ker 4891.

WHO CAN AFFORD THE WORK?

Internships as part of the informal economy mostly depend on personal contacts, which creates problems for students who have no or less legal connectivity, and underprivileged students.⁴¹ Many students from privileged backgrounds can afford the unpaid internships while their parents cover their expenses.⁴² However, students from underprivileged backgrounds are in a “grey legal area”⁴³ of unpaid internships, as this is not feasible for low-income families.⁴⁴ This socio-economic divide also affects the future job prospects of those who couldn’t afford the unpaid internships.⁴⁵ A 2022 National Association of Colleges and Employers survey in the US,⁴⁶ shows that those with paid internships received an average of 1.61 job offers, compared with 0.94 job offers for those with unpaid internships.⁴⁷ This creates structural inequality, as the same rule burdens students differently. Employers have argued that unpaid internships are compensated through an opportunity to enhance skills and develop connections.⁴⁸ However, this does not relieve firms’ obligation to pay. While India-specific data on this point is scarce, comparable US-based research suggests that unpaid interns spend most of their time in clerical duties rather than professional or skill-building duties.⁴⁹ Though this data is not assumed to apply in India, it lends comparative support to counter the broader justification made by employers, advocates, and firms.

Beyond the employer-employee binary: Lessons from gig worker regulations

India’s labour laws have relied upon the traditional employer-employee relationship. The emergence of the digital revolution gave rise to a new kind of workforce in the Indian market, i.e., the gig economy.⁵⁰ This workforce did not fit into the existing labour laws; hence, the Code on Social Security, 2020⁵¹ was passed. This recognised ‘gig workers’ and ‘platform

⁴¹ Karly Wildenhaus, *supra* note 33, at 4.

⁴² Neepa Jani, *supra* note 30, at 4.

⁴³ Jessica L. Curiale, *America’s New Glass Ceiling: Unpaid Internships, the Fair Labor Standards Act, and the Urgent Need for Change*, 61 Hastings L.J. 1531, 1557 (2010).

⁴⁴ Sanjay Kesavan, Monthly Stipend to Junior Lawyers and Interns: A Distant Dream? With Special Emphasis on Right to Livelihood and Live with Dignity (Feb. 22, 2025), <https://ssrn.com/abstract=5261894>.

⁴⁵ Chetana Mohapatra, *supra* note 32, at 4.

⁴⁶ National Ass’n of Colleges & Employers, 2022 NACE Student Survey Report (Oct. 2022).

⁴⁷ *Id.*

⁴⁸ Leslie Shuler Svacina, *A Review of Research on Unpaid Internship Legal Issues: Implications for Career Services Professionals*, 46 J. Coop. Educ. & Internships 77 (2012).

⁴⁹ Philip C. Rothschild & Connor L. Rothschild, *The Unpaid Internship: Benefits, Drawbacks, and Legal Issues*, 10 Admin. Issues J. Educ. Prac. & Rsch., no. 2, art. 5 (2020), <https://doi.org/10.5929/2020.10.2.1>.

⁵⁰ Jasmine Gill & Sadhna Gupta, *The Gig Economy and Its Implications on Contract Labor Laws*, 1 NUJS Journal of Regulatory Studies 78, 82 (2024).

⁵¹ Code on Social Security, 2020, No. 36 of 2020 (India).

workers⁵² under two distinct categories. Under Section 2(35), gig workers are persons who perform work and earn from it outside the traditional employer-employee relationship.⁵³ The code provides social security mechanisms such as insurance protection (life and disability), Aadhaar-linked registration,⁵⁴ maternity benefits, social security fund, etc.⁵⁵

However, even after statutory recognition, gig workers do not get the same protection as traditional employees. For example, gig workers are not eligible for gratuity or employee provident fund as they fall outside the traditional employer- employee relation.⁵⁶ The code enforcement mechanism is still passive,⁵⁷ as the central government did not notify about the aggregate contributions in the social security fund.⁵⁸ This shows that even after formal recognition, the vulnerabilities still exist.

This statutory recognition, along with its drawbacks, shows that India has moved beyond the rigid employer-employee binary notion.⁵⁹ This arrangement does not identically apply to the situation of unpaid internships. However, this indicates that India can move to recognise the informal economy sector.⁶⁰ Internships cover a large portion of both the educational and economic sectors under most professional courses,⁶¹ including law. Thus, statutory recognition in a single code is important rather than a scattered approach under BCI and statutory exclusions. A comparable model exists in France, where unpaid internships are legal and eligible for a minimum stipend if the internship is for more than 2 months, along with a tripartite internship agreement.⁶² Thus, recognition by India will extend a minimum floor of protection to interns, similar to countries like the USA, the UK, France, etc.⁶³

⁵² Code on Social Security, 2020, § 2(61) (India).

⁵³ Code on Social Security, 2020, § 2(35) (India).

⁵⁴ Code on Social Security, 2020, § 113 (India).

⁵⁵ P. Karun Kumar, *Gig Workers: Challenges and Legal Recognition in India*, 6 International Journal for Multidisciplinary Research, no. 2, at 4 (2024), <https://doi.org/10.36948/ijfmr.2024.v06i02.15836>.

⁵⁶ Yash Mittal, *Compliance with Labour Laws in India on Gig Economy and Online Workplace*, 5 International Journal for Multidisciplinary Research, no. 4, at 8 (2023), <https://doi.org/10.36948/ijfmr.2023.v05i04.4276>.

⁵⁷ Tanmay Satvik, *Logged In, Left Out: How Code on Social Security, 2020 Only Mentions About India's Gig Workers*, LiveLaw (Mar. 26, 2026), <https://www.livelaw.in/articles/code-on-social-security2020-india-gig-workers-527945>.

⁵⁸ Code on Social Security, 2020, *supra* note 51, §§ 2(35), 2(61), 113 (India).

⁵⁹ Shashank Reddy, *How Gig Work Is Giving India's Informal Labour a New Identity*, The Week (Sept. 10, 2026), <https://www.theweek.in/news/biz-tech/2026/09/10/indias-gig-economy-transformation.html>.

⁶⁰ S.V. Ramana Murthy, *Measuring Informal Economy in India: Indian Experience*, paper presented at the 7th IMF Statistical Forum (2019), <https://www.imf.org/-/media/files/conferences/2019/7th-statistics-forum/session-ii-murthy.pdf>.

⁶¹ *Supra* note 46 at 5.

⁶² Absolute Internship Team, *Where Are Unpaid Internships Legal?*, Absolute Internship, <https://absoluteinternship.com/blog/where-are-unpaid-internships-legal/> (last visited Sept. 12, 2026).

⁶³ Christian Chinonso, *Paid vs. Unpaid Internships: Legal Rules for Students in the US, UK, France, Canada, and Germany*, LearnViaHub (Aug. 27, 2026), <https://www.learnviahub.com/paid-vs-unpaid-internships/>.

RECOMMENDATIONS

India should move to a more intelligently regulated framework for unpaid internships, rather than blanket “employees” status. One of the major regulations will be mandating a particular percentage of a stipend varying according to the regions and interns’ contributions⁶⁴ throughout the internship period. This is complemented by a “tiered stipend model”,⁶⁵ similar to the French internship model,⁶⁶ where minimum wages are based on the duration of internship and productive work done.⁶⁷ Addressing the issue of lack of data on internships, BCI and other authorities that handle the educational courses should conduct periodic inspections and data collection.⁶⁸ Extending a grievance mechanism to BCI for stipend practices, duration extension, etc. is also important. Defining working hours is another crucial aspect, which will prevent internships from turning into disguised employment due to overworking.⁶⁹ These regulations will be more effective when the terms “interns” and “internships” are defined broadly under the current regulations.⁷⁰ These can be incorporated under current labor laws and the new BCI model code of legal internships.

CONCLUSION

The article has argued for the absence of statutory regulation, specifically on stipends for interns. This structural gap has often been overlooked across statutory, judiciary, and professional levels. While the BCI has a fixed duration for internships, it remains silent on the stipend model. Even the Model Code of legal internships does not address remuneration. The labor codes widen the gap by protecting employees and workers, excluding interns from their ambit. Hence, leaving them without recourse. This creates structural inequality and raises concerns under Articles 14, 21, and 23. It disproportionately burdens the students, who cannot afford unpaid internships as good future job prospects. The article also draws lessons from the recognition of the gig economy to show that the government can move to recognise the informal economy. It must be acknowledged that the empirical data specific to the Indian

⁶⁴ Tri Sulistiyono et al., *Reforming Legal Safeguards for Unpaid Internships in Indonesia's Creative Industry*, 7 J. Law & Legal Reform 1111, 1127 (2026), <https://doi.org/10.15294/jllr.v7i2.34473>.

⁶⁵ *Supra* note 36 at 4.

⁶⁶ *Supra* note 62 at 7.

⁶⁷ Febi Cindy Milenia, Agus Mulya Karsona & Holyness N. Singadimedja, *Perlindungan Peserta Magang dalam Praktik Unpaid Internship Ditinjau dari Peraturan Ketenagakerjaan di Indonesia*, 6 J. Sains Sosio Humaniora, no. 1 (2022), <https://doi.org/10.22437/jssh.v6i1.19425>.

⁶⁸ H.M. Naveen, *Guidelines for PM Internship Scheme: A Pilot Project (2024–25)*, Int'l J. Sci. Rsch. in Sci., Eng'g & Tech., at 102 (2024), <https://doi.org/10.32628/IJSRSET24116170>.

⁶⁹ Alma Florydia Gutama & Diani Sadiawati, *The Urgency of Establishing Compensation Standards and Minimum Wage Schemes for Interns from a Justice Perspective: A Normative Study on Internship Providers*, 6 JLPH: J. Law, Pol. & Human. 1039, 1046 (2025), <https://doi.org/10.38035/jlph.v6i2.2668>.

⁷⁰ *Supra* note 44 at 5.

internship landscape is scarce; therefore, the article, wherever needed, has drawn data from other jurisdictions. Hence, the state must move beyond treating internships as only a skill enhancement opportunity, but establish a regulatory framework for substantive equality.