

OCTOBER ISSUE | 2021

# Labour & Liberty



## FACULTY COORDINATORS

**DR. GEETIKA WALIA**

**MS. SONIKA**

## CONTENT BY

**TAMANNA GUPTA**

**DIKSHI ARORA**

**YASHVI AGARWAL**

**PARAMJEET SINGH**

## DESIGNED BY

**KUNAL YADAV**

# CASLW

CENTRE FOR ADVANCED  
STUDIES IN LABOUR WELFARE

## National News

### EPFO order's implementation delayed

Retirement fund body EPFO has delayed implementation of its order mandating filing of PF returns with Aadhaar-verified universal account numbers (UAN) till December 31, 2021, for all seven states in the northeast and for a certain class of industries, because of low Aadhar penetration. This has been done to give more time to link Aadhaar with PF accounts or UAN. This is the second extension of the deadline, though for a region and certain industries. The date of implementation for filing ECR (electronic challan cum receipt or PF return) has been extended for the Northeast region which includes Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. Industries, such as beedi making, building & construction, plantations industries (tea, coffee, cardamom, pepper, jute, cinchona, cashews, etc.) have also been given the extension. The EPFO had issued the order for mandating Aadhar on June 1, 2021.

A notification was also issued by the labour ministry on May 3, which mandated the ministry and its bodies to seek Aadhar number from beneficiaries under the Social Security Code. Section 142 provides for establishing the identity of an employee or an unorganised worker or any other person through Aadhar number for seeking benefits and availing services under the Code.



## Tamil Nadu Mandates “Right to Sit” for Workers

On September 6, 2021, the Tamil Nadu assembly tabled a bill that proposes to amend the Tamil Nadu Shops and Establishment Act, which provides for “regulation of conditions of work in shops, commercial establishments, restaurants, theatres and other establishments”. The bill was passed by the state assembly, amidst no opposition, in a voice vote on September 13, 2021.

The newly introduced Section 21B of the Tamil Nadu Shops & Establishment Act mandates that in every shop and establishment, suitable arrangements for sitting shall be provided for all workers so as to avoid ‘on the toes’ situation throughout the duty time, so that they may take advantage of any opportunity to sit which may occur during the course of their work.

The Tamil Nadu Act closely mirrors an amendment in the Kerala Shops and Commercial Establishment Act made in January 2019, when the latter became the first in the country to mandate the right to sit. This move was hailed by the State Labour Advisory Board & various employee unions.

---

"The law has  
no meaning if  
it isn't  
enforced"

P Viji

**TAILOR WHO HELPED LEAD  
"RIGHT TO SIT" STREET  
PROTESTS IN KERALA**

---







# Analysing the US Labour Law Changes vis-à-vis Transport Industry

The US administration under Joe Biden is seeking to implement an ambitious programme of labour-related changes as Biden has declared himself to be the 'strongest labour president you've ever had'. The first noticeable change is the unveiling of the 'American Jobs Plan' that includes an approximately USD 2.2 trillion proposal aimed to upgrade and repair the infrastructure, investment in manufacturing, research, and development, and expanding long-term health care services. And such investment would have a direct impact on the transportation industry. The administration plan to increase several taxes on corporations to offset USD 2.2 trillion proposals under the American Jobs Plan.

One of the bills included in Biden's infrastructure plan that would make drastic changes to US labour law is the Protecting the Right to Organize (PRO) Act. The PRO Act includes wide a range of provisions from expanding the number of workers covered by the National Labor Relations Act (NLRA), to implementing fines against employers deemed to interfere with workers' efforts to organise, to overriding state right-to-work laws. Such provisions are seen as union-friendly. It also deals with preventing employers from permanently replacing economic strikers and prohibiting employers from using mandatory arbitration agreements with employees.

The proposed Infrastructure Bill is predicted to have a huge impact on the transportation industry as it includes USD 312 billion in new transportation spending. This expansion of infrastructure would provide better travel conditions, improved safety and reduced damage to vehicles. Additionally, Congress is also drafting a new surface transportation law that would replace the Fixing America's Surface Transportation (FAST) Act. The FAST Act was passed in 2015 to provide long-term funding certainty for surface transportation infrastructure planning and investment. It is to be noted that the FAST Act was expired in 2020, Congress passed a one-year extension that expires on 30 September 2021.

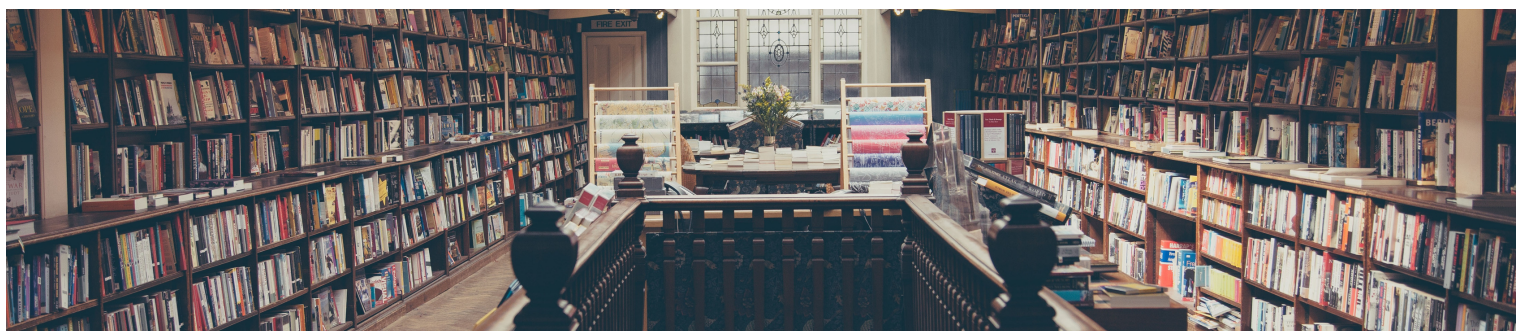
Lastly, the president has also issued an executive order establishing a 'Task Force on Worker Organizing and Empowerment' that seeks to promote the administration's 'policy of support for worker power, worker organising, and collective bargaining.' The force is led by Vice President Kamala Harris and is charged with the identification of policies, practices, and programmes that could be used to promote worker power in areas of the country with 'hostile labour laws, for marginalized workers... and hard-to-organize industries.' The Task Force is scheduled to present a report on 23 October 2021, with recommendations to promote these activities.

## Uber Case: Dutch court rules Uber drivers are employees, not independent contractors

The Amsterdam Court of Appeal has recently ruled that “Uber drivers are employees and that their services are come under the collective agreement for taxi transport” in the case which was filed by the Federation of Dutch Trade Union (FNV). The Union argued that Uber’s roughly 4,000 drivers in the capital are employees of a taxi company and should be granted benefits in line with the labour law.

The case dealt with the question of whether the taxi drivers who offer their services via Uber meet the characteristics of an employment contract. The court judged the case on the basis of the three listed characteristics necessary for an employment agreement: (a) personal performance of work; (b) in exchange for payment of wages; (c) work in the service of the employer (a relationship of authority) and accordingly held that the relationship between driver and platform was a ‘modern employer-employee relationship’. The judgement arrives at a definition of a ‘modern employer-employee relationship’ by the broadening the concept of ‘authority’. It noted: “In the present technological age, the criterion of ‘authority’ has been interpreted in a way that deviates from the classic model, and which is more indirect (often digitally) controlling. Employees have become more independent and perform their work at more varied (self-chosen) times.” Further it added that as per the algorithm of Uber, the drivers are to a certain extent free to refuse a ride, may determine their own hours and may determine their own hours and may simultaneously make use of various apps or other booking systems does not alter this. As soon as they make use of the Uber app and are logged into it, they are subject to the working of the terms designed by Uber, and therefore fall under Uber’s ‘modern employer authority’.

The FNV hailed the ruling. The deputy chairman of FNV, Zakaria Boufangacha, said, “Due to the court’s ruling, the Uber drivers are now automatically employed by Uber. As a result, they will receive more wages and more rights in the event of dismissal or illness, for example.” Meanwhile, Uber decided that it would appeal the decision and said that it had “no plans to hire in the Netherlands.”





## Orientation Session

Orientation Session for the Batch of 2026 was successfully conducted by Centre for Advanced Studies in Labour Welfare (CASLW).

It was a fruitful and interactive session which helped students of the incoming batch recognize the work that different teams do at CASLW and how the Centre functions. The main aim of the session was to introduce the well-honed team of the committee, the functioning of the team, and to encourage students to understand the underlying discourse prevailing around labour law & the contemporary relevance of the same.

