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## **ROLE OF UN AND NGO'S IN HUMAN RIGHT ENFORCEMENT– SAFEGUARDING THE RIGHT TO HEALTH OF INDIAN TEA GARDEN WORKERS**

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### **ABSTRACT**

India is the second-largest tea producer in the world and the largest producer of black tea. The tea industry employs about 1.16 million workers directly and many more indirectly. Around 63% of tea workers say their health and safety are at risk due to poor working conditions. Workers face unsafe conditions such as lack of shelters, safety equipment, toilets, long working hours, and exposure to chemicals, dust, and dangerous machinery. Many workers suffer from health problems like headaches, body pain, injuries, skin diseases, fatigue, and work-related stress. So, the aim of this study is to find out how effective are existing national and international legal frameworks in ensuring health and safety rights for tea garden workers in India? What are the main health risks faced by tea plantation and factory workers and how do adverse living and working conditions affect long-term health outcomes? What role do enforcement mechanisms, NGOs, trade unions, and corporate ethical practices play in improving health, safety, and living conditions of tea garden workers, and what gaps remain in their implementation? And the data will be gathered from books, statutes, journal papers, articles, and other sources. Article 12 of the ICESCR recognizes the right to good physical and mental health for everyone. NGOs help tea garden workers by providing healthcare, clean water, sanitation, and hygiene support.

**Key Words:** - Occupational Health, Right to Health, Tea Garden Workers, Hazardous Working Conditions, Labour Rights.

## INTRODUCTION

Human rights are inherent and universal, belonging to every individual regardless of race, gender, language, religion, political beliefs, nationality, social status, or any other distinction. Among these, the right to health is a legally binding obligation recognized in various international human rights treaties and affirmed by the Constitution of the World Health Organization (WHO). It guarantees every person the entitlement to the highest attainable standard of physical and mental well-being. States are legally required to enact and enforce laws and policies that ensure universal access to quality healthcare services, while also addressing the underlying social determinants of health such as poverty, discrimination, and social exclusion. The right to health is closely interconnected with other fundamental rights, including those to education, food, housing, employment, participation, and access to information. Achieving universal health coverage (UHC), particularly through a strong foundation in primary health care, is a key strategy for countries to fulfill their obligations and ensure equitable and affordable healthcare for all.<sup>1</sup>

India is the second-largest producer of tea in the world and the biggest producer of black tea, with around 1,350 million kilograms produced each year. The country produces enough tea to meet both domestic needs and export demands. India also leads in black tea consumption, using about 18% of the world's total tea supply. Tea from India is exported to many countries, making India the fourth-largest tea exporter, while still serving a large number of tea drinkers at home. The Indian tea industry directly employs about 1.16 million workers, with a similar number of people involved indirectly. A growing part of this industry is the Small Tea Growers (STGs), who now produce around 52% of India's tea. There are currently about 230,000 small tea growers contributing to the tea supply chain.<sup>2</sup>

Tea garden workers in India are mainly involved in growing and processing tea, which is a significant part of the country's agricultural sector. Traditionally, many of these workers came from tribal communities in eastern and central India and were recruited by British colonial planters to work in the tea estates of Assam. These workers are commonly known as

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<sup>1</sup>World Health Organization. "Human Rights and Health." *World Health Organization*, 1 Dec. 2023, <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health>.

<sup>2</sup>Ministry of Commerce & Industry, Several Steps Taken to Boost the Indian Tea Industry, to Address Emerging Challenges and to Create a Global Brand, Press Information Bureau, 2 March 2023, available at <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1903590> (last visited June 19, 2025).

the "tea-garden community" or "tea tribes" and are largely found in major tea-producing areas such as Assam and West Bengal.<sup>3</sup>

Tea garden workers encounter various difficulties in safeguarding their right to health. These include exposure to occupational risks, restricted access to medical services, substandard living environments, and insufficient social protection. Together, these challenges lead to increased rates of illness and injury, ultimately diminishing their overall quality of life.

### **THE TEA GARDEN WORKERS IN INDIA – SOCIO-ECONOMIC AND HEALTH CONDITIONS**

In the tea plantation industry, worker safety and security are often overlooked. Approximately 63% of workers reported that their health and safety were at risk due to their job conditions. Contributing factors included the absence of nearby shelters, lack of safety equipment, inadequate toilet facilities, extended working hours in difficult environments, and exposure to dangers such as snake bites and harmful chemicals. Another segment of workers is employed in factories, where they face dusty conditions, long shifts, and operate machinery without proper safety precautions. The challenging factory environment has led to various health issues, and many workers reported experiencing adverse effects on their health.

A significant number of workers suffer from headaches, which they associate with constant exposure to weather elements like wind and rain. Many also experience muscle pain, while back pain and skin conditions are frequently reported. Injuries are widespread among both field and factory workers, along with fatigue and work-related stress. Although some tea gardens provide protective gear such as gloves, boots, and masks, these items are rarely used correctly. Furthermore, the availability of toilet and urinal facilities in the tea garden areas studied was found to be extremely limited.<sup>4</sup>

Tea garden workers frequently encounter limited access to healthcare services and face numerous obstacles in safeguarding their right to health. Living in isolated areas with scarce resources, they suffer from high levels of illness, largely due to inadequate living conditions, work-related hazards, and a general lack of health awareness. Additionally, factors such as

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<sup>3</sup> Rashmi Rekha Singphow, *A Study on Socio-Economic and Educational Status of Tea Garden Labourers with Special Reference to Powai Tea Estate, Tinsukia, Assam*, 32 *Journal of Namibian Studies* 416–426 (2022), available at ISSN: 2197-5523 (online).

<sup>4</sup> Ahmed, Faisal and Md. Ismail Hossain, *A Study Report on Working Conditions of Tea Plantation Workers in Bangladesh* (International Labour Organization, Dhaka, 2016) available at: <https://www.ilo.org/media/423846/download> (last accessed June 19, 2025).

poverty, insufficient social protection, and poor nutrition further worsen their health-related challenges.

Plantation workers typically reside in overcrowded, single-room homes that lack proper sanitation and essential amenities such as safe drinking water. Medical facilities are absent, and many women suffer health problems due to exposure to the chemicals used in the plantations. Malnutrition is another widespread issue, particularly affecting women and children living on the estates. Wages are extremely low, often leaving families without enough food. In a tragic incident in April, 16 people in Assam, all from tea worker families, died after consuming wild mushrooms due to food scarcity. While plantation owners are legally responsible for ensuring the health, safety, and well-being of their workers, a female worker remarked that they show little concern for workers' welfare.

“We live under constant stress with no time to rest, and there's always the fear of losing our daily wage,” said one woman. She explained that many women delay seeking medical help because falling ill means losing a day's wage for non-permanent workers or half a day's wage for permanent ones. The lack of trade unions further worsens the situation, as there's no one to advocate for women workers. “Even where trade unions exist, they are dominated by men and often disregard the specific issues faced by women,” she added. The 2015 Munnar plantation strike drew national attention to the harsh working and living conditions faced by tea workers—not only in Kerala but also in regions like Tamil Nadu, Assam, and Darjeeling. According to a study titled *“Who will stand up for us? The social determinants of health of women tea plantation workers in India,”* published in the *International Journal for Equity in Health*, while permanent female workers are officially entitled to three months of paid maternity leave, non-permanent workers lose their jobs upon pregnancy, as they are ineligible for maternity benefits. The study further revealed that even permanent workers often do not receive their full maternity wages, with deductions amounting to half of their daily earnings during their leave period.

Additionally, the research highlighted that tea plucking continues even during the monsoon season, creating especially challenging conditions. Workers often lack proper shelter for meal breaks and face increased risks of accidents due to wet and slippery paths.<sup>5</sup>

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<sup>5</sup>Orchie Bandyopadhyay, *India's Tea Gardens: Poor Conditions Persist* (12 September 2022) available at: <https://www.britsafe.in/safety-management-news/2022/india-s-tea-gardens-poor-conditions-persist> (last accessed June 19, 2025).

Many tea garden workers face significant challenges due to their lack of access to essential social security benefits, including health insurance and pension schemes. Despite being the backbone of the tea industry, which is a major economic sector in countries like India and Bangladesh, these workers often remain excluded from formal welfare systems. This exclusion leaves them vulnerable to health crises, old age poverty, and economic insecurity. One major reason for this gap is the informal and seasonal nature of employment in tea plantations. A large portion of workers are hired on casual or non-permanent contracts, which often do not qualify them for state-mandated social security programs like health insurance, maternity benefits, or pension plans. According to a study by Faisal Ahmmed and Md. Ismail Hossain for the International Labour Organization (ILO), many tea workers, especially non-permanent ones, are deprived of maternity leave and other benefits, with permanent workers often receiving only partial payments even when entitled (Ahmmed& Hossain, 2016).

Furthermore, these workers typically live in remote areas with poor access to healthcare facilities, which exacerbates their vulnerability. Without health insurance, medical expenses become a heavy burden, forcing many to delay or avoid seeking treatment. This situation is compounded by low wages and inadequate housing conditions, increasing the risk of occupational diseases and injuries.<sup>6</sup>Orchie Bandyopadhyay, in her 2022 report on Indian tea gardens, highlights that the absence of social security provisions contributes to a cycle of poverty among tea workers. She points out that the lack of trade union representation and weak enforcement of labor laws leave workers without a voice to claim their rights or demand better protections. The lack of pensions also means that aging tea workers often face financial insecurity once they are no longer able to work. Without a safety net, many older workers rely on family support or continue working in poor conditions well into old age.<sup>7</sup>

Therefore, improving access to social security for tea garden workers requires stronger government intervention, enforcement of labor laws, better union representation, and policies tailored to include informal and seasonal workers in welfare programs.

## **LEGALFRAMEWORK OF HUMAN RIGHTS AND RIGHT TO HEALTH**

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<sup>6</sup>Ahmmed, Faisal and Md. Ismail Hossain, *A Study Report on Working Conditions of Tea Plantation Workers in Bangladesh* (International Labour Organization, Dhaka, 2016) available at: <https://www.ilo.org/media/423846/download> (last accessed June 19, 2025).

<sup>7</sup>Orchie Bandyopadhyay, *India's Tea Gardens: Poor Conditions Persist* (12 September 2022) available at: <https://www.britsafe.in/safety-management-news/2022/india-s-tea-gardens-poor-conditions-persist> (last accessed June 19, 2025)

The right to health is a fundamental human right enshrined in various international treaties, each emphasizing the obligation of States Parties to ensure equitable access to health services without discrimination. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. It mandates States to take steps to improve child and maternal health, ensure access to medical services, and create conditions for equal and timely access to health services for all. Additionally, States must address environmental and workplace health hazards, provide adequate nutrition, and ensure access to safe drinking water and sanitation.<sup>8</sup>

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in Article 5(e)(iv) obligates States Parties to guarantee the right to public health and medical care without discrimination based on race, color, or national or ethnic origin. This provision ensures that all individuals have equal access to health services and protection against health-related discrimination.<sup>9</sup>

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) addresses women's health rights in several articles. Article 11(1)(f) mandates States Parties to take measures to eliminate discrimination against women in the field of employment, including the right to protection of health and safety in working conditions, particularly during pregnancy. Article 12 requires States Parties to eliminate discrimination against women in healthcare, ensuring equal access to health services, including those related to family planning, pregnancy, and post-natal care. Article 14(2)(b) obligates States Parties to ensure rural women have access to adequate health care facilities, including information and services related to family planning.<sup>10</sup>

The Convention on the Rights of the Child (CRC) in Article 24 recognizes the right of the child to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties are required to take measures to reduce infant and child mortality, combat disease and malnutrition, ensure access to clean drinking water, and provide appropriate pre-natal and post-natal health care for mothers. Additionally, States

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<sup>8</sup>International Covenant on Economic, Social and Cultural Rights. "Article 12: Right to Health." *Office of the United Nations High Commissioner for Human Rights*, 16 Dec. 1966, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

<sup>9</sup>United Nations General Assembly. "International Convention on the Elimination of All Forms of Racial Discrimination." *United Nations*, 21 Dec. 1965, <https://www.refworld.org/legal/agreements/unga/1965/en/13974>.

<sup>10</sup>United Nations General Assembly. "Convention on the Elimination of All Forms of Discrimination Against Women." *United Nations*, 18 Dec. 1979, <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

must promote awareness of child health and nutrition, the advantages of breastfeeding, hygiene, and environmental sanitation.<sup>11</sup>

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in Articles 28, 43(e), and 45(c) ensures that migrant workers and their families have the right to the same emergency medical care as nationals, without discrimination. States Parties are obligated to provide migrant workers with the right to receive medical care under the same conditions as nationals and to promote cooperation to ensure that migrant workers and their families have access to health services.<sup>12</sup>

The Convention on the Rights of Persons with Disabilities (CRPD) in Article 25 recognizes that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties are required to take appropriate measures to ensure access to health services that are gender-sensitive, including health-related rehabilitation. This includes providing the same range, quality, and standard of free or affordable health care and programs as provided to others, including in the areas of sexual and reproductive health and population-based public health programs. States must also ensure that health professionals provide care of the same quality to persons with disabilities as to others, and prohibit discrimination in the provision of health insurance.<sup>13</sup>

Collectively, these provisions underscore the international commitment to ensuring the right to health for all individuals, irrespective of their race, gender, nationality, disability, or other status. They obligate States Parties to adopt comprehensive measures to eliminate discrimination and provide equitable access to health services.

The right to health is universally recognized as a fundamental human right, integral to the right to life and personal liberty. In India, this right is enshrined in the Constitution and supported by various legislative measures aimed at ensuring the health and well-being of its citizens, particularly workers in vulnerable sectors such as tea gardens. Article 21 of the Indian Constitution guarantees that no person shall be deprived of their life or personal liberty except according to the procedure established by law. The Supreme Court has interpreted this

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<sup>11</sup>United Nations General Assembly. "Convention on the Rights of the Child." *United Nations*, 20 Nov. 1989, <https://www.unicef.org/child-rights-convention>.

<sup>12</sup>United Nations General Assembly. "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families." *United Nations*, 18 Dec. 1990, <https://www.refworld.org/legal/agreements/unga/1990/en/13974>.

<sup>13</sup>United Nations General Assembly. "Convention on the Rights of Persons with Disabilities." *United Nations*, 13 Dec. 2006, <https://www.un.org/esa/socdev/enable/rights>.

to include the right to a healthy environment and access to healthcare, thereby recognizing the right to health as a fundamental right.<sup>14</sup> Additionally, the Directive Principles of State Policy, though not enforceable by law, guide the State in formulating policies aimed at achieving social and economic justice. Article 39(e) directs the State to ensure that workers are not forced to engage in hazardous employment that may harm their health, while Article 39(f) mandates the State to ensure that children are not abused and that childhood and youth are protected against exploitation and against moral and material abandonment. Article 42 requires the State to make provisions for securing just and human conditions of work place and for maternity relief, and Article 47 obligates the State to raise the level of nutrition and the standard of living of its people and to improve public health as among its primary duties.<sup>15</sup> In addition to these constitutional provisions, several legislative measures have been enacted to safeguard the health and welfare of workers. The Factories Act, 1948 lays down provisions for the health, safety, and welfare of workers in factories, mandating cleanliness, disposal of wastes, ventilation, and providing for the prevention of overcrowding, ensuring a safe working environment.<sup>16</sup> The Maternity Benefit Act, 1961 provides for the payment of maternity benefits to women employees, ensuring their health and welfare during maternity, entitling women to paid leave and medical bonuses, promoting their health during and after pregnancy.<sup>17</sup> The Employees' State Insurance Act, 1948 provides for health insurance and medical benefits to employees, ensuring access to healthcare services and financial protection against health-related risks.<sup>18</sup> The Occupational Safety, Health and Working Conditions Code, 2020 consolidates and amends laws relating to the health, safety, and working conditions of workers, aiming to provide a safe and healthy working environment.<sup>19</sup> The Code on Social Security, 2020 extends social security benefits to workers in both organized and

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<sup>14</sup>*Constitution of India, Article 21 – Protection of Life and Personal Liberty.*

<sup>15</sup>*Constitution of India, Articles 39(e), 39(f), and 47 – Directive Principles of State Policy*, Available at: <https://www.constitutionofindia.net/articles/article-39-certain-principles-of-policy-to-be-followed-by-the-state>.

<sup>16</sup>*Factories Act, 1948 (Act No. 63 of 1948), Sections 11–20*, Available at: <https://www.legalserviceindia.com/legal/article-149-the-factories-act-1948>.

<sup>17</sup>*Maternity Benefit Act, 1961 (Act No. 53 of 1961), Sections 5–11A*, Available at: <https://www.indiacode.nic.in/handle>

<sup>18</sup>*Employees' State Insurance Act, 1948 (Act No. 34 of 1948), Section 46*, Available at: <https://indiankanoon.org/doc/688671>

<sup>19</sup>*Occupational Safety, Health and Working Conditions Code, 2020 (Act No. 37 of 2020), Sections 1–143*, Available at: <https://labour.gov.in/whatsnew/occupational-safety-health-and-working-conditions-code-2020-no-37-2020>

unorganized sectors, including health insurance, ensuring comprehensive healthcare coverage.<sup>20</sup>

These constitutional provisions and legislative measures collectively form the legal framework that upholds the right to health in India, aiming to protect the health and well-being of all citizens, including workers in tea gardens.

## **ROLE OF NGOS IN PROMOTING AND PROTECTING THE RIGHT TO HEALTH OF TEA GARDEN WORKERS**

NGOs play a key role in improving the health and well-being of tea garden workers by providing medical services, promoting hygiene, and ensuring access to clean water and sanitation. They also support women and children by addressing gender-based violence and child protection, while advocating for better living and working conditions.

Organizations like the Ethical Tea Partnership and Oxfam advocate for fair wages, better healthcare, and education for tea workers, while urging global tea brands to eliminate labor exploitation. Despite these efforts, progress remains slow, and poverty persists. Oxfam's 2019 report highlighted significant wage gaps affecting women and widespread abuse by supervisors, with many women afraid to report harassment due to weak grievance systems and fear of retaliation.

The ILO (2020) reported that only 25% of tea workers are unionized, weakening collective bargaining and exposing them to rights violations. Women face greater exploitation through wage gaps, harassment, and poor working conditions. Sharma (2017) highlighted how limited access to education, healthcare, and jobs traps workers in poverty. The Indian Labour Journal (2021) noted that while wages rose to ₹217 per day, it remains inadequate, and implementation is inconsistent. These studies reveal deep-rooted issues such as low wages, poor health, gender inequality, child labor, weak legal support, and ineffective unions that sustain the exploitation of tea garden workers.

The 2016 SOMO study revealed that 47% of tea garden households lack toilets, causing serious health risks like cholera and diarrhea. Healthcare facilities are poorly equipped, and workers face occupational hazards such as pesticide exposure and long hours without protective gear, leading to chronic health issues. Although the Plantation Labour Act

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<sup>20</sup>*Code on Social Security, 2020 (Act No. 36 of 2020), Sections 109–110*, Available at: <https://www.indiacode.nic.in/handle/123456789/2216>

mandates basic services, only 38% of estates comply. Education is limited, with 35% of children aged 10–14 engaged in child labor, reinforcing poverty. Workers' rights to unionize are often suppressed through threats and violence, and many unions remain ineffective due to industry influence.

## CONCLUSION

Approximately 63% of workers report that their health and safety are at risk due to poor job conditions. Key issues include the lack of nearby shelters, safety equipment, adequate toilets, long working hours in hazardous environments, and exposure to risks such as snake bites and harmful chemicals. Factory workers often endure dusty conditions, extended shifts, and unsafe machinery. Plantation workers live in overcrowded single-room homes without proper sanitation or access to safe drinking water. Medical facilities are absent, and many women suffer health issues due to chemical exposure. Despite the right to health being recognized in international treaties such as Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). And under Article 21 of the Indian Constitution, which has been interpreted by the Supreme Court to include access to healthcare and a healthy environment, tea garden workers still lack basic health rights. Article 39(e) of the Directive Principles of State Policy also urges the State to protect workers from hazardous employment. However, progress remains slow despite existing laws. NGOs like the Ethical Tea Partnership, Oxfam, ILO, and SOMO have found that poverty persists and workers, especially women, continue to face wage discrimination, harassment, and unsafe conditions. Tea garden households often lack toilets, increasing the risk of diseases like cholera and diarrhea. Healthcare facilities are inadequate, and workers face chronic health issues due to pesticide exposure and lack of protective gear.

To improve this situation, strict enforcement of health and safety regulations is needed, including mandatory protective equipment, proper sanitation, and safe working hours. Infrastructure such as shelters, clean toilets, and accessible healthcare facilities should be built near plantations and factories. Free or affordable medical check-ups, especially for women exposed to chemicals, must be provided. Support for workers' unions and NGOs advocating for better conditions and fair wages is essential. Companies should be encouraged to adopt ethical practices and cooperate with labor rights organizations. Additionally,

investing in housing, sanitation, clean water, and education will enhance the overall quality of life for workers and their families.