



# BRIDGING THE GAP: CRITICAL ANALYSIS OF WOMEN'S RIGHT UNDER INDIA'S NEW LABOUR CODES

Dr Smt Ashwini V Kulkarni

## ABSTRACT

The Indian labour laws being codified under four comprehensive Labour Codes represent the biggest change in the Indian employment and IR regime. One of the aims of the labour law modifications is the advancement of gender equality and better women's rights in the working environment. In this context, the article critically analyses whether the new Labour Codes successfully fill the gaps in the women's rights in the working environment or simply rehash previous efforts without confronting the intrinsic inequalities. By carrying out a scholarly and analytic assessment of the Code on Wages, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Code on Social Security; and the Occupational Safety, Health and Working Conditions Code, 2020, the article critically analyses the central issues of equal remuneration for women; maternity security; night work; social security schemes for women; and occupational security. The paper indicates the progressive aspects of the new Labour Codes in the Indian context that stipulate the broadening of the labour law coverage and employment flexibility opportunities for women. Further, the article discusses the major issues with the new Labour Codes that diminish the enforcement of the labour laws in the Indian context; failure to provide social security coverage for the informal sector; failure to provide social security coverage for the gig sector; and failure of the gender-inclusive labour law regimes. The article states that the new Labour Codes in the Indian context lack to achieve the gender equality of women in the working environment.

**KEYWORDS:** Women's Rights, Labour Codes, Gender Equality, Employment Law, Social Security, Equal Remuneration, Occupational Safety, Informal and Gig Workers, Labour Law Reforms

## INTRODUCTION

The consolidation of India's labour laws into four comprehensive codes represents one of the most significant positive reforms in the labour legislation structure. By merging more than 25 pre-existing labour laws, the new codes sought to create unified, simplified and contemporarily relevant legal regime. With this wider positive agenda a significant emphasis has been given on strengthening the legal position of women workers who were discriminated, neglected, forced to work in unsafe conditions with limited access to social security.

The New Labour codes attempts to face these challenges by expanding scope of Maternity benefits, Equal pay for equal work, workplace safety and more emphasis on women workers working in a unorganised sector. This reform highlighted a shift towards more gender inclusive labour regime.

The code introduced progressive women centric provisions, but issues regarding implementation, lack of awareness, socio cultural constraints leads to limit their effected impact on the ground. Hence there is a gap between legislative intent and practical enforcement, which is remain a constant concern. Hence a critical evaluation is

essential to know whether these reformatory steps really advances women workers rights or merely reiterate existing protection without addressing major problem.

This paper examines specific labour provisions related to women in new labour codes and evaluate their effectiveness in providing gender justice.

## OVERVIEW OF NEW LABOUR CODE

Indian labour legislations have undergone an unprecedented transformation through the enactment of comprehensive four labour codes. These new labour codes merge more than 29 labour legislations into simplified, unified framework with aim to protect and provide fair labour welfare facilities. This chapter provides a broad overview of these four labour legislations, their objectives, implementation which helps in laying a foundation for critical evaluation of women workers rights within this limited labour legislation.

**The Code of Wages, 2019**—unifies the regulation of wages by consolidating Payment of Wages Act, Minimum Wages Act, Payment of Bonus Act and The Equal Remuneration Act. This code extended minimum wage protection to

Associate Professor,  
N S Soti Law College,  
Sangli, Shivaji  
University, Kolhapur

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both organised and unorganised sector. Equal pay for equal work is a remarkable reform from the point of view of women workers' point of view though the code does not improve enforcement mechanism.

**The Industrial Relations Code, 2020**—merging three earlier legislations relating to trade unions, Industrial disputes and Employment conditions. The measures provided under this code with the aim to provide industrial stability.

**The Occupational Safety, Health and Working Conditions Code, 2020**—Consolidate 13 laws relating to workplace, health and safety. It attempts to provide a uniform market by removing restriction in employing women in workplace.

**The Code on Social Security, 2020**—merges 9 major labour legislations relating to maternity benefits, provident fund, gratuity and welfare of unorganised workers. It attempts to universalize social security by extending its scope to include gig and platform workers for the first time.

The new labour code represents a positive reform with an aim to harmonize India's labour framework. They establish several provisions that give a way for workers to participate in management.

The following chapters examine these provisions more closely, specifically related to women workers to determine whether this new code actually bridges the existing gaps or continues with long-standing structural inequalities affecting women workers.

#### **Women Centric Provisions in Labour Code—Analytical Understanding**

Women constitute a significant portion of India's labour force. To support women workers, these four new labour codes designed in such a way to promote gender equality, enhance social security and to improve the working conditions for women workers in India, by establishing a modernized and unified legal foundation. This chapter analyzes the women centric provisions in these four labour codes and provides an analytical evaluation of how far they advance women's rights.

**Codes on Wages, 2019**—promotes equal opportunity and equal remuneration for equal work. It provides the uniformity for women workers across all sectors of work. It represents significant steps, especially for the unorganized sector by mandating non-discrimination in employment. The code creates a unified framework by combining the equal remuneration act with other three legislations with the intent to reduce ambiguity. This provision significantly expanded the scope of protection by introducing non-discrimination points which promotes gender parity in accessing jobs.

**The Industrial Relation Code, 2020**—ensuring proportional representation. Though the Industrial Relation Code is broadly gender neutral, several other provisions have an impact for women workers, especially in those sectors where women's participation has become very low. The structural changes of the Industrial Relation Code, influences women's ability to organize, negotiate and secure a stable workplace. It is important to know the position of women workers whose voice in the labour market has traditionally been weaker than men.

It establishes the grievance redressal committee where adequate representation of women workers is necessary. This

structural inclusion is intended to ensure that women's voice is fairly represented to reduce the gender imbalance in workplace leadership. Overall Industrial Relation Code does not protect women workers' rights directly but with systematic changes in collective bargaining and workplace governance have an impact over women's rights.

In summary, the new labour code represents a major legal reform aimed at harmonizing India's labour framework. It provides the legal foundation necessary for transforming the workplace into a more inclusive and safer environment for women workers.

#### **EFFECTIVENESS OF WOMEN FOCUSED LABOUR LAW REFORMS**

The positive reforms introduced by the New Labour Code related to women workers such as, equal remuneration, expanded maternity benefits, night shift with safety assurance and extension of scope of social security to unorganized and gig workers which strengthen women's employment opportunity. The code in fact attempts to modernize labour governance but its gender impact remains uneven. The real effectiveness of these positive reforms largely depends on enforcement, employer cooperation and administrative capacity.

Assessment of women focused labour law reforms under new progressive labour codes reveals a balance between legislative intent and persistent structural barriers within Indian labour jurisprudence. Equal pay for equal work is one of the central promises of this new regime to bring wage equality, but wage gaps persist due to lack of transparency, shortage of inspection mechanism, exploitation of women workers in unorganized sector and occupational segregation. The Wage Code, 2019 is a step towards gender wage parity, but weakly enforceable. The principal object of equal pay for equal work remains symbolic, unless it is supported by a transplant wage definition and stronger enforcement mechanism.

Similarly, maternity benefit provided under social security code makes a progressive step, yet this applies to majority of women workers in formal establishment. Since 90% of the women labour force works in unorganized, domestic, small scale and agricultural sectors, they remain outside the protective net. Though social security code attempts to modernize the concept of social security, the maternity benefit framework continues to face doctrinal and practical limitations.

Removal of restriction on night work for women workers under **The Occupational Safety, Health and Working Conditions Code, 2020**, is often celebrated as a gender neutral. However, this reform is effective only when the employer provides a safe atmosphere to women workers in the establishment. The code does not provide a robust monitoring system to compel the employer to comply with safety guidelines which leaves the women vulnerable, despite the theoretical promise of empowerment.

The Industrial Relation Code, 2020, though not expressly gender based, but it affects women workers by introducing reforms that indirectly disadvantage women. Extending the scope of application of standing order, strict application of strike provisions, weaken the collective bargaining, a space where women labour is already struggling for visibility. In all the code reinforces male-dominated labour structure, thereby leading to inequalities.

The code modernises the legal framework but fails to incorporate gender responsive approach that indentify the changes faced by women workers. As a result the effectiveness of these reforms remains uneven and constrained. It makes clear that legislative reforms alone cannot secure substantive gender justice. It is necessary to come with reform strategies aimed with strengthening women labour rights, effective enforcement and to provide equitable labour legislation for women sector.

## CONCLUSIONS

The consolidation of India's labour laws into New Labour Codes signifies a major shift of labour legislation aimed at simplifying compliance and improving labour markets efficiency. From the perspective point of view, the code introduced various progressive measures such as, provision for safety for woman workers in night shift, extended the scope of maternity benefit, provisions for social security and work safety. These positive steps acknowledge the necessity of women's participation in modern workforce.

With this reformative approach, the labour codes fail in addressing the structural and socio economic barriers faced by women workforce. The absence of enforcement mechanism and gender specific monitoring raises concern about the practical realization of women's labour rights.

Thus the new labour codes signify the progressive approach but they do not sufficiently bridge the gaps between equality and substantive justice for women workforce. To ensure that women's right are protected under new labour codes there is need of strong implementation and monitoring mechanism. It should include all women workers working even in formal, domestic or gig sector. Proper enforcement of sexual laws at workplace should be ensured through regular inspection and awareness programme. Regular review of labour codes from gender perspective will further help in identifying gaps and improving women's working conditions.

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