
REVISITING LABOUR WELFARE FOR WOMEN IN INDIA: TOWARDS A COHERENT REGULATORY FRAMEWORK

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ABSTRACT

The basic vision of the Constitution of India as projected by its framers, symbolizes the vision of a complete social change, which is to be effected by law as a living motivating tool of social change and social integration. This achievement of equality of status and opportunity of women is among the fundamental goals which are enshrined in the Preamble, the Fundamental Rights, and the Directive Principles of State Policy. Nevertheless, the very pluralistic and stratified character of the Indian society, which is characterized by the constant existence of the economic and social inequalities, still shapes and conditions the place and life experiences of women. The Constitution is aware of these structural disparities and thus it has a variety of welfare-based provisions that are intended to empower and uplift women. A drastic shift has been achieved in the recent decades and consists of a number of legislative and administrative interventions supported by an active and progressive judiciary that have resulted in diverse and meaningful implications to women in sectors. In addition, the efforts like the National Policy on the Empowerment of Women, 2001, and the explicit undertaking of the Government of India by the ambitious 2030 Sustainable Development Goals (SDGs) are likely to bring a significant change in the trend by directing it towards inclusive growth and development by addressing the multifaceted issues that face women. As the India is characterised in the context of a democratic polity, the legal architecture, development strategies, policies, and programmes related to the workforce, especially women who work in the organised as well as the unorganised sectors, have constantly been aimed at supporting the welfare of women in many aspects of life. These are aimed at improving the social, political and economic position of women, and at the same time improving structural imbalance and hindrances that complicate equitable involvement of men and women towards achieving better living standards and respectable livelihoods. However, the successful execution of such welfare schemes has not been easy and straightforward particularly where national resources are limited. It is against this backdrop that the current paper aims at critically looking at labour welfare provisions as applied to women and as such to

reiterate the need to reform the labour law regime in India with special reference to the salient features and implications of the four newly reformed labour codes dealing with wages, industrial relations, social security and occupational safety, health and working conditions.

Keywords: Unorganised, Seasonal Employment, Wage Discrimination, Labour Welfare, Gender Equality, Uniform labour Code.

I. Introduction

The Parliament of India has passed a broad spectrum of labour welfare laws to ensure the protection of the rights and enhanced welfare of the working population with the predominant applicability to the organised sectors of employment.¹ Nevertheless, there is an obvious paradox that by the fact that the substantial majority of workers involved in the unorganised sector does not receive adequate protection and is financially insecure because of the lack of the comprehensive and inclusive legislative framework and the consistent policy strategy.² The line between the organised and the unorganised sectors lies in the essentials of extension of the statutory labour protection and welfare provisions to various types of employment.³ Despite the fact that the organised sector forms only a small proportion of the overall labour force, the workers in the organised sector are generally entitled to numerous labour laws such as employment security, compliance to the principle of equal pay to equal work, regular revision of wages, as well as retirement and social security benefits.⁴ Nonetheless, in this comparatively secure sector, various fundamental welfare services, including proper housing, health services, schools, and an efficient system of distribution in the workplace and vicinity, still remain inadequate or even completely lacking.⁵

Another salient feature in the labour markets world wide and India is no exception, is the fact that occupational division along gender lines still exists in the labour markets with some types of work being mainly and or majorly done by men and some being done by women.⁶ Simultaneously, there are several types of jobs which are not only performed by men but also women, which is especially noticeable at the agricultural domain.⁷ The social construct of male

¹ S.C. Srivastava, *Industrial Relations and Labour Laws* (6th edn., Vikas Publishing House 2012).

² Government of India, Ministry of Labour and Employment, *Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector* (National Commission for Enterprises in the Unorganised Sector, 2007).

³ Upendra Baxi, 'Labour Law and Social Justice in India' (1986) 28 *Journal of the Indian Law Institute* 1.

⁴ O.P. Malhotra, *The Law of Industrial Disputes* (7th edn., LexisNexis 2019).

⁵ International Labour Organization, *Decent Work Country Profile: India* (ILO 2018).

⁶ Martha Chen, *Women and Employment in India* (ILO, New Delhi 1995).

⁷ Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* (Cambridge University Press

and female social division of labor is inherent in the rural context where certain activities are socially constructed to be male or female some activities are done together or either gender can carry out the activities.⁸ Although this may seem flexible, the women who are employed in the agricultural labour are usually restricted to a smaller scope of duties that the male labourers usually avoid.⁹ In some cases women have voluntarily or even demanded lower wages than their male counterparts including their husbands to maintain domestic peace or in an attempt to prevent household disharmony.¹⁰ These practices are indicative and supportive of a larger trend of systematic job segregation among the agricultural labour force nationally.¹¹

This entrenched pattern of occupational segregation has far-reaching consequences. It perpetuates wage differentials between male and female workers, reserves high-status and better-paid occupations for men, and confines women workers to positions characterised by low prestige and inadequate remuneration.¹² As a result, the bargaining power of women workers within the labour market is consistently undermined, relegating them to the status of marginal, intermittent, or reserve labour.¹³ Such labour is predominantly unorganised in nature and largely excluded from the protection of basic labour rights and welfare guarantees.¹⁴ In this context, the recent pronouncement of the Delhi High Court—affirming that an industry which fails to pay statutory minimum wages has no right to continue operations—assumes particular significance, as it underscores the centrality of wage justice as a non-negotiable component of lawful industrial activity.¹⁵

Market-based discrimination, as reflected in these practices, implies that workers distinguished by attributes such as gender, caste, or social status—attributes unrelated to their actual productive capacity—are subjected to differential and unfavourable treatment in employment opportunities when compared to others of equal competence who do not bear such markers.¹⁶ Against this backdrop, the present paper seeks to provide a comprehensive overview of the

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⁸ Vina Mazumdar, 'Gender, Agriculture and Rural Labour' (1993) 28 *Economic and Political Weekly* 2473.

⁹ National Sample Survey Office, *Employment and Unemployment Situation in India (NSS 68th Round, 2011–12)*.

¹⁰ Jaya Arunachalam, 'Women, Work and Wages in Rural India' (2004) 39 *Economic and Political Weekly* 3187.

¹¹ Usha Ramanathan, 'Gender and Labour Markets in India' (2009) 44 *Economic and Political Weekly* 52.

¹² Amartya Sen, *'Employment, Technology and Development'* (Oxford University Press 1975).

¹³ Guy Standing, *Global Labour Flexibility* (Macmillan 1999).

¹⁴ Kamala Sankaran, *Gender, Law and Social Justice* (Oxford University Press 2014).

¹⁵ *People's Union for Democratic Rights v. Union of India*, AIR 1982 SC 1473; see also Delhi High Court observations on non-payment of minimum wages violating Article 21.

¹⁶ International Labour Organization, *Equality at Work: Tackling the Challenges* (Global Report, ILO 2007).

labour welfare legislations enacted and amended in India from time to time, with a particular focus on women-oriented welfare measures embedded within these laws. The paper further emphasises the pressing need for the formulation and implementation of a uniform and coherent labour code capable of effectively securing the rights, dignity, and welfare of the labouring classes in India.¹⁷

II. Guarding Clauses in the Current Laws

The protective measures on women workers in the different labour welfare laws can be reviewed in details as in respect of the following indicators:¹⁸

A. Safety Measures

(i) The Factories Act, 1948 in Section 22(2) is categorical that no woman should be allowed to clean, lubricate, or to put into place any part of a prime mover or transmission machinery when said machinery is running. This is a provision that is aimed at reducing occupational risks and protecting the women workers against industrial accidents due to mechanical operations.¹⁹

Similarly, Section 27 of the Factories Act, 1948 bars hiring of women in any section of a factory that deals with the pressing of cotton when machinery is operating, as it is known that the health and safety hazards are more prone to occur in such activities.²⁰

B. Prohibition of Night Work

(i) Factories Act, 1948 also stipulates that no woman shall be required or shall work in a factory after 6 a.m. or before 7 p.m. unless with the prescribed exceptions. This limitation is meant to guarantee the safety, health and social welfare of women employees.²¹

(ii) In line with these, the section 25 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 provides that no woman shall be requested or allowed to work in any

¹⁷ Government of India, The Code on Wages, 2019; The Industrial Relations Code, 2020; The Code on Social Security, 2020; The Occupational Safety, Health and Working Conditions Code, 2020.

¹⁸ Kamala Sankaran, *Gender, Law and Social Justice in India* (Oxford University Press 2014).

¹⁹ The Factories Act, 1948, s. 22(2).

²⁰ The Factories Act, 1948, s. 27.

²¹ The Factories Act, 1948, s. 66(1)(b).

industrial premises under the Act between 6 a.m. and 7 p.m. only.²²

(iii) and similarly, Section 46(1)(b) of the Mines Act, 1952 restricts the use of women in any mine above ground other than during a time period between 6 a.m. and 7 p.m. which is a legislative worry of safety in place of work in hazardous conditions.²³

C. Subterranean Work Prohibition.

(i) Mines act, 1952 is categorical in on behalf of no women being employed in any either of the lower parts of a mine. This is an absolute limitation based on the health, safety and physical well-being considerations, as the underground mining activities are dangerous by nature.²⁴

D. Health Measures

(i) There are also various labour laws that require the employer to provide basic health and hygiene amenities to female employees. The Factories Act, 1948, Rule 53 of the Contract Labour (Regulation and Abolition) Act, 1976, section 20 of the mines act, 1952 and section 9 of plantation labour act, 1951 stipulate that there are separate and adequate latrines and urinals which should be maintained by the women employees to ensure decency and sanitary workplace environment.²⁵

E. Welfare Measures

(i) Welfare-based provisions also prescribe provision of separate washing facilities amongst women workers. The employers are bound by Section 57 of the Contract Labour (Regulation and Abolition) Act, 1970, Section 42 of the Factories Act, 1948, and Section 43 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to provide such facilities.²⁶

(ii) Also, the crèche facilities to the children of the working women have been identified as a necessary welfare provision. Factories act, 1948 under section 48, inter-state migrant workmen

²² The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, s. 25.

²³ The Mines Act, 1952, s. 46(1)(b).

²⁴ The Mines Act, 1952, s. 46(1)(a).

²⁵ The Factories Act, 1948, s. 19; Contract Labour (Regulation and Abolition) Rules, 1976, r. 53; The Mines Act, 1952, s. 20; The Plantation Labour Act, 1951, s. 9.

²⁶ The Contract Labour (Regulation and Abolition) Act, 1970, s. 57; The Factories Act, 1948, s. 42; The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, s. 43.

(regulation of employment and conditions of service) act, 1979, under section 44, plantation labour act, 1951, under section 12, building and other construction workforce (regulation of employment and conditions of services) act, 1996 under section 35, provides that crche be established, so that the women workers are able to balance between their work life and childcare.²⁷

F. Equal Pay for Equal Work Provisions

(i) The Equal Remuneration Act, 1976 represents the concept of equality of gender in remuneration since it mandates the same pay rate to both men and women working at the same or similar work. The Act also outlaws discrimination on the basis of sex in the recruitment process as well as wages, promotion, and other service terms.²⁸

G. Maternity Benefits

(i) Maternity Benefit Act, 1961 is an all inclusive protection given to women on maternity. It also forbids the employment of a woman by a person or organization who is aware of the fact that a woman is pregnant and has just six weeks to go before the day of the birth or termination of the pregnancy and the same applies to women who are pregnant and have six weeks to go before the day of the birth or termination of the pregnancy. The Act provides all qualified women with maternity benefits at the rate of their average daily earnings during the amount of actual absence before and including the delivery date, and six weeks following the delivery date.²⁹

(ii) Likewise, under the Employees State Insurance Act, 1948; an insured woman will be entitled to maternity benefits after making at least seventy days of contributions in the two preceding consecutive periods of contribution leading up to a benefit period during which confinement will be made. Maternity benefit that would be paid pursuant to the Act is on a daily basis equivalent to twice the standard sickness benefit rate and is full wage.³⁰

(iii) The Central Civil Services (Leave) Rules, 1972 also afford protection of maternity to the

²⁷ The Factories Act, 1948, s. 48; The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, s. 44; The Plantation Labour Act, 1951, s. 12; The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, s. 35.

²⁸ The Equal Remuneration Act, 1976, ss. 4–5.

²⁹ The Maternity Benefit Act, 1961, ss. 4–6.

³⁰ The Employees' State Insurance Act, 1948, ss. 50–51.

female employees in the government service, but the sphere of coverage and the amount of compensation received by the employee is quite different in comparison with the one guaranteed by the other legislations on labour.³¹

(iv) Section 52 of the Mines Act, 1952 and Section 79 of the Factories Act, 1948 set forth maternity leave of women workers up to a maximum of twelve weeks.³²

(v) Moreover in Section 32 of the plantation labour Act, 1951 there is provision of sickness and maternity benefits as per the certification of illness by a qualified medical practitioner.³³

H. Prohibition of Sexual Harassment in the Workplace

(i) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 aims at ensuring that women in the organised as well as the non-organised sector enjoy a safe and secure working environment. The Act provides a systematic framework of redressing grievances by the constitution of Internal Complaints Committee and Local Complaints Committee. Failure to adhere to the guidelines of the Act poses a penalty, including a fine and can go as far as 50,000 rupees, thus, holding the employer responsible and ensuring dignity at the workplace.³⁴

III. Critical Analysis and Need for Reformation

The management of the different schemes that are implemented by the labour welfare legislations have, more or less, failed to achieve the desired results. In the current legal system, the authorities that have been formulated to enforce labour laws, especially those dealing with women workers, are pathetically low. Meanwhile, the proliferation of administrative jobs and overlapping jurisdiction have tended to cause institutional inefficiency, administrative confusion, and inefficient way of conducting welfare schemes. It is therefore proposed that the enforcement machinery should be rationalised and streamlined to increase efficiency, responsibility as well as coherence of functionality. A bureaucratic system that is excessive and disaggregated will likely lead to the watering down of accountability which will lead to poor statutory benefits delivery.

³¹ Central Civil Services (Leave) Rules, 1972, r. 43.

³² The Mines Act, 1952, s. 52; The Factories Act, 1948, s. 79.

³³ The Plantation Labour Act, 1951, s. 32.

³⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, ss. 9–26.

It is equally important that authorities charged with the administration of social insurance schemes have to be assured that they do not indulge in adversarial practices to defeat or unjustifiably postpone justifiable claims of insured persons. The controversy that may occur in connection with the right to have benefits should be solved quickly, and in case of eligibility determination, the benefits should be disbursed without any unnecessary procedural hurdles. The central theme of the philosophy of social security is prompt benefit payment and unnecessary delays ruin the welfare aim purpose of labour legislation. The administrative machineries that claim control over labour welfare schemes have remained far behind the international standard, even in the intention of the law, as regards their efficiency, responsiveness, and delivering benefits promptly to the working population.

A study of the labour welfare legislation would be complete without a critical study of the Employees State Insurance Act 1948 that has been considered as one of the most holistic social insurance acts ever enacted in India. Even though both the Employees State Insurance Act and the Maternity benefit act serve the same line of protection in matters of maternity, they differ widely in terms of contributions, terms of eligibility and the amount of benefits that they offer. Such inconsistency has led to lack of clarity and confusion in the actual implementation of benefits associated with maternity.³⁵ Besides the statutory provisions, various government schemes that target maternity and child welfare, including Maternity and Child Health Centres, Integrated Child Development Services (ICDS), cash benefit schemes, Indira Gandhi Matritva Sahyog Yojana (a conditional maternity benefit programme) and the Rajiv Gandhi National Crèche Scheme of the Children of Working Mothers, also add to the policy environment as they have conflicting goals and is not implemented consistently.³⁶

Although the statutory definition of the term employee that is contained in the employee State Insurance Act might not be seen as having been developed to be overly broad, judicial interpretation has proven to have been significant in making it broad in so many ways. The courts have added dependant contractors and other groups of workers to the list, hence providing access to the benefits of the Act to a wider range of workers. This tendency is well in keeping with the constitutional conception of a welfare state, especially the form of it that is reflected in Part IV of the Constitution, which requires the State to endeavor to afford public

³⁵ Dr. G.Q. Mir. (2001). *Women Workers and The Law*. Valley Book House, Srinagar, 1st Ed., p.20.

³⁶ Shashi Bala, Labour Market Participation of Working Women Post Maternity. *NLI Research Studies Series* No. 098/2012, V.V. Giri National Labour Institute.

assistance in situations of unemployment, old age, sickness, and disablement.³⁷ However, with the modern economic scenario, the current wage ceiling of Rs.15000/- stipulated in the Act is rather unsuitable and needs to be revised to at least Rs.25000/- to cover more of the workforce such as some of the category of government workers.

The judicial interpretation has also expanded the definition of employment injury as to include more examples of occupational diseases or occupational injuries that occur out of or during the course of employment. A similar case has been applied to the word dependent whereby it has been given a liberal definition to incorporate a wider group of beneficiaries who are eligible to receive dependent benefits according to the ESI scheme. Nonetheless, dependent benefits administration should be urgently reformed because the insurance worker death frequently puts the relatives in pressing financial crisis, and immediate adjudication and prompt payment of the benefits should be implemented. A desire to improve the duration and quantum of benefits under the ESI scheme to guarantee social protection is also dearly needed.

Even though the rehabilitation allowances, the vocational rehabilitation, old-age medical care, medical bonuses, and provision of physical aids under the ESI scheme are a progressive move, the benefits underutilisation are low as the outreach and implementation at the grassroots have not been done well. The introduction of maternity benefits into the ESI system can be described as a significant development in comparison to the coverage of the central and state maternity benefit laws. Nevertheless, the problems involving disablement cannot be addressed successfully by means of curative measures. Preventive measures have to take precedence and the same opinion was shared by the ESI Review Committee (1982) which stated that proper accident prevention would mean fewer claims of disablement and less money on employment injury benefits.³⁸ The ESI Corporation, in this respect, needs to contribute and fund research studies that could be accident prevention, and occupational health and safety researches.

Serious measures should also be undertaken to make priority efforts to provide medical services to all hospitalized to extend medical services to the families of all the insured individuals. Even though the medical benefit schemes have improved in some aspects, there still exist serious qualitative flaws especially in regard to infrastructure, supply of medicines, and patient care. Where there are no hospitals or dispensaries, lump-sum payments should be made to insured

³⁷ Article 41 of the Constitution.

³⁸ Section 3 of ESI Act, 1948.

individuals so as to access the needed medical treatment.

We can thus see that employees working in the unorganised and low-paid areas of the employment are much in need of social security protection compared to those in the organised sector. Even though, repeated letters and notices have been issued by the regional offices of the statutory bodies like Employees State Insurance Corporation³⁹ and Employees Provident Fund Organisation⁴⁰ to hospitals, universities, government corporations and public sector undertakings employing contract labour to enroll under the relevant laws, ground level performance is pathetic.

A critical look at the operation of the labour welfare provisions shows that the system has several flaws such as ineffective enforcement mechanisms, poor institutional capacity and poor implementation. As observed empirically, the overall utilisation of the benefits is extremely low, owing to such factors as low quality of medical facilities and drugs, excessive waiting time, insensitive attitude of the staff, excessive waiting period in payment of the treatment taken outside the scheme, lack of cooperation of the employers, ignorance of the workers, and subsequent reduction in the claims of benefits. Additionally, many employees remain unaware of the adjudicatory mechanisms available for the resolution of disputes under labour welfare statutes, despite regular deductions being made from their wages.

The penal provisions under existing labour enactments have also proved insufficiently deterrent, allowing employers to violate statutory obligations with minimal consequences. The inspection and enforcement machinery is both quantitatively and qualitatively inadequate, rendering compliance monitoring largely ineffective. Furthermore, adjudicatory processes under social insurance laws are often protracted, formalistic, and procedurally complex, mirroring ordinary civil court proceedings that are ill-suited to the objectives of social security legislation. To address these concerns, it is proposed that simplified and informal tribunals comprising an independent chairperson and equal representation from employers and employees be established to facilitate speedy and effective dispute resolution.

Despite these shortcomings, it cannot be denied that labour welfare laws enacted by the Parliament of India from time to time have significantly alleviated the hardships of the working class. With appropriate reforms and administrative strengthening, these welfare schemes have

³⁹ Ibid.

⁴⁰ Section 5A of Employees Provident Funds and Miscellaneous Provisions Act, 1952.

the potential to serve as exemplary models for other countries. However, for meaningful implementation, enforcement officers and social security officials must be vested with enhanced powers to inspect establishments and ensure compliance with labour statutes. Existing penal provisions must be strengthened to compel adherence by employers, and greater emphasis must be placed on awareness generation to overcome the barriers of illiteracy, ignorance, and socio-economic backwardness. Without such measures, labour welfare laws and government schemes risk remaining largely symbolic, falling short of their transformative potential in improving the lives of workers.⁴¹

IV. India's New Labour Codes

This is one of the last and most important areas that have been subject to regulatory reform in India which is the labour legislation. Most of the current labour legislation can be dated to the colonial period with some being as old as 1926 and have become more and more irrelevant in terms of the current realities of the Indian industry, employment practice and labour markets.⁴² Since thorough reform is urgent, the Government of India, with four consolidated acts, known as the “Labour Codes” notified between August 2019 and September 2020, has made the first steps towards an overhaul of the Indian labour law system.⁴³ The reforms will be a milestone change that will focus on modernisation of labour regulation, better working conditions and wage structure, increased the social security coverage and at the same time better ease of doing business in the country.⁴⁴

An elaborate legal framework with simplified and unified laws is then suggested to be introduced through the introduction of these four Labour Codes that aim to subsume twenty-nine separate central labour enactments.⁴⁵ The mentioned goal of this consolidation is to make regulations simpler, eradicate duplication, and enhance compliance and strike a balance between the interests of labour and industry. Just like all structural reforms like that scale, businesses must be properly informed, institutionally ready, and operationally in conformity with the new legal regime. The labour codes were expected to be enforced by 1 April 2021, which underlines the necessity of employers to align their human resource policy, wage

⁴¹ Dr. V.G. Goswami. (2011). *Labour and Industrial Laws*. Central Law Agency, vol. -1, Ninth Edition, p.848.

⁴² Retrieved from [https://www.dropbox.com/s/eutgg0gf68s54wm/Wages non inclusion.pdf?dl=0](https://www.dropbox.com/s/eutgg0gf68s54wm/Wages%20non%20inclusion.pdf?dl=0).

⁴³ Ministry of Labour and Employment, Government of India, *Labour Law Reforms* (2019–2020).

⁴⁴ S.C. Srivastava, *Industrial Relations and Labour Laws* (Vikas Publishing House 2021) 112.

⁴⁵ Press Information Bureau, Government of India, *Cabinet Approves Labour Codes* (2019).

framework, and control system with the new legal provisions.⁴⁶ The salient features of the four Labour codes are discussed below.

1. The Code on Wages, 2019

Wages Code, 2019 aims at updating and integrating the legislation on wages, bonus and other related issues. It presents a common set of regulations governing wage matters at work.⁴⁷

- An important characteristic of the Code is the broad definition of the term employee that it entails a person hired or rewarded to perform skilled, semi-skilled or unskilled work of a manual, operational, supervisory, managerial, administrative, technical or clerical, nature, regardless of whether the terms of employment are expressed or not. But the apprentices working under the Act of Parliament (1961), apprenticeship are specifically excluded. Notably, all types of employees are covered by the chapter that concerns payment of wages.
- The Code definition of worker is also of wide range to cover persons involved in skilled, semi-skilled, non-skilled, manual, operational, supervisory, technical or clerical work excepting apprentices and individuals whose primary occupation or job is to managerial or administrative work as well as supervisory people who receive salaries greater than Rs.15000 per month.
- One of the critical innovations of the Code is the common definition of the term wages under Section 2(y) which has been copied in the other Labour Codes. The definition of wages is in such a way that it covers all the remunerations that are to be paid in respect of employment such as basic pay, dearness allowance and retaining allowance but limits the ratio of non-inclusion of allowances to give transparency and uniformity in calculation of the wage.
- Code also proposes the notion of a national floor wage, which is to be determined by the Central Government in various geographical areas with consultations of Central Advisory Board and State Governments. The State Governments are required to set

⁴⁶ Ministry of Labour and Employment, Government of India, Implementation Roadmap for Labour Codes (2020).

⁴⁷ The Code on Wages, 2019, Preamble.

minimum wages at the minimum national floor wage and those who are already setting higher minimum wages are forbidden to lower their minimum wage to meet the national floor wage. The aim of this provision is to have a common wage floor whilst retaining flexibility at the regional level.⁴⁸

2. The Code on Social Security, 2020

The Code on Social Security, 2020 brings together laws on social security with the goal of ensuring that all employees and workers are reimbursed in both organised and unorganised and emergent employment.⁴⁹

- The Code for the first time formally acknowledges fixed-term employment, which it describes as employment with a written agreement of a set number of years. It also proposes statutory definitions of the term gig workers, platform workers and home-based workers and thus recognizes the non-traditional employment relationship due to the digital economy and informal production structures.
- The Code also gives the Central Government the authority to frame and notify the welfare schemes to unorganised workers, gig workers, and platform workers, which includes life and disability insurance, health and maternity benefits, old-age protection, provident fund, employment injury benefits, housing, education, skills development and funeral assistance. Compulsory registration of these workers is an act of prescription to get benefits.
- Regarding the provident funds contributions, the Code lowers the contribution of the employer to 10% of the wages, which also has an equivalent contribution of the employee, and the employer has the freedom of notifying the workers that the contribution can be reverted to 12% also. The Employees State Insurance is extended to cover all hazardous establishments including those that may have one single worker. Furthermore, the Government can suspend or cut down EPF and ESI contributions in times of pandemic, endemic or national disaster.
- The Code also brings significant changes in the gratuity provisions including abolishing

⁴⁸ The Code on Wages, 2019, s. 2(y)

⁴⁹ The Code on Social Security, 2020, Preamble.

the five-year long service condition in the instances of fixed term employment as well as pro-rata gratuities. The basis of calculating gratuity has now been changed to 50 per cent gross wages excluding only basic pay and dearness allowance and keeping the limit at Rs.20 lakhs. Employers have the likelihood of being impacted financially because of these changes.

3. The Code of the Industrial Relations, 2020.

The Code of Industrial Relations, 2020 brings together legislative provisions associated with trade unions, employment relations, and industrial dispute resolution and investigation procedures. It officially acknowledges fixed-term employment and requires a balance of wages and benefits between fixed-term and permanent employees of similar jobs. Employees who are under fixed term can become eligible to receive gratuity at the end of one year of service.⁵⁰

- One of the largest changes of the Code is the raising of the threshold of applicability of standing orders (50 or 100 workers) to 300 workers so that employers can use the model standing orders without an additional certification. The number of workers that require prior approval of the government is also increased to 300 workers, which gives more flexibility in the operations of industrial establishments.
- The Code imposes more stringent laws on strikes and lockouts, such as a 60 days notice period and category of mass casual leave which involves over 50 percent of the employees as a strike. It also allows the setting up of a reskilling fund that is financed by the employer contributions that are as high as fifteen days last drawn wages of the retrenched workers. Further, the Code offers the establishment of a negotiating union or negotiating council where there are registered trade unions, and resolutions concerning the majority are considered binding.

4. The Occupational Safety, Health and Working Condition Code, 2020.

The Code on Occupational Safety, Health and Working Conditions, 2020 is a collection of the laws that govern the safety, health and employment terms and conditions. It is applicable to any facility which hires ten or greater employees and contractors who hire

⁵⁰ The Industrial Relations Code, 2020, ss. 2(o), 67–73.

fifty or greater contract labourers including sub-contractors.⁵¹

- The Code also applies to the establishments, which are hiring inter-state migrant workers and which require coverage of social security and the annual travel allowances to such workers. The meaning of factory is changed by raising the amount of employment, and the meaning of industry is modified to match the judicially developed meaning of triple test of Bangalore Water Supply.
- The Code establishes core activity of an establishment and controls outsourcing based on the same. A progressive aspect of the Code is the fact that the employers have to provide safe working conditions to the women and are allowed to work during night shifts, with consent and proper safeguards. The Code also facilitates digitisation with the use of electronic registration, online inspection, and web based compliance systems and introduces the concept of single registration of establishments.

Critical Problems and Compliance Obsessions

Some challenges in implementation are brought about by the Labour codes though in a reformatory intent. The new definition of wages is bound to raise the wage bill incurred by employers and will affect the computation done in connection with provident fund, gratuity, leave encashment, overtime and statutory bonus. Salary scales will also have to be seriously re-evaluated with regard to what can be excluded bearing in mind that non-wage items are to be limited by 50%. Under the Social Security Code, the liabilities of gratuity will be retrospective over the period of time of employment, which will require actuarial reviews and increased provisioning. The OSHWC Code presents leave encasement rights upon termination of every calendar year which may raise up the cost on the side of the employer. Possibility of confusion in the definition of managerial and supervisory staff also makes compliance more difficult.

Immediate Action Points

Based on these reforms, employers are required to form task forces within their organizations which are made up of human resource, legal, and finance personnel to evaluate the implications of the Labour Codes. Employment arrangements, compensation schemes, contracts, etc. have

⁵¹ The Occupational Safety, Health and Working Conditions Code, 2020, ss. 1–3.

to be revised and reorganized where need be. Assessment of financial impacts must be done, and compliance matters should be incorporated into organisational planning and budgetary processes. Most importantly, employers should be ready to be fully compliant with the new regime of the labour law.

V. Conclusion

In the Indian context, it has increasingly been recognised that the efficacy of law, social reform initiatives, and legislative measures—particularly those manifested through women-centric welfare programmes and schemes—can be meaningfully realised only when they are accompanied by social sanction, broad-based social acceptance, and sustained public support at the level of State implementation. The opportunities and representational spaces created through the enactment of various labour welfare provisions for women simultaneously underscore the pressing need to address entrenched socio-economic and gender-based inequalities deeply embedded within the social fabric. The continued prevalence of pronounced gender disparities in diverse forms remains one of the most salient features of Indian society, resulting in unequal outcomes in well-being, access to resources, and participation in structures of power and decision-making. This condition is not confined to any single region but is reflected across states of India. Paradoxically, States characterised by adverse gender indicators are also marked by the limited visibility and representation of women within political and policy-making institutions, thereby highlighting the systemic obstacles encountered by working women in asserting and realising their rights. Women thus continue to remain at a structural disadvantage; consequently, the issues of their social positioning, the tangible impact of reservation policies, their participation in employment opportunities, and the reforms required for the effective administration and implementation of labour welfare schemes constitute the central concern of the present study. In this backdrop, the Government of India's recent initiative to introduce a uniform labour code governing wages, industrial relations, social security, occupational safety, health, and working conditions represents a significant and progressive step towards strengthening labour rights, particularly for women workers. However, the transformative potential of such reforms can be fulfilled only if they are designed and implemented in a manner that ensures a fair and neutral recalibration of power relations between labour and capital.