
GENDER INCLUSIVITY UNDER INDIA'S NEW LABOUR CODES: A SOCIO-LEGAL ANALYSIS

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ABSTRACT

“Political democracy cannot last unless there lies at the base of its social democracy.”

- Dr. B.R. Ambedkar

The consolidation of twenty-nine central labour legislations into four comprehensive labour codes marked a significant transformation in India's regulatory framework governing work and employment. While these reforms aim to simplify compliance and enhance labour market flexibility, their implications for gender inclusivity warrant critical examination. Women's labour force participation in India has historically been low. Social norms, limited formal employment opportunities, and lack of workplace accommodations have contributed to this gap. This paper undertakes a socio-legal analysis of gender inclusivity under India's New Labour Codes and examines the impact of the new Indian labour law reforms from 2020 to 2025 on women workers in both formal and informal sectors, focusing on gender-specific provisions and outcomes. The study adopts a socio-legal approach and evaluates whether the new framework advances substantive equality or merely retains formal commitments to non-discrimination. Using doctrinal legal analysis of new statutes and amendments, supplemented by secondary data from government labour surveys (PLFS, NSSO) and analysis of recent case law, the study evaluates changes in workplace discrimination rules, maternity benefits, gig economy rights, wage parity, and safety. Official data show a significant rise in female labour participation from ~23.3% in 2017–18 to 41.7% in 2023–24, and female labour force participation from 21.1% to 35.6% in 2023–24, suggesting improved inclusion. Despite progressive provisions, implementation gaps remain: many women in the informal economy are not yet covered effectively, and certain workplaces like small enterprises or voluntary associations lack enforcement of protections.

Keywords: New Labour Codes, Women Workers, Gender Inclusivity, Social Security, Labour Law Reforms

INTRODUCTION

Labour law in India has been shaped by the twin objectives of social justice and economic regulation and has traditionally been fragmented and based on outdated statutes. Rooted in constitutional guarantees of equality and dignity, labour protections were designed to address structural disadvantages faced by vulnerable sections of the workforce, particularly women. The process of enacting India's new labour codes unfolded in stages between 2017 and 2020. The Code on Wages Bill was first introduced in the Lok Sabha on 10 August 2017, referred to the Parliamentary Standing Committee on Labour, and after revisions, reintroduced and passed by the Lok Sabha on 30 July 2019 and by the Rajya Sabha on 2 August 2019, receiving Presidential assent on 8 August 2019.

Subsequently, three consolidated labour codes were introduced in the Lok Sabha on 19 September 2020: the Industrial Relations Code, the Occupational Safety, Health and Working Conditions Code, and the Code on Social Security. These Bills were passed by the Lok Sabha on 22 September 2020 and by the Rajya Sabha on 23 September 2020. They received Presidential assent on 28 September 2020. This marked the formal legislative culmination of India's labour law consolidation, replacing twenty-nine central labour enactments with four comprehensive codes.

These codes were not fully in effect until late 2025, form the cornerstone of recent reform.

Gender disparities in India's labour market remain persistent and multidimensional. Despite constitutional commitments under Articles 14, 15, and 16, women's labour force participation continues to fluctuate, wage gaps endure, and informalisation disproportionately affects female workers. The Consolidated modern labour reforms aim to simplify compliance and extend social protections. The paper attempts to explore how these changes impact women workers in certain sectors, by analysing the statutory provisions, parliamentary amendments, labour force survey data and judicial decisions.

Labour Codes

The author tries to highlight each code's key gender-relevant provisions:

Labour law in India has traditionally been fragmented and based on outdated statutes. In recent years, the Government consolidated 29 labour laws into four modern **Labour Codes** on

Wages, Industrial Relations, Social Security, and Occupational Safety & Working Conditions. These reforms aim to simplify compliance and extend social protections. This paper explores how these legal changes affect **women workers**, the majority in some sectors, by analysing statutory provisions, parliamentary amendments, labour force survey data, and relevant court decisions.

In 2019–2020 Parliament passed four comprehensive *Labour Codes* consolidating multiple older Acts. These codes, not fully in effect until late 2025, form the cornerstone of recent reform.

Below the author tries to highlight each code's key gender-relevant provisions:

Code on Wages, 2019: This code subsumes the Minimum Wages Act and Equal Remuneration Act. It mandates *equal remuneration for equal work* through Section 3(1), which provides that “no discrimination... on the ground of gender in matters relating to wages” shall be made for the same or similar work¹. This enshrines the longstanding principle from the Equal Remuneration Act (repealed) into the new code, but also removes the ambiguous provision present in the earlier Remuneration Act, which permitted the government to declare pay differences as non-discriminatory if based on factors other than sex, leading to ambiguities and potential exploitation. The new Code also standardises minimum wage coverage across sectors and requires timely payment of wages (beneficial to low-income women).

Industrial Relations Code, 2020: Replacing the Industrial Disputes as well as the Trade Unions Acts, this Code governs trade unions, layoffs, and dispute resolution. It introduces *fixed-term employment*, allowing employers to hire contract workers on fixed terms (who still receive social security and wages). While this can improve flexibility, critics note it may entrench precarious work often taken up by women, i.e., women are often overrepresented in low-productivity and care sectors, and may face higher precarious work risks generally, though Code-specific data is limited². The Code also raises thresholds for applicability (e.g. factories with ≥ 300 workers require government permission for layoffs, potentially preserving jobs).

¹ Section 3(1) of Code on Wages, 2019: There shall be no discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.

² *Why the new labour codes leave India's workers even more precariously poised than before.* (2020). Scroll.in.

The IR Code retains maternity protection during layoffs (workers on leave are not retrenched)³.

Code on Social Security, 2020: A landmark reform for informal workers. It merges nine social security laws and, for the first time, explicitly **recognises gig and platform workers** as a category and establishes a National Social Security Board for them. Sections 113–114 extend social insurance benefits (e.g. provident fund, health, pension) to unorganised, gig, and platform workers. Importantly for women, the Code strengthens *women-centric provisions*: it upholds 26 weeks' maternity leave and mandates crèche facilities, and even mentions work-from-home options for new mothers. Overall, it extends provident fund and insurance coverage to all formal establishments of ≥ 20 workers, and provides for creation of a social security fund to finance benefits (including maternity) for gig and domestic workers⁴.

Occupational Safety, Health & Working Conditions Code, 2020: This code consolidates seven older Acts on safety and welfare. Key women-friendly provisions include the right of *women to work in all establishments and in all shifts, including at night, with consent*, subject to employer-provided transport and safety arrangements⁵. The Code also *requires any establishment with 50+ employees to provide crèche facilities* for children under six, a measure earlier included in the Maternity Benefit Act. It mandates separate toilets for men and women and expands free medical check-ups. These standards aim to create safer and more family-friendly workplaces for women.

The Government announced that **all four Codes will be effective from 21 November 2025**, streamlining enforcement. In advance, many of the codes' provisions, especially labour security and equal pay clauses, were already effectively binding on paper or via early notifications.

IMPACT ON WOMEN WORKERS

Formal Sector Employment

Government data show a marked increase in women's formal employment engagement. Official surveys (PLFS) report that the *Female Labour Force Participation Rate* (FLFPR)

³ Babu, K.V., Kaushik, A. An Analysis of the Provisions of Indian Labour Laws Pertaining to Women and their Implementation. (2024). *Journal of Advances and Scholarly Researches in Allied Education*, 21(4), 176-190.

⁴ The Code on Social Security, 2020. PRS.

⁵ Advisory For Employers to Promote Women Workforce Participation. (2024). Ministry of Labour and Employment

jumped from about 23.3% in 2017–18 to roughly 41.7% in 2023–24⁶. Likewise, female labour force participation (combined weekly status) rose from 21.1% to 35.6% over the same period. These gains partly reflect better educational attainment and policy focus, but also the formal sector reforms making work more accessible⁷. Higher FLFPR indicates more women actively seeking or taking jobs. Formal wage employment of women (e.g. in IT, banking, healthcare) has grown, aided by legal safeguards and incentives.

With the Code on Wages, discrimination in hiring or pay on gender grounds is *flatly prohibited*. Section 3 of the Code states: “There shall be no discrimination... on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature”. This formalizes equal-pay-for-equal-work. In practice, employers must justify any pay gap objectively (e.g., based on seniority or merit, not gender). While true pay parity is still a challenge (women often cluster in lower-paid roles), the law enables women to demand equal remuneration. Several employers have been sensitized (in corporate policies) to close wage gaps.

Moreover, maternity benefits are more secure under the new codes. The Social Security Code specifically preserves the 26-week leave entitlement, and even anticipates flexible work-from home for new mothers. The OSH Code’s crèche mandate (50+ employees) reinforces the 2017 Amendment’s requirement. Accordingly, large factories and firms must have on-site childcare⁸. Public sector enterprises (like railways, banks) now provide extended leave and re-entry rights. However, enforcement remains uneven: small businesses with fewer than 50 workers are exempt from crèches, so working mothers there rely on external childcare. Further, while formal laws protect pregnant women from dismissal, contracts often make maternity benefits contingent on tenure. The new codes’ broad definitions (e.g. covering fixed-term employees) may improve this coverage in future.

Nowadays, formal workplaces have stronger safety norms. The OSH Code mandates gender segregated toilets and canteens, and (for the first time) officially recognizes women’s night work, provided employers ensure safe transport and lighting. This could expand women’s job

⁶ Reply to Rajya Sabha starred question no. *40 due for reply on 28.11.2024 by Dr. Kanimozhi regarding “employment status of women in the country” by Union Minister Dr. Mansukh Mandaviya.

⁷ Press note on Periodic Labour Force Survey (PLFS) Annual Report [July 2023 – June 2024]. (2024). Ministry of Statistics and Programme Implementation.

⁸ New Labour Codes Empower Women with Greater Safety, Equality, and Workplace Flexibility. (2025). Press Information Bureau.

opportunities in shifts or remote locations. Sexual harassment protection has also seen reaffirmation: the POSH Act applies to all formal employers with 10+ workers, requiring internal committees. Women have increasingly filed complaints, and courts have held organizations to account. For example, courts have ruled that no statutory limitation can bar survivors from relief under the POSH law, emphasizing employers' duty to maintain safe workplaces. Nevertheless, some recent case law highlights limits: in 2025 the Supreme Court *refused* to extend POSH to women in voluntary political party roles, ruling that party membership was not "employment"⁹.

Beyond the legal prohibition on gender – pay discrimination, India has yet to institute mandatory pay-gap reporting as some countries have. However, select industries (e.g. tech firms) are moving towards pay transparency. The Codes provide the remedy of complaint to labour authorities if a woman is paid less for comparable work. Judicially, India has few recent gender-pay cases, so the Code's enforcement mechanism will shape outcomes.

Informal Sector Employment

According to the OECD, employees are regarded to have informal jobs if their working relationship is not subject to national labour regulation, income taxation, social protection, or entitlement to specific employment benefits. While the informal sector accounts for about half of the country's GDP, it also employs more than 90% of the workers. According to the e-Shram portal, more than 94% of informal sector workers enrolled on the platform make less than Rs 10,000 per month. Agriculture has first place, accounting for 52.11% of all enrolments, followed by domestic and home staff and construction workers. Only around half of persons who work for a pay continue to get social security benefits¹⁰.

In 2007, UNICEF reported that women make up 91% of the unorganised sector, labour 66% of the time, produce 50% of global food, yet only earn 10% of income and own 1% of property¹¹. Over 90% of India's female workers are in the unorganised sector (rural agriculture, urban domestic work, home-based manufacturing, street vending, etc.). These workers lack

⁹ "Supreme Court Declines Plea to Bring Political Parties Under POSH Act." The Economic Times, September 16, 2025.

¹⁰ "India's War on Informal Labour Is Turning Out Bad for Workers | Mint." 2023. Mint. October 18, 2023.

¹¹ Rajeshkumar, R & Rajendran, R. (2014). Problem and Perspective of Unorganised Women Workers in India. *Economic and Business Review*. 2(2), 83-88.

formal contracts and many conventional labour protections¹². Thus, labour law reforms reach only indirectly into this realm. Historically, laws like the Payment of Wages Act or Factories Act did not cover domestic workers, informal apprentices, or home-based piece workers.

According to the *International Labour Organisation (ILO) Convention No. 189 on Domestic Work (2011)*, domestic workers are defined as “any person engaged in domestic work within an employment relationship.” Moreover, according to the ILO, domestic employment is a kind of “modern slavery” in which workers, including adolescents, are subjected to abuse, exploitation, forced labour, and trafficking¹³. According to 2019 official estimates, women account for the vast majority of domestic workers in India, with 26 lakhs out of 39 lakhs¹⁴. These women earn less than the minimum wage and do not have legal contracts. They frequently labour long hours without breaks or overtime pay. Workers are subjected to physical and emotional abuse, including beatings, terrible working conditions, sexual harassment, forced labour, and human trafficking, particularly youngsters from disadvantaged areas¹⁵.

In 2021, a survey titled, “Changed Awareness of PoSH in the Workplace” was conducted by Stratifix Consulting, in collaboration with the National Human Resource Development (NHRD). The outcome of this survey was astounding, given the numbers were shocking. Only 8% of respondents were aware of the PoSH policy before 2021, and 11% stated they would quit the company rather than opt to report sexual harassment. While this survey was restricted to the organised sectors, one can make an assumption that if the women working in the organised sectors are not aware of the protections that they have, we can assume that the situation would be even worse for the women working in the unorganised sectors.

The Social Security Code tries to cover these women as “wage workers in unorganised sector”, but there is no obligation on household employers. The Code allows the states to frame welfare funds for such workers; for example, Karnataka, Kerala, Andhra Pradesh, Tamil Nadu, Bihar, and Rajasthan have enacted domestic worker welfare laws¹⁶.

¹² Goel, Geetika & Singh, Tripti & Gupta, Anvita. (2011). Women Working in Informal Sector in India: A saga of Lopsided Utilization of Human Capital.

¹³ Forced labour, modern slavery and trafficking in persons. (2025, December 16). International Labour Organization.

¹⁴ Getting serious about supporting the care economy. (2024, January 29). International Labour Organization.

¹⁵ Armacost, N. C., & Armacost, N. C. (1994). DOMESTIC WORKERS IN INDIA: A CASE FOR LEGISLATIVE ACTION. *Journal of the Indian Law Institute*, 36(1), 53–63.

<http://www.jstor.org/stable/43951513>

¹⁶ Madhav, R. *Legal recognition of domestic work*. (n.d.). Labour File. Vol. 8, Issue No. 3

The Domestic Workers (Conditions of Employment) Bill of 1959 and the Domestic Workers (Regulation of Work and Social Security) Bill of 2017 were two of several attempts to enact a Central law protecting domestic workers. In 2019, the government introduced the National Domestic Worker Policy sought to protect workers' rights, such as pay, benefits, and social security, and to regulate agencies. None of these proposed laws, however, were passed.

Female labourers in agriculture (one of the largest female workforces) are not covered by central labour laws except for the Unorganised Workers Act (2008, limited scope) or any state-specific laws.¹⁷ The Codes do not change this (as agriculture is mostly a state subject). However, women benefit indirectly from schemes like MGNREGA (which guarantees 100 days rural work) and public works, though MGNREGA is an employment guarantee program, not a labour law.

Many women work via agencies or platforms (e.g. call centres, home delivery). The new Codes increase oversight: the OSH Code places ultimate responsibility on principal employers to ensure contract workers' wages and welfare. The most significant change is the first-time recognition of gig and platform workers under labour law. Sections 113–114 of the Social Security Code oblige government bodies to register gig workers (like app-based drivers or delivery persons) and extend statutory welfare schemes to them. In December 2024, the Supreme Court highlighted how gig economy contracts often evade basic labour rights (in a case involving long-term sweepers hired as “temporary” workers). Women gig workers - though a smaller percentage overall, now have a legal identity as workers, entitling them to potential social security (though actual regulations are pending).

Unlike formal jobs, informal wages have no statutory floors except minimum wages in some sectors. Women often earn below male peers, especially in agriculture or piece work. The Codes' equal-wage mandate technically applies to all employers, but enforcement among informal micro-enterprises is weak. Nonetheless, some progress is evident: the growth of rural self-help groups and microfinance has increased women's independent incomes, albeit modestly.

MATERNITY BENEFITS AND CHILDCARE PROVISIONS

Paid maternity leave and childcare are essential for sustaining women's participation in the

¹⁷ Women and Work. Ministry of Labour and Employment. Annual Report.

workforce. India's Maternity Benefit (Amendment) Act, 2017 significantly expanded these protections. It increased paid maternity leave to 26 weeks for the first two children (12 weeks thereafter) for women in the formal sector, and extended 12 weeks' leave to adoptive and commissioning mothers. These benefits apply broadly, including to contract workers, and many employers have aligned their policies accordingly. But does it apply to the women working in unorganised sectors, that's a question that isn't really answered yet.

The Act also made crèche facilities mandatory in establishments with 50 or more employees, allowing mothers four daily visits, addressing childcare as a major workplace barrier. Additionally, it introduced the option for work-from-home or flexible arrangements after maternity leave, where feasible—an idea further normalized after COVID-19.

Despite these advances, coverage gaps remain. Smaller workplaces are exempt from crèche requirements, and most women in the unorganised sector lack statutory paid maternity benefits. While the Social Security Code proposes broader maternity schemes, implementation is still limited.

WORKPLACE SAFETY AND ANTI-HARASSMENT PROTECTIONS

India's legal framework provides layered protection for women's safety at work. The POSH Act, 2013, mandates an Internal Complaints Committee in every workplace with 10 or more employees, covering regular, contractual staff and interns, and enabling women to seek redress against sexual harassment. Courts have strengthened enforcement, though some gaps remain, as certain voluntary or political roles fall outside its scope.

The Occupational Safety, Health and Working Conditions (OSH) Code improves physical safety by allowing women to work at night with mandatory security, transport, and adequate facilities such as separate toilets, canteens, and health clinics. This expands employment opportunities while safeguarding well-being. It is designed to be gender-progressive and improves physical safety by allowing women to work night shifts (typically between 7 PM and 6 AM), provided they give their explicit consent and employers ensure specific safeguards.

On occupational safety, the Code standardizes safety norms across sectors, introduces audits, and modernizes inspection systems to improve compliance and reduce corruption.

Finally, enforcement mechanisms have been strengthened through higher penalties, social

security boards, and worker databases, aiming for more consistent implementation of women-friendly workplace protections.

GIG ECONOMY AND PLATFORM WORKERS

The meteoric rise of app-based work (ride-hailing, delivery, freelancing) has raised new gender issues. Women make up a notable minority of gig workers (due to safety, mobility concerns), but their presence is growing in fields like delivery and customer support.

Crucially, the new Social Security Code formally defines *gig workers* and *platform workers* and mandates their inclusion in welfare schemes. This was absent before. It means, for example, that a female food-delivery rider or an Uber driver (once registered) is entitled to benefits like maternity cover and insurance, funded by contributions from aggregators and the social security fund. Central government schemes (like a special ESIC benefit for app workers) have been proposed. In December 2024, in the case of *Jaggo v. Union of India*, the Supreme Court of India strongly criticized the exploitative nature of long-term temporary employment contracts in the public sector and likened the practice to the precarious arrangements seen in the gig economy. While that case concerned municipal workers, the Court explicitly remarked on the “precarious employment arrangements” typical of the gig economy. It underscored that law and courts must “look beyond surface labels and consider the realities of employment”. Though not a direct gig-case, the judgment signals judicial awareness of gig risks (no job security, no benefits). It paves the way for arguments that genuine gig roles should qualify as “workers” under labour laws.

With legal recognition, women in app-based jobs now have a framework to claim rights. For example, a female Uber driver can expect maternity benefits under the forthcoming gig schemes, whereas previously none existed. Some app companies have faced pressure (and litigation) to improve protections: in one publicized Delhi case, Uber India agreed to strict safety norms for female drivers after a court invalidated its partial ban on women driving at night (deemed discriminatory)¹⁸. The combination of law and activism is incrementally improving gig work conditions for women.

¹⁸ SinhaChaudhury, K. (2024, December 2). Uber rider safety in India enhanced with focus on women. AckoDrive. <https://ackodrive.com/news/uber-rider-safety-in-india-enhanced-with-focus-on-women/> ¹⁹ Code on Wages, 2019, §3 (India) (prohibiting wage discrimination on the basis of gender)

WAGE PARITY AND LABOUR STATISTICS

No specific new law mandates gender pay auditing, but the Code on Wages (2019) reaffirms the core principle of equal pay for equal work¹⁹. Enforcement relies on complaint mechanisms rather than proactive disclosure. According to labour surveys, women's average wages remain lower than men's (reflecting concentration in lower-paying jobs and part-time roles). However, the rising FLFPR suggests women are moving into a broader range of occupations. The law now clearly authorizes a claim in Labour Courts if women face discriminatory pay.

Government surveys highlight positive trends. As noted, the female Worker Population Ratio (WPR, measure of actual employment) nearly doubled from 22% (2017–18) to 40.3% (2023–24)¹⁹. This leap is unprecedented. Urban women's FLFPR has also grown, and unemployment among women has fallen (from 5.6% to 3.2%)²⁰. These shifts reflect both pandemic recovery and structural changes in the economy. Labour ministry analysis explicitly credits these gains to better education and to reforms such as skill development and labour law consolidation. Nevertheless, women's overall workforce share (compared to men) remains low. The data suggest that while more women are working or looking for work, many are still in low productivity or informal jobs. Ensuring that these jobs become decent and protected is thus a key policy challenge.

CONCLUSION

Between 2020 and 2025, India's labour law framework has evolved to become more inclusive of women workers' needs. The consolidation into four labour codes has explicitly entrenched gender equality at work: *equal pay* is now a statutory guarantee, social security covers maternity and unorganised workers (including gig and platform workers), and workplace norms (safe night work, child-care) promote women's full participation. Official labour force data show encouraging trends: female participation rates have surged, and unemployment among women has declined.

Recent court decisions affirm these protections (e.g. by invalidating exploitative "temporary" contracts) even as they highlight unresolved issues (for instance, excluding political workers

¹⁹ Government of India, Ministry of Statistics and Programme Implementation – PLFS Annual Report 2023–24 (New Delhi, Sept. 2024) (showing female LFPR rising from 21.1% in 2017–18 to 35.6% in 2023–24)

²⁰ Government of India, Ministry of Statistics and Programme Implementation – PLFS Annual Report 2023–24 (New Delhi, Sept. 2024) (showing female LFPR rising from 21.1% in 2017–18 to 35.6% in 2023–24)

from harassment laws).

Nevertheless, translating legal reforms into lived equality will require vigorous enforcement and complementary social policy. Large numbers of women remain in informal or remote work where awareness of rights is low. The government must ensure that social security schemes reach village women, migrant labourers, and domestic workers. Labour departments and courts must take the lead in redressing gender-based grievances. Only then can the ambitious promises of the new labour laws – of equitable pay, safe workplaces, and security for all women workers – be fully realized. In sum, India's recent labour law reforms mark a significant step toward gender-inclusive employment, but their ultimate success depends on implementation, social support systems, and continued judicial and civil-society vigilance.