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# GENDER JUSTICE AT WORK: EVALUATING LEGAL SAFEGUARDS FOR WOMEN WORKERS UNDER INDIA'S NEW LABOUR CODES

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Aazima Mohu-din, Research Scholar, University of Kashmir.<sup>1</sup>

Dr. Aneeda Jan, Assistant Professor, Department of Lifelong Learning, University of Kashmir<sup>2</sup>

## ABSTRACT

In India's dynamic socioeconomic climate, labor law reform is essential because workers, one of the most vulnerable groups in society, need strong legal protections against exploitation. In order to rationalize India's complicated labor system, 29 central labor laws were consolidated into four comprehensive labor codes between 2019 and 2020. These codes—the Social Security Code, the Occupational Safety, Health, and Working Conditions Code, the Industrial Relations Code, and the Code on Wages—strive to improve wage and social security, streamline compliance, and bring labor laws into line with changing workplace dynamics, technological advancements, and Globalisation. The improved safeguards for women workers, who have historically been neglected as a result of structural gender inequities, are a crucial aspect of these reforms. Equal pay, maternity benefits, childcare facilities, flexible work-from-home options, rights against termination during pregnancy, and the ability to work night shifts with permission and in a safe environment are just a few of the protections that the codes introduce. These actions demonstrate India's dedication to promoting gender-inclusive economic growth and are based on constitutional guarantees of equality and justice. Strengthening workplace rights is essential to enabling women to realize their full potential as catalysts for national development, as the female labor force participation rate in India is still low at 29.4% (2021–2022).

In this study, the unification of labor laws is critically examined, the clauses pertaining to women workers are highlighted, and their potential to promote workplace equality is assessed. Effective enforcement and a shift in mindset are still necessary to fulfil the revolutionary potential of the new regulations, even though they represent a forward step toward harmonizing worker laws.

**Keywords:** Labour laws, Women workers, Protection, gender equality, work places.

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<sup>1</sup> Research Scholar, University of Kashmir.

<sup>2</sup> Assistant Professor, Department of Lifelong Learning, University of Kashmir.

## 1. INTRODUCTION

Workers as one of the vulnerable segments of the society, require constant legal protection to prevent exploitation at the hands of the employers. It is widely acknowledged that laws and institutions must evolve alongside the progress of human consciousness and adapt the dynamic nature of the present era. In order to maintain their efficacy, laws should continually advance and align with the changing times.<sup>3</sup> This principle applies equally to all existing laws, including those pertaining to labor. The same principle was maintained by the government while legislating and culminating into 04 labor codes dealing with diverse aspects. The multiplicity of Labour Laws has resulted in various ambiguities which forced the legislators to pass these four codes. A total number of 29 laws were repealed and consolidated into four Labour Codes. The Codes are not just the amalgamation of the previous labor laws but significant changes have also been made in the codes in order to fit in the present economic conditions. Various safeguards and protection to women workers stand also reflected in these codes. History stands witness to this fact that women are at disadvantaged positions because of age old disparities against this half of the population of the world.

The role of women in the economic growth has been a topic of significant debate in recent years. The female labor force participation is a driver for growth of economy and their participation number indicates a country's potential to grow more rapidly. The current rate of Female Labour Force participation is 29.4% between the age group of 15-59 years in the year 2021-22.<sup>4</sup> Despite the advancements in gender equality and women's rights, they still face major challenge at workplaces.

The Second National Labor Commission realized the need for the rationalization of labor laws keeping in context the trade liberalization, globalization, increased competition, technological advancements and its impacts on the work and employer employee relationships.<sup>5</sup> The commission also recognized the need for special provisions for women workers along with workplace protection as well as welfare. The process of codifications of laws into four codes is only to simplify the labour legislations and bring in line with the changing scenarios of the

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<sup>3</sup> Jan Aneeda: Surrogacy: Legal Aspects & Flaws, BioGecko, A journal for New Zealand Herpetology, vol.12, 2023 PP. 2192-2196.

<sup>4</sup> <https://thewire.in/women/women-labour-force-india-growth>, accessed on 25<sup>th</sup> May, 2023.

<sup>5</sup>The Report of Second National Commission on Labour was submitted in 2002, <https://www.prsindia.org/uploads/media/1237548159/NLCII-report.pdf>.

world's advanced work culture and technological developments.

The codes are result of revolutionary step taken to remove the tangled web of legislations governing the labors. There are more than 100 labor legislations passed over years since the nation got independent in 1947. Labor codes have been passed to bring in line the existing 144 labour legislations. The main objective of the codes is to encompass over 500 million organized and unorganized sector workers, the 90% of which were outside the shadow of labour laws. The idea behind the codes is to ensure wage security, social security, health security and gender equality.

The inclusion of the women and interstate migrant workers has brought limelight to the code as they have been lacking the protection under labour laws. The women constitute the 50% of India's population so to develop the economy of the nation the women of the nation has to come front. They can participate in development of economy of nation only when they feel the security and safety at the work places.

*"Human rights are women's rights and women's rights are human rights, once and for all."*

*- Hillary Clinton.*

## **2. CONSTITUTIONAL SAFEGUARDS FOR WOMEN WORKERS: ENSURING EQUAL RIGHTS AND PROTECTIONS**

The preamble of the constitution of India envisages equal rights for both women and men in every sphere of life. It clearly mandates to give social, economic and political justice to every citizen of the nation. The preamble mandates equal rights and opportunities irrespective of the gender in effectively taking part in the administrative functions of the country.

The fundamental rights provided under the part third of the Indian constitution gives women and men equality before law and equal protection of laws. The article mandates that the states shall not deny equality before law and equal protection of laws within the territory of India.<sup>6</sup> Equality before laws means that all persons irrespective of gender, race, religion, caste, place of birth shall be treated equally before the laws. Equal protection of laws means that the citizens

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<sup>6</sup>The Constitution of India, art. 14.

of India shall be treated equally and the state can't deny the equal protection of laws. The state has been prohibited from discriminating on the grounds of sex, religion, race, caste, place of birth.<sup>7</sup> It further directs the state to create special provisions for protections the interests of women and children. The state provides for citizens of India equality of opportunity in matters of employment or appointment to any office under the state.<sup>8</sup> The constitution mandates equality in all aspects, no gender-based discrimination.

The state has been directed to frame its policies under Part IV of the Indian constitution and directs state to create policies towards securing for men and women equally the right to an adequate means of livelihood<sup>9</sup> and equal pay for equal work for both men and women.<sup>10</sup> The state has been directed to promote justice, on the basis of opportunity and to promote free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

### 3. UNVEILING THE NEW LABOR CODES: A BRIEF INSIGHT

The new labor codes are the result of the recommendations suggested by the National Labour 2002. The below sections give the detailed analysis of the four labour codes passed by the parliament of India in 2019 and 2020 respectively. It is important to discuss the changes which are set out in the codes as they are going to have serious impact on the labour sector of the economy.

#### a) The Wage Code, 2019 (Wage Code)

The Payment of Wages Act of 1936, the Minimum Wages Act of 1948, the Payment of Bonus Act of 1965, and the Equal Remuneration Act of 1976 have all been superseded by The Wage Code of 2019. The president gave his approval to this code on August 8, 2019. The code establishes a global minimum wage for both the organized and unorganized sectors. This code includes a novel idea of "floor wages," and it is required of the employer that the minimum pay never fall below the floor wage. The code forbids discrimination on the basis of gender in hiring new employees and setting wages. The law was passed in order to reduce the multiplicity of

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<sup>7</sup>*Id.*, art. 15.

<sup>8</sup>*Id.*, art. 16.

<sup>9</sup>*Id.*, art. 39 A.

<sup>10</sup>*Id.*, art. 39 d.

authorities and definitions, as well as to keep up with technological and economic improvements. The code is divided into 09 chapters and 69 parts.

### **Highlights of the Code**

- The wage code provides a uniform definition of “wages”, thus streamlining the multiple issues involved in it. Wages include salary, allowance and other monetary component paid to a person in respect of his employment, but it doesn’t include bonus or any other allowances like travelling allowance, provident fund contribution, house rent allowance, gratuity, retrenchment compensation paid to the employees.
- The wage code provides a concept of Floor wages which is fixed by the central government while considering the living standards of the workers. The state governments are bound to fix the minimum wages keeping the floor wage a ceiling beyond which the governments go while fixing the minimum wages. The existing higher wages must be above the floor wages.
- The wage code bounds the employers to employ people not below the minimum wages. The governments must take into account the difficulty level and the skill of the work involved while fixing the minimum wages for employees. These minimum wages are to be reviewed by the governments after every five years.
- The wage code provides that the payment of wages are coins, currency notes, crediting in the account, electronic mode. And the wages so fixed by the employer are to be paid daily, weekly, fortnightly or monthly.
- The wage code provides deductions on the salaries, made by the employers shall be purely on the certain grounds which includes fines, absence from the duty, accommodation given by the employer, recovery of advances. These deductions shall not exceed 50% of the total wages of employee.

### **b) The Industrial Relations Code, 2020 (IR Code)**

This code was passed in order to update the rules governing industrial conflicts, union recognition, working conditions in industrial facilities, the employer-employee relationship, and the resolution of business disputes. Its primary goal is to harmonize the laws governing labor unions, working conditions, employer-employee interactions, and workplace conflicts.

The Trade Unions Act of 1926, the Industrial Employment (Standing Orders) Act of 1946, and the Industrial Disputes Act of 1947 have been consolidated and made simpler by the industrial relations code of 2020. On September 1, 2020, the President gave his approval to the code. There are 14 chapters, 104 sections, and three schedules in the 2020 Industrial Relations Code.

### **Highlights of the Code**

- The IR code provides a specific deadline for completing the disciplinary actions. The code has provided a 90-day deadline for concluding internal investigations of misconduct.
- The standing orders must be related to the subjects mentioned in the schedule of the code and they must be used by the industrial plants with 300 or more employees. These subjects relate to; (I) how employees are classified (II) how the employees should be notified about the working time, breaks, pay cheques and pay rates (III) How to terminate an employee (IV) how grievances can be lodged.
- The IR code enables the employers to hire workers for a fixed period called as Fixed Term Contracts. The employees of the fixed term contracts are called as fixed term employees and their employment is limited for a particular time period.
- The IR Code has increased the limit of employees to 300 in order to develop the code of conduct who work in industries. In earlier laws the establishments with 100 employees are required to comply with the code of conduct.
- The IR code demands establishments of 2 tribunals with important cases to be decided jointly and the least important matters to be decided by single member.

### **c) The Occupational Safety, Health And Working Conditions Code, 2020 (OSH Code)**

This code is the result of the amalgamation of 13 existing labour laws which after the enactment of this code has been repealed. The laws are as: *the Factories Act, 1948; the Mines Act, 1952 and the Contract Labour (Regulation and Abolition) Act, 1970, The Plantations Labour Act, 1951; The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955; The Working Journalists (Fixation of Rates of Wages) Act, 1958; The Motor Transport Workers Act, 1961; The Beedi and Cigar Workers (Conditions of Employment) Act, 1966; The Sales Promotion Employees (Conditions of Service) Act, 1976;*

*The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981; The Dock Workers (Safety, Health and Welfare) Act, 1986; The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.* The code has brought down 622 sections from previous laws to 134 sections with an aim to cover the scenarios pertaining to healthy, safety and working conditions of the workers with the easier and simplified compliances.

The code applies to all establishments, as the previous laws lacked the uniform definition of establishments, the code has come up with a uniform definition of the establishment. The code does not apply to state governments and central governments but it is applicable to the contract labors employed through contractors in the offices where central government and state government are principal employers. The main aim of the code is to provide a safe and healthy environment at work places.

### **Highlights of the Code**

- The code ensures that the workplace must be free from any dangers that could endanger the health of the workers and any sort of danger should be sorted responsibly by the employer. The workers who are impaired cannot be employed in the construction sector.
- The code demands that employers have to necessarily hold medical camps annually and the employees must have annual medical checkups.
- The code mandates designation of Inspector-cum-Facilitators by the appropriate Government who have to exercise their powers under their respective jurisdictions and further carry out web-based inspections and call of the information under this code.
- The code mandates creation of a National Occupational Safety and Health Advisory Board (“National Advisory Board”), by the Central Government which shall have the authority to provide necessary advices to the Central Government.
- The code provides that the employer must establish and maintain employee welfare programmes as may be required by the Central Government.

#### d) The Social Security Code, 2020 (SS Code)

The Social Security Code, 2020 is the result of the amalgamation of the following labor laws, The Employees' Compensation Act, 1923; The Employees' State Insurance Act, 1948; The Employees Provident Fund and Miscellaneous Provisions Act, 1952; The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; The Maternity Benefit Act, 1961; The Payment of Gratuity Act, 1972; The Cine Workers Welfare Fund Act, 1981; The Building and Other Construction Workers Welfare Cess Act, 1996; The Unorganised Workers Social Security Act, 2008. The code has received the assent of the president on September 28, 2020.

Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner.<sup>11</sup> The code defines social security as *“the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code”*.<sup>12</sup>

#### Highlights of the Code

- The Code provides a comprehensive definition of "employee" that covers both contract employees and people in management, administrative, and supervisory roles. The code further aims to safeguard the employees. The code has drawn certain distinctions which are based on employee's schedule of employment and/or wage ceiling in order to assess the eligibility of employees for social security benefits.
- The code has broadened the term “inter-state migrant workers to include people who relocate from one state to other state in order to be hired by a company in a destination State and who may have a significant impact on the organization there thanks to a contract or other employee arrangement. For these people the monthly wage ceiling must be Rs.18000/-.

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<sup>11</sup> International Labour Standards on Social security.

<sup>12</sup>The Code on Social Security, 2020 (No. 36 of 2020), s. 2 (78).

- The code replaces employment transactions with career centers which provides career counselling through enrolling of employers, job seekers and the collection and transmission of employment specific data in addition to career guidance, vocational guidance and assistance with setting new business opportunities.
- The code provides for graded penalties some of which are compensatory in nature. The imprisonment for violation can go for a maximum one year for first conviction and three years for subsequent violation and the maximum penalty can go from Rs. 1, 00,000/- for some offenses and Rs. 3,00,000/- for a subsequent violation.
- The code further provides that the salary would be composed of 50% basic wages and 50% allowances, so in order to compute the provident fund a percentage of both basic pay and dearness allowance (together makes basic wage) must be used.

#### **4. UNVEILING WOMEN WORKER PROTECTIONS IN THE NEW LABOUR CODES**

The women workers have been the special limelight of the code as they were lacking special protection in the previous labour laws. Despite having number of labours legislations, the women workers feared to come forefront. These legislations lacked the protection and welfare mechanism for women workers. On the basis of the above codes the author has come up with the following protections especially given to the women workers under the new labour codes of 2019 and 2020 respectively.

- The Code mandates that female employees must receive wages that are equivalent to that of male employees. The employer is not allowed to make sex-based wage distribution distinctions. Both genders are eligible for equal wages in matters of equal employment.<sup>13</sup>
- Similar terms and circumstances are provided for in regards of hiring employees by the Code on Wages, 2019. When hiring new employees for the same or similar types of work, the employer is not allowed to discriminate on the basis of gender. In accordance with the Code, employers are prohibited from discriminating against employees who perform the same job or

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<sup>13</sup> The Code on Wages, 2019 (No. 29 of 2019), s. 3.

similar work based on their gender.<sup>14</sup>

- The women workers are given maternity leave for a period of six weeks from delivery of child, miscarriage or termination of her pregnancy. If she chooses to work the employer is bound not to give her difficult work which would be difficult to do or exhausting. The maximum period of maternity leave available to women workers is 26 weeks if she has no surviving children, if surviving children then only 12 weeks of leave with pay.
- If a woman worker dies during her period of maternity leave she shall be entitled to the maternity benefit till the date of her death. However if she dies and leaves behind a child then maternity benefit will be available for the full period.
- If a work done by a woman worker can be done on “Work from Home” basis then even after the expiration of her maternity leave she can ask her employer for “Work from Home” basis.<sup>15</sup>
- The employer is bound to pay a sum of Rs. 3500/- as medical bonus to the woman worker in case no prenatal confinement or post-natal care is provided by the employer.<sup>16</sup>
- Once a woman worker joins back the workplace after delivery, she is entitled to two breaks for nursing the child until the child reaches the age of one and a half year old.
- Where a woman worker undergoes a tubectomy operation she is entitled to two weeks leave after operation.<sup>17</sup>
- Any illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy entitles a woman to additional one month leave with wages.<sup>18</sup>
- A woman can't be dismissed from the work or given a notice of dismissal during the maternity leave period.<sup>19</sup>
- The code mandates that the maternity benefit is to pay in advance and within 48 hours after the

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<sup>14</sup> *Id.*, s. 3(2)(ii).

<sup>15</sup> The Social Security Code, 2020 (No. 36 of 2020), s. 60 (5).

<sup>16</sup> *Id.*, s. 64.

<sup>17</sup> *Id.*, s. 65(2).

<sup>18</sup> *Id.*, s. 65 (3).

<sup>19</sup> *Id.*, s. 68.

production of proof of delivery.

- The code provides maternity benefit to the adopting mothers as well, for a period of 12 weeks after the receiving the child in adoption.<sup>20</sup>
- All the establishments that have 50 or more employees are mandated to prescribe crèche facilities to the workers within prescribed limits and the woman employees are allowed to four visits a day.<sup>21</sup>
- The Code prescribes a disablement benefit to all the employees of establishments where there are 10 or more than 10 employees. If during the course of employment the worker contracts any disease or any accident occurs the employees are entitled to compensation.<sup>22</sup>
- A benefit is prescribed for the dependents called as dependent benefit which is applicable to the establishments employing 10 or more than 10 employees. This benefit is given to the surviving family members of the employees who has died due an injury occurred during the course of employment.<sup>23</sup>
- The Code provides for the establishment of adequate and separate washing facilities for both men and women workers.<sup>24</sup>
- The Code provides for the women workers to work beyond 7 pm and before 6 am with her consent and the employer's responsibility to comply with the safety, and working hours prescribed by the government. The code further prohibits the employment of women in some operations which are dangerous to the health and safety of women workers.<sup>25</sup>

## CONCLUSION

This research paper has examined India's new labour law framework through the lens of gender justice. By situating the reforms within the broader constitutional mandate of equality and social justice, and by analysing the consolidation of 29 central labour laws into the **Code on**

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<sup>20</sup>*Id.*, s.60 (4).

<sup>21</sup>*Id.*, s. 67.

<sup>22</sup>*Id.*, s. 74.

<sup>23</sup>*Id.*, s. 81.

<sup>24</sup>The Occupational, Safety Health Working Conditions Code, 2020 (No. 37 of 2020), s. 24.

<sup>25</sup> *Id.*, s. 43.

**Wages, 2019, the Industrial Relations Code, 2020, the Occupational Safety, Health and Working Conditions Code, 2020, and the Code on Social Security, 2020**, the study highlights both the transformative promise and the practical limitations of the new legal regime for women workers in India.

The theme of this research has been the credit that women workers, historically disadvantaged due to structural and socio-cultural inequalities, require both formal equality and substantive protection. The constitutional framework—through guarantees of equality before law, non-discrimination, equal opportunity in public employment, and directive principles such as equal pay for equal work—forms the normative foundation upon which these labour codes are constructed. The reforms therefore cannot be viewed in isolation; they are part of India's broader commitment to social, economic, and gender justice.

The analysis of the provisions relating to women workers reveals several progressive developments. The Wage Code reinforces the principle of equal remuneration and prohibits gender-based discrimination in recruitment and wage fixation. The Social Security Code consolidates and strengthens maternity benefits, ensures protection against dismissal during pregnancy, extends benefits to adopting mothers, provides nursing breaks, medical bonuses, crèche facilities, disablement benefits, and dependent benefits. The Occupational Safety, Health and Working Conditions Code introduces uniform safety standards, mandates separate facilities for women, and allows women to work night shifts subject to consent and safety safeguards—thus balancing protection with opportunity. Collectively, these provisions reflect a shift from paternalistic restrictions toward empowerment-oriented protections that seek to integrate women more fully into the formal workforce.

Importantly, the codes recognize that gender equality at the workplace is not only a matter of non-discrimination but also of enabling conditions—such as maternity protection, childcare support, safe working environments, and social security coverage. By addressing these aspects, the reforms aim to reduce the structural barriers that have historically contributed to India's low female labour force participation rate. In this sense, the labour codes align economic policy with inclusive development and acknowledge women as equal contributors to national growth.

Moreover, the research recognizes that legislation alone cannot dismantle deep-rooted gender biases. Workplace discrimination is often sustained by societal attitudes, unequal distribution of unpaid care work, limited access to skill development, and systemic barriers to leadership

roles. The labour codes, though progressive in text, do not fully address these socio-cultural dimensions. Therefore, achieving substantive gender equality demands complementary measures such as awareness campaigns, employer sensitization, investment in childcare infrastructure, and effective grievance redressal systems.

In essence, the new labour codes represent a significant milestone in India's journey toward harmonizing labour regulation with contemporary economic realities while attempting to uphold gender justice. They reflect a conscious effort to move beyond fragmented legislation and to create a more inclusive, simplified, and comprehensive framework. For women workers, the reforms provide strengthened legal recognition, enhanced maternity and social security benefits, protection against wage discrimination, and improved safety standards.

Yet, the main success of these reforms will depend not on the intention of legislature but on rigorous implementation, and continuous review. The promise of gender justice at work can only be realized when legal safeguards translate into lived realities—when women feel secure, valued, and empowered within the workplace.

Therefore, this study concludes that India's new labour codes mark a progressive and necessary step toward gender-inclusive labour governance. However, they must be supported by effective enforcement mechanisms, institutional accountability, and broader socio-economic reforms to truly fulfil their transformative potential. Only then can the vision of equality enshrined in the Constitution evolve from a normative ideal into a practical reality for millions of women workers across the nation.