

WOMEN'S WORKPLACE RIGHTS UNDER THE NEW LABOUR CODES: PROGRESS AND CHALLENGES

by

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ABSTRACT

India's consolidation of twenty-nine central labour enactments into four Labour Codes, brought into force on 21 November 2025, is the most extensive restructuring of Indian labour law since Independence. This article examines whether the Codes advance women's workplace rights or merely redistribute regulatory responsibility. Using a doctrinal methodology supported by secondary data, it compares the earlier regime with the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020, and the Occupational Safety, Health and Working Conditions Code, 2020 across five dimensions: equal remuneration and non-discrimination, working hours and night work, maternity and childcare, representation and grievance redress, and coverage and enforcement. The findings show real progress: a statutory bar on gender discrimination in wages and recruitment, consent-based access to night work and all categories of employment, a continued maternity and crèche framework, and women's representation in grievance committees. The study also identifies structural challenges: heavy reliance on delegated rules that vary across States, threshold-based coverage that excludes small establishments, a shift towards facilitator-led compliance that may dilute enforcement, the uncertain position of domestic, home-based and platform workers, limited attention to unpaid care work, and the absence of a statutory link to ILO Convention No. 190. The article concludes that the Codes' promise will be realised only through rights-oriented rules, credible enforcement and wider coverage, and offers specific recommendations.

Keywords: Labour Codes; women workers; equal remuneration; night work; maternity benefit; sexual harassment; gender equality.

I. INTRODUCTION

A. Background

On 21 November 2025, the Government of India brought into force the four Labour Codes: the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code).¹ Together they subsume twenty-nine earlier central labour enactments.² Final central rules under all four Codes were notified on 8 May 2026.³ The Government has presented the reform as one that creates an inclusive, safe and enabling environment for women, pointing to provisions on equality, maternity benefits, workplace safety and representation in decision-making bodies.⁴

The stakes are considerable. According to the Periodic Labour Force Survey for 2022–23, female labour force participation in India was about 37 per cent, against 78.5 per cent for men.⁵ Women also bear a disproportionate share of unpaid domestic work; the 2019 Time Use Survey recorded that women spend roughly three times as many minutes each day on unpaid domestic services as men.⁶ Whether labour law enables women to enter, remain and progress in paid work is therefore a question of economic as well as constitutional significance.

The constitutional foundation is firm. Articles 14, 15 and 16 guarantee equality and non-discrimination, while Article 39(d) directs the State towards equal pay for equal work.⁷ The Supreme Court has read equal pay into the guarantee of equality,⁸ struck down service rules that penalised pregnancy,⁹ and, in the absence of legislation, laid down binding guidelines against

¹ Code on Wages, 2019, No. 29 of 2019, India Code (2019); Industrial Relations Code, 2020, No. 35 of 2020, India Code (2020); Code on Social Security, 2020, No. 36 of 2020, India Code (2020); Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, India Code (2020).

² KPMG India, Flash News: GOI Notifies Implementation of Labour Codes (Nov. 2025), <https://www.in.kpmg.com/taxflashnews/KPMG-Flash-News-GOI-notifies-implementation-of-Labour-Codes.pdf>.

³ KPMG India, Flash News: Notification of Final Rules on Four Labour Codes (May 2026), <https://www.in.kpmg.com/taxflashnews/KPMG-Flash-News-Notification-of-final-Rules-on-Four-Labour-Codes.pdf>.

⁴ India's New Labour Codes to Create Inclusive, Safe & Enabling Environment for Women: Government, Asia News Network (2025), <https://asianews.network/indias-new-labour-codes-to-create-inclusive-safe-enabling-environment-for-women-government>.

⁵ Nat'l Stat. Off., Ministry of Stat. & Programme Implementation, Gov't of India, Periodic Labour Force Survey (PLFS) Annual Report: July 2022–June 2023 (2023).

⁶ Nat'l Stat. Off., Ministry of Stat. & Programme Implementation, Gov't of India, Time Use in India–2019 (2020).

⁷ India Const. arts. 14, 15, 16, 39(d), 42.

⁸ *Randhir Singh v. Union of India*, (1982) 1 S.C.C. 618 (India).

⁹ *Air India v. Nargesh Meerza*, (1981) 4 S.C.C. 335 (India); see also *Neera Mathur v. Life Ins. Corp. of India*, (1992) 1 S.C.C. 286 (India).

sexual harassment at work, which later became the 2013 statute.¹⁰ The Codes enter this setting, and their treatment of women workers must be assessed against it.

B. Review of Prior Context

The case for consolidation was made as early as 2002, when the Second National Commission on Labour identified legislative fragmentation as a central difficulty and recommended a small number of umbrella codes.¹¹ The pre-Code position on women was shaped by two competing ideas. The first was protection: the Factories Act, for instance, confined women's hours in factories to the period between 6 a.m. and 7 p.m. unless a State exempted the factory.¹² The second was equality and autonomy. In *Anuj Garg*, the Supreme Court held that a paternalistic ban on women's employment in certain settings could itself be discriminatory, and that the State's duty is to make workplaces safe rather than to keep women out of them.¹³ The Court also extended maternity protection to women engaged on muster rolls,¹⁴ and applied the equal remuneration statute robustly.¹⁵ These decisions supply the standards against which the Codes are measured in this article.

Scholarly writing on the Codes is still at an early stage. Official statements emphasise gains for women, while commentators argue that substantive equality remains elusive because of enforcement design and gaps in coverage.¹⁶ This article contributes a structured, provision-level comparison of the earlier and present regimes, tested against constitutional and international benchmarks.

C. Research Problem, Objectives and Hypothesis

The research problem is whether the Labour Codes meaningfully strengthen women's workplace rights in India or whether formal gains are offset by structural weaknesses in design and enforcement. The study has the following objectives:

¹⁰ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India); Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013, India Code (2013).

¹¹ Second Nat'l Comm'n on Lab., Report of the Second National Commission on Labour (2002).

¹² Factories Act, 1948, No. 63 of 1948, India Code (1948) § 66.

¹³ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1 (India).

¹⁴ *Mun. Corp. of Delhi v. Female Workers (Muster Roll)*, (2000) 3 S.C.C. 224 (India).

¹⁵ *Mackinnon Mackenzie & Co. v. Audrey D'Costa*, (1987) 2 S.C.C. 469 (India).

¹⁶ Centre Rolls Out 4 Labour Codes: Women Can Work Night Shifts in Any Sector, Equal Work for Equal Pay Becomes Law, *Tribune India* (Nov. 21, 2025), <https://www.tribuneindia.com/news/india/centre-notifies-4-labour-codes-rationalises-existing-labour-laws/amp>; Women at Work: A Gender-Based Analysis of the New Labour Codes in India, *Feminism in India* (Dec. 15, 2025), <https://feminisminindia.com/2025/12/15/what-have-women-gained-in-the-new-labour-codes/>.

1. to identify the provisions of the four Codes that directly concern women workers;
2. to compare those provisions with the pre-Code legal position;
3. to assess them against constitutional standards and India's international obligations; and
4. to identify gaps and recommend reforms.

The study proceeds on the hypothesis that the Codes formally expand women's rights, but that their effective realisation is constrained by delegated rule-making, coverage thresholds and a weakened enforcement model.

D. Structure of the Article

Part II sets out the methodology. Part III presents the findings across five themes. Part IV discusses what the findings mean, identifies challenges and limitations, recommends reforms and concludes.

II. METHODOLOGY (MATERIALS AND METHODS)

A. Research Design

This is a doctrinal, qualitative study using analytical and comparative methods. Doctrinal analysis examines the text of legal provisions and the reasoning of courts. The comparison is made between the pre-Code and Code regimes, and each provision is then tested against two benchmarks. The first is substantive equality, which looks beyond identical treatment to the actual conditions that enable or constrain women's participation in work.¹⁷ The second is the set of international standards that India has accepted or that remain relevant to reform: the Convention on the Elimination of All Forms of Discrimination Against Women,¹⁸ ILO Convention No. 100 on equal remuneration for work of equal value,¹⁹ ILO Convention No. 111 on discrimination in employment and occupation,²⁰ and ILO Convention No. 190 on violence and harassment in the world of work.²¹

¹⁷ Sandra Fredman, *Discrimination Law* (2d ed. 2011).

¹⁸ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁹ Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO No. 100), June 29, 1951, 165 U.N.T.S. 303.

²⁰ Convention Concerning Discrimination in Respect of Employment and Occupation (ILO No. 111), June 25, 1958, 362 U.N.T.S. 31.

²¹ Convention Concerning the Elimination of Violence and Harassment in the World of Work (ILO No. 190), June 21, 2019.

B. Data Sources, Collection Tools and Sample

The study involves no human participants. Its unit of analysis is the legal text. The corpus comprises the four Codes, the principal predecessor enactments, the final central rules as reported in professional summaries, eight Supreme Court decisions, and four international instruments. Secondary material comprises official surveys (the Periodic Labour Force Survey and the Time Use Survey), government statements, and published commentary. Data were collected through systematic reading of primary texts, followed by thematic coding under five heads: equal remuneration, working hours and night work, maternity and childcare, representation and grievance redress, and coverage and enforcement. Information in this article is current to 26 October 2026.

C. Analytical Procedure

Each coded provision was recorded in a comparison table (Table 1), assessed for what it adds, what it leaves out, and what it delegates to rules, and then examined against the benchmarks above.

D. Limitations

Three limitations apply. First, there is no empirical fieldwork, so claims about how the Codes operate in workplaces are inferences from design. Second, labour is a concurrent subject, and State rules differ and continue to change; State rules are therefore used only illustratively. Third, the final rules were notified recently and are discussed here through published professional summaries.²²

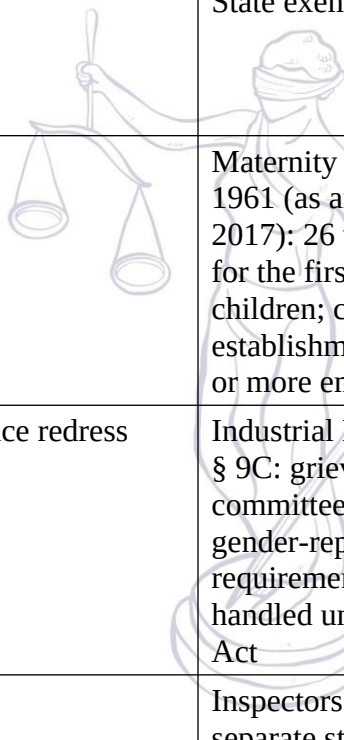
III. RESULTS

Table 1 summarises the principal findings. The paragraphs that follow present them theme by theme, with interpretation reserved for Part IV.

Table 1: Women's Workplace Rights before and under the Labour Codes

Theme	Pre-Code position	Position under the Codes
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²² See KPMG India, Flash News: Notification of Final Rules on Four Labour Codes (May 2026), <https://www.in.kpmg.com/taxflashnews/KPMG-Flash-News-Notification-of-final-Rules-on-Four-Labour-Codes.pdf>.



Equal pay and non-discrimination	Equal Remuneration Act, 1976: equal pay for the same or similar work, under a separate statute	Code on Wages, § 3: bars gender discrimination in wages, recruitment and conditions of employment; the 1976 Act is subsumed
Night work and range of occupations	Factories Act, § 66: women's hours in factories confined to 6 a.m.–7 p.m., subject to State exemptions	OSH Code, § 43: women may be employed in all establishments for all types of work, and before 6 a.m. or after 7 p.m. with consent and prescribed safeguards
Maternity and childcare	Maternity Benefit Act, 1961 (as amended in 2017): 26 weeks' leave for the first two children; crèche in establishments with fifty or more employees	Code on Social Security, §§ 60, 67: maternity benefit and crèche obligations carried into the Code
Representation and grievance redress	Industrial Disputes Act, § 9C: grievance committees with no gender-representation requirement; harassment handled under the 2013 Act	Industrial Relations Code, § 4: women to be represented in grievance redressal committees; 2013 Act continues to govern sexual harassment
Enforcement	Inspectors under separate statutes with penal and inspection powers	Inspector-cum-facilitator model with an emphasis on advice and compliance support

A. Equal Remuneration and Non-Discrimination

The Code on Wages prohibits discrimination on the ground of gender in matters relating to wages for the same work or work of a similar nature. It also prohibits gender discrimination in recruitment and in conditions of employment, except where the employment of women in a particular work is restricted by law.²³ The earlier equal remuneration statute is subsumed into the

²³ Code on Wages, 2019, No. 29 of 2019, India Code (2019) § 3.

Code.²⁴ The finding is twofold. The Code carries equal pay into a single statute and widens the prohibition to hiring and service conditions. However, the operative test remains “same work or work of a similar nature”, which is narrower than the “work of equal value” standard in ILO Convention No. 100.²⁵

B. Working Hours and Night Work

The OSH Code provides that women are entitled to be employed in all establishments for all types of work. They may also work before 6 a.m. and beyond 7 p.m. with their consent, subject to conditions on safety, holidays and working hours that the appropriate Government prescribes.²⁶ This replaces the factory-based time restriction and its State-level exemptions.²⁷ Reports on the rollout indicate that safeguards such as transport and security are expected to accompany night work, but these depend on the rules.²⁸

C. Maternity and Childcare

The Code on Social Security continues the statutory entitlement to paid maternity leave and the obligation on larger establishments to provide a crèche.²⁹ The finding is one of continuity rather than expansion. The 2017 improvements (26 weeks of leave for the first two children, and the crèche duty for establishments with fifty or more employees) are carried forward, and the Code does not add a paternity or shared parental entitlement.³⁰

D. Representation and Grievance Redress

The Industrial Relations Code requires grievance redressal committees to include women in a number proportionate to the women workers in the establishment.³¹ This is a modest but concrete

²⁴ Compare Equal Remuneration Act, 1976, No. 25 of 1976, India Code (1976), with Code on Wages, 2019, No. 29 of 2019, India Code (2019) § 3.

²⁵ Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (ILO No. 100), June 29, 1951, 165 U.N.T.S. 303; Code on Wages, 2019, No. 29 of 2019, India Code (2019) § 3.

²⁶ Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, India Code (2020) § 43.

²⁷ Factories Act, 1948, No. 63 of 1948, India Code (1948) § 66.

²⁸ Centre Rolls Out 4 Labour Codes: Women Can Work Night Shifts in Any Sector, Equal Work for Equal Pay Becomes Law, Tribune India (Nov. 21, 2025), <https://www.tribuneindia.com/news/india/centre-notifies-4-labour-codes-rationalises-existing-labour-laws/amp>; see also Women at Work: A Gender-Based Analysis of the New Labour Codes in India, Feminism in India (Dec. 15, 2025), <https://feminisminindia.com/2025/12/15/what-have-women-gained-in-the-new-labour-codes/>.

²⁹ Code on Social Security, 2020, No. 36 of 2020, India Code (2020) §§ 60, 67; compare Maternity Benefit Act, 1961, No. 53 of 1961, India Code (1961); Maternity Benefit (Amendment) Act, 2017, No. 6 of 2017, India Code (2017).

³⁰ See Code on Social Security, 2020, No. 36 of 2020, India Code (2020) § 60.

³¹ Industrial Relations Code, 2020, No. 35 of 2020, India Code (2020) § 4; compare Industrial Disputes Act, 1947, No. 14 of 1947, India Code (1947) § 9C.

gain in voice. The Codes do not, however, absorb the law on sexual harassment, which remains governed by the 2013 Act and its Internal and Local Committees.³²

E. Coverage and Enforcement

The Codes use inspector-cum-facilitators, whose role combines advice with inspection.³³ Commentators note that compliance mechanisms rely more heavily on facilitation and self-certification than on inspection, and that domestic workers and platform workers remain at the margins of women's paid work.³⁴ The Code on Social Security introduces social security schemes for gig and platform workers,³⁵ but the entitlements are scheme-based rather than the full set of employment rights available to employees.

IV. DISCUSSION AND CONCLUSION

A. Interpretation of the Findings: Where Progress Lies

The findings partly support the hypothesis. Progress is real in three respects. First, the prohibition on gender discrimination now reaches recruitment and conditions of employment, closing a gap that pay-focused equal remuneration law left open. Second, the move from a time-bound restriction to a consent-and-safeguards model aligns the law with *Anuj Garg*, which treats access to work as an aspect of women's autonomy.³⁶ Third, women acquire a presence in grievance committees, which can help surface workplace issues that would otherwise go unreported.

B. Challenges

1. *Delegation and State variation.* The most consequential details, including the content of night-work safeguards, are left to rules, and labour is a concurrent subject. The result may be an uneven national picture in which a woman's protections depend on the State in which she works.³⁷

2. *Consent in unequal settings.* Consent is the legal hinge of night work. Where women have limited bargaining power or fear losing work, consent may be formal rather than free. Substantive

³² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013, India Code (2013).

³³ See Code on Wages, 2019, No. 29 of 2019, India Code (2019) § 51.

³⁴ Women at Work: A Gender-Based Analysis of the New Labour Codes in India, *Feminism in India* (Dec. 15, 2025), <https://feminisminindia.com/2025/12/15/what-have-women-gained-in-the-new-labour-codes/>.

³⁵ Code on Social Security, 2020, No. 36 of 2020, India Code (2020) ch. IX.

³⁶ *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1 (India).

³⁷ Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, India Code (2020) § 43; KPMG India, *Flash News: Notification of Final Rules on Four Labour Codes* (May 2026), <https://www.in.kpmg.com/taxflashnews/KPMG-Flash-News-Notification-of-final-Rules-on-Four-Labour-Codes.pdf>.

equality requires that consent be accompanied by enforceable safeguards, protection against adverse action for refusal, and accessible complaint routes.³⁸

3. *Enforcement.* A facilitator model may suit routine compliance, but rights of women workers, such as protection from discrimination and harassment, depend on credible inspection and independent complaint mechanisms. If compliance is understood chiefly as employer self-reporting, violations in small or informal workplaces may go undetected.³⁹

4. *Coverage.* Applicability thresholds, and the position of domestic, home-based and platform workers, mean that many women in paid work may remain outside the strongest protections. The Code on Social Security's scheme-based approach for platform workers is a step, but it does not confer parity with employees.⁴⁰

5. *Care and the cost of maternity.* Because the Codes continue an employer-funded maternity model, the risk persists that employers treat women's hiring as costlier. Courts have long warned against pregnancy-related discrimination,⁴¹ but the legislative response has been to protect leave rather than to share its cost or to extend care responsibilities to men. Given the unequal burden of unpaid domestic work,⁴² this limits the capacity of the Codes to change women's participation.

6. *Harassment and international standards.* Sexual harassment remains governed by a separate statute whose implementation gaps the Supreme Court has previously noted,⁴³ and India has not ratified ILO Convention No. 190, which addresses violence and harassment in the world of work, including in informal settings.⁴⁴

C. Recommendations

1. Frame uniform national minimum standards for night-work safeguards (transport, supervision, security and complaint access) and prohibit retaliation against women who decline night shifts.

³⁸ Sandra Fredman, *Discrimination Law* (2d ed. 2011).

³⁹ Women at Work: A Gender-Based Analysis of the New Labour Codes in India, *Feminism in India* (Dec. 15, 2025), <https://feminisminindia.com/2025/12/15/what-have-women-gained-in-the-new-labour-codes/>.

⁴⁰ Code on Social Security, 2020, No. 36 of 2020, India Code (2020) ch. IX.

⁴¹ *Neera Mathur v. Life Ins. Corp. of India*, (1992) 1 S.C.C. 286 (India); *Air India v. Nargesh Meerza*, (1981) 4 S.C.C. 335 (India).

⁴² Nat'l Stat. Off., Ministry of Stat. & Programme Implementation, Gov't of India, *Time Use in India–2019* (2020).

⁴³ *Medha Kotwal Lele v. Union of India*, (2013) 1 S.C.C. 297 (India); Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013, India Code (2013).

⁴⁴ Convention Concerning the Elimination of Violence and Harassment in the World of Work (ILO No. 190), June 21, 2019.

2. Align the equal pay test with “work of equal value” and require pay-transparency reporting by larger establishments.⁴⁵
3. Retain strong independent inspection for gender-related provisions, with data on complaints and outcomes disaggregated by sex.
4. Extend core protections, including maternity, harassment redress and non-discrimination, to domestic, home-based and platform workers.
5. Introduce shared parental leave and publicly supported or pooled crèche provision, especially for small establishments.
6. Consider ratification of ILO Convention No. 190 and align domestic rules with it.⁴⁶

D. Limitations and Scope for Further Research

Because this study is doctrinal and limited to published sources, it cannot show how the Codes operate on the ground. Future work should combine field studies of workplaces, State-by-State comparison of rules and, once available, enforcement data.

E. Conclusion

The new Labour Codes advance women's workplace rights on paper: they broaden the ban on gender discrimination, open all occupations and night work to women on a consent basis, preserve maternity and crèche entitlements, and give women a seat in grievance committees. Yet the gains depend heavily on rules still being framed and applied unevenly, on enforcement that is moving from inspection towards facilitation, and on coverage that leaves many women workers at the edges. The Codes are best regarded as a framework whose value for women will be decided by implementation. Rights-oriented rules, credible enforcement, wider coverage and attention to care responsibilities would turn the formal promise of equality into lived workplace equality.

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