

**GENDER PARITY IN LABOUR LAWS OF THE COUNTRY WITH SPECIAL
EMPHASIS ON WOMEN AND THEIR POWER TO LEAD TRADE UNIONS AND
PROTESTS**

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ABSTRACT

Women form a majority of the working population in India. Whether it is organised sector like multinationals or unorganised sectors like construction workers, women workers are engaged in diverse employment across the country. Women working force is seen by the employers as cheap labour. Yet, they are amongst the most neglected members of the working class. Gender based discrimination and oppression mar every sphere of employment and subject female workers to repeated humiliation and degraded working conditions. What makes matters worse for women is their exclusion from trade unions, that are supposed to ensure equality by addressing concerns of the entire workers' community without any discrimination. Despite forming a majority of the working class, they are not allowed to lead strikes and protests. This results in their concerns being left unheard in movements which are predominantly led by men. There is a need for greater participation of women in the protests and in voicing their concerns.

Keywords: Women, Labour law, protest, Gender, Pay Gap, Leaders

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INTRODUCTION

Women form a majority of the working population in India. Whether it is organised sector like multinationals or unorganised sectors like construction workers, women workers are engaged in diverse employment across the country. Women working force is seen by the employers as cheap labour. Yet, they are amongst the most neglected members of the working class. Gender based discrimination and oppression mar every sphere of employment and subject female workers to repeated humiliation and degraded working conditions. What makes matters worse for women is their exclusion from trade unions, that are supposed to ensure equality by addressing concerns of the entire workers' community without any discrimination. Despite forming a majority of the working class, they are not allowed to lead strikes and protests. This results in their concerns being left unheard in movements which are predominantly led by men. What are the reasons for this? Are there any such provisions in the new code bills for the representation of women? What bigger implications do these exclusions have on women workers? This article attempts to answer these questions by analysing the current scenario in the country.

HISTORICAL ACCOUNTS OF WOMEN IN PROTEST

Women have been active participants in protests, in raising their voice against injustice and in the society traditionally. However, women usually have taken a back seat when it comes to protests related to employment rights. This does not mean women have been completely eclipsed from the ambit of protests. There have been several instances in past which show that women have not only actively participated but also went on to lead a few from the front. Following are few accounts of the same:

SCENARIO AT INTERNATIONAL LEVEL

- **Lowell Mill Case:**

Early in the 1830s, even before mass movements for workers' rights in the United States got prominence, the Lowell mill women organized¹, went on strike and mobilized in politics. Remarkably, this was at a time when women could not even vote. This created the first ever women trade union in the history of America. The protest shaped from years of

¹Harriet Hanson Robinson, *The Lowell Mill Girls Go on Strike, 1836*, <http://historymatters.gmu.edu/d/5714> (last accessed on 2nd October, 2021)

poor working conditions and despicable treatment at the Lowell Textile mill for these young women workers, who often migrated from areas surrounding New England. The immediate cause of the protest was the reduction of wages in 1834, which enraged the women workers who went on strike to protest. They marched to several mills to encourage others to join them, gathered at an outdoor rally and signed a petition reading, "We will not go back into the mills to work unless our wages are continued." However, this protest was crushed down by the dominance of their male managers, who utilised their power and resources to suppress the voices of women workers. A second strike organised in 1836 also met the same fate. But this did not deter them, they organized the Lowell Female Labour Reform Association to reduce the working day to 10 hours. They organized huge petition campaigns asking the state legislatures to cap the work day in the mills at 10 hours. Their efforts finally bore fruits when in 1847 New Hampshire became the first state to pass a 10-hour workday law².

- **International Women's Day:**

International Women's Day is celebrated across the globe annually on March 8 to mark and observe the political, cultural, and socio-economic achievements of women. Interestingly, the origin of this day lies in a historic labour law movement led by women. During 1900s, the atmosphere across the globe was marked with growing resistance towards the oppression and unjust treatment of women in the society. Critical debates about equality were already taking place. In 1908 came the outburst when some 15,000 women marched through the New York City.³ Their demands largely revolved around shorter working hours, better pay and voting rights. Marking this event, it was the Socialist Party of America that declared the first National Women's Day, in February 28, 1909. This inspired the German delegates at the 1910 International Socialist Woman's Conference to propose "a special Women's Day" be organized annually. Later, after several conferences March 8 was officially adopted by the United Nations as the International Women's Day.⁴

²Lowell Mill Women Create the First Union of Working Women, <https://aflcio.org/about/history/labor-history-events/lowell-mill-women-form-union> (last accessed on 2nd October, 2021)

³Nations, United, *Background International Women's Day* <<https://en.unesco.org/commemorations/womensday/all-editions>> (last accessed 1st October, 2021)

⁴https://en.wikipedia.org/wiki/International_Women%27s_Day#:~:text=%22%22International%20Socialist%20Congress%2C%201910%3B%20Second%20International%20Conference%20of%20Socialist%20Women (last accessed on 26th September, 2021)

- **New York Chinatown Strike:**

This was one of the largest Asian American workers strikes with about 20,000 garment factory workers marching the streets of Lower Manhattan demanding work contracts. This protest emerged from the garment industries of the Chinatown, New York⁵. The industry was plagued by poor working conditions and low wages. Workers were paid based on their produce, rather than by the hour, which led to many workers making less than minimum wage. The protests were backed by the International Ladies' Garment Workers' Union, led by Mary Chen. Most of these protests included demands for higher wages, improved working conditions and for management to observe the Confucian principles of fairness and respect. The movement was largely successful as the employers had to adhere to the said demands of the workers.

SCENARIO AT THE NATIONAL LEVEL

- **Women's Revolt in Bengal:**

This revolt led by women in Telibhanga, West Bengal, is still regarded as a significant political movement arising out of an agrarian crisis. Though, centred more on political instabilities, this movement also manifested the right of women on product of their labour. Here, the sharecroppers demanded that two-thirds of the crop should remain with them as opposed to the traditional British system wherein half of the harvest was to be paid as rent, apart from other taxes levied on them. These women actively participated in the protest along with men folk. These landless peasant women also formed a group called 'naribahini'.⁶ At a time, when women were not even properly allowed to work on fields, these brave women fought the patriarchal institutions from the frontline.⁷

- **Ahmedabad Textile Labour Association:**

Ahmedabad Textile Association is the oldest textile workers association founded in India in 1920 by Anasuya Sarabhai. She became the first ever woman trade union leader in India.⁸

⁵1982 garment workers' strike begins in New York City's Chinatown, <https://www.history.com/this-day-in-history/1982-garment-workers-strike-begins> (last accessed on 30th September, 2021)

⁶AsokMajumdar (2011). *The Tebhaga Movement : Politics of Peasant Protest in Bengal 1946-1950*. Aakar Books. p. 13

⁷https://en.wikipedia.org/wiki/Tebhaga_movement (last accessed on 4th October, 2021)

⁸Sanchari Pal, *What Made Anasuya Sarabhai, a Woman Born to Privilege, Become India's First Woman Trade Union Leader?*, <https://www.thebetterindia.com/73140/anasuya-sarabhai-labour-movement-ahmedabad/> (last accessed on 3rd October, 2021)

Popularly known as *motaben*, she pursued her higher education from London School of Economics. She returned back in 1913 and engaged in social work for upliftment of women. It was during this time that she observed the exploitations against the workers, especially women prevalent in the textile industry. In 1914, Ahmedabad was hit by a plague. The workers could no longer manage with the degraded working conditions; this was when Anasuya launched a strike with the mill workers against the mill owners. The strike lasted for 21 days with the successful beginning of negotiations. Her protests were highly influenced and supported by Mahatma Gandhi. Inspired by his teachings she founded the Majdoor Mahajan Sangh, also known as the Ahmedabad Textile Labour Association. Later, Elaben Bhatt, a close aid of Anasuya and member of the association, went on to become the founder of Self-Employed Women's Association of India.⁹

- **Bhopal Gas Tragedy Protests:**

The infamous leaking of almost forty tons of poisonous gas from a factory of Union Carbide, popularly known as the Bhopal Gas Tragedy, became one of the worst industrial disasters that shook the entire nation on the fateful night of December 3, 1984. Many people lost their lives or suffered permanent damages to their mental and physical health. The aftermath of the leaks continues to haunt people's life till date, as off-springs of people affected by the gas are till date born with numerous disabilities and abnormalities. Several workers employed in the factory lost their jobs in addition to suffering irreparable loss.

This was followed by thousands of people taking to the streets to seek justice. Women had a pivotal role in the protests against the big multinational as majority of the protesters consisted of women, Majority of these women consisted of Muslim women. "*In the beginning the men came, too, but within a couple of years, the movement was being dominated by the women,*"¹⁰ says Rachna Dhingra, a member of the Bhopal Group for Information and Action, who played a defining role in mobilizing the women.

In the 2004, Bhopal's Rashida Bee and Champa Devi Shukla, who led a class action suit demanding clean-up and compensation for affected individuals, were awarded the prestigious Goldman Environmental Prize.¹¹ This was remarkable as it

⁹Siddhi Pathak, *First Woman Trade Union Leader*, <https://feminisminindia.com/2018/01/10/anasuya-sarabhai-trade-union-leader/> (last accessed on 26th September, 2021)

¹⁰NilanjanaBhowmick, 'Women Don't Give Up.' *Why Female Protesters Are at the Forefront of India's Resistance Movement*, <https://time.com/5765702/india-protests-women/> (last accessed on 3rd October, 2021)

¹¹<https://aidindia.org/rachna-dhingra/> (last accessed on 4th October, 2021)

established capability of women to fight legal as well as political battles for their rights.

Munnar Tea Plantation Protests: A majority of the workforce in the Munnar tea plantations of Kerala was women. These women faced extremely degraded working conditions with twelve-hour work per day coupled with poor living conditions.¹² For their hard labour, they were being paid a meagre Rs.232 per day. In 2015, around 12000 women started protesting against this injustice and refused to pluck leaves and blocked the national highway.

This was a notable event in women upliftment as the entire protest was led only by women, who raised their voice against the rampant patriarchy, power imbalance, and gender discrimination. They also questioned the unequal pay structure despite The Equal Remuneration Act, 1976¹³ being in force. Remarkably they forbade any men from entering the protest as they believed it was women who did the actual work hence, this protest should be carried on the shoulders of women alone.

However, this protest grew much bigger than a protest for mere increase in wages; as it brought to front the prevalent corruption and male dominance in the concerned sector. Women were not even allowed to be a part of the Plantation Labour Committee¹⁴, which consisted of planters and workers in the Munnar plantation. The strike went on for nine days and the women called themselves '*Ponbilai Orumai*' which became a registered trade union **only** for women. After nine days, the wage was increased to Rs. 301 per day, which is an increase of meagre Rs. 69. Though, the protesters were not satisfied with the result, this protest started a countrywide debate for the requirement of women trade unions. The Munnar strikes are feminist endeavour against corporations and corruption, a revolutionary and impressive feat.¹⁵

¹²Joseph, E. et al., *Munnar: Through the Lens of Political Ecology*. EPW, (Nov. 21, 2015), [https://www-epw-in.opj.remotlog.com/journal/2015/46-47/tea-plantation-labour/munnar-through-lens-political-ecology.html?0=ip_login_no_cache%3Db0bc520827d17be68e9020d3c04d091d](https://www-epw.in.opj.remotlog.com/journal/2015/46-47/tea-plantation-labour/munnar-through-lens-political-ecology.html?0=ip_login_no_cache%3Db0bc520827d17be68e9020d3c04d091d). (last accessed on 3rd October, 2021)

¹³Equal Remuneration Act, 1976, Act 25 of 1976 amended by Act No. 49 of 1987.

¹⁴Formed under the Plantation Labour Act, 1951, Act No 69 of 1951 as amended by Acts Nos. 42 of 1953, 34 of 1960, 53 of 1961, 58 of 1981 and 61 of 1986

¹⁵*Supra note 6.*

REASONS FOR BACKSEAT POSITION GIVEN TO WOMEN

From the above analysis, it is clearly evident that events of women coming to the front and leading protests were not a welcomed phenomenon in the past. They were not given adequate opportunities to come to the front and lead labour protest despite being capable. Several events in the past shed light on the fact that women are not only capable of standing against the powerful employers but also have the grit to bring about changes. However, the idea of not letting women workers to lead protests stems from the sociological stereotype present in the society. It has been an engrained notion that women are inherently weak and should be protected by men. It is presumed that they are fragile to withstand the harsh conditions to which one is subjected to during protests. They are attributed with the lack of strength to face high officials directly, hence, it is deemed better if they support any movement from behind and are not given a chance to come to front.¹⁶ Moreover, apart from lack of physical strength and tenacity, women are also assumed to lack in mental strength and grit. It is traditionally believed that they do not have the potential to withstand mental pressure for long. As a result, they are more likely to give in to meagre respite and remedies offered by the employer thus, not serving the purpose of the strikes to the fullest. Further, women also have other social obligations to fulfil with respect to their families, hence, it might not be possible for them to invest their full time in strikes and protests. Also, significant factor is the difference in biological body build of women and men. Most women workers and labourers belong to the menstrual age. Thus, it becomes really difficult for women to stand harsh protests while undergoing tough menstruation cycles.

However, it is pertinent to note that these problems have been largely present in even greater proportions in the past, yet women have managed to not only lead protests but also bring about remarkable changes in the society. They have proved time and again that these shortcomings have never been a hurdle in their quest for justice and welfare of the labour community.

Not just during protests and agitations, women face considerable disadvantage when it comes to even basic notions of parity at the workplace. Owing to the sociological stereotypes and the bias against women at work, they being a part of the labour industry in considerable numbers is itself a feat to achieve. The agitations led by women are scant and sporadic in nature. The reason for the same is not however, women's lack of interest or incapability. These small

¹⁶Patel, V., *Gendered Experiences of COVID-19: Women, Labour, and Informal Sector*, EPW ENGAGE, (Mar. 13, 2021), <https://www.epw.in/engage/article/gendered-experiences-covid-19-women-labour-and>.

numbers hint at a bigger social reality- the backseat given to women when it comes to working in the labour force itself. Up skilling and empowering women to be self-efficient is the need of the hour.

UPSKILLING OF WOMEN- WHY IS IT THE NEED OF THE HOUR?

In the organized sector in the country, 85 percent of the workforce consists of men across sectors such as transport, manufacturing, and production which by and large protects rights of the workers by means of legal instruments. While women, comprise more than 90 percent of the workforce in the unorganized sector¹⁷ which falls short in terms of social security, rights of the labourers and a set of adequate regulations which guarantees pension and labour laws which protect from exploitation. This is a major cause of concern. While the labour reforms undertaken in the present have addressed problems like the minimum wage¹⁸, imparting of skills to the female workforce remains an important need, for them to get absorbed in the formal sector of economy, hence enabling them to enjoy more security. It is only when women will get absorbed in the system, would they be able to come up and have the confidence to protest against restrictive norms and the problems they face in the industry.

The ever-troubling wage gap

It is not all rosy in the formal sector in terms of the persisting gender inequities. despite the laws, and more than 43 years of legal protectionism, the problem hasn't ended yet. According to the study "mind the gap" conducted by Oxfam¹⁹, for the same amount and kind of work, women in India continue to be paid less. The ideas and notions of men being the sole breadwinner and the women being in supporting roles continue to persist. Adding to that, various confidentiality clauses in the contracts deter the employees from discussing problems related to wages and payments openly and freely, helping the problem to persist in open

¹⁷ S R, "India's Workforce Is Masculinizing Rapidly" <<https://www.livemint.com/news/india/india-s-workforce-is-masculinising-rapidly-1560150389726.html>>(last accessed on 4th October, 2021)

¹⁸The Code of Wages 2019, payment of wages act 1936, minimum wages act 1948, payment of bonus act 1965 , equal remuneration act 1976.

¹⁹India oxfam (oxfam 2021) rep

secrecy. The labour codes and the reforms however are silent on addressing these hidden yet known disparities and the equalization of pay structures across genders.

THE PROBLEM OF TECHNOLOGY

In the liberalization and post-liberalization era as new jobs emerged for women across sectors, such as the social work, the garment industry, the food industry, hospitality and low-end retail jobs, women were also brought out of the social rut of the 4 walls of the house. However, as technology starts to seep into more and more arenas of the market, women often find themselves estranged. It can easily be attributed to the unfortunate social reality of men being encouraged from a very early age to take up science, technology, engineering and mathematics (STEM) subjects whereas women are pushed towards non-technical subjects. This is evident from the fact that just 29 percent²⁰ of enrollments are female in the B.Tech degrees. This is the grassroots issue which the new labour reforms fail to address. It should be tackled more so when there is a direct nexus between participation in the labour economy and higher education. Upskilling women and removing these barriers are essential to ensuring more participation of the women in the workforce which in turn will give them a voice to raise their concerns- given the elevated social position.

THE HOMELY JOBS

A major and a driving factor, which restricts women from exploring their own potential is the disproportionate amounts of “care work” that is placed on women alone in the households and in the familial sphere. The various maternity benefits granted to women are often looked at as disincentives by the employers when it comes to hiring women. The labour reforms should have, and must, in future recognize the disproportionate burden of “care” on women alone and criminalize discrimination. In addition to that, the labour reforms also do not address the needs of women in the informal sector which still remains outside the legislative protections which the women can exercise. There should be more ways in which more women can be included within the ambit of safety and protection of the labour workforce.

²⁰ Srinivasarjun, “Gender Gap in Indian Formal Sector Worse than Global Average, LinkedIn Data Shows” (*Hindustan Times* November 14, 2018) <<https://www.hindustantimes.com/india-news/gender-gap-in-indian-formal-sector-worse-than-global-average-linkedin-data-shows/story-yOtfFNazeMZbOnjGL9a11.html>>(last accessed on 4th October, 2021)

Also it is imperative to understand that the safety protections cannot and should not be limited to transport. Many companies provide for communication of female employers so as to ensure their safety. While this is a welcome step, it should not be deemed sufficient in itself. Although it cannot be denied that women in India still find it unsafe to travel by road after a time threshold, it must be realized that safety is not something which is limited to the roads. Addressing the specific concerns of women pertaining to different areas of employment apart from communication is a dire need and requires specialized intervention.

At the end, a voice of women in the discussions where the laws aiming to protect them are being formulated is always a welcome step. In the present scenario, only 3 percent of women comprise the major decision-making body at top-level management in the corporations of the country.²¹ In such a scenario – where their jobs are not even secure, expecting women to voice out their concerns and agitate still remains a distant dream. Just an overhaul of the labour laws, without women participating in the creation of new rules is not possible. The inclusion of females in the laws which protect them from exploitation are important to ensure gender justice in the society and to strengthen the labour environment.

IDEALS OF EQUALITY MANIFESTED IN THE NEW LABOUR LAWS

There have been major reforms in India over the past years – the reforms in the labour laws being prominent among them. More than 40 labour laws, diverse in scope and nature have been consolidated, condensed and made concise into 4 labour codes. The diverse aspects which are dealt by these 4 new codes would be majorly social security, working conditions, remuneration, and the industrial relations. However, given the disparity between genders and the deep divides, which exist in the society, what do these “new” codes have to offer towards the arena?

Out of 156 countries, India ranked an unfortunate 140 in the report on gender gap published by the world economic forum.²² To determine this ranking, various dimensions relating to the levels of education, the participation in politics, the opportunities offered and the health

²¹S R, “India’s Workforce Is Masculinizing Rapidly” (*mint* June 10, 2019)
<<https://www.livemint.com/news/india/india-s-workforce-is-masculinising-rapidly-1560150389726.html>>
(last accessed on 4th October, 2021)

²² forum world economic (2021st edn world economic forum 2021) rep

conditions are taken into account.²³ Women face many barriers in the socio-cultural and the socio-economic processes such as the difficulties to access education, in employment, and for health and political participation.

THE ISSUES ADDRESSED IN THE NEW LABOUR CODES

The four major codes of the labour laws address primarily the following heads-

- A. The health and safety of women which includes primarily 5 acts in its ambit, the Factories Act, 1948; the Mines Act, 1952; the Plantation Labour Act, 1951; the Building and Construction Workers Regulation of Employment and Conditions of Service Act, 1996; and the Beedi and Cigar Workers Act, 1966.
- B. The social security measures for women, which include the Maternity Benefit Act, 1961; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; and the Workmen's Compensation Act, 1923.

It has been noted that the participation of women declined by 20 percent between 2005 and 2018.²⁴ There are subsequent studies that show an opposite trend as well²⁵. Why the trend is negative is a complex puzzle to solve and to understand the real cause behind this concern, a holistic understanding is required, which is beyond the scope of the present article

THE BARRIERS FACED BY WOMEN

The barriers to women protesting, or even going out in the labour workforce and contributing to the economy exist because of the continuing impact of the very beginnings. Women being

²³doshisumeet, "Labour Codes: A Positive Step towards Women's Empowerment" (*Labour Codes: A Positive Step Towards Women'S Empowerment*) <<https://www.cnbctv18.com/views/labour-codes-a-positive-step-towards-womens-empowerment-8605371.htm>>(last accessed on 4th October , 2021)

²⁴Banerjee M, "What Work Choices Are Indian Women Making and Why?" (*The Wire*) <<https://thewire.in/women/indian-women-work-care-informal-sector>> (last accessed on 4th October 2021)

²⁵"Labour Codes: A Positive Step towards Women's Empowerment" (*Labour Codes: A Positive Step Towards Women'S Empowerment*), <<https://www.cnbctv18.com/views/labour-codes-a-positive-step-towards-womens-empowerment-8605371.htm>>; (last accessed on 9th October 2021)

confined to household work, and the society not being economy centric were major rubrics to which we can attribute these present barriers. With subsequent industrialization, the economy developed, norms and values changed and the emerging situations encouraged women to seek employment outside their domestic spheres all across the world. The inclusion of women, thus on one hand awarded them with an increased social status by ensuring they participated actively in the economy of the country, while on the other hand new problems of exploitation, dismal working conditions and discrimination emerged. The continuing illiteracy and ignorance of women due to the social structure added to the difficulties. Here arose a need for providing social security to them through various laws and reforms such as the Employees' provident fund and Miscellaneous Provisions Act, 1952²⁶. Various provisions of the Constitution of India like article 39(d) and 41²⁷, aimed at providing social security to the female workforce in India. The government also undertook various legislative steps— such as the present labour codes towards the cause.

Various barriers like the attitude of the male dominated society towards females, which does not encourage women going out and working, much less protesting. The regressive notions of the chastity and the virtue of women often govern their presence and position in Indian societies. Long prevailing customs and taboos regarding the notions of marriage which forces women to discontinue with their employment makes re-entry in the workforce a difficult feat to achieve. Moreover, the burden of domestic chores on women alone adversely affects her employment prospects, and much more, the leadership of women in various aspects such as leading protests and trade unions, as it puts them in a compromising position. The added fact of the way a female child is brought up in the society compels her to be dependent on her male counterparts throughout her life, be it father, brother, husband or son. Even when they travel as a grown-up individual, females depend on some or the other male member of the family. This seemingly small thing has big repercussions on the career for women as it is something which restricts their mobility and hence limiting their career prospects.

In addition to these glaring social factors, economic factors like education being thought of as a priority for boys whereas for girls it is seen as an additional obligation also play their part in sidelining of women. Parents usually end up compromising on the quality of education that a

²⁶ Employees' provident fund and Miscellaneous Provisions Act, 1952, Act No. 19 of 1952

²⁷ Article 39(d) and 41 of the Constitution of India. See also Article 393 of the Constitution of India.

female child gets. This is due to them not investing in girl children from the viewpoint of employment in rural as well as the urban households. There are also major disparities at the training that both the genders get. The jobs of more elementary nature such as fabric printing, computer courses, boutique are generally preferred for females which lead them to enter the low-end jobs in the labour market as opposed to males. As if that was not enough, women generally lack unionism as they take up dual responsibility and adopt a conformist attitude which makes them vulnerable and does not encourage a protest against biased norms in the labour market. Additionally barriers such as lack of women-centric infrastructure for example separate toilets for women at workplaces, not accepting women as guarantors, has been commonly observed throughout India. The gender-based division of labour—where the women are looked at just “supplementing the income of the household, and the estrangement of women with the coming of technology and the stagnant levels of education are contributing factors towards the low participation of women in the economy.

DO THE NEW LABOUR REFORMS ACTUALLY HELP WOMEN?

While it is true that a larger social awareness and awakening is required to bridge the opportunity gap between the genders, there are arguments which support the idea that the new labour codes are one step forward towards the cause. There are various women-friendly provisions in these codes such as the provisions regarding the safe travel of women, and the rules regarding the wage parity and etc. These provisions indicate that though the labour codes might not be a complete solution, but they certainly have worked towards ensuring gender parity and equal opportunities for all genders. The notion of equal opportunity has not been limited to the wage parity but also addresses the shift timings and hours of work for women to be the same as that of the males. The new labour codes have effectively done away with various restrictions that were previously posed on women working late hours. This can lead to a major cultural shift and can lead to a transition by empowering women to take up roles that were earlier restricted to their male counterparts only.

Safety of the female workforce has also been given due consideration. The new labour codes obligate the employer to look after the safety conditions of the female employees and ensure suitable working conditions and transportation facilities for them²⁸. The labour codes also

²⁸Gopalakrishnan V, *India's New Labour Law - Prevention of Sexual Harassment at the Workplace - Employment and HR - India* (Welcome to Mondaq May 9, 2013)

stipulate greater punishment such as banishment and disqualification of the perpetrator employee in cases of sexual harassment²⁹ at the workplace

In the Occupational Safety, Health and the Working Conditions Code, 2020³⁰ for the first time the “consent” has been taken into consideration and the preferences of women in the workspace has been kept in mind. According to this code women can effectively opt out of working night shifts if they are not comfortable doing so and in case of personal constraints faced by them.

While it is a fact that these measures³¹ are very basic factors to make the female workforce safe and comfortable, these are definitely a preliminary step towards ensuring gender parity in the labour market as it enables the companies to take steps and support their women employees. The code³² requires the organizations to define the number of hours of work as well as the pay cycle leaving little scope of exploitation in those respects. These changes in addition to helping the women workforce provides an incentive to businesses as they can now have very flexible working hours, and even breaks and childcare – something which was a detriment to women in the labour market. Provisions such as work from home have now been included within the ambit of the new bills.

These new labour codes definitely serve as a promise and a first step towards increasing opportunities for the female workforce. If sufficient support and will is supplied by the society, we can reasonably expect our country to have relatively safe, secure and successful workplaces for women.

CONCLUSION

;<<https://www.mondaq.com/india/discrimination-disability-sexual-harassment/238076/indias-new-labour-law--prevention-of-sexual-harassment-at-the-workplace>>>; (last accessed on 9th October , 20210)

²⁹Section 2(o), Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Act No. 14 of 2013

³⁰ Occupational Safety, Health and the Working Conditions Code, 2020, Act No. 37 of 2020

³¹Banerjee M, *What Work Choices Are Indian Women Making and Why?*(The Wire) <<https://thewire.in/women/indian-women-work-care-informal-sector>> (last accessed on 4th October , 2021)

³² *Supra note* 31

It is very well evident that women are not being given a proper representative power and the designation to lead protests despite being highly capable as shown by past anecdotes. Root cause behind this is the discriminatory social construct which puts an impediment for women leaders. Women however, have time again proved that these shortcomings cannot bar them from raising their voice against injustice and fighting for their rights. Yet, the society tries to impose the role of backseat observers to them owing to these factors. As a result, they are not even given a chance to lead protests, which further results in their concerns being sidelined and not redressed by the proper forums..From studying the position and rights of women workers under the new labour codes, it is evident that the employment environment is still marred with discriminatory and oppressive practices such as unequal wages and differential working hours for women workers. There are still issues in the labour sector, particular to women, which need to be raised yet they escape the eyes of the male counterparts as these problems are deemed to be unworthy of public attention.

The problems faced have been addressed to an extent in the labour laws but much needs to be done in this regard. The disadvantages women face – not just in terms of recognition but also to consolidate their position in the labour industry are contributing factors to women not being able to come to the front Article 19(1) (c) of the Indian Constitution³³ makes the right to form associations and trade unions a fundamental right to all irrespective of gender. The framers of the Constitution did not discriminate between genders then why is the social conditioning doing so? Thus, it is high time women are allowed to head trade unions and lead protests which affect them directly or indirectly. This can only be achieved if there are provisions in place which promote more equitable position and enforce inclusion for women in the workforce.

³³Article 19(1)(c) of the Constitution of India