

Gender, Labour and the Constitution

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Gender, Labour and the Constitution as the motif of this Review of Women's Studies emerged from discussions at the recently held 16th National Conference of the Indian Association for Women's Studies (IAWS) on the theme of "Constitutional Principles in 21st century India: Visions for Emancipation."

In times of neo-liberal hegemony, with its open advocacy of growth based on economic and social inequality, regardless of the cost to the livelihoods and well-being of the labouring majority, it is well to recall the perspective on labour in the Indian Constitution, at the moment of transition from colonial subjection to independence. It enjoined the state to secure

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work for both men and women. (Article 39)

A living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure, and social and cultural opportunities. (Article 43)

Just and humane conditions of work and maternity relief. (Article 42)

However, the current labour code legislations initiated by the state not only undercut existing social protections and labour rights, and severely restrict collective worker action, they also roll back some of the advances made by women workers.

The recognition of gender as an integral aspect of organisation of work, social reproduction, and social relations arising from labour, including unpaid work, is, of course, central to women's studies. Gender and labour has assumed particularly urgent relevance in the context of the extraordinary scale of decline in women's employment. An absolute fall of close to 47 million women workers in rural India (between 2004–05 and 2017–18) has not been compensated for by the pitifully small increases in urban women's employment. Within the workforce, the majority of women workers are concentrated in the most low-paid and unorganised segments, mostly denied equal wages, and large cadres of women workers have been refused recognition as workers by the government itself. Further, the unequal burden of unpaid work by women remains a sustained feature of the wage economy.

Despite such new and old adversities, the emergence of women workers as a dynamic force in several forms of worker struggles is a remarkable feature of the Indian landscape today that is sometimes left out of the frame. In a terrain of contending tendencies and paradoxes, research on gender and labour has often lagged behind developments. Bearing this in mind, the articles in this review issue aim to provide fresh insights and perspectives and new research.

Chirashree Das Gupta (p 30) argues that unpaid labour by women and caste-based modes of extraction have been subsidising the wage economy in India, further tilting the wage-surplus relationship in favour of surplus and profits. With reference

to the unfinished agenda of land reforms, she highlights the elements of compromise in constitutional emendation, and how women's constitutional rights were used against land reforms.

Suravee Nayak's (p 37) study of women's work in a coal mining town, in the context of dispossession of land and common property resources, draws on frameworks of social inclusion to argue that dispossession leads to adverse inclusion, particularly for Dalit women.

Sameena Dalwai and Aabhinav Tyagi (p 44) reflect on the lives of Dalit women in another setting—examining gender implications in anti-reservation judgments. While pointing to a judicial trend of diluting constitutionally mandated caste-based reservations, they focus on the less-written-about implications for women.

Anagha Sarpotdar (p 51) examines the operation of the law for prevention of sexual harassment at the workplace, with a rare focus on the functioning of district-level local committees for women employees in the unorganised sector. She provides an "insider" perspective on system-generated challenges, opportunities, and risks.

Saumya Uma and Aditya Kamath (p 59) examine the Maternity Benefit Act, 1961 and its 2017 amendments, contending that the lopsided approach of the act reinforces the gender norm of care work as the domain of women. They argue for a concerted role of the state to address entrenched patriarchy in employers discriminating against women.

Indrani Mazumdar and Neetha N (p 66) critique the absence of a gender perspective in the labour laws and of any labour rights perspective in anti-trafficking frameworks. They discuss the roll-back in the labour codes and criminalisation of young women's migration for work through anti-trafficking interventions.

This review issue was finalised during the lockdown due to COVID-19. Distress among workers and the tragic situation of migrants in particular were indeed made visible in the lockdown, although their gender dimensions less so. The concerns raised in this review issue address a set of more enduring questions regarding gender and labour, but they do indeed relate to underlying processes behind the scenes of labour distress as well as the open curtailment of basic worker rights and labour laws in the shadow of the pandemic.

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