

Promise and Peril of Labour Reform: Gender Blind Spots in the 2025 Framework

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ABSTRACT

Labour law reforms introduced in 2025 are projected as a transformative step toward improving economic efficiency, labour market flexibility, and ease of compliance. However, their implications for gender equality remain insufficiently examined. This study highlights the importance of analysing labour reforms through a gender-sensitive lens, as women continue to be disproportionately concentrated in informal, precarious, and care-oriented work. The existing scholarship largely discusses labour reforms in terms of economic outcomes, leaving a significant research gap regarding their gendered consequences. The primary objective of this study is to critically examine whether the 2025 labour reform framework adequately addresses structural gender inequalities in the labour market. It also seeks to identify institutional and regulatory blind spots that may hinder substantive equality for women workers.

The research adopts a doctrinal and analytical methodology, drawing upon constitutional principles, judicial pronouncements, international labour standards, and comparative labour law experiences. The study finds that despite the formally neutral language of the reform framework, the absence of gender impact assessments, limited recognition of unpaid care work, and weak enforcement mechanisms create structural disadvantages for women. Such gender blind spots risk reinforcing existing inequalities rather than promoting inclusive labour governance. The paper concludes that gender-responsive labour regulation is essential for achieving equitable and sustainable labour markets. Integrating gender-sensitive policy design within labour reforms can strengthen social justice, enhance workforce participation, and contribute to inclusive economic development.

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1. INTRODUCTION

Labour law reforms are often introduced during periods of economic transition. They are commonly justified as instruments for modernising regulation, improving productivity, and aligning labour governance with changing patterns of work. The labour law framework proposed for implementation in 2025 follows a similar reform narrative. It promises simplification, efficiency, and flexibility, while assuring that certain fundamental protections for workers will remain intact. On the surface, the reforms appear neutral and progressive, applying equally to all workers. However, labour markets are not neutral spaces; they are deeply shaped by social structures, gender roles, and unequal access to power and resources. When reforms fail to account for these realities, a troubling outcome may emerge: the law may protect certain groups of workers while, often invisibly, excluding others.¹

Women's participation in the labour market has historically differed from that of men due to structural and socio-economic factors that shape access to employment opportunities. A large proportion of working women are concentrated in informal sectors such as home-based work, domestic labour, care services and part-time or contract-based employment, where legal protections are often weak or absent. Studies on labour markets have consistently shown that women workers are disproportionately represented in informal and precarious employment arrangements.² Despite constitutional guarantees of equality and dignity, barriers such as unpaid care responsibilities, unsafe working environments, wage disparities and limited access to grievance redressal mechanisms continue to affect women workers.³ Labour law, therefore, does not operate on a level playing field; rather, it interacts with existing social and economic inequalities that influence how rights are accessed, interpreted and enforced in practice.⁴

¹ Ministry of Labour and Employment, *Labour Law Reforms and Employment Relations* (Government of India 2025)

² International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018)

³ Naila Kabeer, *Gender, Labour Markets and Women's Empowerment* (Routledge 2016)

⁴ Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury Academic 2011)

The 2025 labour reforms take a largely gender-neutral legislative language. The 2025 labour reforms largely adopt gender-neutral legislative language. Neutrality is often presented as fairness, suggesting that laws framed in general terms and applied equally to all workers will naturally produce equality. However, constitutional jurisprudence has increasingly questioned this assumption. In *Lt Col Nitisha v. Union of India* (2021), the Supreme Court of India clarified that apparently neutral rules may still result in discrimination if they disproportionately disadvantage a particular group.⁵ The Court held that facially neutral standards can amount to “indirect discrimination” when structural inequalities cause them to operate unequally in practice. This reasoning is particularly relevant in the context of labour regulation, where women workers often enter the labour market from structurally unequal positions shaped by informality, unpaid care responsibilities, and limited bargaining power. When law ignores these underlying conditions and assumes that equal treatment alone ensures justice, neutrality may inadvertently reproduce inequality rather than eliminate it. This assumption has been challenged by feminist legal scholarship. Formal equality, in which persons are treated the same, tends to fail in societies where there is already a high degree of structural inequality. Substantive equality, on the other hand, requires the law to acknowledge difference and disadvantage.⁶ In the context of labour regulation, this means recognising the situation in which women are affected by work, risk and insecurity differently.

A simple illustration exposes this gap. Consider a woman who is employed as a home-based garment worker. She is paid on a piece-rate basis, and she has no written contract. Under a framework that prioritises standard employment-employer and their employees, her labour is further legally invisible. In comparison, a factory worker with some type of formal documentation finds it easier to claim minimum wages or social security benefits. Both are “workers” in the economic reality, only one is recognised by the law. Gender neutrality, in such cases, is a means of exclusion instead of inclusion.⁷

Judicial determinations have made it clear on several occasions that equality, under the Constitution, does not entail the same treatment. Courts have agreed that protective measures for women are not a deviation but instrumental to arriving at equality, in fact.⁸ At the

⁵ *Lt Col Nitisha v Union of India* (2021) 15 SCC 125

⁶ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011)

⁷ International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018)

⁸ *State of Kerala v N M Thomas* (1976) 2 SCC 310

international level, under the aegis of the International Labour Organisation and the Convention on the Elimination of All Forms of Discrimination against Women, states have also been committed to adopting gender sensitive policies on labour.⁹ Despite these promises, the Labour Framework 2025 is mostly silent on how gendered labour realities will be overcome.

Based on the above discussion, this article helps make the case that the labour reforms 2025 represent both promise and peril. While they aim at modernising the regulation and fostering economic growth, they also reproduce the long-standing blind spots related to women's work. By the emphasis on flexibility, compliance efficiency and formal structures of employment, the framework is in danger of marginalising the labourers who don't fit conventional models of labour. It is not so much what the law states, but who is perceived and who is forgotten by the law.

2. RESEARCH QUESTIONS, OBJECTIVES AND SCOPE OF THE STUDY

Labour law reform debates are often presented around the need for efficiency, and for investment and simplifying regulations. In this process, questions of gender justice appear to be regarded as secondary issues, assumed to be automatically covered in neutral drafting. This article starts with a rather different premise: that neutrality itself is an area of inequality when laws function within highly stratified labour markets.¹⁰ The formulation of research questions for this study is, therefore, based on a concern for how law operates in the lived realities, rather than how law appears in statutory text only.

The main research question in this article is whether or not the labour law framework introduced in 2025 significantly addresses the structural drawbacks of women workers. Rather than whether or not the law recognises women and men as equal before the law, the enquiry is to focus on whether or not the law recognises unequal starting points. This distinction is important in labour regulation, because women are disproportionately represented in informal, low-paid and insecure forms of work.¹¹ The question raised by the article is in what way the

⁹ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13

¹⁰ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011)

¹¹ International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018)

promise of reform has translated into protection for those who have been on the margins of labour law in the past.

A second research question is how the language of formal equality works within the 2025. Feminist legal scholars have long argued that laws defined in universal terms have often reflected male-centered conception of jobs and of employment based on uninterrupted, full-time work.¹² This study, therefore, asks the question whether the reforms that, in their reliance on standard employment relationships and compliance-based enforcement, inadvertently provide a form of privilege to male-dominated sectors and keep out gendered forms of labour such as domestic work, care work and home-based production.

The third research question rests on the 2025 reforms by reference to constitutional and international legal requirements. The Constitution ensures equality, dignity and the right to livelihood: judicial interpretation, however, has always laid greater emphasis on substantive equality rather than identical treatment.¹³ At the international level, India has obliged itself to gender-sensitive labour regulation to CEDAW and important ILO conventions.¹⁴ This article poses the question of whether these normative commitments are put concretely into the design and implementation of the new labour framework.

Closely related to these questions is the objective of the study. The first objective is to critically analyse the labour reforms of 2025 from the perspective of gender, and to try to find specific sectors where women's work is still invisible or not well-regulated. This includes looking into provisions in terms of informality, flexible employment, social security and enforcement mechanisms. Rather than attempting to analyse gender as an isolated category, in this study, it is incorporated into the heart of labour regulation analysis.

The second objective is to expose the limits of gender neutrality as a legislative strategy. Through examples and case studies, the article has shown how neutral rules can result in unequal consequences. For example, the flexible hiring norms may seem like an empowering force, but if you're a woman with care responsibilities, flexibility may mean precarity, rather

¹² Joanne Conaghan, 'Gender, Law and the Crisis of the Standard Employment Relationship' (2012) 35 JLS 54

¹³ *State of Kerala v N M Thomas* (1976) 2 SCC 310

¹⁴ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13

than choice, in the absence of social security.¹⁵ Pointing out such contradictions, the study aims to go beyond equality at a superficial level.

The third objective is normative in nature. The article intends to add to the wider debate about gender-responsive labour law through the propositions of reform to balance economic efficiency with social justice. These recommendations are based on comparative experiences of jurisdictions that have introduced gender impact assessments and care-sensitive labour policies.¹⁶ The point is not about resisting reform, but it is about reforming what reform should look like in a way that addresses gendered labour realities.

The scope of this study is limited to an analysis of the labour law framework introduced in 2025 and its implications for women workers. While the article draws upon comparative and international materials, it does not make an exhaustive comparative study. Instead, comparative references are made in an illustrative way to show alternative approaches and missed opportunities. The focus is still very much on how domestic labour reform can reflect more of the constitutional values and international commitment to gender equality.

3. METHODOLOGY AND THEORETICAL FRAMEWORK

This research has a doctrinal and critical approach towards the study of labour law reform. Labour law does not work in a vacuum, but is influenced by social realities, institutional practices and power relations. A pure textual interpretation of statutes is thus inadequate to grasp the impact of reform on different classes of workers.¹⁷ The methodology used in this study aims to bridge the gap between the legal text and lived experience by simultaneously using a doctrinal approach with a feminist and intersectional approach.

At the doctrinal level, the research has focused on the statutory provisions introduced as part of the 2025 labour framework, as well as policy documents, debate in parliament and an explanation for the document. Judicial decisions that interpret labour rights and the equality principles are also analysed to examine the extent to which the courts have historically approached gender based disadvantage in the area of employment.

¹⁵ International Labour Organization, *Non-Standard Employment Around the World* (ILO 2016)

¹⁶ Judy Fudge and Rosemary Owens, *Prekarious Work, Women, and the New Economy* (Hart Publishing 2006)

¹⁷ Hugh Collins, *Labour Law* (2nd edn, Cambridge University Press 2019)

However, doctrinal analysis cannot convey the extent of labour reform's gendered implications. Feminist legal theory is the foundation of the theory in this article. Feminist scholars have long argued that law tends to reflect male-centric models of work based on assumptions of work at any time of day, full-time employment and no care-taking responsibilities.¹⁸ In the case of labour regulation where such assumptions are embedded, the work of women, in the particular case of unpaid and informal labour, remains invisible. This study employs feminist theory in questioning whose work the law accepts and whose labour it disregards.

The paper also relies on the idea of substantive equality, which has been developed in constitutional jurisprudence and feminist legal theory. In particular, the analysis draws upon the multidimensional framework of substantive equality proposed by Sandra Fredman.¹⁹ According to this framework, equality requires attention to four interrelated objectives: redressing structural disadvantage, addressing stigma and stereotyping, enhancing participation and voice, and accommodating difference in social and economic life. However, substantive equality acknowledges that it might keep doing wrong things to treat unequal situations in an equal manner.²⁰ This principle is applied in labour law as lawmakers are expected to keep in mind the social and economic contexts within which workers are working. As an illustration, the flexibility in employment norms might seem unbiased, but when it is extended to women having a responsibility to take care of another person, it may only exacerbate insecurity instead of promoting choice. The substantive equality framework also enables the study to get out of formal comparisons and look at the real-life impacts.

The analysis is also informed by an intersectional approach. Gender does not exist in isolation, nor is there interplay between it and caste, class, migration status, disability and informality.²¹ The way labour is controlled is very different to a woman domestic worker, a migrant factory worker, and a professional woman in the formal sector. This article has helped to avoid defining women as a homogenous group, adopting an intersectional lens and instead depicts layered vulnerabilities that labour reform has continued to overlook.

The article uses short case studies and real applications to exemplify these dynamics, which are made out of labour practise, insights by judges and policy reports. These examples are not

¹⁸ Joanne Conaghan, 'Gender, Law and the Crisis of the Standard Employment Relationship' (2012) 35 JLS 54

¹⁹ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011)

²⁰ *Id*

²¹ Kimberlé Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color' (1991) 43 SLR 1241

told as empirical observations but rather as examples or stories that demonstrate how the legal structures work in daily life. Selective reference to what has been done in other jurisdictions, including the United Kingdom and the European Union, also helps to illustrate how gender impact assessment and care-sensitive labour policies have been integrated in other jurisdictions.²² These comparisons are used to point out alternative regulatory options instead of direct transplantation.

By using this methodological strategy, the article does not dismiss labour reform as such. Rather, it critiques the assumptions of reform on which it relies, and whether or not efficiency-based regulation can be compatible with gender justice. Through the integration of a doctrinal analysis with feminist and intersectional theory, the analysis would provide a more comprehensive perspective of labour law, and one where law is seen as a regulatory tool and as a social institution.

4. OBJECTIVES AND RATIONALE OF THE 2025 FRAMEWORK

The reform of labour laws is often put within the context of economic uncertainty and shifting shapes of labour. The introduction of the 2025 labour framework was made in the circumstances of the exceptionally high rate of technological change, employment on platforms, and the growing need to make labour regulation more business-friendly. The reforms are accompanied by policy documents that highlight the necessity to streamline the complicated labour legislation, lessen compliance expenses, and promote formal employment.²³ The mentioned goal is to establish a legislative framework that will foster development without abrogating vital employee rights.

Simplification by consolidation is one of the main potentials of the 2025 framework. The reforms seek to make compliance easier for employers by consolidating several labour acts into a single regulatory system, as well as simplifying the process of compliance for workers. Fragmented regulation has been recently criticized to have the effect of discouraging formalization especially among small and medium enterprises. In this light, consolidation is developed as a move towards better legal clarity and enforcement.²⁴

²² European Commission, *Strategic Engagement for Gender Equality 2020–2025* (EU Publications 2020)

²³ Ministry of Labour and Employment, *Labour Law Reforms and Employment Relations* (Government of India 2025)

²⁴ International Labour Organization, *Decent Work and the Informal Economy* (ILO 2019)

The other major target is to promote labour market flexibility. The reforms aim to enable employers to have more freedom in hiring, work schedules, and firing policies, where it is argued that strict regulation will reduce the number of employees getting jobs. Flexibility is not only described as a positive aspect to employers but also to workers who gain more choice and mobility. In terms of policy, the aspect of flexible employment has been associated with the aspect of women taking part in the workforce, particularly those taking part in paid labour alongside family duties.²⁵

The third pillar of the reform agenda is digitisation. Online registration, digital compliance and electronic dispute resolution mechanisms are to be introduced in order to minimise bureaucratic delays and corruption. Ideally, digital governance would be less costly and more convenient, especially to employees who might not have the wealth to get through the conventional legal channels. The framework indicates that technology can open up prospects to access labour justice by rendering information and solutions more accessible.²⁶

The 2025 framework also focuses on competitiveness in the economy and global labour standards. It is the opinion of policymakers that balancing labour regulation and international best practices will draw foreign investment and absorb the domestic labour market into international value chains. The reforms are projected as socially responsible and globally aligned by referencing the principles of the International Labour Organisation and the decent work standards.²⁷ This narrative places the framework as a moderate between employee security and financial efficiency.

Formally, the reforms seem to be inclusive. The framework is written in general language where there is no specific suggestion of male or female worker; the terms worker and employer are defined generically. This neutrality is offered as the promise of equality, which indicates that sex-related considerations are not needed in a contemporary legal system.²⁸ When applied by policymakers, neutrality represents advancement over protecting legislation that was traditionally understood as paternalistic.

The assurance of neutrality, however, is based on an assumption that all the workers are equal beneficiaries of homogenization. Although simplification, flexibility and digitisation can bring

²⁵ OECD, *Gender Equality and Work-Life Balance* (OECD Publishing 2020)

²⁶ World Bank, *Digital Governance and Labour Regulation* (World Bank 2021)

²⁷ International Labour Organization, *Decent Work Agenda* (ILO 2018)

²⁸ Ministry of Labour and Employment, *Explanatory Notes on Labour Codes* (Government of India 2025)

genuine benefits, they are not equally spread throughout the labour market. Employees who are stable in terms of contracts, have digital capabilities, and are bargaining are at a better advantage to navigate through flexible regimes and online systems. The promises are still a far-off dream to many women workers, especially the informal, domestic, or home-based employees.

Similar tensions may be seen when it comes to comparative experiences. In the UK, flexibility in the labour market through deregulation increased part-time work and zero-hour contracts, most of which are largely dominated by women.²⁹ Although such arrangements raised levels of participation, they also enhanced income insecurity and constrained access to social benefits. The European Union has retaliated by proposing work-life balance and transparent working conditions directives since it has realised that flexibility needs to come with protection.³⁰ These events show how gender-blind reform can create inequality accidentally.

The potential of the 2025 labour framework, thus, is in its desire to modernise regulation and catalyse growth. However, this is a promise that cannot be fulfilled without a similar commitment to gender justice. The simplification, flexibility, and digitisation are not exclusionary in principle, but when enacted insensitively in relation to gendered labour realities, they expose the risk of favouring those who are already in a better position to benefit once the reforms are enacted.

5. GENDER BLIND SPOTS IN THE 2025 LABOUR FRAMEWORK

The greatest vulnerability of the 2025 labour framework is not what it specifically includes and excludes but what the framework implicitly supposes. Its model of work is continuous, formal, and relies very little on caregiving breaks. These assumptions can be true to the experience of a segment of the workforce, but cannot reflect the realities of female labour participation. In that regard, gender neutrality is not applied as the means of fairness, but rather, it masks the structural inequality under the banner of equal regulations.³¹

²⁹ UK Office for National Statistics, *Women and Non-Standard Employment* (ONS 2019)

³⁰ European Union, Directive (EU) 2019/1158 on Work-Life Balance for Parents and Carers

³¹ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011)

5.1. Informality and the Invisibility of Women's Work

One of the main areas of weakness in the 2025 framework is its lack of involvement in informal labour. A large proportion of informal workers are women in the fields of domestic employment, home-based manufacturing, street selling and agricultural labour.³² Such work often does not require a written contract, a conventional place of work, or recognisable employer characteristics upon which labour law usually draws to invoke protection.

As an example, a woman who is a home-based bidi roller or garment sewage worker might have a long labour time but is still invisible legally due to her work not being classified as employment. By focusing on formal employer-employee relationships, the 2025 framework does not achieve much in terms of absorbing such workers into its protective framework. Impartial definitions of what constitutes a worker, therefore, automatically leave out those whose labour is already precarious. This structural limitation becomes clearer when examined in light of the statutory language of labour legislation. Section 2(zr) of the Industrial Relations Code, 2020, defines the term worker but expressly excludes persons employed in domestic service from its scope.³³ The exclusion appears technical at first glance, yet it has significant gender implications because domestic work in India is overwhelmingly performed by women, many of whom belong to economically and socially marginalised communities. By statutorily placing domestic workers outside the central definition of labour protection, the law effectively denies them access to dispute resolution mechanisms, collective bargaining protections and other rights available to recognised workers.

From a constitutional perspective, such exclusion can be understood as a form of omissive discrimination, a concept discussed in the scholarship of Jane Kaushik.³⁴ Omissive discrimination occurs not through explicit unequal treatment, but through legislative silence that systematically leaves vulnerable groups outside the protection of law. This concern also resonates with the equality jurisprudence of the Supreme Court of India, which has recognised that apparently neutral legal rules may produce discriminatory outcomes when they reinforce

³² International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018)

³³ Industrial Relations Code 2020, s 2(zr)

³⁴ Jane Kaushik, 'Omissive Discrimination and Gender Justice in Labour Regulation' (2019) 12 IJCL 145

existing gender disadvantages.³⁵ The 2025 reforms, however, fail to put this recognition into tangible statutory inclusion and keep informal women workers in the periphery.

5.2. Flexibility without Security

The key promise of the 2025 framework is labour flexibility. Flexible hours, short-term contracts and platform-based work are explained as a means of increasing choice and autonomy. Theoretically, this flexibility would help women with paid employment coupled with caregiving duties. Practically, though, flexibility without security means a tendency to become more vulnerable.³⁶ The Draft Code on Social Security (Central) Rules, 2025, partly recognises gig workers by requiring aggregators to contribute 1–2% of turnover to a welfare fund, yet it still denies platform women workers full employee status and maternity protection.³⁷

Take the example of a female worker who is hired via a digital application to deliver, care or household services. Even though she might be free to decide her working hours, she usually does not have any of the benefits of maternity benefits, leaves, health insurance, or guaranteed income. The self-regulation and contractual freedom presented in the framework place such workers at the mercy of market forces instead of legal protection.

This concern is reinforced by comparison experience. The growth of zero-hour contracts in the United Kingdom boosted women's labour participation in the labour market, but it also subjected them to income volatility and inadequate employment protection.³⁸ Platform-based work has been subject to similar patterns across jurisdictions, leading to calls to be stricter on its regulation instead of deregulating it.³⁹ These risks are not adequately covered in the 2025 framework.

5.3. Occupational Safety and the Illusion of Consent

Another dimension of gender neutrality in labour reform appears in the regulation of women's night work. Section 43 of the Occupational Safety, Health and Working Conditions Code, 2020 permits women to work between 7 p.m. and 6 a.m. with their consent, subject to prescribed

³⁵ *Anuj Garg v Hotel Association of India* (2008) 3 SCC 1; *Air India v Nargesh Meerza* (1981) 4 SCC 335

³⁶ International Labour Organization, *Non-Standard Employment Around the World* (ILO 2016)

³⁷ Draft Code on Social Security (Central) Rules 2025, Rule 52

³⁸ UK Office for National Statistics, *Women and Non-Standard Employment* (ONS 2019)

³⁹ Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce"' (2016) 37 CLLPJ 471

safeguards.⁴⁰ While this provision is often presented as progressive because it removes earlier statutory restrictions on women's employment, the assumption of voluntary consent warrants closer scrutiny. In highly stratified labour markets characterised by wage insecurity and limited employment alternatives, the ability to refuse night work may be largely theoretical. Women workers in precarious or low-income employment often lack the bargaining power to decline such assignments without risking loss of income or employment. Consent in this context may therefore operate more as a legal formality than a genuine exercise of autonomy.

Recognising safety concerns, Rule 34 of the Draft OSH (Central) Rules, 2025, notified on 30 December 2025,⁴¹ mandates safeguards including free GPS-enabled door-to-door transport, workplace security measures such as CCTV and female supervisors, and access to medical aid, restrooms and canteen facilities. While these protections are significant, they primarily address physical safety rather than the structural economic pressures shaping women's choices. Consequently, procedural compliance alone cannot guarantee substantive equality in night work conditions.

5.4. Unpaid Care Work and the Myth of the Ideal Worker

The inability to appreciate unpaid care work is one of the most stubborn blind spots in labour regulation. The load of caregiving is still borne by women who have to deal with childcare, aged care and household work.⁴² These roles determine the capacity of women to enter into paid labour, yet they are not legally visible.

The 2025 model also presumes the existence of an ideal worker, who is capable of unrestricted labour and can be flexible without limitation to adapt to changing schedules. This presumption is unjust to women whose professional paths are defined by their caregiving responsibilities. As an example, long working hours or unplanned hours could be lawful under the new regime, yet they unequally happened to be inadmissible to women who are unable to fulfil such expectations unrealistically. The gap has started to be addressed in some jurisdictions. In the Work-Life Balance Directive, the European Union acknowledges the caregiving roles explicitly and determines safeguarded flexible work and parental leave.

⁴⁰ Occupational Safety, Health and Working Conditions Code 2020, s 43

⁴¹ Draft Occupational Safety, Health and Working Conditions (Central) Rules 2025, Rule 34

⁴² International Labour Organization, *Care Work and Care Jobs for the Future of Decent Work* (ILO 2018)

5.5. Weak Enforcement of Gender-Specific Protections

Even though legislative protection of maternity benefits, safety in the workplace, and sexual harassment formally still exist, enforcement in the 2025 framework is considerably undermined. The transition to online compliance, self-reports, and lighter inspections presupposes that employees are able to access technology easily and claim their rights.⁴³ This assumption is not true in the case of many women, especially in informal and low-paying sectors.

This concern is reinforced by the enforcement design of the Social Security Rules, 2025. Rule 41 replaces the traditional labour Inspector with an Inspector-cum-Facilitator, signalling a shift from regulatory supervision to compliance facilitation. While intended to reduce bureaucratic intervention, this model risks weakening oversight in sectors where women's rights violations already remain underreported. The problem is intensified by Rule 55, which permits compounding of certain offences through payment of a prescribed electronic fee. When violations relating to maternity benefits are treated as compoundable administrative lapses, the protective purpose of labour law is diluted. Maternity protection is closely linked to constitutional guarantees of dignity, equality, and livelihood, and reducing such violations to monetary settlement risks undermining these constitutional commitments.

A domestic worker being harassed or a factory worker being denied maternity benefits might be unwilling to file a digital complaint because of fear of retaliation, because of digital illiteracy or lack of legal knowledge. Research has indicated that women tend to use the formal grievance mechanisms less when implementation is heavily dependent on personal initiative.⁴⁴ Neutral enforcement arrangements, thus, reproduce the inequality in access to justice.

The judicial precedent has provided a focus on the proactive role of state intervention in ensuring the protection of women workers.⁴⁵ The 2025 framework, however, puts more responsibility on workers themselves, making institutions less accountable.

⁴³ World Bank, *Digital Governance and Labour Regulation* (World Bank 2021)

⁴⁴ UN Women, *Progress of the World's Women: Transforming Economies, Realizing Rights* (UN Women 2015)

⁴⁵ *Vishaka v State of Rajasthan* (1997) 6 SCC 241

5.6. The Illusion of Choice

The illusion of choice is probably the most hidden bias of the 2025 reforms. Flexibility is described as empowerment, but any decisions made under the circumstances of economic necessity can not be compared with real freedom. Taking insecure or informal work is not a choice made by many women, but a necessity dictated by a lack of options.

Feminist scholars warn that one should not celebrate choice without analysing the situations in which one makes a choice.⁴⁶ The fact that the 2025 framework fails to probe into such conditions leads to a labour regime that seems neutral but discriminates against those with lesser resources and duties systematically. In this respect, the danger of the 2025 labour framework does not exist in the form of open discrimination but structural silence. The law recreates the hierarchies it professes to denounce as it tries to treat unequal situations as equal.

6. CONSTITUTIONAL AND INTERNATIONAL LAW PERSPECTIVES

It is impossible to discuss labour law reform without considering constitutional principles and commitments to international law. Labour regulation in constitutional democracies is not a tool of economic control, but instead a tool of social justice implementation. The 2025 labour regime should consequently be evaluated in relation to the constitutional arbitrage of equality, dignity and the right to livelihood. These principles do not just presuppose formal neutrality, but active remedy of structural disadvantage by the law.⁴⁷

6.1. Substantive Equality under the Constitution

Courts have been construing the constitutional guarantee of equality as a promise of substantive equality and not equal treatment. The courts have realised that treating things that are not equivalent similarly might contribute to injustice.⁴⁸ This includes, in the context of the labour law, that homogenous rules might not defend workers who start with a disadvantaged position, such as women in informal or precarious jobs. This position has been further strengthened by the doctrine of horizontal application articulated in *Jane Kaushik v. Union of India (2025)*, where the Court affirmed that constitutional guarantees of gender equality are enforceable not

⁴⁶ Judy Fudge and Rosemary Owens, *Prekarious Work, Women, and the New Economy* (Hart Publishing 2006)

⁴⁷ Upendra Baxi, *The Future of Human Rights* (Oxford University Press 2002)

⁴⁸ *State of Kerala v N M Thomas* (1976) 2 SCC 310

only against the State but also against private establishments.⁴⁹ Consequently, regulatory silences such as the absence of gender-neutral washrooms and transgender protection mechanisms under the Occupational Safety, Health and Working Conditions framework may amount to a constitutional violation.

Special protection of women workers has been affirmed as legitimate by courts, acknowledging that it does not infringe equality but merely actualises it.⁵⁰ An example of this is judicial review of employment procedures, showing that rules governing the workplace (made on the assumption of continuous employment) are disproportionately enforced against women. Such determinations highlight the constitutional need to create labour laws that are sensitive to social reality and not idealized depiction of labour.

The 2025 labour framework is, however, based on uniform definitions and neutral enforcing mechanisms. The framework fails to provide explicit gender-sensitive requirements, which means that it is not fulfilling its constitutional expectation. Constitutional jurisprudence of equality demands both outcome and impact, not just literally the form of legislation.

6.2. Dignity, Livelihood, and Women's Work

The right to livelihood has been considered as part of the right to life and dignity.⁵¹ Labour law has been instrumental in the achievement of this right by controlling the conditions of work, pay, and social insurance. To the women workers, dignity has been directly connected with the notions of safety, choice and financial prosperity.

The cases involving workplace harassment and exploitation have highlighted the fact that dignity in the workplace is not a choice but a necessity.⁵² Women working either in housekeeping, factories or platform-based services tend to work in an environment where power imbalances are observed. When labour reform weakens the work or transfers the responsibility to the workforce to realise their rights, it destroys the constitutional promise of dignity.

⁴⁹ *Jane Kaushik v Union of India & Ors.*, W.P. (C) No. 1405/2023

⁵⁰ *Air India v Nergesh Meerza* (1981) 4 SCC 335

⁵¹ *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545

⁵² *Vishaka v State of Rajasthan* (1997) 6 SCC 241

The focus on digital compliance and self-regulation proposed in the 2025 framework presupposes that every worker is equally able to navigate legal procedures. This is an assumption that does not take into account those women who have limited access to technology, legal awareness, or community support. The constitutional principles require the active role of the state in the protection of vulnerable workers.

6.3. International Labour Standards and Gender Justice

In the international arena, the regulation of labour is guided by the obligations of the International Labour Organisation and the human rights treaties. The Convention on the Elimination of All Forms of Discrimination against Women obliges states to remove discrimination in the employment sphere and provide protection regarding maternity, health, and working conditions.⁵³ In the same vein, ILO conventions highlight the principles of equal pay, maternity security and safe working conditions.

There is a growing trend within international labour standards in paying attention to informality and unpaid work. On numerous occasions, the ILO has emphasised that gender-neutral labour policies will not work in an environment where women constitute the overwhelming number of informal and precarious workers.⁵⁴ Nevertheless, the 2025 labour framework does not specifically mention these changing standards or include gender impact assessment measures.

There is an instructive example provided in comparative practice. Some jurisdictions have made it mandatory to analyse gender in policy formulation. In Canada, the gender-based analysis approach is adopted to determine the different impacts of legislation on men and women.⁵⁵ The European Union has labour directives that specifically incorporate gender equality goals in employment regulation.⁵⁶ These approaches prove that gender-sensitive labour reform is not only possible but also compatible with economic purposes.

6.4. Gaps between Commitment and Compliance

Comparison of constitutional and international obligations and the 2025 labour framework has shown an alarming gap. Whereas normative principles are focused on inclusion and substantive

⁵³ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13

⁵⁴ International Labour Organization, *Care Work and Care Jobs for the Future of Decent Work* (ILO 2018)

⁵⁵ Government of Canada, *Gender-Based Analysis Plus (GBA+)* (2020)

⁵⁶ European Union, Directive (EU) 2019/1158 on Work-Life Balance for Parents and Carers

equality, the framework focuses on efficiency and formal compliance. This is not only a technical gap, but it has practical effects on women since their contribution continues to be undervalued and unguarded.

Courts have been prone to fill such gaps by reading into labour rights expansively.⁵⁷ However, the calls to judicial intervention impose an undue burden on individual workers and negate the legislative role in facilitating justice. Sustainable labour reform considers that ideals of constitutional and international principles should be codified at a statutory design level as opposed to being resorted to at the litigation level.

7. POLICY AND LEGAL RECOMMENDATIONS

With the gender blind spots of the 2025 labour framework established, this study shifts to the construction of a constructive reform. Labour law does not necessarily have to decide between economic efficiency and social justice. The difficulty is to create a regulation that both recognises gendered labour conditions and can accommodate economic change. Gender-sensitive labour reform does not entail treating women in any special way, but it involves acknowledging inequality and the divergent burden.⁵⁸

7.1. Moving from Formal Neutrality to Substantive Equality

Gender-responsive labour reform can begin with a change in legislative philosophy. The concept of neutral drafting is symbolically attractive; however, in most cases, it fails in unequal societies. Substantive equality demands that lawmakers must pose questions concerning the functioning of rules in practice and to whom they serve.⁵⁹ The constitutional jurisprudence has also supported this approach that the same treatment has been known to promote disadvantage.

Practically, this shift could be realised by making Gender Impact Assessments (GIA) a statutory requirement under Section 67 of the Code on Wages, ensuring that labour reforms are evaluated for their gendered consequences before implementation. A useful precedent exists in India's Gender Budget Statement 2025–26, which allocated ₹4.49 lakh crore for women-focused programmes,⁶⁰ demonstrating fiscal gender accountability. Extending similar mechanisms to

⁵⁷ *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161

⁵⁸ Sandra Fredman, *Discrimination Law* (2nd edn, Oxford University Press 2011)

⁵⁹ *State of Kerala v N M Thomas* (1976) 2 SCC 310

⁶⁰ Government of India, Ministry of Finance, *Gender Budget Statement 2025–26*, Union Budget Documents (New Delhi: Government of India, 2025)

labour legislation would strengthen gender-responsive governance and promote substantive equality.⁶¹

7.2. Extending Protection to Informal and Non-Standard Work

The second area in which reforms need to be made is on informality. The work of women is largely marginalised, with non-formal employment relations, yet labour law is still based on the traditional employer-employee framework. Gender-responsive reform should thus enlarge the legal framework in order to cover home-based workers, domestic workers and platform workers.⁶²

This may include simplified registration procedures, assumptions of working conditions, and social security schemes that are sectoral. The ILO has made it clear that extending protection to informal workers is the core issue at the heart of attaining decent work and gender equality.⁶³ Legalisation is not just a formality, but it is a precondition to have access to wages, social security and grievance mechanisms.

7.3. Recognising and Redistributing Care Work

The recognition of unpaid care work is central to meaningful labour reform, as caregiving responsibilities significantly shape women's participation in paid employment. Labour regulation that ignores the care economy risks reproducing gender inequality despite formally neutral provisions. Recent data from the Periodic Labour Force Survey show that the urban female labour force participation rate remained around 25.3% in the October–December 2025 quarter,⁶⁴ reflecting a persistent urban care deficit. One structural limitation is that crèche facilities are currently mandated only in establishments employing 50 or more workers,⁶⁵ excluding most small workplaces. Lowering this threshold to 10 employees could expand childcare access and support greater workforce participation among women.⁶⁶

⁶¹ Government of Canada, *Gender-Based Analysis Plus (GBA+) (2020)*

⁶² International Labour Organization, *Decent Work and the Informal Economy* (ILO 2019)

⁶³ International Labour Organization, *Women and Men in the Informal Economy: A Statistical Picture* (3rd edn, ILO 2018)

⁶⁴ Ministry of Statistics and Programme Implementation, *Periodic Labour Force Survey (PLFS): Quarterly Bulletin*, October–December 2025 (Government of India 2026)

⁶⁵ Code on Social Security 2020, s 67

⁶⁶ International Labour Organization, *Care Work and Care Jobs for the Future of Decent Work* (ILO 2018)

Comparative experience offers guidance. The work-life balance model by the European Union incorporates the aspect of caregiving in the regulation of labour by requiring parental leave and flexible working, plus protection.⁶⁷ These steps, adapted to the conditions of the domestic setting, would allow women to stay in the workforce without loss of security or dignity. The inclusion of care labour also secures the task of labour law compliance with the constitutional values of dignity and social justice.

7.4. Strengthening Enforcement and Access to Justice

Legal rights have no meaning when they cannot be enforced. The 2025 system assumes that all individuals will have equal access to technologies and legal literacy, which rely on digital compliance and self-reporting. This is not true, especially among women workers, especially in the informal sectors. Gender responsive reform should thus reinforce institutional enforcement and not weaken it.⁶⁸

This might involve special labour inspections of female-dominated industries, the availability of dedicated mechanisms of complaint, and the provision of legal aid to female employees. Judicial rulings have echoed the role of the state to take direct action to defend vulnerable employees instead of placing the burden on individuals.⁶⁹ Enforcement should be sensitive to the Power and fear of vengeance.

7.5. Learning from Comparative Experiences

As comparative labour law shows, gender-responsible reform is effective as well as possible. In jurisdictions where gender equality has been incorporated in labour regulation, there is high workforce participation, as well as less inequality.⁷⁰ These experiences highlight that labour law reform cannot only be judged based on the economic parameters, but also by the ability of such reforms to generate inclusive results.

⁶⁷ European Union, Directive (EU) 2019/1158 on Work-Life Balance for Parents and Carers

⁶⁸ UN Women, *Progress of the World's Women: Transforming Economies, Realizing Rights* (UN Women 2015)

⁶⁹ *Vishaka v State of Rajasthan* (1997) 6 SCC 241

⁷⁰ Judy Fudge and Rosemary Owens, *Prekarious Work, Women, and the New Economy* (Hart Publishing 2006)

The experience of a comparative practice makes this much more evident: reform that disregards gender might result in short-term efficiency but compromised long-term sustainability. Gender-responsive labour law, on the contrary, enhances both economic and social sustainability.

7.6. Reimagining Reform as Social Transformation

Finally, labour law reform should be interpreted as a means of social change and not a regulatory change. The 2025 framework describes an opportunity moment that will either consolidate existing hierarchies or confront them. Reform that incorporates gender justice in labour regulation can go beyond neutrality to fairness. Gender-responsive labour reform does not hinder growth. It is both an inclusive and sustainable development condition. The understanding and appreciation of female work, the importance of care and enhancing protection is not a compromise, but an investment in a fairer labour system.

8. CONCLUSION

The 2025 labour law framework has been a turning point in the history of labour regulation. It attempts to answer the call of the restructuring of the economy, technological change, and flexibility needs. However, as this article has shown, reform that puts efficiency as a priority and ignores gendered labour realities threatens to repeat the inequalities it purports to modernise. When gender neutrality is developed in unequal social circles, it cannot provide a sense of equality; rather, it tends to further enforce invisibility and marginalisation.

This discussion throughout this article has revealed that the role of women in work remains confined to the periphery of legality. Areas such as informal employment, non-payment work and non-standard labour arrangements, in which the women are mostly represented, are not adequately safeguarded within the 2025 framework. Lacking gender impact assessments, little focus on care responsibilities, and weak mechanisms of enforcement all harm the promise of inclusive reform. The above blind spots are not accidental; they are structural premises regarding labour, productivity and the ideal employee that the labour law has historically been uniquely endowed.

Comparative experiences demonstrate that gender-responsive labour policies are both feasible and necessary. The European Union's Work-Life Balance Directive (Directive (EU) 2019/1158), by introducing non-transferable paternity leave, aims to redistribute caregiving

responsibilities and challenge the traditional “ideal worker” model of uninterrupted employment. Such measures show that recognising care work and strengthening labour protections can advance substantive equality while maintaining economic adaptability, thereby supporting sustainable and inclusive labour markets.

This discussion concludes that labour law reform must be understood as a project of social transformation rather than mere regulatory simplification. As Justice D.Y. Chandrachud observed in *Jane Kaushik v. Union of India*, “constitutional promises are not self-executing, realising equality and dignity at work therefore requires a transformative labour jurisprudence that demands active implementation of constitutional guarantees by both the State and private employers. Gender-responsive labour regulation is not tokenism; it is a constitutional human right that must be based on dignity, equality and fairness. The future of labour reforms can realise this promise by going beyond formal neutrality in pursuit of substantive justice, but rather they can serve as the means to achieve inclusive and humanistic developments.
