

**Secure Today, Gone Tomorrow? Fixed-Term and Contract Employment of Women
under the Industrial Relations Code, 2020 and the OSH Code, 2020**

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Abstract. The Industrial Relations Code, 2020 permits fixed-term employment in all sectors and the Occupational Safety, Health and Working Conditions Code, 2020 restates the regulation of contract labour. Both have been enacted but are not yet in force. This paper analyses their likely effect on women workers, who are concentrated in contractual and temporary jobs. Using doctrinal analysis of the Codes, earlier statutes and Supreme Court decisions, together with literature on precarious work, it finds that parity of pay and early gratuity for fixed-term workers are welcome, but that expiry-based non-renewal, higher thresholds for retrenchment protection, residual principal-employer liability and restrictions on strikes may leave women exposed to pregnancy-related and retaliatory termination. The paper recommends written reasons for non-renewal, cumulative counting of service, express maternity entitlements and limits on repeated renewal.

Keywords: Fixed-term employment; contract labour; job security; women workers; Industrial Relations Code; India

1. Introduction

Security of employment is a precondition for the exercise of almost every other labour right. A woman who can be dismissed without cause, or whose contract can simply be allowed to lapse when she becomes pregnant, is unlikely to claim equal pay, complain of harassment or join a union. India's Industrial Relations Code, 2020 (the IR Code) and Occupational Safety, Health and Working Conditions Code, 2020 (the OSH Code) change the legal terrain for temporary employment by permitting fixed-term employment in all sectors and by regulating contract labour through a new set of thresholds and restrictions. Both Codes have been enacted but are not yet in force.

Women are concentrated in precisely those forms of work that these provisions regulate: contractual jobs in manufacturing, services and the public sector, casual and seasonal work and work routed through intermediaries. This paper examines how the IR Code and the OSH Code are likely to affect women's job security, and argues that equal treatment guarantees for fixed-term workers are a welcome step but are undermined by higher thresholds for protection, ease of non-renewal and weak safeguards against pregnancy-related termination.

2. Conceptual Framework

The literature on precarious work describes a shift from standard, long-term employment to insecure forms in which risk is transferred from employers to workers (Kalleberg, 2009). Standing (2011) describes the "precariat" as a class lacking secure occupational identity, stable income and entitlements. Women often bear these insecurities more heavily because employers may treat them as secondary earners, because care responsibilities restrict their choices and because they are over-represented in sectors with weak organisation (Chen, 2012; Mazumdar & Neetha, 2011). Fredman (2011) adds that equality law has difficulty reaching such work because discrimination is embedded in the form of the contract itself, and not only in individual decisions.

3. Methodology

The study is doctrinal. It analyses the relevant provisions of the IR Code, the OSH Code and the Code on Social Security, 2020, compares them with the Industrial Disputes Act, 1947, the Industrial Employment (Standing Orders) Act, 1946 and the Contract Labour (Regulation and Abolition) Act, 1970, and examines Supreme Court case law on contract and temporary workers. Official survey data on contract status provide context. Since the Codes are not yet in force, the analysis is prospective.

4. Women and Non-Standard Employment

Official data show that a large majority of regular wage and salaried workers in India do not have a written job contract (Ministry of Statistics and Programme Implementation [MoSPI], 2020). The proportion of workers without written contracts is higher among those in the informal sector, where women are concentrated (National Commission for Enterprises in the Unorganised Sector [NCEUS], 2007). Contract and temporary arrangements are common in sectors with substantial women's employment, including garments, electronics assembly, education, health, public programmes and household services.

Precarious employment compounds other disadvantages. A woman on a short contract may not meet the qualifying period for maternity benefit, may be reluctant to refuse a night shift or report harassment, and may be passed over for training and promotion. Addati et al. (2018) note that employment insecurity and short contracts are significant obstacles to women's access to maternity protection worldwide.

5. The Legal Framework

5.1 Judicial approach to contract and temporary workers

The Supreme Court's approach has been uneven. In *Steel Authority of India Ltd. v. National Union Waterfront Workers* (2001), the Court held that contract workers are not automatically absorbed as regular employees when a contract-labour arrangement is abolished, and that absorption can be required only where the contract is a sham. This reinforced the legal viability of outsourcing. In *State of Punjab v. Jagjit Singh* (2017), however, the Court held that temporary, daily-wage and contract employees performing the same duties as regular employees are entitled to minimum pay at the level of regular employees, relying on the principle of equal pay for equal work. In *Municipal Corporation of Delhi v. Female Workers (Muster Roll)* (2000), the Court extended maternity benefit to casual women workers, holding that a casual or temporary status cannot be a ground to deny the benefit.

5.2 Fixed-term employment under the IR Code

The IR Code defines fixed-term employment as engagement on the basis of a written contract for a fixed period. It provides that fixed-term workers must receive hours of work, wages, allowances and other benefits that are not less than those of permanent workers in the same work, and that statutory benefits are available proportionately even if the contract is short. The Code on Social Security, 2020 provides for gratuity for fixed-term employees after one year of service, without the five-year requirement that applies to others. The central innovation is that fixed-term employment, previously confined to certain sectors, is permitted in all sectors.

5.3 Contract labour under the OSH Code

The OSH Code consolidates the law on contract labour and applies to establishments engaging fifty or more contract workers. It requires licensing of contractors, makes the principal employer liable for wages and certain welfare obligations if the contractor defaults, and prohibits contract labour in “core activities” of an establishment, subject to exceptions such as where the normal functioning of the establishment is such that the activity is ordinarily done through contractors. Table 1 compares the positions.

Table 1. Women workers in standard, fixed-term and contract employment

Issue	Permanent employee	Fixed-term employee (IR Code)	Contract worker (OSH Code)
Wages and benefits	Per terms of employment	Parity with permanent workers doing similar work	Contractor pays; principal employer liable on default
Job security	Retrenchment rules apply	Contract ends on expiry; no notice or retrenchment compensation	Depends on contractor's contract with principal employer
Gratuity	After five years	After one year of service	Depends on contractor's coverage
Maternity and crèche	Entitled (80-day condition)	Entitled; short contracts may not qualify	Entitled in principle; compliance weak
Collective voice	Union membership, grievance committee	Same in principle	Unions rarely reach contract workers

6. Critical Analysis

6.1 Parity on paper, insecurity in practice

The parity guarantee for fixed-term workers is significant, because it prevents the cost advantage of temporary contracts from arising from inferior pay. But parity in wages does not equal security. Because a fixed-term contract ends by expiry, and not by termination, the employer need not give reasons, follow a retrenchment procedure or pay retrenchment compensation. Non-renewal can therefore operate as a means of disguised dismissal. For a woman who becomes pregnant or raises a complaint, the lack of a requirement of reasons creates a risk of retaliation that would be hard to prove. The Maternity Benefit Act, 1961 prohibits dismissal during maternity leave, but a decision not to renew a contract falls into a legal grey area.

6.2 Thresholds that shrink protection

The IR Code raises the threshold for standing orders and for the requirement of government permission for lay-off, retrenchment and closure from 100 to 300 workers. This means a larger number of establishments, many in sectors with large female workforces, will operate with fewer procedural protections against dismissal. Mandatory retrenchment compensation and a worker re-skilling fund are partial offsets, but they depend on compliance and benefit workers who have already lost their jobs.

6.3 Contract labour and the principal employer

The OSH Code's restriction on contract labour in core activities is potentially protective, but exceptions and the 50-worker threshold limit its reach. Because the principal employer's liability is residual, women working through small contractors, such as housekeeping,

security and canteen staff, have little practical recourse. The Supreme Court's decision in *Steel Authority* means that, absent a finding that the arrangement is a sham, workers cannot claim regular status, and proving a sham is difficult for individual women workers.

6.4 Collective bargaining and the strike notice rule

The IR Code requires fourteen days' notice of strike in all establishments and restricts strikes during conciliation proceedings. For precarious women workers who rely on sudden collective action, this narrows the available tools. Women are already under-represented in unions, and these restrictions further reduce incentives to organise.

7. Recommendations

- Require employers to give written reasons for non-renewal of fixed-term contracts, and prohibit non-renewal on grounds of pregnancy, maternity or complaint.
- Provide in the rules that service under successive fixed-term contracts with the same employer counts cumulatively for maternity, gratuity and other benefits.
- Clarify that maternity and crèche entitlements apply to fixed-term and contract women workers, with direct liability on the principal employer.
- Limit repeated renewal of fixed-term contracts for permanent work and require conversion to regular employment after a defined period.
- Collect gender-disaggregated data on fixed-term and contract engagement.

8. Conclusion

The IR Code and OSH Code regularise non-standard employment and extend some benefits to temporary workers. For women, the question is whether those formal protections will translate into real security. Parity in pay and the early availability of gratuity are positive, but permission for fixed-term employment in all sectors, higher thresholds for protection and unreasoned non-renewal may magnify the vulnerabilities of women workers unless rules close the gaps. A gender-sensitive implementation should treat job security as the foundation on which the other rights of women workers rest.

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