

Volunteers or Workers? Women Scheme Workers in India's Health and Child-Development Systems and the Labour Codes

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Abstract. ASHAs, anganwadi workers and mid-day meal cooks, almost all women, sustain India's public health and child-development programmes but are classified as volunteers or honorary workers. This paper examines whether the four Labour Codes, enacted in 2019–2020 but not yet in force, change their legal position. Using doctrinal analysis of statutes and Supreme Court decisions, together with health-policy and care-economy literature, it shows that judicial treatment has been inconsistent, with Ameerbi (2007) denying civil-post status and Maniben (2022) extending gratuity to anganwadi workers, and that the Codes do not expressly resolve whether scheme workers are employees. The paper recommends express inclusion in the Codes' rules, implementation of the 45th Indian Labour Conference recommendations, guaranteed minimum remuneration and extension of safety and maternity protection.

Keywords: Scheme workers; ASHA; anganwadi; care work; women workers; Labour Codes; India

1. Introduction

India's public health and child-development systems depend heavily on women who are not formally recognised as workers. Accredited Social Health Activists (ASHAs), anganwadi workers and helpers, and mid-day meal cooks deliver immunisation, antenatal care, nutrition, pre-school education and school feeding to hundreds of millions of people. Yet they are widely designated "volunteers", "honorary workers" or "scheme workers", and are paid honoraria or performance-linked incentives rather than wages. Globally, women make up roughly 70 per cent of the health and social care workforce, but they are concentrated in lower-status and lower-paid roles (Boniol et al., 2019). The Indian scheme-worker workforce is an extreme case of this pattern.

Parliament has enacted four Labour Codes, between 2019 and 2020, to consolidate India's central labour laws; they have not yet been brought into force. This paper asks whether the Codes, as enacted, are likely to alter the legal position of women scheme workers. It argues that while the Codes expand definitions of workers and social security, they do not expressly resolve the central question of whether these women are "employees" entitled to minimum wages, gratuity, maternity benefit and collective rights, and that the answer will continue to turn on judicial interpretation and executive policy.

2. Conceptual Framework

Feminist labour scholarship has long argued that care work is undervalued because it is regarded as an extension of women's "natural" caring role and not as skilled labour (Folbre, 2001). Where the State itself relies on this assumption, devaluation is institutionalised: women are mobilised through appeals to service and community, paid token amounts, and denied the status of workers. Addati et al. (2018) note that care workers worldwide face low pay, informality and poor working conditions, and that the quality of care depends directly on the conditions of those who provide it.

Legally, the question is one of classification. Labour law protects “employees” or “workers”, and the boundaries of those categories determine who receives protection. The analysis therefore proceeds in two steps: first, how courts and policy have classified scheme workers; second, how the Labour Codes’ definitions and schemes treat them.

3. Methodology

The study is doctrinal. It reviews the structure of the Integrated Child Development Services (ICDS) and the National Health Mission, Supreme Court decisions on scheme workers, and the relevant provisions of the Code on Wages, 2019, the Code on Social Security, 2020, the Industrial Relations Code, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020. Secondary sources include health-policy research and official reports. Because the Codes are not in force and rules exist only in draft, the analysis is of statutory design.

4. Women Scheme Workers: Structure and Conditions

The ICDS, launched in 1975, delivers nutrition, immunisation, health check-ups and pre-school education through anganwadi centres run by an anganwadi worker and helper. The ASHA programme, introduced in 2005 under the National Rural Health Mission and now part of the National Health Mission, created a cadre of women community health workers, approximately one million in number, who receive performance-based incentives for tasks such as institutional deliveries, immunisation and tuberculosis support (Scott et al., 2019). Mid-day meal cooks and helpers, also mostly women, are engaged on small honoraria.

Research on the ASHA programme shows that incentive-based payment creates unpredictable income, that workloads expand well beyond the original mandate and that workers experience low status within the health system, despite the programme’s contributions to maternal and child health (Scott et al., 2019). During the COVID-19 pandemic these workers performed surveys, contact tracing and vaccination mobilisation, often with limited protective equipment and delayed payment. Table 1 summarises their position.

Table 1. Principal categories of women scheme workers

Category	Typical engagement	Principal gaps
ASHA	Community health worker; performance-linked incentives; small fixed honorarium in some states	Variable income; no guaranteed minimum wage; no job security; limited social security
Anganwadi worker and helper	Honorarium from Centre and states; fixed duties under ICDS	Honorarium below statutory minimum wage in many states; disputed status as employees
Mid-day meal cook-helper	Honorarium; engaged through schools or local bodies	Very low pay; irregular payment; no leave or maternity entitlements

5. Judicial Treatment and the Classification Problem

The courts have given a mixed answer. In *State of Karnataka v. Ameerbi* (2007), the Supreme Court held that anganwadi workers appointed under the ICDS scheme were not holders of civil posts under the State, and so could not claim the status or benefits of government

servants. This decision has often been cited by governments to resist claims for regularisation and pay parity. By contrast, in *Maniben Maganbhai Bhariya v. District Development Officer, Dahod* (2022), the Supreme Court held that anganwadi workers and helpers fall within the Payment of Gratuity Act, 1972, recognising that a long-term, State-directed, continuing role attracts statutory protection even where the label is “honorary”.

A wider line of cases supports a purposive reading. In *Randhir Singh v. Union of India* (1982), the Court treated equal pay for equal work as a constitutional goal under Articles 14 and 16, and in *State of Punjab v. Jagjit Singh* (2017), it held that temporary employees performing duties similar to regular employees are entitled to at least the minimum of the corresponding regular pay scale. The 45th Indian Labour Conference, a tripartite body, recommended in 2013 that scheme workers be treated as workers and receive minimum wages and social security, but that recommendation has not been implemented uniformly (Ministry of Labour and Employment, 2013).

6. Scheme Workers and the Labour Codes

The Codes define “employee” and “worker” by reference to employment for hire or reward, and apply to establishments of a prescribed size. The Code on Wages, 2019 secures a statutory floor wage and minimum wages for employees, but it does not say whether persons engaged on honoraria in government programmes are covered. The Code on Social Security, 2020 retains gratuity, which the decision in *Maniben* made relevant for anganwadi workers, and it provides for maternity benefit and for schemes for unorganised workers. It also empowers the government to frame schemes for unorganised workers, which could include scheme workers, but does not mandate them. The Industrial Relations Code, 2020 recognises trade unions and creates grievance redressal bodies, yet it does not specifically address the standing of government-scheme workers, who have historically organised unions and conducted strikes without clear statutory protection.

As a result, the Codes appear to leave the key question where it was: whether scheme workers are treated as employees will depend on the government’s willingness to notify them as such, on how rules define “establishment” and “employer” in the context of government schemes, and on courts. This is a serious gap given that government is the largest employer of women in the care economy.

7. Critical Analysis

7.1 The “volunteer” label as a mechanism of exclusion

The use of “volunteer” and “honorarium” allows the State to avoid obligations on wages, leave, maternity benefit and pension. For women who work daily and for years, the label does not reflect reality. It reflects instead a policy choice to extract labour at below-market cost by drawing on social expectations that women will serve their communities.

7.2 Gender and the State as employer

When the State is the employer, discrimination is also a constitutional matter. Differential treatment of a predominantly female cadre, compared with male-dominated cadres performing work of comparable value, raises questions under Articles 14 and 15. The Code

on Wages, 2019 retains the principle of equal remuneration for the same or similar work but requires a comparator, which is difficult in sex-segregated care work.

7.3 Health, safety and recognition

Scheme workers face occupational hazards including infection exposure, travel in remote areas and violence from community members or relatives of patients, yet occupational safety law has rarely been applied to them. The OSH Code's thresholds and definitions will again determine whether such workers fall within its scope.

8. Recommendations

- Amend the rules under the Codes to state expressly that persons engaged in government schemes on a continuing basis are employees or workers for the purposes of wages, social security and industrial relations.
- Implement the recommendation of the 45th Indian Labour Conference: treat scheme workers as workers, with minimum wages, paid leave, pension and maternity benefit.
- Shift ASHAs from purely incentive-based to a fixed-plus-incentive remuneration with a guaranteed minimum.
- Extend occupational safety, protective equipment, insurance and anti-harassment protections to scheme workers.
- Recognise scheme-worker unions in bipartite and tripartite forums.

9. Conclusion

Women scheme workers hold up two of India's central social systems, health and child development, yet remain at the edge of labour law. Judicial decisions such as *Maniben* show that law can recognise their work; the Labour Codes, as enacted, do not clearly extend that recognition. Until the State accepts that continuing work performed for public programmes is work, and not volunteering, the Codes' promise of wider protection will not reach this large group of women.

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