

THE EVOLUTION OF NIGHT WORK: ANALYZING GENDER PARITY AND SAFETY COMPLIANCE UNDER THE OSHWC CODE, 2020

AUTHOR – AKASH K, STUDENT AT SCHOOL OF EXCELLENCE IN LAW, TNDALU, CHENNAI

BEST CITATION – AKASH K, THE EVOLUTION OF NIGHT WORK: ANALYZING GENDER PARITY AND SAFETY COMPLIANCE UNDER THE OSHWC CODE, 2020, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (5) OF 2026, PG. 550-554, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

The implementation of the Occupational Safety and Health and Working Conditions Code, 2020 (OSHC Code) has garnered renewed attention to the regulations governing working hours for women under the OSHWC Code, particularly in sector that operate on a shift-based basis. For companies engaged in the IT/ITES, healthcare, manufacturing, or hospitality industries, the question of permitting women to work night shifts has transcended the realm of internal policy and has become a matter of legal compliance. As India enters 2026, a longstanding barrier to women's employment has been officially eliminated. The new labour codes now permit women working night shifts across various sectors as mentioned before. On paper, this is a historic achievement. For decades, the logic of protection restricted night work for women. Now, the law embodies the principles of choices, consent, and equality. The debate over women working night shifts has reignited elastic series of questions in a novel form. Is this reform a long-overdue step towards workplaces parity, or does it risk exposing women to greater harm in a Nation where the safety is still fragmented even during under sun light?

KEY WORDS: Night Shifts, Women Employees, Safety, Gender Parity.

INTRODUCTION

From an external perspective, the new labour codes, particularly the Occupational Safety and Health Code, 2020, seems to merge and simplify hours of working regulations across establishments. However, in the day-to-day operations of Indian businesses & trade, but specifically those employing shift-based employment staffing, compliance with working hour regulation for women often still inconsistent. While the law is constant and neutral on gender based questions in some instance, it proves a clear distinction when it comes to set the female staff in over time or late-night shifts. Therefore, many businesses continue to engage with the practical application of these obligations. This code has particularly lifted the previous absolute bans on women's shift work during the late-nights.

Section 43 allows the women to work between the hours of 7 PM and 6 AM, subject to some conditions or situations. But initially, the consent of the women must clarity in written⁷³⁶. And in Secondary, the area must be monitored every time by female. At last, safe transportation must be given. With adequate lighting and security measures must be lay to them⁷³⁷. Over time date write down an increase in the adoption or prefers of night work and a greater allocation of time to night hours compared to male employees their counterparts in the services sector and female employee's in the non-services sector. In some states considered safer, women experienced increases in both employment and weekly wages, while in the other context's, women staffs placed in more

⁷³⁶ Section 43 in Occupational Safety, Health and Working Conditions Code, 2020

⁷³⁷ Das et al., 2015; Hallward-Driemeier and Gajigo, 2015

establishment or organized firms used widely of the availability of night shifts to secure greater formalization. These patterns suggest two responses potentially to the reform: substituting day-shift hours night-shift hours while keeping or improving wages and negotiating for enhanced contractual terms. Simultaneously, we observe no substantial and widespread increase in overall female employment or working hours. Whereas, the Indian judicial system has seen more cases on the concept of prohibition of night work to the women employers in the case *Vasantha R. v. Union of India* judgment in 2000 by the Madras High Court⁷³⁸ as a result of which, even the petitioners have confined their challenge to Sub-section (1) of Section 66, consequent to this Court striking down Section 66(1)(b), the remaining provision of the said Sub-section namely 66(1)(b) and the proviso of the Factories Act, 1948, not being severable, also will have to suffer the same consequence. In the result, Section 66(1)(b) is declared unconstitutional as violative of Articles 14, 15 and 16 of the Constitution.

Night-shift restrictions for women before the OSHWC Code, 2020

In India, a democratic country bans for women during nighttime hours can be tracked back to the International Labour Organisation's 1919 Convention No.4 on Night Work (women), which India clears. The convention recommended that women not be employed in night shifts (typically defined as between 7 PM and 6 AM) in Industrial undertakings⁷³⁹. India's legal system extended these restrictions beyond industry, embedding them into service-sector labour regulations through state-specific shops and Establishments (S&E) Acts⁷⁴⁰. These Acts, enacted by state government since 1947, prohibited women from working night shifts across a wide range of commercial establishments. The initial reason given for these restrictions was to shield women from unfair working conditions, which seemed to view

their involvement in the labour market as a matter of caretaking. But as time went on, these restrictions faced growing criticism for being unfair and restricting women's opportunities to find better jobs. The journey to deregulation wasn't straightforward. Some states started by offering partial exemptions in certain areas or jobs as early as the 1960s. For example, Karnataka and Delhi saw IT and hospitality sectors get special treatment in the early 2000s. Then, between 2015 and 2024, a big push for change happened. Eleven states, including Maharashtra, Gujarat. Completely removed night shift bans for all jobs under their S&E Acts. These different state-level changes gave us a unique opportunity to study how they worked.

Legislative Reforms and Current Framework

The Occupational Safety, Health and Working Conditions Code is the latest and most thorough set of laws that protect women working the night shift. It brings together thirteen different labour laws into one big rulebook that covers workplace safety, health, and working conditions for everyone in different jobs⁷⁴¹. This code sets some important regulations for the employer who make the women to work in night shifts. Initially, they need to get the workers consent before giving them night shift duties. This makes sure women have a say in their jobs and are not forced to work hours they are not comfortable with. Then employers should make sure that everyone is safe, which means having safe places to get picked up and dropped off, enough light in the workplace, especially near the restrooms and other areas, and good security. And at last, they need to follow the rules and regulations of the Sexual Harassment of women at workplace act, including having good internal complaints committees. The codes also says that employers should take care of health and well-being, like giving medical help, having

⁷³⁸ (2001) II LLJ 843 MAD.

⁷³⁹ ILO's 1919 Convention No.4 on Night Work (women).

⁷⁴⁰ Tamil Nadu shops and Establishments (S&E) Acts.

⁷⁴¹ PRS Legislative Research. (2025). Draft Rules under Occupational Safety, Health and Working Conditions Code, 2020. Available at: <https://prsindia.org/billtrack/draft-rules-under-occupational-safety-health-and-working-conditions-code-2020>.

restrooms and making sure there are enough breaks between shifts. For mines that are underground, they need to have at least three women working at the same time, so women are not working alone in potentially dangerous underground places. These rules are based on what we have study on other states have done this and what works best from real-life experience. Starting November 21,2025, the Occupational Safety, Health and working Conditions Code is going to be in place, which is a big change in how Indian labour law works. This new rule will use all over the country, replacing the different rules that were in place in each state. This will make sure that all states and union territories have the same rules for women working night shifts⁷⁴². The codes enforcement shows the government is serious about making sure women can get jobs without worrying about working more hours, all while keeping them safe.

- Secure transportation facilities for pickup and drop-off.
- Adequate lighting throughout the workplace.
- Appropriate security arrangements.
- Compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), including the maintenance of functional Internal Complaints Committees (ICCs).

Welfare Measures: The OSH Code also requires employers to provide health and welfare provisions such as medical aid, restrooms, reasonable rest intervals, and, for certain industries like below-ground mines, mandates a minimum number of women employees on duty at any given time to prevent isolation.

Implementation: The nationwide implementation of the OSH Code standardizes

these provisions, superseding previous state-level regulations and ensuring uniform application across India.

Sexual Harassment Prevention Framework Supporting Night Shift Safety for Women Staffs

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 provides important protections for women employees working in all shifts including night hours⁷⁴³. The Prevention of Sexual harassment prevention act, which often call the POSH act, came about because of Supreme Courts intervention in Vishaka v. State of Rajasthan ⁷⁴⁴it created to tackle the ongoing issue of workplace sexual harassment, especially for women who work in tough situations, like those on night shifts. The POSH act covers sexual harassment pretty broadly, meaning it includes anything from unwanted physical contact and advances to demand for sexual favours, sexual favours, sexually charged comments, showing pornography, and any other unwelcome physical, verbal, or non-verbal behavior that is sexual nature this should be monitored by the sexual harassment committee in the establishment. This ensures the women staffs safety in workplaces. As said every company with ten or more employees needs to set up an internal complaints committee to handle sexual harassment complaints. This committee should be led by a senior woman employee and include at least two members who are dedicated to women's issues or have experience in social work, plus one external member from a non-governmental organization who knows about sexual harassment. If a company has fewer than ten employees, they can use Local complaints committees that are set up the district level.

⁷⁴² The Logical Indian. (2025). Historic Shift: Women Allowed Night-Shift Work Nationwide Under New Labour Codes. Available at: <https://thelogicalindian.com/historic-shift-women-allowed-night-shift-work-nationwide-under-new-labour-codes-key-updates-you-need-to-know/>

⁷⁴³ Ministry of Women and Child Development. (2013). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

⁷⁴⁴ Vishaka v. State of Rajasthan" is (1997) 6 SCC 241.

Transport and Safety Infrastructure Requirements for Night Shifts

The employers must ensure the women's safety during the night shifts transportation security is very vital for the safety of women. Since women traveling to and from work at night are more vulnerable, north state rules and the national occupational safety, health and working conditions code require employers to provide safe transportation. Usually, these rules say employers should arrange pickups and drop-offs close to worker's homes, instead of asking women to travel to far-off spots. Recently, state rules have started to include tech-savvy safety measures in transport requirements. For instance, Jharkhand's 2025 rule requires GPS tracking on all transport vehicles for women employees during night shifts. This lets everyone keep an eye on where the vehicles are and where they are going. So, they can quickly handle any problems or if someone takes a wrong turn. The rule also makes sure that transport plans won't leave women stranded if a vehicle breaks down or something goes wrong. Beyond transportation, workplace safety also includes the physical environment where women work at night. It's important to have enough light in the workplace, especially in all the paths to the restrooms, water, and where people come and go. This helps prevent accidents and security issues in dark areas at night. To make things easier, restrooms and washrooms should be close to where women work, so they don't have to walk long distances through potentially unsafe parts of the workplace.

Recommendation and Suggestions

Keeping our night shift workers safe is super important for us. Some states require special security teams, cameras to keep an eye on all the areas where women work, and security rooms that are always staffed. Plus, some states want the regular night patrols and to team up with local police to quickly get help in emergencies. In Jharkhand, they are hoping security staff will learn about soft skills and, if

possible, be recruited from former service members through the directorate general of resettlement. This is because having hood security training and strong communication skills is really key to keeping everyone safe. The act also asks employers to do a few things, especially when it comes to night shifts. They should make sure their workplaces are safe and free from sexual harassment, run regular programs to teach everyone about the act, and put information about the act and how to file complaints in the workplace. The act also makes sure employers can't punish anyone who complains, no did offers temporary help, like moving the complainant or respondent during investigations. If a company doesn't follow the act, they could get fines and even lose their business licenses, which really encouraged employer's to set up good prevention and help systems. Starting in November 2025, the introduction of unified labour codes signals a fresh chapter in regulating women's night shift jobs. Not just the end of our reform journeys. To make sure these legal rights truly lead to workplace equality, we need to keep a close eye on several measures, which means we might need to think about specific policies to help them. Some ideas include offering government help with transportation and security costs, creating shared transportation pools for multiple smaller businesses in industrial areas and making compliance easier as businesses grow. Enforcing these rules is another challenge. Many states lack sufficient labour inspectorates to check all workplaces. To ensure legal compliance. We need more inspectors, better training, and tech tools for monitoring. The electronic reporting systems in some states are a good start and could be expanded to create a central database for better compliance tracking. Despite legal protections, cultural and social factors still influence women's night shift jobs. Family views, societal expectations, and safety concerns can deter women from taking night shifts, even with legal safeguards. To address this, we must raise awareness, change perceptions, and

implement legal changes. Public education campaigns highlighting women's rights, the safety of night shifts, and the benefits of increased female employment can gradually shift public opinion.

CONCLUSION

The new labour codes have finally unlocked a door that had been closed for so long. The future of that door will shape whether it leads to freedom or more danger. Empowerment isn't just about letting women enter potentially unsafe places. It's about creating environments where everyone feels safe enough to be there. Until then, night work will always be a tricky situation, brimming with potential but also filled with worry. As India progresses, we should not judge the success of this reform by how many women work late at night. Instead, the true success will be seen in whether they get home safely, respected, and unchanged. It's often not that employers don't want to follow the law, but that their internal teams don't get together to discuss it. HR creates a policy, admin arranges transportation, legal thinks permission isn't needed, and no one connects the dots. This can lead to employees being confused or even unsafe. You might notice policy documents saying, "female employees will be transported safely", but the admin person doesn't know the cab route, or the helpline isn't working after 9 pm. That's not a legal issue; it's an operational one. To ensure night shift labour laws are followed, everything needs to be implemented carefully.

REFERENCE

1. Section 43 in Occupational Safety, Health and Working Conditions Code, 2020
2. Das et al., 2015; Hallward-Driemeier and Gajigo, 2015
3. (2001) II LLJ 843 MAD.
4. ILO's 1919 Convention No.4 on Night Work (women).
5. Tamil Nadu shops and Establishments (S&E) Acts.
6. PRS Legislative Research. (2025). Draft Rules under Occupational Safety, Health and Working Conditions Code, 2020. Available at: <https://prsindia.org/billtrack/draft-rules-under-occupational-safety-health-and-working-conditions-code-2020>
7. The Logical Indian. (2025). Historic Shift: Women Allowed Night-Shift Work Nationwide Under New Labour Codes. Available at: <https://thelogicalindian.com/historic-shift-women-allowed-night-shift-work-nationwide-under-new-labour-codes-key-updates-you-need-to-know/>
8. Ministry of Women and Child Development. (2013). The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
9. Vishaka v. State of Rajasthan" is (1997) 6 SCC 241.