

**Ahmedabad  
University**

# **Labour, Wages and Labour Codes**

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**Jeemol Unni**

**Professor of Economics**

**Ahmedabad University, Ahmedabad**

# Overview

- ▀ Idea of Wages to Housewives
- ▀ Work Participation of Men and Women
- ▀ Earnings/Wages of Workers
- ▀ Labour Law and Codes
- ▀ Social Security Code

# Idea of Wages to Housewives

# Proposal of Wages to Housewives

- Makkal Needhi Maiam (People's Justice Centre), Kamal Hasan's political party in Tamil Nadu promised salaries to housewives as part of its electoral campaign
- Other political parties in Tamil Nadu propose Wages to Housewives
- DMK proposes a number to the policy of income support: Rs. 1,000
- DMK replaced 'housewives' with 'women heads of households'
- AIADMK raised the figure to Rs. 1,500
- What is the context? Women engaged in domestic services and Work Participation in economic activities.

# Percentage of Persons participation in activities during the day (6+)

Activities	% persons participating per day		Minutes per day per person	
	Men	Women	Men	Women
Employment and related activities	<b>57.3</b>	18.4	263 (4 ½ Hours)	61
Production of goods for own use	14.3	20.0	28	23
Unpaid domestic services for HH members	<b>26.1</b>	<b>81.2</b>	<b>25</b>	<b>243 (4 Hours)</b>
Unpaid caregiving services for HH members	<b>14.0</b>	<b>27.6</b>	<b>11</b>	<b>37</b>

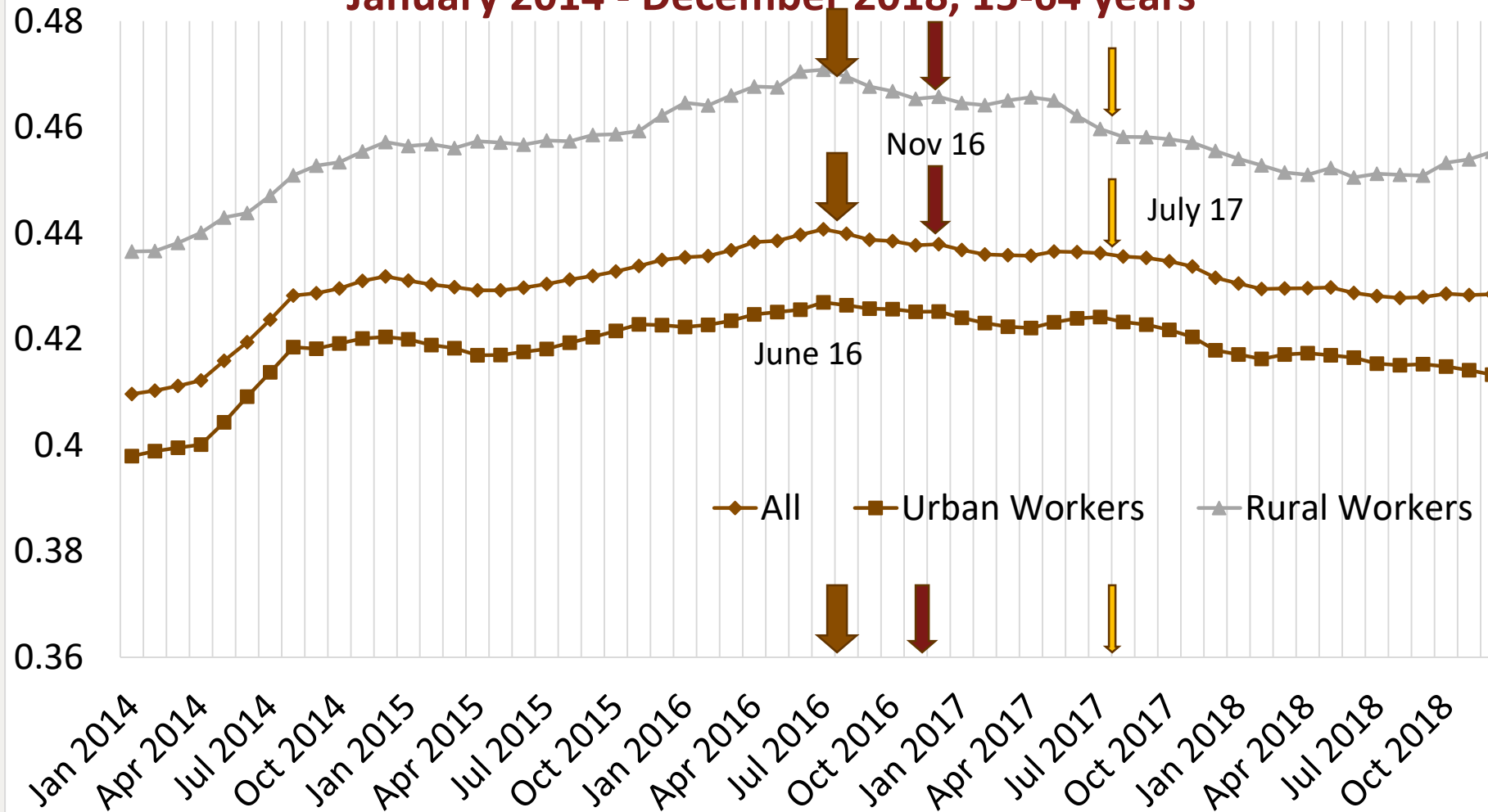
Source: Time Use Survey, 2019, National Survey Organisation (NSO), Gol

# Work Participation and Unemployment Rates, Men and Women

## The Context

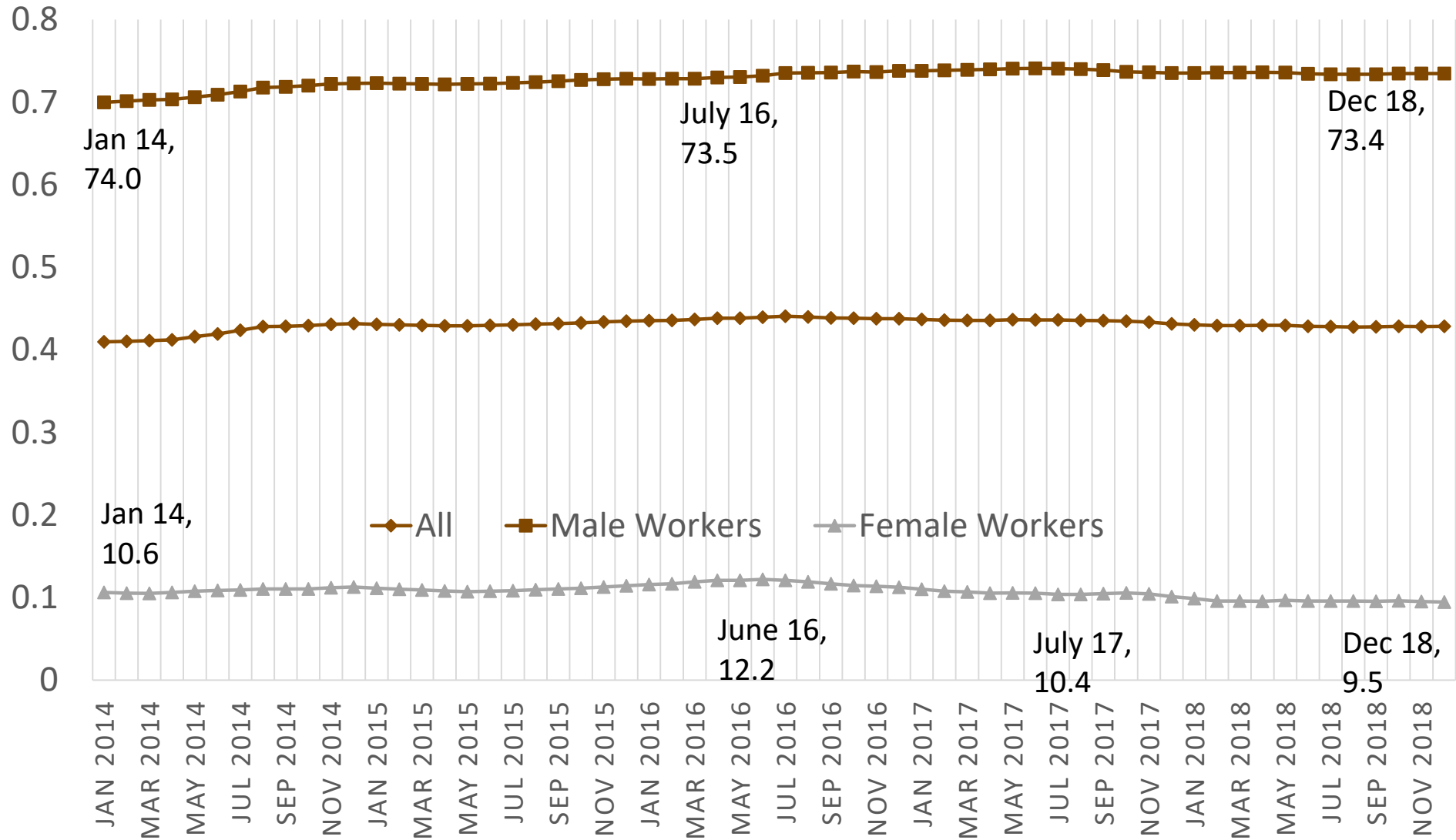
- Low work participation in urban vs rural
- Low work force participation of women vs men
- Declining work participation of women
- Differences in work participation by states
- Increasing Unemployment Rates

## Worker/Population-Urban and Rural January 2014 - December 2018, 15-64 years



**Declining Work Participation rate Urban and Rural areas since July 2016**  
 Slow decline after Demo and sharp decline after GST, July 2017

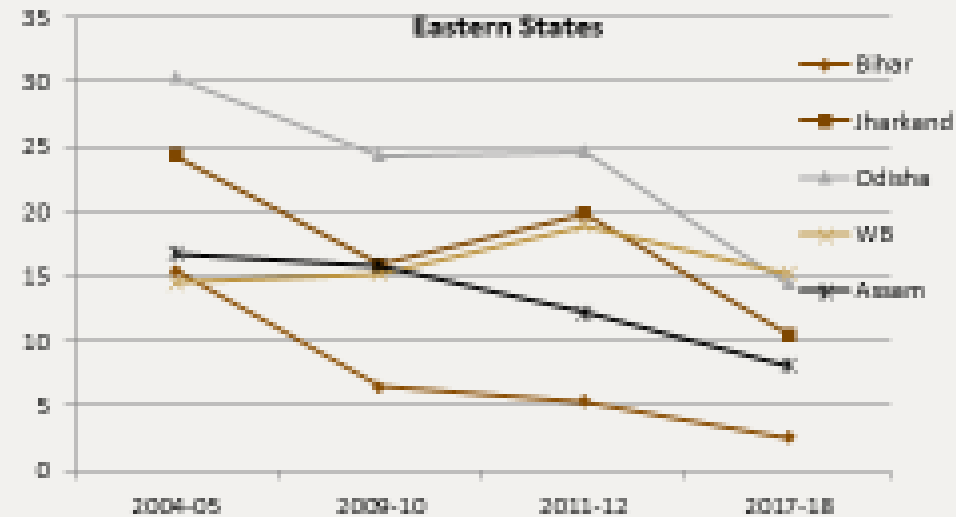
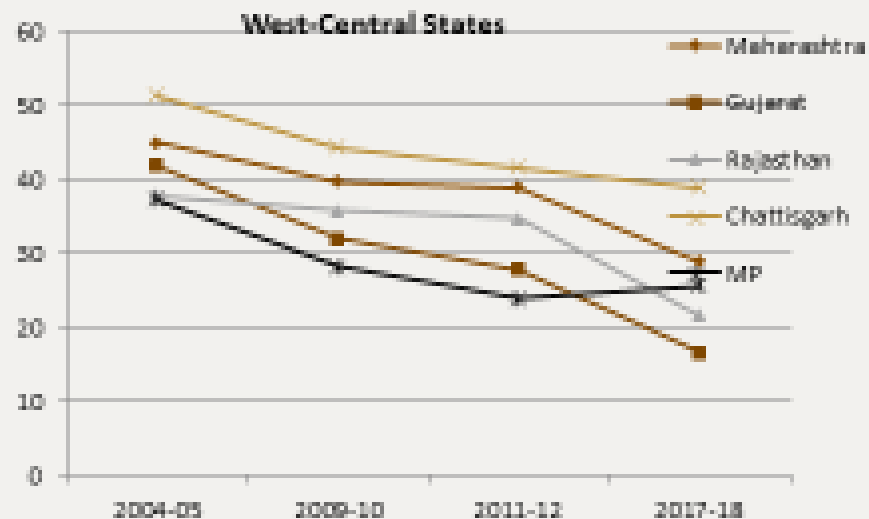
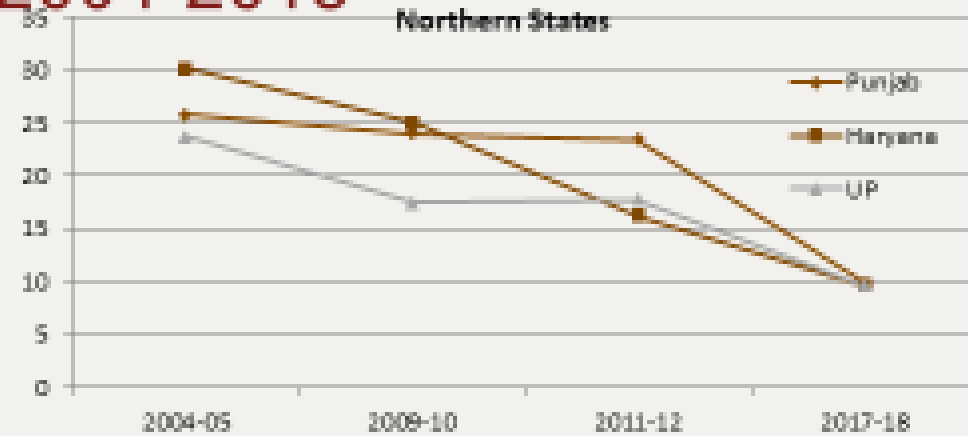
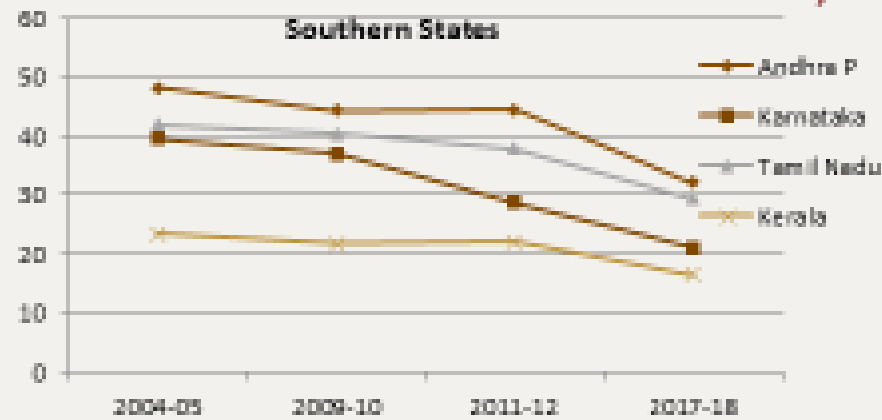
## WORKERS/POPULATION- ALL, MALE, FEMALE, JANUARY 2014 - DECEMBER 2018, 15-64 YEARS



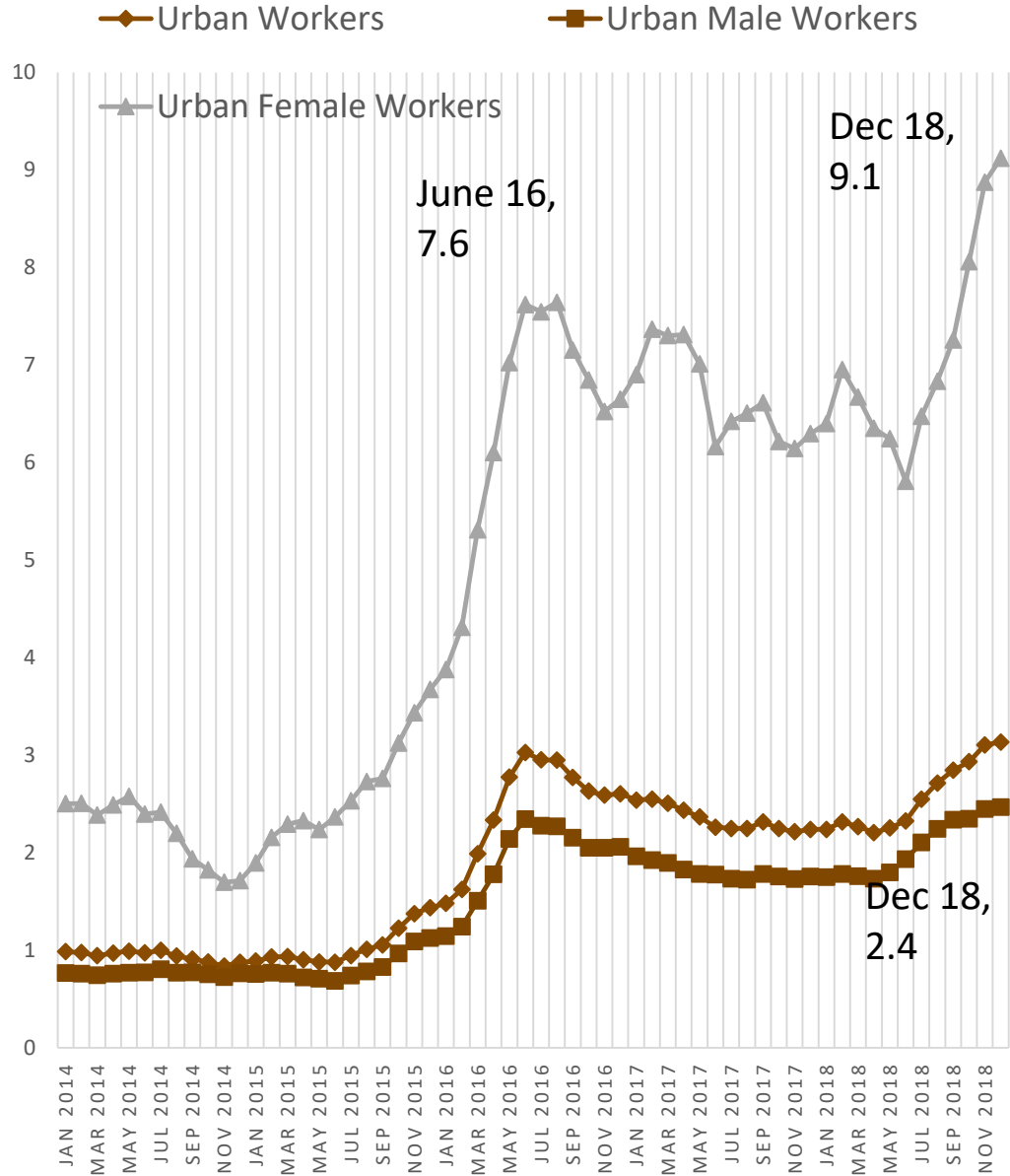
**Declining Female work participation** has been observed since long  
**Declining Male work participation** since July 2017



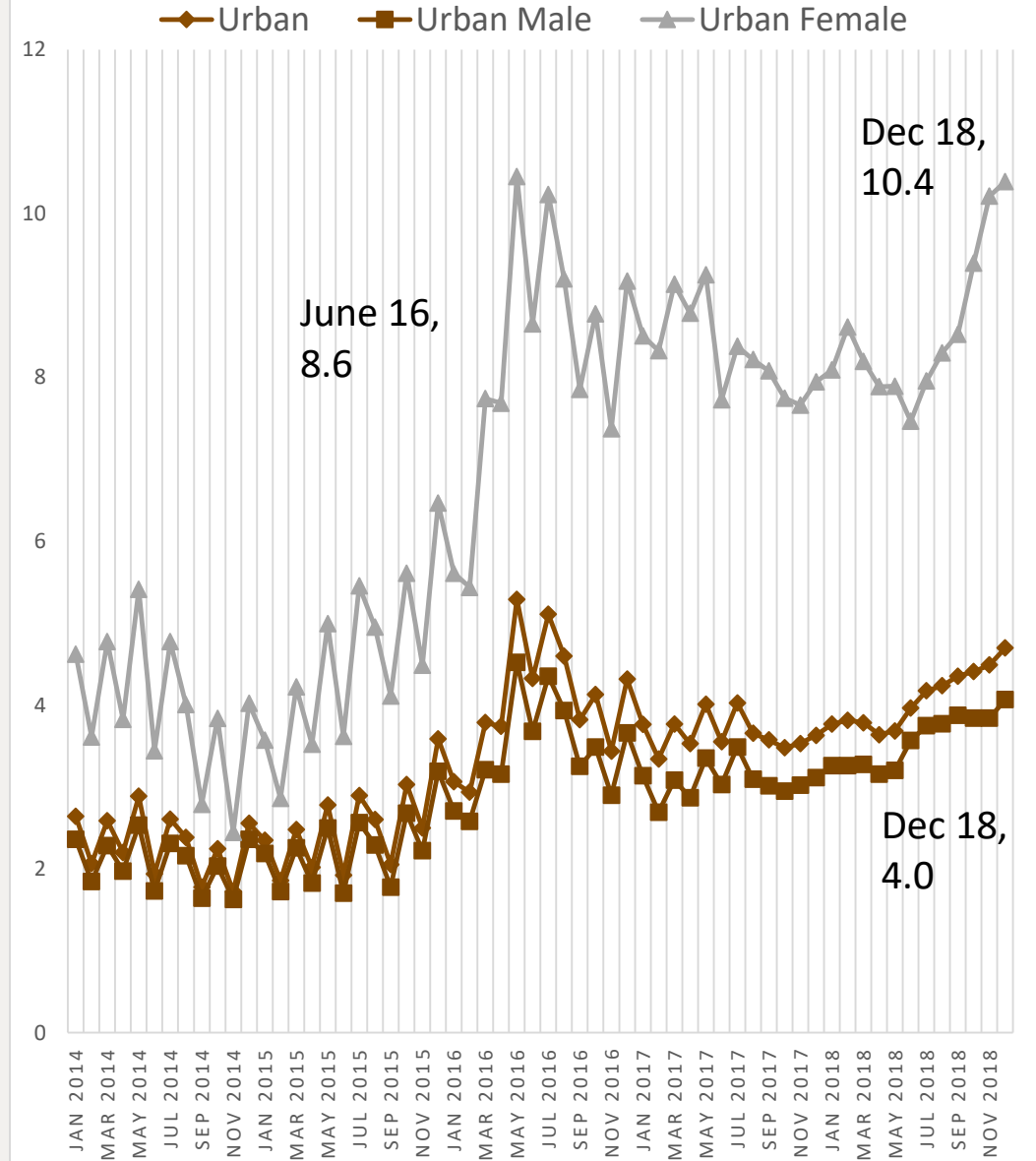
# Rural Women's Work Participation, North South East West, NSO, Annual 2004-2018



## URBAN UNEMPLOYMENT RATE, ALL, M, F



## URBAN UNEMPLOYMENT+ ZERO INCOME/LABOR FORCE- ALL, M, F

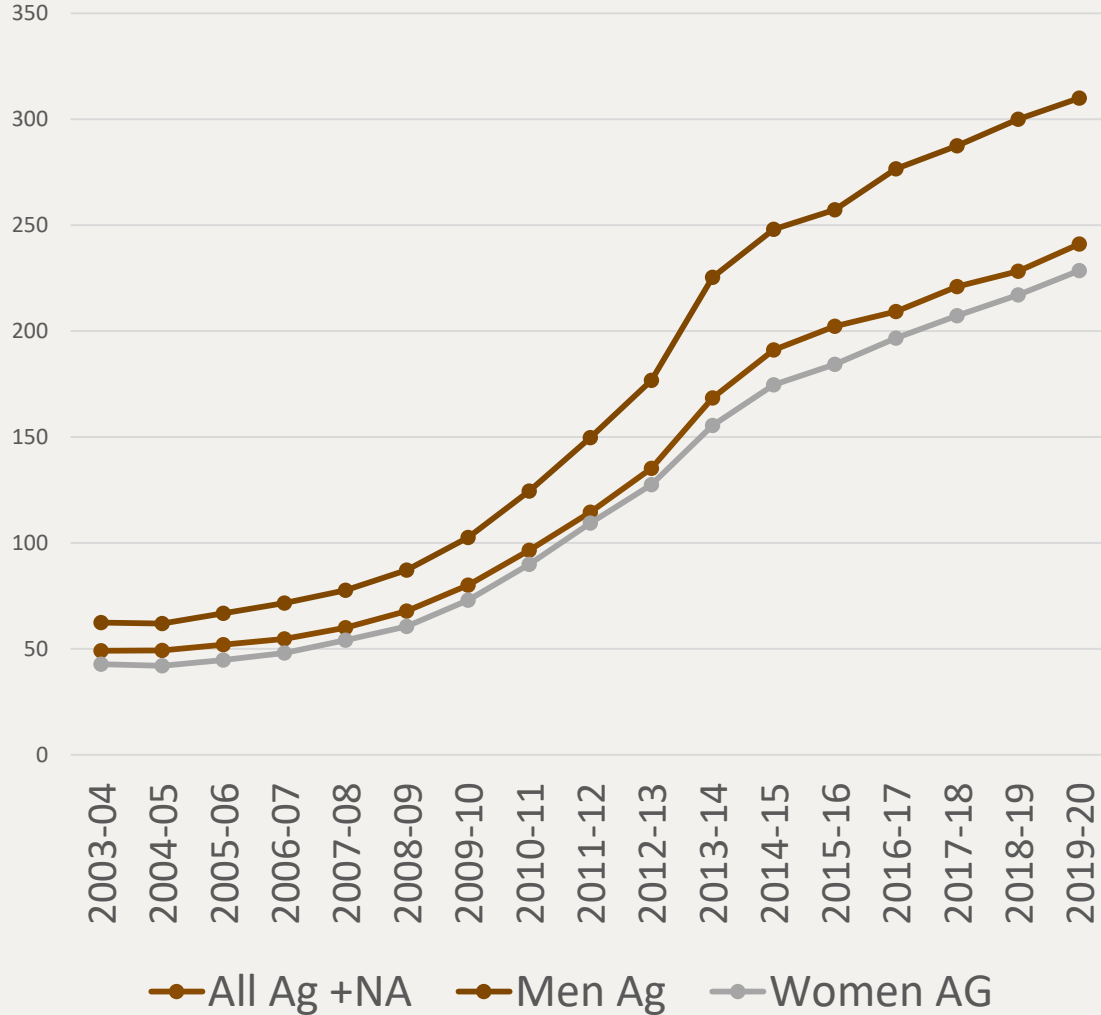


# Earnings and Wages of Workers

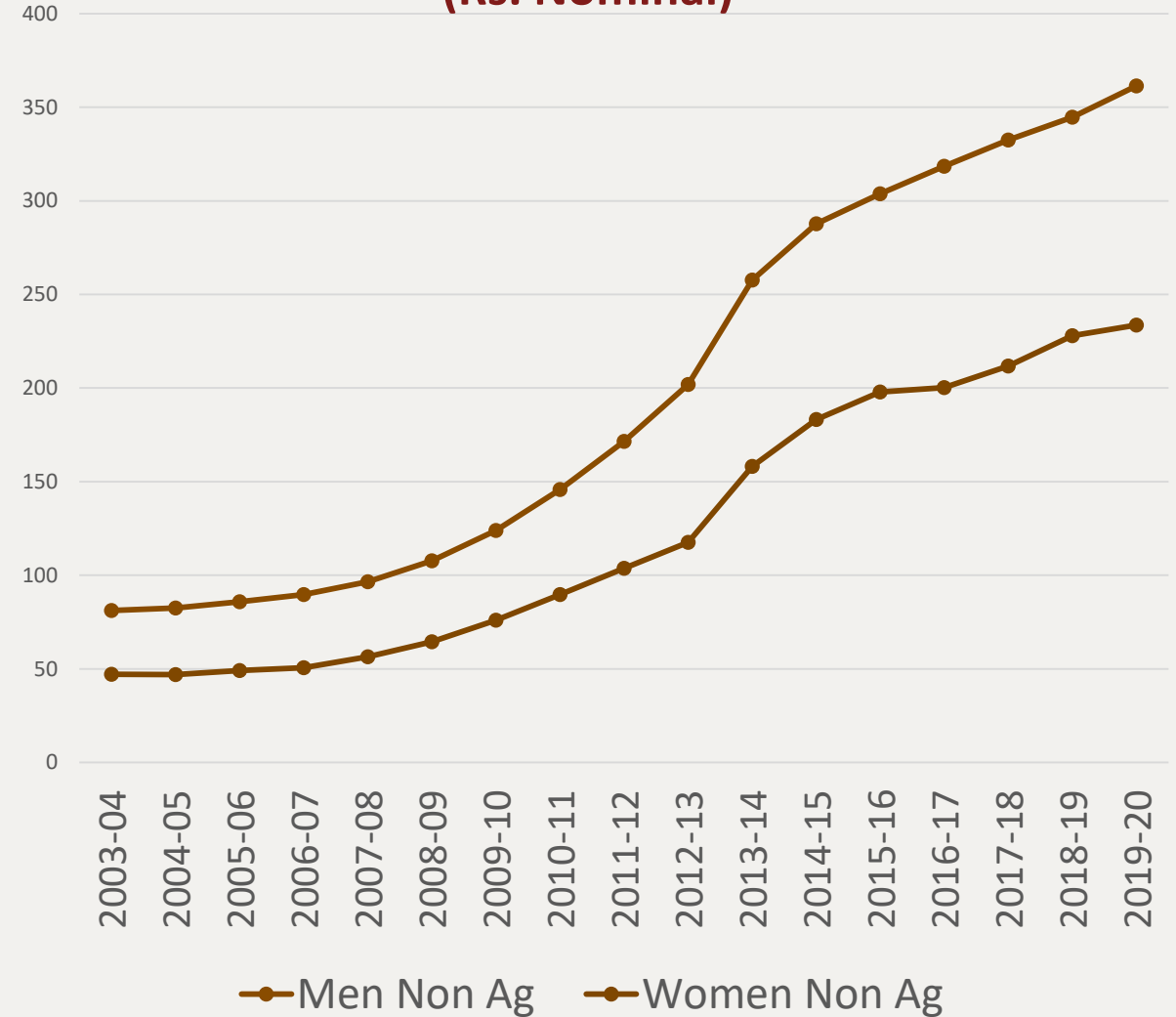
- Rural Wages, Agriculture and Non-Agriculture
- Urban Wages
- Increasing Wage Gap between men and women's wages and earnings

# Rural Wage Rates, Men and Women, Labour Bureau

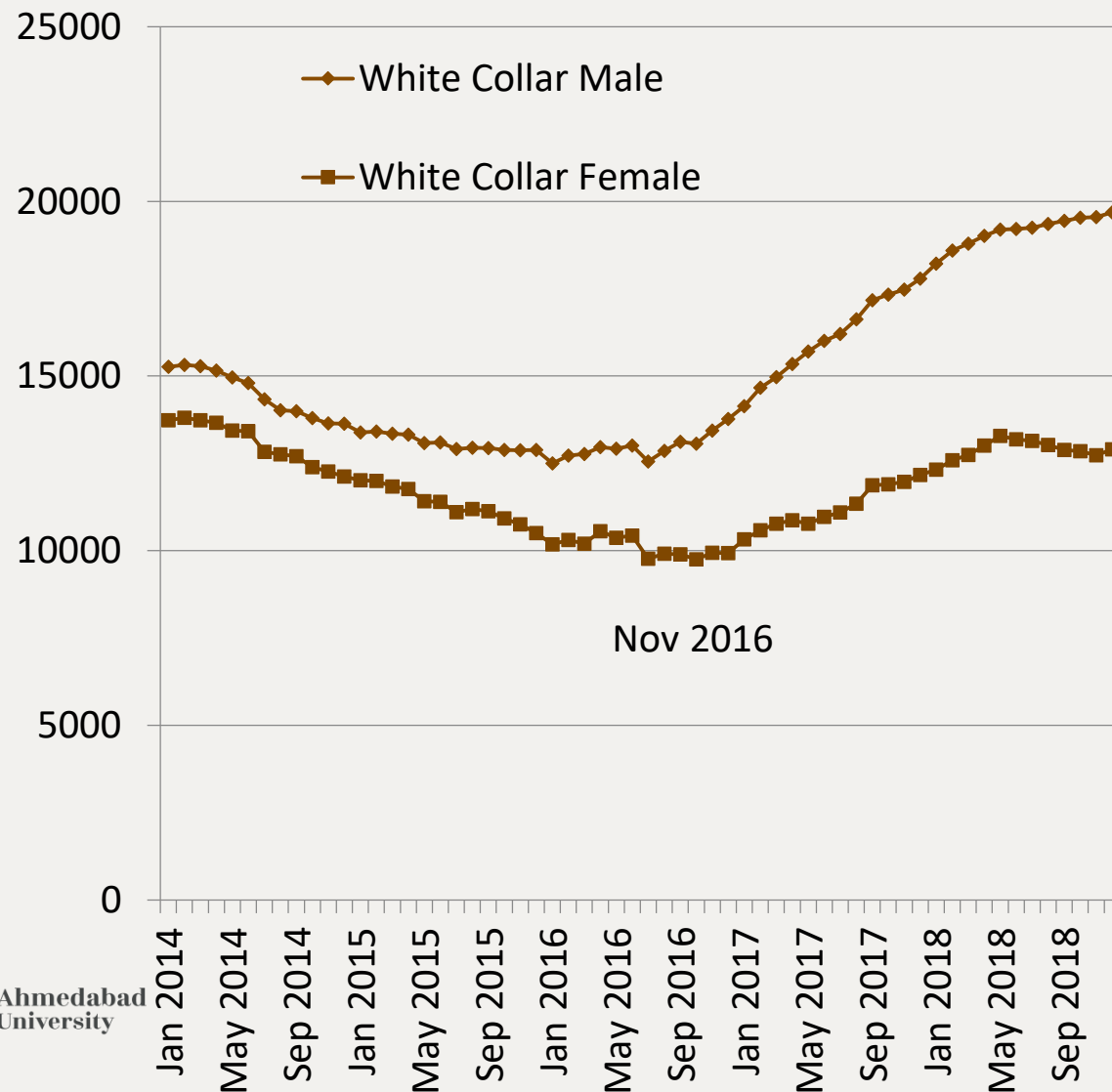
## Total and Agricultural Wages per Day (Rs. Nominal)



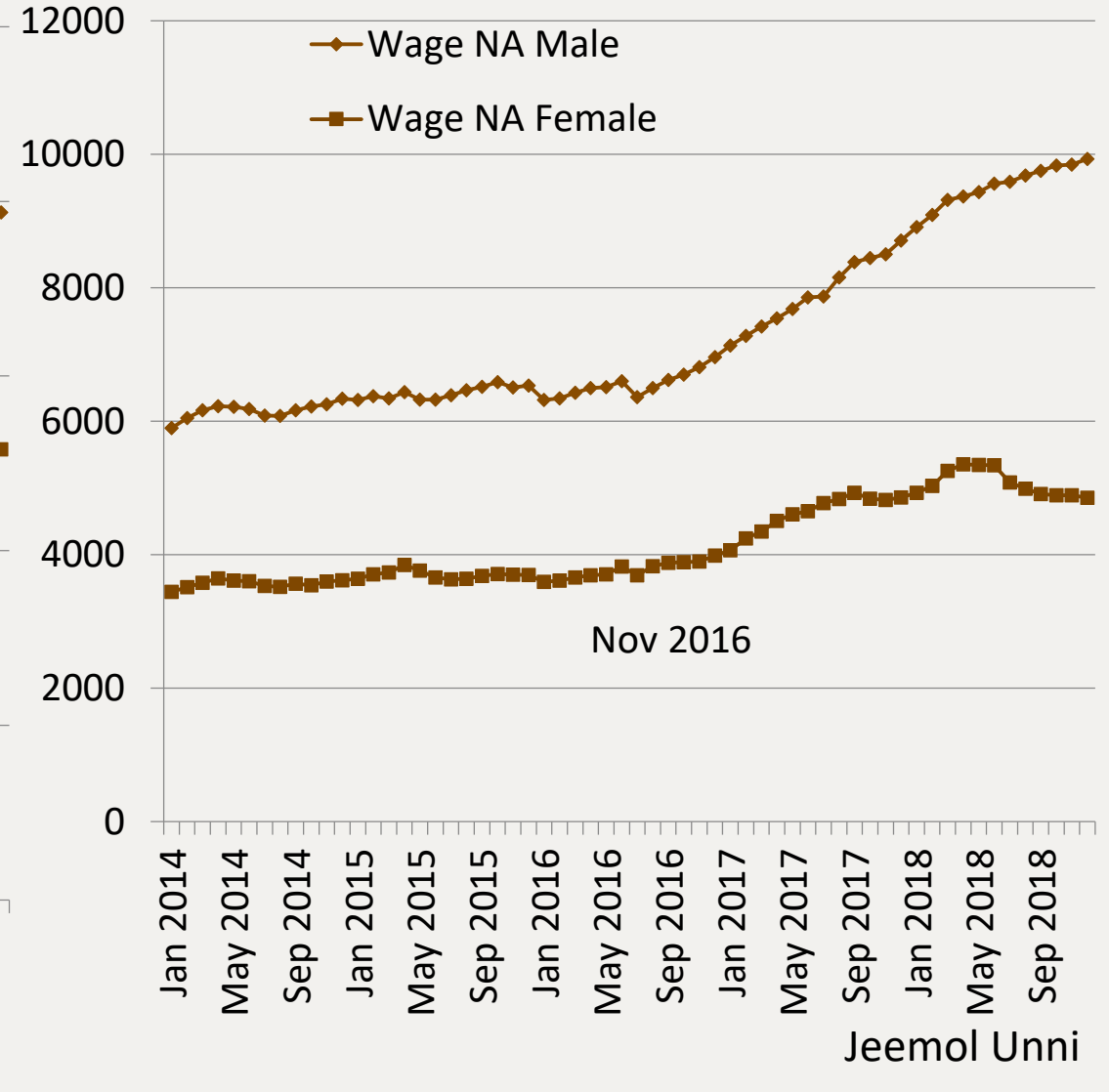
## Non-Agricultural Wage per Day (Rs. Nominal)



## URBAN: Monthly income White Collar Worker by Gender, 2014-18, 15-64 years, CMIE



## URBAN: Monthly Income Wage Non-Ag Worker by Gender 2014-18, 15-64 years, CMIE



# Labour Law and Codes

# History of Labour Laws

- The Constitution of India, International Labour Standards (ILS) framework of the ILO (comprising Conventions and Recommendations) and its paradigms like Decent Work, Judge-made law (i.e. judgments delivered primarily by the Supreme Court) and social dialogue (both tripartite and bipartite) together determine labour laws and rule-making processes in India
- This classic framework was followed largely during before economic reforms 1947–1991
- With economic liberalisation, employers demands on labour law governance (inspection) and reforms to afford labour market flexibility to them
- India ratified ILO Convention, Tripartite Consultation (International Labour Standards) Convention, 1976 (C144), India must hold social dialogue to frame the economic and social policies and laws
- However, *the 'Indian Labour Conference', the highest tripartite labour policy decision making body, has not been organized for a single time in past 5 years*

# History of Labour reforms

- Process of labour reforms began after 2nd National Labour Commission gave its report in 2004: Recommended rationalization of the numerous labour laws
- Labour is on the concurrent list, giving both central and state governments power to legislate, resulting in more than 100 state labour laws



# India's Labour Laws and Labour Codes

- India had a good legal system and framework favourable to workers
- 44 central statutory laws have been collapsed into 4 Labour Codes
- These codes apply to all workers, formal and informal
- The four labour codes are on
  - Wages
  - Industrial relations
  - Social security and
  - Occupational safety, health and working conditions
- The code on wages was approved by parliament on August 19, 2019, while the other three codes were passed in September 2020

# Social Security Code

# Code on social security

- Code on Social Security 2020 will merge eight existing labour laws: Employees' Compensation Act, 1923, Employees' State Insurance Act, 1948, Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Maternity Benefit Act, 1961, Payment of Gratuity Act 1972, Cine Workers Welfare Fund Act 1981, Building and Other Construction Workers Cess Act, 1996, and Unorganised Workers Social Security Act, 2008
- First 5 were earlier available to only formal workers, about 8%
- SS Code is welcome as it covers employees and non-employees, formal and informal, including domestic workers, farm workers, self-employed of all types
- It does not define 'social security' nor specify components and benefits to accrue to the workers
- There is no provision for a 'floor social security' protection
- There is no provision for portability of social security which takes into account the continuous movement of workers within the country

# Changes in definition of Employer

- **Changes in definition** of “employer”, “employee” and “worker” taken together are confusing, self-contradictory and untenable.
- **“Employer” includes “contractor”** In code on social security, definition of “contractor” seek to legitimize all forms of contract labour including sham and bogus contracts
- **Definition of principal employer** is ambiguous and could include the contractor as well
- **‘Employer’** may be the one directly employing the person, or the individual who has ultimate control of the affairs (maybe contractor), these may not be the same. As a result, it might not be possible for workers to pinpoint responsibility of ‘employer’ on any one person

# Role of State and Center in SS Code Duality in Administration

- Till now, respective state governments were responsible for formulation and implementation of social security schemes for unorganised sector workers
- Under Section 109(1) of new code, **central government** shall frame and notify, welfare schemes for unorganised workers on : (i) life and disability cover; (ii) health and maternity benefits; (iii) old-age protection; (iv) education; and (v) other benefit
- Under Section 109(2), **state government** shall frame and notify welfare schemes for unorganised workers on: (i) provident fund; (ii) employment injury benefit; (iii) housing; (iv) educational schemes; (v) skill upgradation of workers; (vi) funeral assistance; and (vii) old-age homes
- Concern: dual authority from perspective of individual unorganised sector worker
- What is not specified is *who will be the implementing authority at level of state*
- Source: Mehrotra and Sarkar, EPW, 2021

# Registration for Schemes under SS Code: Duality

- Rule 50(a), every eligible unorganised worker required to be registered with an Aadhaar number on self-declaration basis on the Central portal
- Presently, in states, unorganised workers are registered on state portals
- Question: Whether these registered workers' data in state portal will be transferred to proposed central portal or whether existing beneficiaries need to register afresh?
- Administration of social security for unorganised sector have a different landscape in the new code
- There are no directions in the rules about how existing social security schemes align with the proposed new landscape

# Welfare Funds: Financing

- Central Funds: Currently, there are different funds unorganised sector workers' social security: Dolomite Mine Workers' Fund; Mica Mine Workers' Fund; Cine Workers Welfare Fund; the Beedi Workers Welfare Fund; and Building and Construction Workers (BOCW) Welfare Fund
- Many more Welfare funds at the State level too
- Cess funds (dolomite, mica, cine, etc) have been discontinued with GST
- However, welfare schemes are still in vogue for registered mine workers, on a much smaller scale
- As cess is not collected any more, such welfare measures are financed from the *state exchequer*
- Beedi workers welfare scheme is still being run, on a smaller scale, outside purview of SS Code, 2020

# Financing of Social Security

- Code and rules make no mention of how, if social security schemes for unorganised workers are formulated, will be funded (except for designated funds, like BOCW)
- Between 2010-11 and 2014-15, announced budgetary support for corpus called National Social Security Fund (NSSF) created in 2010 after NSSF Act, 2008, now merged with SS Code, 2020
- After years of small fund releases between 2010 and 2015, 2016-17 CAG audit report on union government accounts stated that funds lying in NSSF could not be utilised and unutilised funds were Rs. 1,927 cr
- In 2015-16 and 2016-17, not a single rupee was transferred to NSSF and no budgetary allocations were made
- Concern that larger burden on state to collect revenue for implementation of SS code
- Source: Mehrotra and Sarkar, EPW, 2021



# Thresholds in Original Labour Laws

- Post-Independence, Acts were passed with generic thresholds based on the size of employment and wages/salaries, and within each law, there were different thresholds, eg, safety officer (1,000 or more workers), welfare officer (500 or more), and crèches (30 or more).
- Government created thresholds on three grounds
  - Stage of development of the economy,
  - Economic capacity of the employers to have special facilities, and
  - Administrative capacity to implement the laws
  - But later laws raised the thresholds
- Idea of delimitation continued with successive governments

# Arbitrary Thresholds: Leave millions out

- SS code continues to apply same threshold of establishments with more than 10 or 20 workers, with and without power
- PF: only establishments with 20 or more workers are covered
- Section 2(6) retains the old threshold of only those *sites with 10 or more building and other construction workers*. "Personal residential construction work," which forms a large component of daily waged work, is excluded
- Section 2(82) *retains a wage ceiling to define a waged worker*. PF, pension, medical insurance benefits are only mandatory to employees *earning above a certain threshold level of income* (as may be notified by the government) in eligible establishments (Sood)
- New thresholds (a) Increasing threshold for standing orders and hire-and-fire clauses from 100 to 300 or factories from 10 to 20 and 20 to 40 and contract labour from 20 to 50, (b) revised worker-friendly thresholds downwards (labour welfare officers in factories from 500 to 250, plantations 300 to 250) and (c) retain the thresholds: works committee (100+), ESI (10+) or EPF (20 +), crèches in plantations (50+)

# Critique of Social Security Code

- The Code does not emphasize social security as a right or Universalisation
- Reduces the burden on the employers and increases the burden on the taxpayers (Sundar, 2017).
- Appears that labour codes now extend to both formal and informal workers, but there are various restrictions and notifications that do not allow for universal application of the codes
- No mention of how social security contributions would work for atypical arrangements where there is no clear employer and employee relationship, including home-based work, self-employment and piece rate work

# Conclusion

- Codes have widened the coverage of laws and included newer categories of workers like the gig. *But overall business and administrative considerations have dominated mapping of the coverage of laws and clauses*
- Created “wheels within wheels”, “thresholds within thresholds” in each of the Codes
- Fear that burden will be shifted from employers to wage earning class through higher taxes. The coverage is huge and contributions, apart from organised sector employers and employees, are difficult to realize
- Essential that social security protections be made universal.
- *Universal Social Security and Universal Basic Income would be better cover than wages for Housewives*
- Question here is not of strangling business but to provide a roadmap for universal coverage
- Reference: [https://www.thehindubusinessline.com/opinion/labour-codes-and-the-game-of-](https://www.thehindubusinessline.com/opinion/labour-codes-and-the-game-of-thresholds/article32902949.ece)



# Thank You

शुक्रिया

धन्यवाद