

Legal protection of domestic workers in india: A critical and empirical study

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Abstract: In India, being a domestic worker is one of the most important yet staunchly disregarded elements of our structure. Domestic work is crucial to the operation of contemporary urban life, makes a large part of the domestic economy and enables women's entry into the labour market necessary for sustaining formal economic activity. Domestic workers, despite this vital contribution have largely remained unrecognised and excluded from labour laws. Most domestic work is done in private homes, informally and without written agreements including domestic workers are often exposed to abuse, poor working conditions, irregular payment and lack of social security.

This research paper critically assesses the legal protections available for domestic workers in India. The study analyzes status of domestic workers in context of constitutional guarantees, existing labour laws after state measures and the international labor standards. It indicates that India still does not have a centralized rights-based law for domestic workers and that the existing matrix of laws is still fragmented, welfare-oriented, weak in implementation.

The study further contends that the legal invisibility of domestic workers is not only a consequence of legislative lacunae but also is intricately linked to the public-private divide, gender bias and the structure of informal labour. Empirical analysis reveals that basic rights such as minimum wages, regulated working hours, weekly rest, social security and effective grievance redressal mechanisms are never in practice available to domestic workers.

The paper concludes that guaranteeing meaningful legal protection to domestic workers requires a shift from a predominantly welfare-based approach to a comprehensive, rights-based and enforceable legal framework. This research provides useful insights and recommendations for policymakers and legislators to improve legal rights and protections of domestic workers in India.

Keywords: Domestic Workers, Legal Protection, Labour Laws, Social Security, International Labour Standards

INTRODUCTION

Domestic workers in India are a crucial yet historically marginalised segment of the socio-economic fabric. Millions of households across the country depend on domestic workers to provide essential services such as cleaning, cooking, childcare and care of the elderly and sick. Without their labour, urban life would hardly function and women's participation in the formal workforce would be severely constrained. Despite their vital role in the welfare of households

and the economy at large, domestic workers in India are one of the most vulnerable and legally invisible categories of workers.

Domestic work in India is largely performed by women, many of whom belong to economically weaker sections, socially marginalised communities and migrant populations. The gendered nature of domestic work has historically rendered it devalued as it is often considered an extension of women's unpaid domestic work, rather than productive labour that deserves legal recognition and protection. In addition, since domestic work takes place inside private homes, it has traditionally been considered part of the 'private sphere', meaning that it has fallen outside the scope of state regulation and labour law enforcement.

Domestic workers usually work under informal and unregulated conditions. In most cases, employment relationships are not covered by written contracts and this creates ambiguity about wages, working hours, leave and termination of service. Domestic workers often work long, irregular hours, are paid late or not enough, are not given weekly rest and are excluded from social security benefits altogether. Domestic workers are victims of economic exploitation and, in some cases, verbal abuse, psychological harassment and physical and sexual violence. Such abuses often go unreported due to job insecurity, power imbalance and lack of awareness of legal remedies.

India's labour law regime has historically been around industrial and organised sector like factories, mines and commercial establishments. Thus, domestic workers, who form a large part of the informal economy, have remained largely outside the purview of protective labour laws. Some states have brought domestic workers under minimum wage notifications and introduced welfare schemes but the lack of comprehensive central legislation has meant a patchwork of laws and weak, inconsistent legal protection.

The constitutional philosophy of India is based on the principles of equality, dignity and social justice. The Constitution guarantees equality before law, prohibits discrimination and the right to life with dignity under Articles 14, 15 and 21. The Directive Principles of State Policy also call upon the State to secure just and humane conditions of work and social security for all workers. Yet the lived realities of domestic workers are far removed from these constitutional ideals.

The Covid-19 pandemic has shed light on the vulnerability of domestic workers. Nationwide lockdowns overnight cost millions of domestic workers their jobs, and many were denied their wages and compensation. The lack of legal protection and social security provision resulted in domestic workers having no real protection from the state, which highlighted the structural weaknesses of the legal system as it existed.

Internationally, there is increasing recognition that domestic work is real work that should be protected. International labour standards emphasise the importance of decent work, fair wages, reasonable working hours and social security for domestic workers. Yet India has not fully translated these standards into binding domestic legislation, creating a considerable gap between international commitments and national legal realities.

In this backdrop the present research paper is an attempt to critically analyse the legal protection of domestic workers in India. It examines the existing constitutional provisions, labour laws, policy measures and international standards to evaluate the adequacy of legal safeguards available to domestic workers. The study contends that the extant framework is fragmented, welfareist and lacks enforcement and thus does not guarantee substantive protection to domestic workers. It calls for a comprehensive, rights-based and enforceable legal regime to ensure dignity, equality and social justice for domestic workers in India.

Among all the labour classes, domestic workers are perhaps the most exploited with no provision for their safety, working conditions, wages and social protection. It is true to say that women are born into bias and live through it one way or the other all their lives. The problem of slavery or that of those working as domestic workers is as old as the human civilisation. In India, the domestic works were done by the slaves called Shudras. They were the lowest on the social ladder.

Conceptual and Constitutional Framework

To understand the legal protection of domestic workers, there is a need for a clear conceptualisation of domestic work and its relationship with constitutional principles. Historically, domestic work has been viewed not as ‘work’ in the legal sense but as personal assistance or private service rendered in households. This perception has been instrumental in excluding domestic workers from the ambit of labour laws and regulatory mechanisms.

Conceptually, domestic work is understood as remunerated labour for a household or private individual, including cleaning, cooking, washing, childcare, and care of the elderly or sick. Although domestic labour is paid work, it is still largely informal, unregulated and undervalued. The domestic nature of the workplace and the personalised employer-employee relationship that characterises domestic work distinguish it from conventional forms of employment, creating unique legal and regulatory challenges.

The public–private divide is one of the conceptual barriers to legal recognition of domestic work. Traditional form of labour regulation relies on the fact that work is performed in public or semi-public spaces, like factories, offices and places of commerce. Domestic labour, in contrast, occurs within the context of private households whose privacy and autonomy are regarded as inviolable. As a consequence, domestic workers have been systematically excluded from labour inspections, enforcement initiatives and collective bargaining.

Feminist legal theory provides a critical lens through which to view this exclusion. Scholars argue that the public–private divide is inherently gendered and has been a tool to devalue women’s labour historically. Domestic work is done most especially by women, excluding them from labour law enshrines gender inequality and strengthens the social devaluation of women's labour. From this perspective, acknowledging domestic work as legitimate labour is requisite not only for the sake of labour justice but also gender justice. The informality of domestic work is another defining characteristic. Informal employment is when workers lack written contracts, job security, or fixed hours and are excluded from social security systems. Domestic work is usually a multiple-employer system which is bifurcating the employment relations itself and also not giving collective organizing capacity to different set up for domestic work. Such informality reduces their bargaining power and increases the risk of exploitation.

Constitutional Perspective

The constitutional framework for domestic workers is primarily normative; while it does not expressly mention them, the fundamental rights and directive principles of the Constitution of India serve as powerful tools in upholding their current legal status.

Some prominent clauses of our Rights under Article 14 are the right to equality before the law and equal protection of the laws. Article 14 is also violated in the sense that it excludes domestic

workers from labour legislation only on account of the nature or location of their work, thereby creating an unreasonable and discriminatory classification.

Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Since domestic work is primarily performed by women and members of marginalized communities, the lack of adequate legal protection can foster indirect discrimination, thereby reinforcing structural inequalities.

Article 19(1)(g) provides the freedom to adopt any profession or do any business. But in the absence of legal protection, this freedom becomes only an illusion for domestic workers, who often work in arbitrary and exploitative situations.

Article 21, which has been expansively interpreted by the Indian judiciary—encompasses the right to live with dignity, the right to livelihood, the right to health, and the right to humane working conditions. In the context of domestic workers, realizing Article 21 necessitates the provision of fair wages, fixed working hours, adequate rest, a safe working environment, and access to social security benefits.

The Directive Principles of State Policy enshrined in the Constitution provide a crucial foundation for the safety and welfare of domestic workers. Article 38 mandates the State to promote social, economic, and political justice, and to minimize inequalities existing within society. Article 39 emphasizes ensuring the availability of adequate means of livelihood for every individual, as well as equal pay for equal work. Article 41 directs the State to provide public assistance in cases of unemployment, sickness, old age, and other such exigencies. Similarly, Article 42 stresses the provision of just and humane conditions of work and maternity relief, while Article 43 advocates for ensuring a living wage and a decent standard of living for workers.

Furthermore, the Indian Constitution provides numerous constitutional provisions to safeguard the rights of workers. Article 23 prohibits human trafficking, begar (forced labor), and other forms of involuntary servitude, while Article 24 provides protection against the employment of children in hazardous industries. Article 15(3) empowers the State to enact special provisions in the interest of women and children. Meanwhile, Article 21 grants every individual the right to a life of dignity and personal liberty. The collective objective of all these provisions is to ensure safety, dignity, and social justice for workers, particularly domestic workers.

Legal Framework Governing Domestic Workers in India

In India, the legal framework concerning domestic workers remains fragmented, unorganized, and insufficiently developed. Unlike employees in the organized sector, there is no comprehensive central legislation available for domestic workers that explicitly regulates their terms of service, wages, working conditions, and dispute redressal mechanisms. Consequently, the majority of domestic workers remain deprived of the protections and benefits afforded by labor laws.

Although various legislative efforts have been undertaken since 1959 to safeguard the rights of domestic workers, no comprehensive and effective law has been successfully enacted to date. India has signed the International Labour Organization's Convention 189, but it has not yet ratified it. Furthermore, laws such as the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' offer a certain degree of protection to domestic workers; however, due to a lack of effective implementation, the intended benefits fail to reach the majority of these workers. Thus, there is a clearly felt need for a comprehensive and effective legal framework to ensure the adequate protection of domestic workers' rights.

Absence of Comprehensive Central Legislation

One of the most glaring gaps in Indian labour law is the absence of a specific central law for domestic workers. While specialized statutes govern sectors such as factories, construction and mines, domestic work still remains largely outside formal legal regulation. In the absence of legislation, domestic workers are at the mercy of limited protective measures and discretionary welfare policies.

Applicability of General Labour Laws

Some general labour laws offer limited protection for domestic workers but enforcement is patchy and weak.

Minimum Wages Legislation

Some states have brought domestic workers under the purview of minimum wage notifications. While this does formally recognize domestic work as paid labor, the enforcement is weak. Wage rates vary widely across states and in the absence of effective enforcement mechanisms compliance is largely voluntary.

Social Security Laws

The unorganised workers are meant to be covered under social security schemes and domestic workers are one such category. These schemes offer benefits such as health insurance, help with maternity and pensions. However, complex registration processes, lack of awareness and administrative inefficiencies mean that most domestic workers don't benefit from these.

Work place Safety and Welfare

Most occupational safety laws are designed for industrial workplaces and do not address the specific risks faced by domestic workers. Issues such as excessive working hours, denial of rest, and harassment within private households remain largely unregulated. There is still very little regulation on long hours, refusal to allow rest, harassment in private homes.

State-Level Initiatives and Welfare Boards

In the absence of central legislation, some states have brought in welfare boards, registration systems and assistance schemes for domestic workers. These are good steps but limited in their reach and impact. Welfare Boards are often underfunded, badly administered and have low enrolment rates.

Judicial Interventions

The judiciary has played an important role albeit a limited role in recognising the vulnerability of informal workers including domestic workers. Courts have broadened the scope of constitutional rights relating to livelihood and dignity. However, in the absence of clear statutory provisions, judicial interventions are haphazard and case specific, providing little systemic protection.

Critical Evaluation

India's current legal framework for domestic workers is mainly welfare-based and not rights-based. Welfare schemes may provide temporary relief, but they do not address structural issues such as insecure employment, power imbalances and weak enforcement. The dependence on state-level measures has led to regional differences, violating the principle of uniform labour protection.

Judicial Approach towards Labour Rights and Informal Workers

While there is little judicial jurisprudence in specific on domestic workers, Indian courts have hugely expanded the scope of labour rights, dignity and livelihood through their interpretation of the constitution.

1. Olga Tellis v. Bombay Municipal Corporation

In this landmark case, the Supreme Court held that the right to livelihood is an integral part of Article 21 of the Constitution. The Court recognised that deprivation of livelihood directly affects the right to life and dignity. This principle is particularly relevant to domestic workers, whose employment is often terminated arbitrarily without notice or compensation.

2. Bandhua Mukti Morcha v. Union of India

The Supreme Court held that the right to live with dignity under Article 21 includes humane working conditions, health, and protection from exploitation. Domestic workers often work in exploitative conditions without legal safeguards, making this judgment highly relevant.

3. People's Union for Democratic Rights v. Union of India

The Court recognised that payment of wages below statutory minimum wages amounts to forced labour under Article 23. Since domestic workers are frequently underpaid, this judgment strengthens the constitutional argument for enforcing minimum wage protection.

4. Vishaka v. State of Rajasthan

The Supreme Court laid down guidelines for protection against sexual harassment at workplaces. Given that domestic work is predominantly performed by women within private households, this judgment highlights the importance of workplace safety and dignity for domestic workers.

5. Consumer Education and Research Centre v. Union of India

The Court held that occupational health and humane working conditions form part of Article 21. Domestic workers are often denied rest, medical support, and safe working conditions, bringing their concerns within the ambit of this judgment. These judicial developments demonstrate that constitutional jurisprudence in India provides a strong normative basis for extending labour rights and dignity protections to domestic workers.

National Domestic Workers Welfare Trust v. Union of India – PIL filed for comprehensive law for domestic workers. Delhi Domestic Working Women’s Forum v. Union of India – Important case on sexual assault of domestic workers.

Relevant Labour and Social Security Legislations

Although India lacks a dedicated law for domestic workers, certain legislations provide indirect protection.

1. Unorganised Workers’ Social Security Act, 2008

This Act was enacted to provide social security benefits to workers in the unorganised sector, including domestic workers. Benefits include:

- life and disability cover
- health and maternity benefits
- old age protection

However, implementation remains weak due to low registration and administrative barriers.

2. Code on Social Security, 2020

The Code attempts to consolidate social security laws and includes unorganised workers, gig workers, and platform workers. Domestic workers may benefit from registration and welfare schemes under this Code, though implementation remains uncertain.

3. Code on Wages, 2019

This Code seeks universalisation of minimum wages and could potentially strengthen wage protection for domestic workers. However, practical enforcement remains weak because domestic work is performed in private households.

4. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Domestic workers are specifically recognised under this Act. Complaints by domestic workers can be filed before the Local Complaints Committee. Despite legal inclusion, awareness and enforcement remain limited.

5. Bonded Labour System (Abolition) Act, 1976

This Act becomes relevant where domestic workers are subjected to debt bondage or forced labour conditions.

State-Level Protection Mechanisms

In the absence of central legislation, some states have introduced welfare measures.

| State | Initiative |
|--------------|---|
| Maharashtra | Maharashtra Domestic Workers Welfare Board |
| Kerala | Domestic Workers Welfare Fund Scheme |
| Tamil Nadu | Minimum wages fixed for domestic workers |
| Karnataka | Registration initiatives and welfare measures |

While these initiatives are positive, they remain fragmented and unevenly implemented.

International Labour Standards and India's Position

Recognizing domestic work as valid labour on an international scale mark a big shift in how global labour rights are seen. For years, domestic workers were left out of protection laws because people thought this work was private. Yet, as more folks saw the huge problem of abuse and vulnerability these workers face, they began creating international standards to keep domestic workers safe and respected.

International labour standards say domestic workers deserve the same rights as everyone else—fair pay, decent hours, rest time, social security, and protection from abuse and exploitation. These guidelines acknowledge domestic work's unique nature while making clear that workers shouldn't lose their basic rights just because they're in private homes.

From an international angle, domestic work is seen more and more as a key part of the labor market, not just some informal setup. There's a push for "decent work" that calls for legal protection, rules, and ways to enforce those rules for domestic workers. In terms of international labor standards, India takes a careful but incomplete stance. The country recognizes the need to shield workers in the informal sector, yet it hasn't made a full, binding

legal setup for domestic worker rights. Instead, these workers depend on various state-level efforts and welfare programs, which sadly don't meet international standards.

The gap between international standards and India's domestic legal framework has big consequences. Without clear laws and enforceable rights, domestic workers are left vulnerable to abuse. Aligning domestic law with global standards would enhance legal protection and reinforce India's dedication to social justice and human dignity, boosting both fairness and safety for these workers.

ILO Convention No. 189 on Domestic Workers

ILO Convention No. 189 concerning Decent Work for Domestic Workers was adopted in 2011 to formally recognise domestic work as labour deserving full legal protection.

Key protections include:

1. Fair terms of employment
2. Written contracts
3. Minimum wage protection
4. Weekly rest of at least 24 consecutive hours
5. Regulated working hours
6. Occupational safety and health
7. Social security protection
8. Protection against abuse and violence

Despite the significance of this Convention, India has not ratified ILO Convention No. 189.

This reflects the gap between India's constitutional commitments and international labour standards.

Empirical Study

Empirical evidence is key to grasping the real struggles of domestic workers, going beyond what legal papers say. Studies show these workers in India often face informal jobs, insecurity, and a lack of protection, which is super common.

Nature of Employment

Domestic workers mostly work without written contracts, relying on verbal agreements instead. This means employment terms are often very informal. Because of this, workers can't easily claim their rights concerning pay, hours, or job endings, depending a lot on the employer's goodwill.

Nature of Employment

(Primary Data collected through Field Survey by the Author)

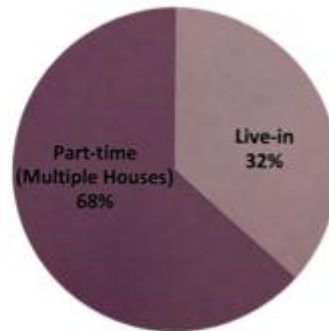
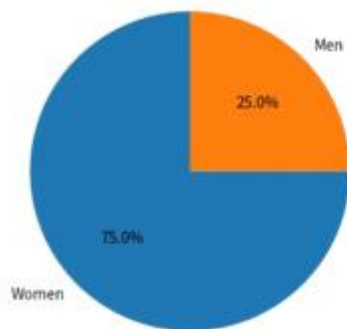
Wages and Working Hours

Data shows domestic workers often get paid less than what rules say they should earn, if those rules exist. Their hours are way too long, especially for those living at the place they work. They're expected to be on call all day. Also, overtime pay is rare, and many don't get a day off each week.

Gender and Social Dimensions

In India, women do most domestic work, often coming from marginalized groups. Because of this, they face lots of discrimination for their gender, class, caste, and where they come from. Women are especially vulnerable to things like verbal abuse, mental torment, and sexual misconduct.

Gender Distribution of Domestic Workers in India



(Primary Data collected through Field Survey by the Author.)

Access to Social Security

Social security schemes exist for unorganized workers, but most domestic workers don't benefit. Reasons include missing docs, complicated sign-ups, and low awareness. These issues block access to health coverage, maternity leave pay, and pensions.

Impact of Crisis Situations

The Covid-19 pandemic showed how risky domestic work can be. Lockdowns led to job losses for tons of domestic workers, many never paid at all. Without legal protection and social security, these workers got no help from the government, showing major flaws in their support systems.

Statistical Position of Domestic Workers in India

Domestic workers make up one of the biggest parts of informal labour in India. There are over fifty million domestic workers in the country, although we can't be sure about the precise number because of the informality. Most of them are women, plus a lot of them belong to Scheduled Castes, Scheduled Tribes, minority groups, and migrant communities. Many don't have written contracts or social security either.

They typically get paid less than the minimum wage and often work extra hours too. The pandemic made things worse for them. Lots of domestic workers lost their jobs with nothing

to fall back on—no compensation, no state help. It really showed how vulnerable they already were.

Key Survey Findings (Table)

| S.No. | Indicator | Percentage |
|-------|------------------------------------|------------|
| 1 | No Written Contract | 84% |
| 2 | Receiving wages below Minimum Wage | 81% |
| 3 | No Regular Weekly Rest | 78% |
| 4 | Working more than 10 hours per day | 83% |
| 5 | No Social Security Coverage | 88% |
| 6 | Faced Verbal or Physical Abuse | 62% |
| 7 | Registered on e-Shram Portal | 17% |
| 8 | Aware of any Labour Rights | 22% |

(Primary Data collected through Field Survey by the Author.)

Challenges in Enforcement

Even where limited legal protections exist, their effective enforcement remains a major challenge.

1. Private Nature of the Workplace

Domestic work is performed within private households, making labour inspection and regulation difficult. Balancing the right to privacy of households with the protection of workers' rights presents a complex legal challenge.

2. Lack of Awareness

Both domestic workers and employers often lack awareness of existing legal provisions and obligations. This results in low compliance and limited utilisation of available remedies.

3. Weak Organisation and Representation

Domestic workers are dispersed and isolated, making collective organisation and unionisation difficult. The absence of strong representative bodies weakens their ability to engage in collective bargaining and advocate for legal reforms.

4. Administrative and Institutional Constraints

The implementation of welfare schemes and labour protections is hindered by inadequate administrative capacity, lack of coordination among agencies, and limited political will. These constraints further undermine the effectiveness of existing measures.

FINDINGS

Based on the analysis, the study arrives at the following key findings:

1. Domestic workers in India lack comprehensive and enforceable legal protection.
2. The existing legal framework is fragmented, welfare-oriented, and inconsistently implemented.
3. Constitutional guarantees of equality, dignity, and social justice are not adequately realised in the context of domestic work.
4. There is a significant gap between international labour standards and domestic legal provisions.
5. Informality, gender bias, and weak enforcement mechanisms perpetuate the vulnerability of domestic workers.

RECOMMENDATIONS

To strengthen the legal protection of domestic workers in India, the following measures are recommended:

1. Enactment of a comprehensive central legislation specifically regulating domestic work.
2. Formal recognition of domestic work as legitimate labour entitled to full labour rights.
3. Establishment of clear standards for wages, working hours, weekly rest, and leave.

4. Simplification of registration procedures and expansion of social security coverage.
5. Creation of effective grievance redressal and enforcement mechanisms.
6. Promotion of collective organisation and representation of domestic workers.

CONCLUSION

Domestic workers are super important in India but often treated unfairly. They keep homes running and people working, yet get shafted when it comes to legal protection and basic worker rights. This study found that the current laws don't do enough to help them. We need to move away from just giving handouts and actually create solid laws that shield domestic workers from abuse and poverty. These laws have to fit with our constitution and global labor rules, and really listen to what domestic workers themselves need.

Protecting domestic workers legally isn't just about labor rules; it's about fairness, gender equality, and dignity. Really tackling this would mean big steps toward fair labor treatment in India. Domestic workers desperately need to be officially recognized as workers. To safeguard and secure their welfare, we need one strong law protecting them. Sadly, the government hasn't kept any promises to help domestic workers at all.

FUTURE SCOPE OF THE STUDY

- The present study provides scope for future research on the enactment of a comprehensive central legislation exclusively governing the rights, welfare, and social security of domestic workers in India.
- Future studies may undertake a comparative analysis of the legal framework governing domestic workers in India with countries that have implemented the standards of the International Labour Organization's Domestic Workers Convention, 2011 (No. 189).
- Further empirical research may examine the implementation of labour codes, social security schemes, and state-specific welfare policies for domestic workers across different regions of India.
- Researchers may explore the challenges faced by migrant, women, transgender, elderly, and child domestic workers with special reference to human rights, gender justice, and labour rights.

- Future studies may analyse the impact of digital employment platforms and app-based domestic service providers on employment relationships, contractual rights, wages, and dispute resolution mechanisms.
- There is considerable scope for examining occupational safety, workplace harassment, violence, and access to legal remedies available to domestic workers employed in private households.
- Comparative socio-economic studies may evaluate the effectiveness of trade unions, domestic workers' associations, and civil society organisations in protecting the rights of domestic workers.
- Future research may assess the feasibility of extending universal social security benefits, including health insurance, pension, maternity benefits, accident compensation, and paid leave to domestic workers working in the informal sector.
- Further legal research may examine the role of constitutional principles, judicial activism, and public interest litigation in strengthening labour rights and ensuring dignified working conditions for domestic workers.
- Future interdisciplinary research integrating law, sociology, public policy, economics, gender studies, and labour welfare may contribute to the formulation of evidence-based policy reforms for the recognition and protection of domestic workers in India.

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