



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2025 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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Swept under the Rug: The Neglected Rights of Domestic Workers

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Received 15 March 2025; Accepted 16 April 2025; Published 19 April 2025

This paper examines the social, economic, and legal status of domestic workers in India, focusing primarily on dimensions of caste, gender, and class converging to perpetuate this exploitation further. Domestic workers remain unrecognised by the major labour legislations despite their integral role in sustaining the formal economy through their manual labour. The deregulated nature of their workspaces, coupled with their invisibility in public policy discourse, leaves them vulnerable to a range of abuses, from wage theft to physical violence. The paper further examines the reasons for the failure of the past legislative efforts as well as how and where current laws fail, leaving them vulnerable and without real protection. The paper makes a strong case for why it's time to bring domestic work fully under national labour laws. It closes with clear, practical ideas for legal reform and pushes for a rights-based approach focused on ensuring the dignity of workers and making Indian laws in this regard on par with global standards.

Keywords: domestic workers, industry, labour laws, socio-economic condition, exploitation, feminised labour.

INTRODUCTION

Every once in a while, we seem to come across news clippings about domestic workers being assaulted to death by their masters, yet they are hardly able to pierce through our minds to make us talk about the need for legislative reforms. Euphemisms have taken over daily discussion, where to humanise those employed to do domestic tasks, we use words like maids or domestic workers instead of servants, still, little has been done to provide humane working conditions for them. With the new economic trends of globalisation, there is a rise in inequality, and at the same time, the middle class has also burgeoned, therefore, they can afford someone else to complete their domestic work. Urbanisation and industrialisation have also led to an increasing number of unskilled people moving to cities in search of a source of income, and most of them become part of this sector.

The workers work in the private workspace, i.e., the homes of the employer, where there exists an asymmetric balance of force in the relationship between the employer and the employee. This imbalance is further deepened by factors like caste, gender, work hierarchy, contractual obligations, etc. The work is deregulated, and therefore, they are paid less than minimum wages and are devoid of any social security benefits.

This paper seeks to understand the socio-economic status of the domestic workers and explore how gender and caste play a fundamental role in this sector, as this sector employs more than 80% women, with most of them belonging to the lower castes. Understanding the issue faced by the workers is fundamental to knowing what policy reform measure is to be brought, and also to understand the pitiable state of the workers. This paper, therefore, tries to get an insight into the issue and challenges faced by the workers. The absence of concrete legislation goes miles deep into adding up extra burden and exploitation on the workers; therefore, the paper explores the present legal framework to protect the interests of the workers.

DOMESTIC WORK AND THE WORKERS

The ILO defines domestic labour as work that is done for a family, or several families, like cooking, cleaning, washing clothes, caring for children, the sick, and the elderly, working in the

garden or around the house, or driving a car.¹ Domestic workers are people who enter into a professional relationship with one or more families to carry out domestic work. Domestic Work is a unique kind of proposition because, unlike other forms of work, Domestic Work involves labour that cannot be separated from the labour itself. Karl Marx in *The Capital* noted that such work, therefore, does not hold importance in the eyes of the capitalist class, the understanding of which could be extended to explain the sad state of the workers.

Types of work that are consumed as services and not in products separable from the worker, and not capable of existing as commodities independently of him... are of microscopic significance when compared with the mass of capitalist production. They may be entirely neglected, therefore.² Globally, it has been estimated that there are 75.6 million domestic workers, with women comprising 76% of the workforce. In India, the data suggests that over 4 million people have been employed as domestic workers, with women comprising over 80% of the workforce. There are different types of domestic workers based on their commitment to an employer namely, full time: they are generally who work at a house beyond 10 hours or may even be live in workers who are always available to meet the duties entrusted upon them, be it inside or outside the house; part time: they are hired for a specific work or a specific period or they may work in more than one household; workers are also hired for particular purpose like only for cooking or cleaning etc.³

The lack of acknowledgement and visibility is relevant to the fact that these workers support the very basis on which the formal economy is built. Tasks like cleaning, cooking, and child care are not mere household chores; they are intrinsic to the functioning of the economy. An important aspect of domestic work being under-acknowledged in protections granted by law is that, traditionally, care work and household work were areas of work associated with women and thus devalued and considered unproductive.⁴

¹ Domestic Workers Convention 2011

² Karl Marx, *Capital: A Critique of Political Economy* (first published 1867, 4th edn, Penguin Books 1976)

³ *Ibid*

⁴ Indira Hirway and Sunny Jose, 'Understanding Women's Work Using Time-Use Statistics: The Case of India' (2011) 17(4) *Feminist Economics* <<https://doi.org/10.1080/13545701.2011.622289>> accessed 07 March 2025

SOCIO-ECONOMIC STATUS OF DOMESTIC WORKERS

Domestic work has emerged as an important employment sector since the 1990s, with fundamental changes taking place in the economy. Most of the population of domestic workers has migrated from rural areas, especially Bihar and Jharkhand, to cities in search of work for reasons associated with a lack of employment opportunities. They are often exploited and work in areas where their rights are not protected. The workers employed in the sector come from an economically disadvantaged background and were forced to get into domestic work either due to family pressure, illiteracy, or unemployment prevalent in the society. The workers, primarily women, are not only paid less, but their wages are also deducted by the employers as they desire. They are overworked, not provided leaves survive on starving wages.

Domestic work is distinguished from other forms of employment as it is one where the lines between the professional space and the private space are blurred because the place of employment is the home of the employer and, therefore, there exists a complex interplay of relations between the employer and the worker. The nature and degree of the employee's relationship with the employer, therefore, hold the key to determining the employment conditions of the worker. This, in turn, is embedded in economic, social, and cultural inequalities.⁵ The state itself hesitates to enter into the private realm to regulate the private spaces of the employer.

The socio-economic status of the workers employed in this sector is moulded by the deep-rooted systems of gender and caste that seek to reinforce the inequality in the workplace. Historically, Domestic Work has been regarded as residual work and, therefore, was often assigned to those who did not have access to other types of employment.⁶ This work often fell upon those disadvantaged women from marginalised castes and social backgrounds. Moreover, gender norms and roles seek to chain women to this sector, thus feminising the workforce. Women have always been tasked with domestic responsibilities like cooking, cleaning, and childcare

⁵ Raka Ray and Seemin Qayum, *Cultures of Servitude: Modernity, Domesticity and Class in India* (Stanford University Press 2009)

⁶ Marx (n 3)

activities, which are fundamental to social reproduction; therefore, their work gets undervalued, and with the amalgamation of it with the capitalist system, women are further exploited.

Caste also plays an important role in domestic work, mostly because workers from the lower castes have been historically disenfranchised and deprived of opportunities, whether in terms of education or employment, and thus they are confined to work within the homes of others. People from such communities are often employed to perform cleaning work, which is considered to be impure and polluting because of centuries-old practices that assigned them the task. This division was institutionalised through the varna and jajmani systems, which, even today, have pervaded the work categorisation in employing domestic workers. The sector of domestic work is so entangled in the mesh of societal structure of this country that the elements of oppression seep in manifested in the incredible statistics showcasing that the Other Backward Classes (OBCs) category accounted for the highest proportion of domestic workers (32.4%) in the country, followed by Scheduled Caste (SC) workers (31.2%) and upper castes (28.4%). More than 50 percent lack formal education, and most are migrants.⁷

ISSUES IN THE WORKPLACE

Domestic workers experience a range of hardships in the workplace, mainly due to a lack of formal recognition, poor working conditions, and job insecurity. The absence of a legal framework surrounding their work denies them of their basic rights and necessities like sick leave, accident insurance, paid holidays, minimum wages, gratuity, pension, etc. This absence of protection makes them vulnerable to maltreatment and exploitation by employers.

Job security in this sector is a mere fantasy, workers are often terminated without any reason, and mostly at times when they need the job the most. Often, when domestic workers fall ill or are facing some crisis and cannot go to work for a few days, they are informed that they no longer have their jobs. This goes on to show how they are abandoned during times of need, the insecurity extends to housing as well as the fact that they are mostly dependent on the housing linked to their employment, further aggravating the workers. The workers face abuse, both physical and emotional, as the private nature of their work environment makes them susceptible

⁷ *Ibid*

to abuse. They are beaten up, raped and even murdered all the while enduring false accusations, insults, and a denial of dignity.⁸ They are paid low and irregular wages, which are frequently less than the minimum wage, with wage cuts for absence and improper work further emaciating their pockets.

Moreover, since the work is physically demanding, requiring both strength and endurance, workplace accidents are quite commonplace. The statement of the ILO reflects on the condition of domestic workers.⁹ The following sketch of problems of accidents in domestic work is drawn from data from hospital records and detoxification centres, mortality statistics, and reports from safety councils, public health departments, police and fire departments, insurance companies, and general practitioners. The types of work leading to domestic-work-accidents are: Manual and mechanical tasks, indoor and outdoor duties, taking care of persons, goods, household linen, furniture, and other things, cleaning of premises and utensils, kitchen work, and commuting in outdoor duties. The workers have to work for long, gruelling hours, especially the live-in workers who are ordered to perform the wishes of the employers, notwithstanding the time, adding extra burden to the workers beyond what was stipulated.

LEGAL ASPECTS

Can Domestic Work be Considered an Industry?

The domestic workers are differentiated from the other workers, even if the work is the same, as there is a difference in the aspect of place of work, as activities relating to cooking, cleaning, etc. If performed in an establishment/industry, then it would be eligible to receive protection under the laws. Domestic work has been left outside of the ambit of industry under S. 2 (j) of the Industrial Disputes Act, 1947 (hereinafter IDA)¹⁰.

The Domestic Workers (Decent Working Conditions) Bill 2015¹¹, for instance, much like the Domestic Workers (Condition of Service) Bill 1977¹², sought to include them under the IDA,

⁸ Committee for Asian Women, *Women Domestic Workers* (2004)

⁹ *Ibid*

¹⁰ Industrial Disputes Act 1947, s 2(j)

¹¹ Domestic Workers (Decent Working Conditions) Bill 2015

¹² Domestic Workers (Condition of Service) Bill 1977

1947, however, none of these have been enacted into law.¹³ Even though domestic work satisfies human wants and wishes and is a systematic activity generally done through the cooperation of the employer and employee, it has been kept outside the purview of Industry. In the case of Hospital Mazdoor Sabha, the Hon'ble Supreme Court opined that,¹⁴ though Section 2(j) of the Industrial Disputes Act 1947 uses words of very wide denotation, a line would have to be drawn in a fair and just manner to exclude some callings, services, or undertakings. If all the words used are given their widest meaning, all services and all callings would come within the purview of the definition; even service rendered by a servant purely in a personal or domestic matter, or even in a casual way, would fall within the definition.

Similarly, a year after the 1977 attempt to introduce legislation protecting domestics, servants suffered a major setback to their efforts in the form of the Supreme Court decision of Bangalore Water Supply & Sewerage Board v Rajappa.¹⁵ Although this case was not specifically concerned with the status of domestics under the law, it included domestics in the category of workers that should not be recognised for the IDA. Justice Krishna Iyer reasoned that they are isolated workers and, as such, cannot constitute organised labour. The decision suggested that attempts by domestics to claim coverage under the Industrial Disputes Act, as envisioned in the 1977 legislation, would be doomed to failure.

FRAMEWORK AND GAPS

In India, there are over 200 laws regulating the employer-employee relations that operate at the provincial or central level; however, they regulate a very minuscule population of workers, mainly employed in the formal sector. Domestic workers have not been represented in law-making and thus are denied basic rights and benefits afforded by labour legislations to workers. An important reason for this is that the nature of work does not come under the statutory definitions of important aspects of labour law like industry, employee, and factory, under the Industrial Dispute Act, Factories Act, etc.

¹³ *Ibid*

¹⁴ *State of Bombay v Hospital Mazdoor Sabha* (1960) 2 SCR 866

¹⁵ *Bangalore Water Supply & Sewerage Board v A Rajappa* (1978) 3 SCR 207

In India, the data sets of domestic workers available for in-depth inquiry are limited, and the official estimates are unreliable. The informal employment relations make it difficult to develop a macro profile of domestic workers.¹⁶ Without reliable data, domestic workers remain invisible not just in policy discussions but also in legal reforms.

An interesting point to note is that while the nature of the work is the same, domestic workers are differentiated because of the aspect of place of work, as activities relating to cooking, cleaning, etc.; if performed in an establishment/industry, then it would be eligible to receive protection under the laws. However, efforts have been made in the past to regulate the conditions of employment relating to domestic work time and again but have remained largely unsuccessful.¹⁷ The first legal recognition of domestic workers came in the year 2008 with the Unorganised Sector Social Security Act 2008.¹⁸ Aiming to provide social welfare to the workers. The Act was further replaced by the Code of Social Security, 2020, which has only been implemented to a certain extent.

In the year 2006, the Government of India, under the Child Labour (Prohibition and Regulation) Act, 1986, declared that the employment of children as domestic workers is prohibited.¹⁹ As a first, the notification recognises domestic work as an occupation to earn a means of livelihood. Household work to be carried out by an outsider on consideration of wage is an employment under the Act. If a particular kind of work falls in the hazardous category of employment for a child, then the work should get the status of employment with all the attributes of an employee relationship for others.

Several states have legislation regulating the wages and working conditions of workers. Domestic work was included under the head of scheduled employment under the Minimum Wages Act, 1948, but only a few states have implemented it and set a minimum necessary wage to be paid. In 2016, the Workers Welfare Bill was introduced in the Lower House, suggesting

¹⁶ B. S. Sumalatha et al., 'Impact of Covid-19 on informal sector: A study of women domestic workers in India' (2021) 69(3) *The Indian Economic Journal* <<https://doi.org/10.1177/00194662211023845>> accessed 02 March 2025

¹⁷ Domestic Workers (Conditions of Employment) Bill 1959

¹⁸ Unorganized Workers' Social Security Act 2008

¹⁹ Upasana Mahanta and Indranath Gupta, *Recognition of the Rights of Domestic Workers in India: Challenges and the Way Forward* (Springer 2019)

recognition of Private Household as Workplaces and broadening the definition of Wages, and other progressive changes; however, no bill was passed.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Punishment) Act, 2013 includes domestic workers as a category of workers and regards the house as a designated workplace. Domestic workers are also covered under the Rashtriya Swastha Bima Yojana.²⁰ For families which are below the mark of poverty line, the scheme entails an insurance coverage of Rs. 30,000/- per family per year the responsibility for the cost of which is assumed by the government, However, this too does not always benefit the worker and they are put into the rabbit hole of administrative red tape or put at the mercy of their employers. A domestic worker cannot register for this scheme unless her employment is verified by two out of four authorised agencies, of which three, given the disparities linked to power, gender, class and caste, are frequently in an adversarial or prejudicial relation with her. The police, the employer, the employers' resident welfare associations, and unions.²¹

India is a signatory to the ILO Convention 189, which focuses on ensuring the protection of workers with the help of law, however, India has yet to ratify it. Moreover, India has not signed Convention No. 182 on the Worst Forms of Child Labour and Convention 189 on Decent Work for Domestic Workers, which are considered important worldwide. In 2019, the Labour Ministry put forward a draft, i.e., the National Domestic Worker Policy, which aimed at bringing platform service agencies and domestic workers under its fold while regulating minimum wages, social security, and other key areas. However, this policy has also not been implemented. Therefore, at present, there remains a lack of concrete laws that regulate the working conditions of domestic workers, thereby failing to secure their interests.

POLICY RECOMMENDATIONS

The above analysis of the existing legal framework and the issues faced by domestic workers paints a clear picture of the laws being unable to address the situation of domestic workers

²⁰ *Ibid*

²¹ Neetha N, 'Paid Domestic Work: Making Sense of the Jigsaw Puzzle' (2013) 48(43) Economic and Political Weekly <<https://www.epw.in/journal/2013/43/review-womens-studies-review-issues/paid-domestic-work.html>> accessed 02 March 2025

efficiently. The government needs to bring in more efficient laws and oversee their implementation so that the workers do not suffer injustice. There are a few policy recommendations that, according to me, are needed to bring the workers under the umbrella of legal protection.

Recognising domestic work as work under the existing legislations- the legislations like The Minimum Wages Act 1948²², Workman's Compensation Act 1923²³, The Industrial Disputes Act 1947²⁴, etc., need to be amended to bring domestic work under their ambit. The definition of Domestic Work as provided by the ILO Convention 189 should be adopted in Indian legislation as well to bring uniformity in definition and to broaden the ambit of work. The statistical data available on domestic workers is not accurate and doesn't match the numbers provided by the ILO. Therefore, there is a need to conduct an all-India survey to ascertain their population, which might be through the means of including domestic workers as a specific category in the census.

Enacting comprehensive legislation solely dedicated to addressing the needs of the domestic work sector would prove to be beneficial in ameliorating the conditions of the workers. The legislation should entail the creation of a helpline number for the workers, a compulsory registration of the placement agencies, setting up schemes for social security, provision of leaves, etc. Aligning the domestic framework with the international standards, various international conventions have talked about measures to uplift the coordination of domestic workers. Such measures should be incorporated in the Indian legal regime as well like although India has signed the Convention 189 of Decent Work for Domestic Workers, it has not been ratified.²⁵

CONCLUSION

Domestic labour remains the invisible backbone of our economy as it plays a crucial role in supporting the formal economy as well as making sure everyday life passes smoothly. Though the work has been historically devalued and disregarded, it is the one that blurs the line between the public and the private sphere, it is the domestic workers who fulfil the household duties of

²² Minimum Wages Act, 1948

²³ Workman's Compensation Act 1923

²⁴ The Industrial Disputes Act 1947

²⁵ N (n 21)

their employer so that they can peacefully work outside. Domestic workers have to endure low wages, lack of job security, pay cuts or leaves, no social security and yet put in everything they can do complete their tasks, they are often subject to torture, rape, insults etc. by their employer mostly because of their gender or their caste. Very little has been done regarding preventing the exploitation of workers in the private realm by their employers.

To address this issue, policy reforms are required. In India, there is no comprehensive legislation that deals with the rights of Domestic Workers, even though there is little debate on the left, right, or centre over the exigency of the situation. The laws that are in place to secure labour interests do not within their ambit include the private sphere, and thus, the domestic workers became uniquely oppressed by the system. The laws should also comply with the international standards relating to domestic work, which would ensure that the workers are given their due share of dignity. Domestic work should, therefore, not be treated as a sort of residuary work but as an essential element in sustaining social and economic life.