Page 3840 - 3851 **DOI:** *https://doi.org/10.63108/IJLMH.13117*

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 9 | Issue 5

2026

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Critical Analysis of the Legal Uncertainty of Domestic Workers: Understanding the Framework, Vulnerabilities, and Pathways to Effective Protection in India

ARSHABH DEV SINGH[*], NEETYA SHAH[**], AND ABHIMANYU PANDEY[***]

ABSTRACT

Domestic work is one of the largest sources of employment for women in urban India, yet the law treats domestic workers as neither fully workers nor fully family. This paper examines that legal uncertainty. It considers how the devaluation of unpaid domestic labour within the household extends to paid domestic work, and how caste, class and gender shape the conditions of the workforce. It then assesses the Indian legal framework, from the right to live with dignity under Article 21 and the judicial decisions on domestic work, including the direction of the Supreme Court in Ajay Malik v. State of Uttarakhand*, to the Unorganised Workers' Social Security Act, 2008 and the four Labour Codes in force since 21 November 2025. It finds that there is still no central legislation specific to domestic workers, that the Codes treat them inconsistently and give them no protections of their own, and that comprehensive data on the workforce is lacking. Drawing on the ethics-of-care framework of Poddar and Koshy, which it reads as a reformulated labour law sensitive to the affective dimensions of the work, it argues that domestic work fits neither family law nor conventional labour law, and suggests embracing that ambivalence through targeted interventions aimed at specific vulnerabilities. It recommends a standalone central law, interim amendments to the Codes, local registration and welfare boards, a model employment contract, measures against caste-based discrimination, recognition of unions, publication of the All India Survey on Domestic Workers, and judicial recognition of private homes as workplaces.*

Keywords: *Domestic Workers, Legal Uncertainty, Informal Labour Sector, Unorganised Workers, Labour Law Framework, Social Security, Vulnerability, Exploitation*

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I. Introduction

"Ajyeshthaso akanishthasa ete sam bhrataro vavridhuh saubhagaya": "No one is superior, none inferior. All are brothers marching forward to prosperity."[1]

This verse from the Rig Veda expresses a vision of substantive equality and shared dignity. In India, however, a significant section of society, domestic workers in particular, continues to be denied this vision. Omnipresent yet invisible, indispensable yet unprotected, the domestic worker occupies a paradoxical position within our homes and legal systems. Often romanticised in cultural narratives, from Bollywood's ever-loyal "Ramu Kaka" to Constantine in *The Help*, domestic workers are perceived as selfless caregivers embedded within familial structures, even as they are denied both the rights of kinship and the protections of formal employment.[2]

Paid domestic workers exist in a blurred space between the home and the market. Their work remains largely informal, underpaid and unregulated, marked by discrimination, commodification and a denial of basic rights. According to the International Labour Organization (ILO), there are 75.6 million domestic workers worldwide, 76.2 per cent of whom are women.[3] In India, estimates of the workforce run to more than 50 million, a majority of them women.[4] This makes domestic work one of the largest sources of employment for women in urban India.[5]

Despite being the backbone of middle- and upper-class households, domestic workers remain "workers in the shadows",[6] excluded from comprehensive labour protections and frequently subjected to exploitative practices rooted in caste, class and gender hierarchies. Their very

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[1] Rig Veda 5.60.5. The English rendering in the text is a free one. Ralph T.H. Griffith translates the verse, which is addressed to the Maruts, as "None being eldest, none among them youngest, as brothers they have grown to happy fortune." The Hymns of the Rigveda bk. V, hymn LX, v. 5 (Ralph T.H. Griffith trans., 2d ed. 1896), https://sacred-texts.com/hin/rigveda/rv05060.htm.

[2] Baradwaj Rangan, *The White Tiger on Netflix: Aka the Revenge of Ramu Kaka, Starring Adarsh Gourav, Priyanka Chopra and Rajkummar Rao*, Film Companion (Jan. 26, 2021), https://www.filmcompanion.in/reviews/streaming-reviews/the-white-tiger-movie-review-netflix-the-revenge-of-ramu-kaka-starring-adarsh-gourav-priyanka-chopra-rajkummar-rao-baradwaj-rangan (last visited Apr. 11, 2025); *The Help (2011): Cicely Tyson as Constantine Jefferson*, IMDb, https://www.imdb.com/title/tt1454029/characters// (last visited Apr. 11, 2025).

[3] Press Release, Int'l Labour Org., *10 Years On, Domestic Workers Still Fight for Equality and Decent Work* (June 15, 2021), https://www.ilo.org/resource/news/10-years-domestic-workers-still-fight-equality-and-decent-work.

[4] Self-Employed Women's Ass'n, *Domestic Workers' Laws and Legal Issues in India* 1 (WIEGO Law & Informality Res., 2014), http://www.wiego.org/sites/default/files/resources/files/Domestic-Workers-Laws-and-Legal-Issues-India.pdf (last visited Apr. 12, 2025) (stating that domestic workers "number over 50 million in the country"); Neymat Chadha, *Domestic Workers in India: An Invisible Workforce*, Soc. & Pol. Rsch. Found. (July 3, 2020), https://sprf.in/domestic-workers-in-india-an-invisible-workforce/ (last visited Apr. 12, 2025) (citing National Sample Survey data for 2011–12: 39 lakh domestic workers, at least 26 lakh of them women).

[5] Self-Employed Women's Ass'n, *supra* note 4, at 5.

[6] Pinky Chandran, *Workers in the Shadows*, Citizen Matters (June 15, 2015), https://citizenmatters.in/workers-in-the-shadows-international-domestic-workers-day/ (last visited Apr. 12, 2025).

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survival is often contingent on the benevolence or whim of employers who, capitalising on their marginalised status, treat them more as servants than as workers entitled to rights and dignity.

At the heart of this issue lies the commodification of care. Immanuel Kant argued that a person must never be treated merely as a means to an end, because every person possesses an inherent dignity.[7] This is especially true for domestic workers, whose labour is not only economically undervalued but also socially and legally dehumanised. The violation of their dignity is systemic: inadequate wages, unsafe working conditions and the lack of legal redress are not anomalies but features of an unregulated sector.[8] International instruments such as the ILO's Domestic Workers Convention, 2011 (No. 189) seek to formalise protections, but ratification has been limited, and India has not ratified the Convention.[9]

Domestic work has also been problematically conceptualised through family law frameworks that reflect the perceived intimacy of care work. Such frameworks, however, risk reinforcing patriarchal and caste-based notions of servitude, cloaking exploitation in the language of familial duty.

Domestic workers thus occupy a precarious place in the Indian legal landscape, and the legal issues they face call for urgent attention.

II. Domestic Work as Care and Care as Work

Domestic work is often conceptually elusive, lying at the intersection of private and public life, care and labour, affection and exchange. The ILO's Domestic Workers Convention defines domestic work as work performed in or for a household or households, and a domestic worker as any person engaged in domestic work within an employment relationship.[10] The work spans a wide array of functions, such as cleaning, cooking, washing clothes, childcare and other care work, driving and security.[11] It often extends to tasks outside the formal job description, such as school pick-ups or running errands.

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[7] Immanuel Kant, Groundwork of the Metaphysics of Morals 4:429, 4:434–35 (Mary Gregor ed. & trans., Cambridge Univ. Press 1997) (1785).

[8] Self-Employed Women's Ass'n, *supra* note 4, at 1.

[9] Domestic Workers Convention, 2011 (No. 189), June 16, 2011, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::p12100_ILO_CODE:C189; Int'l Labour Org., *Convention No. 189: 15 Years of Progress Toward Decent Work for Domestic Workers* (June 16, 2026), https://www.ilo.org/resource/article/15-years-progress-toward-decent-work-domestic-workers (recording forty ratifications since 2011).

[10] Domestic Workers Convention, 2011 (No. 189), *supra* note 9, art. 1(a)–(b); *see also* Chadha, *supra* note 4.

[11] Int'l Labour Org. Subregional Off. for S. Asia, *About Domestic Work* 1 (June 4, 2010), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40asia/%40ro-bangkok/%40sro-new_delhi/documents/genericdocument/wcms_141187.pdf; Chadha, *supra* note 4.

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Barbara Laslett and Johanna Brenner define social reproduction as encompassing "the activities and attitudes, behaviors and emotions, responsibilities and relationships directly involved in the maintenance of life on a daily basis, and intergenerationally."[12]

Building on this, scholars have developed the concept of "care work" to describe a subset of reproductive labour that is emotional, relational and person-centred.[13] As Nimushakavi Vasanthi notes, workers performing "care" functions such as childminding are often perceived to occupy a higher social status than those performing "menial" tasks like cleaning, who are typically from Dalit or other marginalised communities.[14] Indian scholars and worker organisations therefore often prefer the term "domestic work" to "care work", as it better aligns with the self-perception of workers and avoids reproducing casteist and classist hierarchies.[15] The divide is also reflected in organising strategies: drivers and gardeners, who may be considered more skilled, are rarely included in domestic workers' unions, which are largely composed of women performing tasks inside the household.

Despite these nuances, the effort to recognise domestic labour as "work" in the legal and economic sense has been central to feminist legal thought.[16] The devaluation of unpaid domestic labour within the household has long been a focus of feminist critique, and this devaluation often extends seamlessly to paid domestic labour.[17] Labour law, with its promise of minimum wages, regulated working hours, social security and grievance redressal, appears to offer a logical framework for recognising and protecting domestic workers.[18]

Evelyn Nakano Glenn traces the devaluation of care work, and the exclusion of paid care workers from rights such as the minimum wage, to two intertwined histories: unpaid caring within the family, and slavery, indenture and other forms of coerced labour.[19] Domestic workers, often racialised immigrants in the United States and caste-oppressed women in India, are accordingly located in an ambiguous legal space: they occupy a quasi-familial role, marked by emotional labour and intimacy, and simultaneously a quasi-property status in which their

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[12] Barbara Laslett & Johanna Brenner, *Gender and Social Reproduction: Historical Perspectives*, 15 ANN. REV. SOCIO. 381, 382 (1989); *see also* Barrie Thorne, *Feminism and the Family: Two Decades of Thought*, *in* RETHINKING THE FAMILY: SOME FEMINIST QUESTIONS 3 (Barrie Thorne & Marilyn Yalom eds., rev. ed. 1992).
[13] Lauren Wilks, *Gender and Domestic Work in India*, *in* HANDBOOK ON GENDER IN ASIA 221 (Shirlena Huang & Kanchana N. Ruwanpura eds., Edward Elgar 2020).
[14] Nimushakavi Vasanthi, *Addressing Paid Domestic Work: A Public Policy Concern*, 46 ECON. & POL. WKLY. 85 (2011).
[15] Vasanthi, *supra* note 14.
[16] Thorne, *supra* note 12.
[17] *Id.*
[18] Pawan Kumar, *It's Time India Brought Laws to Protect Rights of Domestic Workers, Provide Them Social Security*, THE SECRETARIAT (Jan. 19, 2024), https://thesecretariat.in/article/it-s-time-india-brought-laws-to-protect-rights-of-domestic-workers-provide-them-social-security (last visited Apr. 12, 2025).
[19] EVELYN NAKANO GLENN, FORCED TO CARE: COERCION AND CAREGIVING IN AMERICA (2010).

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disposability is normalised.[20] They are thus excluded from the protections of both labour law and family law. This dual exclusion is further enabled by the ideology of the "private" sphere, in which the household is treated as a site of intimacy and altruism, fundamentally distinct from the capitalist workplace.[21] Domestic work, even when paid, is thus seen as an extension of women's "natural" caregiving role rather than as contractual labour.[22]

The persistent undervaluation of domestic workers has real consequences: lower wages, lack of social security, unsafe working conditions and minimal bargaining power.[23] Efforts to formalise domestic work, whether through ILO conventions or national policy initiatives, seek to redress this imbalance.

III. Position of Domestic Workers in India

A. Scale and feminisation of the workforce

The precise number of domestic workers in India remains uncertain, with estimates ranging from 4.75 million to more than 90 million.[24] National Sample Survey data for 2011–12, cited by the Government in Parliament in 2019, put the number at about 3.9 million, of whom 2.6 million were women,[25] but other sources, such as the Self-Employed Women's Association (SEWA) and the ILO, suggest significantly higher figures.[26] A striking feature of this workforce is its gendered nature: women form a clear majority of domestic workers in India, many of them from marginalised castes and classes.[27]

B. Informality and lack of legal protections

Domestic work in India operates predominantly in the informal economy, leading to the absence of basic rights and entitlements. The sector is often perceived as mere "help" rather than legitimate labour. A 2015 ILO study highlighted widespread exploitation and the intersecting vulnerabilities faced by domestic workers: unscrupulous labour agents and employers, advances

[20] Arlie Russell Hochschild, *Love and Gold*, *in* Global Woman: Nannies, Maids, and Sex Workers in the New Economy 15 (Barbara Ehrenreich & Arlie Russell Hochschild eds., Henry Holt 2003); Domestic Workers Convention, 2011 (No. 189), *supra* note 9, art. 1; Chadha, *supra* note 4.
[21] Wilks, *supra* note 13.
[22] Nitin Sinha & Pankaj Jha, *Tracing Historical Forms of Servitude: Introductory Remarks and Elementary Reflections*, 13 S. Asian Hist. & Culture 433 (2022), https://doi.org/10.1080/19472498.2022.2050025.
[23] *Id.*
[24] Self-Employed Women's Ass'n, *supra* note 4, at 1.
[25] Lok Sabha Unstarred Question No. 4354 (Jan. 7, 2019) (written answer of the Minister of State for Labour & Employment), https://eparlib.nic.in/bitstream/123456789/805055/1/AU4354.pdf; Chadha, *supra* note 4.
[26] Self-Employed Women's Ass'n, *supra* note 4, at 1; Int'l Labour Org. Subregional Off. for S. Asia, *supra* note 11, at 1 (estimating between 20 million and 80 million).
[27] Int'l Labour Org. Subregional Off. for S. Asia, *supra* note 11, at 1 (official figure of 4.75 million, of whom 3 million are women, most drawn from "vulnerable communities, lower caste or ethnic minority communities"); Lok Sabha Unstarred Question No. 4354, *supra* note 25.

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of wages or loans that bind workers until the debt is settled, wage deductions and the absence of labour law, leaving workers with very little or no freedom to change their employer.[28] In some cases, the study observed, such practices may amount to forced labour as defined in the ILO Forced Labour Convention, 1930 (No. 29).[29]

Although the Unorganised Workers' Social Security Act, 2008 was a step towards recognising this segment, it remained vague and ineffective in its implementation.[30] The Act did not define domestic workers or ensure targeted protections for them; it mentioned them only within its definition of "wage worker".[31] While some States included domestic workers in the schedule of employments under the Minimum Wages Act, 1948, actual implementation and awareness remained minimal.[32]

C. Legislative and judicial role in recognising the rights of domestic workers

The Indian Constitution guarantees the right to live with human dignity under Article 21, as affirmed in cases such as *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* and *Samatha v. State of Andhra Pradesh*.[33] The judiciary has extended this protection in interpreting socio-economic rights, notably in *Olga Tellis v. Bombay Municipal Corporation*, which read the right to livelihood into Article 21,[34] and the Delhi High Court has addressed domestic workers specifically in *Shramjeevi Mahila Samiti v. State of NCT of Delhi*, a case on the trafficking of women and children into domestic work, in which it recorded the absence of comprehensive legislation and called for the regulation of placement agencies.[35] Yet these interpretations have not been matched by legislative follow-through. There is still no central legislation specific to domestic workers in India.[36] In *Ajay Malik v. State of Uttarakhand*, the

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[28] INT'L LABOUR ORG., *Indispensable Yet Unprotected: Working Conditions of Indian Domestic Workers at Home and Abroad* iii (2015), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40declaration/documents/publication/wcms_378058.pdf.

[29] *Id.*; Forced Labour Convention, 1930 (No. 29), art. 2(1), June 28, 1930, 39 U.N.T.S. 55.

[30] The Unorganised Workers' Social Security Act, 2008, No. 33, Acts of Parliament, 2008 (India) (repealed by The Code on Social Security, 2020, § 164).

[31] *Id.* § 2(n).

[32] PRESS INFO. BUREAU, MINISTRY OF LABOUR & EMP., *National Policy for Domestic Workers* (Feb. 13, 2019), https://pib.gov.in/PressReleasePage.aspx?PRID=1564261 (listing ten States); Vasanthi Nimushakavi, *Extending Legal Protection to Domestic Workers*, *in* WORKING AT OTHERS' HOMES: THE SPECIFICS AND CHALLENGES OF PAID DOMESTIC WORK 250 (N. Neetha ed., Tulika 2019).

[33] INDIA CONST. art. 21; *Francis Coralie Mullin v. Adm'r, Union Territory of Delhi*, (1981) 1 SCC 608 (India), AIR 1981 SC 746; *Samatha v. State of Andhra Pradesh*, (1997) 8 SCC 191 (India).

[34] *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 SCC 545 (India), AIR 1986 SC 180.

[35] *Shramjeevi Mahila Samiti v. State of NCT of Delhi*, W.P. (Crl.) No. 879 of 2007, ¶ 37 (Del. HC Dec. 24, 2010) (India) (decided with *Bachpan Bachao v. Union of India*, W.P. (Crl.) No. 82 of 2009), *appeal docketed*, SLP (Crl.) No. 150 of 2012 (SC India).

[36] PRESS INFO. BUREAU, MINISTRY OF LABOUR & EMP., *supra* note 32 ("The Central Government has not enacted any separate law to protect the interest of domestic workers."); *see also Penn Thozhilalargal Sangam v. Union of India*, W.P. (C) No. 42 of 2026, ¶¶ 2, 6 (S.C. Jan. 29, 2026) (India).

Supreme Court in January 2025 directed the Union Government to constitute an expert committee to consider the desirability of recommending a legal framework for the benefit, protection and regulation of the rights of domestic workers. The committee is reported to have concluded that a new legal framework is not desirable, as domestic workers are already covered by the four Labour Codes. In January 2026 the Court, declining to ask the legislature to enact a law, disposed of a petition by unions and associations of domestic workers seeking a right to a minimum wage, and expressed the hope that a suitable mechanism would be developed in each State.[37] For now, fragmented and general legislation attempts to address the broader category of unorganised workers. Relevant developments include the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which expressly covers domestic workers;[38] the extension of the Rashtriya Swasthya Bima Yojana (RSBY) health insurance scheme to domestic workers;[39] and the campaign for comprehensive legislation led by the National Platform for Domestic Workers (NPDW), a coalition of unions formed in 2012.[40]

D. The new Labour Codes and their impact on domestic workers

Parliament consolidated twenty-nine central labour laws into four Codes, enacted in 2019 and 2020 and brought into force on 21 November 2025:[41]

- the Code on Social Security, 2020;[42]
- the Code on Wages, 2019;[43]
- the Occupational Safety, Health and Working Conditions Code, 2020; and[44]
- the Industrial Relations Code, 2020.[45]

While these Codes claim to cover all workers, none treats domestic workers as a separate category with protections of their own. The Code on Social Security names domestic workers

[37] *Ajay Malik v. State of Uttarakhand*, Crim. Appeal No. 441 of 2025, 2025 INSC 118, ¶ 55(iv)–(v) (S.C. Jan. 29, 2025) (India); Sneha Richhariya, *Despite SC Call for Statutory Protections, Panel Backs Status Quo on Domestic Workers' Rights*, THE TRIBUNE (Dec. 12, 2025), https://www.tribuneindia.com/news/delhi/despite-sc-call-for-statutory-protections-panel-backs-status-quo-on-domestic-workers-rights; Bhagirath, *Domestic Workers Do Not Need a Separate Law, Says Committee Formed on Supreme Court Directions*, DOWN TO EARTH (Jan. 18, 2026), https://www.downtoearth.org.in/governance/domestic-workers-do-not-need-a-separate-law-says-committee-formed-on-supreme-court-directions; *Penn Thozhilalargal Sangam*, *supra* note 36, ¶¶ 6–8.

[38] The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013, §§ 2(a)(ii), 2(e) (India).

[39] SELF-EMPLOYED WOMEN'S ASS'N, *supra* note 4, at 1, 7.

[40] *Id.* at 5, 7.

[41] PRESS INFO. BUREAU, MINISTRY OF LABOUR & EMP., *Welfare of Organised and Unorganised Sectors* (Dec. 8, 2025), https://pib.gov.in/PressReleasePage.aspx?PRID=2200433.

[42] The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).

[43] The Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

[44] The Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

[45] The Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India).

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only in its definition of "wage worker", which brings them within the definition of "unorganised worker".[46] Section 2(78) of the Code defines "social security" broadly, extending it to unorganised workers, but makes no specific provision for domestic workers.[47] Sections 2(86), 2(26) and 6(7)(c) refer to "home-based" and "unskilled" workers and provide for the monitoring of social welfare schemes, but again create no protections tailored to domestic workers.[48] Organisations of unorganised workers have opposed the Codes: in 2022 the Unorganised Workers' Federation in Chennai called on the State Government to pass a resolution in the Assembly urging the Union Government to withdraw them, arguing that the Codes, presented as a consolidation of earlier laws, worked against the interest of unorganised workers and left out the social security protections of the laws they replaced.[49]

IV. RIGHTS AND THE ETHICS OF CARE: BETWEEN FAMILY AND LABOUR LAW

Scholars such as Mihika Poddar and Alex Koshy have argued that the distinctive nature of paid domestic work in India demands a reconceptualisation that lies between the domains of labour law and family law and is grounded in an ethics-of-care framework.[50]

Poddar and Koshy critique both traditional family law and labour law as inadequate frameworks for regulating domestic work.[51] On the one hand, framing domestic work through the lens of family law risks romanticising caregiving relationships and ignoring the hierarchical, coercive nature of families. Concepts such as loyalty, affection and altruism, when applied to domestic workers, may paradoxically become rationales for excluding them from formal rights frameworks. On the other hand, a purely contractual or labour law approach treats domestic work as a market transaction, ignoring the affective and emotional ties that often characterise long-term domestic arrangements.

To address these limitations, Poddar and Koshy propose a combined ethics-of-care and rights-based framework.[52] This model recognises that caregiving creates interdependencies and that legal regulation must be sensitive to these relationships, without romanticising or depoliticising them.

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[46] The Code on Social Security, 2020, §§ 2(86), 2(90).
[47] *Id.* § 2(78).
[48] *Id.* §§ 2(26), 2(86), 6(7)(c).
[49] *State Govt. Urged to Press for Withdrawal of New Labour Laws*, THE HINDU (Apr. 21, 2022), https://www.thehindu.com/news/cities/chennai/state-govt-urged-to-press-for-withdrawal-of-new-labour-laws/article65341594.ece.
[50] Mihika Poddar & Alex Koshy, *Legislating for Domestic 'Care' Workers in India: An Alternative Understanding*, 12 NUJS L. REV. 67, 101–07 (2019).
[51] *Id.* at 102–04.
[52] *Id.* at 107.

One tangible proposal emerging from this framework is to borrow thresholds of abuse from domestic violence law rather than rely solely on labour law or criminal law standards. The authors also advocate non-adversarial dispute resolution mechanisms, such as conciliation and amicable settlement, as more appropriate tools than formal litigation or State inspections.[53]

This ethics-of-care approach does not advocate a wholesale extension of family law protections, nor does it propose the creation of mutual legal rights and obligations akin to those between family members. It can instead be understood as a labour-law-plus model, one that retains the foundational elements of labour regulation but modifies them to account for the affective, relational and informal dimensions of domestic work. The model is responsive to critiques of the blind application of formal labour protections to the informal sector. It does not, however, create a legal basis for new family law protections that could directly address the vulnerability arising from domestic workers' quasi-familial roles.

A more productive way forward may lie in embracing the legal ambivalence of domestic work, rather than attempting to slot it squarely within existing legal categories. Instead of seeking a singular or universal theory, legal reform could adopt a menu of targeted interventions aimed at the specific vulnerabilities faced by domestic workers. The model is thus best understood not as a merger of family and labour law, but as a reformulated labour law sensitive to the affective dimensions of domestic work.

V. Critical evaluation: gaps, silences and missed opportunities in Indian law on domestic work

The Indian Constitution promises the right to live with dignity under Article 21, a provision that the courts have interpreted expansively to include facets such as livelihood, health and humane working conditions.[54] Yet, when it comes to paid domestic workers, this constitutional promise rings hollow.

The lack of comprehensive data on domestic workers shows how little attention the sector has received from the State. While official figures place the number at 4.75 million, estimates suggest that the actual number lies between 20 million and 80 million, revealing a severe data gap that undermines targeted policymaking.[55] A measure of institutional recognition came in

[53] *Id.* at 104, 107, 115.
[54] India Const. art. 21; *Olga Tellis*, (1985) 3 SCC 545 (livelihood); *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India) ("just and humane conditions of work"); *Consumer Educ. & Rsch. Ctr. v. Union of India*, (1995) 3 SCC 42 (India) (health of workers).
[55] Int'l Labour Org. Subregional Off. for S. Asia, *supra* note 11, at 1.

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November 2021, when the Ministry of Labour and Employment launched the first All India Survey on Domestic Workers.[56]

On the legislative front, the Labour Codes offer only marginal and often ambiguous inclusion of domestic workers.[57] The Code on Wages, 2019 arguably covers domestic workers under its definition of "employee", but the Occupational Safety, Health and Working Conditions Code, 2020 (OSHWC Code), like the Industrial Relations Code, 2020, expressly excludes domestic service from its definition of "industry".[58] This inconsistent treatment dilutes the reach of labour protections and sows confusion about the applicability of rights.

Further, while the Code on Social Security, 2020 provides for the inclusion of unorganised workers and requires the Central Government to frame welfare schemes on matters including health and maternity benefits, it offers no concrete mechanism for maternity benefits or accident coverage tailored to the conditions of domestic work.[59]

Labour law assumes a formal employer-employee relationship within a definable establishment, an assumption that does not hold within the spatial and emotional complexities of private homes. The intersection of caste, class and gender also renders domestic workers particularly vulnerable. Predominantly women from Dalit, Bahujan or Adivasi communities, many domestic workers face routine discrimination, being denied the use of utensils or toilets, or even entry into certain parts of the house.[60] The law has been largely mute on these lived realities, continuing to treat domestic work as if it were generic unskilled labour rather than historically and socially situated care work.

Indian courts have occasionally recognised the right to minimum wages or addressed violence against domestic workers, but they have stopped short of articulating a coherent jurisprudence on the right to dignity in domestic work. The Indian legal regime thus treats domestic workers as neither fully workers nor fully family, rendering them invisible in both spheres.

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[56] PRESS INFO. BUREAU, MINISTRY OF LABOUR & EMP., *Shri Bhupender Yadav Flags Off First Ever All India Survey on Domestic Workers* (Nov. 22, 2021), https://pib.gov.in/PressReleasePage.aspx?PRID=1773934.

[57] Kumar, *supra* note 18.

[58] The Code on Wages, 2019, §§ 2(k), 2(m), 50(4) (exempting an employer of not more than five persons for a "domestic purpose" from the register, notice and wage-slip requirements); The Occupational Safety, Health and Working Conditions Code, 2020, § 2(1)(zd)(c); The Industrial Relations Code, 2020, § 2(p)(iii).

[59] The Code on Social Security, 2020, § 109.

[60] INT'L LABOUR ORG. SUBREGIONAL OFF. FOR S. ASIA, *supra* note 11, at 1 ("vulnerable communities, lower caste or ethnic minority communities"); Chandran, *supra* note 6 (denial of toilets, re-rinsing of washed vessels, separate lifts).

VI. Recommendations and Conclusion

The preceding analysis reveals that domestic workers in India remain on the margins of the legal and institutional framework, caught between formal recognition and systemic invisibility. To bridge this gap, a comprehensive and targeted legal approach is urgently required.

India must enact a standalone central law that clearly defines "domestic work" and recognises its diverse forms, such as childcare, eldercare, cooking and cleaning. This law should establish minimum wages across States based on skill and hours worked, and guarantee weekly rest, paid leave, maternity benefits and safe working conditions. It must also provide safeguards for live-in workers and create a tripartite regulatory body comprising workers, employers and the Government to oversee grievance redressal and implementation.

In the interim, the ambiguity under the Labour Codes must be resolved. This includes amending the Code on Wages, 2019 to include domestic workers expressly as "employees"; extending the OSHWC Code, 2020 to private households for occupational safety; and making clear that the minimum wages fixed under the Code on Wages, which replaced the Minimum Wages Act, 1948 and its system of scheduled employments, bind those who employ domestic workers.[61]

Given the decentralised nature of domestic work, local regulation is essential. Urban local bodies and State domestic workers' welfare boards must be empowered to register workers and employers, facilitate standardised contracts, disburse social security benefits and conduct awareness campaigns on rights and entitlements.

To address exploitation, the Ministry of Labour and Employment should introduce a model employment contract, mandatory for all domestic engagements. It should set out duties, hours, wages, rest, protections against abuse and termination clauses, ensuring transparency and accountability.

Domestic work is deeply intertwined with caste and gender hierarchies. Legislative reform must be paired with public sensitisation campaigns and penalties for caste-based discrimination, such as the denial of utensils or toilet access. Affirmative action, including reservations in skill-building programmes for Dalit, Adivasi and minority women, is also vital.

Strengthening the collective voice of domestic workers requires recognising their unions under the Industrial Relations Code, 2020, which replaced the Trade Unions Act, 1926,[62] protecting

[61] The Code on Wages, 2019, § 69(1) (repealing the Minimum Wages Act, 1948); Press Info. Bureau, Ministry of Labour & Emp., *supra* note 41.
[62] The Industrial Relations Code, 2020, ch. III, § 104(1)(a).

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them from retaliation, and supporting leadership development through capacity-building initiatives.

The Ministry of Labour and Employment should expedite publication of the All India Survey on Domestic Workers launched in 2021. Its data, disaggregated by gender, caste, age, migration status, type of work and wage conditions, is crucial for evidence-based policymaking and for monitoring progress.

Finally, the judiciary must affirm that private homes, while non-industrial, are legitimate workplaces. Courts should hold employers accountable for labour violations, issue guidelines protecting the privacy of workers in employers' homes, and reiterate that the protection of Article 21 extends to every person, whatever the workplace.

Domestic work thus lies at the intersection of care, caste, class and gender. Its informal nature, combined with the spatial intimacy of the household, has long rendered it legally invisible and socially undervalued. While constitutional principles mandate dignity, equality and freedom for all, the lived reality of domestic workers reflects a legal vacuum and cultural neglect.

For true reform, India must move beyond tokenistic inclusion towards structural transformation. What is required is not merely the extension of existing frameworks, but a reconfiguration of the legal imagination, one that places the voices, vulnerabilities and value of domestic workers at its core.

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