

INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES  
[ISSN 2581-5369]

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Volume 8 | Issue 3  
2025

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# Social Security for Women Domestic Workers in India: A Study under the New Labour Code

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## ABSTRACT

*Women domestic workers in India represent a crucial yet overlooked segment of the informal workforce, undertaking essential tasks such as cleaning, cooking, and caregiving within private households often under precarious and exploitative conditions. Despite their vital contributions, they have long remained excluded from the scope of formal labour protections. This paper critically examines the existing legal and policy framework governing social security for women domestic workers in India, with a specific focus on the Code on Social Security, 2020, introduced under the New Labour Codes. While the Code signifies a progressive shift by formally recognizing unorganized workers and extending benefits such as maternity assistance, life and disability insurance, and old-age pensions, it inadequately addresses the unique vulnerabilities of women domestic workers. The absence of a clear legal definition, the lack of enforceable employer obligations, and weak implementation mechanisms continue to hinder the realization of these rights. Furthermore, the gendered and informal nature of domestic work perpetuates its invisibility within labour policy and limits worker's access to social protection. The study underscores the pressing need for a dedicated and enforceable national law that mandates worker registration, employer accountability, and targeted social security measures suited to the realities of domestic work. It calls for a paradigm shift in policy and enforcement that places dignity, visibility, and equity at the core of labour rights for domestic workers.*

**Keywords:** *Domestic workers, accountability, informal workforce, Code on Social Security 2020, unorganised sector, gender justice*

## I. INTRODUCTION

Domestic work constitutes an essential component of India's informal economy, providing indispensable support to millions of households through caregiving, cleaning, cooking, and other household services. Their work is predominantly informal, often performed in private homes, and shaped by deep-rooted gender, caste, and class hierarchies. These intersecting

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vulnerabilities contribute to their socio-legal invisibility and systemic exclusion from labour rights.<sup>3</sup>

The primary features of domestic workers are :

1. This type of work occurs within private households involving tasks that creates relationships between workers and employers outside professional boundaries.<sup>4</sup>
2. Domestic workers operate without formal contracts complicating their ability to assert their rights or seek redress.<sup>5</sup>
3. The private and informal setting of domestic workers are isolated and lacks the collective support or bargaining power. This isolation and undervaluation make it particularly difficult to enforce labor laws effectively.<sup>6</sup>
4. The combination of informal work settings, intimate interactions, and lack of formal contracts increases the risk of exploitation and abuse. Domestic workers face issues such as underpayment, excessive working hours, lack of rest, and even physical or emotional abuse.<sup>7</sup>

This vulnerability is further compounded by the gendered dimensions of domestic work. Women make up the overwhelming majority of domestic workers in India and face disproportionate disadvantages due to entrenched gender norms that define domestic labour as an extension of their natural role rather than as work deserving of dignity, fair wages, and protection. This gendered conception of domestic labour has allowed the legal system to bypass the need for formal regulation and accountability in this sector. Existing welfare schemes and fragmented state-level protections have failed to provide consistent or enforceable guarantees of social security.

In an effort to consolidate and modernise labour law, the Indian government introduced the New Labour Codes between 2019 and 2022. While these codes aim to streamline multiple labour legislations into four comprehensive laws, their application to women domestic workers remains limited, unclear, and largely aspirational. This paper critically examines the extent to which the New Labour Codes respond to the social protection needs of women domestic workers in India. It explores

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<sup>3</sup> Saha Sayanatni, "India's New Labor Codes: Comparison of Employee v. Worker," 14 *The National Law Review* 255 (2021).

<sup>4</sup> Divyanshu Hanu, "Situation of Domestic Workers in India: What Needs to Change?" *The Leaflet*, May 25, 2018.

<sup>5</sup> Tribune Desk, "The Rate is 90% in Pakistan and 65% in India," *Dhaka Tribune*, March 20, 2024.

<sup>6</sup> Ashok Kumar, "Minor Domestic Worker Held Captive in Gurugram | The Seamy Side of India's Millennium City," *The Hindu*, Dec. 15, 2024.

<sup>7</sup> Mallika Sothinathan, *LOKI and I: The Unseen Life of a Domestic Worker*, 45 (Global Book Publishing, Canada, 2019).

the challenges posed by the lack of definitional clarity, gender neutrality in drafting, absence of employer accountability, and weak enforcement mechanisms. In doing so, the paper also draws on international labour standards to suggest policy reforms that are inclusive, enforceable, and sensitive to the realities of women working in the domestic sector.

## II. MEANING OF DOMESTIC WORKERS

The meaning of domestic workers can be understood from various perspectives, including a general understanding, the definition provided by the International Labour Organization (ILO), and interpretations by prominent jurists.

### A. General understanding:

Domestic workers are individuals who are employed to perform various tasks within private households<sup>8</sup>. Their responsibilities typically include cleaning, cooking, childcare, eldercare, gardening, and other household chores essential for maintaining the functionality and cleanliness of the home. Domestic workers can be hired on a full-time, part-time, live-in, or live-out basis, depending on the specific needs and preferences of the employer<sup>9</sup>. They play a crucial role in supporting families and households by ensuring that essential tasks are completed efficiently and effectively.

### B. International and Indian perspectives:

1. **The International Labour Organization (ILO)** defines domestic workers as "persons engaged in domestic work within an employment relationship."<sup>10</sup> This definition encompasses individuals who are hired to perform household tasks, including cleaning, cooking, caregiving, and other domestic chores, within private households. The ILO emphasizes that domestic work should be recognized as formal employment and that domestic workers are entitled to the same rights and protections as workers in other sectors<sup>11</sup>. The ILO has been instrumental in advocating for the rights of domestic workers on a global scale and has adopted conventions and recommendations aimed at improving their working conditions and ensuring their rights are protected.<sup>12</sup>

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<sup>8</sup> Rajesh Tandon, "Who is Unskilled?" *The Times of India*, July 10, 2020.

<sup>9</sup> Christelle Avril and Marie Cartier, "Subordination in Home Service Jobs: Comparing Providers of Home-Based Child Care, Elder Care, and Cleaning in France," 28(4) *Gender & Society* 609-630 (2014).

<sup>10</sup> International Labour Organization, Domestic Workers Convention, 2011, C-189, Geneva, 100<sup>th</sup> ILC session (June 16, 2011).

<sup>11</sup> Geraldine Ansart, "Domestic Workers Have Rights Too," *Bangkok Post*, July 12, 2022.

<sup>12</sup> International Labour Organisation, "From Global Care Crisis to Quality Care at Home: The Case for Including Domestic Workers in Care Policies and Ensuring Their Rights at Work" 13 (2024).

2. United Nations: Under the Domestic Workers Bill of Rights Act, the term “domestic worker<sup>13</sup>”:

- a. Means, except as provided in subparagraph (B), an individual who is compensated directly or indirectly for performing domestic services, including employees.
- b. Does not include:
  - i. **Family Members, Friends, or Neighbors:** Individuals who are family members, friends, neighbours, or parents of a child providing childcare for the child in the child's home.
  - ii. **Employees of Family Child Care Providers:** Individuals who are: Employees of a family childcare provider, or Family childcare providers themselves.
  - iii. **Certain Exempt Employees:** Employees described in section 13(a)(15) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(15)).<sup>14</sup>

3. **Philippines:** The term "domestic worker" or "Kasambahay" is defined under the **Domestic Workers Act**<sup>15</sup>. It refers to any person engaged in domestic work within an employment relationship, including roles such as general househelp, nursemaid or “yaya”, cook, gardener, or laundry person. However, it does not include individuals who perform domestic work only occasionally or sporadically and not on an occupational basis<sup>16</sup>. Additionally, the definition excludes children under foster family arrangements who are given access to education and provided allowances for education-related expenses, such as "baon" (pocket money), transportation, and school projects.<sup>17</sup>

4. **South Africa:** The term "domestic worker" is defined under the **Basic Conditions of Employment Act (BCEA)**<sup>18</sup>. According to this act, a "domestic worker" is an employee who performs domestic work in the home of their employer and includes<sup>19</sup>

- a. A gardener;
- b. A person employed by a household as a driver of a motor vehicle;

<sup>13</sup> Domestic Workers Bill of Rights Act, 2021,s.3(b)(5).

<sup>14</sup> Ali Rodin, “Why U.S. Domestic Workers Have Fewer Labor Protections than Other Employees,” *PBS News*, July 15, 2024 available at: <https://www.pbs.org/newshour/show/why-u-s-domestic-workers-have-fewer-labor-protections-than-other-employees> (last visited on Sep. 12, 2024).

<sup>15</sup> The Domestic Workers Act, 2018, s.4(d).

<sup>16</sup> Montenegro, Hiamaya, “The Filipino Kasambahay’s Long Struggle Against Invisibility,” *Open Democracy*, July 21, 2017.

<sup>17</sup> Domestic Workers Act, 2013.[ REPUBLIC ACT NO. 10361, January 18, 2013 ] sec 4(d)

<sup>18</sup> Cliffe Dekker Hofmeyr, *Can an Employee Be Dismissed for Refusing to Obey an Instruction to Work Overtime?*, 2023, available at: <https://www.cliffedekkerhofmeyr.com/en/news/podcasts/2023/Employment/can-an-employee-be-dismissed-for-refusing-to-obey-an-instruction-to-work-overtime.html>.

<sup>19</sup> Basic Conditions of Employment Act, 1997, Act No. 75 of 1997, s. 1.

c. A person who takes care of children, the aged, the sick, the frail, or the disabled.

However, the definition explicitly excludes farm workers.

The term “employee” is also defined in, encompassing:

any person, excluding an independent contractor, who works for another person or for the State and who receives or is entitled to receive remuneration; any other person who assists in carrying on or conducting the business of an employer.<sup>20</sup>

5. **India:** In developing countries like India, there is currently no specific law or policy that comprehensively regulates domestic workers as a distinct category. This absence means that domestic workers are not covered under a single, dedicated legal framework that addresses their unique needs and working conditions<sup>21</sup>. However, several pieces of legislation and proposed measures attempt to address and include domestic workers<sup>22</sup>:

- **Unorganised Workers' Social Security Act:** This act does not explicitly define "domestic worker" in detail but provides a broad framework for social security benefits to workers in the unorganised sector, which includes domestic workers as part of its scope. The Act defines an "unorganised worker" as an individual engaged in any occupation or work that is not classified under organized employment or covered by existing welfare legislations, thereby encompassing domestic workers within its general provisions.<sup>23</sup>

- **Domestic Workers Welfare and Social Security Act:** As per the definition provided, a "Domestic Worker" is someone employed for remuneration, whether in cash or kind, in any household or similar establishments, through any agency or directly, either on a temporary, contract, permanent, part-time, or full-time basis to perform household or allied work<sup>24</sup>. This includes a "Replacement Worker" who works as a replacement for the main worker for a short and specific period of time as agreed with the main worker<sup>25</sup>.

**Explanation:** Household and allied work includes, but is not limited to, activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, driving, caring/nursing of children, the sick, the elderly, mentally challenged, or disabled persons.

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<sup>20</sup> *Id.*, s.1.

<sup>21</sup> EPW Engage, “Where are the Laws to Protect the Rights of Domestic Workers in India?”, *Economic and Political Weekly*, Nov. 2, 2018.

<sup>22</sup> Sumedha Pal, “In Unregulated Spaces: Domestic Workers Renew Protests Against Labour Codes,” *News Click*, Aug. 6, 2021.

<sup>23</sup> Paromita Goswami, “A Critique of the Unorganised Workers' Social Security Act”, 44, *Economic and Political Weekly*, pp. 63-69 (2009).

<sup>24</sup> Adhikansh Parashar and Ankit Mishra, “Social Security of Domestic Worker, A Least Discussed Topic,” 3(2) *International Journal of Law Management & Humanities* 851 (2020).

<sup>25</sup> Domestic workers Welfare and Social Security Act, 2010, sec 2(f).

- **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act:** According to the act, a “domestic worker” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part-time, or full-time basis<sup>26</sup>. This definition explicitly excludes any member of the family of the employer and does not cover male domestic workers, as the name of the act suggests otherwise<sup>27</sup>.

- **The Code on Social Security:** The Code does not explicitly define "domestic worker," but includes them under the broader category of "unorganised worker," which means a home-based worker, self-employed worker, or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by the Industrial Disputes Act<sup>28</sup> or Chapters III to VII of this Code<sup>29</sup>. This classification implicitly covers domestic workers due to the nature of their employment in private households and their exclusion from other specific labour legislations<sup>30</sup>.

- **The Domestic Welfare Bill:** According to the bill, a "domestic worker" is defined as an individual employed to perform domestic work for remuneration, whether in cash or kind, for one or more employers<sup>31</sup>. This definition includes those who reside at the household premises or work elsewhere and covers various employment types, such as casual, temporary, contractual, or migrant work. However, this bill was never implemented<sup>32</sup>.

India lacks a unified legal framework for domestic workers, though several pieces of legislation offer partial coverage<sup>33</sup>. Internationally, definitions vary but generally include individuals performing household tasks for remuneration. Countries like the Philippines and South Africa provide specific definitions and protections. In India, laws like the Unorganised Workers' Social Security Act, 2008, and the Code on Social Security, 2020, cover domestic workers broadly, while various bills and proposed measures address their needs, though many remain unimplemented. Recognizing this legislative gap, the Indian judiciary has also attempted to extend protections to domestic workers through progressive

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<sup>26</sup> Surbhi Karwa, “India’s Workplace Harassment Law Has Failed Informal, Marginalised Workers”, *BehanBox*, Oct. 3, 2023, *available at*: <https://behanbox.com/2022/10/03/indias-workplace-harassment-law-has-failed-informal-marginalised-workers/> (last visited on Sept. 11, 2024).

<sup>27</sup> The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Act No. 14 of 2013, s. 2(e).

<sup>28</sup> The Industrial Disputes Act, 1947 (Act No. 14 of 1947)

<sup>29</sup> Kathyayini Chamaraj, “Will the SS Code Ensure Universal Social Security?”, *India Together*, Sept. 9, 2019.

<sup>30</sup> The Code on Social Security, 2020, No. 36 of 2020, s. 2(86).

<sup>31</sup> Ridhima Gupta, “Domestic Workers Need Access to Law,” *Times of India*, Dec. 10, 2023.

<sup>32</sup> The Domestic Workers' Welfare Bill, 2016, Bill No. 204 of 2016, sec 2(e).

<sup>33</sup> T.K. Rajalakshmi, “The New Labour Codes: Labour’s Loss,” *The Hindu*, Oct. 12, 2020, *available at*: <https://frontline.thehindu.com/the-nation/labours-loss/article32749705.ece> (last visited on Sep. 12, 2024).

interpretations. In *National Domestic Worker's Movement v. Union of India*<sup>34</sup>, the Supreme Court urged the government to consider including domestic workers in labour protection frameworks. Additionally, in *People's Union for Democratic Rights v. Union of India*<sup>35</sup> the Court held that even informal and unorganised workers are entitled to constitutional protections under Articles 21 and 23, reinforcing the idea that employment within private households does not exempt workers from basic legal safeguards.

### III. GENDERED DIMENSION OF DOMESTIC WORK

Domestic work is predominantly performed by women, and gender biases contribute to lower wages and fewer opportunities<sup>36</sup>. Understanding these gender dynamics is essential for addressing the undervaluation of domestic work and advocating for better conditions and equal pay. The concept of employing women as servants for household work is rooted in medieval times and constitutes a characteristic feature of feudal society<sup>37</sup>. Historically known as "Dasis," female domestic servants have long faced dismal working conditions<sup>38</sup>. Despite the passage of many centuries, the economic and social conditions of female domestic workers remain largely unchanged. In recent times, metropolitan and large cities in India have become hubs for recruiting poor women as domestic workers. This trend is driven by two main factors: the lack of job opportunities in rural and tribal areas, and the sharp increase in middle-class women employed in the country who require help with household chores due to their hectic jobs. Employing domestic workers has also become a status symbol for the middle and upper-middle classes, signifying upward mobility and the ability to delegate household duties<sup>39</sup>. Additionally, the low cost of employing female workers further promotes their employment in these households.<sup>40</sup>

#### Rationale for choosing a job

Female domestic workers can be broadly categorized into two groups: those working for additional income or savings, and the majority who work to earn a livelihood or survive<sup>41</sup>.

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<sup>35</sup> 1983 SCR (1) 456

<sup>36</sup> Jo Little, "Gender relations in rural areas: the importance of women's domestic role," 3(4) *Journal of Rural Studies* 335-342 (1987).

<sup>37</sup> Elise Boulding, "Familial Constraints on Women's Work Roles," 1(3) *Journal of Women in Culture and Society* 95 (1975).

<sup>38</sup> Mangilal, "Female Domestic Workers of India: Challenges and Emergent Issues," 2(47) *Intercathedra* 75 -81 (2021).

<sup>39</sup> Tim Butler and Mike Savage (eds.), *Social Change and the Middle Classes* 45 (Routledge, London, 1995).

<sup>40</sup> Prof. C. Somashekher, "Women Domestic Workers in Bangalore City - A Sociological Study," 6 *IJISSET - International Journal of Innovative Science, Engineering & Technology* 11 (2019).

<sup>41</sup> Frank Ellis, "Household strategies and rural livelihood diversification," 35(1) *The Journal of Development Studies* 1-38 (1998).



Economic and financial reasons are the primary drivers behind women choosing domestic work as a profession. While both pull and push factors play a role, poverty is the most crucial reason. Female domestic workers often lack other skills, making it challenging to find alternative employment<sup>42</sup>. Most come from marginalized sections of society, belonging to lower socioeconomic classes and castes, and work for very low or even underpaid wages. Many female domestic workers are compelled to do this job to feed and meet the basic needs of their families. With little education and no technical skills, they find it difficult to earn money through other means. They are familiar with this type of work, which, unlike construction or factory work, does not completely drain their energy and allows them some time to care for their families. Studies indicate that most female domestic workers are migrants, having moved due to marriage or family relocation. Many started working after marriage upon realizing their husbands' incomes were insufficient to meet their basic needs<sup>43</sup>. Typically, these women's fathers were engaged as agricultural laborers or construction workers, with many being landless<sup>44</sup>.

#### IV. SOCIO-ECONOMIC PROBLEMS OF WOMEN DOMESTIC WORKERS

##### A. Problem of casteism

- **Social Discrimination:** Domestic workers face both economic drudgery and social discrimination. They are caught in a vicious cycle of caste conundrum where they do not receive respect due to their low socio-economic class and caste.<sup>45</sup>
- **Inhuman Treatment:** Domestic workers are often orally, physically, and sexually abused by their employers. This lack of empathy stems from casteism and classism, which determine people's 'entitlements'.<sup>46</sup>
- **Casteist Attitudes:** Many employers' houses display casteist attitudes by keeping separate glasses and plates for domestic workers, prohibiting them from entering pooja rooms, drinking filtered water, or using toilets they themselves clean.<sup>47</sup>

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<sup>42</sup> Jennifer Bickham Mendez, "Of Mops and Maids: Contradictions and Continuities in Bureaucratized Domestic Work," 45(1) *Social Problems* 114-135 (1998).

<sup>43</sup> Susan Thistle, *From Marriage to the Market: The Transformation of Women's Lives and Work*, 38(2) *Journal of Interdisciplinary History* 317-318 (2007).

<sup>44</sup> Sarita Agrawal, "Women Domestic Workers in Urban Informal Sector: A Case Study of Vadodara City," LVII *Manpower Journal* 34-45 (2023).

<sup>45</sup> Geeta Menon, "Behind Closed Doors, Domestic Workers Continue to Face Discrimination and Abuse," *News desk*, June 16, 2023.

<sup>46</sup> Anup Tripathi, "Marginalisation and Resistance: Migrant Workers Living With Everyday Violence on the Streets," 6 *Asian Journal of Research in Social Sciences and Humanities* 1441-1448 (2016).

<sup>47</sup> Dey Soumi, "The Situation in Contractual Work at Domestic Sphere: A Study of the Paid Female Domestic Workers of Howrah, West Bengal, India," 3(7) *International Research Journal of Social Sciences* 36-42 (2014).

- **Pollution Belief:** The belief in pollution from lower-caste workers leads to practices such as employers rinsing dishes or clothes again after domestic workers wash them, as an act of purification.<sup>48</sup>

## B. Physical and sexual abuse

- **Workplace Harassment:** Domestic workers are often sexually harassed and abused by male co-workers or men in the household. They feel helpless and fear job loss, forcing them to continue working in unsafe environments until they can find other employment.<sup>49</sup>
- **Poor Enforcement of Laws:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, which aims to protect all women workers, including domestic workers, is poorly enforced.<sup>50</sup>
- **Blame and Criminalization:** Cases of sexual harassment are often silenced, with employers ignoring or blaming the victims. Domestic workers are sometimes treated as criminals and accused of theft in the employer's house.<sup>51</sup>

## C. Lack of personal freedom

- **Financial Dependency:** Most women domestic workers are not self-dependent, especially in financial matters. Their hard-earned money is often taken by male family members who decide how it will be spent, curbing their financial and personal freedom.<sup>52</sup>
- **Burden of Responsibilities:** Domestic responsibilities restrict women's financial independence, and their contributions to the family do not come with financial autonomy.<sup>53</sup>

## D. Lack of social security benefits

- **Vulnerability:** Domestic workers belong to an extremely vulnerable section of the population with limited legal protection. They lack social security benefits like

<sup>48</sup> Tullia Jack, "Without cleanliness we can't lead the life, no?" Cleanliness practices, (in)accessible infrastructures, social (im)mobility and (un)sustainable consumption in Mysore, India," 23(6) *Social & Cultural Geography* 814–835 (2020).

<sup>49</sup> S Irudaya Rajan (ed.), *Governance and Labour Migration (India Migration Report)* 45-50 (Routledge India, New Delhi, 1st edn., 2010).

<sup>50</sup> *We The Women Of India v. Union Of India*, Writ Petition (Civil) No. 427 of 2022.

<sup>51</sup> Jonathan K. Park, "The Immigrant as Criminal: Punishing Dreamers," 9 *Hastings Women's L.J.* 79 (1998).

<sup>52</sup> Titson Devassy & Lizy James, "Self Esteem of Paid Women Domestic Workers in Ernakulam District," 14 *Educere: The BCM Journal of Social Work* 97 (June 2018).

<sup>53</sup> Aishwarya Bhuta and Mridula Muralidharan, "Not All Time Is Money: Women's Burden of Unpaid Work" 5(2) *ANTYAJAA: Indian Journal of Women and Social Change* (2021).

minimum wage, maternity leave, a safe work environment, health insurance, pension, and provident fund.<sup>54</sup>

- **Job Insecurity:** Domestic workers can be hired and fired at the employer's whims, and they often do not receive salary hikes despite inflation.

#### E. Lack of child care facilities

- **Childcare Responsibilities:** Women workers shoulder more childcare responsibilities compared to men due to existing gender norms<sup>55</sup>. Working mothers are often overloaded and anxious about their children's welfare.
- **Income and Childcare Conflict:** Without access to quality childcare services, domestic women workers in the informal economy risk losing income by reducing their working hours.<sup>56</sup>
- **Need for Childcare:** Adequate childcare facilities are essential to support domestic workers.<sup>57</sup>

#### F. Lack of maternity care

- **Neglect During Pregnancy:** The repeated neglect of women's health during pregnancy makes them physically and mentally vulnerable. They often do not take adequate rest and start working soon after childbirth, adversely affecting their health.<sup>58</sup>
- **High Mortality Rates:** Poor health conditions during childbirth lead to high mortality rates among women domestic workers.

#### G. Long working hours

- **Forced Long Hours:** Women domestic workers are often forced to work long hours due to economic necessity and employer demands, even when their age does not permit it.<sup>59</sup>

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<sup>54</sup> Sabiha Hussain, "Mapping the Multiple Vulnerabilities of Domestic Workers During COVID-19: Reflections from India" in Sunera Thobani, *The Deadly Intersections of COVID-19: Race, States, Inequalities and Global Society* 120–142 (Bristol, UK: Bristol University Press, 2022).

<sup>55</sup> Ananya Redkar, "Negotiating working motherhood and doing work from home at the intersection of class, gender and crisis in India," 99 *Women's Studies International Forum* 45–60 (2023).

<sup>56</sup> Rachel Moussié, "Childcare services in cities: challenges and emerging solutions for women informal workers and their children," 33(1) *Environment and Urbanization* 117–130 (2021).

<sup>57</sup> Catherine Hein, *Reconciling Work and Family Responsibilities: Practical Ideas from Global Experience* 75–88 (International Labour Office, Geneva, 2005).

<sup>58</sup> *Id.* at 113.

<sup>59</sup> Tista Mukherjee and Ishita Mukhopadhyay, "Albeit Satisfied: Unveiling Female Paid Domestic Workers in India" 16(2) *Indian Journal of Human Development* 248–266 (September 26, 2020).

- **Health Deterioration:** Long working hours lead to health deterioration and increased medical costs, especially in old age.<sup>60</sup>

## H. Low wages

- **Unskilled Labor Perception:** Domestic work is considered 'unskilled' by most households in India, leading to low wages. Average daily remuneration for working ten hours is around Rs. 325 to Rs. 350.<sup>61</sup>
- **Lack of Monthly Leave:** Despite working long hours, domestic workers often do not receive monthly leave.<sup>62</sup>

## I. Push and pull factors

- **Economic and Social Drivers:** Poverty is the main reason many women engage in domestic work. Internal migration in search of employment, family problems, rural and male unemployment, and disputes at home contribute to the supply of domestic workers.<sup>63</sup>
- **Natural Calamities and Debt:** Natural calamities, conflicts, and debts from failing crops drive women to domestic work<sup>64</sup>. The demand for cheap labor in growing market economies attracts women and children to urban areas.
- **Education and False Promises:** The lack of access to education and the false image of security and stability at the employer's home entice women and children to domestic work. Children from poor rural families are often sent to live with better-off relatives in urban areas but end up as domestic workers.<sup>65</sup>
- **Child Debt Bondage:** The practice of child debt bondage drives children to work in employers' homes to pay family debts, a common practice despite the lack of studies determining the number of bonded child domestic workers. The effect of enforcement of child labor law may have established a pattern of driving bonded child laborers'

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<sup>60</sup> Shibaji Gupta, "Morbidity Pattern and Health-Care Seeking among Women Domestic Workers: Perspective from an Indian Metropolis" 67(2) *Indian Journal of Public Health* 215-220 (April-June 2023).

<sup>61</sup> Kea Tjijens and Maarten van Klaveren, "Domestic Workers: Their Wages and Work in 12 Countries" *WageIndicator Data Report* 34 (Amsterdam School of Economics Research Institute, Amsterdam Institute for Advanced Labour Studies, University of Amsterdam, 2011).

<sup>62</sup> Keren Bobker, "How many days of annual leave is my household entitled to?" *The National*, Aug. 8, 2023.

<sup>63</sup> Surinder Kumar Singla, "Poorest of the Poor: A Case Study of Female Domestic Workers in Punjab" in Baldev Singh Shergill and Swati Mehta, *Challenges to Punjab Economy: A Regional Perspective from India* 185 (Taylor and Francis, 2023).

<sup>64</sup> Alvin Chandra, "Gendered vulnerabilities of smallholder farmers to climate change in conflict-prone areas: A case study from Mindanao, Philippines," 50 *Journal of Rural Studies* 45-59 (2017).

<sup>65</sup> Shannon May, "Bridging Divides and Breaking Homes: Young Women's Lifecycle Labour Mobility as a Family Managerial Strategy" 204 *The China Quarterly* 899-920 (December 2010).

from factories into households and other home-based production units that are less likely to be visible to regulation.<sup>66</sup>

To ensure meaningful access to social security, India must move beyond symbolic recognition and adopt a rights-based approach. This includes enacting a **dedicated national legislation** for domestic workers, mandating **employer registration**, providing **fiscal incentives for compliance**, and establishing **state-level welfare boards**. Without these structural reforms, social protection for domestic workers will remain aspirational rather than achievable.

## V. WOMEN DOMESTIC WORKER UNDER NEW LABOUR CODE, 2022

One of the most significant gaps lies in the absence of **systematic registration mechanisms** for domestic workers. Without a mandatory registration process for workers and their employers, most schemes fail at the entry point<sup>67</sup>. Even where registration is available, it is often dependent on digital platforms or local bureaucracies that domestic workers may not have access to or knowledge of<sup>68</sup>. For real change to occur, implementation must move beyond symbolic gestures and be grounded in enforceable accountability mechanisms, community-based grievance redressal, and active labour inspections that are respectful of privacy but protective of rights.

The introduction of the four New Labour Codes namely, the **Code on Wages, 2019**, the **Code on Social Security, 2020**, the **Occupational Safety, Health and Working Conditions Code, 2020**, and the **Industrial Relations Code, 2020** was projected as a landmark reform to simplify and universalise labour laws in India. While the stated objective was to extend protections to all workers, including those in the informal sector, the new framework falls short in addressing the unique vulnerabilities of **women domestic workers**, who form the backbone of paid care and household work in India<sup>69</sup>.

The Code on Wages consolidates the Minimum Wages Act, 1948 and the Equal Remuneration Act, 1976. Although it aims for universal coverage, the code does not explicitly

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<sup>66</sup> Lee Tucker, "Child Slaves in Modern India: The Bonded Labor Problem" 19(3) *Human Rights Quarterly* 572-629 (Johns Hopkins University Press, August 1997).

<sup>67</sup> Harshita Sinha, "How the Government Can Strengthen the Digital Welfare Ecosystem for Unorganised Workers", *The Wire*, June 6, 2024, available at: <https://thewire.in/government/how-the-government-can-strengthen-the-digital-welfare-ecosystem-for-unorganised-workers> (last visited on June 12, 2025).

<sup>68</sup> Priyanka Tupe, "Why Few Informal Workers Know Of A Portal, Meant To Ease Their Access To Welfare Schemes", BEHAN BOX, May 29, 2024, available at: <https://behanbox.com/2024/05/29/why-few-informal-workers-know-of-a-portal-meant-to-ease-their-access-to-welfare-schemes/> (last visited on June 10, 2025).

<sup>69</sup> Shraddha Chigateri, *Labour Law Reforms and Women's Work in India: Assessing the New Labour Codes from a Gender Lens* 29 (Institute of Social Studies Trust, New Delhi, 2021).

define or mention domestic work or private households as establishments<sup>70</sup>. This omission allows state discretion in whether domestic workers are notified for minimum wages. Even in states where wage notifications exist, implementation is weak due to lack of inspections and absence of formal contracts. The equal remuneration principle is also ineffective in a sector where wage disparities are normalised and contracts are verbal or non-existent, especially for women.

The Code on Social Security, 2020 was introduced as a comprehensive legislative effort to consolidate and rationalise multiple pre-existing laws related to social welfare, including provisions on provident fund, insurance, maternity benefits, employee compensation, and unorganised sector welfare. Although the Code aims to extend a unified social security framework to all categories of workers, including unorganised, gig, and platform workers, in practice, it continues to fall short for women domestic workers, both in legal design and implementation. While domestic workers are nominally included within the category of “unorganised workers,” the Code does not provide an explicit or separate legal definition of domestic work or household employers. This lack of specific recognition means that domestic workers are bundled into a broad, heterogeneous group, making it difficult to formulate targeted schemes that address their distinct needs particularly those of women workers who dominate this sector.

Moreover, the Code leaves the design and delivery of social security schemes to the discretion of the central and state governments, without mandating the compulsory participation of household employers a major structural flaw that dilutes accountability. Under Section 113 of the Code, unorganised workers, including domestic workers, are expected to self-register on a centralised portal<sup>71</sup>, using Aadhaar-based identification. While this digitised model aims to streamline enrolment, it ignores the practical barriers faced by women domestic workers: digital illiteracy and lack of smartphone/internet access, limited documentation or proof of employment<sup>72</sup>, lack of awareness about procedures, and fear of job loss if employers are made aware. As a result, the registration rate remains abysmally low. One of the most critical gaps in the Code is the lack of any obligation on household employers to contribute to domestic workers' social security. Unlike the formal sector, where employers share contributions

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<sup>70</sup> Saurabh Bhattacharjee, “*Universalization of Minimum Wages as a Pipe Dream: Many Discontents of the Code on Wages, 2019*”, 16 *Socio-Legal Review* 10 (2021).

<sup>71</sup> Adrian D'Cruz and Shalaka Chauhan, “*Promises vs. Reality: Informal Workers' Rights in Delhi under AAP*”, *New Delhi, BehanBox*, Jan 31, 2025, available at: <https://www.indiaspend.com/delhi-elections-2024/promises-vs-reality-informal-workers-rights-in-delhi-under-aap-904252> (last visited on 12 June 2025).

<sup>72</sup> Shreya Adhikari, “*Confusion Mars e-Shram Registration Process for Unorganised Workers*”, *India Development Review*, April 28, 2022, available at <https://idronline.org/article/rights/confusion-mars-e-shram-registration-process-for-unorganised-workers/> (last visited on June 12, 2025).

towards provident fund, insurance, and maternity benefits, the Code remains silent on such responsibilities for informal or household employers<sup>73</sup>. This omission disincentivises registration, reinforces informality, and undermines the Code's goal of universal social protection.

Despite subsuming the Maternity Benefit Act, the Code does not extend maternity benefits or paid leave protections to women domestic workers, as their inclusion is not mandatory<sup>74</sup>. The absence of employer obligation and the informal nature of employment make it virtually impossible for women domestic workers to claim maternity leave, health insurance, wage replacement, or childcare support. Though the Code empowers the government to frame welfare schemes and create social security boards at the national and state levels, very few states have implemented domestic worker-specific boards or schemes under this Code. The National Social Security Board for Unorganised Workers, which is supposed to oversee policy design and implementation, remains largely inactive, and there is no clear grievance redressal mechanism for women domestic workers whose entitlements are denied<sup>75</sup>. Moreover, without recognising households as “establishments,” there is no jurisdiction for inspection<sup>76</sup>, compliance checks, or enforcement making protections theoretical rather than actionable. In sum, the Code fails to mandate employer accountability, ensure inclusion in maternity and health benefits, provide functional grievance redressal, or overcome digital and socio-economic barriers to registration. For women domestic workers, social security remains a promise on paper, not a lived reality.

The **Occupational Safety, Health and Working Conditions Code**, aims to standardise workplace safety and welfare measures. However, it excludes private households from the definition of “establishments<sup>77</sup>,” making it inapplicable to domestic workspaces. Consequently, women domestic workers many of whom are live-in workers receive no legal protection against overwork, unsafe working conditions, or lack of rest and sanitation facilities. The gender-neutral language further fails to acknowledge the specific occupational hazards women face in domestic roles.

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<sup>73</sup> Divya Ravindranath, “Domestic Workers Deserve Workplace Benefits”, *The Wire*, Mar.7, 2024, available at: <https://thewire.in/labour/domestic-workers-deserve-workplace-benefits> (last visited on June 12, 2025).

<sup>74</sup> Ritu Bhandari and Dr. Manish Bharadwaj, “Maternity Benefits under the Code on Social Security 2020: The Legal Framework and Limitations” *International Journal of Law Management & Humanities* 2372 (2024).

<sup>75</sup> Bhanu Sridharan, “Domestic Workers Face Issues Like Wage Theft, Harassment, but Have No One to Complain To”, *Citizen Matters*, Aug. 11, 2023, available at : <https://citizenmatters.in/domestic-workers-workers-rights-union-wages-police-harassment-sexual-harrasment-akkai-padmashali-sowmya-reddy-employers/> (last visited on June 12, 2025).

<sup>76</sup> The Labour Inspection Convention, 1947, art. 3.

<sup>77</sup> *Bangalore Turf Club Ltd. v. Regional Director, ESI Corporation*, 2002 (95) FLR 1149.

The Industrial Relation Code governs trade union recognition, dispute resolution, and industrial disputes<sup>78</sup>. Its exclusion of domestic work, which is inherently informal and individualised, leaves women domestic workers without access to collective bargaining<sup>79</sup> or legal protection against unfair dismissal. The absence of mechanisms to facilitate unionisation reinforces their isolation and limits the development of solidarity or negotiation capacity in the sector.

The New Labour Codes represent a missed opportunity to formally recognise and regulate the work of women domestic workers. Their structural exclusions, coupled with non-binding obligations and a lack of monitoring mechanisms, render them ineffective in addressing the realities of domestic work. To ensure genuine protection, it is imperative to adopt **domestic worker-specific legislation** that incorporates **gender-sensitive provisions**, recognises household employers, and mandates **employer accountability and social security contributions**.

## VI. INSTITUTIONAL CHALLENGES, LEGAL REFORMS AND INTERNATIONAL STANDARDS

Although domestic workers play an indispensable role in sustaining urban and rural households, their work remains peripheral to India's mainstream labour law and institutional frameworks. A deeper examination reveals that this invisibility is not simply a legislative oversight but a reflection of systemic weaknesses and socio-political apathy toward informal work undertaken in private spaces. The regulation of domestic work is hindered by multiple layers of institutional and administrative challenges.

One of the foremost barriers is jurisdictional ambiguity. Labour departments in most states primarily focus on formal sectors such as factories, construction, and offices, and often do not have a mandate to inspect or intervene in private households where domestic work is performed<sup>80</sup>. This structural limitation means domestic workers are excluded from basic inspections, enforcement of minimum wages, or occupational safety norms. In *Sanjit Roy v. State of Rajasthan*<sup>81</sup>, the Court ruled that the payment of less than minimum wages to labourers on relief works violates Article 23, reaffirming the constitutional guarantee against

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<sup>78</sup> The Industrial Relations Code, 2020 (ACT 35 of 2020), ss. 5, 43.

<sup>79</sup> Saurav Datta, "Domestic Workers' Right to Form Trade Union: Delhi HC Issues Notice", *NewsClick*, April 30, 2019, available at: <https://www.newsclick.in/domestic-workers-right-trade-union-delhi-sc-issues-notice> (last visited on June 14, 2025).

<sup>80</sup> Maansi Parpiani, "Failure of Formalization: State Protection of Employer Interests and Consequences for Domestic Workers' Organizing in India" 45 *Anthropology of Work Review* 100 (2024).

<sup>81</sup> 1983 SCR (2) 271



exploitation even for informal and unorganised workers. However, in the absence of designated authorities empowered to inspect homes, even constitutional safeguards remain unimplemented.

A further challenge lies in the fragmented institutional responsibility. There is no central nodal ministry for domestic work. While the Ministry of Labour formulates broad welfare policies, implementation often depends on local governments or state welfare boards, many of which are non-functional or poorly funded. For example, the Domestic Workers Welfare Board in Maharashtra has faced criticism for delays in disbursing benefits and failing to maintain updated worker records. Digital self-registration systems, like the e-Shram portal, shift the burden of formalisation onto the workers, who are often women with limited digital literacy, documentation, or employer support<sup>82</sup>. This approach assumes self-agency that many workers especially migrants or live-ins do not have. Further, without employer-side registration and compliance checks, such databases remain underutilised and unverified. Compounding these issues is the lack of grievance redressal forums specific to domestic workers. Though the Sexual Harassment of Women at Workplace Act, includes domestic workers, Local Complaints Committees often do not function effectively or are unknown to the workers<sup>83</sup>. In practice, complaints of abuse or non-payment are seldom pursued due to fear of dismissal, social stigma, and lack of legal support. Ultimately, these institutional limitations reflect a policy culture that has yet to recognise domestic work as legitimate, economic labour. Overcoming these challenges requires political will, administrative restructuring, and a recognition of the household as a workplace subject to labour protections.

Recognising this institutional failure, the Supreme Court of India has intervened on multiple occasions to underline the urgency of legal recognition for domestic workers<sup>84</sup>. In a recent observation in 2025, the Court explicitly called for the enactment of a central legislation<sup>85</sup> that ensures minimum wages, regulated working hours, grievance mechanisms, and access to social benefits for domestic workers. The Court's statement affirms that the denial of statutory

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<sup>82</sup> Pragathi Ravi, "E-shram report card: Workers complain of lack of information and interest from city agencies", *Citizen Matters*, Aug.11, 2022, available at: <https://citizenmatters.in/report-card-e-shram-app-for-informal-labour> (last visited on June 12, 2025).

<sup>83</sup> Anoo Bhuyan, "8 Years On, Poor Compliance With Sexual Harassment Law", *IndiaSpend*, Feb. 21, 2021, available at: <https://www.indiaspend.com/women/8-years-on-poor-compliance-with-sexual-harassment-law-729370> (last visited on June 10, 2025).

<sup>84</sup> *Shramjeevi Mahila Samiti – Petitioner V. State of NCT of Delhi & Ors.*, 2022(16) SCC 511

<sup>85</sup> Dhananjay Mahapatra, "SC asks government to initiate the process for statutory protection for domestic workers", *Times Of India*, Jan. 30, 2025, available at: <https://timesofindia.indiatimes.com/india/sc-asks-government-to-initiate-process-for-statutory-protection-for-domestic-workers/articleshow/117719566.cms> (last visited on June 10, 2025).

protections to domestic workers undermines the constitutional values of dignity, equality, and social justice.

Most domestic worker-related bills introduced since 1959 have failed to materialise into law. The new labour codes, while consolidating older laws, do not directly address the household sector. A future legislative framework must go beyond symbolic inclusion. It must clearly define domestic work and employer duties, cover issues such as live-in arrangements, wage equity, workplace safety, and address the unique conditions of women in private employment.

India's failure to ratify ILO Convention No. 189 on Decent Work for Domestic Workers is both a legal and moral gap<sup>86</sup>. The Convention requires ratifying countries to adopt national laws ensuring decent wages, occupational safety, fair terms of employment, and social protection for domestic workers. Countries like the Philippines and Brazil have successfully implemented these norms through national legislation and strong monitoring systems<sup>87</sup>. Ratifying the Convention could serve as a guiding framework for India, offering tools to formalise this invisible workforce. It would also reinforce India's international image as a nation committed to gender equality and labour rights.

## VII. CONCLUSION AND RECOMMENDATIONS

To secure justice for domestic workers, it is essential to first recognise domestic work as a legitimate occupation. Although they fall under the broader category of unorganised workers as per the Unorganised Workers' Social Security Act, 2008 (now subsumed under the Code on Social Security, 2020), mere inclusion without tailored safeguards is inadequate. Labour laws must expand their definitions "worker" should explicitly include domestic workers, "establishment" must encompass private households, and "employer" should include individuals who engage domestic workers.

A dedicated central legislation is necessary to address the specific vulnerabilities of domestic work, providing for standardised contracts, fair wages, working hours, social security, and dispute redressal. Additionally, the compulsory registration of domestic workers, along with maintenance of a formal database, should be implemented. Households employing domestic help must be subject to periodic inspections, respecting privacy but ensuring accountability. Awareness programmes must be introduced to inform both workers and employers of welfare schemes and labour rights. Only through such integrated and inclusive

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<sup>86</sup> Karin Pape, "ILO Convention C189—a good start for the protection of domestic workers: An insider's view", 16 *Progress in Development Studies* 189–202 (2016).

<sup>87</sup> Eileen Boris and Jennifer N. Fish, "Domestic Workers Go Global: The Birth of the International Domestic Workers Federation" 23 *New Labor Forum* 76–81 (2014).

reforms rooted in both legal and social support can we ensure dignity, protection, and justice for India's domestic workers.

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