

# A Legal Perspective on the Socio-economic Status of the Domestic Workers in India

**Shaista Faris Khan**

Assistant Professor

Lokmanya Tilak Law College, (Deemed University Tilak Maharashtra Vidyapeeth),  
Pune, Maharashtra, India

## **Abstract**

The number of female domestic workers in Indian cities has been significantly expanding. Domestic employees, on the other hand, are mostly ignored in today's economic growth debate. Domestic workers lack the necessary collectivities, groups, and popular spokespersons to express their grievances. This isn't to say that domestic workers are entirely overlooked in public debate. It is occasionally mentioned in academic circles as a developing category of female employment, and their inclusion in intervention programmes is mostly confined to their position as migratory workers. They are, however, generally missing from state policy, whether it be in the form of labour regulations or social policy.

Domestic worker exploitation of women and children is a common and well-publicized problem. Domestic helpers, usually migrants from eastern states, have become modern slaves since they have no rights or norms to fall back on. Many women and children are also kidnapped and exploited by placement agencies, who operate openly without any constraints or rules, evading the tax net, requiring the need for regulation and control.

Domestic employees are not covered by labour laws, and as a result, they are unable to exercise their rights. Domestic employment is not recognised as genuine work, and the clandestine nature of the workplace leads to exploitative living and working circumstances, as well as forced labour and human trafficking. Domestic workers' rights to just and favourable working conditions are further jeopardised by recruitment-related fees, deceptive recruitment practises, and discriminatory policies, which include extremely long working hours, absence of rest and leave periods, deprivation of food, delayed or non-payment of wages, and physical and sexual abuse. Recruitment-related fees, deceptive recruitment practises, and discriminatory policies further jeopardise domestic workers' right to just and favourable working conditions.

Special provisions for women and children may be provided under Article 15 (3) of the Indian Constitution, as well as other considerations. The state government can also establish legislation to provide for the welfare of workers, such as working conditions, employer responsibility, social security, and social insurance, under entries 24 and 23 of list II of schedule VII of the constitution.

**Keywords:** Domestic Workers, Labour Regulations, State Policy, Economic Growth

## Introduction

Domestic labour is defined by the International Labour Organization (ILO) as "work performed in or for a household or households", and "domestic worker" is defined as "any person engaged in domestic work". Domestic works, unlike other types of job, are not limited to a specific set of responsibilities. As a result, the nature of the job does not define it. However, the household is the place of employment. Comprehension of Domestic work confronts difficulties as a potential source of employment, from subtleties in determining labour status, compensation, and ideas very good job. The wide range of duties and their natures not only represent a challenge, but they also present opportunities. They also make it difficult to comprehend the position of workers. In this industry, it is particularly challenging to apply notions of acceptable work; it makes sense in terms of operations.<sup>2</sup>

While domestic employees in the entire state may soon have the right to form Unions, equal and minimum salaries, social security coverage, skill development programmes, and the formation of unions on par with other workers are all covered by current labour laws, therefore it's critical to determine their economic position, even if they operate in an informal setting. Despite official awareness of the need for minimum salaries for domestic workers, it is still important to focus on the lack of additional institutional supports, the lack of job contracts, and the low level of education among these employees.<sup>3</sup> Domestic workers are frequently reported to work excessively long hours for minimal pay and have little or no access to social safeguards.

## Domestic Workers, Women, and their Concept

For millions of women worldwide, domestic work is one of the oldest and most significant informal occupations. Without access to education, wealth, or other possibilities, women have few choices and often settle for domestic employment. Since the responsibilities of domestic employees are not clearly defined, it is almost impossible to define the term "domestic service".

Globally, domestic service is increasingly recognised as a significant category of employment. Domestic service is still a very informal and individualised service provided in the homes of employers. Because domestic work is so different from other wage-paying industries, it cannot be compared to other types of work. Domestic workers continue to be economically and socially disadvantaged members of society. Domestic work that is compensated is a significant source of employment for the most vulnerable members of society. Most domestic labour is unpaid and unregulated. Unorganized labour also includes any sort of domestic work performed by women or children. There are no constitutional protections for domestic employees. The most underappreciated group of workers is the domestic workforce since law scholars hardly ever observe or interact with them. Domestic workers, however, are among a class of employees who are either the most exploited by their employers or the least protected by the law. Low pay, long hours, and challenging working conditions are prevalent in the domestic labour sector.<sup>4</sup>

## Status of Domestic Workers in India

The global COVID-19 outbreak has put many people's lives on hold. In addition to serious health consequences, lockdowns and limitations intended at preventing transmission have resulted in a flood of socio-economic and humanitarian hardship. Millions of informal employees, including domestic workers, have suffered considerable uncertainty about their job and income as policymaker's battle with

these competing forces. Despite a relaxation of lockdown rules in India following the first wave, 45% of domestic workers lost their jobs. Many of those who were able to keep their jobs had to accept lesser pay and work conditions that were hazardous to their health and safety.<sup>5</sup>

Following independence, the government passed more than forty central labour laws. Nonetheless, these laws have benefited only organized-sector workers, despite the fact that the unorganised sector employs 93% of the workforce, Industrial Relations, Social Security, and Occupational Safety, Health, and Working Conditions Codes. Various long-standing legislative protections that guaranteed employees' rights and security were reduced or removed by these regulations. Together, they exclude a large number of undocumented employees, particularly women, from existing regulations and safeguards outlined in the codes.<sup>6</sup>

They also exempt a vast number of businesses from compliance and enforcement. Critical issues addressed include policies and programmes that protect domestic workers' health and safety, as well as malnutrition, a lack of savings, a work-family balance, and adequate rest; wage protection, including minimum wage; and employment practises that shape domestic workers' terms and conditions of employment. Their heavy debt burden has forced them to work past their limits while also carrying the strain of supporting their families' educational, marriage, and health needs. This article contains programmes, guidelines, and policies relating to the treatment of domestic employees in terms of working and living circumstances, health and safety, wages, and proper rest.<sup>7</sup>

### **Objectives of this Research Paper**

- The purpose of this research is to look into the socio-economic conditions of domestic workers.
- To learn about the difficulties and problems that domestic workers experience.
- To determine the extent to which domestic workers are aware of their legal rights and protections.
- The purpose of this paper is to discuss the impact of government policies and programmes in improving the socio-economic situations of women domestic workers.

### **Review of the Literature**

The least formal and lowest paid group of wage earners are domestic workers. Additionally, they typically do not receive minimum wage protection. There is no appropriate minimum wage for the estimated 21.5 million domestic employees, despite there being one for other workers. Many of the people who are covered have a right to pay that is less than the minimum wage for other workers. Discrimination against domestic employees is not acceptable. Where applicable, they should receive minimum wage coverage that is equal to that offered to other workers generally.<sup>2</sup> The minimum wage is an important tool for preserving the idea of equal pay for labour of equal worth since it acknowledges the economic and social contributions of these individuals. Due to its stigma and lack of visibility, domestic work regulation presents difficulties. Excessive working hours and non-compliance with legal salary guidelines are common examples of exploitation. It is urgent to look into the wages and working hours of domestic employees given the exploitation they endure.<sup>2</sup>

## Migration

One of the most vulnerable groups most likely to be employed as domestic labour is rural-urban female migrants, who are related with the phenomena of domestic employment. One of the primary causes of the feminization of labour migration that has occurred over the past few decades is thought to be the rising demand from homes for domestic services. However, just like other migrant employees, migrant domestic workers may face additional risks that result in infringements on their human and labour rights. They may experience social and cultural isolation at their destination due to language and cultural barriers, lack of advance and accurate information on the terms and conditions of employment, lack of labour law coverage and/or enforcement in the area, lack of adapted assistance and protection mechanisms, and more. Domestic work is a phenomena linked, among other things, to limits on freedom of movement and association, rural-urban female migrants, and the place of destination. The ILO is aware of the unique dangers that migrant domestic workers face and the need to enhance labour and immigration laws and practises, especially their consistency.

- With 38.3 million domestic workers employed worldwide, or 50.6% of all domestic workers, the Asia and Pacific region continues to be the largest employer of domestic workers.
- Although women undertake the majority of domestic labour (78.5%) in the Asia and Pacific region, males make up 46.1% of all domestic employees globally, making the region the largest employer of male workers.
- In Asia and the Pacific, 61.5% of domestic workers are still completely unprotected by labour laws.
- Compared to 52.8% of other employees, 84.3% of domestic workers in the area work in informal employment.
- In Asia and the Pacific, 64% of domestic workers are still not entitled to weekly rest.<sup>8</sup>

## Occupational Rights

A draft national policy on domestic workers is being thought about by the Ministry of Labour & Employment. The key components of the proposed draft on National Policy on Domestic Workers are as follows:

- Domestic workers should be incorporated into the laws already in place.
- The ability to register as an unorganised worker will be available to domestic employees. They will have easier access to rights and benefits if they register.
- Right to establish independent organisations or unions.
- Right to social security and minimum salaries
- Right to improve their abilities.
- Safeguarding domestic workers against exploitation and abuse.
- Access to courts and tribunals for the purpose of resolving disputes for domestic workers.
- The establishment of a system to control private placement firms.
- Creation of a framework for domestic workers to resolve complaints.<sup>9</sup>

## **Government Policies and Programmes in Improving the Socio-economic Situations of Domestic Workers**

The Unorganized Workers' Social Security Act of 2008 is already being implemented by the Central Government to offer social security to unorganised workers, including domestic workers, in the form of life and disability insurance, health and maternity benefits, and old age protection. Social security programmes like the National Old Age Pension Scheme (Ministry of Rural Development), National Family Benefit Scheme (Ministry of Rural Development), Janani Suraksha Yojana (Ministry of Health and Family Welfare), and Ayushman Bharat (Ministry of Health and Family Welfare) are being implemented by various Ministries/Departments of the Central Government. In addition to the aforementioned welfare programmes, the Central Government recently combined the Aam Aadmi Bima Yojana (AABY), Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY), and Pradhan Mantri Suraksha Bima Yojana (PMSBY) social security programmes to offer unorganised workers, depending on their eligibility, life and disability insurance coverage. This coverage is available for workers between the ages of 18 and 50. Converged PMJJBY offers coverage of Rs. 2 lakhs upon death for an age range of 18 to 50 years with a premium of Rs. 330 per year. For a yearly premium of Rs. 12, converged PMSBY offers Rs. 2 lakhs in accidental death and disability coverage. The Ministry of Labour & Employment is putting these combined PMJJBY/PMSBY plans into action via the Life Insurance Corporation of India. The Central Government and the State Governments split the annual premium 50/50. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redress) Act has also recognised Domestic Workers as a separate category of workers, with the house serving as the workplace (2013). Domestic workers are being organised by trade unions, and unions that just represent domestic employees have been registered in a number of states.

To help domestic workers become professionals and advance in their careers, the Ministry of Skills Development established the Domestic Workers Sector Skills Council.<sup>2</sup>

### **Infrastructure and Health**

Women do experience physical pain, including knee and leg pain from standing and sitting for extended periods of time while working, as well as headaches, neck and shoulder pain from repetitive, continuous heavy lifting and bending. It is noteworthy that the likelihood of long-term ergonomic disability, chronic pain, and occupation-related diseases in adulthood has all grown with age, along with body aches. Their living conditions have been severely damaged by the risk of sexual assault and the severe disregard of menstruation where breaches go unnoticed. It is problematic that female domestic workers are becoming more and more trapped in a cycle of poverty as a result of rising prices for basic goods. They now have the means to take advantage of the offered health advantages in order to survive. They must deal with the emotional trauma at work in addition to the physical stress. The state government also offers programmes for workers who are both above and below the poverty threshold. Systematic disparities in the labour market and patriarchal social institutions restrict the options available to women for making a living and promote normative beliefs about the roles that women and girls should play in the home and in marriage.

Additionally, owing of their lower social status in Indian families and culture, domestic workers are typically young females.<sup>10</sup>

### **Benefits from Social Security**

#### **Facility for Child Care**

The economy is centred on women, whose labour and initiative produce the wealth of the country and whose dedication fosters economic development. An overworked, worn-out working mother is frequently nervous and stressed about the welfare of her children. They must be given access to suitable child care services.

#### **Maternity Leave Benefits**

Women's health has frequently been neglected throughout pregnancy, leaving them physically vulnerable during childbirth and driving them into debt crises with hefty interest costs. She frequently doesn't get enough rest after giving birth and resumes work right away, which is bad for her health. It has caused numerous high-risk pregnancies, which are manifested by a high death rate and these workers' bad health conditions.

#### **Threats and Emergency**

A family's descent into destitute is typically triggered by a catastrophe, whether it be personal, social, or natural. Natural calamities like floods, droughts, and cyclones are only a few examples. Other potential causes include human tragedies like the death of a spouse or the family's primary provider, crop failure, and the death of livestock due to disease. The female worker and her family are weakened and more exposed as a result of each catastrophe. The significant expense is primarily to blame for the considerable negative impact.<sup>11</sup>

#### **Suggestions**

- Domestic workers should have the same rights and benefits as other types of workers without distinction, including pensions, paid time off, bonuses, and incentives, as well as the minimum salary for the amount of work they perform.
- As domestic workers move around in quest of a place to live, a correct regulatory measure needs to be put in place for them through a legislative process.
- Workers should be informed of state-specific policies and laws that protect their rights and obligations.
- The Central Government must finish and implement the proposed national policy on domestic workers for women to profit from it.
- Given that these women come from a lower socio-economic class, medical benefits such maternity benefits, ESI, and sick pay must be offered.
- Strict penalties and punishments must be meted out to those who abuse women sexually. Additionally, trafficking of women and other young domestic workers must be monitored and records kept to stop kidnapping, exporting to other nations, and other crimes.

#### **Conclusion**

The vulnerable and underdeveloped communities are where the domestic workers are from. The majority of them are uneducated, unskilled, and ignorant. The work performed by domestic workers is poorly regulated, underpaid, and valued. Major problems they encounter include forced migration, a lack of welfare programmes, poor working conditions and set work hours, violence, abuse, and sexual

harassment in the workplace, victimisation at the hands of traffickers or placement agencies, and a lack of opportunities for skill development that results in stagnation. Welfare of domestic workers bill addresses significant issue In and of itself, classifying homes as a workplace rather than a "private area" would go a long way toward protecting domestic employees' rights.

## References

1. Rohini Mitra, Priyansha Singh, “Domestic Work and Migration”, Medium, 24 September 2019. <https://medium.com/@indiamigration/domestic-work-and-migration-8286b5fe566>
2. Amrita Ghatak, Kingshuk Sarkar, “Status of Domestic Workers in India: A Tale of Two Cities”, Gujarat Institute of Development Research, March 2019. <http://gidr.ac.in/pdf/wp-255-9932.pdf>
3. International Labour Organization, “Child labour and domestic work”. <http://www.ilo.org/ipec/areas/Childdomesticlabour/lang--en/index.htm>
4. Kodandarama Chandramouli, “Women Domestic Workers in India: An Analysis”, International Journal of Innovative Technology and Exploring Engineering (IJITEE), November 2018, 8(1). <https://www.ijitee.org/wp-content/uploads/papers/v8i1/A2526118118.pdf>
5. Aditi Yajnik, Sanjana Haribhakti, “Securing rights for domestic workers”, India Development Review (IDR), 28 July 2021. <https://idronline.org/article/rights/securing-economic-and-social-rights-for-domestic-workers/>
6. Shruthi R., Dr. Harish Kumar, “An Analysis of Socio - Economic Condition of Domestic Workers – With Special Reference to Bengaluru City”, International Journal of Creative Research Thoughts (IJCRT), June 2021, 9(6). <https://ijcrt.org/papers/IJCRT2106428.pdf>
7. Jenni Gobind, Graham du Plessis, Wilfred Ukpere, “Minimum wage and domestic workers’ right to basic conditions of employment: Are employers complying?”, African Journal of Business Management, 28 November 2012, 6(47). <https://doi.org/10.5897/AJBM12.1390>
8. International Labour Organization, “Informality and exclusion from labour laws remain barriers to decent work for Asia Pacific domestic workers”, 15 June 2021. [http://www.ilo.org/asia/media-centre/news/WCMS\\_802026/lang--en/index.htm](http://www.ilo.org/asia/media-centre/news/WCMS_802026/lang--en/index.htm)
9. Press Information Bureau (PIB), “National Policy on Domestic Workers”, Ministry of Labour & Employment, Government of India, 7 January 2019. <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1558848>
10. Rohini Mitra, Aarohi Damle, “Female Migrant Workers and Domestic Employees Need a Security Net”, The Wire, 11 November 2019. <https://thewire.in/labour/women-labour-domestic-work>
11. Asha D’Souza, “Moving towards decent work for domestic workers: An overview of the ILO's work”, ILO Bureau for Gender Equality, International Labour Office, International Labour Organization (ILO), 20 July 2010. [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_142905.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_142905.pdf)