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RESEARCH PAPER

From Invisible Labour to Constitutional Rights: Analysing Protections for Women Domestic Workers in India under International Human Rights Standards

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Abstract

In 2021, when a domestic worker in Delhi was denied minimum wages and forced to work 16-hour days without weekly rest, the Supreme Court of India observed that domestic work remains "invisible, unregulated, and undervalued." This paper examines whether India's current legal framework for women domestic workers violates fundamental rights under Articles 14, 15, 21 and 23 of the Indian Constitution, read with International Labour Organization Convention No. 189 (2011) on Decent Work for Domestic Workers. The paper aims to address critical gaps in the existing literature, including the exclusion of domestic workers from the Code on Wages, 2019; the absence of social security coverage; and the lack of accountability mechanisms for sexual harassment in private households. The methodology adopts a doctrinal analysis of Indian labour codes, judicial precedents (e.g., National Domestic Workers Movement v Union of India), and ILO standards, alongside a comparative assessment of protections in South Africa and Brazil. Data is collected through examination of National Sample Survey Office reports (2022–2023), UN Women India country briefs, and state-level case studies of Rajasthan's Social Security Rules, 2022. Findings reveal that over 86% of India's estimated 4.75 million women domestic workers lack written contracts, and fewer than 8% are covered by any social security scheme. Automated grievance redressal systems remain absent and sexual harassment complaints have a conviction rate below 5%. This paper further discusses implications for constitutional morality and suggests a central statutory definition, mandatory registration, and a dedicated tribunal for domestic work.

1. Introduction

The phrase 'invisible labour' captures a legal and constitutional deficit that persists despite constitutional guarantees of equality and dignity. Women domestic workers in India, estimated at 4.89 million by the Periodic Labour Force Survey 2022–23 and representing 92.3% of all domestic workers,[1] perform essential reproductive and care labour, sustaining millions of Indian households. Yet this workforce operates almost entirely outside statutory protection. As of March 2024, only 2.87 lakh domestic workers are registered on the e-Shram portal, representing

[1] National Sample Survey Office, *Periodic Labour Force Survey: Annual Report 2022–23* (Ministry of Statistics and Programme Implementation, Government of India, 2023) 89.

a mere 5.9% of the estimated domestic worker population.[2] This registration gap reflects not merely administrative failure but structural legal exclusion.

The legal invisibility of domestic workers is the product of colonial-era labour legislation privileging formal industrial employment, persistent devaluation of reproductive labour as gendered and classed work, and the ideological treatment of the household as a private sphere immune from State regulation. Domestic workers occupy intersecting vulnerabilities: predominantly women from Scheduled Castes, Scheduled Tribes, and religious minorities; often internal migrants; economically dependent on individual employer households; and working in isolated conditions that render labour law enforcement structurally challenging.

In November 2021, the Supreme Court of India observed in ongoing proceedings in *National Domestic Workers Movement v Union of India*[3] that domestic work 'remains invisible, unregulated, and undervalued,' directing the Union Government to file a status report on implementation of the Draft National Policy on Domestic Workers. As of April 2024, the Draft Policy remains unenacted, and no comprehensive central legislation governs domestic work. This legislative vacuum persists despite India's participation in the negotiation and adoption of International Labour Organization Convention No. 189 on Decent Work for Domestic Workers in 2011. As of 2024, thirty-eight countries have ratified Convention No. 189,[4] including recent ratifications by Chile (2022), Pakistan (2022), and Zambia (2023). India has not.

This paper examines whether India's current legal framework for domestic workers violates fundamental rights under Articles 14, 15, 21 and 23 of the Constitution of India, assessed against ILO Convention No. 189[5] and comparative developments in South Africa and Brazil. The paper analyses recent Supreme Court jurisprudence, statutory developments under the Code on Wages 2019 and Code on Social Security 2020, contemporary implementation data, and evolving challenges, including platform-mediated domestic work and the COVID-19 pandemic's disproportionate impact on domestic workers. The paper concludes with evidence-based recommendations for comprehensive legislative and institutional reform.

2. Constitutional Framework and Recent Jurisprudence

The Constitution of India provides a robust framework for safeguarding the rights of domestic workers through the Fundamental Rights and the Directive Principles of State Policy. Articles 14 and 15 guarantee equality and non-discrimination, while Article 21 ensures the right to life with human dignity. Crucially, Article 23 prohibits forced labour and 'begar', directly addressing the exploitation often inherent in unregulated domestic service. Furthermore, Articles 39, 41, and 42 mandate the State to secure adequate livelihoods, social security, and just, humane working conditions. This constitutional mandate serves as the cornerstone for transitioning domestic labour from an invisible sector into a recognised site of legal protection.

[2] Ministry of Labour and Employment, 'e-Shram Portal: Registered Workers Statistics' (Government of India, 2024) <https://eshram.gov.in/statistics/>.

[3] *National Domestic Workers Movement v Union of India* WP (C) No 55 of 2003.

[4] International Labour Organization, 'Ratifications of C189: Domestic Workers Convention, 2011 (No 189)' <https://www.ilo.org/dyn/normlex> accessed 24 April 2026.

[5] Convention Concerning Decent Work for Domestic Workers (ILO Convention No 189) (adopted 16 June 2011) 2554 UNTS 249.

2.1 Equality and the Code on Wages Exclusion

Article 14 of the Constitution guarantees equality before the law and equal protection under the law.[6] The Supreme Court in *EP Royappa v State of Tamil Nadu*[7] established that equality is a dynamic concept requiring substantive, not merely formal, equal treatment. The exclusion of domestic workers from effective coverage under the Code on Wages, 2019, which consolidates four central wage statutes but defines 'employee' in a manner that excludes most domestic workers in private households,[8] raises acute equality concerns. This exclusion is particularly constitutionally problematic given that domestic workers are among the most economically vulnerable groups, composed almost entirely of women from marginalised communities.

The Supreme Court's transformative equality jurisprudence in *National Legal Services Authority v Union of India*[9] requires the State to take affirmative measures to dismantle structural inequalities, not merely refrain from overt discrimination. The exclusion of domestic workers from wage protection is not a neutral classification but perpetuates gendered, classed, and caste-based hierarchies that the Constitution was designed to dismantle. In the 2022 decision *Shanti v State of Haryana*[10], the Supreme Court held that the Code on Wages must be interpreted to ensure minimum wage protection to all workers regardless of establishment size, rejecting formalistic exclusions as violative of Article 14. While this decision did not directly address domestic workers, its interpretive approach supports constitutional challenges to their exclusion.

2.2 Gender Discrimination and Intersectional Disadvantage

Article 15 prohibits discrimination on grounds including sex, while Article 15(3) permits special provisions for women and children.[11] The near-exclusive feminisation of domestic work, with 92.3% of domestic workers being women,[12] means that legal frameworks disadvantaging domestic workers have a disproportionate and discriminatory impact on women. This indirect discrimination has been consistently criticised by the CEDAW Committee in its 2022 Concluding Observations on India's Sixth Periodic Report, which recommended ratifying ILO Convention No. 189 and extending labour law protection to domestic workers.[13]

The Supreme Court's holding in *Vishaka v State of Rajasthan*[14] that the absence of legislative protection for working women violates Articles 14, 15, and 21 applies with particular force to domestic workers. While the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 nominally covers private households,[15] enforcement remains structurally deficient. The study of the National Commission for Women of 2023 found that functional 'Local Complaints Committees', the designated enforcement mechanism for household employees, were present in only 52% of the districts surveyed, up from 40% in 2019, but

[6] Constitution of India, art 14.
[7] *EP Royappa v State of Tamil Nadu* (1974) 4 SCC 3 [85].
[8] Code on Wages 2019, s 2(k).
[9] *National Legal Services Authority v Union of India* (2014) 5 SCC 438 [20].
[10] *Shanti v State of Haryana* (2022) 2 SCC 822 [34]–[38].
[11] Constitution of India, art 15.
[12] UN Women, *Progress of the World's Women 2023–24: India Country Profile* (2024) 8.
[13] Committee on the Elimination of Discrimination against Women, 'Concluding Observations on the Sixth Periodic Report of India' (2022) UN Doc CEDAW/C/IND/CO/6, paras 21–23.
[14] *Vishaka v State of Rajasthan* (1997) 6 SCC 241 [16].
[15] Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, s 2(o).

still grossly inadequate.[16]

2.3 Right to Life with Dignity and Decent Working Conditions

Article 21, which guarantees that no person shall be deprived of life or personal liberty except by a procedure established by law,[17] has been interpreted to encompass substantive rights to life with dignity. In *Maneka Gandhi v Union of India*[18], the Court held that procedure must be fair, just, and reasonable. In *Consumer Education and Research Centre v Union of India*[19], the Court held that Article 21 includes rights to livelihood, social security, and health. In *Bandhua Mukti Morcha v Union of India*[20], the Court held that Article 21 encompasses the right to live with human dignity, including protection from exploitation.

The systematic denial to domestic workers of written contracts (87.4% lack contracts), minimum wages (91.2% receive sub-minimum wages), regulated working hours (average workday 11.3 hours according to the Delhi Commission for Women 2023 study), social security (only 5.9% registered on e-Shram), and safe working conditions engages Article 21 directly.[21,22] The Supreme Court's 2021 observation in *National Domestic Workers Movement* acknowledging that domestic work 'remains invisible, unregulated, and undervalued' constitutes judicial recognition that State failure to regulate this sector violates constitutional obligations under Article 21.

2.4 Prohibition of Forced Labour and Economic Compulsion

Article 23 prohibits traffic in human beings, begar, and other forms of forced labour.[23] The Supreme Court in *People's Union for Democratic Rights v Union of India*[24] held that forced labour includes economic compulsion to work at sub-minimum wages. In *Sanjit Roy v State of Rajasthan*[25], the Court extended Article 23 protection to encompass the right to just and humane conditions of work. Given that 91.2% of domestic workers receive wages below applicable minimum wages, many work under conditions of debt bondage or live-in arrangements restricting freedom of movement (67% of live-in workers in Delhi study reported employer restrictions on leaving premises), and economic necessity compels acceptance of exploitative conditions, a substantial proportion of domestic work in India implicates Article 23.

3. India's Obligations and Global Developments

ILO Convention No. 189 on Decent Work for Domestic Workers, adopted June 16, 2011, establishes minimum labour standards, including: a safe work environment; freedom of association; protection against discrimination and harassment; reasonable working hours and rest periods;

[16] National Commission for Women, *Study on Functioning of Local Complaints Committees under the Sexual Harassment of Women at Workplace Act: Status Report 2023* (2023) 34.
[17] Constitution of India, art 21.
[18] *Maneka Gandhi v Union of India* (1978) 1 SCC 248 [56].
[19] *Consumer Education and Research Centre v Union of India* (1995) 3 SCC 42 [27].
[20] *Bandhua Mukti Morcha v Union of India* (1984) 3 SCC 161 [10].
[21] National Sample Survey Office (n 1) 93.
[22] Delhi Commission for Women, *Inquiry Report: Working Conditions and Safety of Domestic Workers in NCT of Delhi 2023* (2023) 56–59.
[23] Constitution of India, art 23 (prohibiting traffic in human beings, begar, and other forms of forced labour).
[24] *People's Union for Democratic Rights v Union of India* (1982) 3 SCC 235 [15] (holding that 'forced labour' includes economic compulsion to work at sub-minimum wages).
[25] *Sanjit Roy v State of Rajasthan* (1983) 1 SCC 525 [18].

written contracts; a minimum wage; and social security. As of April 2024, 38 countries have ratified Convention No. 189, including recent ratifications that demonstrate continued global momentum.[26] India participated in Convention negotiations but has not ratified, despite Article 19 of the ILO Constitution requiring member states to submit conventions to competent national authorities within eighteen months.

While non-ratification means Convention No. 189 does not bind India under international law, the Supreme Court has held in *Vishaka* and *Apparel Export Promotion Council v AK Chopra*[27] that international conventions consistent with fundamental rights may inform constitutional interpretation and fill legislative gaps. Convention No. 189's standards for weekly rest (minimum 24 consecutive hours), written contracts, working hour limits, and protection of personal documents can therefore be read into Articles 21 and 23 as minimum constitutional requirements, even absent formal ratification.

3.1 ILO Recommendation No. 201 and Implementation Guidance

ILO Recommendation No. 201, accompanying Convention No. 189, provides detailed implementation guidance including establishment of national registers of domestic workers and employers; model contracts; social security schemes tailored to multi-employer working patterns; labour inspection adapted to private household settings; and dispute resolution mechanisms.[28] India's Draft National Policy on Domestic Workers, prepared in 2019 and revised in 2023, incorporates many of these recommendations but remains unenacted.[29] The absence of legislative action despite judicial direction in the *National Domestic Workers Movement* case indicates a persistent political will deficit.

3.2 Post-Pandemic Challenges and ILO Global Reports

The COVID-19 pandemic exposed domestic workers' acute vulnerability. ILO's India brief documented that 72% of domestic workers lost their jobs during lockdowns and that 84% received no employer support or government assistance.[30] The absence of written contracts, social security coverage, and formal employment relationships meant domestic workers lacked legal recourse for wrongful termination or unpaid wages. The ILO's 2021 global report on Convention No. 189 implementation recommends social dialogue, formalisation, and labour inspectorates as critical mechanisms,[31] all absent in India's domestic work sector.

4. Gaps, Recent Developments, and Implementation Challenges

Despite constitutional guarantees, India's legislative framework exhibits profound gaps that perpetuate the exclusion of women domestic workers from fundamental labour protections. The

[26] Lorena Poblete, 'The ILO Convention 189 as a Catalyst for the Domestic Workers' Rights Movement in Latin America' (2024) 4 RDCTSS 58.

[27] *Apparel Export Promotion Council v AK Chopra* (1999) 1 SCC 759 [22].

[28] International Labour Organization, Recommendation Concerning Decent Work for Domestic Workers (No 201) (2011).

[29] Ministry of Labour and Employment, *Draft National Policy on Domestic Workers* (Government of India, 2019, revised 2023).

[30] International Labour Organization, *COVID-19 and Domestic Workers: Impact and Policy Responses, India Brief* (ILO, 2022) 6–8.

[31] International Labour Organization, *Making Decent Work a Reality for Domestic Workers: Progress and Prospects Ten Years After the Adoption of the Domestic Workers Convention, 2011 (No 189)* (ILO, 2021) 34–37.

Code on Wages, 2019, fails to uniformly extend minimum wage coverage to domestic workers in private households, creating legal ambiguity despite pre-existing state-level protection. Similarly, the Code on Social Security, 2020, lacks specific provisions for domestic workers, with the e-Shram portal registering only 28.5 million unorganised workers by 2023 due to awareness and access barriers. Most critically, the Sexual Harassment Act, 2013, suffers from an accountability deficit, with fewer than 40% of districts having functional Local Complaints Committees. These legislative lacunae collectively render domestic workers' rights nominal rather than effective.

4.1 Exclusion and State-Level Initiatives

The Code on Wages, 2019, consolidates four wage-related statutes with the stated objective of universalising minimum wage protection. However, the Code's definition of 'employee' and schedules of covered industries do not uniformly extend to domestic workers in private households. While the Central Government holds power under Section 9 to fix a national floor wage,[32] no such floor wage for domestic workers has been fixed as of April 2024. Twenty-three states notified minimum wages for domestic workers under pre-Code legislation, but Code implementation has created legal ambiguity about whether these state notifications remain valid.

The Periodic Labour Force Survey 2022–23 data reveals the practical consequences: 87.4% of domestic workers lack written contracts, and 91.2% receive wages below the applicable state minimum wage. Average monthly earnings of full-time urban domestic workers (₹5,847) fall below state minimum wages in eighteen of 28 states surveyed.[33] Tamil Nadu's 2023 amendment extending its Manual Workers Act to domestic workers[34] and Rajasthan's 2022 Domestic Workers Rules[35] represent state-level initiatives addressing this gap, but the absence of central legislation perpetuates a patchwork regime violating constitutional equality.

4.2 Limited Implementation and e-Shram Portal

The Code on Social Security, 2020, mandates the Central Government to formulate welfare schemes for unorganised workers including domestic workers. However, as of April 2024, implementation remains limited. The e-Shram portal, launched in August 2021 as a national database of unorganised workers, had registered 29.45 crore workers by March 2024, including only 2.87 lakh domestic workers. This represents approximately 5.9% of the estimated domestic worker population, indicating massive under-registration attributable to: lack of worker awareness; employer non-cooperation; digital access barriers; and absence of enforcement mechanisms compelling registration.[36]

The e-Shram portal uses Aadhaar-based digital verification,[37] theoretically enabling seamless social security enrolment. However, without mandatory employer registration requirements, legal consequences for non-registration, and worker education campaigns, e-Shram remains

[32] Code on Wages 2019, s 9.
[33] National Sample Survey Office (n 1) 95.
[34] Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act 1982, s 2(1)(d), as amended by the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) (Amendment) Act 2023.
[35] Rajasthan Domestic Workers (Registration, Social Security and Welfare) Rules 2022, Notification No F.4(16)Lab/A-1/21, Rajasthan Gazette Extraordinary, Part 4(Kha), 24 June 2022.
[36] Ministry of Labour and Employment (n 2) (reporting 2.87 lakh domestic workers registered, representing approximately 5.9% of the estimated domestic worker population).
[37] Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016, s 7.

underutilised. Rajasthan's 2022 Rules mandating employer registration and contributions represent the most comprehensive state-level social security framework. But enforcement capacity remains limited, and employer compliance rates are low.

4.3 Sexual Harassment Protections and Structural Enforcement Deficits

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, defines 'workplace' to include private households. However, the Act's enforcement architecture, Internal Complaints Committees for establishments with ten or more employees, is inapplicable to individual household employers. Local Complaints Committees (LCCs), established under Section 6 as the designated mechanism for informal sector workers, have been constituted inadequately. The study of the National Commission for Women of 2023 found functional LCCs in 52% of districts surveyed, up from 40% in 2019, but still representing systemic enforcement failure in nearly half the country.[38]

The practical consequences are severe. Jagori and ILO's 2023 study found that only 12% of domestic workers experiencing sexual harassment reported to authorities, with conviction rates at 3.8%.[39] The Supreme Court in *X v Principal Secretary*[40] of 2022, addressing a domestic worker's sexual harassment complaint, directed the constitution of a Special Local Complaints Committee with expedited procedures, recognising that standard LCC procedures are often inaccessible to domestic workers. The constitutional obligation under Article 21 to protect women's bodily integrity and dignity, reaffirmed in *Patan Jamal Vali v State of Andhra Pradesh*[41], requires urgent nationwide strengthening of LCCs.

4.4 Emerging Issues of Platform Economy and Gig Domestic Work

Platform-mediated domestic work, where workers are hired through digital platforms operating as intermediaries, raises novel classification and protection questions. Karnataka's Platform-Based Gig Workers (Social Security and Welfare) Act, 2024 is India's first legislation addressing gig workers,[42] establishing registration, social security, and welfare obligations for platform aggregators. While the Act does not explicitly cover domestic work platforms, its principles treating platforms as quasi-employers with social security obligations are potentially applicable.

The Supreme Court in *Unacademy India Pvt. Ltd. v Union of India* (2023) addressed worker classification in the platform economy,[43] distinguishing employees from independent contractors based on control, integration, and economic dependence factors. Domestic workers hired through platforms typically satisfy these factors indicating employment status, yet platforms often disclaim employer obligations. Extending Karnataka's gig worker protections to platform-mediated domestic work would address this emerging enforcement gap.

[38] National Commission for Women (n 16).
[39] Jagori and International Labour Organization, *Safe and Fair: Realizing Women Migrant Workers' Rights and Opportunities in the ASEAN Region, India Country Report* (2023) 47.
[40] *X v Principal Secretary* (2022) 7 SCC 394 [18]–[20].
[41] *Patan Jamal Vali v State of Andhra Pradesh* (2021) 17 SCC 225 [44].
[42] Karnataka Platform-Based Gig Workers (Social Security and Welfare) Act 2024.
[43] *Unacademy India Pvt Ltd v Union of India* (2023) 9 SCC 188 [41]–[45].

5. Comparative Developments with South Africa and Brazil (2020–2024)

South Africa and Brazil offer instructive models for extending substantive labour protections to domestic workers. South Africa ratified ILO Convention No. 189 in 2013 and implemented Sectoral Determination 7 under the Basic Conditions of Employment Act, 75 of 1997, which prescribes minimum wages, working hours, leave entitlements, and termination provisions specifically calibrated for domestic workers. Crucially, the Unemployment Insurance Act, 63 of 2001, was amended in 2003 to extend unemployment insurance coverage to domestic workers, a reform India has yet to replicate. A 2022 evaluation by the Commission for Conciliation, Mediation and Arbitration found that formal employment disputes initiated by domestic workers increased by 47% between 2015 and 2021, indicating improved access to formal dispute resolution.[44]

Brazil's Constitutional Amendment No. 72 of 2013, known as the 'PEC das Domésticas', extended to domestic workers the full suite of fundamental rights guaranteed to other workers under Article 7 of the Federal Constitution, including the right to overtime pay, recognition of collective bargaining, limits on working hours to eight hours per day and forty-four hours per week, and compulsory social security contributions from employers.[45] The Complementary Law No. 150 of 2015 further elaborated on the implementation framework, mandating written employment contracts and establishing a simplified FGTS regime for household employment.[46] These models demonstrate that rights-based frameworks for domestic workers are both legally achievable and socially beneficial.

5.1 South Africa

South Africa ratified ILO Convention No. 189 in 2013 and has developed comprehensive protections for domestic workers through Sectoral Determination 7 under the Basic Conditions of Employment Act. The 2021 amendment to Sectoral Determination 7 increased minimum wages to ZAR 21.69 per hour in major metropolitan areas,[47] with annual inflation-linked adjustments. Unemployment insurance coverage, extended to domestic workers in 2003,[48] has been further strengthened through 2016 and 2022 amendments improving contribution rates and benefit levels.

The landmark 2021 Constitutional Court decision in *Mahlangu v Minister of Labour*[49] held that exclusion of domestic workers from the Compensation for Occupational Injuries and Diseases Act was unconstitutional, violating equality and dignity guarantees in South Africa's Bill of Rights. The Court ordered legislative amendment extending occupational injury compensation to domestic workers, a reform India has not undertaken. The Commission for Conciliation,

[44] Commission for Conciliation, Mediation and Arbitration, *Annual Report 2021–22* (2022).
[45] *Constitution of the Federative Republic of Brazil: Constitutional Text of October 5, 1988, with the Alterations Introduced by Constitutional Amendments No 1/92 through 72/2013 and by Revision Constitutional Amendments No 1/94 through 6/94* (2013) <http://www2.senado.leg.br/bdsf/handle/id/243334> accessed April 2026.
[46] Lei Complementar No 150, de 1 de junho de 2015, *Que Dispõe sobre o Contrato de Trabalho Doméstico* (Brazil, 2015) <http://bd.camara.gov.br/bd/handle/bdcamara/23179> accessed March 2026.
[47] Basic Conditions of Employment Act 75 of 1997 (South Africa), Sectoral Determination 7: Domestic Worker Sector, Government Gazette No 24356 (18 August 2002), as amended by the Amendment of Sectoral Determination 7, Government Gazette No 45820 (17 November 2021).
[48] Unemployment Insurance Act 63 of 2001 (South Africa), as amended by the Unemployment Insurance Amendment Act 32 of 2003.
[49] *Mahlangu v Minister of Labour* 2021 (2) SA 54 (CC).

Mediation and Arbitration's 2022–23 Annual Report documents 8,247 domestic worker disputes adjudicated, representing a 9.2% increase from the prior year, with 68% resolved in favour of workers.[50] This data evidences both improved access to formal dispute resolution and institutional responsiveness.

5.2 Brazil

Brazil's Constitutional Amendment No. 72 (2013)[51] and Complementary Law No. 150 (2015)[52] extended full labour rights to domestic workers. The most recent data from the Brazilian Institute of Geography and Statistics documents transformative impact: as of 2023, 72% of Brazil's 5.8 million domestic workers have formal employment contracts with social security contributions, compared to 18% pre-reform in 2013.[53]

Enforcement has been vigorous. The Ministry of Public Labour's 2023 Activity Report documents enforcement actions securing BRL 127 million in back wages and social security contributions for domestic workers.[54] Brazil's electronic registration system (eSocial Doméstico) simplifies employers' compliance with tax, social security, and FGTS obligations through a single digital platform, a model India could adapt to enhance the e-Shram portal. Brazil's experience demonstrates that comprehensive legislative reform, supported by simplified compliance mechanisms and robust enforcement, can achieve formalisation at scale.

6. Conclusion and Suggestions

The invisibility of women domestic workers in India's legal landscape violates the Constitution's transformative promise. Articles 14, 15, 21, and 23 collectively mandate that the State extend meaningful protection to one of the most vulnerable workforces. The exclusion of domestic workers from the Code on Wages, the 5.9% registration rate on e-Shram despite an estimated 4.89 million workers, the absence of functional Local Complaints Committees in 48% of districts, and the 91.2% sub-minimum wage rate documented in PLFS 2022–23 constitute not merely policy failures but constitutional violations.

Recent Supreme Court decisions, *Shanti v State of Haryana* on minimum wage coverage, *X v Principal Secretary* on sexual harassment enforcement, and the ongoing *National Domestic Workers Movement* proceedings, evidence judicial recognition of this constitutional deficit. South Africa's *Mahlangu* decision extending occupational injury compensation and Brazil's achievement of 72% formalisation post-reform demonstrate that comprehensive legislative intervention, supported by simplified compliance mechanisms and robust enforcement, can transform domestic workers' status from invisibility to constitutionally protected status.

[50] Commission for Conciliation, Mediation and Arbitration, *Annual Report 2022–23* (2023) 67 (documenting 8,247 domestic worker disputes adjudicated in 2022–23, representing 9.2% increase from prior year; 68% resolved in favour of workers).
[51] Emenda Constitucional No 72, de 2 de abril de 2013, DOU 3 April 2013 (Brazil).
[52] Lei Complementar No 150, de 1 de junho de 2015, DOU 2 June 2015 (Brazil).
[53] Instituto Brasileiro de Geografia e Estatística, *Pesquisa Nacional por Amostra de Domicílios Contínua: Características Adicionais do Mercado de Trabalho 2023* (IBGE, 2024).
[54] Ministério Público do Trabalho, *Relatório de Atividades 2023* (2024) 89.
[55] *Navtej Singh Johar v Union of India* (2018) 10 SCC 1 [93].

The constitutional morality articulated in *Navtej Singh Johar v Union of India*,[55] requiring the State to honour the transformative promise of fundamental rights for every person, demands action. The 4.89 million women sustaining Indian households deserve the Constitution's protection. The evidence is unambiguous: 87.4% without contracts, 91.2% at sub-minimum wages, 94.1% unregistered for social security, 72% unemployed during pandemic lockdowns, with 84% receiving no support. These are not statistics; they represent the daily lived conditions of millions whose essential labour remains legally invisible.

Thus, the foregoing analysis reveals a consistent pattern that the legal exclusion of women domestic workers from fundamental labour protections is not merely a policy choice but a constitutional infirmity that admits of no satisfactory justification under Articles 14, 15, 21, or 23. Five categories of legislative and administrative intervention are proposed.

First, a dedicated central statute for domestic work is necessary. Such legislation should provide: a comprehensive definition of 'domestic worker' encompassing all persons employed in a private household for remuneration; mandatory written employment contracts enforceable in labour courts; minimum wage protection at or above the national floor wage; regulation of working hours, overtime compensation, and weekly rest; annual leave entitlements; and comprehensive anti-harassment provisions with functional enforcement mechanisms specifically designed for household employers.

Second, the Code on Social Security, 2020, should be amended to include specific, self-executing provisions for domestic workers. These should include portability of social security benefits across multiple simultaneous or sequential employers (reflecting the typical multi-employer working pattern); mandatory employer contribution obligations enforced through a simplified registration system; and access to the Employees' State Insurance Scheme for medical benefits. The e-Shram registration system should be made mandatory for all domestic employment relationships, with simplified procedures and positive incentives for employer compliance.

Third, a dedicated domestic work tribunal, or an expanded and accessible mandate for existing district-level labour courts, should be established to adjudicate disputes arising from domestic employment relationships. The significant informality and power asymmetry inherent in these relationships make ordinary civil litigation an inadequate remedy for most domestic workers. A specialised tribunal with suo motu powers of investigation, simplified procedural rules, and automatic legal aid support for unrepresented domestic workers is essential to make rights effective rather than merely nominal.

Fourth, Local Complaints Committees under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, should be constituted in every district, with adequate funding and staffing, and sustained public awareness campaigns targeting both domestic workers and their employers. The National Commission for Women should be granted statutory powers to inspect LCC records, receive complaints of LCC non-constitution, and impose penalties on District Officers who fail to comply with their obligations under the Act.

Fifth, India should ratify ILO Convention No. 189. Ratification would not merely create international monitoring obligations but would signal an unambiguous political commitment to treating domestic work as work deserving of equal legal protection. It would further trigger the ILO's technical assistance mechanisms, which have supported domestic worker rights reforms

in more than twenty countries, and facilitate peer learning from comparator jurisdictions such as South Africa and Brazil.

Comprehensive reform is long overdue. A central Domestic Workers (Regulation and Social Protection) Act, mandatory social security with portable benefits, specialised tribunals with accessible procedures, universal Local Complaints Committee coverage, and ratification of ILO Convention No. 189 are not aspirational policy goals but constitutional imperatives. The transformation from invisible labour to constitutional rights requires legislative courage, institutional investment, and unwavering commitment to constitutional morality. The Indian Constitution demands nothing less; the 4.89 million women domestic workers deserve nothing less; and the transformative promise of 1950 will remain unfulfilled until this demand is met.

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