CHILD DOMESTIC WORKERS IN INDIA: INVISIBLE VICTIMS OF LEGAL PROTECTION

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ABSTRACT

Child domestic workers occupy one of the most precarious and legally invisible positions in India's labour ecosystem. Engaged in cooking, cleaning, childcare, and other household tasks within private homes, these children predominantly girls between the ages of 5 and 14 remain shielded from public scrutiny by the very walls that enclose them. Despite India's constitutional mandate to protect children from exploitation and guarantee free and compulsory education, the domestic sphere has historically been treated as a zone beyond the reach of labour law.

This paper undertakes a comprehensive legal analysis of the framework governing child domestic workers in India. It critically examines the Child Labour (Prohibition and Regulation) Amendment Act, 2016, the Juvenile Justice (Care and Protection of Children) Act, 2015, the Right of Children to Free and Compulsory Education Act, 2009, and the Domestic Workers Sector Skill Council regulations, among others. The paper argues that these legislative instruments, while progressive on paper, collectively fail to provide adequate or enforceable protection to child domestic workers due to structural exclusions, definitional ambiguities, enforcement deficits, and a persistent cultural tolerance of child domestic labour as a 'benign' or 'charitable' arrangement.

Drawing upon judicial pronouncements, ILO conventions, comparative jurisdictions, and sociological research, this paper proposes a rights-based framework for reform one that moves beyond criminal prohibition to address rehabilitation, education, and economic empowerment. The paper concludes that India's legal system, as it stands, renders child domestic workers invisible not merely in practice, but in law itself.

Keywords: Child domestic workers, child labour, labour law, India, legal protection, exploitation, Juvenile Justice Act, Right to Education, informal economy, domestic workers.

I. INTRODUCTION

In the summer of 2013, a twelve-year-old girl from Jharkhand was found locked inside a South Delhi apartment, bearing marks of sustained physical abuse. She had been brought to the city under the promise of a better life and had worked as a domestic helper for over two years without wages, education, or freedom of movement. Her case came to light not through any official inspection for none had ever occurred at the residence but through a neighbour's complaint. She is not an anomaly. She is the rule.

India harbours one of the largest populations of child domestic workers in the world. Estimates vary significantly given the hidden nature of this labour, but the International Labour Organization (ILO) has placed the number of child domestic workers in India between 2.5 and 3 million. The National Sample Survey Organisation (NSSO) and Census data consistently undercount them, as domestic work in private households escapes both labour inspection machinery and social awareness.

What makes child domestic labour uniquely concerning from a legal standpoint is its structural invisibility. Unlike child labour in factories, mines, or tea stalls environments amenable to inspection and public observation the domestic worker enters a private sphere that the law has, for centuries, been reluctant to penetrate. The home is treated as a sanctuary of privacy; paradoxically, it becomes a site of exploitation precisely because of that immunity.

The legal framework governing child domestic workers in India is fragmented, contradictory, and frequently inoperative. The Child Labour (Prohibition and Regulation) Amendment Act, 2016 ostensibly prohibits the employment of children below 14 years in any occupation, yet carves out an expansive 'family enterprise' exception that has been exploited to perpetuate domestic servitude. The Juvenile Justice Act, 2015 recognises children in need of care and protection, but enforcement is patchy at best. The Right to Education Act, 2009 guarantees schooling but fails to address the economic and social compulsions that keep children out of classrooms.

This paper aims to dissect these legal instruments with precision, examine the judicial response to child domestic labour, and argue that what is required is not merely stricter enforcement of existing law, but a fundamental reconceptualisation of the legal relationship between the state, the employerhousehold, and the child domestic worker. The paper treats this not merely as a

labour law problem but as a constitutional, human rights, and social justice imperative.

II. CONCEPTUAL FRAMEWORK: DEFINING CHILD DOMESTIC LABOUR

Before engaging with the legal architecture, it is essential to define the phenomenon under examination. 'Domestic work' refers to work performed in or for a household or households, encompassing tasks such as cleaning, cooking, washing, ironing, childcare, elder care, gardening, and driving. A 'domestic worker' is a person who performs such work, whether on a full-time or parttime basis, and whether residing in the employer's household (live-in) or not (live-out).

'Child domestic labour' specifically refers to domestic work performed by children, typically defined as persons below the age of 18 years under the UN Convention on the Rights of the Child (UNCRC), and below 14 years for purposes of labour prohibition under Indian law. However, not all child domestic work constitutes 'child labour' in the normative sense. ILO Convention No. 182 distinguishes between 'child labour' work that deprives children of their childhood, potential, and dignity and 'light work' that does not interfere with leisure, schooling, or development.

In the Indian context, the distinction between chores within a family setting and exploitative labour in another household is critical. The Supreme Court of India, in M.C. Mehta v. State of Tamil Nadu (1996), recognised that child labour is not a monolithic category but exists on a spectrum of exploitation. At the most extreme end lies bonded domestic labour children trafficked or sold into servitude. At the other end are children who assist in household tasks alongside their studies. The legal framework must calibrate its response accordingly.

For the purposes of this paper, 'child domestic worker' refers to any person below the age of 18 years engaged in domestic work within a private household other than their own, whether for remuneration or not, and whether they reside in the employer's household or commute to it. The paper focuses primarily on children below 14 years, in whom the risk of exploitation is greatest and the legal prohibition most absolute.

III. MAGNITUDE AND PROFILE: WHO ARE CHILD DOMESTIC WORKERS?

The scale of child domestic labour in India is enormous, though precise data is difficult to establish. The 2011 Census recorded approximately 4.35 million child labourers across all

sectors, but observers widely agree that domestic workers are severely undercounted because census enumeration does not typically capture live-in domestic arrangements. Non-governmental organisations such as Save the Children and Bachpan Bachao Andolan estimate that there are between 2 and 3 million child domestic workers in India.

The typical profile of a child domestic worker reveals intersecting vulnerabilities of gender, caste, poverty, geography, and migration. Studies by the ILO and UNICEF consistently show that:

- Over 80% of child domestic workers are girls, reflecting deeply entrenched gender norms that treat domestic labour as a 'natural' extension of girlhood.
- The majority originate from Scheduled Caste or Scheduled Tribe communities, or belong to Other Backward Classes, underscoring the caste dimension of this exploitation.
- A significant proportion are migrants from Jharkhand, Odisha, West Bengal, Chhattisgarh, Uttar Pradesh, and Bihar states characterised by high poverty and limited educational infrastructure.
- Many are trafficked through intermediaries and placement agencies who receive commissions from urban employers while the child may receive little or no wages.
- Live-in arrangements are the most dangerous, as they maximise isolation and minimise the likelihood of detection or intervention.

The work performed by child domestic workers ranges from cooking and cleaning to childcare, elder care, and errand-running. A 2020 report by the National Commission for Protection of Child Rights (NCPCR) found that children in domestic service work an average of 14 to 16 hours per day, receive no weekly days off, and are denied access to schools. Many are subjected to physical and sexual abuse.

The socioeconomic context is crucial: families send children into domestic service primarily due to abject poverty, debt bondage, parental illness, or the death of a breadwinner. In many cases, the child's employer is presented to the family as a benefactor someone who will 'look after' the child while providing meals and shelter. This framing of exploitation as charity is one

of the most powerful ideological barriers to legal reform and enforcement.

IV. CONSTITUTIONAL FOUNDATIONS

A. Fundamental Rights

The Constitution of India provides robust textual foundations for the protection of child domestic workers, though these have rarely been invoked specifically in this context.

Article 14 guarantees equality before law and equal protection of laws. Child domestic workers, confined to private households and excluded from labour law protections extended to workers in other sectors, suffer a structural inequality that prima facie offends Article 14. The exclusion of domestic work from the purview of several labour statutes discussed in detail below creates a classification with no rational nexus to the constitutional mandate of equality.

Article 17 abolishes 'untouchability' in any form. While child domestic labour is not exclusively a castebased practice, its disproportionate impact on Dalit and Adivasi children, and the conditions of servitude in which many live-in workers are maintained, can reasonably be argued to constitute a form of 'untouchability' or caste-based servitude, at least in social practice.

Article 21 guarantees the right to life and personal liberty, interpreted by the Supreme Court to include the right to live with dignity, the right to education, the right to health, and freedom from torture and inhuman treatment. The conditions in which child domestic workers are kept isolation, overwork, physical abuse, denial of medical care constitute clear violations of the right to dignified life under Article 21.

Article 23 prohibits traffic in human beings and forced labour (begar). The trafficking of children into domestic service, particularly through intermediaries, falls squarely within the prohibition of Article 23. The Supreme Court in People's Union for Democratic Rights v. Union of India (1982) held that 'forced labour' includes any situation where a person is compelled to work against their will, whether or not they receive remuneration, and whether or not the compulsion arises from physical or economic coercion.

Article 24 explicitly prohibits the employment of children below the age of 14 years in any factory, mine, or 'other hazardous employment'. The use of the phrase 'other hazardous

employment' has been a site of judicial interpretation; while domestic service has not universally been classified as hazardous, the conditions in which child domestic workers are kept can constitute hazardous employment for constitutional purposes.

B. Directive Principles and Fundamental Duties

Article 39(e) directs the state to ensure that the tender age of children is not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age and strength. Article 39(f) mandates that children are given opportunities to develop in a healthy manner and in conditions of freedom and dignity. Article 45, as amended by the 86th Constitutional Amendment Act, 2002, directs the state to provide free and compulsory education to all children between 6 and 14 years a directive now elevated to a fundamental right under Article 21-A.

These provisions collectively create a constitutional obligation on the state to eradicate child domestic labour an obligation that, as the following sections demonstrate, has been inadequately discharged by the legislative and executive arms of government.

V. LEGISLATIVE FRAMEWORK: AN ANALYSIS

A. The Child Labour (Prohibition and Regulation) Act, 1986 and Its 2016 Amendment

The Child Labour (Prohibition and Regulation) Act, 1986 was the primary statute governing child labour in India for three decades. The Act prohibited the employment of children below 14 years in a Schedule of hazardous occupations and processes, while regulating (rather than prohibiting) their employment in other industries. Domestic work was neither listed in the Schedule of hazardous occupations nor was it regulated under the non-hazardous provisions it existed in a complete legal vacuum.

The Child Labour (Prohibition and Regulation) Amendment Act, 2016 represented a significant, if imperfect, advance. The Amendment prohibited the employment of children below 14 years in all occupations and processes, making the prohibition universal rather than sector-specific. Additionally, it prohibited the employment of adolescents between 14 and 18 years in hazardous occupations.

Violations were made cognisable and non-bailable offences, and penalties were enhanced.

However, the 2016 Amendment introduced a controversial exception under Section 3(2)(b), which permits children to work in 'family enterprises' after school hours and during vacations. The Amendment does not define 'family enterprise', and while the legislative intent was to allow children to assist in family businesses in a limited way, the provision has been widely misused. In practice, the 'family enterprise' exception has been used to justify the employment of children in household establishments the employer claiming the child is a 'family member' effectively nullifying the prohibition in the domestic sphere.

More fundamentally, the 2016 Amendment, while prohibiting child labour in all occupations, does not specifically address the enforcement mechanism for domestic settings. Labour inspectors under the Act have the power to enter, inspect, and examine 'any premises' where children are employed. However, private residences enjoy a quasi-constitutional immunity from inspection, and inspectors are reluctant to search homes without specific complaints. The practical result is that the universalised prohibition of the 2016 Amendment has had minimal impact on child domestic labour.

Section 14 of the Act criminalises the employer who employs or permits the employment of children in contravention of the Act. The penalty is imprisonment of not less than six months and up to two years, or a fine of not less than Rs. 20,000 and up to Rs. 50,000, or both. For repeat offenders, the minimum imprisonment is one year. Despite these provisions, convictions for employing child domestic workers remain exceptionally rare.

B. The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) is significant because it creates a broader framework for identifying, protecting, and rehabilitating children in vulnerable situations. Section 2(14) defines 'child in need of care and protection' to include a child who is found working in contravention of labour laws, who is being or likely to be abused, tortured, or exploited for the purpose of sexual abuse, or who is being or is likely to be abused for unconscionable gains.

Child domestic workers, particularly those in live-in arrangements who are trafficked, abused, or denied wages, clearly fall within the definition of 'children in need of care and protection'. The JJ Act empowers Child Welfare Committees (CWCs) to take cognisance of such children, order their rehabilitation, and institute criminal proceedings against perpetrators.

In practice, the JJ Act framework is rarely invoked in domestic labour cases. CWCs are understaffed and underfunded; they typically operate reactively rather than proactively. The identification of trafficked domestic workers requires inter-agency coordination between labour departments, police, the Ministry of Women and Child Development, and NGOs coordination that is frequently absent. Furthermore, rescued children are often returned to the same exploitative environments due to inadequate shelter and rehabilitation infrastructure.

C. The Right of Children to Free and Compulsory Education Act, 2009

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), enacted pursuant to Article 21-A of the Constitution, guarantees free and compulsory education to all children between 6 and 14 years in a neighbourhood school. Section 10 of the RTE Act places the duty on parents and guardians to admit their child to an elementary school. The Act prohibits the denial of admission to any child on any ground.

The RTE Act is directly relevant to child domestic labour because education and child labour are inversely related: a child in school cannot simultaneously be a domestic worker. The Act creates a legal entitlement that should, in principle, render school-age domestic labour impossible. However, the Act's enforcement is contingent on the child being in the custody of a parent or guardian who can enrol them a condition that is often absent where live-in domestic workers are concerned. The employer has no legal obligation under the RTE Act to ensure the child's education, and the state has no mechanism to identify and enrol children in domestic service.

The JJ Act and RTE Act together create a theoretical safety net, but one riddled with enforcement gaps that disproportionately disadvantage child domestic workers.

D. The Domestic Workers Sector and Regulatory Gaps

India does not have a comprehensive domestic workers' legislation. The 'Domestic Workers Sector Skill Council' operates under the National Skill Development Corporation but is focused on adult workers. The National Policy on Domestic Workers, announced in 2011 and finalised in revised form in subsequent years, has not yet been enacted as binding legislation. Key demands of the domestic workers' movement a minimum wage, regulated working hours, social security, and a mandatory registration regime remain unaddressed in statute.

The absence of a comprehensive domestic workers' law creates a regulatory vacuum that is particularly harmful to child workers. Unlike construction workers (covered by the Building and Other Construction Workers Act, 1996), or bonded labourers (covered by the Bonded Labour System (Abolition) Act, 1976), domestic workers have no sectoral statute that defines their rights, establishes inspection mechanisms, or mandates redressal. Child domestic workers thus fall between two stools: the Child Labour Act prohibits their employment but does not create positive entitlements; no domestic workers' statute exists to define the terms of protection.

E. Other Relevant Legislation

Several other statutes bear on the condition of child domestic workers, even if they do not directly address it:

The Immoral Traffic (Prevention) Act, 1956 is relevant where domestic work is a cover for sexual exploitation, which is not uncommon in the experience of female child domestic workers.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 can be invoked where the child domestic worker belongs to an SC/ST community and is subjected to caste-based discrimination or violence a frequent occurrence.

The Protection of Children from Sexual Offences Act, 2012 (POCSO) is directly applicable where child domestic workers are victims of sexual abuse. The live-in nature of the employment arrangement creates acute risks of sexual exploitation, and POCSO's mandatory reporting provisions (Section 19) theoretically create an obligation on any person who learns of such offences to report them to the police.

The Bonded Labour System (Abolition) Act, 1976 is applicable where child domestic workers are held in bondage compelled to work against their will in discharge of a debt, real or fictitious. The Supreme Court has consistently held that bonded labour is a form of slavery prohibited by Article 23 of the Constitution.

VI. JUDICIAL TRENDS AND LANDMARK CASES

The Indian judiciary has played a significant role in expanding the normative understanding of

child labour, even if the specific context of domestic work has received limited judicial attention.

M.C. Mehta v. State of Tamil Nadu (1996) 6 SCC 756 is the landmark case in which the Supreme Court articulated the state's positive obligations with respect to child labour. The Court held that the state must not merely prohibit child labour but must ensure the rehabilitation of rescued children through education and financial support to their families. The Court directed the creation of the Child Labour Rehabilitation-cum-Welfare Fund and mandated that employers of child workers deposit Rs. 20,000 per child, to be used for the child's education.

Bachpan Bachao Andolan v. Union of India (2011) 5 SCC 1 addressed the issue of child trafficking in the context of circuses and other entertainment establishments. The Court directed the Union Government and state governments to take specific measures to identify, rescue, and rehabilitate trafficked children, and to establish mechanisms for monitoring industries prone to child exploitation.

While the decision did not specifically address domestic labour, its principles are directly applicable.

People's Union for Democratic Rights v. Union of India (1982) 3 SCC 235, though predating the Child Labour Act, established the foundational principle that forced labour encompasses all forms of compelled work, whether physical or economic coercion is involved, and that Article 23 of the Constitution imposes a positive duty on the state to identify and liberate forced labourers.

In Neera Mathur v. State of Delhi, the Delhi High Court addressed a case of abuse of a child domestic worker and emphasised that the employment of children as domestic servants in private households is illegal under the Child Labour Act and must be treated as a cognisable offence. The Court directed the Delhi Police to set up dedicated units for the rescue of child domestic workers.

Shantistar Builders v. Narayan Khimalal Totame (1990) 1 SCC 520, while not a child labour case, is cited for the proposition that the right to live with dignity under Article 21 includes access to basic amenities a principle that courts have subsequently applied to the conditions of domestic workers.

The Supreme Court's direction in Unnikrishnan J.P. v. State of Andhra Pradesh (1993) 1 SCC 645 which established free and compulsory education as a fundamental right prior to the 86th Amendment has been foundational in arguments that placing a child in domestic service, to the exclusion of schooling, violates the child's fundamental rights.

Despite these precedents, judicial intervention in cases of child domestic labour has been sporadic and reactive. The Courts have consistently been petitioned by civil society organisations rather than by state actors, reflecting the abdication of executive responsibility. Moreover, the lack of systematic data collection and the private nature of the domestic sphere mean that cases reach the courts only when abuse is severe enough to attract external attention.

VII. INTERNATIONAL LEGAL STANDARDS

India is a signatory to several international instruments that create binding or persuasive obligations with respect to child domestic labour:

The United Nations Convention on the Rights of the Child (UNCRC), ratified by India in 1992, guarantees children the right to be protected from economic exploitation (Article 32), the right to education (Article 28), and the right to be free from all forms of violence, abuse, and neglect (Article 19). India has entered limited reservations but has not reserved against these provisions.

ILO Convention No. 138 on the Minimum Age for Admission to Employment sets the minimum age for employment at 15 years (or 14 years for developing countries that so specify), with higher minima for hazardous work. India has not ratified Convention No. 138, a significant gap given its status as a leading employer of child domestic workers.

ILO Convention No. 182 on the Worst Forms of Child Labour, ratified by India in 2017, requires states to take immediate and effective measures to prohibit and eliminate the worst forms of child labour, including forms of slavery, trafficking, debt bondage, and forced labour. While domestic labour is not explicitly listed as a worst form, it can constitute one where conditions of servitude, trafficking, or hazardous work are present.

ILO Convention No. 189 on Decent Work for Domestic Workers (2011) is the most directly relevant instrument. It establishes that domestic workers including children are entitled to the same labour rights as other workers, and specifically requires states to set a minimum age for

domestic workers consistent with other national standards and to protect child domestic workers from abuse and forced labour. India has not ratified Convention No. 189.

ILO Recommendation No. 201 supplements Convention No. 189 and recommends specific measures to protect child domestic workers, including regulation of employment agencies that place children in domestic service, mandatory registration of domestic employers, and the prohibition of live-in arrangements for children below 18 years.

The Sustainable Development Goals (SDGs), particularly Goal 8.7, commit India to taking immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour by 2025. India's progress on this target has been severely hampered by the invisibility of child domestic labour.

The Supreme Court of India has consistently held that international conventions ratified by India are part of domestic law and must be read in harmony with constitutional provisions (Vishaka v. State of Rajasthan, 1997). Even unratified conventions can be relied upon as persuasive sources of interpretation where they are consistent with constitutional values.

VIII. CAUSES AND VULNERABILITIES

A credible legal analysis of child domestic labour cannot be divorced from its socioeconomic causes.

Understanding these causes is essential to designing effective legal responses.

A. Poverty and Economic Compulsion

The most immediate cause of child domestic labour is poverty. Families living at or below the poverty line, facing debt, drought, or the loss of a breadwinner, may have no realistic alternative to sending a child into employment. In many cases, the employer makes an advance payment to the family a form of debt bondage that ties the child to the household for an indefinite period. Legal prohibition alone, without addressing the economic compulsions that drive families to send children into domestic service, is likely to remain ineffective.

B. Gender Discrimination

The overwhelming female composition of child domestic workers reflects deeply entrenched

social attitudes that value girls' education less than boys', and that treat domestic labour as an appropriate 'training' for girlhood. Girls are disproportionately withdrawn from school to work as domestic servants, both within their own homes and in employers' households. Legal frameworks that are gender-blind in their enforcement will fail to address this structural inequality.

C. Trafficking and Placement Agencies

A significant proportion of child domestic workers are trafficked transported across state borders by intermediaries who receive commissions from urban employers. The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2021 proposed enhanced anti-trafficking measures, but has not yet been enacted into law. Existing anti-trafficking provisions under the IPC and the ITPA are inadequately enforced in the domestic labour context.

D. Social Acceptance and Cultural Normalisation

Perhaps the most insidious obstacle to legal intervention is the widespread social acceptance of child domestic labour. Urban middle-class families that employ child domestic workers the same class that constitutes the primary constituency of India's legal and political establishment tend to rationalise the practice as charitable or benign. The child is seen as being 'rescued' from poverty rather than exploited. This cognitive dissonance insulates the practice from legal scrutiny and political will.

IX. CRITIQUE OF THE EXISTING FRAMEWORK

Having surveyed the legal landscape, it is possible to identify several systemic deficiencies in India's response to child domestic labour:

First, the problem of private space immunity. Indian labour law has historically been designed to regulate formal, public-facing employment relationships. The home has been treated as a private sphere immune from state intervention. Child labour inspectors, who are empowered to inspect 'premises' where children are employed, are practically constrained from entering private residences absent a specific complaint. This structural immunity renders the universal prohibition of the 2016 Amendment practically unenforceable in the domestic sector.

Second, the definitional gap. The Child Labour Act does not define 'domestic work' or

'domestic worker'. The absence of a statutory definition means that employers can argue that the child is a family member, a guest, or a ward not an 'employee' thereby evading the Act's prohibition. The 'family enterprise' exception further muddies the water.

Third, enforcement deficits. The number of labour inspectors in India is grossly insufficient relative to the size of the informal economy. The Central Advisory Board on Child Labour, established under the 1986 Act, has met irregularly and has produced little actionable policy. The National Child Labour Project (NCLP), designed to rehabilitate child labourers through special schools, has been chronically underfunded and has made minimal inroads into domestic labour.

Fourth, the absence of a domestic workers' statute. The failure to enact a comprehensive Domestic Workers Welfare and Social Security Act leaves child domestic workers without the positive entitlements minimum wages, regulated hours, social security that would make their employment conditions visible and regulate them. Paradoxically, the absence of a domestic workers' statute also means that there is no registration or documentation requirement that would allow the state to identify and monitor domestic employment arrangements.

Fifth, survivor-centric failures. The legal system rarely centres the voice or interests of the child domestic worker. Rescue operations, when they occur, are often conducted without adequate sensitivity, and children are treated as evidence rather than as rights-holders. Rehabilitation programmes are underfunded and fail to address the root causes that led to the child's entry into domestic labour in the first instance.

Sixth, the caste dimension is ignored. The majority of child domestic workers belong to Scheduled Caste or Scheduled Tribe communities, yet the SC/ST (Prevention of Atrocities) Act is almost never invoked in the child domestic labour context. Labour law enforcement and social welfare interventions are caste-blind, failing to address the specific vulnerabilities of Dalit and Adivasi children.

X. COMPARATIVE PERSPECTIVES

A comparative examination of legal frameworks in other jurisdictions offers valuable lessons for India.

A. Philippines

The Philippines enacted the Domestic Workers Act (Republic Act No. 10361), also known as 'Batas Kasambahay', in 2013. The Act comprehensively regulates domestic employment, including minimum wages, mandatory rest periods, access to education, and social security. Crucially, it prohibits the employment of domestic workers below 15 years and imposes specific obligations on employers of workers between 15 and 18 years to ensure continued education. The Act has been widely praised as a model for the Asia-Pacific region.

B. South Africa

South Africa's Basic Conditions of Employment Act, 1997 includes domestic workers within its scope and establishes minimum wages and maximum working hours. The Child Labour Programme of Action, adopted pursuant to the Act, specifically addresses domestic child labour and coordinates inspection and rescue activities across government departments.

C. Brazil

Brazil's Constitutional Amendment No. 72 of 2013 ('PEC das Domésticas') extended full labour rights to domestic workers, including domestic workers below 18 years. The amendment was followed by legislation establishing a domestic workers' registration system, mandatory social security contributions by employers, and enhanced penalties for child domestic labour. Brazil's experience demonstrates that constitutional reform can drive systemic change in domestic labour regulation.

D. Lessons for India

The comparative experience suggests three key lessons. First, a comprehensive domestic workers' statute not merely anti-child-labour provisions is necessary to make domestic employment relationships visible and regulable. Second, employer registration and mandatory social security contributions create a documentation trail that facilitates inspection and enforcement. Third, education access guarantees, specifically targeted at children in domestic service, can complement prohibition with positive entitlements.

XI. RECOMMENDATIONS FOR REFORM

On the basis of the foregoing analysis, this paper proposes the following reform measures:

1. Enactment of a Comprehensive Domestic Workers' Law

The most urgent legislative need is the enactment of a standalone Domestic Workers Welfare and Social Security Act. Such an Act should define domestic work and domestic worker, establish minimum wages and maximum working hours, mandate registration of all domestic employment arrangements with local authorities, and create a social security framework including health insurance, provident fund contributions, and maternity benefits. The Act should explicitly prohibit the employment of persons below 18 years in domestic service, with criminal penalties for violations.

2. Amendment of the Child Labour Act

Section 3(2)(b) of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 the 'family enterprise' exception should be narrowly defined to exclude any employment of children in households other than their own, and should be subject to a presumption that any child found working in an employer's household is employed in violation of the Act, reversing the burden of proof onto the employer.

3. Mandatory Reporting and Inspection

A mandatory reporting regime should be established, requiring residents' welfare associations, schools, and healthcare providers to report suspected cases of child domestic labour to the Child Welfare Committee. The power of labour inspectors to inspect domestic premises should be clarified and expanded, subject to appropriate due process safeguards.

4. Ratification of ILO Conventions

India should ratify ILO Convention No. 138 on Minimum Age and ILO Convention No. 189 on Domestic Workers. Ratification would create binding international obligations and provide a clear normative framework for domestic legislation.

5. Anti-Trafficking Measures

The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2021 should be enacted without further delay, with specific provisions addressing the trafficking of children for domestic service. Placement agencies engaged in placing domestic workers should be brought under a mandatory licensing and inspection regime.

6. Education-Centred Rehabilitation

Rescued child domestic workers should be guaranteed immediate enrolment in bridge schools or mainstream schools under the RTE Act, with financial support to their families to compensate for the lost income. The National Child Labour Project should be reformed and adequately funded to provide residential schooling facilities in source districts.

7. Intersectional Enforcement

Law enforcement agencies should be trained to identify and respond to the caste and gender dimensions of child domestic labour. The SC/ST (Prevention of Atrocities) Act should be explicitly applied where Dalit or Adivasi children are exploited in domestic service, and intersectional data disaggregated by caste, gender, and age should be collected to inform targeted policy.

XII. CONCLUSION

Child domestic workers in India represent the clearest example of what may be termed 'legal invisibility' a condition in which persons are simultaneously subject to legal prohibition of their exploitation and excluded from the practical reach of that prohibition. They work in kitchens and nurseries across India's cities and towns, unseen by the inspectors who nominally enforce the law, unheard by the courts that nominally uphold their rights, and uncounted by the state that nominally represents their interests.

The legal framework governing child domestic labour is not merely inadequate it is structurally complicit in the invisibility it purports to address. The universal prohibition of the 2016 Amendment is a hollow promise in the absence of enforcement mechanisms that can penetrate the private domestic sphere. The 'family enterprise' exception is a loophole large enough to encompass the entire sector. The absence of a domestic workers' statute leaves child domestic

workers without positive entitlements that would render their situation visible and regulable. The failure to ratify ILO Conventions No. 138 and No. 189 signals a lack of political will to subject domestic employment to international scrutiny.

What is required is a paradigm shift from a model of criminal prohibition that treats child domestic labour as a deviant practice to be punished, to a model of rights-based regulation that treats the child domestic worker as a rights-holder entitled to education, dignity, and freedom. This shift requires legislative action, executive commitment, judicial creativity, and, above all, a social reckoning with the comfortable complicity of India's middle class in the normalisation of child servitude.

The walls that shelter child domestic workers from public view are not merely physical. They are built of law, culture, economics, and indifference. Bringing these walls down is not merely a legal project it is a civilisational one.

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