

Legal Recognition and Protection of Unpaid Domestic Labour in India: A Constitutional and Feminist Analysis

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ABSTRACT

Despite being one of the most significant forms of labor in society, unpaid domestic work is frequently disregarded as legitimate employment. Even if it is unpaid, it maintains households, looks after family members, and contributes to the development of society and the economy. Cooking, cleaning, caring for young people and the elderly, providing emotional support, and running the house are all included in this work. Due to traditional family structures in which women take care of the home and men earn money, women typically perform this labor. This labor has no legal or financial value since it is viewed as a responsibility rather than a skilled endeavor. For this labor, women are not paid, get social security, or have legal protections.

This essay investigates whether India should recognize and protect unpaid domestic labor under the law. It examines the problem from the perspectives of feminism, the idea of labor rights, and constitutional ideals like equality and decency. According to the report, the legal system primarily values jobs that generate pay in the market, which is why housework is still not considered actual employment. Because it takes place in the family's private area, household chores like cooking, cleaning, and providing care are neglected. The home is frequently viewed by the law as a private space where labor laws do not apply. As a result, women's unpaid domestic labor is unreported, and their unequal treatment persists without adequate legal redress.

However, in reality, it can be challenging to assign precise compensation for housework. However, this does not imply that the law should disregard it. It will take some time for laws and regulations to acknowledge the importance of domestic work to society. Support networks such as social security programs, financial stability, and legal recognition for stay-at-home moms should be established by governments. Ultimately, acknowledging unpaid domestic work can result in significant improvements. It can support the development of a legal system

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that values human relationships, care, and dignity and views these as vital components of society rather than as unnoticed obligations.

Keywords: Unpaid housework, Care work at home, Women's rights and law, Right to equality (Article 14), Right to life and dignity (Article 21), Fairness in society, Equal rights for men and women.

INTRODUCTION

In India, marriage and family life have traditionally been structured so that women perform the majority of the caregiving and housework without receiving compensation. Cooking, cleaning, child care, elder care, and emotional support are all typically performed by women. All of this work helps raise the next generation and keeps the house operating. The legal system and society frequently do not consider this employment to be legitimate, despite the fact that it is crucial for the family and the nation's economy. Indian laws mostly see only paid jobs as employment because they were shaped by antiquated structures and male-dominated thought. As a result, housework and caregiving are not given the required recognition, legal worth, or protection⁵⁷⁶.

Why domestic work is disregarded has been a topic of intense feminist inquiry. They claim that undervaluing caregiving and housework perpetuates gender inequality and renders women economically reliant. Cooking, cleaning, and providing care are frequently viewed by society as a woman's innate responsibility or family duty rather than as legitimately specialized jobs. The law keeps work and home life apart as a result of this way of thinking. This shields the system that gains from women's unpaid labor while concealing the hard effort they perform at home⁵⁷⁷.

According to authors like Flavia Agnes, women's economic contribution within marriage is essentially invisible due to societal customs and family regulations. Despite managing the household and providing for the family, women's labor is not recognized as a financial contribution. According to Martha Nussbaum, women lose their freedom, chances, and dignity when care labor is not acknowledged. Because their labor has no legal economic worth, they

⁵⁷⁶ Flavia Agnes, *Law and Gender Inequality* (1999).

⁵⁷⁷ Martha C. Nussbaum, *Women and Human Development* (2000)

have less influence over their life. Even though domestic work doesn't pay well, it helps the economy as a whole. It takes care of family members, raises children, and maintains dwellings so that others can go out and make money. Unpaid domestic labor thus contributes to the expansion of markets and the country. However, it is not covered by social security programs, labor laws, or compensation regulations. This demonstrates how crucial work completed at home is disregarded despite the fact that society depends on it on a daily basis.

The Indian Constitution forces us to consider unpaid housekeeping and its relationship to social justice, equality, and dignity. Equal treatment, nondiscrimination, and the right to a dignified life are discussed in Articles 14, 15, and 21. These ideals are impacted when women's domestic duties are disregarded because their labor is not adequately valued. Courts have begun to recognize the actual economic significance of homemakers' labor in recent years. Judges have ruled in compensation and maintenance proceedings that housekeeping and caregiving are significant and cannot be dismissed as worthless. This demonstrates how the legal system is gradually evolving. The concept of work is no longer restricted to profitable occupations. This essay investigates whether these court rulings reflect a broader shift in constitutional theory. It also demonstrates how this new perspective on work, caregiving, and the worth of women's domestic labor is supported by feminist legal theories⁵⁷⁸.

METHODOLOGY

This study examines how Indian law treats unpaid domestic work using a straightforward and comprehensive approach. There is more to this subject than just labor legislation. Additionally, it is linked to social and economic policies, gender concerns, family law, and constitutional law. As a result, the study employs a variety of methods to comprehend both the legal and social realities, particularly how society shapes women's roles in the house.

Doctrinal analysis is the primary method employed in this study. This entails closely examining legislation and court rulings. The study examines how labor laws, family law regulations, and constitutional requirements determine what constitutes work and what kind of contributions are valuable economically. Court cases where judges have acknowledged the importance of homemakers' labor are given particular attention. These include alimony rulings, maintenance

⁵⁷⁸ Rajnesh v. Neha, (2021) 2 S.C.C. 324 (India)

judgments, and car accident compensation cases where the courts acknowledged the economic value of domestic work⁵⁷⁹.

The research attempts to understand why unpaid domestic work is still not regarded by the law as other types of labor by examining these laws and rulings. It demonstrates how legal systems tend to overlook the hard work done at home and place more value on paid employment and salary-based labor. This contributes to the explanation of why domestic labor is still not covered by official labor laws.

Constitutional interpretation is a key technique employed in this research. The study examines Directive Principles such as Articles 39 and 42 in addition to Articles 14, 15, and 21 of the Indian Constitution. These sections of the Constitution address social justice, equality, fair working conditions, and dignity. The study investigates whether the Constitution supports the notion that unpaid domestic labor should be acknowledged and honored by interpreting these clauses broadly and meaningfully. It poses the question of whether ideals like equality, dignity, and nondiscrimination might aid in elevating the work completed in homes.

Another important method used in this study is feminist legal theory. Understanding why home work is frequently disregarded is made easier by concepts like social reproduction, care ethics, and the capacities approach associated with intellectuals like Martha Nussbaum⁵⁸⁰. The distinction between private work (household chores) and public work (paying occupations) is called into question by these beliefs. They clarify that providing care is not only a personal obligation but also crucial for society at large. Families and even the economy cannot run well without this work. This calls into question the law's limited definition of genuine labor, which only includes paid market labor.

In order to compare the Indian scenario with talks concerning care work and unpaid labor around the world, the study also looks at these topics. It draws on a variety of sources, including scholarly works, feminist literature, policy briefs, and Supreme Court rulings⁵⁸¹. Combining all of these sources enables the research to examine unpaid domestic work from a variety of

⁵⁷⁹ Hindu Marriage Act, No. 25 of 1955, sec 24–25, INDIA CODE.

⁵⁸⁰ Joan Tronto, *Moral Boundaries* (1993)

⁵⁸¹ Int'l Labour Org., *Care Work and Care Jobs* (2018)

perspectives, including a legal loophole, a constitutional problem, and the outcome of pervasive gender inequity in society.

RESEARCH OBJECTIVES

This paper examines unpaid domestic work in India from feminist, legal, and constitutional perspectives. It begins by attempting to comprehend why household chores performed at home are not considered labor under labor rules. The majority of India's labor laws were created for occupations where employees work for an employer and receive pay. Therefore, these laws do not apply to employment that is done inside the home, such as cooking, cleaning, and caring for family members. Knowing this issue makes it easier to understand why domestic work is not recognized by the law.

The study also looks at whether the Indian Constitution is in favor of acknowledging unpaid domestic labor. It emphasizes concepts like social justice, equality, and dignity. The study examines whether neglecting care work violates the right to equality and the right to live with dignity by examining Articles 14 and 21.

Third, feminist concepts are covered in the study. According to feminist theory, providing care should not be viewed as a woman's private responsibility but rather as an essential social service. These concepts go against the traditional legal belief that only effort that is compensated is worthwhile.

Lastly, the study examines court rulings where judges have acknowledged the importance of homemakers' labor, particularly in matters involving maintenance and compensation. This aids in our comprehension of whether courts are gradually altering the definition of legal labor.

ANALYSIS

Doctrinal Gap: Why Domestic Labour Is Not Legally Recognised as Work

Unpaid domestic employment is not recognized in India due to the way labor laws are structured. Indian labor laws primarily address occupations in which an employee works for an employer and receives compensation. The regulation is designed for establishments such as factories, offices, and enterprises where the workplace, remuneration, and employment contract are clearly defined. However, this system does not apply to housework. A homemaker

does not work in a formally recognized workplace, has no employer, and is not paid. Thus, social security benefits, safety regulations, minimum wage legislation, and other labor safeguards do not apply to homemakers. Therefore, housework is not considered genuine labor in the formal sense by the legal system⁵⁸².

This issue is further compounded by family law. Domestic work is typically viewed as one of a husband and wife's responsibilities to one another. Instead of being seen as economic labor, it is seen as love, care, or responsibility. In actuality, women handle the majority of the housework and childcare, despite the fact that marriage is meant to be based on cooperation and support. However, this job is not seen as something that generates economic value, but rather as a personal or moral obligation. Therefore, domestic work is not seen by the law as skilled labor deserving of its own recognition, but rather as an act of affection or familial duty⁵⁸³.

The antiquated notion that the law separates private and public spheres of existence is another factor. The public realm of employment, markets, and industries is governed by labor laws. However, the home is seen as a private area where the law often doesn't get involved. As a result, even if housework helps families, workers, and the economy as a whole, it is still hidden. By referring to it as private, the law downplays the significance of women's unpaid labor and instead makes it seem regular and natural⁵⁸⁴.

Therefore, the law's definition of work is the reason why unpaid domestic labor is not included. The law disregards the vital care work that keeps society functioning in favor of market-based, paid jobs. This disparity in legal reasoning demonstrates how the system undervalues the work of women.

Constitutional Values: Dignity, Equality, and Social Justice

Although unpaid domestic work is not explicitly stated in Indian labor regulations, the Constitution provides substantial support for its recognition. The principles of justice, equality, and dignity form the foundation of the Indian Constitution. These ideals contradict the notion that caregiving and cleaning should be disregarded. Everyone is equal under the law, according

⁵⁸² INDIA CONST. arts. 14, 15, 21, 39, 42

⁵⁸³ Hindu Marriage Act, No. 25 of 1955, §§ 24–25, INDIA CODE

⁵⁸⁴ Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (1989)

to Article 14. No one may be treated unfairly according to their sex, according to Article 15. However, the rule subtly promotes gender inequity when women's household chores are not acknowledged. The majority of cooking, cleaning, child care, and caregiving are often done by women. Their opportunities to make money, pursue occupations, and engage in public life are diminished by this heavy burden. Real equality is harmed by this.

Everyone has the right to life and personal freedom under Article 21⁵⁸⁵. According to the Supreme Court, this also covers the rights to autonomy, dignity, and a fulfilling existence. Even though it might not be compensated, domestic work is crucial. It sustains families, raises kids, and promotes the prosperity and well-being of working family members. In other words, without this job, society cannot operate. It is equivalent to claiming that those who perform this labor have less dignity if the law does not value it. According to the Constitution's concept of dignity, housework should be regarded as socially significant activity rather than only a familial obligation.

This way of thinking is also supported by the Directive Principles. According to Article 39, everyone should have equal remuneration for equal labor and adequate means of subsistence. Maternity leave and equitable working conditions are discussed in Article 42. These regulations demonstrate the Constitution's desire for a just and compassionate society. Caregiving and household duties directly relate to this objective. The goal of a just society is undermined by disregard for this task.

Courts have gradually come to realize this. Judges have acknowledged the economic importance of homemakers' labor in accident compensation claims. To demonstrate why this labor is important, they provide a hypothetical income. Even though there isn't a clear legislation yet, this demonstrates how constitutional ideals are gradually altering how the law views domestic employment⁵⁸⁶.

Feminist Jurisprudence: Care Work and Social Reproduction

We can better comprehend why unpaid domestic work should be recognized by law by applying feminist legal theory. According to feminist thinkers, caregiving and housework are

⁵⁸⁵ INDIA CONST. arts. 14, 15, 21, 39, 42

⁵⁸⁶ Kirti & Anr v. Oriental Insurance Co. Ltd., (2021) 2 S.C.C. 166 (India)

crucial for society. The way society perpetuates itself through childrearing, family care, and day-to-day existence is known as social reproduction. Families and the economy depend on jobs like cooking, cleaning, child care, elder care, and providing emotional support. No economy or civilization could exist without this labor. However, women perform the majority of this labor, which is unappreciated, unpaid, and uncounted⁵⁸⁷.

Old patriarchal beliefs are the cause of this. Housework is seen by society as a natural responsibility of women rather than actual labor requiring expertise and effort. As a result, domestic work is frequently treated by the law as a matter of love or family duty rather than as labor deserving of protection and rights.⁵⁸⁸

The economy benefits from this invisibility, according to feminist scholars. The government and private businesses do not have to pay for these services because women provide care for free. Women's unpaid labor thereby helps the system as a whole. However, this also reduces women's influence in the home and in society and renders them financially dependent.

According to Martha Nussbaum's capacities theory, justice entails giving people genuine freedom, dignity, and life choices. Women who perform unpaid domestic work frequently lack social safety, financial stability, and decision-making authority. Their lives are constrained because the law does not appreciate their labor, not because it is unimportant. Women can become more independent and dignified if domestic work is acknowledged.

The law incorrectly presumes that persons are completely independent, according to feminist care ethics. In actuality, everyone needs care at some point in their lives. The law conceals this reality by disregarding household work. It disregards the care that makes life and work possible while valuing commercial work⁵⁸⁹.

Therefore, home work is not recognized as charity under feminist legislation. Real equality, justice, and respect for women's dignity depend on it.

Judicial Recognition and Emerging Trends

⁵⁸⁷ Silvia Federici, *Revolution at Point Zero* (2012)

⁵⁸⁸ Judith Butler, *Gender Trouble* (1990)

⁵⁸⁹ Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (1989)

Indian courts have begun to recognize the true economic importance of unpaid housework in recent years. Because they did not get a paycheck, homemakers were once viewed as individuals who were financially dependent on others. However, judges are gradually realizing how crucial household chores like cooking, cleaning, child care, and housekeeping are to the family's general well-being and financial security. These jobs have actual economic value since they are comparable to services that people would otherwise have to pay for.

This shift is seen in situations of auto accidents⁵⁹⁰. Courts now occasionally determine compensation when a homemaker is killed in an accident by assigning a predetermined value to her household labor. This is a significant shift from the previous notion that housework has little financial value⁵⁹¹. Similarly, courts now have a greater understanding of how a homemaker contributes to the family's wealth when making maintenance or alimony decisions. She helps the earning member and enables them to thrive at work by taking care of the family and home. These days, judgments about spousal support and divorce settlements take this contribution into account.

These court rulings align with fundamental principles such as equality and dignity. They demonstrate the value of unpaid domestic labor to society as a whole and not simply as a personal obligation. Caregiving is gradually becoming recognized as legitimate and useful job. This acknowledgment is still restricted, though. Courts discuss the importance of housework mostly in cases involving accidents or maintenance. There is still no appropriate legislation that provides social security, insurance, pensions, or earnings to homemakers.

Therefore, the legislation has not completely altered even if courts recognize the value of domestic work. Larger policy adjustments are required because housework is still not adequately safeguarded.

FINDINGS

According to the study, India's laws still do not adequately recognize or value unpaid domestic labor. This occurs as a result of the law's extremely limited definition of work. It primarily views work as labor performed for pay under the supervision of an employer in factories, offices, or other workplaces. This is why domestic tasks like cooking, cleaning, caring for

⁵⁹⁰ *Kirti & Anr v. Oriental Insurance Co. Ltd.*, (2021) 2 S.C.C. 166 (India)

⁵⁹¹ *Arun Kumar Agrawal v. Nat'l Ins. Co. Ltd.*, (2010) 9 S.C.C. 218 (India)

children and the elderly, and running the house are not considered legitimate jobs. As a result, homemakers are not regarded as employees. They are not entitled to labor rights such as social security, pensions, minimum pay, or protection at work. There is more to this issue than a simple legal error.

However, the Indian Constitution offers an alternative perspective on this matter. The requirement to appreciate and acknowledge unpaid care work is supported by concepts like dignity, equality, and social justice, particularly under Articles 14, 15, and 21. Women are most negatively impacted when domestic work is not respected. Real equality in society is weakened and gender inequality is increased as a result. Fair living circumstances and just work are also mentioned in the Directive Principles of State Policy, therefore laws should not disregard care work.

Protection for domestic workers is highly supported by feminist legal theory. It illustrates how caregiving and household chores support families and the economy. Women have less freedom and become more economically dependent when this labor is invisible. Therefore, acknowledging household work is crucial for achieving gender justice and true equality.

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CONCLUSION

This study demonstrates the peculiar status of unpaid domestic labor in India. Although it is crucial for families and society as a whole, the law does not regard it as legitimate employment. Cooking, cleaning, child care, and elder care are examples of household tasks that support the economy and help families survive. However, because labor laws only define "work" as labor performed for pay in offices or businesses, they do not encompass this type of activity. As a result, homemakers' significant economic and social contributions are disregarded by the law. Legal regulations are not the only reason for this; outdated gender stereotypes that claim domestic work is a woman's inherent responsibility rather than skilled labor also play a role. However, the Constitution conveys a different message. It discusses equality, decency, and nondiscrimination. These principles uphold the notion that caregiving should be valued.

Gender disparity worsens when household work is neglected. Women's labor is undervalued, unpaid, and uncounted. Court rulings have gradually begun to take a broader view of equality and dignity, which encourages individuals to reconsider the unseen nature of unpaid labor. A just society with respectable living standards for all is likewise supported by the Directive Principles.

This argument is strengthened by feminist theorists. They claim that household chores are more than just personal family responsibilities; they are essential to the functioning of society and the economy. Women continue to be financially dependent and have less freedom when this work is not acknowledged. Therefore, acknowledging unpaid household work is crucial for true equality and is not merely symbolic.

Additionally, courts have begun to value homemakers' labor, particularly in situations involving maintenance and compensation. Nowadays, judges acknowledge the economic worth of domestic employment. However, this acknowledgment is limited to certain situations. Benefits for homemakers, such as social security, insurance, and pensions, are still not fully covered by the legislation.

Ultimately, acknowledging unpaid domestic work involves more than just paying salary. It is about upholding dignity, addressing gender inequalities, and appropriately valuing the caregiving that sustains society.