

<b>SUB-INDEX A: PROTECTIONS FOR FAMILY CAREGIVERS</b>		3.08
<b>A1. Pregnancy and Maternity Leave Coverage</b> <i>(No sub-categories)</i>	6.70	
<b>A2. Protections during Pregnancy and Maternity Leave</b> Financial Protections Employment Protections	5.25 6.50 4.00	
<b>A3. Paternity Leave Policies</b> <i>(No sub-categories)</i>	0.00	
<b>A4. Dependent Care Leave Policies</b> <i>(No sub-categories)</i>	0.33	
<b>A5. Flexible Work Arrangements</b> <i>(No sub-categories)</i>	0.88	
<b>A6. Family-Friendly Workplace Policies</b> Nursing Support in the Workplace Workplace Safety for Pregnant and Nursing Women	5.31 9.38 1.25	



Source: Encyclopædia Britannica

<b>SUB-INDEX B: PROTECTIONS FOR DOMESTIC WORKERS</b>		4.40
<b>B1. Coverage under National Labor Laws</b> <i>(No sub-categories)</i>	6.25	
<b>B2. Fair Employment Process</b> Standard Terms of Employment Regulations for Recruitment and Employment Process	0.00 0.00 0.00	
<b>B3. Decent Working and Living Conditions</b> Working Hours and Environment Rest and Leave Wages Social Security Living Conditions for Live-in Workers	1.60 0.00 0.00 0.83 7.14 0.00	
<b>B4. Labor Rights</b> Freedom of Association and Access to Collective Bargaining Access to Complaint Mechanisms Enforcement and Protection Mechanisms	4.17 10.00 1.00 1.50	
<b>B5. Protections for Forced/Under-age Domestic Workers</b> Protections against Forced/Compulsory Labor Protections for Under-age Laborers	10.00 10.00 10.00	
<b>B6. Protections for Migrant Domestic Workers</b> <i>Not scored for India since the proportion of MDWs to all DWs is less than 10%</i>	- - -	

## Introduction

With a population of 1.3 billion, the Republic of India is the most populous country in South Asia and the second most populous in the world. It is a sovereign, socialist, secular, democratic republic with a parliamentary system of government. India follows a quasi-federal political system; the Union government at the center coexists with state governments for all 29 states. Most of India's policies pertaining to domestic carework and caregiving were implemented by the central government, but a few welfare provisions have been implemented at the state level.

Caregiving in India is deeply gendered. Women provide 10 times more unpaid caregiving than men. While men provide 29 minutes of unpaid caregiving per day on average, women provide 320 minutes of unpaid care a day.<sup>1</sup> Meanwhile, paid domestic work is the most female intensive industry in India. According to official statistics, 4.75 million individuals are employed as domestic workers in India, although

<sup>1</sup> Oxfam India. "TIME TO CARE: Wealth Inequality and Unpaid Care Work for Women in India." January 2020. <https://www.oxfamindia.org/sites/default/files/2020-01/India%20supplement.pdf>

actual numbers are estimated to be anywhere between 20-80 million.<sup>2</sup> More than 89% of these domestic workers are women<sup>3</sup>. Exploitation, abuse and slavery-like working conditions are rampant. Many domestic workers come from socially marginalized groups and often emigrate from poorer, rural regions to work in cities. Furthermore, despite legal prohibitions, employment of children in domestic work is common. Between two to three out of every five domestic workers in India are estimated to be under the age of 18.<sup>4</sup>

## Key Care Policies

Several laws and programs have been implemented by the Indian government to promote the welfare of unpaid family caregivers.

The Maternity Benefit Act 1961 guarantees maternity leave to working women and provides employment protections during maternity leave. The law requires employers to provide full wage replacement during maternity leave and nursing support (including breastfeeding breaks and facilities) to working mothers.

The Employees State Insurance Scheme, established by the Employees State Insurance Act 1948, is a key social security system that gives social security benefits to employees and helps employers pay for these benefits accrued by employees.<sup>5</sup> The scheme offers a variety of benefits that help families cover the costs of childcare and long-term family care. These benefits are financed using monthly contributions paid by the employer and the employee. Currently, this scheme covers 35 million workers, which is less than 10% of India's labor force.<sup>6</sup>

<sup>2</sup> International Labor Organisation, "About Domestic Work", 2020. [https://www.ilo.org/newdelhi/areasofwork/WCMS\\_141187/lang--en/index.htm](https://www.ilo.org/newdelhi/areasofwork/WCMS_141187/lang--en/index.htm).

<sup>3</sup> TNN, "Indian Women Spend 16 Billion Hours a Day Doing Unpaid Care Work.", *Times of India*, 8 June 2019. <https://timesofindia.indiatimes.com/india/indian-women-spend-16-billion-hours-a-day-doing-unpaid-care-work/articleshow/69699732.cms>.

<sup>4</sup> Harsh Mander, "Underage children as domestic workers: Middle-class India's greatest shame?", *Scroll.in*, 26 April 2015. <https://scroll.in/article/720811/underage-children-as-domestic-workers-middle-class-indias-greatest-shame>.

<sup>5</sup> National Portal of India, "Employees' State Insurance Scheme", 22 Oct 2018. <https://www.india.gov.in/spotlight/employees-state-insurance-scheme#tab=tab-1>.

<sup>6</sup> Ministry of Labour and Employment, "Coverage | Employee's State Insurance Corporation", 2019. <https://www.esic.nic.in>.

The government has also designed a number of dedicated programs to support working parents. In 1975, the government launched the Integrated Child Development Services (ICDS) to provide early childhood healthcare and education.<sup>7</sup> This program has since been expanded to provide free/subsidized childcare to millions of children throughout the country. The government also introduced the Direct Benefit Transfers program and the National Social Assistance program which provide cash transfers to help families cover the costs of care for children and for relatives with long-term care needs.

In contrast, most aspects of domestic workers' labor conditions remain unregulated in India. There are only a few legal provisions where standard labor rights are extended to domestic workers. The Bonded Labor (Abolition) Act 1961 outlaws bonded labor, a form of debt bondage under which families are forced to repay loans through different forms of labor, including domestic work. The Act also institutes protections for victims of forced labor and penalties for offenders. Additional protections for domestic workers have been introduced recently as discussed in the next section.

## Recent Care Policy Developments

A 2017 amendment to the Maternity Benefit Act granted working women a generous maternity leave of 26 weeks, required every company with 50 or more employees to set up a crèche within their premises, and allowed work-from-home options to nursing women where possible. The National Food Security Act 2013 was implemented to improve food and financial security among pregnant and lactating women. The Act guarantees such women cash benefits, along with free nutritious meals at local community centers called *anganwadis*. In 2013, the government also launched the National Health Mission to ensure free medical access to all pregnant and nursing women.<sup>8</sup> To improve care for elderly

<sup>7</sup> Ministry of Women and Child Development, "Umbrella ICDS." 23 September 2015. <https://wcd.nic.in/schemes-listing/2404>.

<sup>8</sup> Ministry of Health and Family Welfare, "Maternal Health:: National Health Mission", 4 November 2020. <https://nhm.gov.in/index1.php?lang=1&level=2&sublinkid=822&lid=218>.

citizens, India implemented the Maintenance and Welfare of Parents and Senior Citizens Act in 2007. This Act obliges adult children and heirs to provide maintenance to their parents or elderly relatives, and requires state governments to establish and maintain old-age homes and medical centers for the elderly.

India has also made recent progress with respect to implementing and amending laws to protect its domestic workers. The Trade Unions Act 1926 was amended in 2001 to recognize trade unions formed by unorganized workers, including domestic workers. The Child Labour (Prohibition and Regulation) Act 1986 was amended in 2016 to address the widespread problem of employment of children as domestic workers. The amendment prohibits the employment of children (defined as individuals under the age of 14) and adolescents (individuals in the age range of 14-18) as domestic workers. The government also introduced policies and programs to stop exploitation in the form of bonded labor and labor trafficking. The Juvenile Justice Act 2015 institutes special protections, including informational and remedial mechanisms, for child victims of forced labor. Finally, the Unorganized Workers Social Security Act 2008 came into force after many years of campaigning by workers in the unorganized sector. This law mandates that central and state governments implement welfare schemes for workers in the unorganized sector, including domestic workers. These schemes are meant to provide housing, old age protections, and various other social security benefits.

## Key Actors

India's Ministry of Women and Child Development, the Ministry of Social Justice and Empowerment, and the Ministry of Labour and Employment play a key role in formulating policies and implementing programs for careworkers and caregivers' welfare at the national level. These programs are funded by the central government. State governments in Maharashtra, Tamil Nadu, and a few other states have set up domestic worker welfare boards to strengthen worker registration, and the implementation of minimum wage standards, social

security programs, and other benefits for domestic workers.

In terms of local NGOs focused on carework issues, the National Domestic Workers' Movement (NDWM) is an important organization that has been studying and raising awareness of the conditions of domestic workers in India. The NDWM helped establish the National Domestic Workers Federation, a nation-wide federation with 15 domestic workers' union affiliates across the country. The federation has been advocating for domestic workers' rights to wages, social security, and decent working conditions.



## Sub-Index A: Protections for Family Caregivers

India's financial and social support provisions for pregnant women workers are reasonably comprehensive. However, India lacks any provisions for paternity leave or dependent care leave. Policies for flexible work arrangements and other family-friendly workplace safety are also weak. Due to these significant gaps in its policies for working family caregivers, India scored 3.08 for GCPI Sub-Index A, placing it squarely in the Emerging band of the GCPI.

### A1 Pregnancy and Maternity Leave Coverage (6.70/10)

The Maternity Benefit Amendment Act guarantees 26 weeks of maternity leave to women employed in any government establishment, or any establishment in which 10 or more persons are employed. This law guarantees paid leave to working mothers in the case of miscarriage, and additional leave for medical complications. It provides compulsory leave for six weeks following childbirth. However, adoptive mothers do not have the same rights. A woman who legally adopts a child below the age of three months is entitled to maternity leave of only twelve weeks. Mothers adopting older children are completely excluded from maternity leave provisions. Additionally, working women are not guaranteed extended maternity leave in the case of simultaneous multiple births.

## A2 Protections during Pregnancy and Maternity Leave (5.25/10)

Over the period of her leave, an eligible working woman's employer is required to provide full wage replacement - alongside a medical benefit of INR3,500 - to the woman. Women on maternity leave cannot be fired, however, following the woman's return to work, there are no explicit prohibitions against her dismissal. There are also no laws protecting workers from direct or indirect job discrimination on the basis of their marital status or family responsibilities.

## A3 Paternity Leave Policies (0.00/10)

There are no national policies that guarantee paternity leave to working fathers. Only central civil servants are guaranteed 15 days of paid paternity leave.<sup>9</sup> However, such workers form a miniscule proportion of India's workforce.

## A4 Dependent Care Leave Policies (0.88/10)

There is no national legislation guaranteeing care-related leaves to workers who need to be absent from work to care for their children or other family members with long-term care needs. The only relevant policy in place is the two-year-long childcare leave given to government employees. While this is a generous policy, it again covers only a small proportion of the country's workforce.

## A5 Flexible Work Arrangements (0.88/10)

There are few legislations guaranteeing flexible work arrangements to workers. Only nursing women are allowed work-from-home options but only for certain types of work. There is limited acknowledgement that working men may also be family caregivers except for the two-year-long childcare leave given to male and female government employees.

## A6 Family-Friendly Workplace Policies (5.31/10)

The Maternity Benefit Act guarantees comprehensive nursing support to working women. Nursing women are to be provided two breaks everyday to nurse their child. Furthermore, every establishment employing more than 50 employees is required to set up a crèche facility. However, laws mandating workplace safety assessments and reporting for pregnant and nursing

women are scarce. The Maternity Benefit Act exempts pregnant women from doing work that may pose risks to their health, but it puts the onus on the women to identify such risks. No similar provisions exist for nursing women.

## Best Practices

*Anganwadis* – the rural childcare centers established throughout India – have been providing free and subsidized childcare, health and educational services, and community development programs throughout the country for 40 years. There are over 1.3 million *anganwadis* today, funded by the central government, and they currently provide early childcare to over 400 million Indian children.<sup>10</sup> They also provide preschool education and food rations to children and their families. Due to their significant outreach, their affordability, and the critical services they provide, *anganwadis* are vital for the welfare of disadvantaged rural areas in India.



## Sub-Index B:

### Protections for Domestic Workers

India lacks any national legislation that guarantees rights, fair employment processes, or decent working and living conditions for domestic workers. Social security benefits, the right to unionize, and protections against sexual harassment at work, forced labor, and child labor are among the few rights provided to domestic workers. India scored 4.40 for GCPI Sub-Index B, placing it in the upper end of the 'Emerging' band.

## B1 Coverage under National Labor Laws (6.25/10)

Domestic workers in India are covered by few national labor laws. They are covered only by the Trade Unions Act 1961, the Unorganized Workers Social Security Act 2008, and the Sexual Harassment of Women at the Workplace Act 2013. They do not enjoy protections

<sup>9</sup> Department of Personnel and Training, "Central Civil Services Leave Rules", 3 March 2017. <https://dopt.gov.in/acts/central-civil-services-leave-rules-0>.

<sup>10</sup> Timsit, Annabelle, "India's ICDS Anganwadi System Is a Challenged but Impressive Effort", *Quartz India*, 14 April 2019. <https://qz.com/india/1584703/indias-icds-anganwadi-system-is-a-challenged-but-impressive-effort/>

for health and safety measures at work, limits on working hours, annual leaves with wages, workplace inspections, etc., to which other low-wage workers (such as factory workers) are entitled. There is also a lack of legislation to prohibit various forms of employment-related discrimination.

### B2 Fair Employment Process (0.00/10)

There is no national labor law that specifies and mandates fair employment processes for domestic workers, or requires that domestic workers' contracts include critical information about their employment terms such as their wages, working hours, rest and leave. India also lacks national legislation to regulate private placement agencies that match domestic workers with private employers for a fee.

### B3 Decent Working and Living Conditions (1.60/10)

There is no national legislation regulating the working hours and environment, rest and leave, wages, or living conditions for domestic workers. Domestic workers' minimum wages are set by only a few state governments. Nothing exists at the national level. Social security benefits are the only protection given to domestic workers, under the Unorganised Workers' Social Security Act 2008. Domestic workers are guaranteed healthcare coverage through the *Rashtriya Swasthya Bima Yojana*, old-age benefits through the *Pradhan Mantri Shram Yogi Maan-dhan*, employment injury benefits through the *Pradhan Mantri Suraksha Bima Yojana*, invalidity benefits through the *Aam Admi Bima Yojana*, and survivors' benefits through the *Pradhan Mantri Jeevan Jyoti Bima Yojana*. Some states have also established domestic workers' welfare boards to strengthen the implementation of these schemes.

### B4 Labor Rights (4.17/10)

Domestic workers have the right to unionize and bargain collectively, and domestic workers' unions are regulated by the Trade Unions Act. Domestic workers are also protected from sexual harassment at their workplace under the Sexual Harassment of Women at Workplace Act 2013. However, owing to the widespread lack of labor protections for these workers, there are no enforcement, inspection, complaint, or punitive mechanisms to protect

domestic workers against various unfair practices at their workplace.

### B5 Protections for Forced/Under-age Domestic Workers (10.00/10)

India has comprehensive constitutional and legislative protections against forced and under-age domestic labor. The Bonded Labour System (Abolition) Act 1976, Articles 370A and 371 of the Indian Penal Code, and Article 23 of the Constitution prohibit forced labor, labor trafficking, and labor exploitation. These laws also establish informational, remedial, and rehabilitative channels for victims of forced labor. Under-age domestic workers are given extra protections against forced labor under the Juvenile Justice Act 2015. Furthermore, the Child Labour (Prohibition and Regulation) Amendment Act 2016 stipulates that all individuals below the age of 18 are prohibited from being employed as domestic workers. Despite this high score for B5, India suffers from a significant policy-practice gap as the subsequent section highlights.

### B6 Protections for Migrant Domestic Workers (-/10)

India was not scored for this category because the proportion of migrant domestic workers to all domestic workers in the country is estimated to be less than 10%.<sup>11</sup>

## Policy-Practice Gap

The gap between policy and practice is stark in India. Most laws and government provisions are not properly implemented. Four key factors drive this large policy-practice gap.

### Poor Policy Design

Despite its generous provisions, the Maternity Benefit Act does not apply to the vast majority of working women in India. The law applies only to formal sector establishments with more than 10 workers. It is estimated that such establishments employ only 1-2%

<sup>11</sup> International Labor Organisation, "ILO Global Estimates on International Migrant Workers", 5 December 2018. [https://www.ilo.org/global/publications/books/WCMS\\_652001/lang--en/index.htm](https://www.ilo.org/global/publications/books/WCMS_652001/lang--en/index.htm).

of all working women in India.<sup>12</sup> Another critical policy design flaw is that the full cost of wage replacement during maternity leave is borne by the employer. While multinational corporations may be able to fulfil this requirement, small- and medium-size businesses cannot afford to do so. This leads to companies hiring fewer women or not giving women workers 6 weeks of paid maternity leave.<sup>13</sup>

### Lack of Utilization of Allocated Funds

The actual expenditure on social security programs for domestic workers and family caregivers is a mere fraction of the total financial resources allocated for such purposes. From 2016 to 2017, up to INR19 billion issued to the National Social Security Fund for unorganized workers was left untouched.<sup>14</sup> Similarly, the Employees' State Insurance Corporation, the government body that runs the Employees' State Insurance scheme, has not fully utilized its resources year after year. From 2017 to 2018, the corporation spent only INR103 billion to provide benefits, against its budget estimate of INR132 billion, despite a huge increase in the subscriber base of the scheme.<sup>15</sup>

### Poor Enforcement of Policies

Despite the prohibition of the employment of children and adolescents as domestic workers, such practices are in fact commonplace.<sup>16</sup> Redressal channels for reporting sexual harassment of domestic workers are also weakly implemented. Many Local Complaint Committees and District Officers, to whom women survivors are supposed to file their complaints, have not been appointed.<sup>17</sup>

<sup>12</sup> Rajagopalan, Shruti, and Alexander Tabarrok, "Premature Imitation and India's Flailing State", *Independent Review*, 24 (2): 165-186, 2019.

<sup>13</sup> Arora, Medhavi, "Why India's New Maternity Leave Policy May Be Bad for Women", *CNN Business*, 30 March 2017. <https://money.cnn.com/2017/03/30/news/economy/india-maternity-leave-lw-employment-hiring>.

<sup>14</sup> Upadhyaya, Himanshu, "The Missing National Social Security Funds for India's Unorganised Sector Workers", *The Wire*, 28 May 2020. <https://thewire.in/labour/national-social-security-fund-unorganised-workers>

<sup>15</sup> Venkatesh, Mahua, "ESIC Health Insurance Scheme Is Flush with Funds but That Isn't Helping Low-Wage Workers", *The Print*, 1 April 2019. <https://theprint.in/india/governance/esic-health-insurance-scheme-is-flush-with-funds-but-that-isnt-helping-low-wage-workers/214193>.

<sup>16</sup> SEWA, "Domestic Workers' Laws and Legal Issues in India", *WIEGO Law and Informality Resources*, November 2014. <https://www.wiego.org/sites/default/files/resources/files/Domestic-Workers-Laws-and-Legal-Issues-India.pdf>.

<sup>17</sup> Sandhya PR, Urmila Pullat, "How the Law That Bhanwari Devi Inspired Fails Marginalised Women Like Her", *The Wire*, 8 May 2017. <https://countercurrents.org/2017/05/how-the-law-that-bhanwari-devi-inspired-fails-marginalised-women-like-her>.

Policies regarding family caregivers are also poorly enforced. The government does not follow-through on its promise of quality healthcare for pregnant women. The reality of public healthcare in India remains grim, due to the lack of adequate infrastructure and manpower, and the poor or uneven quality of service.<sup>18</sup>

### Technological Shortfalls

The processes through which family caregivers and domestic workers are to access their social security benefits are technologically unfeasible for most of India's population. Most cash benefits are electronically transferred to people's *Jan Dhan* accounts, i.e. bank accounts set up by the government for these individuals. However, almost half of India's poor do not have access to a *Jan Dhan* (or any) bank account.<sup>19</sup> Many also lack a ration card, which is needed to access food benefits. These marginalized segments of the population cannot access the essential social security benefits meant to protect family caregivers and domestic workers.<sup>20</sup> Furthermore, accessing cash benefits via the banking system requires a high degree of financial literacy and familiarity with online interfaces that many people in India lack.<sup>21</sup>

## Recommendations

### Family Caregiver Protections

- Extend provisions of the Maternity Benefit Act to include workers in all kinds of establishments and all forms of employment arrangements (A1.2)
- Extend maternity leave coverage in the case of simultaneous multiple births (A1.5)
- Reduce employers' financial responsibility to pay the full wage replacement for their female employees, and increase the government's financial contributions (A2.1.3)

<sup>18</sup> Bajpai, Vikas. 2014. "The Challenges Confronting Public Hospitals in India, Their Origins, and Possible Solutions." Edited by Gudlavalleti Venkata Murthy. *Advances in Public Health* 2014: 898502.

<sup>19</sup> Yale Economic Growth Center, "Reaching India's Poorest Women with COVID-19 Relief", 17 April 2020. <https://egc.yale.edu/reaching-indias-poorest-women-covid-19-relief>.

<sup>20</sup> Drèze, Jean and Reetika Khera, "Getting Cash Transfers out of a JAM", *The Hindu*, 13 May 2020. <https://www.thehindu.com/opinion/lead/getting-cash-transfers-out-of-a-jam/article31568674.ece>.

<sup>21</sup> Sen, Jahnavi, "Why People Are Protesting Against Jharkhand's Experiment With Direct Benefit Transfers", *The Wire*, 1 March 2018. <https://thewire.in/rights/jharkhand-nagri-ration-pds-direct-benefit-transfer>.

- Prohibit job discrimination against workers on the basis of their marital status or family responsibilities (A2.2.5)
- Guarantee paternity leave to eligible working men (A3)
- Guarantee dependent care leave to all eligible workers who need to take care of their children or other family members (A4)
- Require all employers to offer reduced working hours to employees with care responsibilities (A5.1)

### Domestic Worker Protections

- Pass national legislation to regulate health and safety measures at work, working hours, annual leaves with wages, workplace inspections, fair employment processes, and other labor protection mechanisms for domestic workers (B2.1)
- Establish a nationwide policy to regulate private employment agencies that recruit and place domestic workers in private employers' homes, and penalize these agencies in the case of non-compliance (B2.2 and B4.3.2)
- Introduce measures to protect live-in domestic workers and ensure they receive adequate accommodation, sanitary facilities, and meals (B3.5)
- Strengthen measures to prevent and prohibit forced labor and employment of children as domestic workers (B5)

### General Protections

- Increase spending for all social security programs designed to protect family caregivers and domestic workers
- Effectively utilize all funds to ensure that all benefits promised to workers are delivered
- Improve financial literacy and digital inclusion so that careworkers and caregivers can access the social security benefits they are eligible for



## Global Care Policy Index

The Global Care Policy Index (GCPI) is a composite index that provides a single numerical assessment of a country's support for and protection of home-based caregivers and careworkers who do the important but often invisible work of caring for the young, old, disabled and infirm within the country.

Refer to the [GCPI website](#) for the index's methodology and India's Technical Report containing detailed index questions and score elaborations.

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