MIRANDA LAW & POLICY REVIEW

VOLUME 3 ISSUE I
JULY 2026

ARTICLES

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Recognizing Mothers with Disabilities: Visibility, Voice, and Rights in Indian Social Policy
Asmeet Kaur

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The Miranda Law and Policy Review is product of a successful collaboration between the Vidhik Sahayata Kendra (Legal Aid Centre), Miranda House and the Policy Centre and Gender Lab, Miranda House.

Vidhik Sahayta Kendra (Legal Aid Centre), Miranda House: Miranda House, in collaboration with the Delhi State Legal Services Authority, has set up a Vidhik Sahayata Kendra (Legal Aid Centre) in its college campus to spread legal literacy and provide free legal aid to all students and faculty members in need. Every Friday, from 2pm – 5pm, a DSLSA appointed lawyer visits the Centre to consult those in need. Since its establishment on 5th January, 2024, the Vidhik Sahayata Kendra has organized several events like legal quizzes, speaker sessions on topics such as 'Anti Defection Laws in India', an audio-based certificate course on legal literacy, awareness session and walkathon on Cancer Awareness, a multiple certificate courses on legal literact in collaboration with DSLSA.

Policy Centre and Gender Lab, Miranda House: Policy Centre & Gender Lab at Miranda House is mandated to operate with the vision of creating a platform for budding researchers at the undergraduate level to ideate, incubate and innovate. This Centre provides training to students on research methodologies along with encouraging them to identify social and gender specific issues confronting society. The Centre has organised webinars and research skill development sessions with University of Birmingham, UK, University of Gottenburg, Sweden, University of Guleph, Canada at global level and Action Aid and Her World at the national level.

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Editorial

From the Principal's Desk

Dear Readers,

It gives me immense pleasure to present the third edition of the Miranda Law and Policy Review, a student-led scholarly initiative that reflects Miranda House's continuing commitment to nurturing critical inquiry, interdisciplinary engagement, and socially responsive scholarship. The theme of this edition, "Care in Crisis: Governing Uncertainties," is both timely and deeply significant. We live in an era in which uncertainty has become an enduring feature of social, economic, environmental and political life. Climate change, migration, conflict, technological transformation, economic precarity and institutional disruptions have compelled us to rethink the meaning of governance and, importantly, the meaning of care. The contributions in this volume ask us to look beyond crisis as a temporary disruption and examine the structures that determine who receives protection, whose labour sustains societies, and whose vulnerabilities remain unseen.

What makes this edition particularly valuable is the breadth of questions it brings together. The volume engages with global care chains and gendered migration, digital welfare and algorithmic governance, labour precarity and the gig economy, climate legislation, global trade governance, conflict and gender, disability, food security, displacement and the everyday experiences of women. These diverse concerns demonstrate that law and policy cannot be understood in isolation from the lived realities of individuals and communities.

The idea of care acquires a larger significance in this context. Care is not merely a private responsibility or an act of compassion; it is also a question of rights, institutions, resources and justice. The scholarship presented in this edition reminds us that systems of governance must be evaluated not only by their efficiency in responding to crises, but also by their ability to protect dignity, ensure inclusion and recognise those whose contributions often remain invisible. The discussion on migrant care workers, for instance, draws attention to the gendered and unequal distribution of care across borders, while the analysis of digital welfare and platform labour raises important questions about technology, accountability and human dignity.

I am particularly pleased to see students engaging with such complex and contemporary questions. A journal of this nature provides young scholars with an important intellectual space to question established assumptions, undertake independent research and participate in conversations that extend beyond the classroom.

This is closely aligned with the vision of the Policy Centre & Gender Lab and the Vidhik Sahayata Kendra at Miranda House, which seeks to encourage undergraduate researchers to ideate, incubate and innovate while developing their research skills and engaging with social and gender-specific issues.

I congratulate the student editors, Varisha Sharma and Srishti Sinha, and the entire editorial board for their commitment, perseverance and intellectual engagement in bringing this edition to fruition. I also place on record my appreciation for Prof. Namrata Singh, the faculty editors, advisors, peer reviewers and all the contributors whose collective efforts have shaped this volume. The student editors themselves acknowledge the several rounds of review, editing and discussion that went into developing this edition.

The Miranda Law and Policy Review is also a meaningful outcome of the collaboration between the Vidhik Sahayata Kendra (Legal Aid Centre) and the Policy Centre & Gender Lab, Miranda House. This intersection of legal literacy, policy research and student scholarship represents an important dimension of our institutional commitment to education that is both intellectually rigorous and socially relevant.

I hope this edition will encourage its readers to engage critically with the questions it raises and, more importantly, to carry these questions beyond the pages of the journal. In a world marked by uncertainty, the task before institutions of knowledge is not simply to explain crises but to imagine more just, humane and resilient ways of responding to them.

I congratulate the entire team on this significant achievement and wish the Miranda Law and Policy Review continued growth and a wider readership in the years ahead.

Prof. (Dr.) Bijayalaxmi Nanda
Principal
Miranda House, University of Delhi

From the Faculty Editor

Dear Readers,

We live in a moment where uncertainty is no longer episodic but structural: a heatwave in Delhi, a supply chain disruption in a remote district, a novel disease straining public health infrastructure, a currency shock displacing livelihoods overnight. These are not distant abstractions. They are the ordinary texture of contemporary life, and they compound in ways that expose how uneven the distribution of care is, and how its absence is felt. Miranda Law and Policy Review was founded with the vision of fostering rigorous scholarship that engages critically with contemporary legal and policy challenges. It is in this spirit that the third edition of the Miranda Law and Policy Review carries the theme "Care in Crisis: Governing Uncertainties."

This edition asks a simple question: who governs care when the ordinary mechanisms of governance are themselves under strain? The contributions in this volume examine how states, markets, institutions, and communities respond to moments of disruption, while interrogating whose lives are protected, whose labour is recognised, and whose vulnerabilities continue to remain invisible. Together, these papers invite readers to reflect on how legal and policy frameworks can move beyond crisis management towards building systems that are equitable, resilient, and responsive.

The issue opens with Trandali Kashyap's "Global Care Chains: Gendered Migration and the Transnational Division of Care Work," which examines the gendered political economy of migration and the unequal distribution of care work across borders. Continuing the discussion on labour and governance, Sameer Panda, Pradipta Roy, and Abhishree Anandi analyse the intersection of digital governance, welfare exclusion, and labour precarity in an increasingly algorithm-driven economy.

Ramanshi Dwivedi in her work critically evaluates the institutional crisis confronting the World Trade Organization's dispute settlement mechanism and its implications for the future of global trade governance. Keerti Kumar, in "Inadequacy of Climate Legislation in India," highlights the shortcomings of India's existing climate framework and argues for stronger legal and policy interventions to address escalating environmental challenges.

The volume also foregrounds the gendered dimensions of crisis. Saniya Agarwal, Dr. Pooja Agarwal, and Dr. Deepti Agarwal examine how governance breakdown in Afghanistan intensified structural inequalities and exposed women to heightened violence. Similarly, Khushi Daksh and Amandeep Kaur argue for care ethics as a framework for addressing institutional challenges in conflict settings focusing on the Manipur conflict. Asmeet Kaur’s work further advances this discourse by advocating greater recognition and inclusion of mothers with disabilities within India's social policy landscape.

The complexities of food security and public welfare are explored by Suditi Sinha in "Food Chains in Bengali Borderlands: Examining Food Security and Crisis Response Systems During COVID," which analyses the resilience of local governance and crisis response mechanisms during the pandemic. Pallavi Raj and Shivanshi's "The Price of Convenience: Gig Work, Structural Precarity, and the Politics of Labour Protection in India" revisits the expanding gig economy to examine the structural vulnerabilities embedded within platform-based labour and the evolving debate surrounding workers' rights. Hamiron Timung and Priyanshi Ghosh conclude the volume's thematic engagement by offering a nuanced exploration of how environmental degradation, displacement, and administrative neglect reshape women's everyday experiences of care and survival.

Read together, these papers resist the temptation to treat crisis as an aberration to be managed and then forgotten. They insist, instead, that governing uncertainty is an ongoing commitment, one that requires us to ask not only how care is delivered but who is authorised to provide it, whose needs are noticed, and whose labour is rendered invisible in the process.

I extend my deepest gratitude to our Principal for her steadfast support and guidance, to our advisors for their invaluable insights and expertise, to our esteemed peer review panel for their time and to the student editors, Varisha Sharma and Srishti Sinha, as well as the entire student editorial board for their commitment and hard work. Their collective efforts have been crucial in bringing this journal to fruition. To our readers, we hope you find this issue both enlightening and motivating, and we eagerly anticipate your feedback as we embark on this exciting journey together.

Namrata Singh

Prof. (Dr) Namrata Singh
Department of Political Science
Miranda House

From the Student Editors

We are grateful to have led the third edition of the Miranda Law and Policy Review into being, carrying forward a project that began only two editions ago but has come to occupy a real place in how our college thinks about scholarship.

In a world where uncertainty has become a structural constant, it becomes important to question, whom does it affect, how does it affect them and who bears the responsibility of care? As we saw the daily news, we were consumed by these questions and when given the opportunity, we put our heads together and decided on the theme of this journal, *"Care in Crisis: Governing Uncertainties."* In choosing this theme, we sought to look beyond the immediate language of emergency management and ask what governance looks like when uncertainty becomes a condition of everyday life. The world we were editing this journal in did not pause for us. Climate shocks, economic strain, displacement, and institutional breakdown were not abstractions we assigned to contributors; they were the backdrop against which we all read, wrote, and revised. We wanted a theme that let our authors interrogate that condition directly, and ask not only how crisis is managed but who is expected to hold things together when it strikes, often without recognition, support, or even acknowledgment.

We would like to express our heartfelt gratitude to our respected Principal, Prof (Dr.) Bijayalaxmi Nanda,for her continued support and encouragement towards the journal. We are immensely grateful to Prof. (Dr.) Namrata Singh for her guidance, patience, and unwavering commitment to the *Miranda Law and Policy Review*. We extend our sincere thanks to our faculty advisors, under whose guidance this edition took its final shape. We are grateful to our esteemed peer-review board for taking time from their busy schedules to review each submission with such care and rigour.

To our Editorial Board, our backbone throughout this process: thank you. You brought together perspectives from across disciplines and, in doing so, constantly reminded us that no paper is ever read from just one vantage point. Behind every edited paragraph, every difficult decision, every last-minute correction and every deadline that seemed to arrive far too quickly were people who cared enough to keep going.

We are equally grateful to our authors, who trusted us with their research and stayed with us through several rounds of review, so that together we could build an edition we are proud to put our name to. Lastly, to our readers, thank you for picking up this journal and giving these ideas your attention. As we hand this edition over to you, we do so with gratitude and hope that you find questions worth carrying with you long after you have finished reading.

- **Varisha Sharma and Srishti Sinha**

Editors-*in*-Chief

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Global Care Chains: Gendered Migration and the Transnational Division of Care Work

Trandali Kashyap[1]

Abstract: The transnational flow of care and socially reproductive labour, particularly women from economically poor nations migrating to wealthier and more developed countries is the best way to explain global care chains (GCCs). This study aims to analyse the multifaceted economic, social and emotional impacts of the GCCs, with a particular emphasis on the gendered division of work, systemic exploitation and challenges caused by present regulations. It also seeks to assess the systemic injustices that sustain this worldwide occurrence. The impact of GCCs on migrant caregivers and their families who are left behind in their home countries is another goal of the article. This highlights the urgent need for governmental actions to ensure equal allocation in care labour.

Keywords: Global Care Chains, gendered labour migration, transnational caregiving, care economy, migrant workers

Introduction

Just like rich countries once took gold, copper, rubber, are they now taking maternal love and care from poorer countries? - Arlie Russell Hochschild, Global Care Chains and Emotional Surplus Value (2000).

In a world which is increasingly globalised, the demand for domestic and care work has surged, particularly in wealthier countries due to extensive demographic shifts, such as ageing population and dual-income households where both the husband and the wife actively participate in the economy. This demand has led to the formation of Global Care Chains (GCCs), where women from economically poorer countries migrate to wealthier regions to work as caregivers, nannies and domestic workers (Hochschild, 2000). However, these chains come with immense social, economic and emotional costs, affecting both the workers and the families they leave behind. Migrant caregivers very often face exploitative working conditions, long hours and limited labour protections. Furthermore, their absence back home creates complex familial arrangements, where their own children and elderly relatives rely on secondary caregivers, leading to intergenerational shifts in caregiving responsibilities.

Understanding Global Care Chains

Global Care Chains refer to the integrated flow of caregiving labour such as child-rearing, elder care and domestic work across international borders. The term was firstintroduced by sociologist Arlie Hochschild in the year 2000 to explain how wealthy nations outsource care

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responsibilities to migrant workers. Care is being “imported” like raw materials by rich countries (Hochschild, 2000). This phenomenon exposes the deep-seated economic disparities and gendered labour norms that sustain these chains.

The functioning of Global Care Chains starts with the migration of care workers who move to developed countries in search of employment. These jobs are often informal, low-paid and lack legal protections, leaving workers severely vulnerable to exploitation. As these migrant women leave their families behind, their caregiving roles are delegated to family members such as grandmothers, sisters or older daughters or even to paid caregivers in their home countries. A system of unequal care distribution is reinforced as a result of the ongoing shifting of caregiving obligations.

Comprehending this worldwide shift reveals the interdependence of care systems. Furthermore, the conceptions of care vary according to the historical and cultural backgrounds of the societies. This indicates that different nations and social groups have different perspectives on how care should be valued, delivered and understood.

This trend raises a number of important considerations.

- First, since caregiving is still heavily feminised, women bear a disproportionate burden under the gendered division of labour.
- Second, as this migration is fuelled by economic inequality, lower-income countries experience "care drain," where families and communities are negatively impacted by the lack of caregivers, while wealthy countries benefit tremendously from the influx of inexpensive labour.
- Furthermore, prolonged family separation causes grief for the migrant workers and their dependents, resulting in considerable emotional as well as social costs. In fact, a lot of migrant care workers deal with harsh circumstances like long hours, pay theft and a lack of social security or legal rights (Hochschild, 2000).

Examples of Global Care Chains can be found throughout the world. Filipino women frequently migrate to countries such as the U.S., Canada and the Middle East to work as nannies or caregivers, often leaving their own children in the care of extended family members (NPR, 2013). Advocacy groups estimate that Filipinas constitute nearly 15 percent of domestic workers in the United States, amounting to approximately 300,000 individuals (NPR, 2013). Similarly, women from Ecuador and Bolivia generally migrate to Spain for domestic work, while their own children remain in their home countries with relatives or paid caregivers. In Europe, women from Romania, Ukraine and Poland work in Germany, Italy or the UK as caregivers, leaving behind dependents who must rely on alternative care arrangements. In order to manage the issues proposed by Global Care Chains, meaningful policy interventions and ethical considerations become the need of the hour. Strengthening labour rights for migrant care workers, through fair wages, legal protections and access to social benefits is paramount. Additionally, governments should improve public care infrastructure be it childcare or eldercare services to reduce the high dependence on informal migrant labour. Recognising care work as important and valuing it as a fundamental part of the global economy is a prerequisite for achieving a more equitable and just system.

Global Care Chains reflect the deep interconnectedness of care work across borders. While they undoubtedly enable richer nations to sustain their economies, they also perpetuate strong economic inequalities and reinforce traditional gender norms of women being the caregiver. Hence, a more sustainable approach is required which recognizes, regulates and values care work in ways that protect both caregivers and those who depend on them.

Racial Pattern of GCCs

Hochschild (2000) argues that historically in the US, care work has been done by women from marginalised racial groups. For example, in the American South, Black women ("mammies") took care of white children, while their own children were cared for by relatives. Similarly, in Western US, Asian American women did domestic and care work. So she describes a hierarchy of race, class and nation along which care flows downwards. This means middle-class or rich women go out to work and to manage home and children, they hire another woman to do "wife-like" duties (childcare, cleaning, emotional labour). Earlier, this care transfer happened within the US, among racial groups. However, in the contemporary era, care crosses national boundaries and women migrate from the Philippines, Latin America and Asia to care for families in Europe and the United States.

Where are Men in this dynamic?

In her article, 'Global Care Chains and Emotional Surplus Value', Hochschild raises a crucial question: What role do men play in global care chains? Mostly, men are absent from everyday care work. In many migrant families, men also migrate, but for "male work" (construction, factory work, manual labour), especially to places like the Arabian Peninsula. Their migration relieves wealthier men of physically demanding labour but does not substitute for their caregiving responsibilities at home. When fathers migrate, women (wives, mothers, grandmothers, sisters) take over child care. This shows how care work stays heavily feminised. Hochschild does acknowledge that some fathers were caring or partially caring for their children but these are exceptions and not the dominant pattern. Equally important is another fact that Hochschild raises. Some men in these migrant women's lives were abusive so for many women, migration became a way to gain distance from violent or oppressive relationships.

Perspectives to look at Global Care Chains

Hochschild (2000) presents three perspectives.

a. The Primordialist view - This view says that people should care only for their own family and global care chains are morally wrong because they disrupt "natural" bonds.
b. The Sunshine Modernist view - This view says that global care chains are normal and good. As long as supply is meeting the demand, the problem is solved.
c. The Critical Modernist view - This is Hochschild's own perspective according to which we do not need to reject globalisation but need to question it ethically.

Neoliberal Restructuring and the Global Care Crisis

Pérez Orozco (2009) explains that the emergence of global care chains is driven by the intersection of two structural processes. First, structural adjustment programmes and successive neoliberal reforms have disproportionately affected women in peripheral economies. In contexts of economic crisis, households increasingly rely on gendered survival strategies, leading to the feminisation of global survival circuits. Because domestic well-being is socially constructed as women's responsibility, migration reshapes households into transnational formations in which women are expected to sustain family livelihoods across borders. As a result, women's responsibility for ensuring household survival becomes prioritised and often non-negotiable during periods of social and economic instability.

Simultaneously, wealthier or non-peripheral economies are experiencing a profound care crisis. The earlier model of care organisation based on a rigid sexual division of labour and a separation between public and private spheres has eroded. Care provision was historically confined to the private household and largely excluded from public responsibility, rendering caregiving labour invisible and denying caregivers full social recognition. Demographic ageing, alongside changing social roles and aspirations of women, has destabilised this model. One response to this crisis has been the outsourcing and commodification of care work, either through market-based services or paid domestic labour within households. Migrant women have come to occupy a central position in this process, particularly because care work remains precarious, poorly paid and weakly regulated. Consequently, the care crisis in wealthier countries has been a key driver of the feminisation of migration, creating labour opportunities primarily for women in domestic and care-related sectors across both public and private domains (Pérez Orozco, 2009).

Economic Drivers of GCCs

Global care chains (GCCs) are shaped by several economic factors that result in an unequal distribution of care labour across countries. One major factor is wage disparities as care work in wealthier nations, though undervalued, still offers significantly higher wages compared to poorer countries. For example, Filipina domestic workers in Hong Kong earn multiple times higher than what they would in the Philippines (French & Lam, 1988). As of 2025, Hong Kong's statutory minimum wage for foreign domestic helpers is HK$5,100 per month (approximately PHP 37,000-38,000), which is more than five times higher than the minimum wage received by many domestic workers in the Philippines, typically around PHP 6,000-7,000 per month (Hong Kong SAR Government, 2025).

Another crucial factor is ageing populations. Countries such as South Korea, Japan, Germany and Italy have significantly aging populations and hence have to increasingly depend on migrant caregivers to support their elderly citizens, filling gaps in their domestic care workforce (Hussein, 2022).

Additionally, the rise of dual-income households in developed nations where both the husband and the wife work outside the house has contributed to a growing demand for paid caregiving services, as more women enter the workforce and require external care solutions for children, the elderly and household maintenance. These economic forces collectively shape the movement of care workers across borders, reinforcing global inequalities in care provision (Manchester Homecare, n.d.).

Razavi & Staab (2010) argues that in India too, recent economic growth has led to more women working as domestic workers. This has happened for two main reasons. First, in cities, a growing middle class now hires domestic help because more households have dual earners and busier lifestyles. This acts as a *pull factor*, attracting women into domestic work. Second, in rural areas, many women face agrarian distress, lack of jobs and declining livelihood options. Because farming no longer provides stable income and rural employment is shrinking, women are *pushed* to migrate to cities and take up domestic work.

Gendered Division of Labour

Women continue to bear the principal responsibility for caregiving worldwide, whether in the form of unpaid household labour or paid work in the care sector (Razavi & Staab, 2010). Despite the increasing participation of women in the formal workforce, caregiving remains largely feminised. This pattern can be seen across cultures, where women are expected to care for children, the elderly and sick family members, often without financial compensation. Society often assumes that women are naturally predisposed to caregiving due to biology, rather than acquired skills, training, or experience. Because care is viewed as something that comes "naturally" to women, it is not properly valued, respected, or rewarded. As a result, care workers receive lower wages and less recognition, even though their work requires real effort, knowledge and expertise (Razavi & Staab, 2010). Migrant care workers often face multiple layers of exploitation. It makes them vulnerable to abusive and precarious working conditions.

They receive lower wages compared to native-born workers, even when performing the same tasks, due to biases in labour markets. Additionally, the migrant care workers lack formal labour rights. This may be because they are employed in informal and unregulated sectors where legal protections are either minimal or do not exist (Sehic & Vicol, 2023). The convergence of gender, migration status and race further exacerbates their marginalisation. Hence, while migrant women play an integral role in sustaining global care economies, they often do so under exploitative and harsh circumstances.

Pérez Orozco argues that global care chains are structured by deeply gendered inequalities. While men are more likely to benefit from care arrangements, women overwhelmingly bear the responsibility for providing care across households, markets and institutions. The scope and organisation of these chains are shaped by the internal division of care within families, as well as by broader structural factors such as the availability of public care services, labour market regulation, migration policies and the role of private and non-profit actors. Care is delivered through diverse spaces including private households, market-based services and public institutions and is motivated by different rationales. Individual caregivers may be driven by economic necessity, emotional bonds, social obligation or coercion, whereas care provided through private companies is primarily governed by profit motives and care delivered by public institutions is framed as a social right. Pérez Orozco further situated the expansion of global care chains within the context of neoliberal restructuring and structural adjustment programmes, which have disproportionately affected women in peripheral economies. These processes have contributed to the feminisation of survival strategies and the emergence of transnational households, where women’s responsibility for sustaining household well-being becomes both prioritised and non-negotiable during periods of social and economic crisis.

To understand how global care chains operate in practice, the Philippines provides one of the most widely studied examples. The country has become a major source of migrant care workers for wealthier economies in Asia, North America, Europe and the Middle East. The Philippine state has actively facilitated labour migration through recruitment policies, overseas employment programs and training systems for domestic workers, caregivers and nurses.

Case Study: Filipina Domestic Workers

According to the Philippine Statistics Authority (2025), an estimated 2.19 million Overseas Filipino Workers (OFWs) were employed abroad, an increase from 2.16 million in 2023. Remittances sent by OFWs reached PHP 262 billion during the survey reference period, highlighting the continued importance of labour migration to the Philippine economy (Philippine Statistics Authority, 2025). A substantial proportion of female OFWs are employed in domestic work, caregiving and nursing, making the Philippines one of the largest suppliers of migrant care labour globally. A significant number of Filipino care workers are employed in Hong Kong. According to the Hong Kong Legislative Council Research Office (2025), 55% of foreign domestic helpers in Hong Kong are from the Philippines and 42% are from Indonesia, indicating that the vast majority of migrant domestic workers in Hong Kong come from these two countries. These workers often experience long and exhausting work hours, with many working over 14 hours a day. Many live with their employers, which blurs the distinction between work and personal life. It makes it difficult to establish clear working hours and rest periods. Although Hong Kong has labour laws governing domestic work, enforcement remains inconsistent, leaving many migrant women vulnerable to exploitation.

Statistical Representation

We can clearly see from the below mentioned table that Filipino women constitute the highest number of migrant domestic workers in most of the developed countries.

Table 1

Distribution of Migrant Domestic Workers by Country

Country	% of Migrant Domestic Workers	Predominant Nationalities
United States	25%	Mexican, Filipino
Canada	30%	Filipino, Caribbean
Italy	40%	Eastern European, Filipino
UAE	60%	South Asian, Filipino

(Source: ILO, 2021)

Challenges Faced by Migrant Care Workers and Their Families

Migrant care workers endure abusive conditions due to the nature of their work as well as the vulnerable status in host countries. It makes them prone to exploitation and abuse (Anderson, 2000). Additionally, because care work is undervalued and perceived as an extension of traditional women's roles, employers often justify paying migrant workers less than local workers performing similar duties.

In some Gulf countries, the existence of the Kafala system further increases the vulnerability of migrant care workers. It legally binds them to their employers and they cannot leave or change jobs without the latter's permission. It places them in situations of potential abuse. Because the system criminalizes "absconding" (leaving an employer without permission), many workers endure abusive conditions out of fear of detention or deportation. This legal framework benefits employers while severely restricting migrant workers' rights, making it one of the most criticized labour structures in the world. Migrant care workers also experience significant emotional and social costs due to extended separation from their families. Many migrant mothers leave behind young children in their home countries. This can surely lead to psychological stress and emotional distress for both the caregiver and their children (Parreñas, 2005). Children of migrant workers often experience feelings of abandonment, while the caregivers themselves struggle with guilt and longing for their families. Domestic workers are often excluded from standard labour laws that regulate working hours, wages and job security, making it difficult for them to unionise or demand better conditions. Additionally, migrant workers frequently face language barriers, lack of knowledge about their rights and restrictive visa conditions that prevent them from seeking legal assistance.

Policy Recommendations

Governments can play a very important role in protecting the rights of migrant care workers. This can be done by ensuring they receive fair wages, reasonable working hours and safe work environments. Stronger laws and enforcement can help prevent abuse and exploitation. Governments should ensure that domestic workers are fully covered under national labour laws rather than being treated as a separate category of workers with fewer rights. This includes establishing legally enforceable minimum wages, limits on working hours, mandatory weekly rest days, paid annual leave, overtime compensation, maternity protection and access to health insurance and social security benefits. Live-in domestic workers should have clearly defined working hours, guaranteed private accommodation and protection from excessive surveillance and restrictions on movement. Employers who violate labour standards should face meaningful penalties, including fines, compensation orders and restrictions on hiring migrant workers in the future. Regular labour inspections, multilingual legal aid services, confidential reporting mechanisms and faster dispute-resolution systems can significantly improve enforcement and reduce exploitation.

Hochschild (2000) notes that if some women migrate to escape abusive husbands then one policy response can be to establish local shelters and refuges so women don't have to leave their country just to be safe. Other practical solutions she suggests can be to change migration laws so nannies can bring their children with them and to facilitate regular home visits through paid leave or government funded support.

Countries that send and receive migrant workers should create agreements to safeguard the rights of the workers. These agreements can set clear rules about wages, job security and protections against mistreatment, ensuring fair treatment across borders. Both home and host countries should recognise care work as valuable labour that deserves fair pay and legal protections. Proper recognition and compensation would reduce the economic and social exploitation of migrant workers, improving their working and living conditions. As Hochschild mentions, a long-term solution can be to include fathers in parenting so that childcare doesn't pass down the social hierarchy.

Conclusion

Global Care Chains in simple words refer to how caregiving moves across countries from poorer to wealthier nations. They create both opportunities and challenges as migrant women fill crucial caregiving roles, however they themselves face exploitation, low wages and family separation. Also, their home countries experience a "care drain," affecting families left behind. The burden of care is often transferred to other women within the family, reinforcing existing gender inequalities.

Governments must strengthen labour protections for migrant care workers, ensure effective enforcement of labour laws, regulate recruitment practices, invest in public childcare and eldercare services and recognize caregiving as valuable and essential work. Greater international cooperation between sending and receiving countries is also necessary to safeguard workers' rights across borders. Ultimately, a balanced approach that combines economic opportunities with social protection and gender equality is the need of the hour, ensuring that the global demand for care does not come at the cost of the dignity, rights and well-being of the women who provide it.

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Submitted on-: 02/02/2026

Accepted on-: 13/05/2026

The Algorithm as the New Foreman: How Digital Welfare Exclusion Fuels Labour Exploitation in Global Supply Chains

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Abstract*:* In the contemporary mandate of governing uncertainties, states increasingly utilize digital technologies to manage social welfare, ostensibly to enhance efficiency during crises. However, this paper argues that the digitalization of infrastructures of care through biometric authentication, automated eligibility testing, and data-driven fraud detection functions less as a support system and more as a mechanism of algorithmic austerity. Drawing on Marxist-legal theory and comparative case studies from India, the Netherlands, Australia, and the UK, this paper posits that these exclusionary digital barriers act as the New Foreman for global capital. By systematically denying access to the safety net, the digital welfare state disciplines the workforce, stripping vulnerable populations of their bargaining power and coercing them into the fragile supply chains that underpin the global economy This paper analyses how the surveillance and control inherent in these digital systems create a desperate reserve army of labour forced to accept precarious conditions in logistics, warehousing, and gig-economy delivery sectors. Consequently, the state's failure to provide accessible care acts as an indirect subsidy to "labour exploitation in crucial supply chain webs". The paper concludes by critiquing the current legal frameworks that conflate resilience with endurance, arguing that true Care in Crisis requires decoupling the right to survival from the apparatus of digital surveillance. It calls for a legal reimagining of social reproduction that prioritizes human dignity over the algorithmic optimization of the labour market.

Keywords: Algorithmic Austerity, Supply Chain Labor, Digital Welfare State, Surveillance Capitalism, Right to Care.

Introduction

In the current scenario of governance, the handling of "uncertainty" has become the primary responsibility of the state. Whether it is the displacement caused by climate change or the economic crisis caused by the pandemic, the current state is increasingly being called upon to handle "Care in Crisis" ostensibly with the aim of improving efficiency and ensuring the targeted distribution of resources in this chaotic era. States around the world have adopted digital technology, biometric identification, automated eligibility determination, and data-driven fraud prevention as the backbone of this care. The story here is one of optimisation: algorithms will ensure that the limited capacity of the welfare state reaches those who need it

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most with unprecedented speed and accuracy. However, this paper contends that this digitalization of care is instead a function of "algorithmic austerity" rather than a support system. Rather than being neutral and efficient tools, these digital systems are instead exclusionary barriers that completely shift the power balance between capital and labour. This paper contends that the digital welfare state has become the "New Foreman" of global capital. By deliberately preventing access to the safety net through opaque and inflexible algorithmic rules, the state disciplines the labour force, taking away the bargaining power of vulnerable populations. This is not simply a byproduct of bureaucratic ineptness but is instead a feature of "Surveillance Capitalism." When the "Digital Poorhouse" makes it difficult to access life-sustaining welfare, it creates a desperate "reserve army of labour." These workers, lacking the alternative of state support, are forced to take precarious, low-wage jobs in the logistics, warehousing, and gig economy sectors that are the very "fragile supply chains" that keep the global economy afloat. economic sectors that are the very "fragile supply chains" that keep the global economy afloat. As a result, the inability of the state to deliver accessible care becomes an indirect subsidy for labour exploitation. This paper will explore this issue through three different prisms. First, it will investigate the architecture of the digital welfare state, employing the idea of "automating inequality" developed by Virginia Eubanks to illustrate how the instruments of care have been converted from tools of care to tools of punishment. Second, it will investigate the particular case of the Indian biometric system, demonstrating how the failure of authentication becomes an effective barrier to entitlement. Finally, it will link this issue of exclusion to the labour market, illustrating how the "algorithm as foreman" is ensuring a constant flow of cheap and compliant labour for "Supply Chain Capitalism".

Ultimately, this paper critiques current legal frameworks that conflate "resilience" with mere endurance. It argues that true care in crisis requires a radical legal reimagining: the decoupling of the right to survival from the apparatus of digital surveillance

The Architecture of Algorithmic Austerity

The shift to digital governance is often legitimised by the discourse of "crisis." In the context of economic crisis, pandemics, or budget deficits, governments claim that digital technology is necessary for the optimal allocation of limited resources. This discourse situates biometric identification, automated eligibility determination, and predictive fraud analysis as administrative technologies that are merely "neutral" and intended to "target" benefits more precisely. However, this paper contends that the digitalisation of welfare is often a Trojan horse for "algorithmic austerity."

Instead of governing uncertainties with nuance, these technologies govern uncertainties through exclusion, creating digital barriers that simulate the punitive role of the poorhouse in the past.

The Digital Poorhouse: Profiling And Punishment

At the centre of this system lies the idea of "The Digital Poor House," a metaphor for high tech tools used to profile, monitor, police and punish the poor, first described by Virginia Eubanks (2018) as part of her argument that the purpose of the physical poor houses of the 19th Century has not changed, only the method of achieving that goal. In other words, the social function of those poor houses, or the containment and regulation of the poor, has been codified, or encoded. In this manner, the foremen of the past are no longer needed. Algorithms are designed to be simple and therefore are unable to account for the many complexities of need inherent in the human condition. For example, if an algorithm is designed with a strict data matching protocol it could easily flag a claimant as potentially fraudulent based upon trivial clerical errors, thus immediately cancelling out all support provided by the government without human review. In short, there is a shift in the underlying philosophy of the nature of care; service provision is now replaced by risk management. The state encodes its suspicions of the poor thereby creating a system of presumed unqualifiedness unless qualified.

The Digital Welfare State as a Tool of Austerity

The use of these technologies is the emergence of the "Digital Welfare State." Philip Alston (2019), in his role as the UN Special Rapporteur on extreme poverty, has analysed this approach, stating that "digital-by-default" approaches are often designed with the implicit aim of minimising caseloads and minimising costs. Alston argues that when the state draws back behind a mask of web portals and biometric scanners, it breaks the human relationship between the citizen and the state.

The "digitalisation of infrastructures of care" represents a new level of bureaucratic violence. For the marginalised, those with low digital literacy, unstable internet access, or "illegible" biometric data, the interface itself becomes a mechanism of denial. The complexity of the application process is itself an "ordeal," a friction that is intentionally introduced to discourage applications. Behind the discourse of "modernising the safety net," the state is constructing a system of "exclusionary digital barriers." Most importantly, this architecture of austerity is not simply an issue of implementation failure but a success of design for the benefit of capital. In rendering the safety net inaccessible or punitive, the digital welfare state is a disciplinary apparatus. It increases the cost of saying no to bad work. With the alternative to a precarious job, not a supportive welfare state, but a hostile algorithm that insists on impossible demonstrations of poverty, the worker loses their leverage. In this way, the “Digital Poorhouse” is the necessary antecedent for the “New Foreman” to function: it guarantees that the reserve army of labour is sufficiently desperate to accept the terms of the gig economy and the supply chain.

The Indian Panopticon – Biometrics as Barriers

The “Digital Poorhouse” offers an abstract model of the exclusionary welfare state; however, it is the Indian experiment with Aadhaar (the world's largest biometric ID) that demonstrates the best example of this concept in practice. The exclusion created by Aadhaar is embedded into the Constitution via section 7 of the Aadhaar Act 2016, which stipulates that if you are receiving any sort of benefit, subsidy, or services from the Consolidated Fund of India, you have to be authenticated using your Aadhaar. The Aadhaar represents the paradigm shift of the digital welfare state in the global south while it was designed to achieve 'financial inclusion' and remove ‘ghost recipients’, the use of Aadhaar within the Public Distribution System has fundamentally changed the nature of the right to food.

Governing with Biometrics: The Techno-Legal Shift

The biometric authentication system in the welfare regime in India represents a shift from a rights-based approach to a technocratic one. As Usha Ramanathan (2010) has so comprehensively argued, the project of unique identity cards redefines the relationship between the citizen and the state. The citizen is no longer a rights-bearing subject but a data subject who is required to “prove” their existence to the centralised database on a constant basis. This “governing with biometrics,” as Rao and Nair (2019) have noted, is not merely a delivery mechanism for services but a governance tool that makes the population legible to the state while simultaneously making the state illegible to the poor.[2]

In the context of the PDS (Public Distribution System), a lifeline for millions of impoverished households this illegibility is catastrophic. The mandatory linkage of Aadhaar to ration cards (Aadhaar-based Biometric Authentication or ABBA) introduces multiple points of failure: worn

[2] Surveillance scholars term this phenomenon 'function creep' where a technology introduced for a specific, limited purpose (e.g., distributing grain) is gradually expanded to serve unrelated surveillance or disciplinary objectives without public debate.

fingerprints, connectivity issues in remote areas, and server timeouts.[3] When these digital handshakes fail, the state does not default to care; it defaults to denial.[4]

Exclusion by Design: The Empirical Evidence

The implications of this digital gatekeeping are not merely theoretical. Reetika Khera's (2017) study of the "Digital Welfare State" in India illustrates how "digital barriers" such as the need for successful biometric authentication systematically exclude the most vulnerable sections of society, especially the elderly and manual labourers whose fingerprints may have worn out due to hard work.

Crucially, this exclusion is often concealed behind the veil of efficiency. In a seminal study on identity verification standards in welfare schemes, Muralidharan et al. (2023) offered robust experimental proof of this trend. Their study showed that although biometric verification did lead to a decrease in "leakage" (the diversion of grain), it did so at the expense of a high "exclusion error." Beneficiaries who were rightfully due their entitlements to food security were simply denied them because the system failed to verify them. This is a perverse system of incentives, where the "savings" to the state are, in effect, made by denying the most marginalised access to anything at all. The "efficiency" of the digital welfare state is thus not a function of reducing corruption but of reducing beneficiaries.

Connecting this back to the "New Foreman" thesis, the "exclusion error" is not merely a technical glitch; it is a disciplinary mechanism. When a labourer is denied their monthly grain ration due to an authentication failure, they are immediately thrust into a state of acute economic precarity. The "safety net" having failed, the worker is forced to seek immediate income to survive.[5] This manufactured desperation directly benefits the informal and gig economy sectors. A worker who cannot rely on the state for basic subsistence has zero bargaining power. They become the ideal candidate for the "fragile supply chains" of global capital: willing to accept

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[3] While the Supreme Court of India in Justice K.S. Puttaswamy (Retd.) v. Union of India (2019) upheld the constitutionality of Section 7 of the Aadhaar Act (linking ID to welfare), the Court did not fully resolve the issue of 'civil death' caused by authentication failures. Justice Chandrachud's dissent famously noted that technology cannot be allowed to 'disenfranchise' citizens from their entitlements; *Justice K.S. Puttaswamy (Retd.) v. Union of India (2019) 1 SCC 1.*

[4] Official data from the UIDAI remains contested. However, independent surveys by the 'Right to Food Campaign' (2018-2022) indicate that biometric authentication failures in states like Jharkhand and Odisha range between 12% to 20%, disproportionately affecting manual labourers whose fingerprints have faded due to hard labour.

[5] This denial of basic subsistence implicates the 'Right to Life' under Article 21 of the Constitution of India. The Supreme Court in Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981) held that the right to life includes the 'right to live with human dignity' and the bare necessities of life, rather than mere animal existence. Algorithmic exclusion that leads to starvation is, therefore, not just a policy failure but a constitutional violation; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

sub-minimum wages, unsafe conditions, and zero-hour contracts because the alternative is starvation.[6] In this sense, the biometric reader at the Fair Price Shop acts as a silent recruiter for the warehouse and the construction site. It sorts the population not just into "eligible" and "ineligible," but into "subsistence" and "surplus" creating a reserve army of labour that has no choice but to work on capital's terms.

The New Foreman - Manufacturing the "Reserve Army"

If the digital welfare state functions as a gatekeeper of exclusion, the algorithmic workplace functions as its direct beneficiary. The systematic denial of care described in the previous sections accomplishes a critical economic function: it creates a "desperate reserve army of labour". This process works directly through the collapse of the worker's reservation wage, which represents the baseline pay and working conditions a person requires before accepting a job. Under normal circumstances, state welfare offers a basic floor for survival. That floor gives workers enough leverage to say no to sub-minimum pay, dangerous tasks, or extreme algorithmic control.

However, when digital gatekeeping removes that safety net, such as biometric authentication errors in India's PDS or automated debt notices in Australia's Robodebt, individuals lose all alternative means of support. Starvation and immediate poverty take the place of state care, driving workers directly into the labour market under extreme economic pressure. This manufactured vulnerability continually replenishes a cheap, compliant pool of labour that platforms and logistics firms can draw from at will. Stripped of the bargaining power that a robust safety net provides, this workforce is coerced into the "fragile supply chains" of the global economy, where they encounter a new disciplinarian force. This paper conceptually frames this force as the "New Foreman."[7]

The Return of the Foreman: Digital Taylorism

In classical Marxist analysis, the foreman was the physical embodiment of capital's discipline on the factory floor monitoring pace, punishing idleness and enforcing quotas. During the industrial era, this discipline was formalized through Frederick Winslow Taylor's theory of scientific management, commonly known as Taylorism. Taylor was an industrial

[6] The Code on Social Security, 2020, attempts to address this by recognizing 'gig workers' (Sec. 2(35)) and 'platform workers' (Sec. 2(61)). However, critics argue that by creating a separate category outside the definition of 'employee,' the Code institutionalizes their exclusion from fundamental protections like the minimum wage and dispute resolution mechanisms under the Industrial Disputes Act, 1947.

[7] While often used interchangeably, the 'gig economy' refers broadly to short-term freelance work, whereas the 'platform economy' specifically denotes work mediated by digital algorithms (e.g., Uber, Zomato). This paper focuses on the latter, as the 'algorithmic foreman' is the central mechanism of control.

efficiency engineer and management scholar, not a Marxist. His goal was to maximize productivity by breaking labour down into standardized micro-tasks, thereby stripping workers of operational autonomy. However, critical Marxist scholars later integrated Taylorism into “labour process theory” to demonstrate how capital systematically deskills labour to exercise total control over the workplace.

Today, this dynamic returns as “Digital Taylorism,” where the human supervisor with a stopwatch has been usurped by code**.** As Gandini (2019) argues in his analysis of the gig economy, “labour process theory” reveals that algorithms do not liberate workers from hierarchy; they obscure it. The “New Foreman” is an automated system of management that uses comprehensive surveillance to extract maximum value from a dispersed and precarious workforce.[8] In the Indian context, the state has recently attempted to regulate this emerging sector through the Code on Social Security, 2020. Enacted by the Indian Parliament to consolidate multiple existing labour laws, this sweeping legislation aims to extend welfare protections to the previously unregulated gig and platform economy. The Code attempts to formalize this via Section 2(35), which defines a “gig worker” as a person who performs work outside the traditional employer-employee relationship. However, Section 142 of the same code extends the “digital barrier” by mandating Aadhaar authentication for registration, thereby replicating the exclusionary risks of the PDS within the labour market itself.

Unlike the human foreman, whose gaze was limited, the algorithmic foreman is omniscient. It tracks every keystroke, GPS coordinate, and “active” minute. Kellogg et al. (2020) classify these mechanisms into “restriction” (limiting worker choices) and “recommendation” (nudging behaviour). For example, a delivery rider may technically be “free” to decline a job, but the algorithm penalizes this autonomy by “throttling” future offers or deactivating their account. Thus, the “freedom” of the gig economy is an illusion; the reality is a form of “Digital Taylorism” where the worker’s autonomy is subverted by a black-box manager.

Information Asymmetry as Control

The primary weapon of the New Foreman is information asymmetry. In her ethnographic study *Uberland*, Rosenblat (2018) demonstrates how platforms utilize this asymmetry to control worker behaviour without issuing direct commands a phenomenon she describes as “algorithmic management”. The platform knows the destination, the fare, and the

[8] It is important to note that this 'automated' management often relies on what Gray and Suri (2019) term 'Ghost Work' invisible human labour that trains, verifies, and corrects the algorithms. The 'New Foreman' is, therefore, not just code, but a hybrid system where human judgment is hidden behind a technological veil to evade accountability.

demand patterns; the driver knows only what the algorithm reveals in the moment. This opacity is not merely a theoretical concern but a catalyst for industrial unrest. For instance, during the April 2023 strikes by Blinkit delivery partners in Delhi-NCR, workers protested a new "payout structure" that reduced minimum earnings from ₹25 to ₹15 per delivery without explanation (The Hindu, 2023). This incident exemplifies the New Foreman's ability to unilaterally alter the terms of labour through opaque code, leaving workers with no mechanism for negotiation other than withdrawing their labour entirely.

This dynamic creates a power imbalance that mirrors the pre-union industrial era. However, because these workers are legally classified as "independent contractors" rather than employees, they are denied the protections of labour law. Adams-Prassl (2019) notes that this legal fiction allows the "algorithmic boss" to exercise the control of an employer while evading the responsibilities of one.[9]

Crucially, the "New Foreman" relies on the desperation manufactured by the "Digital Poorhouse." A worker with access to a reliable state safety net might refuse a task that pays below minimum wage or demands unsafe driving speeds. A worker who has been "biometrically excluded" from the food security net cannot afford such refusal. Dyer-Witheford (2015) characterizes this demographic as the "Cyber-Proletariat" a class of workers who are plugged into the high-tech circuits of global capital but are treated as disposable components within it. The algorithm identifies this desperation.

[9] In the Indian context, this ambiguity is codified in the Code on Social Security, 2020. While the Code introduces the category of 'gig worker'(Section 2(35)) and 'platform worker'(Section 2(61)) for the first time, it deliberately distinguishes them from 'employees.' Legal scholars argue this creates a 'third category' of workers who are entitled to some social security schemes but are denied the fundamental protections of the Industrial Disputes Act, 1947, effectively legalizing their precarity.

Table 1: The Evolution of Labor Discipline

Feature	The Traditional Foreman (Industrial Era)	The "New Foreman" (Algorithmic Era)
Visibility	**Visible:** Physical presence on the factory floor; the worker knows who is watching.	**Invisible (Opaque):** "Black box" management; the worker is watched by unseen code (Information Asymmetry).
Surveillance Scope	**Limited:** The human gaze is intermittent and cannot watch everyone constantly.	**Omniscient:** Continuous, granular tracking of every keystroke, GPS coordinate, and second of "idle time."
Control Mechanism	**Direct Command:** Verbal orders, quotas, and physical supervision.	**Nudging & Restriction:** Indirect control via "recommendations," "throttling" access to tasks, and gamification.
Disciplinary Action	**Firing:** A formal termination process (often subject to labour laws).	**Deactivation:** Instant "off-boarding" or shadow-banning based on metrics, often with no human review.
Legal Status	**Employee:** Protected by the *Industrial Disputes Act* (e.g., protection against unfair dismissal).	**"Partner" / Gig Worker:** Legally classified as an independent contractor; outside standard labour protections.

Supply Chain Capitalism & The Law of Endurance

The end point of this disciplined labour force is the supply chain. This paper will argue that the digital welfare state not only abandons the poor, but that it actively leads them to what Anna Tsing (2009) calls "Supply Chain Capitalism." In this form of capitalism, capital is accumulated not through direct production, but through the "super-exploitation" of a variety of outsourced labour sources. The supply chain is predicated on a structural separation between the brand (which possesses the profit) and the worker (who possesses the risk). The "New Foreman" that the algorithm serves is to bridge this gap.

The Logistics of Control: From Truckers to Pickers

The logistics sector warehousing, trucking, and delivery serves as the circulatory system of this model. It is here that the abstract "New Foreman" manifests as brutal physical reality.

Karen Levy's (2022) analysis of the trucking industry in *Data Driven* provides a stark illustration. Levy documents how Electronic Logging Devices (ELDs) replaced human oversight with continuous digital surveillance, stripping truckers of their professional autonomy under the guise of safety.

This dynamic is replicated in the warehouse. As Alimahomed-Wilson (2018) notes in *Choke Points*, logistics workers are subjected to intense algorithmic pacing. Pickers are directed by headsets or handheld units that dictate their movements down to the second. The algorithm calculates the "efficient" time for a task based on an ideal worker, and any deviation is flagged.

At this juncture, it is vital to explicitly connect the two distinct algorithmic systems discussed in this paper to understand how they reinforce one another. A critical question arises regarding whether the populations excluded by welfare algorithms are the same individuals absorbed by platform algorithms, and how these seemingly separate systems relate. While empirical tracking of an individual worker moving directly from a biometric PDS failure to a gig platform is difficult due to the informal nature of the economy, the sociological and demographic overlap is profound. Both systems target and manage the exact same socioeconomic strata: urban migrants, informal labourers, and the economically precarious. Furthermore, while the algorithms themselves are technically distinct, they operate in direct economic symbiosis. The state's welfare algorithms are designed for exclusion and gatekeeping, whereas capital's platform algorithms are designed for extraction and pacing. This relationship forms what this paper identifies as an indirect subsidy to logistics capital. By keeping this specific demographic in a state of artificial desperation through digital exclusion, the state ensures that platforms like Amazon, Uber, or Zomato have continuous access to a labour pool that is cheaper than the cost of its own reproduction. The state avoids the financial burden of care, while capital reaps the benefits of a workforce that cannot afford to negotiate. Consequently, for a worker who has been excluded from the social safety net perhaps due to a biometric failure in the PDS or an "eligibility" flag in the digital welfare system resistance is impossible. They must match the algorithm's pace or face immediate destitution.

Fragility and the "Law of Endurance"

The contemporary supply chain is built on the principle of "Just-in-Time" delivery, which removes all slack from the system to maximize efficiency.[10] However, as the abstract of

[10] Originally developed by Toyota in the 1970s to minimize inventory costs ('Zero Inventory'), this logic has now been transferred to labour management. In the gig economy, the worker is treated as 'human inventory' that is summoned only when demand spikes, shifting the cost of idle time from the firm to the individual

this paper notes, these are “fragile supply chains”. They are vulnerable to disruption weather, pandemics, or labour unrest. To mitigate this fragility, the system requires a workforce that is infinitely flexible and disposable.

Here, the legal framework is complicit. Current labour and welfare laws effectively codify a “Law of Endurance.” Instead of guaranteeing a “Right to Care” or stability, the state praises “resilience” which, in this context, is merely the capacity of the worker to endure shock without collapsing. When the state removes the floor of social protection (via the Digital Poorhouse), it compels the worker to absorb the volatility of the market. The gig worker waiting unpaid for an order, or the warehouse worker on a zero-hour contract, is performing the labour of endurance that keeps the supply chain intact. As the indirect subsidy of welfare exclusion has already neutralized the worker's bargaining power, the two systems complete a seamless circuit of exploitation. The “New Foreman” (the algorithm) extracts value, while the “Old Poorhouse” (the digital welfare state) ensures compliance. The result is a seamless circuit of exploitation where the technology of care has been cannibalized to serve the logistics of profit.

A Global Panopticon - Comparative Perspectives on Algorithmic Austerity

The transformation of the welfare state into a mechanism of surveillance and discipline is not unique to the Indian experience. Across the Global North, governments are deploying strikingly similar “New Foreman” technologies automated eligibility testing, predictive risk modelling, and “digital-by-default” interface ostensibly to manage the uncertainties of fiscal crises. However, a comparative analysis of recent legal and sociological developments in the Netherlands, Australia, and the United Kingdom reveals a converging trend: the weaponization of administrative data to strip vulnerable populations of their rights, forcing them into a state of perpetual economic insecurity that benefits the “fragile supply chains” of capital.

1. **The Netherlands: SyRI and the Predictive Policing of Poverty**

The “System Risk Indicator” or SyRI, in the Netherlands is the “front man” for the “Surveillance Capitalism” model of Welfare delivery. SyRI was a Legal Tool developed by the Dutch Government to determine Welfare Fraud through the collection and comparison of Data from Tax Authorities, Social Services Offices and Municipalities. Unlike traditional Audits, SyRI generated Risk Profiles of Citizens based upon “Black Box” Algorithms and specifically targeted Low-Income Neighbourhoods. Systems such as SyRI exemplify the “New Foreman's” discrimination perspective; according to van Bekkum and Zuiderveen Borgesius (2021), SyRI was designed to focus on areas with high immigrant populations and large numbers of working-class citizens and therefore utilized Poverty as a Proxy for Suspicion. In 2020, the District Court of The Hague made an Historic Decision that declared SyRI as Unconstitutional pursuant to Article 8 of the European Convention on Human Rights (Rechtbank Den Haag, 2020); the Court noted that the opacity of the System prevented Citizens from challenging the Algorithmic Accusations made against them, thereby creating a "Kafkaesque" Reality where the Poor are Ruled by Invisible, Irrefutable Logic. While the legal victory was significant, the sociological damage remains. SyRI illustrates how the digital welfare state functions as a tool of "social sorting," marking specific populations as deviant and subjecting them to enhanced discipline dynamics that push stigmatised groups toward the margins of the labour market to survive.

2. Australia: Robodebt and the Automation of Extortion

Whereas SyRI symbolises surveillance, the Australian "Robodebt" program, also known as the Online Compliance Intervention, symbolises the "New Foreman's" punitive power. Introduced in 2016, the program relied on an automatic data matching algorithm to compare the recipient's fortnightly income declarations with their annual tax returns. More importantly, the program relied on a blunt "income averaging" algorithm that presumed income to be constant over the course of the year.

The result was the mass fabrication of debt. The system issued over 470,000 unlawful debt notices to some of Australia's most vulnerable citizens, shifting the burden of proof onto the recipient to prove they *did not* owe money to the state. Academic analysis in *Policy and Society* describes this as a form of "malign policymaking" where the state strategically ignored legal advice to prioritize "budget savings" over human rights.

The "Robodebt" crisis functioned as a direct disciplinary mechanism. By suddenly demanding repayment of non-existent debts, the state manufactured immediate financial crises for hundreds of thousands of people. As the Royal Commission into the Robodebt Scheme concluded, this "administrative cruelty" forced recipients into desperate financial positions. For the gig economy and logistics sectors, this manufactured desperation is profitable; a worker facing a sudden, automated $3,000 government debt is a worker who cannot afford to turn down unsafe or underpaid work in the supply chain.

3. The United Kingdom: Universal Credit and Digital Conditionality

In the United Kingdom, the "Digital by Default" design of Universal Credit (UC) mirrors the "exclusionary digital barriers" seen in India's Aadhaar system. Universal Credit was designed to streamline benefits into a single monthly payment, but it mandated that all claims be managed through an online portal. Recent scholarship in the *Journal of Social Welfare and Family Law* describes this as "digital conditionality" where the ability to use a computer becomes a prerequisite for the right to survival.

Research indicates that this “interface-first bureaucracy” shifts the administrative burden entirely onto the claimant. For those lacking “digital capital” the elderly, the disabled, or those without reliable internet access the system effectively locks them out of the safety net. The “Help to Claim” services, meant to assist the digitally excluded, have themselves been pushed to telephone-only channels, reinforcing the barrier.

This digital gatekeeping serves a clear labour market function. By making the process of claiming welfare an “ordeal” of passwords, verification codes, and online journals, the state raises the “psychological cost” of welfare. As the *Centre for Social Justice* notes, this exclusion forces the “digitally left behind” into immediate, often precarious employment to avoid the labyrinth of the state digital interface. The “New Foreman” here is the interface itself, which silently filters out those unable to comply with its digital demands, leaving them with no option but the lowest rungs of the service economy.

A Global Architecture of Precarity

When these regimes are compared to the Indian scenario, it becomes clear that “Algorithmic Austerity” is not a bug of implementation but a design feature. Whether it is the predictive profiling of SyRI, the automated extortion of Robodebt, or the digital barriers of Universal Credit, the global digital welfare state produces a uniform output: a disciplined, desperate, and pliable workforce. By removing the “floor” of social protection through digital exclusion, these states subsidise the “fragile supply chains” of global capital, ensuring that the risks of the market are borne entirely by those with the least power to resist them.

Table 2: The Global Architecture of Algorithmic Austerity

Jurisdiction	System / Initiative	The "New Foreman" Mechanism	Disciplinary Function (Impact on Labor)	Legal Outcome / Status
India	**Aadhaar-linked PDS**	**Biometric Authentication:** Mandatory fingerprint/iris scanning to access food rations.	**Exclusion by Friction:** ”Exclusion errors” (fingerprint failure) deny subsistence, forcing workers into immediate precarious labour to survive.	Upheld by Supreme Court in *Puttaswamy* (2019), though dissent noted exclusion risks.
Netherlands	**SyRI (System Risk Indication)**	**Predictive Risk Profiling:** Cross-referencing agency data to identify "high risk" fraud neighbourhoods.	**Social Sorting:** Targeted low-income and immigrant areas, treating poverty as a proxy for suspicion.	Ruled **Unlawful** by District Court of The Hague (2020) for violating ECHR Article 8 (Privacy).
Australia	**Robodebt (Online Compliance)**	**Automated Income Averaging:** Algorithm assumed stable annual income to calculate fortnightly "overpayments."	**Automated Extortion:** Issued 470,000+ false debt notices, creating financial crises that stripped workers of bargaining power.	Ruled **Unlawful**; Royal Commission (2023) condemned it as "administrative cruelty."
United Kingdom	**Universal Credit**	**Digital-by-Default Interface:** Mandatory online journals and daily login requirements.	**Digital Conditionality:** Sanctions (benefit cuts) for failing to log in, filtering out the "digitally left behind" into low-wage work.	Critiqued by UN Special Rapporteur (2019) as a "Digital Poorhouse" designed to cut costs.

Toward a Jurisprudence of Care - Proposed Recommendations

If the "New Foreman" derives its power from the manufactured desperation of the "Digital Poorhouse," then legal solutions must address both the architecture of welfare and the regulation of the workplace. Merely "tweaking" the algorithms to reduce error rates is insufficient; as Ruha Benjamin (2019) argues, "inclusion" in a harmful system is not progress. Instead, true "Care in Crisis" requires a fundamental restructuring of the legal frameworks governing social reproduction and labour. This section outlines three normative pathways to decouple survival from surveillance.

1. **FROM "TARGETED" EFFICIENCY TO UNIVERSAL RIGHTS: BREAKING THE DESPERATION LOOP**

The root cause of the vulnerability of the reserve army is the conditional form of the digital welfare state. The fixation on "targeting" to identify only the most impoverished through strict algorithmic proxies necessarily leads to the "exclusion errors" that conscript workers into exploitative value chains.

To destroy the "New Foreman," the state must move from "targeting" to "universality." Philip Alston (2019), in his critique of the digital welfare state, contends that universal social protection floors (such as Universal Basic Income or Universal Basic Services) are the only remedy against the exclusionary violence of digital gatekeeping. By abandoning the need to "prove" poverty through biometric authentication or data disclosures, the state eliminates the friction that currently excludes the poor data disclosures, the state removes the friction that currently bars the poor from access.

- **The Legal Shift:** This requires a legislative move away from the "fraud-detection" paradigm codified in statutes like the *Aadhaar Act* (which prioritizes fiscal savings) toward a "rights-based" framework where access to food and shelter is unconditional.
- **The Impact:** If a worker has a guaranteed floor of survival that is not subject to algorithmic revocation, their bargaining power vis-à-vis the gig platform increases. They can afford to say "no" to the algorithmic boss, effectively breaking the "Law of Endurance" that currently governs the supply chain.

2. **ALGORITHMIC DUE PROCESS: THE RIGHT TO A HUMAN EXPLANATION**

The "opacity" of the New Foreman whether in the welfare office or the warehouse, violates the fundamental legal principle of due process. Currently, algorithms operate as "black boxes," making decisions about entitlements or termination that are unchallengeable because they are unreadable. Legal systems must institute a robust "Algorithmic Due Process." As argued by Danielle Citron (2008) and reinforced by the *SyRI* judgment in the Netherlands, the state must be prohibited from making "high-stakes" decisions those affecting life, liberty, or subsistence solely through automated processing.

- **The Mechanism:** This involves mandating "Algorithmic Impact Assessments" (AIAs) before any such system is deployed. These assessments, unlike standard efficiency audits, must evaluate the *human rights* impact of the code.
- **The Precedent:** Drawing on the logic of Article 22 of the GDPR (which grants the right not to be subject to automated decision-making), India and other jurisdictions must codify a "Right to a Human Decision." This ensures that no citizen can be starved by a server error, and no worker can be "fired by an app" without a human manager reviewing the cause.[11]

3. **COLLECTIVE DATA RIGHTS: NEGOTIATING THE ALGORITHM**

Finally, labour law must catch up to the reality of the "Algorithmic Boss." Currently, the information asymmetry between the platform (which holds all the data) and the worker (who holds none) makes traditional collective bargaining impossible. You cannot negotiate with a manager you cannot see.

Valerio De Stefano (2019) proposes the concept of "negotiating the algorithm" as a new frontier for labour rights. This entails two key legal reforms:

- **Data Transparency:** Unions and worker collectives must have a statutory right to access the underlying data that governs the allocation of work and wages. Just as a traditional union demands to see the company's books, the "Cyber-Proletariat" must have the right to audit the code.
- **Portable Reputations:** To counter the "lock-in" effect where workers cannot leave a platform without losing their work history (their "rating"), the law should mandate data portability. This would allow workers to own their digital labour history, reducing their dependence on a single "New Foreman." The crisis of care is not a crisis of scarcity; it

[11] However, simply placing a 'human in the loop' is insufficient due to the cognitive phenomenon of 'automation bias,' where human reviewers systematically defer to the automated output, assuming the computer is objective (Citron, 2008). Therefore, true due process requires not just a human review, but a 'contestability by design' framework where the burden of proof lies on the algorithmic system to justify its decision, rather than on the claimant to disprove it.

is a crisis of distribution managed by a technology of exclusion. By treating the algorithm as a neutral arbiter, the law has allowed the “New Foreman” to privatize the gains of efficiency while socializing the costs of precarity. Reversing this requires more than just technical fixes; it demands a “legal reimagining”. It demands a jurisprudence that views the right to survival not as a conditional reward for successful data entry, but as the non-negotiable foundation of human dignity.

TABLE 3: A JURISPRUDENCE OF CARE – PROPOSED LEGAL FRAMEWORKS

Normative Pillar	The Problem Addressed	Proposed Legal Mechanism	Intended Outcome (Impact on Labor)
Universal Rights	**Exclusion Errors:** “Targeting” via rigid proxies creates friction, barring the poor and manufacturing desperation.	**Universal Social Protection:** Shift from conditional “fraud detection” (e.g., Aadhaar Act) to unconditional rights-based access (e.g., Universal Basic Services).	**Restored Bargaining Power:** A guaranteed survival floor allows workers to refuse exploitative/unsafe gig work, breaking the “Law of Endurance.”
Algorithmic Due Process	**Opacity (“Black Box”):**Decisions on entitlement or termination are made by unreadable code without human review.	**Algorithmic Impact Assessments (AIAs):** Mandatory pre-deployment human rights audits; codifying a “Right to a Human Decision” (mirroring GDPR Art. 22).	**Accountability:** Prevents “firing by app” or starvation by server error; ensures high-stakes decisions are contestable.
Collective Data Rights	**Information Asymmetry:** Platforms hold all data on wages/tasks; workers are locked in by non-transferable ratings.	**“Negotiating the Algorithm”:** Statutory rights for unions to audit algorithms; **Data Portability** mandates to allow workers to own their digital history.	**Worker Mobility & Oversight:** Enables the “Cyber-Proletariat” to collectively bargain against the algorithm and move freely between platforms.

Conclusion

In the "governing of uncertainties" that characterises our contemporary moment, the state has come to rely on digital infrastructure as the main conduit for care. The promise of this shift was one of precision: that computers would chart the mess of crisis, whether it be a pandemic, a recession, or a climate catastrophe, to deliver resources just where they were needed. But, as this paper has shown, the digitalisation of the welfare state has not led to a more efficient safety net, but to a more effective disciplinarian. The "Digital Poorhouse" has emerged in place of the physical one, and its purpose is not to protect the vulnerable, but to fuel the "fragile supply chains" of global capital with a constant flow of desperate, compliant labour.

This paper has argued that the "Algorithm as the New Foreman" is not merely a metaphor for workplace surveillance, but a structural reality of the modern political economy. The analysis of the Indian experience with *Aadhaar* reveals that biometric barriers do not just unintentionally exclude; they systematically strip the poor of their bargaining power. When "exclusion errors" in the Public Distribution System deny a family their right to food, the state effectively weaponises hunger to enforce labour discipline. This phenomenon is not isolated to the Global South. As the comparative analysis of the Netherlands' *SyRI*, Australia's *Robodebt*, and the UK's *Universal Credit* demonstrates, "Algorithmic Austerity" is a global convergence. Across jurisdictions, the "digital-by-default" welfare state functions as a gatekeeper that raises the cost of refusing exploitative work.

Crucially, these dynamic challenges the very premise of "Care in Crisis." Current legal and policy frameworks frequently conflate "resilience" with "endurance." They praise the gig worker who braves a heatwave to deliver food, or the warehouse picker who meets impossible quotas during a supply shock, as "resilient." This paper contends that this is a dangerous legal fiction. What is framed as resilience is often merely the "law of endurance" the capacity of the worker to absorb the volatility of the market because the alternative is the "social death" of the digital welfare system.[12] By removing the floor of unconditional support, the state compels the worker to become the shock absorber for the logistics economy. Therefore, true "Care in Crisis" requires a radical departure from the current trajectory. It demands a legal reimagining of social reproduction that prioritizes human dignity over the algorithmic optimization of the labour

[12] This critique aligns with Mark Neocleous's theory of 'resilience as pacification'. Neocleous argues that the state promotes resilience not to solve crises, but to train citizens to survive them without challenging the political structures that caused the crisis in the first place. By valuing the 'resilient' subject, the state shifts the responsibility for survival from the collective (welfare) to the individual (endurance).

market.[13] As outlined in the solutions, this begins with decoupling the right to survival from the apparatus of surveillance.[14] Moving from "targeted" efficiency to universal rights breaks the feedback loop of desperation that the "New Foreman" relies upon. Establishing "Algorithmic Due Process" and "Collective Data Rights" ensures that the worker is no longer an illegible subject to the state or a mere data point to the employer.

Ultimately, the law must recognize that an algorithm cannot care. It can only sort, optimize, and exclude. If the mandate of the future is to govern uncertainties with equity, we must dismantle the "New Foreman" and rebuild a safety net that does not demand submission in exchange for survival. Only then can we transform the "governing of uncertainties" from a policing of the poor into a genuine architecture of care.

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[13] This framing draws upon the 'Ethics of Care' tradition in feminist legal theory, famously articulated by Carol Gilligan and later applied to political theory by Joan Tronto. However, this paper distinguishes itself by situating care not just as a moral obligation but as a material precondition for resisting labour exploitation.

[14] 'Social Reproduction' refers to the biological, social, and emotional work required to maintain and reproduce the workforce (e.g., childcare, healthcare, feeding). The paper argues that when the state withdraws support for this work, the burden falls entirely on the worker, effectively subsidizing capital.

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Submitted on-: 31/01/2026

Accepted on-: 13/05/2026

Adjudication In Abeyance: The Slow Dismantling of the WTO's Legal Order

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Abstract: This paper examines one of the most consequential, and perhaps least publicly visible, crises facing the contemporary international order: the systematic dismantling of the World Trade Organization's dispute settlement mechanism. Can a rules-based trading system survive when the most powerful state within it has made its peace with the system's destruction? What happens to international trade law when the very mechanism designed to enforce it becomes, for a growing number of states, simply another procedural lever to pull? And at what point does an institution that continues to exist in name cease to function as an institution in any meaningful sense?

Drawing on WTO dispute settlement data through 2024-25, this paper offers the first comprehensive empirical assessment of the impact of the United States' deliberate paralysis of the Appellate Body, which has remained non-functional since December 2019 following Washington's sustained blockage of all judicial appointments. It traces the consequences of that paralysis across three interconnected dimensions: the failure of the Multi-Party Interim Appeal Arbitration Arrangement to attract sufficient participation from major trading powers; the rapid spread of the practice of appealing into the void, through which states render adverse WTO rulings legally meaningless; and the dramatic collapse in dispute initiation, which has fallen to roughly one-third of its pre-crisis level even as protectionist trade measures have proliferated globally. Taken together, the evidence points towards a troubling conclusion. The legal order that once underpinned global trade is not merely under strain. It is, by several measures, beginning to unravel. What was once regarded as the strongest dispute settlement mechanism in the history of international law now risks becoming precisely the kind of institutional fiction that multilateral governance can ill afford.

Keywords: World Trade Organization (WTO), Dispute Settlement Mechanism, Appellate Body Crisis, Appeal into the Void, Trade Protectionism, Multilateral Trade Governance.

Introduction

Can the liberal international order survive without a hegemon willing to sustain it? This is perhaps one of the most consequential questions facing scholars of International Relations today, and the multilateral trading system has, rather uncomfortably, become the arena in which that question is being put to the test. For more than seven decades, the World Trade Organization and its predecessor, the General Agreement on Tariffs and Trade, provided the

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institutional scaffolding upon which global trade was conducted, not through brute power, but through rules, norms, and a shared commitment to legal order. That scaffolding is now visibly cracking.

What makes the current moment so striking is not simply that the system is under pressure. Multilateral institutions have always faced pressure. What is remarkable is who is applying it.

The United States, the very power that architected the open, rules-based trading order after 1945, has in recent years turned against its own creation. Washington has retreated from its historical commitments to free trade and multilateral cooperation, embracing instead protectionism and the coercive deployment of economic power, at times in open defiance of WTO rules.[2] This is not a peripheral development. It goes to the very heart of how the system was designed to function and who was supposed to guarantee it.

Perhaps the most consequential expression of this shift has been the deliberate paralysis of the WTO Appellate Body. Under both the Trump and Biden administrations, the United States blocked all judicial appointments to the Appellate Body, leaving it non-functional since 2019.[3] To appreciate why this matters, it is worth briefly recalling what the Appellate Body actually represented. When the WTO dispute settlement mechanism was established in 1995, it marked something of a watershed in the history of international economic governance. States were, for the first time, delegating authority to what functioned in practice as an international court, one with the power to adjudicate trade disputes and render legally binding decisions. The Appellate Body sat at the apex of this system, serving effectively as a supreme court for global trade, with more than two-thirds of WTO panel rulings eventually reaching it on appeal. Over 600 disputes were brought before the system between 1995 and its effective collapse.[4] By any reasonable measure, it was the most robust and frequently used dispute settlement mechanism in the history of international law.

So, what happens when that mechanism is deliberately incapacitated? The procedural consequences are, on reflection, rather extraordinary. Under WTO rules, a panel ruling that is appealed but cannot be heard, because there is no functioning Appellate Body to hear it, is simply not adopted and carries no legal force. In other words, a state that loses a dispute can now render that ruling legally meaningless simply by filing an appeal into the institutional void left by the defunct Appellate Body. Trade scholars and practitioners have come to call this, with

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[2] Office of the United States Trade Representative, Report on the Appellate Body of the World Trade Organization (Washington, DC: USTR, February 2020).

[3] Giorgio Sacerdoti, "Evolution of WTO Dispute Settlement System and Its Current Crisis," The IUP Journal of International Relations 17, no. 2 (2023): 7–24.

[4] Gregory Shaffer, How to Make the WTO Dispute Settlement System Work for Developing Countries, ICTSD Resource Paper No. 5 (Geneva: International Centre for Trade and Sustainable Development, 2003).

appropriate grimness, appealing "into the void." The practical implication is significant: any state can, at present, effectively veto a WTO ruling against it. The question this raises is not merely technical. It is fundamentally about whether international trade law still functions as law at all, or whether it has quietly reverted to something closer to a system of managed power. Six years have now passed since the Appellate Body's collapse, yet a rigorous, data-driven reckoning with its consequences remains conspicuously absent from the literature. This paper attempts to address that gap. Drawing on WTO dispute data, it assesses the concrete impact of the Appellate Body crisis on the dispute settlement system as a whole. The findings are, to put it directly, troubling. Efforts to preserve a functional appellate process through the Multi-Party Interim Appeal Arbitration Arrangement have been substantially weakened by the refusal of several major trading powers to participate. The practice of appealing into the void has meanwhile proliferated well beyond the United States, with the majority of WTO disputes now being routed through this legal black hole. Most alarming of all, perhaps, is what the data suggest about the broader trajectory of the system. The number of cases brought to the WTO has fallen to roughly one-third of pre-crisis levels, a signal that states are losing faith in dispute settlement as a meaningful mechanism for enforcing their rights under international trade law. The legal order that once governed global trade is not merely strained. It is, the evidence suggests, beginning to unravel.

Dismantling The Crown Jewel: How Washington Hollowed Out the WTO's Appellate Body

There is something rather instructive about the way powerful states behave towards international institutions when those institutions begin to inconvenience them. They rarely leave dramatically. They do not, as a rule, announce their departure with any great fanfare. Instead, they hollow the institution out from within, quietly and methodically, until what remains is a shell that carries the appearance of legitimacy without any of its substance. That, perhaps more than anything else, is what the United States has done to the WTO Appellate Body.

The mechanics of what happened are worth laying out with some precision, because the simplicity of the method is itself rather remarkable. Beginning in 2017, under the first Trump administration, the United States started blocking all new appointments to the Appellate Body. The process was almost mundane in its execution. As the terms of sitting members expired, Washington simply refused to approve replacements. No formal withdrawal, no dramatic confrontation, just a quiet, sustained refusal to allow the institution to replenish itself. By December 2019, the Appellate Body had fallen below the three members required to hear a case and stopped functioning entirely. An institution that had, for nearly 25 years, served as the closest thing international trade had ever had to a supreme court was rendered inoperative not by any great geopolitical rupture, but by the bureaucratic equivalent of refusing to change a lightbulb.

To appreciate what was lost, it is worth recalling what the Appellate Body actually represented. When the WTO dispute settlement system was established in 1995, it marked a genuinely significant development in the governance of international trade. States were, for the first time, submitting themselves to a binding legal process, one in which disputes would be adjudicated by independent panels and subject to appeal before the Appellate Body, whose rulings carried real legal force. More than two thirds of panel decisions were appealed and reviewed by the Body. Over 600 disputes were brought before the system between 1995 and its collapse. It was, by virtually any measure, the most robust and most frequently used dispute settlement mechanism in the history of international law. The question worth sitting with, then, is this: why would the country that did more than any other to build this system work so deliberately to destroy it?

The answer, when one examines American trade behaviour over this period, is not especially difficult to piece together, though it is perhaps more damning for how straightforward it is. Since 2017, the United States has pursued a series of trade measures that sit in fairly open and at times brazen tension with its WTO commitments. Under the first Trump administration, sweeping tariffs of 25 per cent and 10 per cent were imposed on steel and aluminium imports from virtually all of America's major trading partners, ostensibly on national security grounds under Section 232 of the Trade Expansion Act of 1962. Nine WTO members launched formal challenges. The dispute panels, ruling in 2022, found the tariffs to be in violation of WTO rules and not defensible under the national security exception.[5] The Biden administration's response was to appeal into the void, stripping the rulings of any legal effect whilst leaving the tariffs firmly and unapologetically in place. One might reasonably ask what the point of a rules-based system is if the rules apply only when it is convenient for the most powerful player to observe them.

A similar pattern played out with the Section 301 tariffs of up to 25 per cent imposed on approximately $370 billion worth of Chinese imports. China challenged these measures at the WTO, a dispute panel ruled against the United States in 2020, and the Trump administration appealed into the void. The tariffs stayed. And then, under Biden, a president who spoke at considerable length about his commitment to multilateralism and the restoration of American leadership in international institutions, the blockage of Appellate Body appointments continued without interruption. Perhaps the most revealing episode in this regard came in 2020, when the

[5] Joost Pauwelyn, "The WTO's Multi-Party Interim Appeal Arbitration Arrangement (MPIA): What's New?," World Trade Review 22, no. 2 (2023): 174–189.

Office of the United States Trade Representative published a 174-page report detailing its accumulated grievances with the Appellate Body. One hundred and seventy-four pages of complaint, and not a single concrete proposal for reform. Then-Trade Representative Robert Lighthizer, to his credit, dispensed with any pretence of ambiguity. If the Appellate Body, in his words, "never goes back into effect, that would be fine." It is difficult, reading that, to avoid the conclusion that the goal was never reform. It was incapacitation.

The mechanism through which this incapacitation does its work is worth understanding clearly, because it is, in its way, elegantly destructive. Under WTO procedural rules, when a panel issues a ruling and the losing party files an appeal, the ruling is held in suspension until the Appellate Body adjudicates it.[6] With no functioning Appellate Body, the ruling simply sits there, unresolved and unenforceable, indefinitely. Filing an appeal has, in other words, become a reliable and entirely costless method of burying an adverse ruling. Scholars and practitioners have taken to calling this appealing "into the void," which is, under the circumstances, a rather apt description. Of the eleven cases in which WTO dispute panels found American measures to be in violation of the rules, the United States chose to appeal into the void in nine. The two exceptions are instructive. One involved measures that had already expired before the ruling was issued. The other produced a mixed outcome that was at least partially favourable to Washington. In neither instance did the US accept an adverse ruling it had any practical means of avoiding.

Beyond tariffs, the Biden administration's industrial policy agenda raised further questions about American commitment to its WTO obligations. The Inflation Reduction Act and the CHIPS and Science Act extended substantial preferential subsidies to American electric vehicle, clean energy, and semiconductor industries, in ways that a number of trading partners argued were discriminatory and inconsistent with WTO rules. Perhaps they were right, perhaps not. The Appellate Body, of course, was no longer in a position to offer a view. And that, one suspects, was rather the point.

Roughly 130 WTO member states have, over the course of this period, repeatedly called on Washington to unblock appointments. Numerous reform proposals have been tabled, many of them crafted with American concerns specifically in mind. None of it has produced any tangible result. The United States has rejected every proposal, declined to offer credible alternatives of its own, and maintained throughout a posture of studied disengagement that has been difficult to distinguish, in practice, from bad faith. Under the second Trump administration, which assumed office in January 2025, there is little in the available evidence to suggest any change

[6] G. John Ikenberry, A World Safe for Democracy: Liberal Internationalism and the Crises of Global Order (New Haven: Yale University Press, 2020).

of direction. If anything, the trajectory points the other way. The institution that took decades to build has been rendered, in the space of a few years, largely decorative. Whether it can be meaningfully restored is a question to which no one, at present, has a particularly convincing answer.

A Lifeboat in a Storm: The MPIA and the Struggle to Keep Global Trade Law Alive:

When it became clear that the United States had no intention of allowing the Appellate Body to recover, a group of WTO members led by the European Union did what states tend to do when a multilateral institution begins to fail them: they built something alongside it.

The result was the Multi-Party Interim Appeal Arbitration Arrangement, launched in 2020 and better known by its rather unwieldy acronym, the MPIA. The ambition behind it was straightforward enough. In the absence of a functioning Appellate Body, participating states would agree to submit heir disputes to an alternative appellate mechanism, one designed to broadly replicate the Appellate Body's procedures and produce rulings that remained legally binding on the parties involved. Crucially, signatories committed to one another that they would not appeal into the void. The MPIA began hearing appeals in 2022 and issued its first ruling later that year. For its supporters, it represented perhaps the most serious attempt yet to salvage something meaningful from the wreckage of WTO dispute settlement.

Whether it has succeeded is, to put it gently, a more complicated question. The MPIA was always going to face a fundamental structural problem: it only applies to states that have chosen to join it, and the list of those that have declined to do so reads like a roll call of the world's most consequential trading powers. As of the time of writing, 53 countries have signed on, including the 27 member states of the European Union counted collectively. That figure represents roughly 32 per cent of the WTO's 166 members. The overwhelming majority of the organisation's membership remains outside the arrangement entirely. Now, one might reasonably ask whether that number is quite as alarming as it first appears.

After all, not every WTO member is an active participant in dispute settlement. Resource constraints and limited legal capacity mean that many smaller and developing economies have rarely, if ever, brought or faced a formal dispute. Only 110 of the WTO's members have ever participated in a dispute in any capacity, and of those, 37 have done so exclusively as third parties. The pool of states that have actually appeared as a complainant or respondent narrows to just 73, or roughly 44 per cent of the membership. Measured against that more realistic baseline, recruiting 53 states to the MPIA is, in fairness, a considerable achievement. And the MPIA has continued to grow, slowly but steadily. Japan joined in March 2023, the Philippines in May 2024.[7] Currently, 18 of the 30 most active users of the WTO dispute settlement system have signed on, representing 60 per cent of the system's heaviest participants. That is not nothing. But the states that have chosen to remain outside the arrangement are not peripheral actors. Argentina, India, Indonesia, Russia, South Korea, Taiwan, Thailand, and Turkey have all declined to participate. These are large economies, significant traders, and frequent parties to WTO disputes. Their absence matters enormously, because the MPIA only applies when both parties to a dispute are participants, or have otherwise agreed to be bound by its provisions. Without these states at the table, the arrangement's effective reach is substantially curtailed. The MPIA may have captured many of the most active users of the system, but the most consequential absentees are precisely the states whose participation would make the difference between a meaningful alternative appellate mechanism and an elaborate arrangement that applies to a diminishing share of the disputes that actually matter.

How Legal Evasion Became a Routine Instrument of Trade Policy

The MPIA, for all its limitations, at least represents a good faith attempt to preserve something of the legal order that the WTO's dispute settlement system once embodied. What has emerged alongside it, however, tells a rather different story. Rather than seeking shelter within the MPIA's framework, a growing number of states have drawn precisely the opposite lesson from the Appellate Body's collapse: that the absence of a functioning enforcement mechanism is not a problem to be solved, but an opportunity to be exploited.

The pattern is by now fairly well-established. A state pursues a trade policy that sits in tension with its WTO commitments. A trading partner challenges the measure. The WTO dispute panel rules against it. And then, rather than complying or seeking a negotiated resolution, the losing party files an appeal into the void, the ruling is suspended indefinitely, and the offending policy continues as though the whole process had never happened. What was once, under the Trump administration, a distinctly American habit has, in the intervening years, spread with some enthusiasm to other parts of the global trading system.[8] One might pause to ask: what does it say about the current state of international trade law when the very mechanism designed to enforce it has become, for a growing number of states, simply another procedural lever to pull? Consider Indonesia.

In late 2022, the country appealed into the void in a case challenging its resource nationalism policies in the nickel sector, a sector in which Indonesia's dominance is difficult to overstate,

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[7] Joost Pauwelyn, "The WTO's Multi-Party Interim Appeal Arbitration Arrangement (MPIA): What's New?," World Trade Review 22, no. 2 (2023): 174–189.

[8] Alan Wm. Wolff, The Crisis in WTO Dispute Settlement, Peterson Institute for International Economics Working Paper (Washington, DC: Peterson Institute for International Economics, 2021).

accounting for over half of global supply. Nickel is, of course, a critical input in stainless steel production and, increasingly, in the manufacture of electric vehicle batteries. Amid surging global demand, Indonesia moved to capitalise on its market position by banning the export of raw nickel ore, a measure designed to attract downstream processing industries and capture greater value from its natural resources. The European Union challenged the ban at the WTO, arguing that it illegally restricted foreign access to nickel ore and caused material harm to the EU's stainless steel industry. The dispute panel agreed and ordered Indonesia to remove the restrictions. Indonesia's response was to appeal into the void. The ruling has no legal force. The ban remains. And by Indonesia's own reckoning, the strategy has worked rather well, having increased the value of its nickel exports tenfold, propelled the country to become the world's second largest stainless-steel producer, and attracted substantial foreign investment in electric vehicle supply chains. Indonesia is now reportedly considering extending the export ban to other unprocessed minerals. It is difficult, in the circumstances, to argue that appealing into the void has cost Indonesia very much at all.

India offers another instructive case. Seeking to accelerate industrial development through a model not entirely unlike China's, India put in place an extensive system of export subsidies tied to its Special Economic Zones, designed to promote exports across a range of sectors. When American steel and pharmaceutical producers found themselves competing with a surge of heavily subsidised Indian imports, the United States brought a case at the WTO. It won. The panel ruled that India's subsidies were inconsistent with WTO rules and ordered their removal. The Trump administration, with characteristic restraint, described the outcome as a resounding victory for American workers. Shortly afterwards, India appealed into the void. The ruling was stripped of any legal force. The subsidies, as far as can be determined, remain in place. One wonders, at this point, what the Trump administration made of that particular development.

These are not isolated episodes. They are, increasingly, the norm. As of 2024-25, 24 panel rulings have been appealed into the void. Of the 36 panel reports issued between 2020 and 2023, 64 per cent were appealed into the void. The majority of WTO disputes are now, in other words, being routed through a mechanism that renders their outcomes legally meaningless. What began as an American strategy of institutional evasion has become something rather more troubling: a generalised erosion of the willingness to be bound by international trade law at all. The rise of economic nationalism and protectionism is not, it turns out, an exclusively American phenomenon. And without a credible enforcement mechanism to impose costs on non-compliance, the incentive to defect from the rules-based system becomes, for more and more states, increasingly difficult to resist. The question is no longer simply whether the

Appellate Body can be restored. It is whether the legal culture that once made the WTO's dispute settlement system function has survived its absence.

When The Courthouse Empties: The Decline of WTO's Dispute Settlement

There is a telling procedural detail buried within the architecture of the WTO dispute settlement system that is worth pausing on before examining what the data actually show. The formal process begins not with litigation but with consultations, a mandatory preliminary stage in which the disputing parties are expected to engage directly and attempt to reach a negotiated resolution before any panel is convened. The logic is sensible enough: adjudication is costly, time-consuming, and adversarial, and many disputes are better resolved through dialogue than through legal proceedings. One question that naturally arises in the current context is whether the paralysis of the Appellate Body has, paradoxically, made states more inclined to resolve their differences at this earlier stage. If the prospect of a legally unenforceable panel ruling has reduced the appeal of litigation, perhaps states are finding other ways to reach agreement.

The evidence, unfortunately, does not support that interpretation. Since the Appellate Body's collapse, not a single mutually agreed solution has been notified at the consultation stage in any dispute initiated under the current regime. Two mutually agreed solutions have been recorded in total, but in both instances they came after panel reports had already been circulated, and in both cases the states involved, Australia and China, were participants in the MPIA, meaning that any appeal would have been subject to its binding procedures rather than the void.[9] What the data suggest, in other words, is not that states are resolving their disputes more effectively through diplomacy. They are simply not bringing them at all.

And that is perhaps the most consequential development of the past five years. The Appellate Body crisis, which began as a crisis of appellate review, has metastasised into something considerably broader: a crisis of confidence in the dispute settlement system as a whole. The numbers here are difficult to argue with. Prior to the Appellate Body's collapse in 2019, an average of 19 new disputes were initiated at the WTO each year. Since the collapse, that figure has fallen to an average of just seven.[10] The total number of disputes launched annually has dropped to roughly one-third of its pre-crisis level. Even if one sets aside the extraordinary spike of 2018, when a record 39 disputes were filed as states scrambled to challenge the Trump administration's tariff offensive through WTO channels, the underlying trend remains stark. Excluding that outlier, dispute initiation has fallen to approximately 40 per cent of its historical

[9] Peter Van den Bossche, "Can the WTO Dispute Settlement System Be Revived?," World Trade Institute Papers, no. 1407 (2023).

[10] World Trade Organization, Report on G20 Trade Measures (Mid-October 2023 to Mid-October 2024) (Geneva: WTO, 2024).

norm. States are not merely filing fewer cases. They are, in growing numbers, simply walking away from the system.

What makes this decline so striking is the context in which it has occurred. One might expect a fall in dispute initiation during a period of relative trade harmony, when fewer measures were being imposed that warranted legal challenge. That is emphatically not the environment of the past five years. The use of trade-distorting measures, from import restrictions to industrial subsidies, has increased substantially during this period. By any conventional logic, a surge in protectionism should produce a corresponding surge in dispute filings. Instead, the opposite has happened. States are deploying more trade-distorting measures and challenging fewer of them through formal legal channels. The inference is, on reflection, fairly uncomfortable: a growing number of WTO members no longer regard the dispute settlement system as a reliable or effective means of enforcing the rules.

Why, then, are any cases being filed at all? The answer varies depending on the circumstances. Where both parties to a dispute are participants in the MPIA, the complainant retains the assurance that any ruling will be legally binding and enforceable, which provides a rational basis for investing in litigation. The European Union, for instance, initiated two disputes against China in 2022, challenging its use of economic coercion against Lithuania and its enforcement of intellectual property rights, in the knowledge that both parties were MPIA members and that any outcome would carry legal force. Ukraine launched three cases against various EU member states in 2023 over import restrictions on its agricultural products, again in the confidence that the MPIA would ensure enforceability. In these circumstances, the system still functions more or less as intended.

More intriguing are the cases filed outside the MPIA's protective framework.[11] Why would a state invest the considerable time, expense, and diplomatic capital required by WTO litigation if it has no reliable means of enforcing the outcome? The answer, it turns out, is that a WTO panel ruling retains certain uses even when it is not legally binding. There is, first, the question of moral suasion. For states that place genuine value on their reputation as rule-abiding members of the multilateral system, a panel ruling finding their measures to be in violation of WTO law carries reputational costs that may, in some cases, be sufficient to motivate compliance even without formal enforcement.

The European Union, which has invested considerably in presenting itself as a committed multilateralist and a principled upholder of international trade law, would face particular discomfort in being seen to maintain policies found to be WTO-inconsistent. Indonesia, which

[11] World Trade Organization, Report on G20 Trade Measures (Mid-October 2023 to Mid-October 2024) (Geneva: WTO, 2024).

is not an MPIA participant but has nonetheless launched three disputes against the EU challenging various anti-dumping and countervailing duties, may be calculating precisely on this dynamic. It is worth noting, too, that Indonesia is currently negotiating a bilateral free trade agreement with the EU, a context in which a favourable WTO ruling would provide useful diplomatic leverage. China, similarly, has filed two cases against the United States since the Appellate Body's collapse, one in 2022 challenging American subsidies for the semiconductor industry, and another in 2024 targeting discriminatory support for electric vehicles and clean energy under the Inflation Reduction Act.[12] Neither case is likely to produce an enforceable ruling against Washington. Both, however, serve the purpose of placing American conduct on the formal record of international trade law and supplying China with a degree of legal and moral cover for whatever retaliatory measures it may choose to pursue.

These are, however, the exceptions. The dominant trend is unmistakable, and it points in one direction only.[13]

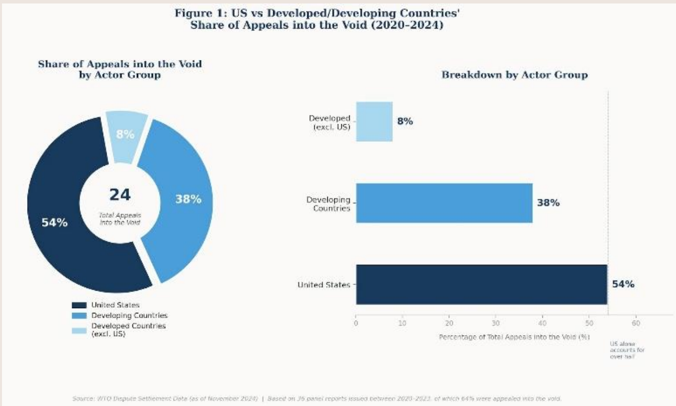

Figure 1: US vs Developed/Developing Countries' Share of Appeals into the Void (2020-2024)

Ghosts in the Machine: The WTO Between Survival and Irrelevance

It is worth stepping back at this point and considering, with some honesty, what the accumulated evidence of the past five years actually tells us. The picture that emerges is not a reassuring one. The MPIA, for all the genuine ambition that went into its creation, has fallen short of what its architects hoped it would be. It has attracted a meaningful cohort of active dispute settlement users, but the most consequential absentees, large emerging economies and major trading powers that between them account for a substantial share of global trade flows, have declined to participate. Some of those states may have held back in the hope that the WTO's ongoing dispute settlement reform negotiations would eventually produce a systemic

[12] European Parliament, International Trade Dispute Settlement: World Trade Organisation Appellate Body Crisis and the Multi-Party Interim Appeal Arbitration Arrangement, EPRS_BRI(2024)762342 (Brussels: European Parliamentary Research Service, 2024).

[13] Alan Wm. Wolff, The Crisis in WTO Dispute Settlement, Peterson Institute for International Economics Working Paper (Washington, DC: Peterson Institute for International Economics, 2021).

solution. Those negotiations, which sought to address American concerns and restore a fully functioning appellate mechanism, committed participating states at the 2022 ministerial conference to achieving a functional dispute settlement system by the end of 2024.[14] That deadline passed without resolution. Progress has been blocked, above all, by the United States' fundamental hostility to any form of appellate review that might constrain its trade policy discretion. With the return of the Trump administration in January 2025, the prospect of a negotiated breakthrough appears, to put it charitably, remote. The formal reform process may well be stalled for the better part of a decade.

Other states that have remained outside the MPIA appear to have been motivated by rather less principled considerations. For them, the collapse of the Appellate Body has not created a problem to be managed but a freedom to be enjoyed. Joining the MPIA is, in effect, a public commitment to the rules-based trading order. Some states, it seems, are no longer especially interested in making that commitment. They have discovered, as the United States discovered before them, that in the absence of effective enforcement, WTO rules can be violated at relatively modest cost.[15] The incentive structure, in short, has shifted. And once enough states begin to operate on that logic, the collective action problem becomes very difficult to reverse.

Perhaps the most sobering observation is this: transformations in global governance rarely announce themselves clearly. They tend to accumulate gradually, through incremental decisions and quiet defections, until the moment when the system crosses a threshold it can no longer recross.[16] Like cracks spreading through a dam, the damage can be invisible for a long time before it becomes undeniable. Five years is, in the sweep of international institutional history, a relatively short period. And yet the trends that have emerged in that time are already sufficiently pronounced to warrant serious concern. The majority of WTO disputes are now being appealed into the void. The number of cases brought to the system has collapsed to roughly one-third of its historical level, even as protectionist measures have proliferated. The MPIA covers a minority of the WTO's membership and an uncertain share of the disputes that actually matter. Reform negotiations are stalled. And the administration most responsible for the crisis has returned to power with, if anything, a more expansive appetite for using trade as an instrument of coercion.

[14] European Parliament, International Trade Dispute Settlement: World Trade Organisation Appellate Body Crisis and the Multi-Party Interim Appeal Arbitration Arrangement, EPRS_BRI(2024)762342 (Brussels: European Parliamentary Research Service, 2024).

[15] Giorgio Sacerdoti, "Evolution of WTO Dispute Settlement System and Its Current Crisis," The IUP Journal of International Relations 17, no. 2 (2023): 7–24.

[16] G. John Ikenberry, A World Safe for Democracy: Liberal Internationalism and the Crises of Global Order (New Haven: Yale University Press, 2020).

What was once, with considerable justification, described as the strongest dispute settlement system in the history of international law is now, by the same measure, in severe jeopardy. If the trends documented in this paper continue on their current trajectory, the WTO risks becoming something that international relations scholars have a term for: an institutional zombie, an organisation that continues to exist formally, that holds ministerial conferences and publishes communiqués and maintains a secretariat in Geneva, but whose rules are no longer reliably honoured or effectively enforced. Whether that tipping point has already been reached, or whether it remains, just barely, avoidable, is perhaps the most important question facing the multilateral trading system today. The answer, on present evidence, is not obvious. But the direction of travel is.

Submitted on-: 18/03/2026

Accepted on-: 13/05/2026

Inadequacy of Climate Action Legislation in India

Keerti Kumar[1]

Abstract: India remains highly vulnerable to climate change induced disasters with 88% days in 2024 witnessing extreme climate events, necessitating a robust climate action policy. The ex-SC judge Justice Kohli recently said that, "climate change is the epitome of constitutionalism", however, despite having a plethora of legislations related to environmental protection, there exists a legal vacuum for legislation relating specifically to climate change. In line with the uncertainties brought by climate change, the lack of a robust climate action legislation not only undermines the governing capabilities in India but threatens the fundamental rights of citizens. This essay shall first examine the constitutional roots of climate action in India and how the judiciary has been at the forefront of mandating the state to take action through judicial orders instead of its own prerogative. The next section of the essay will highlight the inadequacy of current legislations in India to handle climate change mitigation and adaptation. This will be analysed from sectoral point of views, namely, the lack of recognition of climate refugees, and the complete exclusion of the effects of climate change on informal labour in labor codes. The final section of the essay will then highlight the current dilemma amongst scholars on how climate action legislation should be adopted in the Indian context. The methodology adopted employs secondary research of current environmental legislations, case laws and judgements, environmental journals and books, newspaper articles, and government documents and reports. Therefore, the underlying hypothesis of the essay is that India needs a comprehensive legal approach to uncertainties brought about by climate change.

Keywords: Climate Change, Legal Framework, Migration, Labour laws, Judiciary

Introduction

India remains highly vulnerable to climate change induced disasters with 88% days in 2024 witnessing extreme climate events (Pandey & Sengupta, 2025). India ranks 9th globally in the Climate Risk Index (CRI), however, despite its vulnerability, the country lacks appropriate climate action legislation which focuses on the changes in the legal space owing to climate change. The core principles of climate action can be traced back to the Indian constitution particularly through Article 48A of the DPSP and Article 21 of the Fundamental rights, thereby necessitating a "robust national climate law" as advocated by ex-SC judge Justice Kohli (PTI, 2024). Despite the plethora of legislations related to environmental

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protection, there exists a legal vacuum of legislations with an intentional focus on climate change (Joshi, 2025). This essay shall first examine the constitutional roots of climate action in India and how the judiciary has been at the forefront of mandating the state to take action through judicial orders instead of its own prerogative. The next section of the essay will highlight the inadequacy of current legislations in India to handle climate change mitigation and adaptation. This will be analysed from a sectoral lens, focusing on the lack of recognition of climate migration and the complete exclusion of informal labour from climate adaptation measures. The final section will highlight the academic debate on how India should adopt climate action.

Therefore, the main research questions that this essay shall navigate through are as follows-

1. What is the constitutional and judicial basis for climate adaptation and mitigation?
2. What are the legislative gaps in climate change action?
3. What is the approach to climate action legislation that India requires?

Constitutional basis of Climate action

The constitutional basis for climate action has often found its interpretation from the judiciary due to its connection with environmental jurisprudence. Climate action has only recently found space under the expansion of fundamental rights namely, *Article 14* - "*Right to Equality and Equal protection under law*" and *Article 21* - "*Right to life and personal liberty"*, in the Supreme Court judgement of *M K Ranjitsinh & Ors. v Union of India & Ors*, which will be discussed further in the essay. This judgement was built upon the precedents of *Virender Gaur v. State of Haryana* (1994) and *M.C. Mehta v. Kamal Nath* (2000) which led to the interpretation of the "right to life in a clean environment, a safe and an ecologically balanced environment". Apart from Fundamental Rights, environmental protection also finds root in the Directive Principles of State Policy under *Article 48A* - "*The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country*", and Fundamental Duties under *Article 51A(g) - "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures"*

Such an evolving meaning of interpretation has given a centre stage to the environmental concerns in the core of constitutional provisions of India. Judicial interpretations have led to legal doctrines such as the Polluters Pays principle, Precautionary Principle and for the context of this essay, most importantly the Public Trust Doctrine, which is once again relevant due to *Ridhima Pandey v Union of India.* (Bansal, 2025).

Role of judiciary

Over the years, climate litigation has been on a rise with the judiciary playing an increasing role in the fulfilment of climate justice across the world. The same phenomenon is being witnessed in India. This essay shall focus on two important case laws in the recent past that have paved the way for climate justice in India, namely, *M K Ranjitsinh & Ors. v Union of India & Ors (2024)*, and, *Ridhima Pandey v Union of India (2025).*

In *M. K. Ranjitsinh*, the Supreme Court observed that environmental conservation and the shift towards renewable energy - both driven by the challenges of climate change, represent intersecting and often 'competing priorities', which cannot be addressed in 'disjointed silos' or treated as operating within separate domains. The Supreme Court did not presume that India's existing environmental statutes and their broad principles adequately address climate change concerns, rather, it expressly acknowledged the absence of a dedicated, comprehensive legal framework governing climate change in India. The judgement also showed that climate litigation in India also rests on fundamental rights, which complement rather than contradict the Public Trust Doctrine and the Precautionary Principle.

The ongoing case of *Ridhima Pandey v Union of India (2025)* is hailed as a new era of climate litigation. (Pattajoshi, 2019). In this context the definition of climate litigation can be taken as given by Professor David Markell and J.B. Ruhl, as *"Any piece of federal, state, tribal, or local administrative or judicial litigation in which the tribunal decisions directly and expressly raise an issue of fact or law regarding the substance or policy of climate change causes and impacts."* (Markell & Ruhl, 2012) The petitioner here has invoked the Public Trust Doctrine to hold the state responsible for inaction for climate change mitigation efforts, which leads to serious questions on whether legislations such as Environment (Protection) Act 1986, provide adequate and enforceable responses to climate action, and whether Judicial directions mandate the creation of coordinated inter-ministerial mechanisms within a governance structure that is otherwise a fragmented ministry specific approach. (Sinha, 2024) The background of this case portrays a classic dilemma in academia where some believe that the current environmental laws cover aspects of climate change, as held by the National Green Tribunal in its dismissal of the plea, whereas other scholars believe that climate law is a different domain altogether.

Therefore, in an analysis of both the aforementioned case laws, it is the judiciary that has pushed for balancing climate mitigation[2] with climate adaptation[3], due to which climate governance is

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[2] Climate change **mitigation** intends to reduce greenhouse gas emissions and concentrations in the atmosphere

[3] Climate change **adaptation** means to take appropriate action to prevent and minimize damages and to take advantage of opportunities created by such change.

being operated on the basis of judicial improvisation rather than policy and legal design. A closer analysis also finds that the approach for both cases by the judiciary has varied. In *Ridhima Pandey,* the focus has largely been on administrative changes such as appointment of amici curiae, and directions to the Union government to compile existing rules and regulations on carbon emissions. The legal questions raised originally by the petitioner on Public Trust Doctrine, India's Nationally determined Commitments (NDC's), and intergenerational equity, continue to remain unanswered. This is a prime example where the judiciary is left to improvise by relying on administrative directions instead of adjudicating the climate obligations of the Indian state. This criticism is further expanded upon in the next part of this essay.

Inadequacy of climate action legislation- a critical examination

Before one gets into the depth of the lack of climate action legislation, let us first understand the current understanding of what climate law is. There is a divide in scholarly opinion on this question. The Indian Government considers climate change as a sub-theme under environmental legislations, but many believe the lack of an overarching law does not obligate the state to reduce greenhouse gas emissions(mitigation), and no legislation to address adaptation measures for reducing the impact of climate change(adaptation) (Yadav et al., 2024). Some of the arguments posed for differentiating between environmental and climate law are as follows. Firstly, as noted from the Ranjitsinh case, actions of environmental protection of the Great Indian Bustard, may be in contrast to climate mitigation efforts to reduce GHG emissions. Another example of the same could be the recent amendments to the Forest Conservation act, which now recognises the creation of a carbon sink in line with India's Nationally Determined Commitments (NDCs), however, commercial plantations are included in this definition, which once again is in crossroads with protection of biodiversity. Therefore, considering climate law as a subset of environmental law creates multiple legal complications.

Let us now look at the legal loopholes that have significantly slowed down climate mitigation and adaptation measures. Despite having a plethora of environmental legislations such as *Water (Prevention and Control of Pollution) Act of 1974*, the *Air (Prevention and Control of pollution) Act of 1981*, the *Environment (Protection) Act of 1986 (EPA),* the *Forest (Conservation) Act of 1980* and the *Wildlife Protection Act of 1972,* they still appear as fragmented. (Bansal, 2025).

The numerous environmental laws in India have not worked as an effective and unified mechanism for conservation and sustainability. The current legislative system lacks harmony in its operation. Some of its criticisms have been highlighted in this section. First, there is a general institutional paralysis due to inadequate devolution of powers or even diffusion of roles among various para-statal bodies. For instance, the National Green Tribunal, established under

NGT act 2010, lacks enforcement powers rendering it toothless. Despite influential judgements NGT lacks the institutional capacity for speedy trials and the on-ground implementation of its orders remain inconsistent. For instance, CAG reported how NGT orders on waste management were not followed at local levels. (Shriff & Raj, 2025).

Second, there is a lack of clarity in the definitions, up to date prescription of ideal standards, and an enforcement mechanism that is based on administrative responsibility and not one mandated by the judiciary. One such example is from the *EPA Act 1986*, where 'environmental pollutant' is defined as "*any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment*". However, the term 'injurious' and 'environmental thresholds' have been left undefined, leading to dependence on judicial interpretations for the same. GHG emissions have no mention as pollutants in the law. This legal uncertainty makes such pollutants a policy violation rather than a legal violation, thereby diluting the very essence of the law.

The issue is not only the lack of a unified approach to these laws, but also their procedural problems. Environmental policy processes in India are often criticized for their ill-planned, technocratic, top-down, and obsolete operational procedure. The hijacking of corporate lobbying becomes a major hindrance, thereby diluting environmental goals and principles (Naik, 2018). One such example is that of the Environmental Impact Assessments (EIA) which is often quoted as a mere formality. Post facto clearances and dilution of the assessment for the most polluting sectors are in direct contradiction to the objectives of climate mitigation and adaptation. (Bhardwaj, 2023).

Third, the National Action Plan on Climate Change (NAPCC) and State Action Plans on Climate Change (SAPCCs) that provide a strategic vision for the Nationally Determined Contributions (NDC's) are not yet backed by a law, leading to a non-binding effect. India has a "dualist" system where the powers of the parliament to implement international treaties and agreements (such as the Paris Agreement and the UNFCCC) are enshrined under Article 253 of the Indian Constitution. (Naik & Kumar, 2019) Legacy laws such as those mentioned above fail to include the ambitious objectives set by India of reaching net zero emissions by 2070. (Purkayastha & Sikka, 2024) In 2022, a *Net Zero Emissions Bill* was introduced in Rajya Sabha which failed to gain support from the legislature. While there exists criticism for the lack of a binding nature for achieving the net zero target, some also call legislative action a mere game of optics, a contention that remains a subject of academic debate. As of now, India's goal is reflected in the NAPCC as a policy, and not a law. (Dasgupta, 2023).

Need for Climate specific provisions

The absence of climate specific provisions has domain specific impacts. For the sake of this argument the essay uses the example of two contexts. First being the status of climate migrants in Indian law, and second being the need for labour laws to include impacts of climate change on informal workers in India.

Climate Migration

According to the Internal Displacement Monitoring Centre (IDMC), India recorded 5.4 million internal displacements due to extreme weather events, making it an extremely vital problem that necessitates prompt state action. However, despite this vulnerability, there is no mention of climate migrants in the main mitigation and adaptation policy, ie, NAPCC. Even the National Disaster Management Act regards such migration as a relief issue rather than a rights issue. However, the legal and policy framework offers no recognition of climate mobility whatsoever, rendering data collection a challenge. Consequently, no official figures on the number of climate refugees exist to date." (Bhardwaj & Siddiqui, 2025).

It is important to understand that climate mobility is not just an issue of seeking refuge, but also directly impacts livelihood, health and food security. Considering the disproportionate impact of climate change on vulnerable populations, the direct impact can be seen on policies such as MGNREGA where demand for work increases drastically. (Kaul, 2025).

Such legal erasure from disaster mapping and other such initiatives is a direct contradiction to the Supreme Court's expansion of *Article 21* for a *"right to be protected from adverse climate effects."* Climate refugees constitute a category within the wider ambit of climate migration, which also gives rise to the contentious issue of cross-border climate refugees, particularly from Bangladesh. Laws such as the *Citizenship Amendment Act* have further complicated this, with India lacking any cross-border mechanism, or diplomatic policy to navigate these contemporary challenges. Legal recognition of climate refugees or climate migrants is the bare minimum that is required for climate justice in this context. Policies need to have mechanisms of mitigation that involve more than mere temporary mechanisms such as provisions of education, health and livelihoods. Furthermore, regional cooperation between India and its neighbours is the need of the hour for providing climate refugees their basic humanitarian right. (Singh, 2025).

Inclusion of climate change provisions in labour laws

India lost approximately 259 billion labour hours between 2001 and 2020 due to extreme climate events, especially heat stress that led to the loss of 181 billion labour hours, majorly affecting informal workers who work outdoors and do not have access to adequate protection from these heat effects. (Chauhan, 2025).

The Supreme Court in its judgement of *Consumer Education and Research Center v. Union of India* (1995) held that the right to health, medical aid to protect the health and vigor to a worker while in service or post-retirement is a fundamental right under the Constitution. The apex court also held that workers' right to health is a fundamental right under Article 21, and has even issued guidelines and directions to protect various sections of workers from workplace hazards. (Singh et al., 2025) Despite these actions, heat stress is rarely classified as a workplace hazard. The recently modified labour codes have negligible mention of climate induced stress or impact in its codification. While Heat Action Plans (HAPs) are prepared at the state, district and city levels for preparation against heat waves to reduce the impacts of heat, its preparation is not only inconsistent, but it also largely focuses on construction workers, leaving other outdoor workers such as street vendors and gig workers outside the ambit of HAPs. (Dubey & Pathak, 2024). Both these contexts highlight the need to revise multiple aspects of the Indian legal system as climate adaptation is not just a temporary policy action but one that impacts almost all aspects of life - from food and health to livelihood and property. This can be addressed either through a single unified legal framework on climate change or through sectoral interventions.

Unified legal framework vs sectoral intervention on climate law

This section of the essay aims to analyse the best way to fill the legislative gaps on climate law. There are two main approaches - one which focuses on the creation of a new unified climate legislation, and the other which aims to intervene the existing legislations to bring out climate specific contexts within them.

The first approach looks at creation of new legislations such as the '*The Council on Climate Change Bill, 2021*' that was tabled in the Rajya Sabha but failed to get the approval of the legislature. This approach also includes the installation of a policy coordination institution, similar to what the United Kingdom has already established. (Bhushan & Gopalakrishnan, 2021) This approach also looks at a single national law with similar state specific laws attuned to the specific needs of the state governments. This could lead to a creating of a common national standard set by the central government, which the state governments can further elaborate on. While this approach would lead to a structured approach to climate law, it faces considerable criticism for the Indian Context. Some of the major criticism include that India is an over-legislated state, and that it is better to reform existing legislations for better implementation, thereby giving rise to the second approach wherein the sector-specific administrative regulations that qualify as climate law in India are reformed under a climate law framework and obligations to reduce GHGs are layered upon existing legislation, also known as administrative layering. Such layering of climate-change measures could result in a cumulative legal and regulatory landscape that is difficult to capture in the current legal framework. (Yadav et al., 2024). Scholars provide differing views on which approach to take, and assessing the same is beyond the scope of this essay. However, the intention to describe the two different approaches was to highlight the agreement on the need for change to promote climate action legislation.

Conclusion

Through this essay we have navigated through not only the constitutional basis of climate action but also why current legislations are inadequate and how they do not serve the challenging needs of the Indian population. In line with the uncertainties brought by climate change, the lack of a robust climate action legislation not only undermines the governing capabilities in India but threatens the fundamental rights of citizens. However, coming to the conclusion on the right kind of legal framework is a challenging one. Regardless of the future of climate action legislations, climate change needs to be central to every policy drafted and adopted hereon. Labour and climate migration are one of many sectors highly vulnerable to climate change. Law and policies need to go hand in hand on the adaptation and mitigation efforts for all sectors deemed vulnerable. A suitable way forward will be one which takes into account the views of multiple stakeholders and does not look at climate mitigation and adaptation from a narrow lens, but rather takes into consideration its holistic impact.

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Submitted on-: 13/04/2026

Accepted on-: 13/05/2026

Care In Collapse: Structural Violence, Governance Failure and Sexual & Gender-Based Violence in Post-Withdrawal Afghanistan

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Abstract: The withdrawal of Western forces from Afghanistan in 2021 marked a profound political, institutional, and social rupture. Beyond the collapse of a fragile state apparatus, it precipitated the erosion of systems of care and protection that had supported Afghan women and girls over two decades. This paper examines how the post-withdrawal collapse of governance has transformed Afghanistan into a site of acute gendered insecurity.

Drawing on feminist security studies and the theory of structural violence, the paper argues that the dismantling of institutions responsible for women's protection has created a governance vacuum in which Sexual and Gender-Based Violence (SGBV) is both intensified and rendered increasingly invisible. The weakening of accountability mechanisms has replaced institutional care with coercion and enabled violence to function as both a symptom and a strategy of patriarchal control. The paper further situates this crisis within broader humanitarian uncertainty generated by restrictions on humanitarian organisations, declining international assistance, and the political non-recognition of the Taliban regime. It argues that the withdrawal represented not merely the end of military engagement but also a disruption of international systems of responsibility and protection, exposing limitations within frameworks such as the Women, Peace and Security (WPS) agenda. Using UN and NGO reports, feminist scholarship, and policy analyses, the paper contends that addressing gendered insecurity requires more than emergency assistance. It calls for sustained international engagement, restoration of women-led institutions, and strengthened local protection networks, positioning care as a central principle of crisis governance rather than an act of benevolence.

Keywords: Gender Insecurity, Sexual and Gendered Based Violence, Crisis Governance, Women, Peace and Security (WPS) agenda.

Introduction

The withdrawal of Western military forces from Afghanistan in August 2021 marked more than the end of a twenty-year intervention; it signalled a profound sociopolitical and institutional rupture. The rapid collapse of the Afghan state and the return of Taliban rule dismantled already fragile systems of governance, leaving millions without access to protection, justice, or care. For Afghan women and girls, this rupture translated into an acute form of

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insecurity when everyday life became shaped by fear, restriction, and violence rather than rights or participation.

During the post-2001 period, Afghan women were positioned at the centre of international narratives of reconstruction and progress. Expanded access to education, legal reform, and women's participation in public life were frequently cited as evidence of successful liberal peace-building (True, 2012; UNDP, 2020). Institutions such as the Ministry of Women's Affairs and women-led civil society organisations became symbolic pillars of this agenda. Yet, these gains were uneven, externally dependent, and deeply vulnerable to political change. The events of 2021 exposed how gendered protections in Afghanistan were sustained not by resilient domestic structures, but by tenuous institutional arrangements tied to international presence and funding.

Following the withdrawal, systems designed to protect women rapidly disintegrated. The Ministry of Women's Affairs was abolished, judicial mechanisms weakened, and women-led organisations were forced to close or shifted underground (UNAMA, 2022). Simultaneously, sweeping restrictions on women's mobility, employment, and education sharply reduced access to public space and support services. In this environment, SGBV (Sexual Gender-Based Violence) has intensified and avenues for reporting, redress, and care have largely disappeared. Violence has thus become both pervasive and silenced, embedded within the structures of everyday life rather than treated as an exceptional harm.

This paper examines these developments through the lenses of feminist security studies and structural violence. Feminist scholars argue that security must be understood beyond armed conflict and territorial control, and instead analysed through lived experiences of harm, vulnerability, and survival, particularly for women during periods of political transition and collapse (Tickner, 2001; Enloe, 2014). Structural violence, as theorised by Galtung (1969), further reveals how suffering is produced not only through direct physical acts, but through the erosion of political, legal, and social systems that enable dignity, care, and justice. In post-withdrawal Afghanistan, the collapse of governance has transformed SGBV from an episodic threat into a structural condition sustained by institutional absence.

Humanitarian dynamics have further deepened this crisis. The suspension of international aid, the political non-recognition of the Taliban regime, and severe restrictions on humanitarian organisations, particularly those employing women, have undermined service delivery related to healthcare, psychosocial support, and survivor protection (Human Rights Watch, 2023). What has emerged is a broader crisis of care, in which international withdrawal has been not only military or political, but moral. The Afghan case reveals how global commitments to women's protection falter when institutional stability collapses. These conditions also expose the limitations of international frameworks such as the Women, Peace and Security (WPS) agenda. While WPS emphasises participation, protection, and accountability, it remains heavily reliant on state institutions and international enforcement mechanisms to function effectively (Shepherd, 2016). This paper asks: *How has the collapse of governance following the 2021 withdrawal contributed to the intensification of Sexual and Gender-Based Violence in Afghanistan?* It argues that SGBV operates both as a symptom of institutional collapse and as a strategy through which patriarchal authority is reasserted, dissent is suppressed, and social control is maintained. Women's bodies become contested sites where political power and moral order are enforced. In contexts such as Afghanistan, where the governance perpetuates exclusion and harm, these frameworks don't provide any meaningful protection. SGBV in such contexts is a manifestation of structural violence produced by governance failure and humanitarian disengagement.

By centring care as both a political and ethical framework, this study contributes to wider debates on crisis governance and feminist security. It contends that responding to gendered insecurity in Afghanistan requires sustained international engagement, support for women-led institutions, and the rebuilding of local protection networks. Care must be framed as a core principle of governance to ensure that those most at risk are not abandoned.

Theoretical Framework: Feminist Security, Structural Violence, and Care

This study draws on feminist security studies, the theory of structural violence, and the concept of care as a principle of governance to analyse the intensification of SGBV in Afghanistan following 2021. Together, these frameworks enable an understanding of insecurity not as a temporary breakdown of order, but as a gendered and structural condition produced through institutional collapse, political exclusion, and the withdrawal of ethical responsibility. By combining analytical and normative approaches, this framework situates SGBV within broader systems of power, governance failure, and global abandonment.

Feminist Security Studies

Feminist security studies challenge conventional, state-centric definitions of security that prioritise territorial integrity, military capacity, and regime survival. Instead, feminist scholars argue that security must be understood through the lived experiences of individuals, particularly those most vulnerable to harm during conflict, political transition and state collapse (Tickner, 2001). From this perspective, the absence of active conflict does not equate to security if everyday life remains shaped by fear, restriction, and violence.

This shift is critical in the Afghan context. While the 2021 withdrawal has frequently been analysed in terms of geopolitical failure or strategic miscalculation, feminist security approaches redirect attention to its gendered consequences. Institutional collapse has profoundly reshaped women's everyday lives by limiting mobility, erasing public participation, and increasing exposure to violence. These harms remain marginal within dominant security narratives precisely because they occur outside traditional definitions of threat and warfare (Enloe, 2014).

Feminist scholars further emphasise that institutions such as legal systems, policing mechanisms, and social services are not gender-neutral. When they disintegrate, women are disproportionately affected due to pre-existing inequalities in access to justice and protection (True, 2012). In post-withdrawal Afghanistan, the abolition of the Ministry of Women's Affairs, the weakening of judicial mechanisms, and the suppression of women-led civil society have removed formal avenues for redress. As a result, violence that might once have been contested has become normalised within a context of near-total impunity. Feminist security studies also offer a critique of militarised peace-building. International intervention in Afghanistan relied heavily on military presence to deliver security, often sidelining long-term investment in social infrastructure and local protection systems (Shepherd, 2016). When military forces withdrew, the gendered foundations of peace-building gave way alongside them, revealing the fragility of security models that equate protection with armed presence rather than institutional resilience.

Structural Violence

The theory of structural violence provides a framework for understanding how harm is produced not only through direct physical acts, but through political, legal, and social arrangements that systematically disadvantage certain groups. Galtung (1969) defines structural violence as violence embedded within social structures that prevent individuals from meeting basic needs or achieving dignity. Unlike direct violence, structural violence is often invisible, normalised, and diffused across institutions.

In Afghanistan, the post-withdrawal collapse of governance has intensified structural violence against women by dismantling institutions designed to offer protection and accountability. The absence of functioning courts, legal recognition, and reporting mechanisms has created conditions in which domestic abuse, forced marriage, and sexual exploitation remain unaddressed and unrecorded (UNAMA, 2022). Harm is therefore produced not only by individual perpetrators, but through institutional absence and legal erasure. Structural violence is further reflected in the political invisibility of women's suffering. When reporting mechanisms disappear and survivor support systems collapse, violence becomes socially and administratively erased. This reinforces impunity and normalises abuse as part of everyday life (True, 2012). Understanding SGBV through this lens allows the study to move beyond cultural explanations that frame violence as inevitable, instead highlighting how harm is actively produced through political decisions, humanitarian withdrawal, and governance failure. This framework is reinforced by the United Nations' application of the concept of gender apartheid to Afghanistan. Gender apartheid refers to systematic and institutionalised discrimination that results in the segregation, domination, and exclusion of one gender group from public life. Senior UN experts have applied this term to Taliban policies that deliberately deprive women and girls of education, employment, freedom of movement, and participation through formal decrees and enforcement mechanisms (United Nations Office at Geneva, 2023). Framed within structural violence, these policies constitute a regime of domination embedded within governance itself, rendering gendered harm normalised and legally invisible.

Care as a Governance Principle

While feminist security studies and structural violence explain how insecurity is produced, the concept of care provides a normative framework for understanding what is lost when governance collapses and what is needed to rebuild it. Feminist theorists conceptualise care not as a private or charitable act, but as a political obligation embedded within institutions, laws, and systems of accountability (Tronto, 2013). Care refers to the capacity of governing structures to recognise vulnerability, respond to harm, and sustain life with dignity. In Afghanistan, the withdrawal of international actors and the dismantling of women-focused institutions represent a withdrawal of care itself. Protection has been replaced by coercion, and responsibility has given way to abandonment. Viewing care as a governance principle reveals how its absence becomes a form of violence. When institutions fail to provide legal recognition, healthcare, psychosocial support, or protection, they do not merely fail to prevent harm—they actively contribute to it. Care must therefore be understood as structurally rooted within governance, rather than as a discretionary humanitarian response.

By centering care, this study reframes gendered insecurity as a political failure rather than a humanitarian tragedy. It argues that addressing SGBV in Afghanistan requires rebuilding systems of care that prioritise women's agency, restore institutional accountability, and treat protection as a collective responsibility. In doing so, care emerges not only as an ethical imperative, but as a foundational element of governance in contexts of structural breakdown.

Methodology and Sources

This study adopts a qualitative research design grounded in doctrinal analysis and critical policy analysis to examine the relationship between governance collapse and the intensification of SGBV in post-withdrawal Afghanistan. Given the political restrictions, security constraints, and ethical risks associated with primary data collection in Afghanistan following 2021, this research relies primarily on secondary sources to analyse patterns of harm, institutional absence, and gendered insecurity.

The doctrinal component of the methodology focuses on examining international legal frameworks, human rights norms, and policy instruments related to women's protection, including the WPS agenda and international humanitarian governance. This approach enables an assessment of how such frameworks function—or fail to function—under conditions of state collapse and political non-recognition (Shepherd, 2016). Doctrinal analysis is particularly suited to this study as it allows for a critical interrogation of law and governance beyond formal compliance, highlighting gaps between normative commitments and lived realities.

The policy analysis component draws on a systematic review of United Nations documentation, NGO field reports, and humanitarian assessments published after August 2021. Key sources include reports from the United Nations Assistance Mission in Afghanistan (UNAMA), UN Women, Human Rights Watch, and Amnesty International, which provide detailed accounts of restrictions on women's rights, the erosion of legal protections, and the prevalence of SGBV under Taliban rule. These documents are analysed thematically to identify recurring patterns related to institutional collapse, impunity, and the withdrawal of care-oriented governance structures (UNAMA, 2022; Human Rights Watch, 2023). Feminist legal and security scholarship forms a central analytical lens within this methodology. Works by feminist scholars are used not only to frame the research theoretically, but also to guide interpretation of policy and legal texts, ensuring that gendered power relations, structural inequalities, and everyday experiences of harm remain central to the analysis (Tickner, 2001; True, 2012; Tronto, 2013). This triangulation between policy documents, legal frameworks, and feminist theory strengthens the analytical depth of the study.

The use of secondary data is justified both methodologically and ethically. Direct engagement with survivors of violence in Afghanistan would pose significant risks to participants and researchers alike, particularly given the absence of safeguarding mechanisms and the criminalisation of women's public engagement. Reliance on verified institutional reports and peer-reviewed scholarship ensures ethical integrity while still allowing for robust analysis of gendered harm. In addition to formal policy and legal sources, this paper makes limited contextual reference to the documentary *In Her Hands* (Mettelsiefen, 2022). The documentary is not treated as empirical evidence, but as a narrative resource that illustrates the human consequences of institutional collapse and the erosion of care. Its inclusion supports the paper's emphasis on lived experience and ethical responsibility, complementing official documentation and academic analysis.

Overall, this qualitative approach enables a critical examination of how SGBV emerges within collapsing systems of governance, while remaining ethically grounded and methodologically transparent.

Institutional Collapse and the Erosion of Care

The collapse of governance in Afghanistan following the 2021 withdrawal did not simply dismantle political authority; it fundamentally eroded the institutional foundations through which care, protection, and accountability had been delivered, however imperfectly, over the previous two decades. For Afghan women, this collapse has translated into the loss of legal recognition, social support, and avenues for justice. This section examines how the dismantling of gendered governance institutions, the breakdown of judicial mechanisms, and the destruction of civil society networks have together produced a landscape of structural violence in which SGBV thrives.

Collapse of Gendered Governance Institutions

One of the most symbolic and consequential acts following the Taliban's return to power was the closure of the Ministry of Women's Affairs and its replacement with the Ministry for the Propagation of Virtue and the Prevention of Vice. This institutional shift signalled not only the erasure of women's political representation, but the dismantling of a key governance mechanism responsible for coordinating protection, advocacy, and policy responses to gender-based violence (UNAMA, 2022). Although the Ministry of Women's Affairs faced significant limitations prior to 2021, it nonetheless functioned as an institutional anchor for women's rights, facilitating legal referrals, liaising with civil society organisations, and symbolically affirming women's place within the state (UNDP, 2020). Its abolition removed an essential point of contact between women and the state, rendering women legally and politically invisible. In governance terms, this represents a withdrawal of care at the institutional level, where protection is no longer recognised as a state responsibility.

The legal consequences of this erasure have been profound. Gender-specific policies and protections have been systematically rolled back, and mechanisms for addressing SGBV have ceased to operate in any meaningful capacity. Without institutional oversight or enforcement, violence against women is no longer treated as a violation of rights, but as a private or moral matter subject to patriarchal control (True, 2012). The collapse of gendered governance thus transforms SGBV from a contestable injustice into a structurally normalised condition.

Judicial Breakdown and Patriarchal Impunity

The erosion of care has been further entrenched through the breakdown of judicial institutions and the near-total absence of legal remedies for women experiencing violence. Courts that once adjudicated cases of domestic abuse, forced marriage, or sexual violence have either ceased functioning or operate under legal interpretations that systematically disadvantage women (Human Rights Watch, 2023). As a result, survivors of SGBV are left without avenues for redress, protection, or accountability.

In the absence of a functioning judicial system, informal and customary mechanisms have re-emerged as primary modes of dispute resolution. While often presented as culturally legitimate, these mechanisms frequently reinforce patriarchal norms and prioritise family or community honour over women's safety (UNAMA, 2022). Practices such as forced reconciliation between victims and perpetrators, or the punishment of women for reporting abuse, contribute to a climate of impunity. From a feminist security perspective, the absence of legal remedies constitutes a profound form of insecurity. When law fails to recognise harm, it actively produces vulnerability (Tickner, 2001). This legal invisibility aligns with Galtung's (1969) concept of structural violence, wherein harm is embedded within institutional absence rather than direct coercion alone. In Afghanistan, judicial breakdown does not merely fail to stop violence- it enables it.

The convergence of legal collapse and patriarchal governance also transforms violence into a tool of social control. By denying women access to justice, governance structures reinforce gender hierarchies and silence dissent. Impunity thus becomes both a consequence of institutional failure and a deliberate strategy for maintaining authority in the absence of democratic legitimacy.

Dismantling of Civil Society as Structural Violence

Beyond formal state institutions, women's security in Afghanistan has historically relied on a dense network of civil society organisations, including NGOs providing legal aid, shelter, healthcare, and psychosocial support. These organisations functioned as critical care infrastructures, particularly for women navigating violence within private and domestic spaces (True, 2012). Their dismantling following the withdrawal represents a less visible, but equally devastating, dimension of institutional collapse. Restrictions imposed on NGOs have severely limited their capacity to operate. Many organisations have been forced to close, while others function under constant threat or with reduced reach (Human Rights Watch, 2023). This has resulted in the loss of social reproduction networks that sustained women's survival, dignity, and resilience. Care, once embedded within community-based structures, has been systematically withdrawn.

Feminist scholars argue that such losses constitute structural violence because they undermine the conditions necessary for life itself (Tronto, 2013). Without access to shelters, counselling, healthcare, or legal advocacy, women facing SGBV are isolated and exposed. The erosion of civil society thus amplifies the effects of state collapse, creating overlapping layers of vulnerability.

The disappearance of these care infrastructures also weakens collective resistance. NGOs and women-led organisations not only provided services, but also created spaces for solidarity, political agency, and documentation of abuse. Their removal silences women's experiences and erases evidence of harm, reinforcing a cycle of invisibility and impunity (Enloe, 2014). The dismantling of civil society has also silenced many of the women who historically sustained networks of care and resistance. In an interview with *Firstpost*, Afghan human rights activist Mahbouba Seraj underscored the systematic eradication of women's basic rights under Taliban rule, describing it as a comprehensive assault on their dignity and autonomy (Sengupta, 2025). Seraj's continued commitment to advocating for Afghan women highlights the extent to which care and protection have been displaced from institutions onto individual actors, operating in the absence of formal legal or political support. Her testimony illustrates how structural violence is experienced not only through physical harm, but through the erosion of collective platforms for advocacy, care, and empowerment.

Sexual and Gender-Based Violence as a Strategy of Control

SGBV in post-withdrawal Afghanistan cannot be adequately understood as a by-product of instability or as incidental harm resulting from institutional collapse. Rather, this paper argues that SGBV functions as a systemic and strategic tool of governance in a context where formal authority, legal legitimacy, and international recognition are deeply contested. Through the regulation of women's bodies, mobility, and visibility, violence operates as a mechanism through which power is asserted, social order is enforced, and patriarchal authority is reconstituted.

SGBV Beyond "Incidental Harm"

Mainstream security and humanitarian discourses often frame SGBV as an unfortunate consequence of conflict or weak governance (Tickner, 2001). Such framings obscure the structural and political dimensions of violence by presenting it as episodic, unintended or culturally embedded. Feminist scholars challenge this narrative by demonstrating that gendered violence is frequently systematic, predictable, and functional within regimes of power (True, 2012).

In Afghanistan, the intensification of SGBV following the 2021 withdrawal reflects not randomness, but pattern. Understanding SGBV as systemic rather than incidental allows for a more accurate analysis of its political function. Structural violence theory is particularly instructive here, as it reveals how harm is produced through institutional absence and deliberate neglect (Galtung, 1969). When governance systems fail to prevent violence, prosecute perpetrators, or recognise survivors, they effectively enable harm. In this sense, SGBV becomes a feature of governance failure rather than a deviation from it.

Women's Bodies as Sites of Governance

Feminist political theorists have long argued that women's bodies are central to projects of social regulation and political control. Enloe (2014) demonstrates how states and armed actors use gender norms to discipline populations, enforce obedience, and symbolically assert authority. In post-withdrawal Afghanistan, women's bodies have become key sites through which governance is exercised in the absence of formal institutions.

Restrictions on women's dress, movement, education, and employment are enforced not only through law or decree, but through the constant threat of violence. Surveillance of women in public spaces, punishment for perceived transgressions, and the policing of domestic behaviour transform everyday life into a terrain of control (Human Rights Watch, 2023). Violence or the possibility of it functions as a governing logic, ensuring compliance.

This form of governance relies heavily on discipline rather than consent. Drawing on feminist readings of power, violence is used to produce fear, internalise obedience, and regulate behaviour without the need for bureaucratic enforcement (Shepherd, 2016). Women's bodies thus become symbolic boundaries of moral order, where violations are punished to reinforce patriarchal norms and signal authority to the broader population. Importantly, this governance strategy is not limited to physical violence alone. Psychological coercion, social exclusion, and economic dependency also operate as forms of control that reinforce women's vulnerability. Feminist security studies highlight that such non-physical forms of harm are integral to understanding insecurity, as they shape women's capacity to act, resist, and survive (Tickner, 2001). This systemic framing aligns with emerging international legal debates describing Taliban governance as gender apartheid, where gendered violence operates as a structural tool of domination rather than incidental harm.

Silence, Criminalisation, and Legal Erasure

Perhaps the most insidious dimension of SGBV in post-withdrawal Afghanistan is not violence itself, but the systematic silencing of those who experience it. The collapse of judicial mechanisms and reporting structures has created a legal environment in which violence is neither documented nor recognised. Without reporting channels, legal remedies, or survivor protections, SGBV exists in a state of enforced invisibility (UNAMA, 2022). Women who attempt to report abuse face criminalisation rather than protection. In many cases, survivors of sexual violence are accused of moral crimes, subjected to detention, or forced into reconciliation with perpetrators (Human Rights Watch, 2023). This inversion of justice transforms victims into offenders and reinforces a system where silence becomes a survival strategy.

From a governance perspective, this silence is not accidental, it is produced. Legal erasure functions as a powerful tool of control by removing violence from the public and political sphere. When harm is not recorded, it cannot be challenged. When survivors are silenced, accountability becomes impossible. Structural violence thus operates through both action and inaction (Galtung, 1969). Feminist legal scholars argue that recognition is a prerequisite for justice (True, 2012). Without legal recognition, women's suffering is rendered illegitimate, and violence is normalised as part of social life.

In Afghanistan, the denial of recognition reinforces patriarchal governance by ensuring that women's experiences remain outside the scope of political concern.
Reports of arbitrary detention of women for alleged moral transgressions, violations of dress codes, or unaccompanied movement further entrench a climate of fear and legal uncertainty. In the absence of due process or accessible legal remedies, detention functions as a tool of intimidation that suppresses reporting, silences dissent, and reinforces women's legal erasure within the justice system.

SGBV and Coercive Governance

Taken together, these dynamics reveal that SGBV in post-withdrawal Afghanistan is not simply a consequence of disorder, but a strategy through which order is imposed. Violence regulates behaviour, enforces norms, and compensates for the absence of formal governance structures. Women's bodies become instruments through which power is exercised, discipline is maintained, and authority is signalled. This analysis challenges narratives that attribute SGBV to cultural regression or temporary instability. Instead, it situated gendered violence within a broader political economy of governance failure, institutional collapse, and patriarchal control. By framing SGBV as a strategy of governance, this paper highlights the urgent need to address violence not only as a humanitarian issue, but as a political condition produced by systems that withdraw care, deny recognition, and institutionalise silence.

Limitations of International Frameworks in Crisis: WPS and Humanitarian Governance

The collapse of governance in Afghanistan following the 2021 withdrawal has exposed deep structural weaknesses in international legal and policy frameworks designed to protect women in conflict and post-conflict settings. While global commitments to gender equality and civilian protection remain formally intact, their practical effectiveness is contingent on institutional stability, political recognition, and sustained engagement. In Afghanistan, the convergence of aid withdrawal, political non-recognition, and governance collapse has rendered these frameworks largely inoperative, leaving women without protection or recourse.

Aid Withdrawal and Political Non-Recognition

The withdrawal of international military forces was followed by a rapid contraction of development assistance and humanitarian funding. This reduction was driven in part by donor concerns over legitimising the Taliban regime, as well as legal restrictions linked to sanctions and counterterrorism regulations (UN Women, 2022). While politically understandable, these decisions have produced deeply gendered legal consequences. Aid withdrawal has disproportionately affected services essential to women's survival, including healthcare, education, legal assistance, and psychosocial support. From a legal perspective, political non-recognition has complicated the enforcement of international human rights obligations. Although Afghanistan remains bound by international treaties, the absence of recognised state counterparts has weakened monitoring, accountability, and implementation mechanisms (Cohn, 2013). As a result, violations against women persist without consequence. Feminist legal scholars argue that such disengagement constitutes a form of structural abandonment, where international actors retreat from responsibility while continuing to invoke normative commitments (True, 2012).

Limits of the Women, Peace and Security Agenda

The WPS agenda, established through United Nations Security Council Resolution 1325 and subsequent resolutions, represents one of the most significant international frameworks addressing gendered insecurity. It emphasises women's participation in peace processes, protection from violence, and the prevention of conflict-related harm. However, the Afghan case reveals the agenda's deep institutional dependency and its limited capacity to function in contexts of state collapse (Shepherd, 2016).

WPS implementation relies heavily on functioning state institutions, national action plans, and international cooperation. When these structures disintegrate, as they have in Afghanistan, WPS commitments lack enforcement mechanisms. The agenda assumes a minimum level of governance stability and political will, conditions that no longer exist (Cohn, 2013).

As a result, WPS becomes largely symbolic, reaffirming norms without delivering protection. Moreover, the WPS framework remains constrained by its proximity to militarised security paradigms. Despite its feminist origins, implementation often occurs through military or security institutions, sidelining care-based approaches and civilian protection mechanisms (Shepherd, 2016). In Afghanistan, this reliance has left women exposed once military actors withdrew, highlighting the limits of security frameworks that fail to embed care within governance structures.

Care Absent from Global Governance

The failures of humanitarian governance and the WPS agenda point to a deeper absence of care within global legal and policy systems. Care, when excluded from governance, becomes discretionary rather than obligatory. Feminist theorists argue that international frameworks often prioritise sovereignty, security, and political expediency over sustained responsibility for vulnerable populations (Tronto, 2013). In Afghanistan, this absence is evident in the gap between formal commitments and lived realities. While international institutions continue to affirm support for Afghan women, practical mechanisms for protection, accountability, and care remain limited or inaccessible (UNAMA, 2022). This disconnect reflects what can be described as moral and legal abandonment, where responsibility is rhetorically maintained but materially withdrawn.

Reframing care as a principle of global governance challenges this pattern. Care-based governance would require international actors to prioritise long-term institutional support, survivor-centred protection mechanisms, and accountability even in politically complex environments. It would also demand that humanitarian engagement be insulated from geopolitical considerations that disproportionately harm women. This paper has argued that the intensification of SGBV in post-withdrawal Afghanistan cannot be understood as an incidental consequence of instability or cultural lapse. Rather, it is a structural outcome of governance collapse and the systematic erosion of care. The withdrawal of Western forces in 2021 dismantled not only political and institutional frameworks, but also the fragile systems of protection, accountability, and support that had sustained Afghan women's security. In this context, violence has become both a symptom and a strategy of governance, reinforcing patriarchal control in the absence of formal authority.

Conclusion: Rethinking Care in Crisis Governance

This study contends that the escalation of SGBV in Afghanistan following the withdrawal should not be interpreted as a mere by-product of instability or attributed to cultural regression. Rather, it is a structural outcome of governance collapse and the systematic erosion of care. The withdrawal of Western forces in 2021 dismantled not only political and institutional frameworks, but also the fragile systems of protection, accountability, and support that had sustained Afghan women's security. In this context, violence has become both a symptom and a strategy of governance, reinforcing patriarchal control in the absence of formal authority. By drawing on feminist security studies, structural violence theory, and care ethics, this study has demonstrated how insecurity is produced through institutional absence rather than direct coercion alone. The closure of gendered governance institutions, the breakdown of judicial mechanisms, and the dismantling of civil society networks have collectively withdrawn care from women's lives. Without legal recognition, access to justice, or social support, SGBV is rendered invisible, normalised, and unpunished. Violence is thus embedded within everyday life.

At the international level, the Afghan case exposes significant limitations within humanitarian governance and the WPS agenda. Despite strong normative commitments to women's protection, these frameworks have proven heavily dependent on functioning state institutions and political recognition. The suspension of aid and the retreat of international engagement, while framed as principled responses to legitimacy concerns, have carried deeply gendered consequences.

The normative implications of this analysis are clear. Care must be recognised as a core principle of governance rather than a discretionary or humanitarian add-on. This requires embedding care within legal frameworks, accountability mechanisms, and institutional design-both domestically and internationally. Reimagining care as a political obligation challenges dominant security paradigms that prioritise militarisation, conditional engagement, and short-term interventions. It also demands that international actors take responsibility for the long-term gendered consequences of intervention and withdrawal.

Looking forward, future research should explore alternative models of care-based governance that operate beyond state-centric frameworks, particularly in contexts of political non-recognition and institutional collapse. Greater attention is also needed on the role of women-led informal networks and transnational advocacy in sustaining protection where formal systems fail. Ultimately, addressing gendered insecurity in crisis contexts requires not only policy reform, but a fundamental shift in how governance itself is understood—one that places care, dignity, and justice at its centre rather than at its margins.

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Submitted on-: 10/02/2026

Accepted on-: 13/05/2026

Food Chains in Bengali Borderlands: Examining Food Security and Crisis Response Systems During Covid

Suditi Sinha[1]

Abstract: This study strives to examine the forces that governed Covid cross-border food supply chains, tracing their effects today in the context of the contested Bengali Borderlands. This region is shaped by unique circumstances and shared histories, which reveal complexities about regional identities. Natural calamities, as well as geopolitical disturbances, routinely produce disruptions in the cross-border circulation, especially affecting food supply chains of Bengali border villages. The breakages produced in this supply chain by Covid and Cyclone Amphan, which affected the region at that time, produced vulnerabilities for the local populace. This was through labour migration as well as food security. The paper attempts to address the lack of attention given to these regions, situating the issue of food insecurity in the historic deprivation of certain communities based on religion, caste, class and ethnicity against the backdrop of the pandemic and enclaves. Persistent Indo-Bangladesh tensions have placed intense pressure on India's supply chains in the Southeast Asian region. This paper attempts to address this pressure through the lens of these border villages, examining the multifaceted nature of cross-border logistics. Governance is proposed to be conducted in concert with the needs and demands of the local populace.

***Keywords**:* Cross-Border Supply Management, Governance in Crisis, Risk Management, Geopolitical risk, Bengali Borderlands, Community-based governance, Covid-19 Pandemic

Background

The outbreak of the Covid-19 pandemic revealed severe lacunae in the crisis response systems of governments around the world. Economic shutdowns led to disruptions in global and domestic supply chains, with vulnerabilities in food supply chains and access to nutritious food becoming serious concerns. Despite the Indian government projecting a positive perception of its crisis management, the pandemic era in India featured systemic failures on the fronts of biomedical infrastructure, food security, labour migration, hygiene and sanitation, and the urban-rural divide (among many other sectors). While the discourse primarily revolved around the pandemic, issues of food security and livelihood received lesser attention.

Covid-19 caused problems across/within the cross-border food supply chains including transportation, food safety due to contamination, lack of proper information and tampering. These issues also disproportionately affected the disadvantaged sections of the population, who were already deprived of resources and did not have access to stable livelihoods. By its very

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nature, the Covid era led to governments trying to contain the virus and imposement of lockdowns. People's movement was restricted. The concept of the pandemic being a mobility crisis becomes extremely relevant in this context, especially across borders which have already been contested places for exchange (Wei, 2024).

In the discourse surrounding Indo- Bangladesh food relations, one aspect that is often ignored are the people who are living on the margins of these two countries. This region is the first point of contact for both India and Bangladesh, due to which there are certain political uncertainties and extreme regulations imposed. These ultimately affect the lives of normal citizens living here. The added dynamic of Covid-19 increased the scrutiny placed on the inhabitants of this region, who already faced institutional biases originating from suspicions based on ethnicity, class, caste, religious identities, and gender. This limited mobility is also accompanied by increased surveillance. There was a significant silence that existed around these regions, as well as a lack of scholarly attention given to the region. One could argue that this silence is deliberate. Cross-border supply chains got affected as well, combined with a massive reverse migration to rural Bengal areas, Assam and the Sunderban Deltas. In the Sunderbans, the migrant population suffered the most. Because of Covid and the Amphan Cyclone, they were forced to go deeper into the mangrove forests and faced tiger attacks (Chowdhury et al., 2022). Children, too, were pulled out of schools to help out while their families fell deeper into poverty (Kundu et al., 2025). The subsections of this population includes historically deprived migrants who came from scheduled tribes and lower caste communities, who may have faced the worst of this situation.

Objectives

This paper traces the unique circumstances and features of the Indo-Bangladesh areas in terms of food supply chain networks. It situates these against the historic backdrop starting from the Partition era and ethnographic studies based in these regions. Impacts in this region, as well as the role of both the countries is explored. Institutional response to the needs of the inhabitants have been addressed.

In the first section, cross-border chains are defined in the context of food supply. Food security, as well as India and Bangladesh's relative positioning in terms of providing access to food security are examined. Trade interactions between India and Bangladesh are discussed both in formal and informal terms. Post-Covid mechanisms are discussed briefly, along with recent political developments. Lastly, Agrifood distribution is detailed in regulatory terms.

The second section dives into the backdrop of the Bengali Borderlands, the unique everyday lives of the inhabitants, influenced by cross-border interactions, activities, as well as tensions with the Border Security Force (BSF). Political dynamics between the centre, state and local governments are expanded upon, along with sociocultural causes. Suspected smugglers and "illegal" immigrants are often viewed with suspicion, which then legitimizes the systemic oppression perpetrated upon such people. Also discussed is the historic deprivation of communities, including enclaves.

The next section dives into the pandemic crisis and how it specifically affected the resilience of food chains. The mass migration, along with the effects of the Amphan cyclone and its management is discussed. The evolution of the crisis response system has been examined. Along with this, the effects of global crises and the challenges arising due to interactions between several international powers through the borderland lens are discussed tangentially. The last section is concerned with what steps have been taken in this regard so far. It proposes a way forward which includes aspects of care in governance, community-based approaches and its potential impact.

Ultimately, this research reveals a critical gap in the literature surrounding the discourse of post-Covid legislation, with a lack of institutional attention towards vital areas, which are more relevant than ever.

Research Methodology

This study seeks to understand the impact of food insecurity on the communities living in border villages near the Indo-Bangladesh border. It views this through a feminist approach, by critically examining power and institutions and their disproportionate impact on vulnerable communities. It tries to view the effects of Covid through the viewpoint of these communities, in hopes of bringing attention to their inherently unique problems. Literature reviews on cross-border supply chains and food supply networks were used to construct the framework of the paper, combined with the daily lives and experiences of the border inhabitants. Ethnographic studies have been used to construct an understanding of these daily experiences.

To ensure that the tone of the paper did not come off as parochial, oral histories of the residents of this region were consulted, combined with a conversation with one such resident from Jalpaiguri to ensure a sensitive approach (although it served just to provide a frame of understanding). Actions and policies undertaken by the government were analysed through white papers, working papers, policy briefs, NITI Aayog reports, Press Information Bureau releases, as well as information released by Food and Agriculture Organization of the UN (FAO), UN Trade and Development (UNCTAD) and UN World Food Programme (WFP). To check their veracity, independent studies and journals were consulted, along with critical reviews. The graphical representation was sourced from the Indian APEDA website, which was generated by the author according to the needs of the paper.

Section I

Cross-Border Chains and Food Supply

Chains used for transporting goods, services, information and capital across transnational networks to meet demand can be called cross-border chains. They are complex in nature, involving sourcing, production, logistics and distribution across various countries. Stabilizing these chains is very important and often deals with customs procedures, regulatory requirements, political stability and transportation.

The food supply chain has multiple economic stakeholders who are linked from primary producers to the consumers. This includes the front-end food producers and back-end government regulators. A food supply chain consists of a food production and supply network. These include: planting industry, food processing industry, food retail industry, logistics and transportation industry and other related industries (Cecil, 2024).

Covid-19 caused several problems in these food chains, which existed across borders. The main problems were transportation and contamination of food products. This compromised the food security of the population living in these regions. The Food and Agriculture Organization considers food security as having constant access to high-quality food in an amount that helps them lead a healthy and active life.

In India, Right to Food is linked to Article 21 (Right to Life) and is recognised as a basic right. Bangladesh includes a similar constitutional provision under its Article 15. If we include international human rights law, this extends to the following concepts: Dignity and freedom from hunger, Freedom from food insecurity, Freedom from malnutrition, adequate and acceptable food and lastly, accessible food. Cross-border food chains are a way to guarantee this accessibility.

Trade interactions

India is the main supplier to Bangladesh, especially in terms of cereals and animal fodder. India is at an agricultural export surplus and mostly imports fish and processed food products from Bangladesh. This takes place through Land Custom Stations (LCSs). Both countries have also introduced Border Haats, a place for locals to engage in commodity exchange in a formal manner. These are organised a day each week and serve as a place for families to meet each other across borders, build bilateral relations and people-to-people contact.

Food Supply in the Indo-Bangladesh Fringe

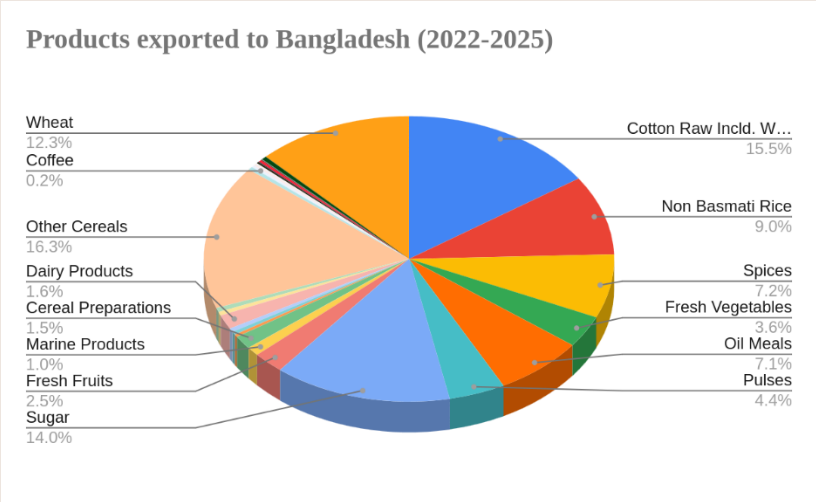

Chart 1: Agricultural and Processed Food Products Export Development Authority APEDA), Directorate General of Commercial Intelligence and Statistics (DGCIS)

As seen from the data, Bangladesh heavily relies on India as the primary source of agricultural imports, which supplies essential commodities such as wheat, rice, onions, etc.

However, this trade is now declining due to domestic production of the commodities that Bangladesh earlier imported from India. This decline in imports is, in part, attributed to Non-Tariff Barriers (NTBs) and increased self-sufficiency of Bangladesh (inspired from China and Russia) in key staples such as rice and maize (Chen & Lu, 2018). Increased machinery and product support from China and improved food strategies are also other factors. One imminent security risk could be the expansion of Belt and Road initiative (BRI) to Bangladesh (Jiang et al., 2021). Geopolitical tensions lead to rise in food prices too.

Bangladesh cannot get a stable food supply due to overpopulation, frequent disasters, climate stress, and shrinking fertile land. In fact, the 2026 Global Report on Food Crises (GRFC) says that Bangladesh is facing a catastrophic collapse of its food systems. On top of this, it is now going to graduate from the United Nations' Least Developed Country (LDC) category in November 2026, which means it will be losing out on all the privileges/ funds allocated to LDCs. In Bangladesh's domestic politics, India is shown as an unreliable supplier for these reasons. At the same time, Bangladesh is graduating from the list of Least Developed Countries in the United Nations, which would affect duty-free access to the export markets of the EU and elsewhere (United Nations, 2024). This leads to Bangladesh looking elsewhere for diversifying food imports. India could address this; however, its domestic priorities and strict regulations make trade interactions more difficult for Bangladesh. Whenever countries try to build self-sufficient food chains, it affects international transactions and decreases security of these food chains.

Security is another major concern. India has increased surveillance in the region due to concerns about cross-border smuggling. Cattle smuggling, as well as foodstuffs such as rice and sugar, are illegally exchanged across these borders. The Indian Government has increased fencing, patrol roads and border posts, tech surveillance, along with strengthening its intelligence network in recent years. According to “Cross-border activities in everyday life: The Bengal borderland”, local people’s collusion with the BSF in smuggling goods and people across the border is a common occurrence and is commonly known (Ghosh, 2011).

Several solutions are proposed. From the Indian side, procedures have been simplified to reduce cost (Palit, 2023). But in addition to this, Non-Tariff Barriers should be modified to increase market access. Paperwork and clearance delays need to be resolved. There is a need to ease food processing and development of cold storage facilities and backward linkages through better irrigation and seed technologies (CUTS International, 2019). For security concerns, if the Centre prioritizes socio-economic development of the region, it can solve the problem more permanently. The government also needs to work with Bangladesh security agencies to address the smuggling problem.

On Bangladesh’s side, it should focus on strengthening its cold storage facilities (specially in important trade points such as Benapole), allow Indian cargo trucks across the border and fix an annual food import quota with India. Both sides need interconnected digital customs systems to facilitate these transactions.

However, the current political dynamics repeatedly fuel rivalries between the powers, which ultimately affect food supply networks.

Pandemic-era disruptions

Covid-19 disrupted these agro-food systems and value chains, primarily through lockdowns, mobility & transportation limits and labor shortages (Ali et al., 2020). The governments’ response evoked mixed reactions. Border haats were closed and chains were digitalized so that transportation could continue, even if restricted. In the post-Covid era, this was balanced by vaccine diplomacy, health cooperation and trade connectivity (CUTS International, 2021).

However, this negatively impacted the interests of the border communities on both sides.

Border frictions between India and Bangladesh impacted sales of both food and clothing as transportation was expensive. Export restrictions resulted in price spikes for the locals, leading to demands for cash/ food support and increased credit rates. Women’s mobility was prohibited, leading to many women being separated from their families. This is an indication towards a larger problem, wherein the local population gets ignored in favour of mere trade relations. The

Bengali border villages sit at the margins of these policies, barely getting mentioned in this policy framework.

Limited Role of Regulatory Frameworks in Indo-Bangladesh Food Chains

India needs to digitally integrate local retailers or kirana stores in this region. In addition to ensuring local stability, they can act as social security nets for nutrition. Urban food distribution networks benefit from this.

Livelihoods will also improve with access to quality food. The average farmer doesn't have access to proper market knowledge, good inputs, affordable irrigation, storage facilities and thus fails to generate a profit. Both governments need to focus on fixing this lack of access and support farmers in the border regions. Continuing imports will ensure this chain stability too. By focusing on both domestic and international frontiers, these chains can be made long-lasting. This is where the border villages become the central point.

SECTION II

Bengali Borderlands

As zones of contestation, Bengal borderlands have a distinctive nature. Cross-border interactions continue to be an integral feature of everyday life in the Bengal borderland. This is despite the increasing militarisation and regulation on both sides in the last decade. Illegal migration remains one of the biggest challenges, with the Indian government regularly engaging in fencing and being largely responsible for border killings. Women especially face larger scrutiny and restricted movement, yet they still have to travel due to marriage and kinship ties.

In the paper, "Cross-border activities in everyday life: The Bengal borderland", Ghosh (2011) explores these rural settlements on the fringes of the border. Borderland societies have uniquely shaped communities (Van Schendel, 1997). There is a unique situation which raises questions about the mobility of people and goods, whose cultural identity of a shared Bengali culture transcends their supposed national identities. Kinship ties and friendships sometimes enable informal border trespassing. Their interactions are facilitated by Border Haats, where they can meet their relatives. There are farmlands on both sides of the border, which introduces complications in the daily lives of rural farmers who cross the border every day. Interactions with border security forces leave them frustrated, as they have to interact with bureaucratic processes that seem illogical and hinder their daily activities. Small-scale goods such as manure and Dhakai Saris are sold and exchanged in an illegal manner, which is ignored by the Border Security Forces (BSF). Major goods like cows, rice and sugar are also smuggled, which is prioritized. Border villages on the Bangladeshi side face similar problems too.

Continued deprivation of those on the borders

The 1947 Partition produced irreversible consequences. It created contemporary realities wherein structural violence and deprivation of basic necessities is still propagated. In villages such as Para and Nawdapara (24 North Parganas), the no man's land is inhabited by communities that are trapped between the official border and temporary fences. These communities are ostracised due to their identities (Muslim, OBCs and Scheduled Castes). They face restricted access as they're only allowed through gates open for limited hours with conditional access to local markets and transport. They can't even access basic infrastructure like primary schools, health centres or proper roads.

Particularly vulnerable groups include: the Rajbanshi community (indigenous group in Cooch Behar), Santhal and other tribes, the Muslim artisan communities (Nadia region) and widows in rural Bengal. Some of these communities crossed borders during the Partition into Bengali border villages, where their food deprivation continued to the extent that they did not go outside without food. Substances like wild plants, rice water and salt served as their sustenance at times, showing the horrific consequences of historical and socio-cultural processes. Oral histories of these residents in rural Bengal and areas like Jhargram, Jalpaiguri, Gobindopur, and Partanpur, show how more attention is given to the capital city Kolkata and these areas do not receive proper government support (Bango et al., 2025). They're instead subjected to institutional violence and social exclusion. The intergenerational impact of this historic food insecurity of such communities persists through psychological distress. Experiences of refugee camps and prolonged starvation has led to an increased risk of diabetes due to their rice-only diet, their hunger becoming a sign of shame.

The people in these enclaves only recently got recognised as Indian citizens. Sometimes their identification papers are not considered valid and there have been instances of government aid being denied on this ground. During the pandemic, those who did not have access to formal identification suffered the most, combined with this historical deprivation. The crowded shelters, lack of housing and lack of affordable food affected these sections adversely. This is what happened in the Sunderbans.

SECTION III

Covid and the case of Double Jeopardy

Covid-19 restricted the movement of workers, changed consumer demands and led to the closure of food production facilities. Primary linkages were hit the worst, food trade policies became restrictive, accompanied by countries being wary, and financial pressures were placed on both medical and food supply chains. Food security of disadvantaged communities was placed in danger. Effects on small farmers and agricultural labour communities were adverse. On the border fringes, these labourers and farmers face loss of livelihoods, food security, reverse migration (which added to the stress on the food supply network), and intense vulnerability of living in border regions. Migration was viewed with fear. This included the paranoia of getting infected which combined with pre-existing biases based on class, caste, gender, and religious identities. Wage labourers and daily workers had to walk back to cities. Some of them returned from Kerala back to Sunderbans, where their situations worsened. The Sunderbans area got impacted by Cyclone Amphan in the same period as the pandemic, facing a rare case of double jeopardy. However, the governance response measures taken at that time were less than ideal.

There was a mixed response. Health services broke down. Primary health centres were over-burdened and failed to address rural problems. In addition, destruction of houses, embankments, agricultural lands and crops occurred. The saline water's influx not only destroyed the food crops, but also clean water, which was no longer available.

The worst of this was seen in the failure of disaster shelters. They were being used as quarantine centers for the migrant population which had returned home. This meant that when the cyclone hit the region, they were not available, and only partial evacuation was possible. Therefore, the Sunderbans population was not only facing Covid, but also a cyclone and food deprivation at the same time. In addition to several problems, the part of the population which did not possess the correct identification papers failed to get any government aid. Similarly, inhabitants of Jangal Mahal did not receive government aid or rations due to refusal of identification and instead faced increased scrutiny from the government and BSF, which were especially trying to prevent illegal border travel (Kundu et al., 2025). Far from receiving medical care, the disadvantaged populations of the Bengali Borderlands were struggling to survive.

SECTION IV

How India combatted food insecurity during Covid

In the big picture, the National Food Security Act played a big role in responding to the crisis of widespread food insecurity, along with food safety schemes like Pradhan Mantri Garib Kalyan Anna Yojana (PMGKAY), aimed at NFSA beneficiaries. As for the migrants, the Atma Nirbhar Bharat Package was aimed at alleviating the hardships faced by them. Another food security scheme is Antyodaya Anna Yojana (AAY), which has specifically benefited women. The Government of India, in collaborative efforts with the UN World Food Programme, was able to ensure food security. This was done through applying the Targeted Public Distribution System (TPDS) in tandem with ration cards under the One Nation One Ration Card Scheme.

The combined result of these schemes was that over 6.01 crore beneficiaries received food packages during the year of 2020-21 (Ministry of Consumer Affairs, Food&Public Distribution, 2021).

The principles of supply chain optimisation were used to create awareness while also unifying PDS operations. Rice fortification (enriching rice kernels with essential micronutrients) was also used to ensure nutrition. These policies were able to prevent mass starvation, although their impact was limited in the Indo-Bangladesh border fringes.

Is care in governance present in these regions?

Provisions

- **Food security:** Border Haats are boosting local trade and food access, combined with the establishment of nutrient-dense gardens and NFSA initiatives. Agricultural support is provided to millet and vegetable small farmers, with safety net programs like the Public Distribution System and child development services addressing malnutrition. The National Mission for Sustainable Agriculture (NMSA), as well as agricultural diversification support are a few steps taken by the Indian government.
- **State government:** legislation including the West Bengal Food Security Rules and new revisions, the Khadya Sathi scheme (2016), Duare Ration (doorstep ration), grievance redressal and increased state cooperation are present.
- **Capacity development:** there is also a program for promoting rural tourism, especially in areas like Cooch Behar, which is now marketed as the 'City of Beauty' (Pariyatan Sahayata Prakalpa relief scheme). This aims to have a positive socio-economic impact on rural communities by generating employment and protecting local culture. It also intends to help in promoting sustainable development (with eco-friendly practices) and in resource conservation. In lieu of community-based development, the involvement of local communities in decision-making needs to be emphasized.
- **Other programs:** Border Area Development Programme, Vibrant Villages Programme-II (VVP-II), and subsidized resources.

Impact

Biometrics verification has ensured transparency and accountability in ration cards, reducing manual errors in distribution. There has almost been 100% digitisation of these ration cards (Press Information Bureau, 2016). The BSF has also started intercommunications with communities in districts like Nadia and North 24 Parganas to build cooperative trust. Local support is banked upon to report against illegal smuggling of goods and transactions. The state government program of Khadya Sathi (2016), which aimed to distribute good grain at Rs. 2/kg for poor people, has had a positive impact, especially on the people of Puruliya, the Darjeeling Hill area and Jangalmahal (Mondal et al., 2022).

Limitations

In implementation there has been positive community participation. But, there are also data mismanagement issues, inefficient distribution, and a lack of reach into rural areas. Fragmentation of this food supply chain leads to leakages and delays.

The most recent NITI Aayog Border Area Development Programme (BADP) evaluation report considers the border area of Bengal to be an area of failure due to persistent migration issues. It also attributes this governance failure to corruption at the level of local governance, where leaders take a cut of the funds that are allocated to address the lack of access. It is important to note here that there is an interesting dynamic between the Centre government and local governance. The local government is antagonised towards the Centre and repeatedly promises action against the BSF in its manifesto to get elected. On the other side, there have been instances of the Bangladeshi political parties promising to end 'border killings' in recent elections.

On the regional or state government front, there is a distinct lack of attention to border villages and central or state overarching schemes. Problems are resolved only superficially. Government reports boasting of good implementation fall flat when we see poor districts like Cooch Behar or villages nearer to the Indo-Bangladesh border like Sitai, Mekhliganj and Sitalkuchi. Regions such as Gobindopur, Partanpur or even Jalpaiguri are barely given attention. The 2015 Land Boundary Agreement was important in integrating the enclaves into the country politically. However, in terms of on-the-ground impact, there are still shortcomings. Many residents of the ex-enclaves lament becoming a part of the Indian territory due to the loss of security and access to resources (Bhattacharya, 2018).

The problem of restoring sovereignty to the borderlands is a bone of contention. On one hand, it is important to provide these communities with the constitutional rights and freedoms they are guaranteed. However, the Centre has a wary stance on this region with concerns of security and territorial integrity (Lakshman & Jha, 2003). Also worrying is the increasing aggressiveness of the Chinese Belt and Road Initiative, considering its overarching interests over the Indian Northeast states.

Way Forward

In the context of the Bengali Borderlands, informal transactions could receive formal institutional support, thereby increasing the incomes of the local population.

They must be allowed freedom for their daily commercial activities, such as farming and fishing. Along with this, they must also possess the means to access government aid and receive substantial attention. It is the responsibility of both the state and central government to ensure this.

Other solutions include: Public-Private-Partnerships, villages becoming border posts and capacity building. Collective farming, developing infrastructure & cold-storage chains, e-portals for purchase/sale of agricultural inputs/outputs, and promotion of export-oriented agro-clusters can help. Proposed transnational food corridors need to be secured from foreign interference. If done properly, regional food corridors could transform divided food chains into a functioning system, easing trade facilitation.

There is also a need for increased Indo-Bangladesh cooperation. Panchayati governments on the Indian side and Union Parishads on the Bangladeshi side should be involved in this process. We must leverage our shared experiences and histories to focus on humanitarian and commercial interests, increasing bilateral engagement. Public diplomacy and dialogues with non-state actors such as civil society organisations will enhance this relationship. Therefore, by introducing region-specific lenses, and in this case, community-specific lenses in these programs would increase effectiveness.

Conclusion

More attention needs to be given to those on the border fringes. They need to be given everything that the Indian citizenship has promised them. The current institutional viewpoint of persecuting 'outsiders' as well as political tensions between India and Bangladesh has worsened this situation. The residents in these border villages are the ultimate victims of these processes. Any hope of good governance is lost when political anxieties translate into structural violence or scrutiny. Instead, this hampers their daily lives. Among these inhabitants, vulnerable groups including the widows, migrants, Muslim artisans of Nadia, the scheduled tribes, and scheduled castes faced food insecurity during the pandemic. Ex-enclave residents undergo the same. Their continued fear and exclusion is exacerbated by a lack of government support. Government policy in this regard falls short of effectively being capable of bringing change. It remains largely security-oriented due to geopolitical complexities. Instead of being so limited in its approach, community sensitization is needed. Legislation needs to be made with the needs of these vulnerable sections in mind. Increased collaboration between India and Bangladesh can be utilized to resolve these challenges. Therefore, with substantial actions, true empathy-based care can be provided to the inhabitants of these border Bengali villages.

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Submitted on-: 07/02/2026

Accepted on-: 13/05/2026

The Price of Convenience: Gig Work, Structural Precarity, and The Politics of Labour Protection in India

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Abstract: India's platform economy provides jobs to an estimated 12 million gig workers. The existing legal architecture regulating their working conditions, however, continues to remain systematically misaligned with the realities of digital labour. Drawing on this context, this article asks how has the expansion of platform-based gig work during and after the COVID-19 pandemic exposed the gap between existing labour protection frameworks and the actual working conditions of gig workers in India? This article argues that platform precarity among food delivery workers is produced through inadequate labour protections, worker misclassification and algorithmic management. With a major focus on periods of crisis such as COVID-19 pandemic, the article analyses the major problems faced by gig workers, including the lack of social protections, limited access to healthcare and labour rights, and income insecurity. This is further explained by India's evolving regulatory response, including the Code on Social Security, 2020 and the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, evaluating both their importance as recognition frameworks and implementation gaps that constrain their reach. Situated within the journal's theme of *"Care in Crisis"*, this article asserts that regulating platform labour requires stepping beyond recognition toward enforceability, implementing algorithmic transparency, minimum wage guarantees, legally mandated social security provisions, employer accountability, and effective grievance redressal mechanisms as structural foundations of a more equitable digital economy.

***Keywords*: platform economy, gig workers, precarity, algorithmic management, social security, enforceability.**

Introduction

The rapid expansion of the Indian gig economy has created new employment opportunities for workers but also raised crucial concerns about social protection and labour rights. Swiggy and Zomato, two prominent food delivery platforms, have become central actors in urban service ecosystems, employing delivery riders, who largely belong to the informal sector. In India, gig workers have remained excluded from formal labour protections and larger welfare frameworks, despite their growing importance in recent times. The gig workforce in India is expanding at a higher rate, yet policy frameworks have been unable to keep pace with

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these changes, as highlighted by *NITI Aayog (2022)*. This has led to a regulatory gap where the formal economy includes workers through digital platforms but they still experience lack of job security, income instability, and an absence of effective grievance redressal mechanisms.
A form of work where digital platforms or mobile applications play the role of intermediaries linking workers with customers for the service delivery is called platform-based employment. It is controlled by algorithm-based management systems that determine how work is allocated, what kind of payment workers receive (incentives), and how workers are evaluated by the platforms that use their services. Workers must constantly meet ever-changing (in some cases hourly) production targets, and they heavily rely on customer reviews to determine whether they will be able to continue working for the platform going forward. This leads to a large power imbalance between the platforms and the workers who provide the services, with platforms being able to exercise indirect but effective control over the workers. Ultimately, gig workers have to bear the operational costs of doing the job (e.g., gas costs, maintenance for their vehicles, unpaid wait times), while the platforms benefit from the flexibility of the arrangements and limit their liability. Taken together, this exacerbates existing forms of worker precarity in India through platforms rather than creating new avenues of gainful employment for gig workers.

The vulnerabilities of working in platform-based employment became especially apparent during the COVID-19 pandemic, which provided us with an opportunity to look critically at how crisis governance is managed. As an example, food delivery workers were classified as providing an essential service during the pandemic and played an important role in continuing supply-chain activity and providing access to essential goods in urban areas. However, just because they were classified as essential workers does not necessarily mean that they received any more resources or protections than they did prior to COVID-19. Fairwork India's (2020) assessment of platform working conditions found that most delivery workers lacked adequate accident insurance and safety provisions, leaving them exposed to significant health and safety risks during the course of their work, a vulnerability the COVID-19 pandemic rendered acute, as workers continued to operate in constant contact with others without adequate PPE or coverage.

Platform precarity, understood as a condition of long-term social and economic instability among workers in the digital platform economy, was sharply exposed during this period. During lockdowns and phases of demand uncertainty, delivery workers found their incomes increasingly unpredictable. A key driver of this instability was the restructuring of incentive systems: on major food delivery platforms, incentive payouts, which constituted up to 40–50% of total earnings, were reduced significantly and at short notice, compounding the income insecurity workers already faced (Fairwork India, 2020). State intervention remained limited and fragmented, offering minimal direct support to delivery workers (Parwez & Ranjan, 2021). This reflects a broader pattern in which crisis management was distributed across government agencies and private actors, leaving accountability diffuse and protections inadequate. Policy responses during this period prioritised service continuity and economic function over the structural conditions generating worker vulnerability. The contradiction between the essential nature of delivery work and the precarious terms under which it was performed exposes a fundamental gap in India's regulatory framework for platform labour. The pandemic experience of gig workers thus makes a compelling case for inclusive labour policy that extends meaningful social protection and enforceable rights to workers in the digital economy (NITI Aayog, 2022; ILO, 2021).

The purpose of this paper is to assess the inconsistency between the precarious conditions of gig work and the legal framework for the protection of gig workers in India. It analyzes the current laws and policies regulating the platform work and assesses their effectiveness in dealing with structural vulnerabilities faced by gig workers while highlighting the loopholes that still inhibit proper protection of workers. Furthermore, the paper presents a set of suggestions to improve the implementation of existing laws and legal framework in order to ensure more effective, equal, and sustainable protection of gig workers.

Methodology

This research adopts a qualitative approach that relies on systematic analysis of secondary sources. Since the research is concerned with the issues of structural precarity and labor policy in India, this research relies on a systematic review of the existing literature, legal documents, and institutional reports to create an evidence-based analytical framework.

Four categories of secondary sources are used in this study. First, peer-reviewed academic literature published in several journals, including the Economic and Political Weekly (Shipra & Behera, 2022), the Journal of South Asian Development (Nair, 2023), Work, Employment and Society (Veen et al., 2020; Wood et al., 2018), and the Annual Review of Sociology (Vallas & Schor, 2020), forms the theoretical basis for the study. Second, policy documents and legislative texts, including Press Information Bureau's (2025) Code on Social Security, 2020, NITI Aayog’s (2022) gig economy policy brief, and the Government of Rajasthan's (2023) Rajasthan Platform Based Gig Workers Act, 2023, provide a regulatory and legislative context. Thirdly, specific reports released by institutions and NGOs including Fairwork India (2024), International Labor Organization (2021), Johnston & Land-Kazlauskas (2018) and Sen et al. (2023) are making available real data about working conditions and accountability for platform providers. Fourthly, reputable media and civil society sources such as Human Rights Research

Foundation (2025), Reuters (Kumar, 2026) and Observer Research Foundation (Vaidya & Biju, 2025) are confirming current trends in respect of workers organizing and issues discussed in legislative process. Moreover, sources were evaluated based on credibility, actualness and relevance towards the Indian platform economy. Thematic analysis was applied to find common themes in relation to labor market precarity, lacunae in legislation and politics of protecting workers. The research was interpretative rather than positivist, thus focused on understanding the context instead of applying statistical generalization.

The Hidden Precarity of Platform-Based Work and the New Labour Management

The nature of work in urban service sectors such as food delivery, domestic services, logistics, ride-hailing, has been massively transformed due to sudden expansion of the platform economy. Through algorithm-based applications, digital labour platforms such as Swiggy and Zomato play the role of intermediaries that link all of the three: consumers, service-providers (platforms) and workers. This leads to a system where labour is structured by the means of technology instead of traditional employer-employee relationships *(Veen et al., 2020)*. The gig economy has become one of the most rapidly growing sectors of the labour market, with millions of workers relying on platform-based employment for income generation *(NITI Aayog, 2022)*. The platform economy is often displayed as symbolic of innovation, flexibility, and entrepreneurial freedom. However, beneath this mere artificial image, lies an extremely unequal and insecure labour framework that transfers economic risks from huge companies onto workers themselves *(Stewart & Stanford, 2017)*.

The expansive processes of neoliberal economic reforms, urbanisation, cheap internet access, smartphone and app-based consumer culture prevalence, are very closely linked to the evolution of platform economy in India *(NITI Aayog, 2022)*. These platform companies depend mainly on smart technologies such as automated performance management systems, ratings, algorithms, and GPS tracking to manage labour efficiently while significantly reducing labour costs *(Fairwork India, 2024; International Labour Organization [ILO], 2021)*. There is no direct human supervision, as the workers coordinate through opaque technological systems that allocate orders, impose penalties for delayed deliveries, determine incentives, and monitor productivity *(Wood et al., 2018)*. As workers have minimal control over how decisions affecting their income and employment are made, this algorithmic management leads to a power imbalance *(Tandon, 2021; Vaidya & Biju, 2025)*.

Employment Status, Digital Labour Exploitation, and the Weakening of Collective Labour Power

Due to the classification of food delivery workers as "partners" and not employees, companies are able to escape from obligations involving social security, minimum wage, health insurance, accident compensation, or paid leave. This obscurity in employment status builds the base of labour precarity within the platform economy. Workers remain ostracised from many significant protections commonly linked with formal employment, despite them carrying out essential labour under very challenging conditions *(Shipra and Behera, 2022)*. Studies on Swiggy and Zomato workers prove that due to unstable and everchanging incentive structures, food delivery workers often work for prolonged hours to earn stable incomes *(Sivalaeshwar & Nethraja, 2026)*. Instead of collective negotiation with workers, earnings are often determined by the platform through customer ratings, penalties on delayed deliveries, and surge pricing systems *(Fairwork India, 2024)*.

Delivery workers often incur expenses related to vehicle maintenance, fuel, mobile phones, and internet bills, while remaining at risk to road accidents and occupational hazards without any institutional support. Therefore, the precarious nature of platform labour is amplified by the transfer of operational costs and other risks onto workers themselves *(Sen et al., 2023; Tandon, 2021)*. Thus, while externalising the costs of production, the platform extracts labour, this is what is described by several scholars as *"digital labour exploitation"* where workers are controlled through customer ratings, GPS tracking, and automated performance systems, in this way platform companies avoid any employer responsibility *(Nair, 2023; Shipra & Behera, 2022)*. Workers are kept geographically separated and digitally isolated which weakens any chance of unionisation or collective bargaining, in this way, the platform economy divides and individualises labour *(Johnston & Land-Kazlauskas, 2018)*. Platforms often respond to worker strikes and protest by changing incentive structures or depending on a large reserve of available urban labour *(Sri, 2025)*. Eventually, the platform economy generates high employment but it also creates a labour system where precarity is structural and not incidental and is constructed into the framework of platform capitalism *(Vaidya & Biju, 2025; Vallas & Schor, 2020)*.

The COVID-19 Pandemic and the Erosion of Worker Protections in Platform-Based Work

In urban India, food delivery work has become one of the most visible forms of gig labour. The COVID-19 pandemic increased consumer dependence on app-based services, making companies such as Swiggy and Zomato central to everyday consumption patterns. As suggested by the policy brief published by *NITI Aayog,* in the upcoming years, India's gig workforce will expand considerably, and the urban service economy's significant component will be platform-based labour. A study titled *COVID-19 Pandemic and Work Precarity at*

Digital Food Platforms: A Delivery Worker's Perspective, based on interviews with 37 food delivery workers in Jaipur during 2020, denotes how the existing precarious nature of platform labour was worsened particularly during the pandemic *(Parwez, 2022)*. Workers faced increasing economic insecurity and degrading labour conditions, as consumer reliance on app-based delivery services escalated considerably during lockdowns. One worker clearly revealed this contradiction: *"Earlier we used to earn more incentives, but during lockdown they reduced payouts while work increased" (Parwez, 2022)*, while another noted, *"I do not have enough savings to last for even a month"*. Swiggy and Zomato, downsized sections of their workforce, as Swiggy wiped out around 1,000 jobs, while Zomato reportedly cut 13% of its staff during the pandemic *(Indian Express, 2020)*. This was how the platforms responded during the crisis rather than reinforcing labour protections. Simultaneously, these companies kept displaying images of safety and responsibility through built-in app notifications, and WHO-guideline messaging intended for consumers. This sharp discrepancy between workers' lived realities and corporate optics could be seen more evidently through reports of insufficient PPE distribution, the persistent use of cash transactions that compromised "contactless delivery" protocols. Consequently, delivery workers were compelled to "wait for the next order to remain employed at any cost and risk", and were, therefore, reduced to a highly precarious labour force *(Parwez, 2022)*.

Stigma, Occupational Risk, and the Human Cost of Gig Work During Periods of Crisis

The pandemic also generated a more profound form of occupational and social distress. *Parwez (2022)* illustrates how food delivery workers were often treated with suspicion by customers, and the public as potential vectors of infection, while at the same time, they were being celebrated as "essential workers" in corporate and political discourse. This is how delivery workers faced stigmatisation during the crisis. This stark contradiction where workers were considered as socially indispensable yet institutionally unprotected, revealed the significant paradox of gig labour in the pandemic. Workers received no protections in the form of occupational safety guarantees, sick pay, or insurance, despite them experiencing psychological strain, physical risk, and social stigma due to working continually during crisis periods. *(Parwez & Ranjan, 2021; "Workers in Gig and Platform Economies", 2022)*.

One particularly revealing example concerns a worker who, while on duty, sustained a serious injury in a road accident, only to find that his claim for medical insurance was repeatedly rejected and his field manager was also unreachable, due to which he was not able to work for months with no official remedies *(Parwez & Meena, 2022)*. Such reports reveal how platform companies use the terms "flexibility and partnership" in extremely misleading ways as it is very clearly a method of systematic labour exploitation that becomes especially visible and most consequential particularly during the periods of crisis. The article published in *Economic and Political Weekly* on gig work during COVID-19, also denotes that the pandemic amplified the precarity as workers faced both health risks and economic insecurity simultaneously.

Examining the Regulatory Framework and the Politics of Recognition in the Platform Economy

India's growing digital platform economy has forced authorities to recognize tremendous structural weaknesses in the gig economy; in particular, food delivery workers. Although food delivery workers are an integral part of the urban services economy, they continue to exist within the wider informal/unorganised labour sector. The organisation of this workforce, therefore, is structurally difficult as labour is fragmented, decentralised and digitally co-ordinated through mobile apps rather than conventional physical workplace settings. It is expected that the gig and platform economy will account for a large proportion of India's total employment in the years to come, especially in the urban service industry *(NITI Aayog, 2022)*. The development of this trend is resulting in more policy discussions about labour rights and protections, such as social security, legal recognition of platform workers. There are major discrepancies between legal recognition and true protections for workers. Scholars have argued that legal recognition is being granted to gig workers without equivalent and substantive rights as a worker *("Workers in Gig and Platform Economies", 2022)*. There needs to be better enforcement of existing laws, greater accountability from corporations, and a complete social security framework in place to substantially improve working conditions for workers engaged in the expanding platform economy in India.

The Code on Social Security, 2020

One significant legal development was enactment of the **Code on Social Security, 2020.** This code has been introduced to consolidate India's fragmented social security system. Nine current labour laws are unified into one single code. While an ambitious undertaking, it aims to provide global social protections through adding coverage for all workers across the formal and informal sectors and promotes the expansion of India's welfare system. The Code includes many features, but one of the most important is the recognition of gig and platform workers.

An entirely new category of labour, gig and platform workers, will now have defined labour protections and will be able to access welfare through the establishment of a National Social Security Board and state boards that will coordinate and oversee welfare systems for the unorganised sector of the workforce. The code provides for the creation of a Social Security Fund that will provide workers with access to a wide range of benefits, including life insurance, disability benefits, health coverage. This will be funded by a combination of Central and State government contributions, CSR funding and other sources *(Press Information Bureau, 2025).* The Purpose of the Code is to increase social security coverage by expanding the application of ESI (Employee's State Insurance) and EPF (Employee's Provident Fund) to an even larger number of establishments and workers. New provisions have been made regarding a national system for registering un-organised workers that will link with Aadhaar in order to promote both portability and better targeting of social welfare benefits across states or types of employment. In addition, the Code has standardised the definition of wages across the various labour regulations, which will affect how gratuities, pension benefits and other related benefits are calculated. The Code improves provisions for women by guaranteeing up to 26 weeks of maternity leave, providing crèche facilities, nursing breaks and enabling work from home opportunities where applicable. Finally, a greater degree of digitalised record-keeping, and simplified compliance systems will promote transparency *(Press Information Bureau, 2025).*

The **implementation** of the Code will require both the Central Government and the State Governments to issue appropriate notifications regarding rules under which businesses must operate. Labour is regulated under the concurrent list of legislation so both levels of government have authority over this area. The Code will require a digitalised governance model that includes a national data base containing registered un-recognised workers and their identification through use of Aadhaar in order to facilitate the delivery of benefits. EPFO and ESIC will continue to manage contributory benefit schemes and the Social Security Board will administer all non-contributory welfare benefits for un-recognised workers. To implement these policies effectively requires that there is strong collaboration among various government levels and administrative agencies to coordinate implementation. Despite being quite comprehensive, there are still a number of **structural and conceptual issues** that need to be addressed. The code does not contain sufficient provisions to enable workers without threshold levels to access universal social security as was recommended by the National Commission on Labour (2002). Specifically, the code continues to apply employment-size thresholds for the purposes of determining eligibility for coverage under the Employees' Provident Fund and the Employees' State Insurance Fund (EPF/ESI) as a result of the number of workers employed by an establishment. This means most informal workers (unorganised sector workers) and gig workers meet the threshold and therefore are excluded from social security coverage.

The Institutional Framework is still fragmented because there are many separate bodies (for example, EPFO, ESIC and Social security Boards) carrying out different functions with respect to the administration of social security and other government benefits. This fragmentation can impede administrative efficiency and contribute to a lack of integration of administrative functions and benefits associated with various programs. While gig and platform participants are defined as "workers" within the code and will now have access to benefits under various schemes, they do not have a "right" to access that coverage on an enforceable basis. Participation in the programs will continue to be based on sources of funding available for programs and design of each program. This raises serious questions about the adequacy of protection for gig and platform participants facing algorithmic control and uncertain income streams. Definitions of gig and platform participants are not consistently defined, which result in serious issues with respect to potential double counting and errors in identifying eligible beneficiaries.

The Code on Social Security, 2020 is an important step towards providing all people in India socially inclusive universal Social Security by officially including gig and platform workers as well as informal workers, and implementing them into the legal framework. According to the Press Information Bureau, it was designed to help improve labour laws and modernise how those laws are delivered and implemented by establishing a digital governance framework, and by expanding the coverage provided under the various labour laws currently in place. However, the Code will only be truly effective if there are sufficient resources to implement it, clear definitions of what all the terms used in the Code consist of, and closure of all structural issues such as coverage thresholds, fragmented delivery and enforcement of legal recognition and rights. While the Code does represent a very significant change in terms of its intent, how effective it is to address the precarious nature for people working in platform economies will be an evolving issue within the policy environment of India.

The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023

The **Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023** is the first legislative attempt in India at the state level to regulate gig work through platform labour and provide social protection for gig workers. The Act formally recognises gig workers as separate from the traditional employer-employee relationship, putting them under a separate legal category of labour that exists through digital platforms. This formal recognition of gig workers as a separate type of labour is crucial to the legislative framework, as it acknowledges that all gig workers are dependent upon the platforms to earn a living but also preserves the construct (as a legal fiction) of "independent contracting", thus preserving the fundamental employer–employee relationship. At the heart of the act is the establishment of a Welfare Board and a Welfare Fund specifically for the purpose of, among other things, registering gig workers, suggesting welfare schemes, and overseeing the grievance processes for gig workers, with both the Welfare Board and the Welfare Fund financed primarily through contributions from the platform aggregators. This institutional frame shifts regulatory responsibility from an employer-based social security model to a platform-based model in which platform aggregators are considered to be intermediaries with social obligations, rather than employers with responsibilities to gig workers.

While there are protections offered to gig workers under the Act, these protections are primarily of a welfare nature and do not consist of labour rights. There are social security benefits, insurance coverage, and grievance redressal mechanisms granted to gig workers in the Act, but there are no minimum wage protections, employment security provisions or collective bargaining rights. One significant aspect of this regulatory approach is the indirect means to regulate the power of platforms via financial obligations and registration requirements. However, the Act does not impact how algorithms govern the relationships in a way that would directly improve the precarity of workers, including issues such as unclear task allocations, dynamic pricing options or how ratings are used to control the extent of work from gig workers. As a result, the fundamental causes of insecurity for platform workers will continue to be substantially unaddressed. Importantly, while there is some acknowledgement in the Act of gig workers at a symbolic level and an introduction of a procedural mechanism for resolving disputes, the ability of the law to achieve meaningful results for workers depends on the extent to which subordinate rules and/or the capacity of jurisdictions within each state to implement the law will be capable of successful operation. Delays and the uncertainty of implementing the law have already been raised by civil society commentators who have critically assessed the fact that in all likelihood, the Act will continue to remain more symbolic than substantive. In terms of precarity, the Act reflects the “regulated informality” of gig work by bringing gig work within the state welfare discussion without converting that gig work into formal employment. This implies that while there is a high degree of recognition and management of the vulnerabilities of gig workers, there is little indication that the underlying issues of structural disconnection will ever be resolved.

India’s growing digital platform economy has forced authorities to recognize tremendous structural weaknesses in the gig economy especially related to food delivery workers. Although food delivery workers are an integral part of the urban services economy, they continue to exist within the wider informal/unorganised labour sector. The organisation of this workforce, therefore, is structurally difficult as labour is fragmented, decentralised and digitally co-ordinated through mobile apps rather than conventional physical workplace settings. It is expected that the gig and platform economy will account for a large proportion of India’s total employment in the years to come, especially in the urban service industry *(NITI Aayog, 2022)*. The development of this trend is resulting in more policy discussions about labour rights and protections, such as social security, legal recognition of platform workers. There are major discrepancies between legal recognition and true protections for workers. Scholars have argued that legal recognition is being granted to gig workers without equivalent and substantive rights as a worker. There needs to be better enforcement of existing laws, greater accountability from corporations, and a complete social security framework in place to substantially improve working conditions for workers engaged in the expanding platform economy in India.

The Role of Political Advocacy in Enhancing Visibility and Addressing the Structural Limits of Intervention in the Gig Economy

In early 2026, the political recognition of gig workers' labour conditions reached a substantial turning point, initiated in part by the significant parliamentary advocacy of *Rajya Sabha MP Raghav Chadha.* A nation-wide flash strike was held on *December 31, 2025,* organized by the *Indian Federation of App-Based Transport Workers (IFAT),* with nearly 40,000 delivery workers participating in the strike in cities like Delhi, Mumbai, Hyderabad and Bengaluru. The delivery workers demanded fair wages, greater government protection and regulation of platform companies. One of the key complaints from the delivery workers during the strike was the promotion of a 10-minute delivery model, which led to unrealistic customer expectations and put an increased amount of pressure on them to deliver within that time, especially given the amount of traffic congestion in the major urban areas in which they were providing service. Furthermore, the workers pointed out that when the delivery is delayed, it negatively affects their customer ratings and therefore have a detrimental impact on their earnings due to the performance-based pay structure of the platform economy.

The platform companies reacted by referring to workers as "miscreants" and portraying what was inherently a labour dispute as a law-and-order issue, an approach Chadha publicly condemned as both derogatory and harmful ("Hostages with Helmets," 2026). Chadha expressed what the incorrect classification of gig workers actually translates to in practice: "If you needed police to have your workers stay on the road, they're not employees. They're hostages with helmets." To move from discourse to action, Chadha spent a full night shift as a Blinkit delivery partner in Delhi's winter, an experience through which delivery partner Shivam revealed that workers are often coerced to take wrong routes and ride at high speeds just to meet the stringent 10-minute delivery timelines, with continued work even in harsh weather conditions such as heavy rainfall, or scorching summer heat. There was another viral case of a Blinkit worker who had earned just ₹763 for 28 deliveries over 15 hours, Chadha outlined this as "systemic exploitation hidden behind apps and algorithms". Following the Centre's intervention, Blinkit and other instant delivery platforms discontinued the 10-minute delivery commitment, a directive issued by Union Labour Minister Mansukh Mandaviya, who asked platform companies to give priority to workers' safety over speed *(NDTV, 2026)*. Chadha praised the initiative as a first step not as an endpoint, stressing firmly that the deeper questions remained unaddressed: "Will we build India's growth on dignity and safety, or on pressure and insecurity?” The emerging political relevance of gig workers’ rights in India and the degree to which those rights had previously been left completely to the discretion of platforms themselves have both been exposed by a single parliamentary campaign, and how combining viral documentation, participatory field work, and floor speeches could push the government to step in and intervene in platform policy.

Recommendations

To overcome the issues related to the instability of the employment of gig workers in India, specific policies should be created that will move beyond the existing ones. The following recommendations are suggested for the state, platform companies, and regulating authorities.

Firstly, enhance the implementation of the Code on Social Security, which is an important measure towards providing social protection for gig workers. The proper application of the article IX of the Code supplemented by different initiatives on the state level will help to create the legislative basis for ensuring welfare of workers.

Secondly, specify the responsibility of employers. Platform companies should be motivated to create transparent contracts which clearly explain the rights and responsibilities of their workers. The 2024 ratings by Fairwork India demonstrate that platforms that adhere to fair pay and equity principles achieve better results in terms of workers’ satisfaction level.

Thirdly, enhance the reach of social safeguards. Workers in the gig economy should be progressively included in health insurance, compensation for work-related injuries, and payment for time taken off work. Given that NITI Aayog estimates the number of gig workers to exceed 23 million by 2030, the need for boosting the social protection system is both appropriate and strategic.

Fourthly, implement measures for guaranteeing income. Minimum wages, smoothly working algorithmic payment systems, and simple termination of contracts will ensure that gig workers’ income will be more stable and predictable (Fairwork India, 2024; Johnston & Land-Kazlauskas, 2018).

Finally, create systems for remedying grievances and collective bargaining. The availability of efficient grievance remedy systems and recognized means of worker representation will enable building trust between gig companies, workers, and regulators (Human Rights Research Foundation, 2025).

Strengthening these protections collectively reflects India's broader commitment to inclusive growth and the formalisation of an expanding platform economy.

Conclusion

A major transformation can be seen in the nature of labour under contemporary digital capitalism due to the platform economy’s rise in India. Popular food delivery partners such as

Swiggy, Blinkit, and Zomato have evolved quickly by combining technological innovation with flexible labour arrangements, thus becoming invaluable to urban consumer economies. This rapid expansion of platform-based work has also revealed some of its major contradictions. Gig work is often promoted as a source of entrepreneurial opportunity and labour flexibility, but the reality exposes something else, the lived experiences of delivery workers reveal a labour regime shaped by algorithmic surveillance, insecurity, unstable incomes, and the shift of economic risks from platforms onto workers themselves *(Fairwork India, 2024; Nair, 2023).*

The condition of food delivery workers makes it evident how the platform economy deliberately blurs the line between informal and formal labour. Workers lack social security, collective bargaining power, healthcare protection, and guaranteed wages. The recognition of emerging state-level initiatives such as the Rajasthan Platform Based Gig Workers Act, 2023 and the Code on Social Security, 2020 signify important, if inefficient, policy shifts *(Press Information Bureau, 2020; Government of Rajasthan, 2023).* The structural precarity enclosed within platform capitalism cannot be resolved by recognition alone. These legal acknowledgments risk staying just symbolic rather than substantive, without enforceable safeguards associated with occupational safety, minimum wages, and accident insurance *(Shipra & Behera, 2022; International Labour Organisation [ILO], 2021).* **Therefore, the future of the platform economy in India relies heavily on the creation of a more equitable and just labour framework, along with technological innovation.** Platform companies, policymakers, and civil society must safeguard workers' rights, safety and dignity. Economic development and social justice should be pursued not as competing priorities but as jointly essential, this is a significant requirement for a truly sustainable platform economy *(NITI Aayog, 2022; Fairwork India, 2024).* The article concludes that enforceable labour protections, such as minimum wage guarantees, mandatory social security benefits for platform workers, and algorithm transparency, are necessary for a more equitable digital economy.

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Submitted on-: 11/06/2026

Accepted on-: 07/07/2026

Gendering Environmental Precarity: Women's Care Work in Delhi's Urban-Agrarian Floodplain Amidst Cycles of Displacement and Administrative Invisibility

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Abstract: The Chilla Khadar floodplain of Delhi represents a distinctive urban-agrarian landscape where informal livelihoods coexist with "unauthorised" settlements. Life in this riverine ecology is shaped by double precarity: the predictable annual arrival of floodwaters and the unpredictable threat of state-led evictions for Yamuna riverfront "rejuvenation". Within this environment, women play a central, unrecognised role in sustaining household survival through productive agricultural labour alongside reproductive care work.

Drawing on qualitative fieldwork following severe seasonal flooding, this paper examines how crises intensify gendered responsibilities of social reproduction. Flooding disrupts livelihoods and generates post-disaster health shocks. In the absence of basic infrastructure, women assume primary responsibility for caregiving, negotiating relief, and rebuilding makeshift homes and submerged land once the river ebbs.

This paper argues that care work becomes the primary mechanism through which communities endure cycles of displacement and environmental uncertainty. It shows how the governance of urban floodplains, shaped by bourgeois environmentalism, produces forms of precarity that intensify reproductive labour and exhaustion. To develop this argument, we place feminist political economy, sociological research on caregiving, feminist ethics of care, and studies of gender and environmental disaster into dialogue. We read these alongside our own field observations in order to expand the theoretical vocabulary of care.

***Keywords**:* Yamuna floodplain, Judicial Urbanism, Environmental Precarity, Bourgeois Environmentalism, Social Reproduction, Care Work

Introduction

The Yamuna Khadar exists as a profound geographical paradox at the heart of India's capital. It is a 97-square-kilometre agricultural landscape that sustains Delhi's food supply while remaining legally invisible to its formal urban planning. The history of this terrain is written in the ebb and flow of its waters, yet for the thousands of tenant farmers who call the

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Khadar 'home', the river is both a vital life-giver and a site of recurring trauma. Since 1924, the Yamuna River has breached the danger-level mark nearly 40 times, with catastrophic floods recorded in 1978, 1995, 2010, and most significantly, the record-breaking surge of July 2023. This trajectory of instability has continued into the present, with the 2024 and 2025 monsoon seasons further breaching the "Planning Zone O" boundary and submerging the fragile livelihoods of a community already living on the margins of the state.

This riverine ecology represents a distinctive urban–agrarian landscape defined by a condition of "double precarity". For the inhabitants of the Khadar, life is shaped by the intersection of the predictable, seasonal arrival of floodwaters and the unpredictable, state-led threat of eviction. Classified as "unauthorised", these settlements exist in a state of planned informality, where the state strategically withholds formal recognition and service delivery while maintaining a hyper-presence through judicial interventions and "rejuvenation" initiatives. Within this fragile environment, women play a central yet largely unrecognised role, sustaining both household survival and the city's food security through a gruelling combination of productive agricultural labour and reproductive care work.

We draw on our qualitative fieldwork conducted between September 2025 and January 2026 to understand how these successive cycles of flooding and administrative neglect intensify gendered responsibilities of social reproduction. We argue that within the administrative vacuum created, care work emerges not merely as routine domesticity but as a crisis-intensified infrastructure—serving as a vital shock absorber that mitigates the impacts of both environmental disaster and legal erasure. We contend that current governance of the Yamuna floodplain, driven by a bourgeois environmentalism and middle-class interests, systematically devalues this labour, deepening the systemic fragility and exhaustion that define the lives of women in the Khadar.

Literature Review

Social reproduction theorists have shown that capitalism depends on labour that is not waged, not recognised, and often not counted (Arruza, 2016; Bhattacharya, 2017; Bakker & Gill, 2019). The work of bearing and raising children, maintaining households, and tending to the elderly regenerates labour power and sustains social life. This literature powerfully destabilises the productive/reproductive divide and reveals how gendered labour subsidises the market economy.

At the same time, substantial empirical research has documented that unpaid caregiving is not without cost. Abel's (2000) review of research on family members caring for frail older adults identifies multidimensional burdens, including physical, emotional, social, and financial strain. Caregivers frequently report chronic stress, fatigue, social isolation, and workplace conflict. Synthesising a broad literature, Bianchi, Folbre, and Wolf (2012) demonstrate consistent associations between intensive caregiving and heightened risks of depression, compromised immune functioning, and coronary heart disease. Taken together, this scholarship establishes that unpaid caregiving carries measurable and lasting consequences for women's well-being. These studies have been indispensable in demonstrating that care is work. However, much of this scholarship has emerged from contexts where households, despite inequalities, operate within relatively stable institutional arrangements. Care, thereby, appears as routineized household labour measurable through time-use surveys, labour statistics, and health indicators. Questions of care are often framed around balancing paid employment and unpaid domestic work, redistributing household labour, or expanding welfare provision. Comparatively less attention has been received by contexts where the state itself produces precarious conditions under which care is practised.

Research on environmental disasters extends this conversation by overturning the very idea of the "natural" disaster. As disaster scholars have long argued, floods become disasters not simply because rivers overflow but because social inequalities determine who is exposed, who is protected, and who bears the costs of recovery. Across diverse settings, from the Red River Valley in North America (Enarson, 2001) to flood-prone neighbourhoods in Lagos (Ajibade et al., 2013), women consistently assume expanded care work during and after floods. Perhaps the closest parallel to the present study emerges from Singh's (2020) ethnography of informal settlements in Mumbai. Singh shows that in "unauthorised" colonies like Vasai-Virar, the state often ignores the frequent, smaller floods that ruin daily life. In these neighbourhoods, care is a backbreaking physical struggle against filth. Women must scrape thick, stinking mud off floors and sanitise homes flooded with sewage and industrial waste. Singh calls this "2:00 AM labour" - a midnight marathon of cleaning, scrubbing, and drying clothes so the home is functional enough for the men to go back to work the next morning. The true weight of this labour is seen when women are forced to work through exhaustion, illness, or the days immediately following childbirth. For instance, Singh records stories of women fetching water and cooking just three days after giving birth, even as floodwaters were still rising. This "housewifisation" of disaster is often forced by a harsh family logic; when these women ask for help, they are told, "What have we brought you for?" This phrase suggests the woman is viewed not as a person, but as a "shock absorber" for the family's troubles. For women who assemble plastic locks at home, the flood creates a cruel trap: it destroys the very tools and materials they need to earn a living at the exact moment their unpaid cleaning and care work doubles. Ultimately, by clutching Aadhar and ration cards during sudden evacuations, these women perform the final, vital act of care, preserving the family's only proof of existence in the eyes of a "missing state". Their "adaptive preferences" lead them to accept this exhaustion as "destiny", showing that in the informal city, care is a sacrificial bridge that keeps the family alive while the woman's own health and safety are pushed to the breaking point.

While these studies convincingly demonstrate that environmental crises intensify care work for women, they pay comparatively less attention to how the legal and administrative regimes actively produce the precarious conditions under which care becomes increasingly burdensome. Our study therefore addresses these gaps by bringing feminist theories of care into conversation with environmental governance and legal geography. To be precise, we attempt to answer an important analytical question that remains insufficiently explored: how care practices are theorised when environmental precarity is seen as inseparable from juridically produced insecurity. As Thomas (1993) argues, care research is also a route to the politics of welfare and to sociological and policy analysis of the welfare state's institutions, ideologies, and systems. Building on this line of thought, our paper concludes by proposing some policy interventions.

Methodology

Research Design

This exploratory study adopts a qualitative interpretive research design to examine the lived experiences of women residing in Delhi's Chilla Khadar floodplains. A qualitative approach was seen as best suited to the study because it seeks to understand how women make sense of a recurring environmental crisis vis-à-vis the gendered responsibilities of care within their everyday lives. Rather than measuring predetermined variables, the research focuses on participants' narratives, meanings, and everyday practices to explore how care work is negotiated under conditions of seasonal flooding, legal erasure, and uncertain livelihoods. The study primarily focuses on three questions:

- How do recurrent flooding and state-led eviction shape the everyday experiences of women in Delhi's Chilla Khadar floodplain?
- In what ways do environmental precarity and state-led governance transform women's productive and reproductive labour?
- How does women's care function as a form of crisis-intensified infrastructure that enables households to endure cycles of flooding and eviction in the Khadar?

Study Site and Participants

The study site is accessible via a kaccha, unpaved road branching off the highway, opposite the Mayur Vihar Extension Metro Station, providing an entry point into the low-lying floodplain settlements. The primary data were collected in two phases that represented two contrasting situations within the annual flood cycle. The first field visit took place during the peak monsoon season in September 2025, when many farming households had been affected by floods and were residing in makeshift camps along the adjacent highway. The second round of interviews was conducted in January 2026, long after families had returned to the Khadar and resumed winter agricultural activities.

During each field visit participant observation was undertaken with detailed field notes recorded throughout, either jotted down immediately or written later. Interviews were conducted during each interview visit, which resulted in a small purposive sample of 20 adult participants aged approximately 20 to 60 years. Participants included 14 women and 6 men engaged in farming and household labour. This helps us gain a gendered perspective of the situation. Many younger participants reported having been born in the Khadar, while others recalled having migrated from Badaun district of Uttar Pradesh and other parts of Bihar over the past two to three decades, claiming to belong to castes like Yadav, Maurya, and Mallah. Although the sample size does not permit statistical generalisation, it enables an in-depth engagement with the experiences of environmental precarity, care work, and displacement.

Data Collection

Interviews typically lasted between 30 and 45 minutes and were audio-recorded with participants' informed consent before being transcribed for analysis. Interviews were conducted primarily in Hindi and local vernacular expressions familiar to participants. Where necessary, interview questions were translated and adapted into locally understandable terms to facilitate open conversation.

Rather than following a rigid questionnaire, the interviews were organised around broad thematic areas, including settlement histories and migration, agricultural livelihoods, gendered divisions of labour, unpaid care work, experiences of flooding and displacement, post-disaster recovery, interactions with state agencies, access to relief and public services, land tenure, eviction, and perceptions of environmental governance. This flexible interview structure allowed participants to narrate their experiences in their own terms while ensuring that comparable themes emerged across interviews.

Participant observation complemented interview data by documenting agricultural practices, domestic routines, living conditions in highway relief camps, rebuilding activities following floods, and interactions between residents and non-state actors. The purpose behind carrying out such an in-depth immersion into the field is to observe, understand and record what seems to be 'taken-for-granted' ideas and practices and to turn them into meaningful data by drawing out themes and patterns from them. These observations provided important contextual insights into the embodied and often invisible dynamics that were not always explicitly articulated during interviews.

Ethical Considerations

Prior to each interview, participants were informed about the purpose of the research, the voluntary nature of participation, and their right to decline or withdraw at any stage without consequence. Informed verbal consent was obtained before interviews were conducted and recorded. To protect participants' privacy, pseudonyms have been used throughout the paper, and identifying personal information has been omitted. Given the legal vulnerability of many residents and the sensitive nature of discussions surrounding eviction, land tenure, and state authorities, particular care was taken to ensure confidentiality and minimise potential risks to participants.

As undergraduate students, both researchers were 21 years old at the time of fieldwork. Our age and student identity made our presence in the Khadar somewhat unusual, often inviting curiosity from residents. During the first field visit which was conducted while families were displaced, several participants initially assumed that we were affiliated with a non-governmental organisation (NGO) distributing relief or government officials conducting a survey. Before commencing each interview, we introduced ourselves as university researchers, explained the academic purpose of the study, clarified that we were not connected to any government agency or relief organisation, and emphasised that participation was entirely voluntary.

Although this initial misunderstanding reflected the frequency with which residents encounter external actors primarily during moments of crisis, participants generally became open and willing to share their experiences once our role was clarified. Throughout the fieldwork, we remained attentive to how our positionality as young researchers, unfamiliar with the lived realities of the Khadar, shaped both our interactions and interpretations. It must be admitted that we got easy access into the field as residents or participants were often open to discussing their experiences. However, if we understood 'access' as an ongoing process then it needed to be constantly re-negotiated every time we encountered new people, the depth of engagement varied with the level of trust, comfort, and willingness to share personal experiences. Since we relied on unstructured interviews, our interactions were mostly conversational, in a free-flowing style. To avoid misrepresenting our participants, interview data were interpreted alongside detailed field notes from participant observation, allowing participants' narratives to remain central to our analysis rather than relying on our own assumptions.

Empirical Findings and Analysis

Living with Double Precarity: Women's Care Work in the Khadar

The legal erasure discussed in the previous section acquires its most tangible expression during the annual flood cycle. Our field observations in Delhi's Chilla Khadar, conducted in the wake of the 2025 floods reveal a life defined by "double precarity". The families live under the predictable threat of annual floodwaters and the unpredictable violence of state-led evictions. In this landscape, the essential labour of sustaining a household becomes a herculean task for women because the state has strategically retreated from its responsibilities. Environmental precarity is therefore not experienced independently of law; rather, legal erasure intensifies the consequences of every flood by denying residents recognition, compensation, and secure rehabilitation.

(a) Highway Camps: Care Under Conditions of Displacement

When the Yamuna breaches its banks, tenant families already invisible to the law are forced into acute, temporary homelessness on the adjacent highways. They spend weeks or even months in makeshift shelters constructed from tarpaulin, bamboo, and salvaged materials often built by their own hands when government aid arrives late or not at all. These camps are marked by overcrowding, the absence of sanitation, and constant exposure to traffic and weather.

On the highway, the burden of social reproduction reaches a breaking point. Women described spending sleepless nights in constant fear that their children might wander into the path of speeding traffic. This high-stakes vigilance is added to an already doubled workload. One respondent recalled the death of a young boy who had been struck by a speeding vehicle while crossing the road during a food distribution, illustrating how displacement transforms ordinary acts of caregiving into life-threatening responsibilities.

In the unsanitary conditions of the camps, children frequently fall ill with gastrointestinal infections and outbreaks of "eye flu". The labour of nursing the sick, waiting for hours in lines for dwindling NGO aid, and maintaining a sense of "home" in a tent falls entirely on the women. While men often leave the camps to seek temporary wage work, women remain the primary anchors, protecting the household's meagre belongings in a space where they have lost the traditional safety and privacy of their Khadar communities.

(b) Returning Home: The Gendered Labour of Recovery

The recession of floodwaters does not signify the end of hardship. Instead, it marks the beginning of another intensive phase of labour. The state's "charity" is fleeting; food and shelter aid vanish the moment the water recedes. Families return to discover homes filled with silt, damaged belongings, collapsed structures, and fields requiring extensive preparation before cultivation can resume.

Our observations indicate that much of this physically gruelling work of "rebuilding from nothing" scraping away mud, drying saturated clothes, and sanitising the ruins is managed almost exclusively by women and young girls. They clean mud-filled dwellings, salvage utensils and clothing, restore cooking spaces, fetch water, wash accumulated debris, and simultaneously resume childcare and food preparation. Unlike emergency relief, which largely disappears once floodwaters recede, these responsibilities continue for weeks without institutional support.

We found that this labour acts as a massive "time tax". The weeks spent reclaiming a home from the silt are weeks stolen from preparing the soil for the next crop cycle. This prevents women from participating in income-generating activities, such as the assembly of plastic locks or field labour. While men's roles in transporting and selling produce in mandis remain the visible and monetised dimension of agriculture, the women's labour in post-flood recovery is treated as a routine obligation. In reality, this is not just regular "housework"; it is a crisis-intensified infrastructure that sustains life amid total uncertainty.

(c) When the State Retreats, Care Expands

Our fieldwork further suggests that the absence of public infrastructure shifts additional responsibilities onto women and girls. Basic services such as piped drinking water, childcare facilities, sanitation, and accessible healthcare remain either inadequate or entirely unavailable within the Khadar. We observed women carrying infants into waterlogged fields because no alternative childcare exists. Young girls are frequently seen fetching water from distant tanks or illegal boring points, a constant, heavy chore that occupies their entire day. They were also engaged in caring for younger siblings. In doing so, these girls sacrifice their education and personal development to fulfil the role of the missing state. Care responsibilities thus become intergenerational, reproducing gendered inequalities.

This cycle of flooding and displacement is not merely an environmental hazard; it is a tool of administrative violence. Because the NGT and DDA classify these farmers as “encroachers”, they receive no monetary compensation for lost crops or destroyed homes. This lack of recognition forces households into a predatory cycle of debt and informal rent arrangements with local “power brokers” just to secure a temporary sense of peace. Instead, the state utilises these moments of extreme vulnerability to push through its agenda, like the August 4th 2023 eviction deadlines while homes were still submerged and families were still stranded on the highway. The demolition drives are carried out in ways that make recovery and rebuilding exceptionally difficult. Shelters are not merely dismantled; they are destroyed so thoroughly that even basic household belongings are buried beneath the debris, leaving families with little that can be salvaged. As Meena, one of our respondents remarked, “Sab tod rahe hain, saara samaan zameen mein gad rahe hain” (“They are breaking everything and burying our belongings in the ground”). Each demolition compels women to rebuild homes, recover belongings, and restore domestic routines, thereby intensifying the unpaid labour of care for the already under-resourced women.

Ultimately, our time in Chilla Khadar showed that care is not just a domestic relation; it is a political one. When the law refuses to recognise a tenant, it is not just a neutral policy decision, it is a direct increase in the physical and emotional strain placed on the bodies of marginalised women.

Juridical Erasure and the Administrative Production of Precarity in Khadar

Feminist theory gives us the language to talk about the “cost of care”, but it is the legal system that actually builds the framework for those costs. In the Yamuna Khadar, the uncertainty residents face is not just a side effect of poverty; it is a condition created by a law that treats them as invisible. To understand why women’s care work must step in as a form of emergency infrastructure, we first have to look at the rules that render their homes and livelihoods “illegal”.

This section tracks how the Khadar has been transformed from a productive farming site into a site of administrative violence. By refusing to recognise tenant farmers, the state does more than just withhold rights; it systematically wipes their ecological contributions and social histories off the map. This erasure ensures that when “rejuvenation” plans are finally put into motion, the most marginalised voices have already been silenced caught in a suffocating web of debt, informal threats, and a total lack of any meaningful legal standing. Ultimately, the “clean” river the state envisions is one where high-end parks replace traditional stewards, editing the farmers out of the story and shifting the heavy burden of every disaster onto the bodies of these women.

The bureaucratic marginalisation of the Khadar is meticulously cloaked in the language of public health and "toxic" risks. Since 2015, the National Green Tribunal (NGT), a special tribunal under the Central Government, has enforced a total ban on agricultural activities in the floodplains. This ban is ostensibly temporary set to remain until river water quality is restored but it serves as a permanent instrument of displacement. The state's core argument is that vegetables grown here are a hazard to the "health of the citizenry" due to the river's unhealthy state.

This claim is technically legitimised by the National Environmental Engineering Research Institute (NEERI), whose 2019 studies reveal high levels of lead in local produce. However, such justifications have been contested, as Pradhan (2024) notes, farmers have consistently challenged these findings by referring to research undertaken by the Indian Agricultural Research Institute (IARI), arguing that their crops are safe because they rely exclusively on groundwater for irrigation rather than the contaminated surface flow of the Yamuna. While it is difficult for the public to decipher the absolute scientific truth between these conflicting reports, the "tussle" itself is productive for the state. This ambiguous public sentiment, coupled with the NGT's legal weight, aligns popular opinion against the farmers and grants the Delhi Development Authority (DDA) a free hand to conduct evictions.

A major driver of this precarity is the shift from executive governance to the judiciary. The Public Interest Litigation (PIL), originally a tool for justice, has become the medium through which the elite achieve their goals. As Bhuwania (2016) argues, the PIL provides a procedural framework that allows judges to act on their own aesthetic or anti-poor biases, often unconstrained by technical rules and based on "flimsy evidence as random photographs". Through these PILs, the NGT and higher courts have deepened their footprint into the "quotidian realities" of the city, rendering local bodies subservient to a judicial will that favours order and middle-class consumption over the livelihoods of the marginalised.

By framing the floodplains as sites of "chaos" and "illegal occupancy", the state justifies the permanent removal of the very people who provide the city with fresh produce. As devastating as the highway camps are, a more persistent insecurity is the threat of permanent eviction. As stated by a tenant farmer: "The fear of being made to leave is massive. Power is in the hands of the government. They can displace us anytime... Now, leaving this jungle, where do we go? Even if we go to the village, there is no livelihood there." This fear, driven by the "Rejuvenated Yamuna Initiative", turns the floodplains into a contested landscape where the state uses environmental reasons and river rejuvenation projects to justify "cleansing" the city of its most vital, yet most marginalised, stewards. The ultimate goal of this displacement is to further the Yamuna Riverfront Development Project. As Pradhan highlights, the DDA's project website is hosted on a private server that does not appear in ordinary Google searches, a literal "hiding" of the state's developmental agenda from the very people it displaces. The DDA outlines its objective as "ecosystem restoration" and "minimising anthropogenic impacts", aiming to connect the river to the people of Delhi in a sustainable manner. Yet, the physical proposal reveals a bourgeois aesthetic: a series of retention ponds, grasslands, and forests designed to define the "form and fabric" of a landscape for elite consumption. This vision of "nature" deliberately excludes the agrarian "socioecological history" of the Khadar, reframing the farmer not as a steward, but as a pollutant to be removed.

Yet, the DDA's modus operandi remains fixed on a bourgeois understanding of environmentalism. It treats the eviction of the poor as an essential part of the "cleansing" of the Yamuna, catering almost exclusively to the middle-class desire for a sanitised, leisure-oriented riverfront. If the state continues to choose eviction, it must at least offer reasonable rehabilitation for homes and livelihoods. However, the true opportunity lies in fostering a more equitable and just form of urban development, one that recognises that "rejuvenating" a river should never come at the cost of the lives and livelihoods of its most marginalised citizens.

The marginalisation of the Khadar accelerated in 2004 with widespread demolitions. Paradoxically, as small-scale farmers were evicted to "save" the river, the state paved the way for elite infrastructure: the Akshardham Temple complex, the Commonwealth Games Village, and the Indira Gandhi Indoor Stadium. This marks a clear spatial shift toward formal development for privileged groups. The current biodiversity parks are "prototypes" intended for 351 other urban river stretches in India, setting a national standard for erasing socioecological history in favour of sanitised urban nature

The farming community in the Khadar is not a monolith. It is fractured by deep-rooted power asymmetries of class, caste, and tenure. On one side are the land-claiming farmers largely belonging to the Gujjar, Jat, and Pandit communities who have been involved in the occupation since living memory and claim relative power. On the other are the tenant farmers (peasants) often Yadav, Maurya, and Mallah migrants who arrived two to three decades ago and navigate precarious crop-sharing or leasing arrangements.

While land-claimers are locked in a perpetual struggle to prove legitimacy in the Delhi and Allahabad High Courts, tenant farmers exist in a state of total legal invisibility. This vacuum creates a predatory economy where tenant farmers must pay rent to "maliks" or self-appointed

"Pradhans" (political spokespersons) just to buy a temporary sense of peace. As one tenant farmer noted: "Whoever lets me farm here, I will pay the rent to them. If the government allows me to farm here, I will pay the rent to them…I am just following what works here."

This power imbalance exposes tenant farmers to a relentless cycle of exploitation and intimidation by a variety of actors, including agents, lawyers, land-owning (claiming) farmers, politicians, and the police. Instances of individuals promising to secure legal rights in exchange for cash only to fail in delivering any results are distressingly common. In their desperate pursuit of security, these farmers often take on high-interest loans, further aggravating their multidimensional vulnerability.

Ultimately, the legal invisibility of these arrangements is a core component of a broader socio-natural erasure. By refusing to recognise the tenant, the state systematically excludes both the ecological functions of their farming and the social histories tied to the land from the dominant narratives of environmental management. This erasure ensures that when the "rejuvenation" plans are executed, the most marginalised voices are already silenced by a web of debt and informal intimidation.

These floodplains are not "vacant" or "waste" lands. They are the homes and workplaces of thousands of farmers whose labour feeds millions in Delhi. On any given day, the Khadar is a vibrant tapestry of ladyfinger (okra), broccoli, cauliflower, spinach, radishes, and various seasonal greens. This diverse vegetable produce forms the backbone of the city's informal food supply chain. As Pradhan and other scholars suggest, Delhi's current trajectory is a tragic anomaly. At a time when global cities like Denver and Havana have been productively introducing urban farming policies to address food security, livelihoods, and urban cooling, Delhi is moving to eradicate the "beautiful patterns of use" that already exist. Rather than displacement, the riverfront parks could be imagined as integrated landscapes where farms and biodiversity coexist. In this alternative vision, farmers would be positioned not as "encroachers", but as stewards of the land, responsible for the conservation of the river and its floodplains. Such a model could even promote agro-tourism, turning the Khadar into a site of education and connection for all Dilliwale.

Discussion

Is Care a Burden for Women of Khadar?

Much of the feminist scholarship on care emerging from Western contexts has framed care as a disproportionate burden that constrains women's autonomy; something women must be relieved from in order to achieve equality. From this perspective, gender equality is often imagined through the redistribution or reduction of unpaid care work. While these insights remain important, our fieldwork suggests that such a framing is insufficient for understanding care within contexts of environmental and juridically produced precarity such as Delhi's Chilla Khadar.

In India, the politics of care diverge along caste and class lines. For many upper-caste, middle-class women, domestic confinement and unpaid care may be experienced primarily as restriction and economic dependence. In contrast, for poor women, Dalit women, and migrant labouring women, the struggle has often been not to escape care work entirely but to secure the material resources necessary to care adequately for their families in conditions of precarity. In Chilla Khadar, the institutional setting of care is itself precarious. Women's labour is directed not only towards caring for family members but towards repeatedly reconstructing the spaces in which care becomes possible.

The politics of care shifts from "How do women exit care?" to "Under what conditions can care be sustained without exhaustion, exploitation, and deprivation?" This invites critical attention to the material and social conditions in which care is practised. Every hour spent fetching water, rebuilding flood-damaged homes, waiting in relief queues, nursing sick children, or restoring domestic routines after displacement reflects not an inherent feature of care itself but the cumulative effects of juridically produced exclusion. Responsibilities that might otherwise be collectively shared through public institutions are transferred into the household, where they become women's expanded labour. This institutional retreat is actively driven by what Bhuwania (2016) terms judicial urbanism, where court-led environmental mandates prioritise aesthetic riverfronts over working-class shelter, systematically offloading the physical costs of planned informality onto marginalised households.

(a) Care is not just Domestic Labour

Identifying seven dimensions of the concept of care, Thomas (1993) argues that concepts of care are organised around specific social domains: public and private or domestic. Our findings complicate this proposition. In Chilla Khadar, the household cannot be analytically separated from the state because (i) demolitions, legal exclusion, environmental governance, and relief interventions repeatedly enter "domestic life", reorganising the conditions under which care is performed, and (ii) women are compelled to substitute for formal systems of welfare that are absent, inaccessible, or deliberately withheld.

During flood recovery, women simultaneously rebuilt damaged homes, restored cooking spaces, waited in relief queues, secured drinking water, nursed sick children, prepared fields for cultivation, and maintained household cohesion. These activities cannot be understood simply as domestic responsibilities. They involve the reproduction of services ordinarily associated with disaster relief, public health, sanitation, housing, and social protection.These activities also blurred the distinction between productive and reproductive labour. The very restoration of agriculture itself depended upon the prior restoration of everyday life, much of which was organised through women's unpaid work. The labour of care therefore functioned as an invisible infrastructure supporting both household survival and agricultural production. Without this labour, neither the family nor the local food economy could recover after flooding.

This infrastructural role of care is strikingly illustrated in how women physically negotiate state violence through local language. During eviction and clearance drives, state authorities and judicial decrees frequently deploy the Hindi phrase saaf karna (साफ़ करना) to denote the hygienic "cleansing" or "sanitation" of the floodplain. However, for the women of the Khadar, state-led saaf karna is experienced as violent erasure, the literal sweeping away of makeshift homes, crops, and domestic belongings. In response, women perform a counter-labour of saaf karna: the gruelling physical work of scraping thick silt off mud floors, sanitising flood-soaked dwellings, and rebuilding domestic spaces. Where the state's saaf karna seeks to eradicate human presence, women's saaf karna is a daily act of reclamation that restores life and domesticity from administrative wreckage.

(b) Affective and Material Dimensions of Care

This brings us to another limitation of theorisation on care. Care is not just work: what makes the nurturing relations that produce love, care and solidarity different from other systems of social relations is that they operate under an ethic of other-centredness even when they fail in this purpose. As Engster (2005) argues, care relations are normatively driven by other-centredness; they are orientated toward meeting the needs of another as an end in itself. Saying this is not to deny that affective relations are simultaneously imbricated with power, status and economic structures. But they are relationally led in a normative way that does not apply to market-led or many other contractual political or cultural relations.

While social reproduction theorists such as Federici (2012), Fraser (2016), Arruzza (2016), Bhattacharya (2017), and Bakker & Gill (2019) emphasise how non-waged reproductive labour subsidises and sustains capital accumulation, our observations suggest that care also sustains life in spaces where the state completely retreats. When women collect water in the absence of piped supply, nurse children through illness outbreaks in makeshift highway camps, rebuild dwellings layered in silt or work past 2:00 AM at night, their labour is reproducing much more than what capitalism needs. To them it is a routine creative and nurturing process reproducing social worlds even under precarious conditions created by the state.

To view such labour purely instrumentally as serving capitalism risks reinforcing the very erasure that feminist scholars have critiqued. Affective care relations therefore cannot be reduced to socially reproductive, market-capitalist purposes; to do so is to dismiss life outside of the market economy in terms of instrumental value alone. In this sense, care is not merely labour that supports the system; it is a relational practice that goes far beyond what a market can buy or a state can control.

Ultimately, expanding the theoretical vocabulary of care in the Global South requires conceptualising care as a crisis-intensified, spatialised infrastructure. In the Khadar, care is neither a simple domestic chore to be shed nor merely a passive subsidy to formal capital; it is the primary physical, material, and emotional mechanism through which precarious communities endure combined ecological shocks and administrative erasure.

Conclusion

By centering the lived experiences of Chilla Khadar, this study demonstrates that care work in marginalised urban margins is far more than routine housework or a domestic obligation. In the administrative vacuum of Delhi's floodplains, care emerges as a vital, crisis-intensified infrastructure, the primary shock absorber holding informal communities together when both nature and the state retreat. When annual Yamuna floods submerge homes and state demolitions strip away legal recognition, it is women's invisible, uncompensated labour that bridges the gap between total social collapse and everyday survival.

Crucially, this paper shows that administrative invisibility and environmental precarity are not abstract planning concepts; they are physically written onto the bodies of women and young girls. Whether through the high-stakes vigilance of guarding children along speeding highway encampments or the weeks spent reclaiming dwellings from toxic silt and debris, women pay a heavy "time tax". This relentless post-disaster labour strips women of their financial autonomy, causes chronic physical and emotional exhaustion, and ripples, intergenerationally frequently forcing young girls to interrupt their education to absorb domestic workloads. Precarity in the Khadar is thus both physically embodied in the present and inherited by the next generation.

While the draft Master Plan for Delhi 2041 (MPD-2041) introduces progress by treating the river as a "Green-Blue Asset" and attempting a "river-people connect", its primary focus remains centred on commercialised eco-tourism, biodiversity parks, and manicured greenways. In practice, government policies label working-class tenant farming families as "illegal encroachers” and polluters. Yet, the state’s vision of a sanitised, modern riverfront paradoxically relies on the very community it seeks to erase: without women quietly absorbing the fallout of every flood and eviction, the city's informal food systems and working-class labour pools would fail. A truly just urban future requires dismantling this planning paradox, moving away from eco-enclosures and recognising social reproduction and informal care as foundational rights to the city.

Policy Recommendations

To break the cycles of administrative displacement and bodily exhaustion, Delhi's urban planning must leverage the opening provided by MPD-2041 to move away from forced evictions toward a model that values informal care, local livelihoods, and real fairness. Reforming MPD-2041 Provisions in Zone 'O' (Yamuna Floodplain) requires that city plans Formalize Urban Agriculture in Zone O-I (Active Floodplain): Build upon the draft MPD-2041 proposal that allows agricultural activity at specific locations within Zone O-I. The plan should formally recognise low-impact, organic groundwater-irrigated farming as a permissible, flood-resilient land use that maintains natural drainage while supporting Delhi's food security. Plans must also Protect Settled Areas in Zone O-II (Regulated Riverfront): Use the MPD-2041 bifurcation of Zone 'O' into O-I (active floodplain) and O-II (regulated riverfront buffer) to grant land-tenure security and protection from demolition for long-standing working-class settlements. Furthermore, policy must Stop Forced Demolitions: Place an immediate moratorium on seasonal bulldozer evictions, aligning city policy with Supreme Court and Delhi High Court mandates (Sudama Singh & Ajay Maken vs Union of India 2019) that prohibit displacement without prior rehabilitation. Finally, urban planning must prioritise Co-Management Over Enclosure: Reframe farmers as formal stewards of “Green-Blue Infrastructure”, integrating organic urban agriculture with biodiversity parks rather than fencing off floodplains exclusively for middle-class leisure.

For Emergency Infrastructure at Highway Relief Camps (Disaster Response), local bodies must utilise MPD-2041 Emergency Infrastructure Provisions: Capitalise on MPD-2041’s disaster-planning framework which mandates multi-facility plots and decentralised emergency infrastructure to deploy immediate relief along the NH-24 and Mayur Vihar Link Road during annual monsoon floods. Regarding Targeted Services to Reduce Women's Care Burden: The Municipal Corporation of Delhi (MCD) and Delhi Jal Board (DJB) must automatically provide safe, clean drinking water tankers parked directly adjacent to highway camps to eliminate water-hauling burdens. Clean, well-lit, gender-segregated mobile bio-toilets to protect privacy and health. Solar lighting units across the encampments to safeguard women and children at night. On-site mobile health clinics specialising in paediatric care and waterborne illness treatment to lighten nursing demands.

Finally, establishing Gender-Inclusive Governance in City Planning requires Gender & Social Impact Assessments: Mandate that all Green-Blue Infrastructure and riverfront rejuvenation projects evaluate their direct impacts on informal care networks, domestic labour, and women's daily safety before approval. Lastly, governance frameworks must ensure Institutional Representation: Ensure female agricultural labourers, tenant farmers, and informal floodplain residents have formal seats on planning bodies, including the Delhi Development Authority (DDA), the Irrigation & Flood Control (I&FC) Department, and the River Rejuvenation Committee.

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Submitted on-: 28/04/2026

Accepted on-: 13/05/2026

Beyond Crisis Management: Addressing Gaps in the Governance Framework and Gendered Violence in the Manipur Conflict through the Lens of Care Ethics

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Abstract: The recent tensions that escalated in Manipur in 2023 between the Meitei and Kuki communities have largely resulted in internal displacement, institutional breakdown, and surging gendered inequalities, immensely affecting gendered minority groups. While the existing literature largely focuses on the humanitarian consequences and examines relief measures, it has narrowly analysed the institutional gaps in crisis response through the lenses of care ethics, drawing on Joan Tronto and Berenice Fisher's foundational theory of the ethics of care, this paper examines the governance gap and the structural lapse of state institutions in responding to the Manipur conflict. This paper focuses on prevailing issues, legal frameworks, and strategies to combat violence against women in the state and how the state understands the root causes and formulates effective policies with increased accountability. This highlights deeper systemic problems with the "one-size-fits-all" approach to preventive measures and calls for more inclusive and sustainable management that ensures adequate protection for the intersectional relationships among gender, ethnicity, and displacement. A care-based framework is analysed to ensure justice, mental health rehabilitation, and legal remedies for vulnerable minorities and conflict survivors. This collective action will help ensure immediate and effective remedies, leading to a more equitable and sustainable care system that caters to the unique needs of all gendered minorities.

Keywords: Crisis governance, gendered violence, Intersectionality, feminist care theory, ethnic violence, legal analysis.

Introduction

An ethnic conflict ensued in Manipur in 2023 between the Meitei and Kuki communities, which led to internal violence, displacement, and institutional breakdown in contemporary India. The conflict, emerging in May 2023, quickly escalated into widespread violence, resulting in fatalities, property destruction, and deep societal fragmentation. According to current statistics, over 221 people have been killed, more than 1,000 injured, and nearly 60,000 people have been displaced from their homes. Incidents of abduction have also been reported by armed groups from Kuki and Naga communities from Kangpokpi and Senapati districts. Homes, businesses, villages, and places of worship have been attacked,

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looted, burned, and vandalised (Amnesty International, 2026). The violence also led to the burning of thousands of homes and the devastation of religious institutions, indicating the systematic nature of the breakdown in law and order. The crisis has not only affected everyday life but has also contributed to long-term instability, including economic decline, impeded infrastructure development, and increased vulnerability to militant recruitment. Furthermore, the Internal Displacement Monitoring Centre (IDMC)[2] noted that violence in Manipur accounted for 97% of all conflict-induced displacement in South Asia in 2023, highlighting its regional significance (IDMC, 2023).

At its core, the conflict reflects long-standing ethnic, geographical, and political tensions between the **valley-dominated Meitiei community** and the **hill-based Kuki tribes**. (Behera, 2023) These conflicts were further aggravated by requests for Scheduled Tribe (ST) status for the Meiteis, which raised concerns among tribal groups about land encroachment and loss of constitutional protections. The challenges of unequal political representation and uneven development in Manipur are further intensified by a persistent governance deficit. In response to weak or ineffective state institutions, insurgent groups representing different ethnic communities have established parallel systems of governance. These informal structures often fill administrative and judicial gaps left by the state. This governance failure stems from ineffective decentralisation, particularly in the hill districts, where limited access to justice has reinforced perceptions of discrimination and deepened ethnic polarisation (Behera, 2023). Allegations of inaction and complicity by the government, such as police personnel condoning mob violence against women, heighten tensions regarding constitutional breakdown and decline in public trust. Decentralisation in Manipur has been shaped by institutions such as the Hill Areas Committee (HAC)[3] and the Autonomous District Councils (ADCs)[4], established to safeguard the rights and interests of tribal communities in the hill districts. However, the ADCs possess limited legislative and judicial authority and remain heavily dependent on the state government for policy implementation. This lack of autonomy has undermined their

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[2] The Internal Displacement Monitoring Centre (IDMC) is the woMeiteiMeiteirld's leading source of data and analysis on internal displacement, focusing on people forced to flee their homes but remaining within their country's borders. Established in 1998 by the Norwegian Refugee Council (NRC), this international non-governmental organization is based in Geneva, Switzerland.

[3] The Hill Areas Committee (HAC) is a unique, high-level constitutional body embedded within the Manipur Legislative Assembly in India. Established in 1972 under Article 371C of the Indian Constitution, its primary purpose is to safeguard the rights, land, and socio-economic interests of the tribal populations living in the hill districts of Manipur.

[4] Autonomous District Councils (ADCs) are administrative bodies established under the Sixth Schedule of the Indian Constitution to provide self-governance and protect the cultural identities of indigenous tribal populations in Northeast India.

effectiveness, contributing to dissatisfaction and longstanding grievances among tribal populations (Behera, 2023).

While Manipur's violence since May 2023 has largely been understood as a conflict between the Meitei and Kuki-Zo communities, reports of recent events have revealed a new and increasingly serious fault line between the **Naga and Kuki** communities. For much of the 2023 crisis, Naga-majority districts remained relatively insulated from the violence (Tiwary, 2026). Recent tensions reportedly began with what was initially a local altercation between Naga and Kuki youths in February 2026. Instead of remaining an isolated incident, retaliatory attacks, village burnings, and accusations by armed groups transformed the dispute into a broader ethnic confrontation. Mutual distrust deepened following targeted killings and allegations of abductions, resulting in widespread protests and road blockades (Ngangom, 2026). Beyond the immediate casualties, the conflict has disrupted transport routes, with prolonged highway blockades restricting the movement of food, fuel, and essential supplies into several districts. Security agencies have expressed concern that the conflict is no longer limited to the Meitei–Kuki divide but is evolving into a multi-sided ethnic confrontation, increasing the risk of wider regional instability (Kuthar, 2026). Politically, both the Naga and Kuki communities reject the valley-based Meitei administration's push for Scheduled Tribe status. However, the Kukis' demand for a separate autonomous Union Territory under the Indian constitution complicates matters structurally, because the land they claim overlaps directly with the ancestral territorial claims of the Nagas, making a peaceful political cartography nearly impossible to negotiate (Das Gupta & Bhardwaj, 2026).

The Manipur conflict, from an analytical perspective, can be examined by employing the frameworks of care ethics and intersectionality. The philosophy of Care Ethics, broadly theorised, primarily by Joan Tronto, Nel Noddings, Virginia Held, and Carol Gilligan, emphasises the moral responsibility of governmental institutions to protect and nurture individuals, especially those who are vulnerable. The state’s deficiency in Manipur to prevent violence, ensure security, and respond appropriately to humanitarian needs reflects a significant breakdown in the ethics of care. The displacement of tens of thousands of people, along with insufficient relief and rehabilitation efforts, illustrates how governance mechanisms have been unable to prioritise human well-being. Intersectionality, however, gives a perspective through which we can examine how overlapping identities, for instance, gender, race, and socioeconomic class, impact people’s lived experiences during conflict. For example, Kuki women endure dual disadvantage because of their ethnic identity and gender, rendering them more vulnerable to targeted violence and exclusion from legal justice systems.

Women as Victims of Ethnic Violence in Manipur

A particularly disturbing aspect of the conflict is the emergence of gendered and intersectional vulnerabilities. Women, particularly those from marginalised indigenous populations, have been disproportionately targeted, with sexual assault used to intimidate and dominate. According to reports, women were exposed to brutal attacks, public humiliation, and sexual violence, with some victims being paraded naked and assaulted by crowds (Human Rights Watch, 2024). Such acts are not unique, but a larger trend in which women's bodies became a site of violence to discipline the community and to shame and degrade the dignity of the males of a particular community during ethnic conflicts. (Newmai, 2025). Such instances have sparked national and worldwide outrage, highlighting the role of gender, race, and power in producing violent experiences. The targeting of women demonstrates how violence exacerbates existing inequities, putting already vulnerable groups at risk. Furthermore, the breakdown of institutional safeguards, such as policing and judicial accountability, perpetuates these vulnerabilities by denying victims adequate avenues for justice or protection.

The erosion of trust between communities, the growth in militancy, and the disruption of social and economic life all point to a more severe crisis of governmental legitimacy. The inability to defend constitutional ideals such as equality, fairness, and minority protection indicates a breakdown not only in law and order but also in the moral foundations of government. As a result, evaluating the conflict through care ethics and intersectionality provides a more complex perspective that goes beyond surface-level interpretations of ethnic conflict. It demonstrates how structural inequities and institutional ignorance combine to induce and sustain violence. Finally, the 2023 Manipur conflict serves as a critical case study for how a lack of empathic, inclusive, and accountable governance can result in widespread human suffering and social disintegration.

Literature Review

Existing scholarship on the Manipur crisis primarily falls into two distinct categories: macro-level geopolitical analyses focusing on long-standing ethnic friction over land and political recognition (e.g., Kuki-Meitei historic divides), and human rights documentation detailing the immediate horrors of gender-based violence. While invaluable, these studies tend to treat the state's inadequacies either as secondary outcomes of ethnic polarisation or as generic lapses in law and order. Furthermore, traditional legal scholarship often views judicial texts—such as Supreme Court orders—merely as static resolutions to crises, rather than active battlegrounds where gaps in governance are systematically recorded.

This paper bridges these distinct bodies of work by applying a distinct, integrated lens: the synthesis of Joan Tronto's Ethics of Care with Kimberlé Crenshaw's Intersectionality. Our study does not merely reproduce existing data; rather, it introduces a unique methodological intervention by remapping existing secondary legal texts and judicial observations as structural evidence of state abdication. By using Tronto's Care Ethics model (recognition, responsibility, and responsiveness), we shift the critique from a generic accusation of "political bias" to a precise diagnosis of institutional collapse. Simultaneously, by introducing an intersectional lens to these specific judicial archives, we uncover how the state's procedural remedies (like internet bans and physical "buffer zones") do not just fail mechanically—they actively enhance the subordination of backward-class and minority tribal women. This paper therefore establishes a new analytical lens for conflict studies, proving that desk-based analysis of secondary legal archives was utilised to examine structural insights into systemic violence.

In the context of Manipur, existing literature has documented ethnic tensions, militarisation, and displacement but has insufficiently examined the intersection of governance gaps, gendered violence, and care deficits. This study addresses that gap by synthesising care ethics and intersectionality to frame the conflict as a systemic failure of care within governance and legal structures rather than solely an ethnic crisis.

Methodology

This paper aims to construct a normative framework for care-based governance and employs a qualitative, theoretical research design rooted in feminist epistemology and critical policy analysis, and an interdisciplinary approach based on empirical evidence, combining case study analysis. The 2023 Manipur conflict is examined as a case study through secondary sources, including policy reports, academic journals, public archives, and human rights documentation, and analysed through the conceptual lens of Joan Tronto and Berenice Fisher's (1990, 1993) political theory of care ethics. By prioritising the structural and physical vulnerabilities of women during ethnic warfare, the design is inherently emancipatory, aiming to challenge traditional state-centric security models with gender-sensitive governance alternatives. The collected texts are analysed using a deductive approach to qualitative coding. Instead of treating collected texts merely as passive administrative records, Qualitative Discourse Analysis approaches them as active reflections of state power, political motives, and systemic discrimination.

Limitations: Because the ongoing ethnic conflict in Manipur presents severe security risks and a highly polarised field environment, primary data collection methods—such as field surveys or face-to-face interviews—present significant ethical and physical hazards.

Hypothesis

This study argues that the 2023 Manipur conflict reflects an institutional negligence within governance and legal frameworks, where the absence of an intersectional framework and care-based approaches has intensified gendered violence and institutional breakdown. It further hypothesises that (a) Gaps in crisis governance undermine the state's ethical responsibility to provide care, (b) intersectional identities exacerbate vulnerability among marginalised groups, and (c) integrating care ethics and intersectionality into crisis governance can enable more inclusive and effective conflict resolution.

Governance based on Care Ethics

Joan Tronto and Berenice Fisher's theory of care ethics facilitates a more in-depth explanation of the 2023 Manipur conflict by recognising care as relational, practice-based, and politically structured, rather than simply personal or moral (Fisher & Tronto, 1990). According to this perspective, care sustains social life through interdependent connections and power-driven institutional structures. The Meitei-Kuki conflict that has resulted in violence, displacement, and societal fragmentation demonstrates not only ethnic rivalry but also a systemic failure of these relational and political care institutions. The crisis of governance and the disintegration of the constitutional order suggest that care was poorly allocated and mediated by pre-existing inequalities, perpetuating marginalisation rather than addressing it.

Traditional conflict management prioritises adversarial justice, territorial containment, and militarisation. The **Care Ethics Model** argues that sustainable governance must center on relational networks, empathy, vulnerability, and mutual responsibility. When applied to the Manipur crisis, the Care Ethics model offers distinct remedies to address gaps in governance. Tronto defines care as a multi-stage process:

(i) **Transitioning from "Buffer Zones" to "Care Zones":** It begins with **recognition ("caring about")** and demands attention to others' needs (Tronto, 1993). The state used armed forces to separate communities, treating them as hostile combatants. Instead of strict militarised blockades, the state should deploy inter-community supply lines and joint peace committees. Care ethics mandates protecting the vulnerable over maintaining abstract territorial lines, shifting funding toward trauma-informed, safe spaces within conflict zones (101 East, 2025).

(ii) **Redefining Rehabilitation Beyond Monetary Compensation:** It was subsequently followed by a failure of **responsibility ("taking care of")**, in which the state and its institutions failed to adequately carry out their obligation to protect citizens. The state approached rehabilitation strictly through bureaucratic, post-facto compensation metrics. Recognising that 731 individuals died inside poorly maintained relief camps, care ethics demands focusing on universal well-being. This involves providing continuous mental health access, maternal and child healthcare, and preservation of communal structures. Government action must prioritise the distinct needs of displaced women and children, who face heightened systemic vulnerabilities (National Human Rights Commission, 2023).

(iii) **Restorative Inter-Community Dialogues over Rigid Judicial Deadlocks:** Lastly, the stages of **response and responsiveness ("care-giving" and "care-receiving").** Legal processes became bogged down in procedural delays. Meanwhile, political leaders faced allegations of partisan behavior, which worsened ethnic alienation (Sinha, 2024). Restoring peace requires moving past state-driven, top-down binaries. A care-oriented governance model supports decentralised, grassroots truth and reconciliation commissions. These platforms allow Meitei and Kuki-Zo mothers and civic groups to co-author security guidelines, building a stable environment for voluntary, secure resettlement.

Manipur's constitutional breakdown reflects not only administrative limitations, but also a moral lapse to fulfil this role. Violence persists in Manipur, and rehabilitation is poor, highlighting the lack of response. In general, the conflict can be viewed as a crisis of care, with failures in recognition, accountability, and response revealing deeper structural disparities and institutional neglect. This perspective shifts the focus from isolated conflict to a broader critique of governance, highlighting the importance of more inclusive, attentive, and responsive political systems.

During the ethnic conflicts in Manipur, instances of State-run relief camps often ignore the basic needs of poor and marginalised women and fail to provide a safe place for them. Rather than providing comfort, these camps worsen their trauma due to a total lack of private toilets, proper maternal healthcare, and secure spaces. Geography makes things even worse when local courts like the Manipur High Court fail to step in for vulnerable hill areas like Churachandpur; these women were left completely deserted. Trapped in terrible living conditions and cut off from local legal protection, they have no choice but to rely on a distant Supreme Court for their basic human rights (Rajagopal, 2025).

Women being used as a token of revenge were not addressed and well taken care of legally (Ahmed & Das, 2024). This approach helps us to understand how social structures deepen inequality and differences, and how this inequality leads to vulnerability. Through this lens, we can examine social justice and advocate for the need to address the diverse identities and their roles and experiences. Gender-based violence has long been a recurring feature of ethnic conflicts, with women's bodies often becoming sites for expressing communal domination and revenge. The sexual assault of two women during the Manipur violence on 4 May 2023 exemplifies how rape and public humiliation were employed as instruments of ethnic violence. This symbolic interpretation of material bodily harm led to two forms of violence against women. The first form of violence was inflicted on women by men of the other religious community to humiliate and degrade the enemy religion and nation/tribe. Conversely, the second form of violence consisted of male family members killing their women or forcing them to commit suicide to safeguard familial and ethnic purity from getting contaminated by the other religion (Dey, 2018, p.32). Judith Butler's work also integrates intersectionality, asserting that gender cannot be detached from other axes of differences–class, ethnicity, race–as all of them are interwoven. She also argues that coalition-based actions can bring together diverse identities without excluding them as a single restrictive category and has emphasised how marginalised subjects are interconnected (Judith Butler, 1990).

Intersectionality as a conceptual framework for crisis governance

We have tried to look beyond a single axis of gender and have adopted an intersectional approach by employing determinants such as diverse ethnic backgrounds on women's experiences (Cross Riddle, 2017). Intersectionality, first coined by Kimberle Crenshaw in 1989, is the concept that looks at how diverse social identities like gender, race, class, ethnicity, sexuality, or disability intersect with each other to create different forms of oppression and how marginalised groups experience systemic oppressive abuse differently. Women experience different types of vulnerability–physical, sexual abuse, psychological manipulation, structural forms of violence–and these affect marginalised groups the most and make them more vulnerable to harm and violence. Hence, intersectional feminism tries to challenge the dominant social system, such as patriarchy, racism, capitalism, etc., which privileges one and ignores the other due to unfair policy and action of the government by ignoring the unique needs of intersecting identities. Proponents of intersectional feminism examine people's experiences depending on the intersection of their identities and social, cultural, or religious backgrounds. While examining the situation in Manipur, this multifaceted and multidimensional approach was underutilised and also failed to acknowledge the role and involvement of women in peace-building efforts, along with investigating the fallacies in the law and justice system of the government. This single determinant of care justice always originated from the position of power and authority which often and unintentionally does systemic discrimination and is always centered towards majority communities. Applying an intersectional perspective to the study of crisis governance across different vulnerable groups helps the government and its authorities formulate specific guidelines for these groups while taking into consideration the differences that coexist within the same groups as well. Maureen Fordham has advocated intersectional disaster governance and critiques “women as homogeneous vulnerable groups.” People have different levels of exposure to any conflict or crisis based on their identity, social hierarchy, etc; thus, they all have different experiences, and their impact is unequal for all. Many researchers in the field of crisis and disaster management, like Elaine Enarson, Ben Wisner, along with Kimberlé Crenshaw and Maureen Fordham, have recommended the use of an intersectional perspective as an analytical tool to understand qualitative differences in vulnerability and resilience within a group. Homogenising a particular group and ethnicity constrains them, which further perpetuates inequality and exclusion as they lack access to and control over resources. These act as a multiplier of marginalisation, which is highlighted more in crises. Rigid policies often fail to capture how individual needs actually change during a disaster, specifically for those who were historically excluded and were homogenised; they need more equitable and specialised care depending on how specific crises unfold.

The State's slow and fractured response suggests a breakdown in co-operative federalism, as it didn't account for all the overlapping vulnerabilities. There's a need for governance that recognises these deep-seated inequalities, ensuring justice for all, but for the most marginalised among all communities as well.

Implementation Gaps in the Governance Framework

Manipur has a diverse ethnic group, including the Meitei community in the Imphal valley and tribal groups such as the Kuki-Zo and the Nagas in the surrounding hill districts, making this pluralistic landscape prone to tensions fuelled by disputes over land rights, political power, and cultural identity (Juno, 2025). These deep-rooted grievances with state neglect, militarisation, and uneven development eroded the social cohesion and stability of the region. Escalating the tension in May 2023, the Manipur High Court's directive to consider granting scheduled tribe status to the Meitei community triggered violence and protest among the Kuki-Zo group, who fear erosion of their land and rights, and as a result ethnic violence, mass displacement of over 60,000 people, and increase in gender-based violence took place (Human Rights Watch, 2024; Amnesty International, 2025).

Efforts to stabilise the situation went in vain as militarisation under laws like Armed Forces Special Powers Act (AFSPA), with a weak justice system, increased vulnerability and hampers effective protection and redressal. The Armed Forces (Special Powers) Act (AFSPA), 1958, was introduced by the Government of India to address insurgency and armed militancy in conflict-affected regions where ordinary law enforcement was considered insufficient to maintain public order. The Act grants the armed forces special powers to conduct operations, make arrests, and use force in areas declared as “disturbed”, with the stated objective of restoring security and protecting territorial integrity. The government argues that AFSPA is a temporary, extraordinary measure to assist civil power, according to the landmark judgment Naga People's Movement for Human Rights v. Union of India (1997). The Supreme Court upheld AFSPA but explicitly ruled that the declaration of a “disturbed area” must be reviewed every six months and cannot be a permanent feature. The court established that AFSPA is meant to supplement civil power to restore the conditions necessary for regular governance swiftly.

In the context of Manipur, where ethnic tensions and insurgent activities have persisted for decades, AFSPA was justified by the state as a necessary measure to establish peace and ensure civilian safety. However, the recurrence of large-scale violence during the 2023 ethnic conflict raises concerns not merely about the existence of such security measures, but about gaps in their implementation and the broader governance framework. Despite extensive security deployment, violence continued, thousands were displaced, and reports of gender-based violence, delayed investigations, inadequate victim protection, and limited access to justice exposed significant institutional shortcomings (Human Rights Watch, 2024; Amnesty International, 2025). These developments suggest that while the objective of AFSPA was to restore order, the implementation of security and governance mechanisms remained insufficient to provide timely protection, accountability, and care for affected communities, particularly women and other vulnerable groups. The Jeevan Reddy Committee Report (2005) thoroughly reviewed AFSPA and recommended its repeal, concluding that the Act has become a symbol of oppression and a tool of state failure rather than a solution to insurgency.

Despite a strong legal framework, institutional responses have failed because of delayed and under-reported FIRs and arrests often filed weeks or months after the incident (National Commission for Women, 2023). State biases were also found in security deployment, and response reflected individual deep penetrated relation of power and authority in the state. Cutting communications also causes panic and anger because of delayed evidence submission and blocks the survivor outreach. The state's failure in trauma response where most relief camps lacked psychological aid, legal support or access to safe reporting channels for women (Amnesty International, 2025). All these normalised crises and silence there without any sustainable and effective solution. Because of weaker institutional accountability, women in Manipur face ethically targeted rape and forced displacement; the Supreme Court of India also cites the “absolute breakdown of law and order” deepening the lack of Survivor trust in state machinery.

Solutions for Corrective State Policies

Despite the potential for federalism to offer greater regional autonomy, it failed to address unique needs of different ethnic groups that led to marginalisation and exclusion. Organisations such as the People's Union for Civil Liberties (PUCL)[5] and various citizens' coalitions advocate for a political, non-partisan approach to peace. Measures, such as groups, recommend an impartial, time-bound peace process that involves independent mediators and representatives from all affected communities (Kuki-Zo, Meitei, Naga, and others) to build trust. Civil society has consistently urged the government to ensure safe, dignified resettlement of displaced individuals, replacing the temporary relief camps with permanent housing. Furthermore, Fact-finding missions call for judicially monitored investigations into incidents of violence and sexual assault, emphasising that justice and accountability are prerequisites for long-term reconciliation.

Federal initiatives like Scheduled Tribe reservations attempt to bridge this gap; they have yet to fully resolve the deep-seated grievances and systemic imbalances that fuel regional conflict. While the Inner Line Permit (ILP)[6] was reintroduced in Manipur to protect indigenous culture, it has deepened ethnic divisions. For the Meitei, it's a necessary shield against demographic shifts, but for Nagas and Kukis, the policy feels like a tool that cements majority control over the region. Kuki-Zo groups have also demanded complete political separation (a separate state or Union Territory), researchers publishing in *The Round Table: Commonwealth Journal of International Affairs* emphasise that complete statehood is logistically and politically impractical. (Basu, 2026). Instead, they recommend strengthening the Autonomous District Councils (ADCs). Upgrading the financial, legislative, and administrative power of local hill councils provides the tribal population with true self-governance without fragmenting the territorial integrity of Manipur (Arora, 2025).

Independent investigative bodies, such as the tribunal led by former Supreme Court Justice Kurian Joseph, identified a total breakdown of constitutional machinery. The PUCL Tribunal Report recommends establishing a permanent High Court bench in the hill districts to bridge the institutional distance between the valley and the hills. They also demand an independent

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[5] The People's Union for Civil Liberties (PUCL) is India's largest non-partisan human rights organization. Founded in 1976 by Jayaprakash Narayan, it champions civil liberties, free speech, and democratic rights across the country. PUCL is entirely funded by member dues and local donations rather than institutional grants.

[6] An Inner Line Permit (ILP) is an official travel document issued by the Government of India that allows Indian citizens to visit restricted, protected areas. Currently, it is mandatory for outsiders to obtain an ILP to enter four northeastern states: Arunachal Pradesh, Manipur, Mizoram, and Nagaland.

Special Investigation Team (SIT)[7] to enforce strict legal accountability for atrocities, which is vital for building institutional trust. (PUCL, 2025). Governance frameworks must re-evaluate institutional designs that link ethnicity with territory in regions marked by deep pluralism and historical contestations, such as, Ethno-federalism[8], the institutional allocation of territorial self-rule to constituent groups defined primarily by ethnicity, has resurfaced in policy and scholarly debates as a possible solution to the recurrent crisis of state authority in Manipur and for their coexistence (Khashimwo, 2026). It is a hybrid model that combines territorial autonomy with individual and collective rights and could reduce incentives for exclusive territorial claims. It comes as a balancing act by recognising groups' rights and decentralised power and risks deepening ethnic division and undermining conflict resolution and management in the state. Liam Anderson defends ethno-federalism, arguing that while it is flawed, it is often the only viable option for societies that have already fractured along ethnic lines. He argues that critics focus too much on failure cases (like Yugoslavia) while ignoring successes (like India). His theory supports the "corrective measure" approach: since the ethnic divide in Manipur is already solidified by the 2023 violence, a territorial solution is likely the only way to restore order (Anderson, 2014).

Legal Critique

The existing government framework fails to respond to the live realities of crises, and now the government must propose a preventive framework to enhance protection for victims. (Tripathi, 2023). Treading the legal path in Manipur reveals a profound crisis where the justice system itself has fractured along ethnic lines, severely hindering accountability. Local law enforcement, supposed to be neutral, has often become partisan, with personnel retreating into their respective ethnic camps and sometimes failing to act or even facilitating violence. Law enforcement officers belonging to the majority Meitei community predominantly operated within the valley, while Kuki-Zo officers retreated to or functioned within the Hills. This structural division prevented the state police from operating as a neutral, cohesive, or state-wide peacekeeping entity (International Crisis Group, 2025). Additionally, Human Rights Watch reported widespread allegations of police bias and institutional failure during the violence. Testimonies from victims and witnesses indicated that law enforcement failed to intervene in

[7] A Special Investigation Team (SIT) is an ad-hoc committee appointed by courts, state or central governments in India to investigate serious crimes when existing law enforcement is insufficient or when a case requires specialized oversight.
[8] Ethnofederalism is a political system where federal or regional subunits are deliberately designed to reflect the territorial distribution of specific ethnic groups, granting them cultural and political autonomy. It aims to manage conflict in deeply divided societies, though critics argue it can also fuel secessionist movements.

arson attacks, neglected to control violent mobs, and abandoned police stations, facilitating the looting of weapons and ammunition from state armories.

This systemic bias means police often refuse to file complaints from the opposite community, rendering official redressal mechanisms largely ineffective for victims. While the Supreme Court of India has attempted to intervene through Special Investigation Teams, these measures often function as temporary, superficial fixes to a deeply ingrained structural failure. For instance, the independent legal tracker Supreme Court Observer documents the slow progress of the Justice Gita Mittal Committee. This shows that the Court's focus frequently shifted to administrative tasks—such as managing properties, funding distribution, and handling the disposal of bodies—rather than resolving the deep ethnic divisions and institutional biases within the state (Patnaik, 2024). The Frontline also reported, "first, the refusal of the Supreme Court to enforce state accountability for its complicity (through commission or omission) in the heinous crimes against Zo ethnic tribals; second, its inability to grasp the magnitude of the humanitarian catastrophe that has arisen; and third, the failure to acknowledge that the state machinery is acting with prejudice and bias against different sections of the Zo ethnic tribes. Thus, the responses formulated by the Court have largely proven ineffective and inadequate. Many of the critical directions issued—to prod the state's intervention, for relief and rehabilitation, to generate trust and confidence in the rule of law, to hold the perpetrators accountable—have either not been complied with or have largely been unsuccessful in restoring constitutional order, and a sense of justice particularly among the Zo ethnic tribes" (Rajagopal, 2023). The legal and security situation in Manipur is ineffective due to outdated laws and deep-seated distrust. Since 1980, the state has been under AFSPA, giving the military massive powers to handle insurgencies, but it has mostly led to human rights violations and extra-judicial killings. For instance, Gendered Violence under AFSPA has deployed sexual violence as a disciplining tool against civilians who are deemed "enemies of the state". Thangjam Manorama Devi[9], whose alleged involvement with PLA[10] and non-compliance with Assam Rifles, was raped and punished as a warning to Manipuri people of the fate who threatened the security of the nation (Newmai, 2025). There's a constant tug-of-war between the Meitei-dominated valley

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[9] Thangjam Manorama Devi, who was accused of terrorism by the Assam Rifles commandment. A 32-year-old Manipuri woman who was taken from her house in the early hours of 11 July 2004 by personnel of Indian paramilitary Assam Rifles. Her bullet-ridden body was found a few hours later, approximately four kilometers away from her house.

[10] The People's Liberation Army (PLA) was established under the leadership of N. Bisheswar Singh on September 25, 1978. The PLA aims to organize a revolutionary front covering the entire Northeast and unite all ethnic groups, including the Meiteis, Nagas, and Kukis, to liberate Manipur. PLA, though a Meitei outfit, claims to be a trans-tribal organization seeking to lead the non-Meiteis as well.

and the tribal hill regions, which makes it nearly impossible for the central and state governments to actually coordinate.

An Intersectional framework for sustainable resolution in Manipur

The policies should be made considering gender sensitive laws from informed and intersectional intervention by studying processes and systems to avoid reductive forms of analysis and to use intersectionality as a form of political critique to examine the social world and to confront the power (Dhamoon, 2011). In the case of Manipur, conflict transformation offers a necessary shift from mere containment and reaction by the government toward addressing the deep-seated structural issues that drive ongoing instability. Rather than viewing the state's friction as a problem to be suppressed, this approach treats it as a signal of underlying systemic failures, such as power imbalances and historical grievances. (Meitei, 2023). By moving beyond temporary military measures and focusing on long-term institutional reform, the goal should be to turn destructive cycles into opportunities for social progress. Ultimately, achieving sustainable peace in Manipur requires reshaping the social and political dynamics that empower marginalised communities and rebuild public confidence. To address ethnic tension in Manipur, there is a need to strengthen federalism with the shift from control towards care-centred governance; other factors, such as inclusive governance and equal representation, would ensure that the concerns of the marginalised are also adequately addressed.

Conflict Resolution Mechanism

- Formalise Community Dialogue: Creating structured communication channels between ethnic groups, backed by state and central authorities, is vital for mediating local tensions peacefully.
- Decentralise and Localise Peace: Moving power to the grassroots level and involving traditional leaders helps ensure that reconciliation efforts are practical, timely, and culturally relevant.

Social Integration Policies

- Reform Educational Curricula: Schools and universities should actively promote Manipur's diverse heritage to build intercultural respect and break down long-standing ethnic stereotypes from an early age.
- Encourage Economic and Cultural Exchange: Programs that focus on shared development projects and cultural festivals create tangible common ground, helping to replace historical friction with active cooperation.

Collective Action & Care-based model of governance

Integrating Joan Tronto and Berenice Fisher's care ethics with Kimberlé Crenshaw's intersectionality theory shows that the collective actions witnessed in the Manipur conflict are fundamentally political forms of caring that are influenced by power, identity, and exclusion. Care ethics theorises care as a relational and practice-based activity anchored in political institutions, whereas intersectionality emphasises how overlapping oppressive systems–such as gender, ethnicity, and class–influence experiences and responses to violence (Crenshaw, 1991; Tronto, 2015). Community-led actions in Manipur's ethnic conflict have increasingly shifted from a single solution-based approach toward significant and critical peace-building efforts. In several pockets of the state, residents from both Meitei and Kuki backgrounds have consciously maintained interwoven neighborhoods and shared institutions, hosting landmark initiatives where students from both groups share the same stage. Furthermore, localised networks of women and elders have occasionally acted as peacemakers, intervening to rescue families from opposing sides and facilitating safe passage. While institutional progress remains stalled, these small-scale models prioritise cross-ethnic solidarity and inclusive relief over total segregation. Such grassroots movements are essential in resolving local disputes and promoting communication between opposing parties, serving as a vital, human bridge toward long-term reconciliation and the restoration of social harmony.

Despite facing challenges, women in Manipur are not mere victims, but are peace agents and are emerging as examples of resistance and resilience. For example, Meira Paibi ("Torch Bearers") is a Meitei women's vigilante group that resumed activism, demanding justice and highlighting the state's and the Union government's failure to address the Manipur cause and is resisting marginalisation and advocating Human rights. Similarly, many tribal groups in Churachandpur and Kangpokpi district organise healing circles, documentation teams, and public protests. Many survivors too came forward and have narrated their stories, and all these show that there must be intersectionality of how a community-led justice framework, rather than purely bureaucratic or legal mechanisms, must work together. Historically considered as peacebuilders, they have played varied roles throughout the conflict, engaging in campaigns, protests, and community defense, as well as vigilantism, blockades, and, in some cases, suspected participation in violence. This corresponds to Crenshaw's concept of political intersectionality, in which marginalised groups can resist oppression while also perpetuating exclusionary behaviors against other groups. Therefore, women's collective action in Manipur incorporates both concern and conflict, driven by their place within ethnic and gendered power structures.

Women in Manipur play a complex and dynamic social role, which is analysed in four thematic patterns: historical resistance and collective mobilisation, economic autonomy through market institutions, women's leadership in peace and justice movements, and redefinition of Manipuri women's identity from historical custodians of culture to contemporary times as agents of socio-political transformation. More and more women in Manipur are evolving their activism by blending local traditions like Meira Paibi with global feminist discourse and with digital advocacy. This shift moves their struggle beyond a local territory and connects regional identity issues with universal conversations on gender and justice.

From a care ethics approach, these behaviors can be interpreted as informal care infrastructures arising in response to the breakdown of official accountability. As governmental institutions failed to provide security and welfare, communities formed their own systems of care and defense. Meira Paibi groups conducted night patrols, set up barricades, and even blocked police personnel, resulting in the release of captured militants. Similarly, Kuki-Zo women's organizations mobilised to protect their villages and oversee relief activities for displaced people. These activities are consistent with Tronto's care stages–particularly "taking care of" and "care-giving"–in which responsibility is assumed in the absence of effective governance. However, the same structures contributed to militarisation and segregation by arming local volunteer groups, transforming civil society organisations into militias, and strictly dividing ethnic zones. Social media exacerbated this dynamic by serving as a parallel arena for "care" and mobilisation, as well as misinformation and divisiveness. In this way, collective care became fragmented and exclusionary, increasing barriers rather than encouraging mutual interdependence.

Intersectionality adds depth to this research by demonstrating how care is unevenly delivered and experienced. Women, particularly those from oppressed ethnic groups, have paradoxical roles–caregivers, activists, and occasionally victims of violence. The reported involvement of women's groups in violence against indigenous women underscores how ethnic divisions undermine gender solidarity. Crenshaw's theory helps to elaborate this tension: people exist at the intersection of numerous identities, and their actions cannot be comprehended using a single axis, such as gender. (Crenshaw, 2013). Thus, the caregiving tasks played by women's organisations must be critically analysed in the context of larger systems of ethnic conflict and political marginalisation.

Looking ahead, both care ethics and intersectionality highlight the need for inclusive and long-term care infrastructures that go beyond fragmented, community-based approaches. International frameworks, such as those advocated by UN Women, emphasise the necessity of combining physical infrastructure with social policy using the “5R” approach: Recognise, Reduce, Redistribute, Reward, and Represent care labor. In a conflict-affected territory like Manipur, this means transitioning from emergency, community-led treatment to a restorative justice framework that recognises harm, encourages reconciliation, and rebuilds trust across ethnic boundaries. Strategic investments in healthcare, mental health services, and basic infrastructure (like water, transportation, and energy) can alleviate the pressure on informal care networks, also addressing structural inequities. At the same time, women’s organizations should be officially recognised and supported as peacebuilding agents, rather than remaining informal or antagonistic forces. Establishing humanitarian corridors, encouraging participatory dialogue, and enacting inclusive policy reforms are critical to restoring institutional care capability.

To put it simply, the Manipur conflict indicates that, while collective action might temporarily replace broken state structures, it cannot eliminate the need for equitable, accountable, and intersectionally informed care systems. Without addressing the structural disparities that define care distribution, such attempts risk reinforcing cycles of exclusion and violence rather than building long-term peace.

Conclusion

The analysis of the 2023 Manipur conflict reveals that it is not merely just an ethnic conflict or structural failure; it is a systemic failure of care ingrained in governance and legal frameworks. Through the lens of care ethics, the breakdown in recognition, responsibility, and responsiveness suggests how state institutions failed to address underlying grievances, protect vulnerable people, and effectively respond to growing violence. Recognition: The system failed to see or respond to warning signs. FIRs were delayed, and state weaponry went missing. The SC called it an "absolute breakdown of machinery" - meaning no functioning system existed to detect or act on early signals (Singh, 2023). Responsibility: Jurisdictional disputes replaced action- different agencies passed blame or created "buffer zones" to avoid accountability. The SC rejected the defense that the center should handle it, saying the state cannot abdicate its own duty. Responsiveness: Instead of helping victims, the system hurt them further. Institutional silencing (complaints not registered, witnesses intimidated) and a hostile legal environment meant seeking justice inflicted more harm. The SC identified this as a "systemic failure to protect dignity" (Tronto, 1993). The framework views these three failures as interconnected rather than independent, together reflecting a broader collapse of state care, responsibility, capacity, and justice. As Tronto mentioned, a state that fails to recognise people's needs avoids accountability, and without accountability, its responses become ineffective and may further intensify the harm. Expanding this line of study helps to create a more comprehensive and compassionate understanding of conflict resolution, one in which justice is about more than simply rights and order, but also about preserving relationships, dignity, and communal well-being.

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Submitted on-: 28/04/2026

Accepted on-: 07/072026

Recognizing Mothers with Disabilities: Visibility, Voice, and Rights in Indian Social Policy

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Abstract: The image of the "mother" in the dominant cultural imagination is conventionally constructed around bodily wholeness: physically able to lift, resilient enough to provide, and endlessly capable of self-sacrifice. In India, when a woman's body departs from this normative ideal, her capacity for caregiving and emotional nurturance is frequently questioned before it is even recognized. While public, policy, and academic discourses consistently focus on mothers caring for children with disabilities, the experiences of women with disabilities who are themselves mothers remain largely invisible-socially misunderstood, structurally unsupported, and subjected to heightened surveillance.

This paper examines the institutional and legal erasure of mothers with disabilities in India to problematize entrenched assumptions of ability, care, and maternal legitimacy. Drawing on feminist mothering theories, disability justice models, and an ethic of care, the study analyzes how mothers with disabilities negotiate intersecting systems of ableism, patriarchy, and administrative regulation. On the policy front, significant structural gaps exist. The Rights of Persons with Disabilities (RPwD) Act (2016) and the Maternity Benefit Act (1961) operate as bifurcated regimes, treating disability and motherhood as mutually exclusive domains.

This paper evaluates both the protective intentions of state welfare initiatives-including programs by the Ministry of Social Justice and Empowerment (MoSJE), state-level schemes, and National Legal Services Authority (NALSA) frameworks, and their inherent limitations when judged against parental and filial identities. By centering the lived agency, adaptive strategies, and advocacy of mothers with disabilities, this paper calls for a paradigm shift in Indian social policy: moving from a model of assessment, protectionism, and suspicion to one grounded in systemic recognition, reasonable accommodation, and substantive reproductive justice.

Keywords: Feminist Mothering, Disability and Motherhood, Ableism and Care, Reproductive Justice, Indian Social Policy, RPwD Act 2016, Substantive Equality

I. Introduction

In India, motherhood is deeply venerated as a foundational social institution and a core component of state policy regarding family welfare. Culturally, the maternal role is idealized around self-sacrifice, physical stamina, emotional resilience, and constant

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physical availability. This construct rests upon an implicit bodily norm: the assumption that a mother possesses an able body capable of fulfilling these demands without structural assistance. Consequently, when a person with disabilities becomes a mother, her parental capacity is subjected to immediate questioning. Rather than evaluating her nurturance or caregiving competence, institutional and social gatekeepers often conflate bodily impairment with an inherent inability to parent.

A critical structural imbalance characterizes Indian public and legal discourse. Public policy and social discourse predominantly frame the intersection of disability and care around *mothers of children with disabilities*. In this framework, individuals with disabilities are categorized almost exclusively as passive recipients of care rather than active providers of care or heads of households. As a result, academic literature, legal frameworks, and policy designs rarely account for women with disabilities who are mothers. Feminist scholarship has long established that motherhood is not merely a private, biological event, but a socially constructed and state regulated institution (Rich, 1976; O'Reilly, 2016). When gendered ableism intersects with state regulation, mothers with disabilities face a distinct layer of institutional marginalization.

This marginalization is further reinforced by socio-cultural beliefs that desexualize women with disabilities or treat them as perpetual dependents. Women with disabilities are frequently viewed as childlike or incapable of sustaining adult romantic and parental relationships. When they choose to conceive and raise children, their reproductive decisions are often met with scepticism, medical paternalism, and intense familial scrutiny (Behanbox, 2021; The Guardian, 2023). Disability thus functions as an arbitrary gatekeeping category that dictates who is recognized as a legitimate mother and who must continually justify her parental fitness.

At the regulatory level, Indian legislative frameworks reflect this compartmentalization. The Rights of Persons with Disabilities (RPwD) Act, 2016, established a rights-based framework for inclusion, yet it frames the individual with disabilities within the family primarily as a person requiring protection or support, rather than as an active caregiver. Concurrently, the Maternity Benefit Act, 1961, focuses on formal workplace protections for female employees without accounting for the specific accommodations required by working mothers with disabilities. While the Indian Constitution guarantees fundamental rights under Articles 14, 15, and 21, the operationalization of these rights in social policy often fails to achieve substantive equality for parents with disabilities. This paper argues that Indian social policy must transition from a protectionist paradigm-which views the body with disabilities through the lens of welfare dependence-to a recognition paradigm that honors reproductive autonomy, relational care, and bodily diversity.

II. Methodology and Scope

To evaluate the intersection of disability, motherhood, and state regulation, this paper utilizes a multi-dimensional methodology combining **doctrinal legal analysis**, **intersectional policy analysis**, and **theoretical reframing**.

1. *Doctrinal Legal Analysis*

The study examines primary statutory texts, including the Rights of Persons with Disabilities Act (2016), the Maternity Benefit Act (1961), and relevant constitutional provisions (Articles 14, 15, and 21). It analyzes how statutory language, legal silences, and judicial interpretations handle parental rights and reproductive autonomy for citizens with disabilities.

2. *Intersectional Policy Analysis*

The paper evaluates social policy structures across Central and State jurisdictions. Recognizing that "Relief of the disabled and unemployable" falls under Entry 9 of the State List in the Seventh Schedule of the Constitution of India, the analysis explores how federal division impacts service delivery. It also assesses institutional policies formulated by the Ministry of Social Justice and Empowerment (MoSJE), the Department of Empowerment of Persons with Disabilities (DEPwD), and legal support frameworks under the National Legal Services Authority (NALSA).

3. *Justifying Frameworks: Citizen Identity vs. Filial/Parental Identity*

A critical methodological challenge in policy analysis is bridging the gap between a state's political framework-which operates on standard **citizen identity** (rights, duties, and individual legal standing), and the **filial or parental identity** (relational care, interdependence, and family formation).

State policies traditionally construct the "citizen" as an autonomous, self-sufficient individual. When social policy evaluates the family, it frequently imposes normative assumptions regarding what a "productive" or "capable" parent looks like.

Bridging this gap requires evaluating state frameworks through a **substantive equality lens**. The state cannot guarantee genuine citizenship rights under Article 21 (Right to Dignity and Life) without recognizing that family formation and parenting are integral dimensions of human self-determination. Examining political frameworks through the parameters of filial identity is necessary to uncover how administrative criteria of "bodily independence" systematically disenfranchise citizens with disabilities from exercising their fundamental human rights.

III. Conceptual Framework: Disability, Motherhood, and Care

Understanding motherhood of women with disabilities requires moving beyond statutory provisions to examine feminist theories of mothering, disability studies, and the ethics of care.

Feminist Theories of Motherhood

Feminist scholars have long deconstructed the notion that motherhood is a purely biological or "natural" state, demonstrating that it is an institution shaped by social structures and state control. Adrienne Rich (1976) famously distinguished between *mothering*-the potential, relational, and empowering practice of caring for a child, and *institutionalized motherhood*, which enforces patriarchal requirements of selflessness, physical endurance, total bodily availability, and isolation.

For women with disabilities, this distinction is crucial. Institutionalized motherhood presumes an able-bodied worker-mother capable of unassisted labor. When a woman with disabilities cannot meet these normative standards, institutional structures categorize her as deficient. Feminist mothering theorists (O'Reilly, 2016) emphasize that assessing parental legitimacy through medicalized or bodily criteria obscures the actual relational practices of mothering that women with disabilities successfully perform.

Disability Theory and Ableism

Disability studies provide critical tools to analyze how institutions enforce able-bodied norms. The **medical model of disability** views impairment as an individual pathology or bodily defect requiring cure, medical management, or institutional protection. Historically, Indian disability welfare has operated predominantly within this medicalized paradigm. In contrast, the **social model of disability** demonstrates that disability is produced by environmental, attitudinal, and institutional barriers rather than physical or cognitive impairments. Feminist disability scholars expand this model by analyzing how gender, reproduction, and impairment intersect. They highlight how women with disabilities are subjected to desexualization and reproductive control.

Furthermore, **disability justice frameworks** (Piepzna-Samarasinha, 2018) reject bodily "independence" as the primary measure of human worth. Instead, disability justice centers **interdependence**, collective care, and adaptive access. In a society built on interdependence, seeking assistance to care for a child is recognized as a standard aspect of parenting rather than a parental failure.

Ethics of Care

The ethics of care challenges liberal political theories that prioritize individual autonomy and self-sufficiency. It posits that human beings are inherently vulnerable and interdependent across the life course. Care ethics shifts the evaluation of parental fitness away from physical self-reliance toward the quality and relational effectiveness of the care provided.

Mothers with disabilities frequently practice adaptive, collaborative, and network-based caregiving. By demonstrating that care can be distributed across relational networks, mothers with disabilities challenge the ableist notion that a parent must perform every physical task independently to be considered competent.

IV. Mothers with Disabilities and Social Invisibility in India

The social invisibility of mothers with disabilities in India stems from pervasive cultural archetypes regarding both motherhood and disability. In the Indian cultural context, the ideal mother is often framed as a figure of limitless physical endurance and emotional self-sacrifice. Concurrently, popular perceptions of disability alternate between pity, charity, and tragic dependence. When these paradigms converge, the concept of a woman with disability assuming the role of a primary caregiver appears culturally contradictory to many.

Women with disabilities in India face an informal network of social control that polices their reproductive lives. They are frequently desexualized by family members, healthcare providers, and social institutions. Expressing a desire to marry or have children is often met with opposition, framed around the assumption that an impaired body cannot fulfill domestic obligations.

During pregnancy and early childhood, mothers with disabilities face heightened scrutiny. Medical personnel often approach pregnant women with disabilities through a risk-mitigation lens, questioning their capacity to carry a pregnancy to term or manage childcare (Behanbox, 2021). While an able-bodied mother is presumed competent until proven otherwise, a mother with disabilities is subjected to an implicit "burden of proof," requiring her to continuously demonstrate her parenting fitness to medical professionals, extended family, and social workers.

This invisibility is reinforced by gaps within Indian feminist movements, which have historically focused on issues such as domestic violence, dowry, and general reproductive rights without fully integrating disability perspectives. As a result, maternal health initiatives and public discourse continue to assume an able-bodied subject.

Despite these barriers, mothers with disabilities actively exercise agency. They adapt physical spaces, utilize assistive devices, establish community networks, and engage in disability advocacy to redefine caregiving practices (The Guardian, 2023). However, without structural policy support, these adaptive strategies remain individual coping mechanisms rather than recognized rights.

V. Legal Framework Governing Disability and Motherhood in India

India's legal landscape governing disability and motherhood is divided into distinct legislative silos. While the statutory framework does not explicitly prohibit women with disabilities from becoming parents, its silence on parental accommodations produces indirect exclusion.

1. Rights of Persons with Disabilities Act, 2016

The RPwD Act, 2016, replaced the earlier 1995 legislation, aligning Indian law more closely with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The Act guarantees non-discrimination, equality of opportunity, reasonable accommodation, and accessibility across public spaces, education, and employment.

However, the RPwD Act frames the individual with disability predominantly as a subject requiring individual accessibility, education, employment quotas, or social security. The statute does not explicitly recognize the role of a person with a disability as a *parent* or *primary caregiver*. While Sections 9 and 24 touch upon family life and social security, they lack provisions mandating state support for parents with disabilities, such as accessible maternal healthcare, funded adaptive parenting tools, or personal assistance services.

2. Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 (amended in 2017), regulates the employment of women during pregnancy and provides for paid maternity leave, nursing breaks, and crèche facilities.

The Act is structured around a homogeneous, able-bodied construct of the female worker. It provides uniform leave parameters without considering that a working mother with a physical, sensory, or systemic disability may require additional pre-natal rest, specialized medical consultations, flexible working hours, or workplace accommodations tailored to adaptive parenting. By applying identical rules to unequal circumstances, the Act delivers formal equality while failing to secure substantive equality.

3. Constitutional Guarantees and Judicial Nuance

The Constitution of India provides a robust framework for safeguarding human dignity and equality:

· **Article 14** guarantees equality before the law and equal protection of the laws.

· **Article 15(3)** empowers the State to make special provisions for women and children.

· **Article 21** guarantees the right to life and personal liberty, which the Supreme Court of India has consistently expanded to include human dignity, privacy, bodily autonomy, and reproductive choice (*Suchita Srivastava v. Chandigarh Administration*, 2009).

It is important to clarify that state legislation and constitutional jurisprudence do not declare citizens with disabilities incapable of parenting or exclude them from Article 14. Rather, state actions and welfare statutes are designed to provide aid and reduce societal disparities.

However, a legal gap persists: while judicial precedent protects reproductive *choice* under Article 21, this negative right (freedom from forced intervention) has not been accompanied by positive statutory duties mandating state support systems for parents with disabilities.

4. International Obligations

India ratified the UNCRPD in 2007. Article 23 of the UNCRPD explicitly obligates State Parties to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood, and relationships. It mandates that State Parties shall render appropriate assistance to persons with disabilities in the performance of their child-raising responsibilities. Indian domestic policy has yet to fully translate these Article 23 commitments into enforceable statutory rights.

VI. Evaluating Policy Design, State Schemes, and Institutional Frameworks

To construct a balanced analysis of Indian social policy, one must acknowledge both the protective interventions established by federal and state institutions and the structural limitations that emerge when these policies encounter mothers with disabilities.

1. Constitutional Division of Powers: Seventh Schedule Dynamics

Under the Seventh Schedule of the Constitution of India, "Relief of the disabled and unemployable" is explicitly designated under **Entry 9 of the State List (List II)**. Consequently, primary implementation of disability welfare falls under individual state governments.

This decentralized structure leads to significant variations across regions. While progressive states offer targeted monthly pensions, assistive device distribution, and subsidized healthcare, state-level welfare programs remain focused on financial relief and medical rehabilitation. They rarely include specialized maternal aid or home-based parenting assistance for mothers with disabilities.

2. Central Institutional Frameworks: MoSJE and DEPwD

At the federal level, the **Ministry of Social Justice and Empowerment (MoSJE)** and the **Department of Empowerment of Persons with Disabilities (DEPwD)** formulate national policies and administer schemes such as:

· **ADIP Scheme (Assistance to Disabled Persons for Purchase/Fitting of Aids and Appliances):** Focuses on mobility aids, hearing devices, and prosthetic limbs.

· **Deendayal Disabled Rehabilitation Scheme (DDRS):** Supports non-governmental organizations providing education, vocational training, and rehabilitation services. · **Unique Disability ID (UDID) System:** Streamlines certification and access to state welfare.

These initiatives aim to alleviate social disparities and provide aid to citizens with disabilities. However, these frameworks operate predominantly within a welfare and protectionist model.

The schemes are designed to assist the individual in achieving basic mobility, literacy, or employment. They do not account for the relational dimensions of caregiving, such as providing adaptive cribs, specialized child-monitoring devices, or personal care assistants for mothers with disabilities carrying out childcare responsibilities.

3. Legal Aid Frameworks: NALSA

The **National Legal Services Authority (NALSA)** has instituted specialized frameworks, including the *NALSA (Legal Services to Persons with Disabilities Scheme)*. This scheme aims to ensure that individuals with disabilities have access to legal aid, protection from discrimination, and support in securing statutory benefits.

While NALSA provides a mechanism to challenge overt discrimination or denial of welfare benefits, legal aid interventions in practice focus primarily on land rights,

guardianship disputes, employment discrimination, and access to basic disability pensions. Cases involving custody battles, reproductive coercion, or demands for parental accommodations for mothers with disabilities remain rarely litigated or systematically supported through legal aid networks.

4. Fragmented Design and Structural Gaps

The core limitation of Indian social policy regarding mothers with disabilities is not malice or institutional neglect, but **intersectional blindness**. Social policy operates through two separate domains: As these two operational domains do not intersect, mothers with disabilities are left without tailored policy support. Maternal health schemes fail to mandate accessible diagnostic equipment (such as height-adjustable examination tables) in primary health centers, while disability schemes fail to recognize parenting as a legitimate activity requiring social support.

VII. Normative Reframing: Motherhood, Disability and the Meaning of Care

To resolve these legal and policy gaps, social policy must reexamine how it conceptualizes "care" and "parental competence".

Traditional legal reasoning evaluates parental fitness through a framework of physical self-sufficiency. This view assumes that a "competent" mother must execute all physical tasks associated with child-rearing independently. When mothers with disabilities utilize adaptive techniques, personal assistants, or family networks, administrative and judicial bodies sometimes misinterpret these interdependent practices as evidence of maternal inadequacy.

Reframing motherhood through disability justice and care ethics requires recognizing that care is inherently relational, collaborative, and adaptable.

· **Relational Care over Physical Mechanics:** Parenting consists primarily of emotional nurturance, psychological guidance, moral orientation, and relational stability, qualities that are independent of bodily mobility or sensory impairment.

· **Normalizing Interdependence:** All parents rely on external structures, including schools, daycare centers, domestic support, and extended family networks. Requiring a mother with disability to prove total bodily independence imposes a standard that few parents without disabilities are expected to meet.

· **Valuing Adaptive Strategies:** Mothers with disabilities routinely devise innovative, highly effective caregiving strategies. These adaptive practices should be recognized as legitimate expressions of care rather than deviations from an ableist norm.

Reconstructing the legal construct of the "competent parent" around relational efficacy rather than bodily mechanics enables the legal system to uphold the constitutional rights to dignity and family life guaranteed under Article 21.

VIII. Recommendations for Legal and Policy Reform

To bridge the gap between citizen identity and filial identity, Indian social policy should adopt targeted legal and administrative reforms:

1. Statutory Recognition of Parental Rights in the RPwD Act, 2016

The RPwD Act should be amended to explicitly include the right of persons with disabilities to parent and form a family, in line with Article 23 of the UNCRPD. The statute should mandate that state governments provide "reasonable accommodations for parenting," including accessible maternal care, adaptive parenting equipment under the ADIP scheme, and personal care assistance.

2. Reform of the Maternity Benefit Act, 1961

The Maternity Benefit Act should be amended to introduce flexible leave structures, extended pre-natal/post-natal options, and mandatory workplace accommodations for working mothers with disabilities. This adjustment moves the statute from formal equality to substantive equality.

3. Protections Against Reproductive Coercion and Surveillance

The Ministry of Health and Family Welfare, alongside MoSJE, should issue binding clinical guidelines prohibiting non-consensual contraceptive administration, coerced sterilizations, or discriminatory assessments of parental fitness. Healthcare workers should undergo disability sensitization training to eliminate medical paternalism.

4. Integration of Interdependent Care Support Frameworks

State welfare departments (under Entry 9 of the State List) should establish targeted support programs for parents with disabilities. These initiatives could include subsidized home-based parenting assistance, community care networks, and accessible childcare infrastructure within the Anganwadi (Integrated Child Development Services) system.

5. Institutional Capacity Building via NALSA and DEPwD

DEPwD and NALSA should collaborate to create legal awareness campaigns regarding the parental rights of citizens with disabilities. NALSA's legal services panels should be trained to represent mothers with disabilities facing discriminatory custody challenges or denial of state welfare benefits.

IX. Conclusion

The exclusion of mothers with disabilities in India represents a form of systemic invisibility. By maintaining bifurcated legal regimes- where disability is treated as a state of dependency and motherhood as a realm of unassisted bodily labor, Indian social policy has inadvertently disenfranchised women with disabilities from fully exercising their reproductive and parental rights.

While state institutions like the Ministry of Social Justice and Empowerment, state welfare boards, and legal services authorities have made progress in establishing disability rights and protective welfare, these political frameworks continue to operate primarily on a traditional model of individual citizen identity. They often fail to accommodate the relational and filial identities of citizens with disabilities.

Achieving substantive equality requires a paradigm shift. Indian social policy must evolve from a framework of protectionism and suspicion to one of explicit recognition and structural support. Recognizing mothers with disabilities is not merely an act of social inclusion; it requires redefining care, independence, and capability. By centering the lived experiences of mothers with disabilities, India can construct a legal and policy environment that honors reproductive autonomy, protects bodily dignity, and affirms that motherhood is a relational practice grounded in love, adaptability, and human connection.

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Submitted on-: 03/02/2026
Accepted on-: 13/05/2026