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COMMON CAUSE

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DOMESTIC
WORK

IS IT EMPLOYMENT LIKE ANY OTHER?

Can we provide
safety, security
and dignity to our
domestic help?

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COMMON CAUSE VISION

An India where every citizen is respected and fairly treated

MISSION

To champion vital public causes

OBJECTIVES

To defend and fight for the rights and entitlements of all groups of citizens

DOMESTIC WORK: CONNECTING THE DOTS

What is common between Vasant Vihar and Kusumpuri Pahari? Vasant Vihar is among Delhi's classiest colonies and Kusumpuri Pahari is a chaotic slum which sticks out on a road nearby. Every morning swarms of men and women walk or cycle from Kusumpuri Pahari and other slums to upscale Vasant Vihar, Westend, Shanti Niketan and several middle class localities in between.

These are maids, drivers, guards, gardeners, cleaners, babysitters and an assortment of care givers. From masseurs to enema attendants and from cooks to physiotherapists, there are handymen, or women, for every conceivable service. Many services demand a close proximity, a daily connection, a relationship of sorts, between clients and service providers. Can life in Vasant Vihar ever be safe if the maids and care givers suffer from deadly diseases or if there is dengue and meningitis in their tenements? It matters for us and our children if our service providers are clean, healthy and in good frame of mind. So the smartest investment the residents of Vasant Vihar can make in their own well-being is to ensure that the slum in the backyard is free from filth and squalor and the inhabitants get clean drinking water.

However, the reality is different because the educated, upper class Indians -- whose voices tend to get heard -- fail to connect the dots between us and them, our children and their children. It is not just the government or the municipalities but also the better-off PLUs (people like us) who are instrumental in denying dignity to a vast underclass, as if by default. Nothing typifies this us-and-them-paradigm better than our relationships with our domestic workers. While we want the best safety, security and services for our children, we are at best indifferent to those of our domestic workers. We at Common Cause believe that improving the working conditions of domestic workers is a policy imperative whose time has come. A resurgent and democratic India cannot afford to deny citizenship to a vast majority of its people.

Is It Work Like Any Other?

What is missing in domestic work sector, first and foremost, is a recognition that it is work. Once we recognise it as a valid economic activity at the bottom of the pyramid, we begin to see its contribution in the nation's growth. It helps the economy because every extra buck earned - and spent - creates further demand for goods and services leading to more employment generation. Domestic work is both an enabling reason for, and a consequence of, rising middle class incomes. The double-income families would not be so without someone doing the chores or caring for the kids and the elderly. It empowers both sides and boosts Gross National Happiness by easing work-family-life tensions!

We know that many maids and drivers earn admiration and are treated with respect. However, the limits to this 'relationship' are fairly clear: It's never an employee-employer relationship with rights, benefits or entitlements. It is true that a large number of employers are kind to their workers but this issue is not about charity or kindness. It is about self-respect, equality of opportunities, human dignity and citizenship.

In India, domestic workers are never recognised as workers, professionals or service providers. They mostly go by the label of 'servant' which suggests that their duty is to serve (the master). They lack physical or legal protection because they work in others' houses without written contracts. Their dismal, and often dangerous, working conditions, long hours and low wages make them modern-day slaves. The UN protocol on slavery includes factors like coercion, deception, trafficking and control over another person's life for exploitation. This issue of Common Cause explores if together we can make a difference and provide safety, security, dignity and justice to fellow citizens who work for us.

Vipul Mudgal

DOMESTIC WORK: SLAVERY AND URBAN EMPLOYMENT

*Anannya Bhattacharjee**

The Position of Domestic Workers

In 2002, the Office of the United Nations High Commission for Human Rights included domestic work in forms of contemporary slavery. Phyllis Palmer in the last century had defined "three factors that metaphorically and structurally linked housework and slavery: not treating domestics as people independent of their employers, designing housework to give domestics the physically hardest tasks, and demanding almost unlimited working hours."

The first factor is a critical one. For the live-in domestic worker it means that she has no personal time, including while sleeping as she may be asked to sleep with the child to whom she is providing care. For a part-time domestic worker it means an unending obligation to carry out any task given to her, regardless of what she was hired for, whether she would be paid at all and how long it would take. It is also the factor that holds back domestic workers from getting their full rights in the workplace as workers. Every Member of Parliament, every person who can push for domestic workers' rights is very often him/herself an employer; they are reluctant to accord any independent status to the domestic worker as that would reduce their control over her labour, time, and even body.

Every political party in India - Left, Right, Centre - may differ on a lot of matters but unite on the position of domestic workers. We saw this in the case of employer Ms. Devyani Khobragade, former Deputy Consul General of India who had taken a domestic worker, Ms. Sangeeta Richards, under an A-3 visa to the United States. According to the law, diplomats are required to provide a contract to the worker that lists hours, wages, and duties. The wage is required to be at least the prevailing wage at the time, which was \$9.75 an hour. Ms. Khobragade signed a contract that stated that she would follow these laws. However, she was accused of lying to the US government and of signing a second unlawful contract that did not list fair hours or working conditions/duties, and included a wage of 30,000 rupees per month (about \$3.31/hr).

Ms. Khobragade was arrested in New York on December 12, 2013 for visa fraud and for lying about payments to her domestic worker, Ms. Richards, who had escaped to get away from her employer's various abuses. Loud and visible voices of protest rose against what was seen as imperialist US government's high-handed and insulting treatment of Ms. Khobragade. She had been handcuffed, strip searched and put in a jail with "common criminals" as charges were framed against her. Her treatment outraged the sensibilities of Indian bureaucrats and establishment; the media had vociferous interviews with ministers and diplomats to express fury at such lack of discretion. As the dust settled a bit, it appeared that Ms. Khobragade had been treated in the same way that anyone arrested in US is. In other words, the US criminal justice system may be de-humanising but such are its procedures and they were followed.

But, Indian anger refused to subside. In retaliation, the Indian government stripped American diplomats of identity cards granting them diplomatic benefits, and security barriers around the American Embassy in New Delhi were taken away. A former finance minister suggested that India respond by arresting same-sex partners of American diplomats, since the Indian Supreme Court had recently upheld a section of a Colonial-era law that criminalizes homosexuality.

Political parties that differ otherwise, remained united on the message that Ms. Khobragade's treatment was

an indication of imperialist and colonialist United States' lack of respect for Indian diplomats! Shiv Sena in Mumbai and CPI-M in Kolkata marched and demonstrated. Their highest office-bearers released statements of outrage, echoing those of the Congress Party.

During this period, Ms. Richards' family in Gurgaon, Haryana, was threatened and intimidated by agents of the Khobragade family, urging them to pressurize Ms. Richards to drop all plans for filing complaint against her employer for human rights abuses.

Throughout this period the dignity of only one citizen mattered - Ms. Khobragade - and Ms. Richards was completely ignored and invisible. On a television show where a former Ambassador and I were interviewed, the former Ambassador questioned why a domestic worker like Ms. Richards would need to be given a day off - what would she do anyway? Where would she go? He asked. And in any case, she becomes like a family member. There lies the core reason why domestic workers have not yet got their rights. A domestic worker wants to be and should be treated like a "worker"; but the employer-employee relationship remains camouflaged behind an "all in the family" hypocritical discourse designed to extract the most from a domestic worker, deemed less than human.

Feudalism and the distasteful caste system in India continue to de-humanise labour, especially manual labour and most heinously, the work of cleaning - be it domestic worker, garbage collection or horrific manual scavenging. Such workers are seen and treated as less than human. The de-humanised and third-class citizen status accorded to domestic workers is a systemic issue permeating all institutions.

On 29th January, 2014, the body of a 13-year old (publicly pronounced to be 17-year old) live-in minor domestic worker, Ms. Sabina, was found hanging in her employer's house in DLF, Phase 3, Gurgaon, at the residence of Mr. Vijay Beri. Ms. Sabina's family was certain that she had been raped and murdered by male members in the family. The employer offered Rs. 3 lakh to the family members and asked them not to demand an inquiry into the death. The family refused to accept any money and demanded full justice. They had also found the police at the residence sitting around, enjoying tea and snacks with the alleged perpetrator instead of carrying out their lawful duties.

The photographs of Ms. Sabina's dead body taken by the police definitely create an impression that her body was hanged after her death. The police had even failed to initially register an FIR. It is only on the insistence of family members, local community people and women's rights activists from *Gharelu Kamgaar Sanghatan* (GKS)-Gurgaon, the police finally registered an FIR on 30th January under Section 302 and 376 of the IPC. The FIR named Mr. Vijay Beri and his two sons as primary suspects in this case. Even after registering of FIR, the police dilly-dallied on arresting the suspected culprits. Instead, on the night of 30th January, 2014, the Gurgaon police unlawfully lathi-charged the peaceful gathering of bereaved family and community members and arrested women's rights activists who were peacefully waiting at the morgue adjacent to the City Police Station, Gurgaon, to receive a response from Gurgaon police to their demand of a second post-mortem.

The police then went around pressurizing community members to give up the demand of a second post-mortem. Gurgaon police threatened the community members of slapping false cases of riot and hooliganism against them. On the order of the Gurgaon Court the second post-mortem did get conducted. The Court also ordered the police to undertake medical examination of the accused in this case. The case continues to be fought in the courts at present as GKS is determined to create accountability in a region for employers of domestic workers who have been getting away with egregious human rights violations.

Progress in the 21st Century: Two Steps Forward, One and a Half Steps Backward?

It would be remiss to say that the 21st century continues along the same lines as earlier centuries. After all, on June 16, 2011, the ILO passed the historic Domestic Workers' Convention 189, after over half a century from when the idea had been first floated in the 1950s. Sceptics may say that is high-level international policy with no ground level impact - but they would be wrong. The Convention would not have seen the light of day without a thoughtful knitting together of a global movement by domestic workers' organisations and allies across continents. The passing of the Convention broke the silos of "formal labour movement" that is part of official ILO and the "informal labour movement" that usually has no status or at best observer status in the ILO. The passage of C189 is a reflection of how the "informal labour movement", the women workers' movement and transnational feminism are changing the labour movement as a whole.

The number of domestic workers in India is a disputed number ranging from 4.75 million to 90 million. The National Platform for Domestic Workers approximates it at 50 million. The varied numbers only points to a structural problem in the domestic work industry - it is invisible, unreported, and presents many practical problems to the data collector. However there is agreement that the number of domestic workers has increased dramatically in the 21st century. The National Sample Survey Organisation (NSSO) data reveals that the number of domestic workers in urban areas increased by 68 per cent in the decade between 1999-2000 and 2009-2010. Scholars have documented a similar increase in migrant domestic workers worldwide signalling a growing need in the "care industry."

In India, domestic workers are often inter-state migrants from poorer states and rural areas to urban areas. Researchers and activists also note that migrant domestic workers are increasingly being trafficked by unscrupulous recruitment agencies who supply labour to urban areas, and can trap women in situations of sexual violence and egregious human rights abuses.

Domestic workers are categorized approximately into two categories - live outs and live-ins; part-time workers who are all live-outs and full-time workers who can be either. Domestic workers' work is usually undefined and hours infinitely stretchable. A cook may be asked to clean or vice versa; and usually the extra work and time is uncompensated. A cleaning person may be asked to also do childcare, eldercare, shop for groceries, and so on without adequate or any extra compensation. Domestic workers' wages are undefined and dependent on the vagaries of the labour market, the location of employment, and their ability to bargain with respective employers privately. Domestic workers have no access to leave; their pay is deducted if they take leave. Some get Sundays off; some never get a day off. Needless to say that domestic workers have no provision for social security - PF, ESI and pension.

The de-valuation of domestic work, as women's work, has been written about extensively. Domestic work, housework, and housewife's work occupy a space that is de-valued, unacknowledged, under-paid and unpaid in the world of labour. In India, domestic workers have been left out of the labour laws as they are not considered 'workers' and their work is not considered an 'industry'. There have been sporadic attempts to bring domestic work under legal purview starting as early as 1959 when a Domestic Workers (Conditions of Service) Bill, a private members' bill was introduced in the Rajya Sabha. This bill together with All India Domestic Servants Bill was introduced in the Lok Sabha. In 1972 and 1977 two further private member bills [Domestic Workers (Conditions of Service) Bill, 1972 and the Domestic Workers (Conditions of Service) Bill, 1977] were introduced in the Lok Sabha, which provided for the Industrial Disputes Act, 1947 to be extended to domestic workers. In 1989, the House Workers (Conditions of Service) Bill was introduced. All these bills lapsed or were ignored for various reasons. They had tried to introduce minimum working conditions such as wages, hours, leave; provide mechanism for registration of workers; and even a welfare fund to which employers would contribute.

Much like the rest of the world, the Government of India continued to perceive domestic workers not as a labour rights issue but as an entitlement of employers. In India, as across the world, equal remuneration for women was a greater priority than the rights of domestic workers, as it affected middle class working women who were trying to get a voice in the mainstream labour movement. Domestic workers, given their abject condition, are at most worthy of some patronizing "benefits" so that their much-needed labour supply could be maintained. Trade unions across the political spectrum in India did not think them worthy of being organized as a class of workers.

Ultimately, women's organisations and feminists that were concerned with informal sector and low-wage women's work took to organizing domestic workers - not necessarily as a union but as collectives of various types. Radical shifts in global politics towards the end of 20th century also changed institutions like the ILO. As Eileen Boris and Jennifer Fish says: "During the last third of the twentieth century, the ILO... attempted to adapt to the twists and turns of global politics, ... declines in industrial unions, the emergence of the service sector, ... the rise of neoliberalism through market ideology, financialization, and structural adjustment; and the unraveling of social democratic welfare solutions to capitalist globalization. It investigated domestic work in specific locales: in 1993, for example, the ILC recommended placing domestic workers under the labor law in post-apartheid South Africa. In approving Convention 177 on Home Work in 1996, it set a precedent that home-based employment deserved coverage under labor standards." The Director-General of ILO at that time, Juan Somavia encouraged an emphasis on women's labor, the informal economy, and transnational migration "... and 'dedicated the Office to 'internalizing' gender equality in 'all our technical work, operational activities and support services'."

As domestic workers organized themselves outside the mainstream and official labour movement worldwide and in India, their issues became foregrounded in the 21st century. Global organizations such as WIEGO (Women in the Informal Economy Globalising and Organising) and global unions like IUF (International Union of Food-workers) became their strongest allies internationally, and the International Domestic Workers Network (IDWN) was founded in 2006. The domestic workers' global movement finally won when Convention 189 was passed in the ILO in 2011. IDWN became the first global union federation of women workers and re-named itself International Domestic Workers Federation (IDWF) at its Founding Congress in Uruguay in 2013. Uruguay was the first country to ratify C189.

The Government of India in recent years, under pressure, has taken some steps to provide legal protection and social security to domestic workers. Domestic workers have been included in the Unorganized Workers' Social Security Act (2008) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013). In 2010/11 the GoI created a task force that included involvement from civil society to draw out a national policy for Domestic Workers. National Policy on Domestic Workers has been formulated by the Ministry of Labour but is yet to be notified.

A central law is required for regulating this sector since the workers frequently cross inter-state boundaries. Various bills have been proposed such as one by the National Commission for Women in 2008 and another the Domestic Workers Rights Campaign in 2010. But we still do not have a national law to protect the rights and welfare of the largest as well as the fastest growing sector of employment for women in the urban areas.

India has not yet ratified Convention 189, although 22 countries have. India did sign on to the Convention when it passed but its refusal to ratify shows its disinclination for constructing national laws that would need to follow ratification.

According to National Commission for Enterprises in the Unorganised Sector (NCEUS) 2007, majority of domestic workers - about 84 per cent and 92 per cent in urban and rural areas respectively - get wages

much below the minimum wage. A significant per cent of domestic workers are single breadwinners; although through the gendered lens of common wisdom they are viewed as earning "supplemental" income in addition to their male spouses. It is not surprising that a majority of them are in debt regularly, just to meet their regular expenses.

Over the years, a handful of states have taken different actions regarding minimum wages for domestic workers, particularly with the Central Government recommending States to define minimum wages for domestic workers. Close to ten states have included domestic workers in the Schedule of Employment and as of 2012, minimum wages for domestic workers were notified in six states: Karnataka, Andhra Pradesh Bihar, Rajasthan, Kerala and Jharkhand. Three states have constituted separate Domestic Worker Welfare Boards. The government of Maharashtra has issued a code of conduct to all employers of domestic workers which include 1) 15 days of paid leave, 2) a weekly day off or a day's salary, 3) a month salary as bonus at Diwali and travel allowance to go to their native places for holidays, 4) medical assistance, and 5) increment in the domestic workers salary.

The Minimum Wage notification and the inclusion of domestic work in the Schedule of Employment in a number of states is an important step in the struggle for labour rights in this long-neglected sector. However, it is important to note that this in itself does not establish domestic work as having an employment relationship within the private household. This problem is side-stepped as wages are notified based on tasks.

The tasks in most states, except for Kerala, are limited to only a few tasks such as cleaning and cooking among a few others. This continues to demonstrate the lack of acknowledgement given to the vast range of work of different skill levels performed in the home. One of the challenges continues to be definition of all that constitutes domestic work; as well as an acknowledgement of the fact the several tasks in domestic work require high level of skills. Instead "domestic work" continues to be lumped under unskilled work globally and in India.

Minimum wage setting practices in domestic work: an inter-state analysis published by the ILO and researched by Neetha N. reports that hourly rates have been set in the states that have notified minimum wage for domestic worker. This shows that part-time workers are being included but there is little in terms of rest, overtime, and the infinitely stretchable definition of domestic work continues to be a problem. A worker with multiple employers faces work intensification in terms of hours and tasks and this is unacknowledged. A live-in worker whose work is never finished is deprived of overtime, rest and other rights that make for a human life. The notifications do not take into account house size and family size.

The report also notes that consultation with domestic workers or their representatives was limited in wage setting although improved over time due to pressure of domestic workers' organisations. Employers' and their organisations were not consulted sufficiently either.

While the statutory wages are time rates, usually wage rates for part time workers in the market are calculated in terms of tasks. The ILO report notes that "there are difficulties in comparing task based wage with a time rate wage in the context of part time workers as the details of the tasks differ from one house to another depending on the household profile such as number of members, age of members, area of the house, and so on..." Some domestic workers organisations in India have developed "rate cards" through consultations with their members; it is important to note that statutory wages fall far short of the rate cards which are not highly aspirational wages but rather what the worker thinks is minimally fair.

When domestic workers' task wages are compared to other informal sector work such as construction, one

finds that the domestic workers' rates are lowest. The ILO notes that this clearly foregrounds the devaluation of domestic work.

Organising and Bargaining, Building Unity and Power

Organising domestic workers, much like other low-wage informal sector work, is extremely challenging. Domestic worker organizing is further complicated by the issue of privacy of a household that is also a workplace. Indeed, making the private home open to such things like labour inspection and monitoring, is strongly resisted.

The logic of where workers live and work play a crucial role in an organizing model. Workers who work in a particular locality, usually also live in slum clusters together - either near the employers' locality or further away depending on the way the city is constructed. Organisations usually organize according to the residential logic of the workers. The most difficult workers to organize are live-in workers as they are hidden in employers' homes which are deemed private.

A difficult issue for a labour-oriented (as opposed to welfare-oriented) organization is the identification of employers "as a group" with which bargaining can take place. Domestic workers want to be identified as a "group of workers", and want freedom of association and collective bargaining with an "employers' group". In Uruguay, the country to first ratify C189, collective bargaining takes place at a national level between representatives from the Ministry of Labour and Social Security, the Union of Domestic Workers (SUTD), and the employers' association Liga de Amas de Casa (LACCU).

In India, organisations support an individual worker to negotiate one-on-one with her individual employer but this does not necessarily lead to collective bargaining at a scale. Some organisations may be able to set prevailing wages in an area or even in a city by controlling labour supply; however, there is usually no contract or written agreement with employer(s). Yet another method that has not been tried long enough or widely enough but which some organisations are working on is to work towards a written contract between workers' groups and employers groups (identified through, for example, Resident Welfare Associations) by locality.

The National Platform for Domestic Workers (NPDW) was created in 2012 in India and comprises of several domestic workers unions and member based organizations from around the country that are demanding a comprehensive legislation for domestic workers. In the ILO's report on minimum wages mentioned above, it recommends, among other things, a "National Minimum Wage for Domestic Work: To protect the interest of domestic workers and to bring overall uniformity in the minimum wage rates across states there is a need to fix a national floor minimum wage below which the states cannot fix the state level wages"; "Better Minimum Wage Rates: Minimum wage rates of domestic workers should be at least on par with comparable work. The rates should also take into account the living needs of workers and their families"; and "Simplification of Rates: It may be desirable to have a flat rate for all tasks, without task differentiation. This would make the rate simple and easy to comprehend."

Several countries around the world have shown the way by ratifying C189, developing national legislation regulating the domestic work industry, and recognizing bargaining rights of domestic workers. As India aspires to become one of the top economies of the world, it would be short-sighted to think that growth is possible without progress in the one industry that makes all other work possible... domestic work.

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DISMAL WORKING CONDITIONS : MAPPING THE SECTOR

Varghese Theckanath*

"Domestic Work is Work!" and "Domestic Workers are Workers!" are affirmative slogans heard around the world particularly in the last 7-8 years in a sector that is otherwise hardly recognised both in fact and in law. This quest among domestic workers to be recognized as workers like any other is beginning to bear results. Domestic Workers Convention 189 of the International Labour Organisation (ILO) and the accompanying Recommendation (No. 201) are historical achievements.

Who are domestic workers? What are the conditions of work that are unique to the sector? Why are they excluded from rights that other workers take for granted? What do they earn? Do they enjoy periods of rest and holidays like other workers? How do domestic workers in India compare with their compatriots in other parts of the world? This paper attempts to address briefly some of these issues with the help of a study of domestic workers in eleven towns in Andhra Pradesh (Rajam and Vizianagaram) and Telangana (Hyderabad, Ranga Reddy, Pattancheru, Sanga Reddy, Warangal, Nalgonda, Suryapet, Wanaparthy and Mahboobnagar) undertaken by Montfort Social Institute (MSI), Hyderabad, in 2014.

Defining Domestic Workers

The problems regarding the status of domestic workers begin with the extreme heterogeneity of the sector. This diversity is most visible in the nature of their work. They cook, clean, look after children and the elderly, shop for the family, take children to school, guard the house, do gardening... the list of their daily chores is endless. The gendered nature of the work (at least 80% of domestic workers the world over are women), the peculiar nature of the employer-employee relationship, place of work and other factors add to the complexity in attempts at defining domestic work and domestic workers. It is considering these factors that the framers of Convention 189 (2011) of the ILO agreed on the following definition (Article 1): (a) the term "domestic work" means work performed in or for a household or households; (b) the term "domestic worker" means any person engaged in domestic work within an employment relationship.

The most distinctive feature of this simple definition is that it is employment to provide services for a private household within an employment relationship. Such a definition not only avoids a listing of specific tasks which can differ from region to region and household to household, but equally importantly is in consonance with the definition provided by the International Standard Industrial Classification (ISIC) that talks about "Activities of private households as employers of domestic staff" (Division 95). The definition also avoids the ambiguity of similar services provided in an institutional framework such as in hospitals, orphanages, old age homes and others.

In spite of the clarity provided in International Law, a clear definition has not still emerged within the policy framework in India. The Draft National Policy of the Government of India defines "Domestic Worker" as: "...a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary or permanent, part time or full time basis to do the household work, but does not include any member of the family of the employer" (Final Report of the Task Force on Domestic Workers, MOLE, 2011). The 2015 Draft National Policy follows the same definition except for adding the age limit between 18 and 60 years. These definitions basically follow the same tangent as that provided by Convention 189, maintaining the substantive elements of "household work" "in an employment relationship". However, there has been a great deal of debate both among policy makers and domestic workers' organisations whether the definition should include "in and for" or "in" the household. This is for the reason that a vast

majority of domestic workers are women who work "in" the household, while those who work "for" the household such as gardeners, security personnel, drivers and others work outside the household and are generally men. There are already laws that govern some of these "for" occupations.

Counting Domestic Workers

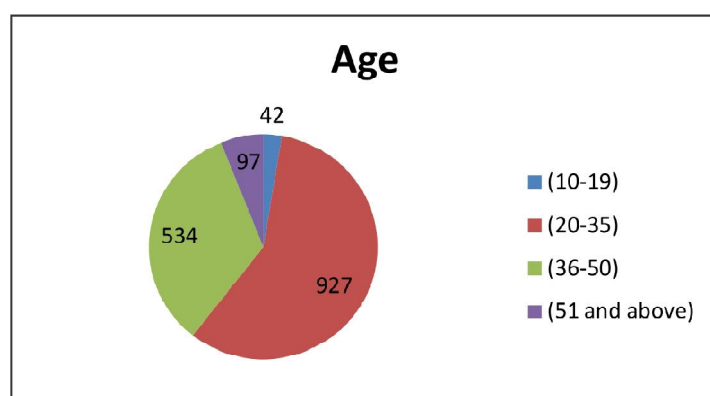
Estimates of Domestic workers are rather fuzzy. A 2015 report of the ILO put the number of domestic workers at 67.1 million. With Globalization that threw open new opportunities for the middle class there has been a significant demand for domestic workers. According to the ILO estimates, the sector grew by almost 20 million during the 1995-2010 period accounting for 1.7 per cent of the global employment. The Asia - Pacific region accounted for 21.5 million of the global estimates, a substantial increase from 13.8 million in 1995. The sector employs three per cent of all paid employees in the region, and as high as 7.8 per cent of women in paid work. Eighty one per cent of domestic workers in the region are women.

The estimates of domestic workers in India range from as low as 2.5 million to as high as 90 million. While the 61st Round of the National Sample Survey (NSS) conducted in 2005/6 estimated the number of domestic workers to be 4.5 million representing 1 per cent of the total employment and 2.2 per cent of all women employed. On the other hand according to the 66th round of the NSS, only 0.8 per cent of all employed persons were domestic workers. The Employment and Unemployment Survey, which was conducted by the Labour Bureau at the same time, however, estimated that 2.7 per cent of all employed persons were in private households working as maids, watchmen or cooks (MOLE 2010). The 2015 Draft National Policy places the number of domestic workers in the country at 30 million.

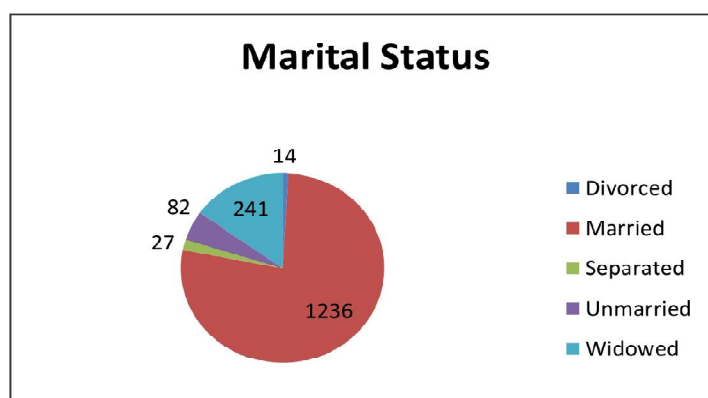
Such disparities have much to do with the lack of a uniform and consistent definition of domestic workers, as much as with the hidden nature of their work, diversity, gender, caste and educational profiles. Lack of reliable estimates has affected policy making, budget allocations and other factors that determine the identity, empowerment, entitlements and welfare of domestic workers.

Profile of the Domestic Worker

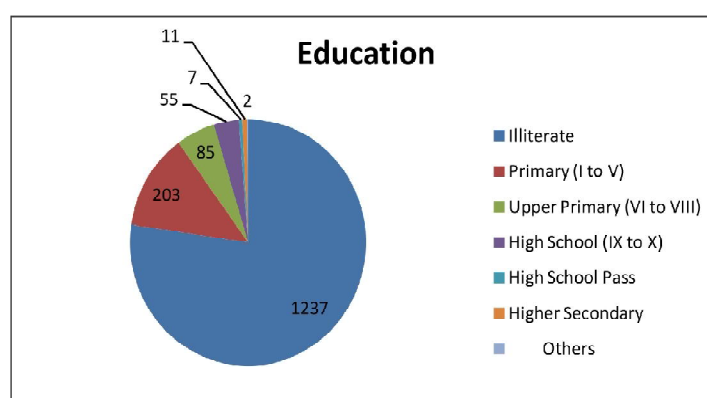
The MSI (Montfort Social Institute) study indicates that a majority of workers (58%) are in the prime of their life being in the 20-35 year age group. Another 33 per cent are in the 36-50 year age group. There is a sharp decline in the number of workers in the 50 years and above age group. It is the contention of organisations of domestic workers that given the arduous nature of their work they have to be provided their retirement benefits earlier when compared to other workers, say from 55 years. The age at which a vast majority of domestic workers tend to retire according to the study, seems to justify the demand. However in the 2015 National Policy definition, the retirement age is 60.



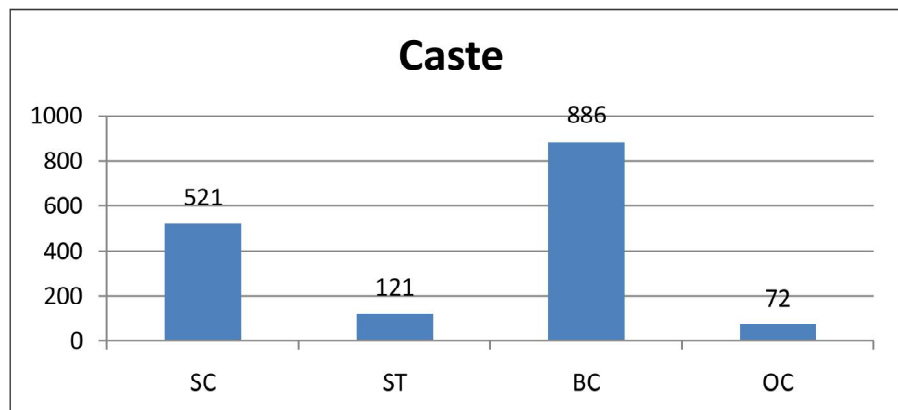
The study indicates that a vast majority of domestic workers are married. It is only a small per centage (0.051%) of the sample that is unmarried. But surprisingly, there are as many as 241 (15%) workers who are widowed. If we add those who are divorced and separated, the number adds up to almost 18 per cent of the total sample size of 1600. This is an indicator of the number of women headed families among domestic workers. This places a great burden on the women workers to take care of their families single handedly. In fact one of the reasons why these women take up domestic work in spite of the long hours and often humiliating circumstances is the dire straits they are placed in to fend for their families. Even among the married women there are many who are sole bread winners as their husbands are either sick and invalid or prone to alcoholism.



The education level of domestic workers is another indicator of their reason for entering domestic work, their low status, and the lower salaries they receive. Over 77 per cent of the sample studied reported that they are illiterate. Add to it another 203 (13%) workers who said they only reached the Primary level of education. It is a mere 76 workers (5%) who said they attained high school or higher level.



Caste composition of domestic workers is another indicator of the lower profile of domestic workers when compared to other workers. Over half the domestic workers in the sample studied (55%) come from the Backward Classes. Almost 33 per cent belong to Scheduled Castes. 8 per cent are Tribals. Only 5 per cent come from other caste groups. It is interesting to note that the proportion of Backward Classes and Tribals match their size in the general population, while there is a disproportionately higher number from among the Scheduled Caste communities. Conversely, there is a far lesser proportion of domestic workers drawn from among other castes.



Education and Caste besides the gender of domestic workers have a telling effect on the status of domestic workers and their lower wages. Their single or divorced status adds to their vulnerability in terms of their capacity to bargain for higher wages or better conditions of work.

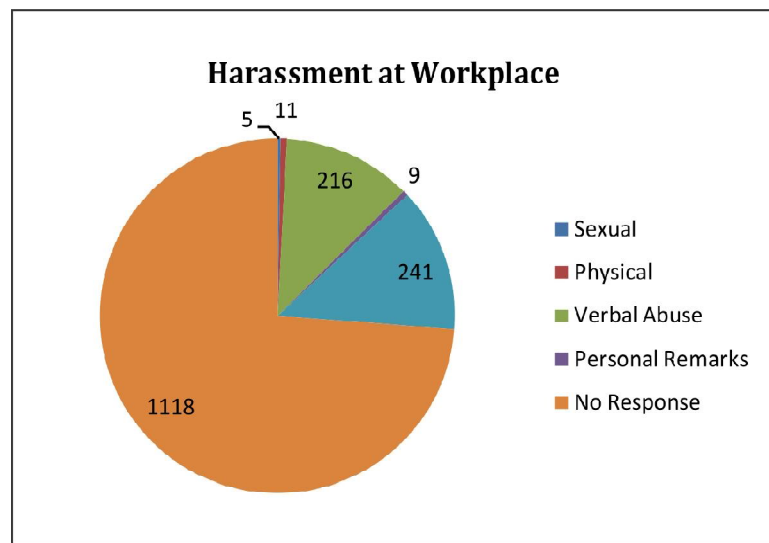
Working Conditions

Domestic workers unlike others work in the confines of homes of their employers with generally no co-workers as companions. They typically perform the unpaid work normally performed by women for their households. This makes domestic work undervalued in monetary terms, is informal and goes undocumented. Since their work does not fit into the frame of what is recognised as work in monetary terms, they are excluded from labour legislative frameworks.

The first major factor in ensuring proper working conditions is a written agreement between the worker and the employer that spells out the hours of work, conditions of work and wages. The MSI Study shows that only as few as 38 (2%) workers have a Written Agreement with their employers.



While it is true that an oral agreement is also valid in law, given the multiple vulnerabilities of the workers in comparison to their employers, they invariably lose out when there is a dispute. There are many instances of cases of theft foisted on them when domestic workers insist that the Agreement is honoured by the employer.

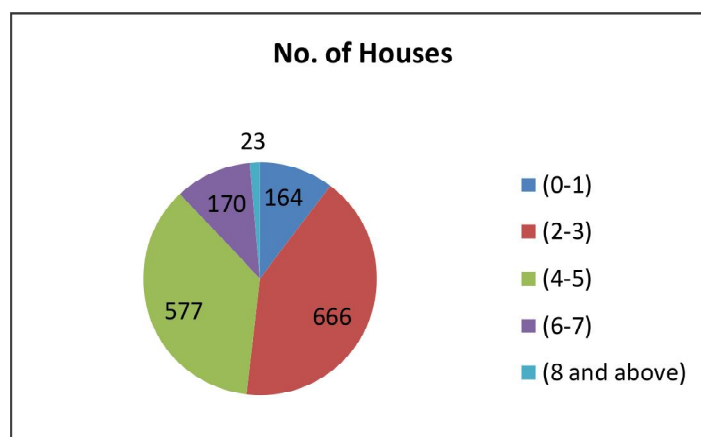


The most difficult aspect of the conditions of work in the sector is the physical, mental and sexual abuse or harassment that domestic workers are prone to. This is all the more so in the case of live-in workers. The MSI study indicates verbal abuse and personal remarks that are derogatory and humiliating. But what is even more significant is that 70 per cent of the workers interviewed refused to discuss the issue. Equally note-worthy is that the initial drafts of the Sexual Harassment at Workplace Act (2013) specifically said that while all other categories of women are included in the ambit of the Act, domestic workers will be kept out of it. This is an indicator of the mind set of policy makers and the public at large who are concerned that violence within the household is not placed in the public domain. It is after much advocacy, lobbying and agitation that domestic workers were included in the Bill that was finally adopted by the Parliament. But no significant steps have been taken so far to reach the benefits of the Act to domestic workers in terms of the formation of complaint and redress mechanisms that they can access.

Work and Rest

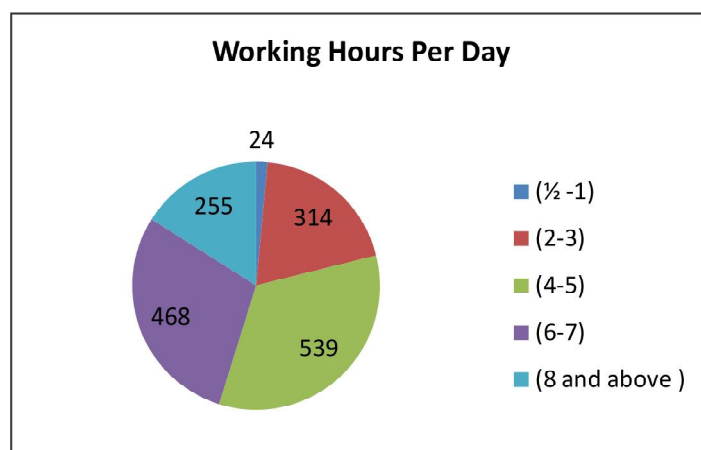
The very first Convention adopted by the ILO after its formation in 1919 was the Hours of Work (Industry) Convention. This is because the well being of workers hinges on the number of hours of work, working time arrangements and rest time. Most countries have set the limit of working hours between 40 to 48 hours per week. But domestic workers are often excluded from this limit. A 2008 study showed that domestic workers in Malaysia work for as many as 65.9 hours where as they work for only 15.1 in Austria. There is no national level data on the number of hours of work available in India. It is such disparities that encouraged to add in Article 10 of the Convention 189 that: "Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristic of domestic work." The Article further states: "Weekly rest shall be at least 24 consecutive hours". Thus, besides weekly working hours, weekly rest periods as well as annual leave are important elements in working time regulations.

The more the number of houses they work, it is likely that they put in more hours of work than they are paid for. They also spend more time commuting between houses that employ them. The MSI study shows that the largest number of workers are employed work in 4-5 houses (42%), followed by those who work in 2-3 houses (36%). The numbers of those who work in 6-7 or 8 and more houses are not insignificant.



The above figures show that it is only 10 per cent of workers who work with one employer. This is significant because in extending social security benefits to domestic workers where the contribution of employers is necessary, the question asked among policy makers is that since most workers have multiple employers, which of them will make their contribution to the welfare of the worker. In countries like the Philippines, all who employ domestic workers are registered with the local government and make a proportionate contribution to the welfare of their workers based on the number of hours of their work. Registration of employers and workers by the Labour Department is a way to regulate the employment of domestic workers.

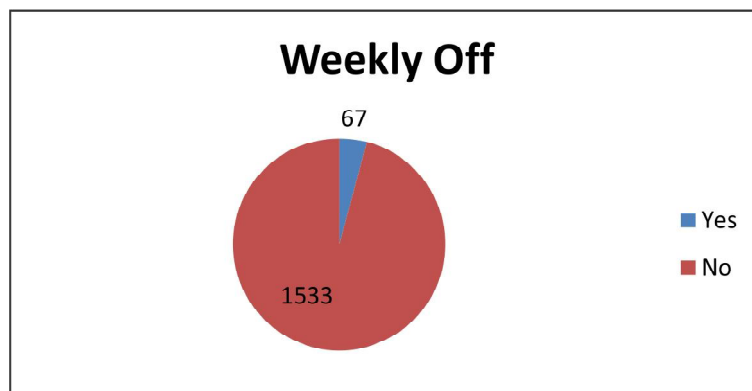
The number of hours domestic workers put in every day is often an indication of their economic well being. It is found that women headed households are dependent on the income of the domestic worker to survive. Hence they tend to put in more hours of work.



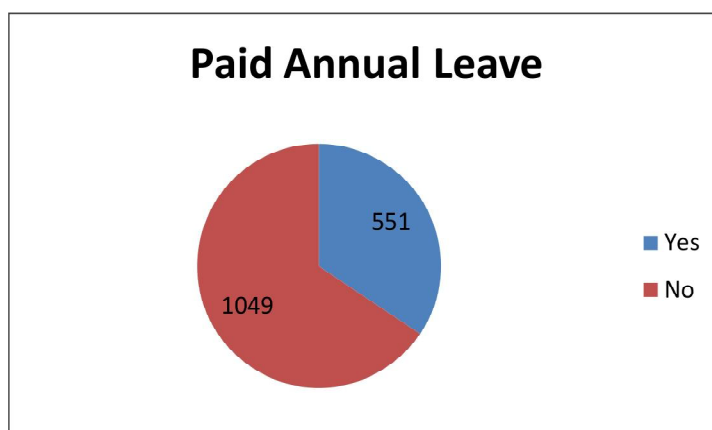
Many of them work in many houses to be able to earn enough to fend for the family. In the study, it is found that while 34 per cent of the women surveyed work for 4-5 hours daily, a significant number of them (16%) put in 8 or more hours of work. Often having to start their work very early in the morning giving them little time to spare for their family.

A major demand of workers organisations have been for a day off every week to spend with their families and for leisure. The study indicates that it is as few as 67 workers (4%) who have the luxury of a weekly holiday. The lack of a weekly off has major consequences on the health and well being not only of the worker, but also on the physical and emotional welfare of their families. Most domestic workers do not get

paid annual holidays either. As is the case with many domestic workers they migrate to urban centres leaving their elderly behind in the villages.



Periodical visits to their families are necessary to connect with their loved ones and to care for their well being. But it is found that only 34 per cent of domestic workers surveyed have such annual paid holidays.



In the case of many who have provision for annual holidays, it is linked to the holidays of their employers leaving little room for workers to plan it according to their specific needs. Others are compelled to take holidays on their own volition without payment, and often at the risk of losing their job on return.

Wages

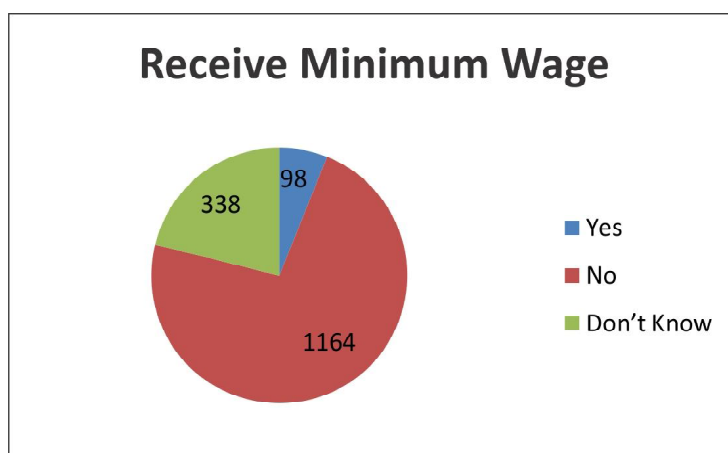
The extent of wages, periodicity of payment, and the type of wage, cash or kind, paid are the most crucial elements among the working conditions of a worker. This is particularly so in the case of workers who suffer multiple vulnerabilities such as domestic workers. One of the main objectives of fixing a minimum wage according the ILO Convention 131 (1970), is to protect "the disadvantaged groups of wage earners" against "unduly low wages". Art. 11 of Convention 189 stipulates that domestic workers need to be brought under the minimum wage coverage: "Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex". Accordingly some of the States in India have brought domestic workers under the Schedule of the Minimum Wages Act. This is the case with Kerala, Tamil Nadu, Karnataka, Rajasthan, Andhra Pradesh, Telangana and a few others, thanks to pressure in this regard from organisations of domestic workers. But most of the other States are yet to take the necessary steps in this regard.

The minimum wage stipulated in the undivided State of Andhra Pradesh in 2014 when the study was under taken was the following:

Duration of the working hours	Basic wage (Rs.)	VDA for 195 points	Total Wages (Rs.)
½ hour	284.00	65.81	349.81
1 hour	565.00	131.63	696.63
1 ½ hour	848.00	197.44	1045.00
8 hours	4521.00	1053.00	5574.00

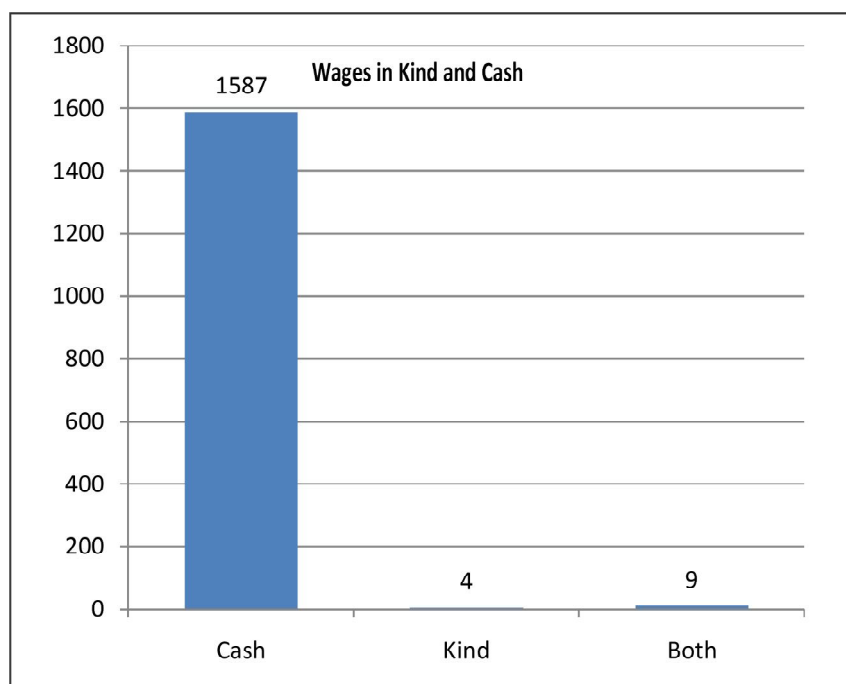
Minimum Wage in Andhra Pradesh (2014)

The minimum wage for domestic workers in the two states of Andhra Pradesh and Telangana is fixed with the Basic for per hours of work along with VDA that is revised every six months. There is also the provision for a weekly holiday incorporated into the Government Order. However, the MSI study found that it is only 6 per cent of the workers who received equal to more of the minimum wages as their remuneration. 73 per cent said they do not receive the minimum wages stipulated by the government with some receiving as little as only one fourth of the minimum. It was also found that there is no major difference between the small towns and big cities when it comes to wages. While it is true that domestic workers receive a higher salary in the up market areas in major cities, the situation of workers in most other areas in the big cities is comparable to those of the small towns where the salaries are generally low.



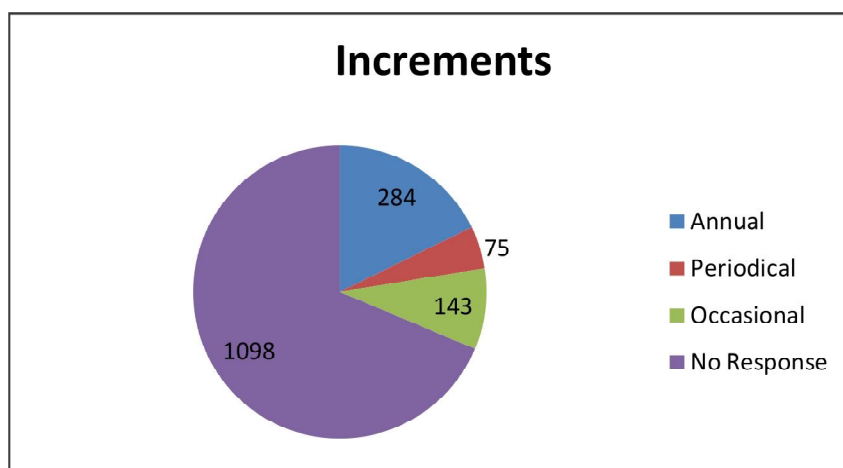
As far as fixation of minimum wages is concerned, it varies from State to State. While the Ministry of Labour announced that it is considering Rs. 10,000 as the minimum wage for domestic workers, the Central Trade Unions have been demanding much higher wages for workers across sectors. However an ILO study states that the wages received by domestic workers in India is 31.6 per cent (2005/6) lower than the average wages for all paid employees. This is a trend that is found across the globe. If it is 63.8 per cent (2006) in Honduras and 61 per cent (2009) in Vietnam, it is as low as 14 per cent of the average wages (2005/6) in Botswana. This situation needs to be corrected not only in India, but all over the world if the lot of domestic workers is to improve to be on par with other workers.

Whether wages are paid in cash or in kind are another indicator of the general well being of domestic

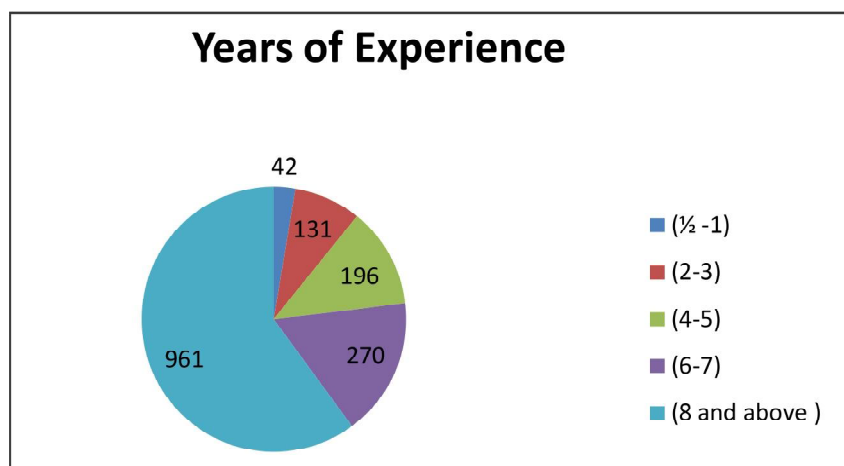


workers. The study found that with a few exceptions, the workers were paid in cash. However, they also received clothes and other necessities in kind on special occasions such as festivals that are considered a compensation for the otherwise low regular wages.

Increments in salary are another important factor that determines the standard of life of domestic workers. The MSI study shows that while about 18 per cent workers reported a regular annual increment in their salaries, 5 per cent said their salaries were increased periodically and 9 per cent indicated occasional increment. Almost 69 per cent of the workers surveyed did not respond to the question at all.

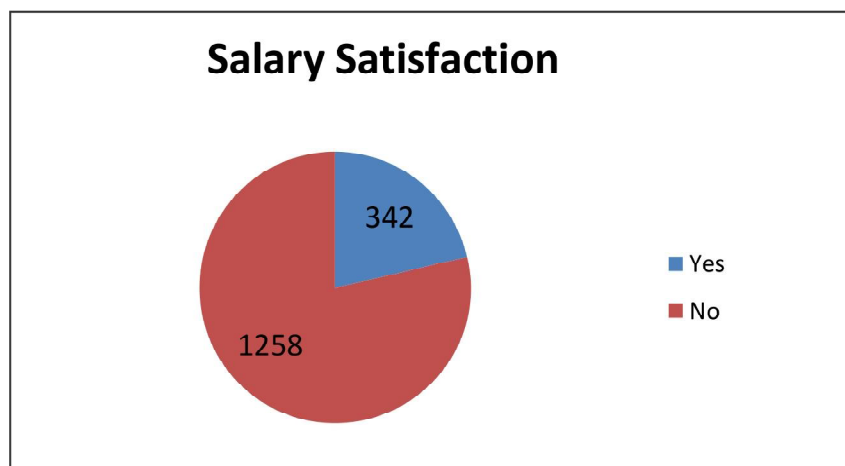


It is the experience in the field that with no markers generally used in payment of wages, increments when given occur due to persistent plea for it by the workers, or even threat of resignation. But this is often not a deterrent because the supply side in availability of workers is heavily skewed in favour of employers. The MSI study shows that a majority of domestic workers surveyed (60%) have eight or more years of experience.



Another 17 per cent have 6-7 years of experience. It is only a small portion of workers surveyed (3%) who said that they have only one year or less of experience in the work. However, domestic work is one sector where the years of experience does not seem to count when it comes to wages. A new entrant to the sector often receives more wages than someone who has been there for many years. Studies have also shown that even skill up gradation doesn't make a difference on an average when it is a matter of wages.

All these add up to a great deal of dissatisfaction among domestic workers, particularly regarding the wages they receive and the way it is administered. Results of the Study show that 79 per cent of domestic workers surveyed are unhappy with their wages. Such dissatisfaction among workers is bound to be reflected in their work and relationship with their employers.



However, there is a clear change in the mood of workers. The case of Rajam in Andhra Pradesh, one of the towns surveyed, is an indicator of such change. Thanks to the united stand of the Workers Union in the town not to go to work in houses of employers who do not increase their wages periodically, there has been a marked change in the wage patterns. Such changes are happening in small measures everywhere.

No matter what the level of wages is, domestic workers are often vulnerable to abusive practices with regard to the payment of wages. Payment in kind is particularly prevalent in many parts of the world especially in Asia and Africa. Provision of accommodation and food is one most prevalent way. This has the potential for abuse especially when it is imposed unilaterally, and the value of such payment is excessive. Domestic

workers employed by Armed Forces in India are a case in point. The 'Servants Quarters' provided for the Officers' Cadre is often used as a bait to receive free services from helpless workers who cannot afford to pay for accommodation in cities. While the women are forced to work in the households of their employers, with a demand that they are available to the household round-the-clock in lieu of accommodation, the men go out to earn a living. Such exploitation of domestic workers is common in other similar sectors too. This is the reason that the provisions of the Protection of Wages Convention (No. 95 of 1949) is reiterated in Article 12 (2) of Convention 189: "National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable."

Conclusion

Domestic workers form an important sector of employment for women in the country. It spares women in middle class families from the drudgery of cooking, cleaning, caring for children and elderly and a myriad of other chores, so that they can go out to work to augment their income on the one hand, and improve their status both within the family and in society. As an aftermath of globalization that has thrown open new opportunities for educated and skilled, an increasing number of women are going out to work. But the situation of domestic workers themselves does not indicate that the empowerment and increased income levels of middle class women have passed on to the women who take their place as care givers in their families. Low wages, long hours of work with no weekly or annual holidays, risk of physical, and mental and sexual abuse characterise the conditions of their work. Most labour legislations do not include them in their ambit, or hardly come to their rescue when the existing laws are impinged.

This article has tried to understand the prevailing conditions of domestic workers as against global and national standards with regard to two crucial factors in providing decent work: Working conditions and wage administration. It is obvious that large disparities exist between domestic workers and workers in other sectors. Studies show that many countries in Latin America and the Caribbean, in Africa and the countries of the Northern Hemisphere have already extended minimum protection that applies to other workers. By contrast, countries in Asia and the Middle East are the exception.

Very little has changed in the situation of domestic workers in India since Convention 189 by the ILO was adopted in 2011. In spite of the constant demand from domestic workers organisations for the country to ratify the Convention, very little effort has been made on the excuse that India does not ratify International Labour Conventions until the national legislations have been amended to reflect their provisions. Even the National Policy for Domestic Workers work on which started in 2010 is yet to see the light of day!

There is an urgent need to address the issue of decent work deficits for domestic workers at the national level. Current regulations and practices regarding domestic workers, or the lack of it, need to be examined in the light of International Law and the best practices across the world. Trade Unions and organisations of domestic workers have a particularly important responsibility to work with the government and employers in this regard. The greatest challenge however is the mental transformation that is necessary to give domestic workers the respect and dignity that is due to them as workers like any other.

TALES OF ABUSE, EXPLOITATION AND VIOLENCE: ARE WE BOTHERED?

*Anumeha**

Blank eyes staring into space, a limb cut off for daring to escape, dumped in the closet or the toilet with no food and water, raped and brutalized for months, branded with hot iron, forced to eat from the garbage bin, set upon by the house dog for 'defiance' ... the stories get more and more brutal. These are images, not from a horror movie, but actual tales of abuse in households, as average as yours and mine.

In India, live-in domestic help constitutes an invisible category of workers who have migrated or been trafficked from rural and tribal areas to towns and cities. According to official figures, more than four million children, women and girls from poverty-stricken homes are employed as domestic workers in private households. By their very nature of work place isolation, they are the most vulnerable to deprivations, long working hours and horrendous abuses, physical and sexual. They often work for 18 hours a day, seven days a week with remunerations far below the minimum wages. They are also subject to discrimination on grounds of religion, caste and ethnicity. The exploitation of this class revolves around a complex web of actors and circumstance, involving not only the employers but of touts and unregulated labour agents, mostly due to the absence of adequate policies, regulations or legislations.

Data released by the Ministry of Women and Child Development in February 2014, published in response to a question tabled in the Rajya Sabha, tracks reports of violence against domestic helpers between 2010 and 2012. Overall, in India's 28 states and 7 union territories, there were 3,564 cases of alleged violence against domestic workers reported in 2012, up slightly from 3,517 in 2011 and 3,422 in 2010.¹

Articles about physical and sexual abuse of domestic workers have appeared regularly in newspapers over the years. They elicit a range of emotions from horror and outrage to shame, condemnation and disgust on the day they hit the headlines. However they are quickly forgotten until, of course, the next such news report stirs our collective consciousness.

An attempt has been made in this article to document a few cases of outrageous atrocities committed against this vulnerable section. The aim is to bring the extreme conditions of their work into focus, in order to create awareness in the hope that it will lead to statutory interventions, fair terms of employment, better wages and safe and decent working environment for this large workforce.

Saudi diplomat allegedly raped Nepali maids in India(September, 2015)

Residents of Delhi and Gurgaon woke up to newspaper headlines reporting the rape and other sexual offences committed against two maids from Nepal working in a diplomat's house at Gurgaon. These women were held in illegal confinement, starved, beaten up, tortured, sodomised and continuously raped by a Saudi Arabian diplomat, his family and friends over the last few months of reportage.

¹ Available at <http://in.one.un.org/page/rights-for-domestic-workers>, accessed on June 3, 2016

The diplomat was booked under various sections of the Indian Penal Code. This case sent shockwaves through the country and drew their attention to the extent and limits of the immunity enjoyed by diplomats. Article 29 of the 1961 Vienna Convention on Diplomatic Relations specifies that "*the person of a diplomatic agent shall be inviolable. He shall not be liable for any kind of arrest or detention....*" Article 31 reaffirms again that diplomats "*shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction.*"²

The Saudi diplomat in this story simply moved out of this country in the face of outrage and public outcry. The question here is to what extent can this diplomatic immunity be exploited for an individual's benefit, well beyond the conduct and requirement of international relations? Can this diplomatic immunity be absolute? Isn't it time to revisit the clause on diplomatic immunity so that perpetrators of certain types of crimes in countries of their posting, as in this case, are not able to get away?

Tortured 14 year old domestic help rescued from the closet (October, 2015)

A 14 year-old girl was found unconscious in the closet of a businessman's house in Gurgaon. The teenager was taking care of the businessman's twins and belonged to Jharkhand. She had been brought to the businessman's house by her uncle. It was reported that the girl was not only beaten up and attacked with a knife, but was also being starved by the family.

When the activists of an NGO reached the house with the police, in the first attempt they were not able to find anything amiss. In the second attempt after having received another call from a helpline, the girl was found in the almirah, unconscious. Her legs were swollen, she had bruises on her back and marks near her eyes. In her statement to the police, the girl narrated the brutal harassment suffered at the hands of her employers. She said that she would be beaten up every day, her head was repeatedly banged against wall, her hands were burnt and at times would be slashed with knife on the pretext that she was not nice to the children. A case was registered against the perpetrators and the National Commission for Scheduled Tribes had sent a notice to the Gurgaon police seeking answers.³

MP and his dentist wife arrested after maid allegedly tortured to death (November, 2013)

An MP belonging to Bahujan Samaj Party and his dentist wife, Jagriti had been arrested for allegedly torturing their maid to death and beating up another domestic help with rods and an electric iron.

The MP was booked for wiping out evidence and giving false information to save the offender. The body of the maid had injury marks on arms, legs and chest. The chargesheet had alleged that Jagriti had subjected her servants to constant torture and surveillance, would beat her maids mercilessly and did not permit them to visit their hometowns or to leave the flat, or even talk to their families.

During recording of evidence, one of the witnesses deposed that Jagriti was a "lady of very short temperament" and she had been assaulting him as well as the dead victim for years, sometimes even using

²Available at http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf, accessed on June 3, 2016

³Available at <http://www.tribuneindia.com/news/haryana/crime/unconscious-maid-rescued-from-gurgaon-bizman-s-house/146508.html>, accessed on July 4, 2016

hot iron bars, press and grilles. Other sadistic atrocities committed by Jagriti were spitting on the food of her helps and forcing them to eat from the floor like animals. They were even forced to forage for food in the dustbins.⁴ Right now Jagriti is in jail and the charges of abetment to murder against her husband have been dropped, but the trial court has ordered that charges for destruction of evidence be framed against him. He is currently out on bail.⁵

Teenagers tortured and starved in upscale Delhi neighbourhoods in three separate cases (Oct, 2013)

A 13 year old Manipuri girl was rescued from a flat in one of the upscale Delhi colonies. She was often beaten up with a belt, starved and not paid any money. Her employer, a stewardess with Air India, would often slam the girl's head against the wall if she was found resting. The two women accused Bira Thoibi and her sister Stella Noibi are currently in judicial custody.

In another news report, a 15 year old maid from Jharkhand working in an upscale apartment was rescued by an NGO and admitted to Safdurjung hospital with horrific marks of torture like knife injuries, bruises, dog bites and sores all over her body. She alleged that her employer Vandana Dhir, would keep her half naked to prevent her from running away and she had not been paid a single month's salary since she was hired. It was alleged that the help was sometimes forced to drink the urine of her employer and made to eat and sleep in the toilet. The girl did not have clothes on, was badly wounded and had a fractured skull when she was found by her rescuers and her screams had alerted the neighbours, who in turn had called the police. Dhir was employed with a multinational company and is currently in judicial custody.

In another case reported from Dwarka, a 13-year-old girl employed by a doctor couple was rescued after having been locked up for 5 days in the house. The family had left for a six day trip to Bangkok and expressly forbidden her from eating any food except the "sanctioned" *aata* and *namak*. There was a CCTV installed in the house to monitor her movements. She was threatened that she would be beaten up if any item was found to be short on their return. The girl mustered courage one day and shouted for help from the balcony. Neighbours called the police, who had to get a fire engine to bring her down. The girl narrated her ordeal before the Child Welfare Committee that she was beaten up by the couple and hair pulled out which was confirmed by patches of uprooted hair on the scalp.⁶

Other Discriminations and Prejudices Faced by Domestic Workers

Though the practice of untouchability is prohibited by our Constitution, a large chunk of the Indian work force continues to be subjected to it. They are forbidden from touching certain objects in the households, such as idols of gods and goddesses, certain utensils, and rooms in the house where prayers are offered. In some instances domestic workers are not allowed to enter the house through the kitchen. Domestic workers have to go around the house in order to avoid entering through the kitchen.⁷ A study commissioned by the International Labour Organisation (ILO) documents many such acts of discrimination in Bangalore.

⁴Available at <http://www.news18.com/news/politics/bsp-mps-wife-was-doctor-death-survivors-649417.html>, accessed on June 2, 2016

⁵Available at http://zeenews.india.com/news/delhi/maid-torture-case-court-drops-abetment-to-murder-charge-against-ex-mp_1608140.html, accessed on June 2, 2016

⁶Story available at <http://timesofindia.indiatimes.com/city/delhi/Maid-locked-in-hellhole-flat-with-salt-atta/articleshow/12474340.cms>, accessed on June 3, 2016

⁷Unionizing Domestic Workers: Case Study of the INTUC- Karnataka Domestic Workers Congress, by Suneetha Eluri and Alok Singh, Commissioned by ILO

The study reveals that while at work, domestic workers face severe problems even in attending to nature's call as most employers will not allow them the use of their washrooms. Withholding of bladder for long hours can lead to serious urinary tract and bladder infections especially amongst women which may even affect their reproductive organs. This serious problem remains unvoiced and undiscussed even amongst the workers themselves as they are too embarrassed to mention such personal matters in public.

The study reveals that loss of any valuables in the house would invariably lead to accusing the domestic help and even calling the police. It also came to light during discussion with domestic workers that they were uncomfortable and hesitant in answering questions about sexual harassment at work places which routinely go unrevealed, unnoticed and hence unreported.

The discrimination faced by domestic workers also extends to the religion they practice. There are a number of Bangladeshi immigrants working in Delhi households but many of them have to conceal their religious identities by taking up Hindu names.

Exploitation and Abuse of Domestic Workers Abroad

Migration for employment to other countries especially the Middle East offers better opportunities but are fraught with risks, sometimes even life threatening. On the positive side, workers are able to send precious dollars home as remittances which not only help their families but also contribute to the economy of their host country. On the other hand, while doing so many of these workers, especially women domestic workers are pushed into forced labor and trafficking and subject to untold suffering, abuse, torture, physical, sexual and psychological violence. Given below are some of the experiences shared by such workers, gleaned from eyewitness accounts and interviews by the Human Rights Watch.

In Saudi Arabia, domestic workers comprise about a quarter of the eight million foreign workers, but embassies from the labor-sending countries report that abuses against domestic workers account for the vast majority of the complaints they receive. The July 2008, report of the Human Rights Watch documents horrific accounts of abuse and other problems suffered by migrant domestic workers from Asia, to the Kingdom. Firstly, these workers face several problems should they come into conflict with Saudi Arabia's criminal justice system: they are denied access to their consulates and legal aid; slapped with spurious countercharges of theft or witchcraft in efforts to cover up mistreatment; or have to deal with the discriminatory and harsh morality laws that criminalizes mingling with unrelated men and engaging in consensual sexual relationships. Domestic workers who have been victims of rape or sexual harassment but cannot prove it in accordance with strict Sharia evidential standards may also be subject to prosecution for immoral conduct or adultery. Punishment for this range of crimes includes imprisonment, whippings, and in some cases, the death penalty.⁸

In a most disturbing incident of violence and abuse, reported on October 9, 2015, a middle aged Indian maid's right hand was chopped off by her woman employer because she had tried to escape. Her Chennai-based family said that the woman's spinal cord had been permanently injured as a result of the brutality. However, it is a pity that the Indian government lacks either the will or the mechanisms to help the victims of abuse. For instance in this case the family of the victim was pleading the government to secure them compensation from the accused family, and also help pay the victim's medical expenses. While the family has not heard of any action or compensation, the foreign ministry spokesperson maintains that India would "continue to seek justice for the victim".⁹

⁸ Available at <https://www.hrw.org/report/2004/07/13/bad-dreams/exploitation-and-abuse-migrant-workers-saudi-arabia>, accessed on June 4, 2016

⁹ More details available at : <http://www.bbc.com/news/world-asia-india-34483504>

In Kuwait, according to an article published in the Indian Express¹⁰, domestic workers from India, a majority of them from Andhra Pradesh, Tamil Nadu, Kerala and Telangana, face untold hardships. The Indian Embassy in Kuwait puts the numbers of female domestic workers from India employed in the country to over 90,000. A report by the Ministry of External Affairs (MEA) pointed out that domestic workers were exploited by employers by not paying/withholding wage arrears; denial of permission to visit their country in emergency situations, being forced to work additional hours and subjected to physical and mental abuse.

Several factors contribute to migrant domestic workers' isolation, financial stress, and limited access to assistance. Domestic workers may see no way out of abusive situations. Because work permits are tied to the individual employer, leaving or losing one's job typically means immediate repatriation. Many employers confiscate their domestic workers' passports and work permits, meaning women and girls fleeing abusive situations can face arrest and immigration detention. Employers held the passports of every domestic worker that was interviewed by the Human Watch team, and in many cases refused to produce them even after interventions by Saudi authorities or embassy officials. Some employers also restrict domestic workers from making or receiving phone calls, talking to neighbors, or leaving the place of employment independently. The majority of domestic workers interviewed by Human Rights Watch reported that if their employers were not at home, they were locked in the workplace from the outside; several reported being locked in bedrooms or bathrooms for days at a time.¹¹

Exploitation of Child Domestic Workers

According to a study conducted by the National Commission for the Protection of Child Rights on child abuse in India in 2007, almost a quarter of all working children were domestic workers and over 8 out of 10 were girls. One in five of these children were as young as ten to twelve years. Another study by two Delhi-based NGOs — Save the Children and Butterflies — (Rani and Roy (eds), 2005) stated that 90 per cent of child domestic workers were living with their employers, of which 22 per cent were from the posh South Delhi. Parents of 29 per cent had signed a contract with the agents who had brought them to Delhi.¹² Obviously the fact is that despite the existence of legislative frameworks such as The Child Labour (Prevention and Regulation) Act 1986, children continue to be exploited.

As more and more cases of abuse of children in domestic work were publicized, the Juvenile Justice Act, 1986 was replaced by the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJA). In accordance with the UN Convention on the Rights of the Child 1989, the new Act provides for the protection, treatment and rehabilitation of children up to the age of eighteen. Article 29 of it provides for the constitution of district-level Child Welfare Committees (CWCs) that have quasi-judicial authority to dispose of cases of violation of children's rights as well as to provide for the basic needs of victims. According to Ms Bharati Sharma of Shakti Shalini, a child activist who was the first President of one of the CWCs that were constituted in Delhi in 2003, there are sufficient institutional mechanisms to carry out the orders of the CWC for the benefit of the child.¹³

However, they have no powers to prosecute exploitative or abusive agents or employers. In her opinion the Immoral Traffic Prevention Act (ITPA) should be amended to allow prosecution of agents supplying child

¹⁰Available at <http://www.newindianexpress.com/cities/kochi/MEA-Cautions-Against-Exploitation-of-Domestic-Workers-in-Kuwait/2015/08/25/article2991663.ece>, accessed on June 4, 2016

¹¹Available at <https://www.hrw.org/report/2008/07/07/if-i-am-not-human/abuses-against-asian-domestic-workers-saudi-arabia>, accessed on June 4, 2016

¹²ILO Report, 2015- Indispensable yet Unprotected- Working Conditions of Indians at Home and Abroad

¹³ILO Report, 2015- Indispensable yet Unprotected- Working Conditions of Indians at Home and Abroad

labour. This critique may have been addressed in light of the Criminal Law Amendment Act (2013), which includes sentences of ten years to life in prison for any person who is found guilty of trafficking a minor for physical exploitation, sexual exploitation, slavery, any practices similar to slavery, servitude, or forced organ removal. However strong the case may be, agencies and employers are often able to influence the police and move things in their favour. Hence, despite the introduction of strict criminal penalties for violators, the implementation of the law ought to be made more stringent to overcome the existing impunity of employers and agents who violate child rights.¹⁴

Conclusion: Need for Action

For the small number of cases of violence against domestic workers that do get reported, many times more go undetected, and hence undocumented. The reasons are varied. These girls cannot communicate effectively due to their alien environment/ language, lack of a support system, restricted freedom of movement, no awareness of their rights or means to seek redress. These reasons underscore the pressing need for the government to enact a specific central legislation or formulate a legal framework to protect this vulnerable and unorganized sector. It needs to prescribe statutory guidelines and impose criminal penalties for abuse, set up institutions where they can receive redress and widely publicize cases to raise greater awareness.

We as citizens must also ask ourselves why we can't share dining tables or utensils with our domestic workers when we do not mind our pets 'sleeping' on the same bed with us. Recently, there was a picture circulating in the social media of a high profile woman activist and a former minister seated in a restaurant with guests and the baby minder (a young girl) of her grand-child deferentially standing behind. What kind of mindset permits such inhuman behaviour? There will be one day, one hopes, when common scenes like these, which the young domestic servants accept as a norm, would disturb all of us dining in that restaurant.

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DOMESTIC WORKERS: SOME USEFUL LINKS

- International Labor Organization (ILO) <http://bit.ly/1BeK4A1>
- Department of Labor, Government of Maharashtra <http://bit.ly/2a8cz8X>
- SEWA Bharat <http://sewabharat.org/>
- JAGORI <http://www.jagori.org/>
- National Domestic Workers Movement (NDWM) <http://ndwm.org/>
- Montfort Social Institute <http://msihyd.org/>
- Society for Labor and Development (SLD) <http://sldindia.org/>
- Women in Informal Employment: Globalizing and Organizing (WIEGO) <http://wiego.org/>

¹⁴*Ibid*

TOWARDS DIGNITY AND INCLUSIVE EMPOWERMENT: THE JOURNEY SO FAR...

Geeta Menon*

Voices of “Workers in the shadow” are slowly being heard on the canvas of employed, productive workforce. Today the voices may be not so loud, but they are surely emerging on the socio-political landscape of India. The journey so far has been long and arduous no doubt. From the days of bonded labour, part of the feudal *Jajmani* system, to the modern capitalist wage system, and from the days of slavery —where no wages were paid, but payment was in kind — to the modern slavery of the wage system.

Apparently, the domestic workers of today, in the urban and district towns, are in a different work system, than their sisters, of yesteryears. They (especially the part time, and full-day workers) live in their own homes, and go as regular workers to their workplace, which is the employer’s house. At present, we in the union are enabling the workers, that the employer’s home is not their “home” but their “workplace”, their “factory!” However, a large number of migrants, who work as live-in domestic workers, are still in the shadows, invisible behind the curtains of trafficking. This sordid world reveals a mafia of placement agencies who are blatantly involved in the trafficking of girls and women for forced labour trafficking, servitude and slavery.

Thousands of girls all over the country fall prey to trafficking, placement agencies or in search of livelihoods, and enter into the urban upper middle class, and elite households. They work long hours, with no rest or free time, suffer from all kinds of indignities, not given their salary, sexual harassment and face severe isolation, and ill-health. The girls, many times trust them, and even believe they will give them their salary when they leave, or even help settle them in life. However, it must be understood, as it is being increasingly recognised internationally, that domestic workers are neither servants nor machines. They are workers, part of a productive economy, and their identity as workers must be recognised and respected.

In keeping with the vulnerable, invisible scenario in which the domestic worker works, with no definition of workplace, with different employers, with the scattered nature of her work, with the subtle physical, emotional verbal, abuse that takes place in the privacy of the home, it is extremely difficult and challenging to build up the domestic workers collectives. It is a challenge as most of the women themselves believe that they, as workers, are devalued. They themselves value the nuances of loyalty, gratitude, flexibility in this unique employer- employee relationship.

The Domestic Workers Rights Union, supported by the women’s organisation *Stree Jagruti Samiti* (SJS), began to collectivise the domestic workers, to raise awareness and bring about a leadership among the domestic workers themselves. We had to categorise the domestic workers, define their employment situation.

Employment Situation of Domestic Workers

Live-in, full-time workers are the ones that are most likely to be in bonded labour situations, to be trafficked and be most vulnerable to sexual abuse. It is very difficult to protect them because very little is known about what happens inside households. These workers work in the households all through the day and every day; it is, therefore, often difficult for anybody to contact them or for them to get the time to leave the household for meetings.

Full-time workers, who do not live in, usually work from 7 a.m. to 5 or 6 p.m. Other workers, especially part-time workers, may be employed to perform only one kind of task, such as only cooking, only cleaning or

only child care. Often the task allocation has a caste basis. In other situations, the tasks for which the worker is responsible may not be properly defined in the beginning, making it easy for the employer to allocate extra tasks, usually with no gratitude or recognition.

Part-time workers, often work in several houses every day to make a minimal living. Their wages are as low as around Rs 300–500 a month for a basic task. This includes four categories of work—sweeping, mopping, cleaning utensils and washing clothes. There is no regulation of their work. They get no holidays, support or recognition. They are entitled to no leave, not even sick leave. If they do get sick, their pay is usually deducted for the time taken off or the work just piles up for the next day.

Piece rate workers work on particular tasks, and get paid by the task, for example, clothes washers or dhobis, in Bidar charge a rate of Rs 50 per person for washing clothes. This is a monthly rate! In urban areas, it varies. Monthly rates are fixed at, say, Rs 200–250 per task. Most payments are in cash; in some areas, cheque payments are made. Usually, in Bangalore, domestic workers are not paid in kind. But a large number of live-in domestic workers, including the child domestic workers brought in from outside Bangalore city, are paid in kind. Paying in kind means providing them with a place to stay, food, electricity and water. The demand is to get payment in cash, even if the amount is meagre.

Strategies for Organising

Keeping these facts in mind, it is obvious that strategies for organising will vary. The part-timers and full-day workers, living in the slums of Bangalore, are contacted directly through cultural programmes, awareness programmes, membership drives and through the existing NGOs and Community based Organizations (CBOs) in different residential areas. Public sittings, information surveys and street corner meetings are held in these areas. Some volunteers have been working in colleges to sensitise the students to their own domestic help. One of the important, but not necessarily easy, ways of reaching domestic workers in their residential colonies is through NGOs working in these areas. SJS has, through several meetings with NGO staff and with the Self Help Groups that they have helped form, spread awareness on issues faced by domestic workers, as well as held membership camps. Leadership committees in the slums, some affiliated to political parties and political groups such as youth clubs, are also potential contact points.

The strategies to organise residential or live-in domestic workers have been evolved by trial and error. These workers are the most difficult to organise, and getting information about their numbers or contacting them is sometimes impossible.

The impact of the effort to organise domestic workers is certainly being felt although it may not be clearly visible and defined. There are noticeable changes in the women between the time they joined the union and the today. This is evident in the small assertions made by the women and the recognition they have received. An example of this is that the women boldly raised the issue of caste at their workplace. In most households in India, women face discrimination because most of them belong to the dalit caste. Very often, employers give them food in a glass and plate (plastic) that is specially allocated for them. One domestic worker broached this issue with her employer saying, “I am not an outcaste. I clean and wash your house, vessels and clothes. We both have the same blood. I will not drink from a separate plastic cup.” Her assertion helped her to claim her dignity.

Similarly, other women have shared how their employers have begun to see them in a new light. Many of the domestic workers now have a weekly off, get some extra money as bonus and some have even got an increase in salary! The women too have realised the value of collective strength and have managed to

voice and take up issues collectively. Many a time, women have themselves handled issues of allegations of theft and have also negotiated for themselves. Many domestic workers have expressed how their being a member of a union has given them new respect in the police station. They have gained courage in their own lives.

Saraswati, talks about how, after her involvement with the union, she is able to state her own terms and conditions to potential employers before being hired, thus tilting the power dynamics more in her favour. The women tell the story of a fellow union member Shaila, who was wrongfully accused of theft. Shaila was thrown out of her employers' house, and was standing at their gate, crying, when Vonamma, the president of the Executive Committee, and other members of the union came to support her.

Vonamma was able to articulate to the employers that if they were intent on firing Shaila, they would have to make an official police complaint and find some evidence of her guilt. The employers finally gave in, admitting that there had been no theft. Shaila was unable to keep the job, but she was able to retain her pride and her employer was made to apologize. It seems like the community that the union has helped build among these women has been a major driving force for their strength—both collectively and individually. The women have been inspired by one another, and are learning from each other's experiences.

Vonamma was seven years old when she began domestic work. Born in Bangalore, her father died very soon after her birth. Her mother—also a domestic worker—was left with the task of raising eight children. None of them received an education, and as a result, they also joined the workforce. Vonamma toiled away in a kitchen, standing on a stool that would raise her small figure to the kitchen counter, and was beaten by her employers when she displayed tiredness. Now she is twenty-nine, is unmarried, and lives with her mother. On this afternoon, she is cheerful and animated, and leads the proceedings when the meeting commences.

The Executive Committee is elected during the union's general body elections. Women are recruited to the union through intensive fieldwork: SJS goes directly to the places where they live and work. Obviously, the first step is to recognize that these places are no longer just slums, but labour colonies. Most of the women in the union live in slums, and SJS's work involves recognizing that these urban spaces are not merely dwelling places, but sources of labour, and that these women are economic entities. Making an effort to move on from thinking of slums merely as the residences of these women is making the effort to recognize the work that these women do—including daily labour in their own homes, in their capacities as wives, mothers, daughters, daughters-in-law, caretakers, and as women living on the economic margins.

Hailing from various parts of South India, the shared characteristic among the women of SJS is a lack of education and skills. Most only went through a few years of school. For instance, Rajeshwari, the Secretary of the union, was pulled out of school at age fifteen. While this lack of education severely hampers the women's social and economic mobility, Rajeshwari says that working with the unions has undone some of that for many of the women. They are in many ways more empowered to stand up for themselves and preserve their dignity. Saraswati, a member of the union, says that most of the women state their own terms and conditions to future employers, and inform them of their involvement with the union. It appears that being unionized has given these women a greater sense of self and belonging—some larger context and perspective from which to think about the work that they do and their legitimate, economic contributions to their communities.

Rajeshwari works for two families in Mantri Elegance, one of many colossal high-rise apartment buildings that have sprouted in Bangalore in the past two decades. These high rises house Bangalore's ever-

expanding upper-middle class—a generation of young software professionals nurtured and supported by Bangalore’s IT-dominated economy and representative of India’s growing neoliberal practices of large-scale consumerism and capitalism. The great influx of money that this economy has created has given this professional middle class that much more spending potential, leading to a greater demand for domestic help.

While most of the women have resigned themselves to lives in the informal sector—lives that, in all probability, will continue to be on the margins of Bangalore’s society and economy, they seem determined to fight for the rights and dignities they deserve, and more so, for happier lives for their children. The most difficult step in this movement appears to be the translation of these dreams of respectable wages, regular bonuses, and workplace dignity into reality. Two factors stand out more clearly than others as hindrances to the fulfillment of these dreams: firstly, the oppression and mistreatment of domestic workers is firmly embedded in Indian middle-class society’s psyche, and much of the struggle for these women’s rights depends on some level of malleability on the part of their employers. Secondly, there is a sense of inertia among the women when it comes to taking larger steps forward, especially with regard to their own literacy and education. Solving these problems—for example, mobilizing these women to participate in adult education programs of some sort—however, is an expensive, resource-consuming endeavor.

Hanifa and her family, migrated to North Bangalore from neighbouring state Andhra Pradesh two generations previously. Hanifa worked in the garments industry until twenty years ago, after which she has been working for various families on the campus of the Indian Institute of Science in Bangalore. She is now very much an establishment on the campus—her face and family are familiar to most, and she has close personal relationships with many members of the community. As a child, she attended school until she was fifteen, and is literate in English. Not one of her five children, however, has been educated. Her daughters are also domestic workers and her sons are partially unemployed. “My husband wasn’t present,” she says, “I had no choice but to move around. I couldn’t give them an education.

”Hanifa’s situation highlights two points: one, the vulnerability of women like her, who can be dismissed at the employer’s whim. Several of her long-term employers fired her after her daughter was found stealing jewelry from a household in the neighborhood. Now, with a much-reduced income, Hanifa struggles to support her adult children, who have no work.

Second, that a lifetime of work has not enabled her to educate her children, who therefore remain a part of the same low income, informal workforce, thus repeating the cycle of deprivation and marginality.

Hanifa is an example of a member of the informal workforce who would greatly benefit from being organized by unions like SJS. The resources, independence, and community that working with a union would provide her with could perhaps enable her to step out of this cycle—It is the most vulnerable women that continue to be unreachable to unions and activists, despite the fact that they are most often in need of rehabilitation and empowerment. For example, fifty-five-year-old Hanifa, a domestic worker who is not a member of Stree Jagruti Samiti, and who has never been a part of a collective or union, fits the demographic for the kind of woman that organizations like SJS are trying very hard to reach out to—but are hindered in their attempts by centuries of caste, class, and communal barriers. She belongs to a Muslim family that as a Muslim woman, she is already a member of a disempowered minority group, and as a single mother in a low-income household, she is particularly vulnerable, but it is also these factors that leave her still out of reach of unions like SJS.

Women's rights are at such a premium in our country that even a few hundred individuals raising their voice and trying to break the culture of silence is of immeasurable value. Every voice counts because women have to surpass class, caste and patriarchy controls to gain visibility and dignity.

Recognising Domestic Work

It is heartening to see that the ILO, decades after its birth, is willing to recognise domestic work as decent work. This gives the invisible nature of domestic work a visibility and, therefore, the push for all of society to take the notion of domestic work and the workers seriously. The setting up of a Convention will help to establish the notion of domestic work as productive work and, therefore, to be regulated, recognised and protected. It will also push the governments to sit up and pay attention to the plight of domestic workers, who have so far been ignored and treated as though they do not exist and are not human beings.

The proposed Convention will also be of help in pushing for a national legislation, which is needed because the working conditions and realities of domestic workers are very different from that of other unorganised sector workers. The employer-employee relationship and the nature of employment too are very different and are grounded in social realities. Domestic workers are a huge, neglected workforce, comprising mainly women, who are an invisible, productive part of the economy. The nature of the workplace, the lack of access to the households for negotiations and the non-worker identity of domestic workers require not only separate laws but also very different implementation mechanisms.

*** Geeta Menon is co-founder of Stree Jagruti Samati, an organization fighting for the rights of domestic workers**

TO OUR READERS: COMMON CAUSE 2.0

Everything about Common Cause, its initiatives, court cases and activities are now available on our refurbished website commoncause.in

The screenshot shows the Common Cause website homepage. The header features the 'COMMON CAUSE' logo with the tagline 'A Romance with Public Causes Since 1988' and a search bar. Below the header are three main navigation tabs: 'MILESTONES' (with a '35 YEARS' badge), 'GET INVOLVED', and 'INITIATIVES'. The 'MILESTONES' section includes a photo of a construction site and text about a contentment made by Common Cause regarding the Central Bureau of Investigation Director Mr. Ranjit Sinha's meetings. The 'INITIATIVES' section features a 'Democracy Wall' with posts like 'New Evidence Shows Bias in Police Use of Force but Not in Shootings' and 'Administrative Failures and other Learnings from Haryana's Jat Riots'. A 'Read More +' button is visible at the bottom of the content area.

Simply click on the MILESTONES and INITIATIVES tabs to check out the organisation's achievements and interventions. Get in touch with us by just clicking on GET INVOLVED or share your thoughts on the DEMOCRACY WALL. All our PILs can be easily accessed at the COMMON CAUSE CASE LIBRARY.

Please feel free to share your feedback using the FEEDBACK section at the bottom of the page or write in to us at feedback@commoncause.in

- Common Cause Team

INTERNATIONAL LEGAL FRAMEWORK FOR PROTECTION OF DOMESTIC WORKERS

Pallavi Sharma*

Last week, I had the opportunity to watch *Nil Battey Sannata*. For those who are generally skeptical of cinema, *Nil Battey*...is an endearing story of a domestic worker's aspirations and her efforts to inspire her daughter to dream big. Without realizing, we find ourselves rooting for the underdog who might just shatter the assumption that the child of a domestic worker can do no better.

But this article is not about her or her likes who shatter the stereotype and manage to create a better life. It is about millions who don't. It is also about legal provisions, or the lack of them, in India and abroad. It is about how we consider domestic assistance as an entitlement and not as a professional service. It is how we set double standards of respect, dignity and fairness for ourselves while at work but deny the same to the hired help. It is about how we are 'in service', but those engaged in domestic work are 'servants'.

The movie brings visibility to a class that exists in the shadows of urban economies. Domestic workers fall in the vulnerable intersection of economic exploitation, classism, sexism and invisibility of work. Even today, they bear the burdens of a feudal legacy and are routinely discriminated against in terms of place to sit, utensils to eat in, using back entrances to the house and not using toilet facilities.

Problems Faced by Domestic Workers

In India around 4 million people are engaged in domestic work according to official estimates¹. The number is likely to be much higher in reality, given the high incidence of undeclared domestic help and varying definitions of what constitutes as 'domestic work'². (See pages 11 to 21 for more details)

Despite the strength of the workforce and indispensability of their work to the urban economy, this class of work barely gets recognition as labour and those working rarely get the rights ordinarily available to other classes of workers. This is largely due to the fact that the sector is informal, unorganized and in private sphere. As such, it makes compliance and monitoring difficult. There is also a visible lack of parity in negotiating powers of the employers and the employees as the supply of this labour overwhelms the demand, especially in developing countries.

Latent classism and lack of education makes domestic workers prone to violence and abuse at the hands of the employers and placement agencies. Absence of proper documentation adds to their vulnerability, increasing the reliance on the employer to access social security benefits. As employment is largely through word of mouth, personal referrals or other informal media, employment contracts are rarely negotiated, leaving the terms of employment to the whims of the employee. Absence of written terms also leaves domestic workers vulnerable to arbitrary dismissal, wage deductions for accidental damage to property, evictions without notice, withholding of wages and other exploitative labour practices³.

¹Domestic workers across the world: Global and regional statistics and the extent of legal protection, International Labour Organization, 2013, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_173363.pdf. The Government statistics reflect the NSSO survey of 2004-05.

²Sindhu Menon, On Domestic Workers Day, Millions Of Indian Women Continue To Work In The Shadows, <http://www.equaltimes.org/on-domestic-worker-day-millions-of?lang=en#.V3lq2Ot97IU>

³Motsei, M, The Best Kept Secret: Violence against domestic workers, <http://www.csvr.org.za/index.php/publications/1589-the-best-kept-secret-violence-against-domestic-workers.html>

Domestic workers also lack the horizontal mobility to change place of work as well as vertical mobility in terms of progress in profile/ compensation due to lack of value addition to skill. We often see children being indiscriminately employed as nannies or child-minders. As there is no retirement age or pensionary benefits, domestic workers are discarded and left to fend for themselves if they disease or age makes them unsuitable or inefficient for household work.

Immigration, Domestic Workers and ILO

The otherwise private sphere of household labour ironically transcends international borders. Migration of labour towards opportunities across borders defines the very idea of globalization. When placed in context of domestic workers, it raises the complications of documentation, abuse, minimum wages and slavery like conditions for domestic workers.

Countries differ in their commitments towards the protection of domestic workers. This is largely a reflection of their socio-economic history, traditional connotations associated with domestic work, the general condition of economy and the availability of cheap labour.

USA and India: The Khobragade Episode

In 2013, India and the United States were embroiled in a diplomatic scuff when an Indian diplomat was arrested for the alleged mistreatment and underpayment of her maid, besides information fraud. The Prosecutor charged Devyani Khobragade for lying about the minimum wages agreed to be paid to her domestic help Sangeeta Richards for availing a visa. The visa. formalities required that minimum wages at the rate prevalent in the US be paid to the immigrant domestic worker. Despite the said clause, Richards alleged that she was being underpaid. The diplomatic fraternity came to Khobragade's defence stating that the salaries of Indian diplomats in the United States were not sufficient to cover the prevalent minimum wages for domestic help. (The case has been discussed in more details on pages 4 to 10) Khobragade's prosecution and the merits of the protocol of her arrest (or the lack thereof) aside, it was interesting to see an entire nation jump to the defence of their Diplomat, and in process, pushing the claims of a maid of the same nationality. The incident saw a nation and its government granting their tacit approval to a visa fraud instead of facilitating the payment of minimum wages in the host country.

In another such case in 2010, the domestic help was awarded damages to the tune of 1.5 million by a US Court to be paid by her diplomat employers. Delhi High Court however restrained Shanti Gurung from pursuing her case in the US, affirming once again that sovereign immunity superseded the rights of the domestic help⁴.

Need for International Standards to Settle this and Bring Parity-Instruments

International law comes into play as a means to universalize the claims from the employers and also break ground for challenging the inherent prejudices associated with domestic work.

Standards set internationally serve as a useful benchmark for countries which do not have adequate institutional and legislative protections for domestic workers.

⁴Shanti Gurung v Neena Malhotra, 2012 order, Delhi High Court, 14.03.2012

The International Labour Organisation (“ILO”), which has been in the vanguard of the campaign for human rights of domestic workers, adopted the Domestic Workers Convention No. 189 and the accompanying Recommendation 201 were adopted in 2011. They constitute a milestone in the Domestic Workers Rights Movement and, if adhered to, bear the potential to alter the way the sector is perceived and engaged with.

Convention 189 and Recommendation 201 draw from ILO’s extensive experience in labour rights to advocate parity of domestic workers with those engaged in other sectors. The Convention underscores the undervaluation and invisibility of work in the sector and seeks, among others, the right of domestic workers to minimum wages, decent work hours and living conditions and a weekly days off, social security, and clear information on the terms and conditions of employment as available to other workers. The Convention also offers special protection to migrant domestic workers, putting the onus on the employers to sign a legal contract delineating the conditions and kind of work and the wages. The new standards put States under obligations to protect domestic workers from violence and abuse, to regulate private employment agencies that recruit and employ domestic workers, and to prevent child labor in domestic work⁵. The Convention however is silent on minimum wages and does not even describe them in terms of per centage of average household income.

Since its coming into force in 2013, the ILO Convention has been ratified by 22 countries and many have formulated domestic laws to strengthen protections for domestic workers in accordance with the standards set by the ILO Convention.

International Convention on the Protection of the Rights of All Migrant Workers and the Members of Their Families, 1990

General Comment No. 1 on migrant domestic workers adopted by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) in 2010 takes note of the vulnerability of domestic workers who migrate in search of employment opportunities. It highlights the absence of express references to domestic work or domestic workers from a broad range of international and domestic laws. The General Comment notes the intersection of labour, immigration, contract and social-security laws where the domestic migrant workers feature. In absence of adequate legal infrastructure, they are prone to abuse on all counts. Non-registration of domestic workers exposes them even more.

The Committee acknowledges that the exploitation of migrant workers may not commence and culminate within employment but may be a part of the entire migration cycle starting from the immigration process to arrival in the new country. Before departure, the migrant workers may have to deal with labour brokers, touts and administration for the necessary clearances. On arrival, they may be subjected to restrictions on freedom of movement, withholding of salary and identity documents by the employers, inadequate wages or living conditions, undefined or excessive work hours, lack of designated resting phases especially for fulltime house help, absence of social security benefits of pension and health as well as physical, psychological and sexual abuse. Women and children are especially vulnerable.

The Comment progressively calls for States to institute pre-departure procedures to facilitate legal migration of domestic workers and minimize the scope of their exploitation. Such procedures may include general information about the destination country, its laws and culture, their rights and obligations as well as

⁵The ILO Domestic Workers Convention-New Standards to Fight Discrimination, Exploitation, and Abuse, Human Rights Watch, <http://bit.ly/28On2aa> (accessed June 22, 2016).

minimum financial literacy. The States have also been urged to activate their Consulates and Embassies as centres of emergency support and counselling for the domestic workers. In addition, the Committee recommends *inter alia* that emergency health care be provided by the host country irrespective of the regular or irregular immigration status⁶ of the domestic workers.

CEDAW General Recommendation No. 26 on Women Migrant Workers (2004)

The Convention for the Elimination of all forms of Discrimination against Women (CEDAW) Committee, in the General Recommendation on migrant workers, highlights how gender discrimination and prejudices placed women migrant workers at a greater disadvantage than their male counterparts. They emphasized the need to integrate a gender perspective in the rights discourse for migrant workers and study it from the perspective of gender inequality, traditional female roles, a gendered labour market, the universal prevalence of gender-based violence and the worldwide feminization of poverty and labour migration⁷.

The Committee urges the member States to formulate a comprehensive gender sensitive and rights based policy with participation of women migrant workers toward protection of their human rights. The Committee also calls for special focus on dismantling discriminatory restrictions on employment opportunities and increasing awareness among women for self-preservation in the migration cycle. Pre-departure medical tests are also to be administered with consent and dignity of the migrant worker. Host countries have been urged by the Committee to ensure that undocumented women are not subjected to administrative exploitation and harassment as they are even more vulnerable.

India

India, despite a legacy of exploitation of domestic workers as 'servants', has not ratified Convention 189. The Labour Ministry has time and again attempted to justify this decision by blaming it on the domestic laws which need to be at par with the ILO standards before the latter can be ratified⁸.

In India, in the absence of a special legislation, the rights of domestic workers have been sought for under the Child Labour (Prohibition and Regulation) Act 1986, banning the employment of children as domestic workers, the Unorganised Workers' Social Security Act, 2008, which provides social security benefits to workers of the unorganised sector and the Contract Labour (Regulation and Abolition) Act, 1970 to regulate the terms of employment, to a certain extent. The Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979 also offers limited protection of individuals who migrate to cities to work as domestic workers in government or private establishments. It however excludes from protection millions of domestic workers who migrate to different states to work in households. The Sexual Harassment of Women at the Workplace (Prevention and Prohibition) Act, 2013 brings women engaged in domestic work into the ambit of prosecution for sexual harassment. The Central Civil Services (Conduct) Rules, 1964 prohibit any government official/civil servants from employing children below the age of 14 years as domestic workers.

⁶Undocumented workers are those migrant workers who are without a valid residence or work permit. There are many circumstances under which this could have happened. For example, they may have been given false papers by unscrupulous agents or they may have entered the country with a valid work permit, but may have subsequently lost it because the employer may have arbitrarily terminated their services, or become undocumented because employers may have confiscated their passports. Sometimes workers may have extended their stay after the expiry of the work permit or entered the country without valid papers.- From General Comment 26-CEDAW

⁷¶5, General Recommendation 26-CEDAW

⁸http://articles.economicstimes.indiatimes.com/2015-03-18/news/60249562_1_domestic-workers-rashtriya-swasthya-bima-yojana-unorganised-workers India doesn't ratify ILO convention on domestic workers: BandaruDattatreya
PTI Mar 18, 2015, 06.21PM IST

The Minimum Wages Act, 1947 is not applicable to domestic workers ipso facto but states have an option of extending its application. So far, domestic workers have been brought under the ambit of this act by Tamil Nadu, Kerala, Bihar, Jharkhand, Gujarat, Orissa, Karnataka and Rajasthan by an inclusion in Schedule 27. However, only a few of these states, like Rajasthan, Kerala and Gujarat have notified the minimum wages per month and the number of working hours.

Additionally, welfare boards have been constituted by state acts in Maharashtra and Tamil Nadu to oversee the welfare of domestic workers⁹.

In 2003, the National Domestic Workers Welfare Trust moved the Apex Court the Public Interest Litigation (PIL) of National Domestic Workers Welfare Trust Vs Union of India (PIL No. 160/2003)-for a comprehensive legislation to protect the service conditions of domestic workers throughout the country, and a PIL of National Domestic Workers Welfare Trust Vs Government of Jharkhand (PIL No. 2810/2012) for the effective implementation of the Unorganized Workers Social Security Act 2008.

Many bills have come up and lapsed since The Domestic Workers (Conditions of Employment) Bill of 1959, including Delhi Private Placement Agencies (Regulation) Bill, 2012 requiring compulsory registration of all placement agencies of domestic workers, keeping of records of clients and employees and cancellation of licenses if non-compliance, the Domestic Worker (Registration and Social Security and Welfare) Bill 2008 and the Domestic Workers Welfare and Social Security Bill, 2010. The Draft National Policy on Domestic Workers proposing minimum wages of Rs.9000 per month was moved for approval of the Union Cabinet in August 2015 but has been gathering dust for over a year now.

Conclusion

The Government however in May 2012 extended the Rashtriya Swasthya Bima Yojana (RSBY), a national health insurance scheme to domestic workers to facilitate basic health care and hospitalization. Recently, efforts have been made towards creation of skill council for domestic workers by the Government run National Skill Development Corporation to train the existing and new domestic workers and impart skills that will make them eligible for placement outside the country. Placement is envisaged to be provided through government agencies in countries with understanding to ensure that they are paid adequate wages in a dignified work environment.

While these achievements are significant in themselves, we are still very far from a comprehensive framework for protection of their human rights. The abundant and rampant violation of the rights of domestic workers in the country is not the best kept secret. India's reluctance to ratify the ILO convention and the labour ministry's lethargy to push forth with the policy are indicators of the very feudal mindset the convention attempts to disrupt.

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⁹The Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act 1982 constituting the Tamil Nadu Domestic Welfare Board; Maharashtra Domestic Workers Welfare Board Act 2008 providing for the setting up of a District Domestic Labour Welfare Board with a wide range of functions including the registration of workers as beneficiaries; the distribution of benefits to registered workers in the event of an accident; education finances for children; medical assistance in case of ailments of the beneficiary or her dependants; maternity benefits restricted to two children and funeral expenses in case of death of a beneficiary. Questionable implementation by the Government.

IDENTITY AND INCLUSION: THE IMPORTANCE OF A PIECE OF PAPER

Shakeb Ayaz*

A newfound confidence and self-assurance reflected in her demeanor as Rajkumari walked to the household she works for, sporting a new photo identity card around her neck, raising eyebrows. A domestic worker, she is a migrant in Delhi from Bihar and was trying to procure an identity proof for herself for years without success. Finally, having joined a self-help group (SHG) which works for the rights of domestic workers like her, she could secure a valid identity paper for herself to live and work in this city. Later, with the help of the SHG, Rajkumari was also able to procure all the valid government issued ID proofs to breathe easy in the city that provides her livelihood.

Identification Proof and its Benefits

PAN Card, Aadhaar card, Voter ID card and bank passbook, besides the driving license and passport, are some of the main documents which certify the citizenship of an individual. It also strengthens her ties with the state, defines her relationship with the government, and hands her power to negotiate her rights. It also allows her to live relatively peacefully and seek legal remedies provided by the constitution.

Denial of identity proof amounts to denial of citizenship rights. In metro cities a large number of domestic workers, mostly migrants, do not possess valid identification proofs, making them vulnerable to exploitation by the employers, police, sundry agents and landlords. It reduces their bargaining power, forces them to work on low wages, and exposes them to police high-handedness. At times such migrants are branded as Bangladeshi immigrants and harassed, even if they hail from West Bengal. They end up paying higher rents and electricity charges and can't even get a SIM card for their phones. Even government hospitals often refuse treatment without a valid id proof.

A majority of domestic workers in cities like Delhi belong to vulnerable Dalit, tribal and minority communities and are migrants from states like West Bengal, Jharkhand, Bihar, Chhattisgarh, Madhya Pradesh and Odisha¹. Often their circumstances force them to avoid collecting their salaries for months because they do not have bank accounts due to lack of id proof, which makes them vulnerable to cheating by employers. Sometimes their fellow domestic workers too suspect them of being illegal Bangladeshis just because they speak Bengali and do not possess proper id papers. They suffer this fate because many Bangladeshi workers actually pose as Bengalis from West Bengal but that is not the fault of the genuine Indians. As a result their children also suffer because it becomes next to impossible to get admission in schools. Their vulnerabilities make it tough to demand their rights or to negotiate with the administration, police or the government. That they belong to backward communities like Dalits, backwards and *pasmenda* Muslims also goes against them due to the traditional hierarchies at work.

The Power of Numbers

Soni Rani, coordinator of domestic worker program of SEWA, told Common Cause that there are eight SEWA Shakti Kendras (SSKs) in Delhi where as members women domestic worker are issues ids and Delhi government-approved SEWA Delhi Domestic Worker Cards. At SSKs, members can access information, application, support, and advice related to social security benefits.

¹http://www.jagori.org/wp-content/uploads/2006/01/Final_DW_English_report_10-8-2011.pdf Domestic Workers:T Conditions, Rights and Responsibilities Page 2 (accessed on June 5, 2016)

Encouraging Safe Migration

Metro cities like Delhi attract large-scale migration from other states due to high demand for labour. While some migrate looking for better earning options many are forced to migrate due to the agrarian crisis, droughts or floods. Migrants do not often possess id proofs and sometimes documents are eaten by pests or lost in disasters like floods or fires. Obviously there is a need to promote safe migration in a city like Delhi where life without an ID proof is fraught with challenges, struggle and daily harassment. This can be done only through awareness campaigns and professional counseling.

If a worker possesses valid ID proofs like Voter id card, Aadhaar Card and PAN Card from her home state she would avoid the usual hassles of the metro city. This is the idea behind promoting safe migration. SEWA's office bearers are therefore active in districts of Bihar like Munger, Katihar, Bhagalpur and Patna operating full-fledged training centers and offices in these areas. They work closely with local populations, develop contacts with people looking to migrate, provide training to them, and encourage them to register with it so that they can keep track of their movements when they land in Delhi. Similarly, SEWA also has a big division in West Bengal, with its volunteers working in Malda and Murshidabad districts, from where workers migrate to Delhi in huge numbers.

Most of the migration of domestic workers from states like Bihar, Jharkhand and West Bengal is unorganized and takes place through traditional channels. While embarking on a journey, a typical migrant is not even aware of her destination, prospective employer or place of residence. In such a situation, possession of id proof gives them a sense of confidence to make the most out of their lives.

Social service and self-help groups face numerous challenges because it is extremely difficult for them to dismantle traditional modes of migration. The agents or touts are often close relatives, neighbours or acquaintances which makes it difficult for the volunteers to go against them. What the volunteers therefore do is to simply tell the workers to take certain precautionary measures like carrying id papers from the home state while migrating. Social activists working in the area also try to document their personal details, contact information and prospective address at the destination city. These workers are encouraged to contact the organization in case of any distress. Organizations like National Domestic Workers Union work in Jharkhand in partnership with SEWA.

Engagements with Panchayats

In order to use institutional engagements, some social service organizations engage with village local bodies like Panchayats. Collaboration with Panchayats ensures that they can monitor each and every migration from that particular village to towns and cities. The experiment has been very successful in Jharkhand but has achieved limited success in Bihar. National Domestic Workers Union works in close coordination with Panchayats in Jharkhand, and tracks issues related to trafficking and migration. Panchayats are encouraged to issue identification certificates bearing photograph of the worker, along with details of her village, address, and reasons for her migration. It bears the signature of mukhiya/sarpanch with a stamp. This document could be used by the worker as an identity proof in metro cities, and can be treated as a baseline document to procure other identification proofs.

Aajeevika Bureau, an organization which works in Rajasthan and Gujarat, offers a comprehensive registration and Photo ID service. Aajeevika Bureau is directly operational in villages and blocks of Udaipur, Rajsamand, Dungarpur and Banswara districts - the main labour sending regions in southern Rajasthan. At the destination end, the organization is present in Ahmedabad, Surat and Idar in Gujarat and in Jaipur and Udaipur within Rajasthan.

Aajeevika Bureau's Photo id is authorized by the Government of Rajasthan's Department of Labour through an official order issued in 2008. It is backed by a simple form which captures important demographic, occupational and migration related information. The information is verified and the card is signed by the Sarpanches - the elected head of village Panchayats, whose seal of approval authenticates the identity of the individual and the identity document. Understandably, the Photo ID is an immensely popular offering and well over a thousand cards are issued every month to migrant workers.

Speaking on Aajeevika Bureau's migration support and service, Priyanka Jain, Program Manager at its Centre for Migration and Labor solutions, says, that the card issued by them contains name, photograph, age, village address and the description about skill of the worker. On its back side, there is a seal of approval by the Sarpanch of the village. This offers some protection. However, she cautions, that merely handing over an ID does not imply that we have changed the response of the bureaucratic system. The only saving grace is that because the id process is authorized by Rajasthan government it is very handy for accessing social security schemes in that state, but if the worker migrates to Gujarat, it is at least a source of identification.

Registration and Photo id has served the larger goal of creating a valid database of migrants. This database is shared with the government regularly and it contributes to the development of a legitimate migration profile of the state.

Advocacy in Government Offices for ID Proofs

When activists of SEWA first approached the UIDAI (Unique Identification Authority of India) office at New Delhi for seeking Aadhaar cards for migrant workers, they were initially refused, with the authority arguing that it had already undertaken the process pan-India. But SEWA had already created a database of migrant domestic workers who did not possess Aadhaar card across Delhi. This database forced the UIDAI to take note of the matter and accept applications for bulk issuance of the document. It then sent those applications to SDM office, which after making requisite enquiries forwarded it to Deputy Commissioner, who issued the order for putting up Aadhaar card camps in various locations of SEWA's catchment area. In this case, the ID card issued by the self-help group was considered as the basic document for the issuance of Aadhaar cards.

Advocacy with MLAs for Identification Proofs

Ahead of elections, MLAs and politicians are approached for facilitations of issuance of voter ID cards for workers. But they themselves take active interest in procuring ID proofs for the domestic workers and other such migrant workers. To simplify matters a worker can receive a registered letter at her place of residence to show it as a proof of her address. Armed with this address proof, the migrant worker can then take a letter from the MLA verifying her address and identity, which can help procure an ID like the Aadhar Card.

Advocacy with Banks and Schools

Denial of identity proof has simultaneously led to denial of financial security to domestic workers as no bank would open any account without proper identification and address proof. However, Prime Minister Narendra Modi's pet scheme of opening Jan Dhan Yojana accounts has simplified the process. It facilitates the opening of bank account in any government or private bank even without any identification proof.

The RBI note of August 26, 2014 confirms the following:

“Those persons who do not have any of the ‘officially valid documents’ can open “Small Accounts” with banks. A “Small Account” can be opened on the basis of a self-attested photograph and putting his/her signatures or thumb print in the presence of an official of the bank. Such accounts have limitations regarding the aggregate credits (not more than Rupees one lac in a year), aggregate withdrawals (not more than Rupees ten thousand in a month) and balance in the accounts (not more than Rupees fifty thousand at any point of time). These accounts would be valid normally for a period of twelve months. Thereafter, such accounts would be allowed to continue for a further period of twelve more months, if the account-holder provides a document showing that he/she has applied for any of the Officially Valid Document, within 12 months of opening the small account.”

However, there have been instances of banks turning away poor people owing to lack of id proof which is a violation of the RBI guidelines. Taking cue from RBI’s relaxation of identity proof norms, some advocacy groups like SEWA celebrated International Migrants Day (December 18, 2015) all over India in their offices in which labor department and local bank officials were also invited. They were sensitized regarding issues of migration and the challenges faced by the workers in opening bank accounts and engaging with Labor Department. The organization provided a platform for the workers, who did not have any id proof, to directly engage with the bank officials. On the advocacy done by social service organizations, the banks opened many Jan Dhan Yojana accounts for the domestic workers. In Bihar, the efforts led to opening up of at least 10,000 accounts.

Social service organizations and self help groups across the board take extra precautions on facilitating ID proofs and documents of domestic workers hailing from West Bengal, amid reports of Bangladeshi immigrants disguising themselves as Indian citizens. Self-help groups make a thorough check of the antecedents of the individuals before proceeding with the identity proof applications due to security threat posed by illegal immigration from across the eastern border.

The Sarva Shiksha Abhiyan and Right to Education (RTE) Act does not make ID proof mandatory for children’s admission into government schools. An affidavit containing details of the family is considered enough. Yet, there have been instances when some schools have raised unnecessary objections forcing the self-help groups to negotiate on the workers’ behalf. However, when it comes to the EWS quota under the RTE Act, private schools are very particular about birth certificates of children. In such cases, self-help groups help children of workers obtain birth certificates with the help of Aadhaar cards, affidavits and immunization cards from their villages. If the children are immunized in Delhi clinics, that is sufficient for the issuance of birth certificates. If the delivery has taken place in a village home, the Panchayat can issue a certificate.

WHAT IS THERE IN NUMBERS? A SURVEY OF SURVEYS TO MAP THE PROBLEM

Shambhu Ghatak*

It is well understood that policy prescriptions often fail because of lack of accurate numbers. This is so because without an estimate, the magnitude of problems or the impact of any policy remains muddled in guesswork. In order to provide an estimate, one needs to have a proper definition and methodology so as to enumerate the number of persons belonging to an affected group. We often see how experts differ among themselves regarding various estimates but that is inevitable in a way because different groups of people use different methodologies. In the following article we are trying to make sense of the estimates available to us from the credible sources.

Various Estimates of Domestic Workers

A report from the International Labour Organisation (ILO) entitled *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (2013) says that there are various estimates regarding the number of domestic workers in India, which range from 2.5 million to 90 million workers. Obviously, that range is so huge that it is not very useful for policy work!

An estimate by the National Sample Survey (NSS) in 2004-05 shows that there were 4.75 million domestic workers in the country, of which almost 63 per cent comprised women working in urban areas.

An analysis by the ILO of the micro-data of the 61st round Employment and Unemployment Survey that was conducted by National Sample Survey Organisation (NSSO) shows that the number of domestic workers in the country was 4.2 million in 2004/05, comprising 1 per cent of total employment. Women constitute the majority of domestic workers (almost 70 per cent) and some 2.2 per cent of all employed women were domestic workers (as compared to 0.5 per cent for men), as per the ILO estimation.

The ILO report says that most female domestic workers are employed as housemaids or servants, whereas men work mostly as gardeners, gatekeepers, servants and also in 'other' occupations (which includes, for example, butlers and chauffeurs).

In their research paper entitled *Paid care workers in India: Domestic workers and Anganwadi workers*, which was prepared for United Nations Research Institute for Social Development (UNRISD), based on household survey data Palriwala and Neetha (2009) have estimated that there were only 2.5 million domestic workers in India. As mentioned in the ILO report, their study focuses solely on paid care workers and excludes gardeners, gatekeepers, watchmen and the residual category of "other workers" employed by private households from the definition of domestic workers.

Based on a survey of 1,00,957 households (59,129 in rural areas and 41,828 in urban areas), covering 4,59,784 persons (2,81,327 in rural areas and 1,78,457 in urban areas) during July, 2009 to June, 2010, the NSS report entitled *Key Indicators of Employment and Unemployment in India 2009-10* shows that only 0.8 per cent of workers fell under Section P — "Activities of private households as employers and undifferentiated production activities of private households" of National Industrial Classification-2004 i.e. NIC-2004.

Based on a survey of 45,859 households in 28 states/ UTs, the *Report on Employment & Unemployment Survey* (2009-10) from the Labour Bureau shows that 2.7 per cent of all workers were employed by private households (termed as ‘employer households’) as maids, watchmen or cooks.

The *First Report of the Task Force on Domestic Workers* states that there were 6.4 million domestic workers as per the Census 2001.

According to a report entitled *Human Resource and Skill Requirements in the Domestic Help Sector* (2013-17, 2017-22), which was prepared by KPMG for the National Skill Development Corporation (NSDC), the size of domestic workers is expected to grow from 6 million in 2013 to 7.79 million in 2017, and further to 10.88 million in 2022. In that KPMG report, the domestic worker sub-categories include general domestic help, cook, gardener, office assistant and babysitter.

Various studies show that there have been underestimation of the number of domestic workers in India due to various reasons, the chief among them being domestic work not treated as ‘real’ work. It is mainly women who are employed for domestic work and, therefore, low status is granted to this occupation (as compared to other occupations). As a result, domestic work remains invisible and unaccounted for. Domestic work is slow to receive recognition as professional work.

There are instances when part-time domestic workers do not report domestic work as their main occupation.

National statistics across different countries usually fail to count domestic workers as a separate category. However, they register these workers under headings such as “community, social and personal service activities”. There are varying definitions of domestic work in national statistics. Sample surveys to enumerate such workers are not carried out in domestic workers intensive inhabitations that are located in certain pockets of slums.

Approaches to Measure the Size of Workforce

There are several approaches to measuring the population of domestic workers in a country, namely task-based approach, status-in-employment approach, household-roster approach and industry-based approach. The industry-based approach in measuring domestic workers is considered as superior compared to other alternatives that rely on tasks and occupations, the status in employment or the household roster, according to the ILO report entitled *Domestic workers across the world: Global and regional statistics and the extent of legal protection* (2013).

Under the industry-based approach, a domestic worker is considered as one who is being employed in or by a private household or households i.e. she/he is in an employment relationship with a private household (even though it might sometimes be disguised), says the ILO report. The International Standard Industrial Classification of all Economic Activities (ISIC, Revision 3.1) groups “Activities of private households as employers of domestic staff” in Division 95.

Defining Domestic Workers

The ILO’s Domestic Workers Convention, 2011 (No. 189), has defined “domestic workers” in Article 1 in the following way:

- (a) the term “domestic work” means work performed in or for a household or households;

- (b) the term “domestic worker” means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

As per the Draft National Policy on Domestic Workers (as provided in the *Final Report of the Task Force on Domestic Workers: Realising Decent Work*), “domestic worker” means a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary or permanent, part time or full time basis to do the household work, but does not include any member of the family of an employer.

As per the Draft National Policy on Domestic Workers, based on the hours of work and nature of employment contract, domestic workers can be classified into:

- a. Part-time worker i.e. a worker who works for one or more employers for a specified number of hours per day or performs specific tasks for each of the multiple employers every day.
- b. Full-time worker i.e. a worker who works for a single employer every day for a specified number of hours (normal full day work) and who returns back to her/ his home every day afterwork.
- c. Live-in worker i.e. a worker who works full time for a single employer and also stays on the premises of the employer or in a dwelling provided by the employer (which is close or next to the house of the employer) and does not return back to her/ his home every day afterwork.

Chief Characteristics of the Sector

According to the *Draft National Policy on Domestic Workers*, as provided in the *Final Report of the Task Force on Domestic Workers: Realising Decent Work* (2011), domestic work sector is characterised by lack of job security, decent wages, proper work conditions, defined work time and weekly holidays. Domestic workers undergo loneliness, violence, abuse, and sexual harassment at workplace, victimization at the hands of traffickers / placement agencies, forced migration etc. The work they perform is generally undervalued and the majority of such workers remain overworked, underpaid and unprotected.

There is limited access to skills development in domestic work, which results in career stagnation and no significant increase in the well-being of the workers. Domestic workers are insufficiently covered by social protection measures, such as health insurance, maternity protection, old-age security and accidental benefits.

The placement agencies, which bring domestic workers from various states to work in the metros are mostly unregulated, says the KPMG report entitled *Human Resource and Skill Requirements in the Domestic Help Sector* (2013-17, 2017-22).

The major clusters supplying domestic workers in the country include West Bengal, Bihar, Jharkhand, Rajasthan, Odisha, Assam, and the Northeast. The migrants from neighbouring nations like Bangladesh and Nepal also form part of this workforce.

The majority of domestic workers migrate to metropolitan cities such as Delhi/ NCR, Mumbai, Bangalore and Hyderabad. In Delhi, most domestic workers are migrants from the villages of Jharkhand, West Bengal, and Chhattisgarh, says the KPMG report.

The report from KPMG states that domestic workers witness labour rights abuse in terms of long working hours, physical abuse by the employer, improper sleeping facilities, sexual harassment and no leave or holidays over a long period. The low level of wages paid to domestic workers can be attributed to factors such as: (i) Lack of recognition of their contribution or productivity; (ii) Illiteracy of workers reduce their bargaining power; and (iii) Absence of legislations at the state and national levels to protect their rights/ interests.

The majority of domestic workers lack financial capacity to pay for their skill upgradation and training. On top of that, clients do not take interest in spending money for their training. Since workplaces are inaccessible and the sector faces high rate of attrition and instability, it is difficult to provide skills to domestic workers, says the KPMG report.

Around 90 per cent of workforce in the sector comprises women, says the KPMG report. Since more and more educated women are joining the labour market, their dependence on domestic help has increased. Rapid urbanisation and rise in the number of nuclear families have accentuated the demand for domestic help.

The report shows that a majority of the domestic workers are usually educated up to Class 5 (almost 60 per cent) and fall in the age group of 28–40 years (nearly 65 per cent). KPMG's primary interactions/ survey with domestic workers indicate that most of them earn less than Rs. 1,000 per month in tier 2, 3 and 4 cities. Such workers usually work in multiple households on a part-time basis. However, workers earn upto Rs. 6,000 a month in metropolitan cities.

Based on research, it is said that by the same report that only 2 per cent of domestic workers earn more than Rs. 10,000 a month. Such workers are employed on a full-time basis with a single employer and provide niche services such as geriatric (elderly) care.

Existing Laws for Domestic Workers

While giving reply to a written question regarding a policy on domestic workers, the then Minister of State for Labour & Employment Shri Kodikunnil Suresh said in the Lok Sabha on 5 August 2013 that the Central Government had already formulated a policy on domestic workers. In his reply, the minister said that the Central Government enacted the Unorganised Workers Social Security Act, 2008 for social security of the unorganized workers that includes domestic workers. Various labour laws such as the Minimum Wages Act, 1948, the Employees Compensation Act, 1923, the Equal Remuneration Act, 1976 and the Inter-State Migrant Workmen (RECS) Act, 1976 are also applicable to domestic workers.

In her article entitled *Domestic Work, Unpaid Work and Wage Rates* (2013) published in Economic and Political Weekly, Kamala Sankaran says that at the central level, a recent legislation that also covers domestic workers is the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Despite the presence of exiting legislations that applies to domestic workers, there is no comprehensive law that covers all aspects of their working conditions.

Civil rights activists and trade unionists, who work among informal sector workers, have been demanding for a Wages Code Bill, through which the Union Government would be able to fix minimum wages for the unskilled across the country, among others.

It must be noted that presently the minimum wage rates is notified by the Union Government for organisations, departments or areas that come under its ambit. Similarly, state governments can fix minimum wage rates for its various departments or sectors.

A document prepared by the United Nations Development Programme (UNDP) in 2012 based on an online discussion shows that some states like Karnataka, Kerala, Andhra Pradesh, Tamil Nadu, Bihar and Rajasthan have set minimum wage rates for domestic work. While such state-level initiatives give domestic workers the official status of a worker within a legal framework, the wage fixed in a real world is insufficient to meet the needs of domestic workers and their family.

The KPMG report entitled *Human Resource and Skill Requirements in the Domestic Help Sector* (2013-17, 2017-22) says that the Domestic Workers Welfare and Social Security Act (2010) helps to counter exploitation of women and children working as domestic servants especially by the placement agencies.

Although the Rashtriya Swasthya Bima Yojana (RSBY) was extended to cover domestic workers in the year 2011, only a few states such as Kerala, Jharkhand, Chhattisgarh and Haryana have implemented it, says the KPMG report. Only the three states of Kerala, Maharashtra and Tamil Nadu have each constituted Welfare Board for domestic workers.

According to the ILO report entitled *Indispensable yet unprotected: Working conditions of Indian Domestic Workers at Home and Abroad* (2015), the Inter-State Migrant Workmen's (Regulation of Employment and Conditions of Service) Act 1978, which was amended in 2011 to make it gender neutral, is meant to regulate the employment of interstate migrant workers, to safeguard their interest and to provide for their conditions of service and related matters. The provisions of the amended Interstate Migrant Workers (Regulation of Employment and Conditions of Service) Act 1978 are applicable to every establishment in which five or more interstate workers are employed and to every contractor, who engages five or more interstate migrant workers.

The amended Central Civil Service Conduct rules prohibits civil servants from employing children below the age of 14 as domestic workers, says Jayashri Ramesh Sundaram (2016) in an article published for Hard News media. Domestic workers have been included in the Manual Workers Act in Tamil Nadu and the state has created a separate board too. Under Section 27 (A) of the Maharashtra State Public Service Conduct Act, 1997, the Government of Maharashtra prohibits the employment of children below the age of 14 years as domestic workers.

According to Jayashri Ramesh Sundaram (2016), domestic workers are the most vulnerable because they face unclear and lopsided terms of employment and are excluded from most labour laws. In her article entitled *Modern day Slaves*, Sundaram says that the Domestic Workers Convention, 2011 (No. 189) and Recommendation (No. 201), promoted by the ILO, have provisions for benefiting domestic workers, which includes promotion and protection of human rights, fundamental principles and rights at work, terms and conditions of employment, working time, remuneration, occupational safety and health and social security. Her article says that ILO has recognized the risks faced by child domestic workers, live-in workers and migrant domestic workers.

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APPLICATION FORM FOR MEMBERSHIP OF COMMON CAUSE.

1. Name: _____
2. Father's Name: _____
3. Mother's Name: _____
4. Date of Birth: _____
5. Educational Qualification: _____
6. Occupation: _____
7. Permanent Address: _____

8. Mailing Address: _____

(a) Email ID : _____

(b) Phone : _____ Mobile: _____

9. Next of Kin (Name & Address): _____

10. Membership Sought. (Tick any one block):

Categories	Ordinary	Life
Individual (with voting rights)	Rs. 500.00 P.A. <input type="checkbox"/>	Rs. 5000.00 <input type="checkbox"/>
Associate (without voting rights)	Rs. 100.00 P.A. <input type="checkbox"/>	Rs. 500.00 <input type="checkbox"/>

11. Why do you wish to join COMMON CAUSE (up to 80 words)

12. Your expectations from COMMON CAUSE (up to 40 words)

Place & Date:

Signature

COMMON CAUSE UPDATES

Developments in earlier interventions:

Supreme Court:

Challenging the vires of the appointments made to the CVC: The Petition challenges the arbitrary and non-transparent appointments of the new CVC and VC as violative of the principles of 'impeccable integrity' and 'institutional integrity' laid down in *Vineet Narain* case (1998) and Centre for Public Interest Litigation (CPIL) case (2011).

The matter was heard on February 22, 2016 and listed for hearing on a non-miscellaneous day.

Contempt Petition in Large Scale Advertisements: Common Cause filed a contempt petition against the State Governments of Uttar Pradesh, Delhi and Tamil Nadu for publishing publicly-funded advertisements in violation of the letter and spirit of the Apex Court's guidelines regarding large scale advertisements, which had carved out exceptions for the Prime Minister, the President and the Chief Justice of India. The matter was last taken up on March 9, 2016. The Centre and seven States, including the poll-bound West Bengal and Tamil Nadu, sought revision of the verdict, pleading that it infringed the fundamental rights and the federal structure. The Bench headed by Justice Ranjan Gogoi reserved its verdict on the review pleas of the Centre and the seven States which demanded that besides the PM, pictures of Central ministers, CMs and other State ministers be allowed to be carried in public advertisements.

On March 19, 2016 the Court ruled, while modifying its earlier order, that photos of governors, chief ministers and cabinet ministers can also feature in the advertisements by central and state governments published in print media and shown on electronic media to announce various schemes and greet the public on various occasions.

(Meanwhile, full page and double page political advertisements are back with even bigger pictures, as if with a vengeance)

Preventing the export of logs of red sandalwood: The intervention of the Supreme Court was sought to foil a determined bid by the Government of Andhra Pradesh to export a huge quantity of confiscated red sandalwood, an endangered species. This move flies in the face of international conventions, express provisions of the Import-Export Policy and repeated admonitions of the Ministry of Environment & Forests. The matter was taken up on February 23, 2016, when the Union of India and the State of AP were granted four weeks as a last opportunity to file their counter affidavits.

In the hearing on May 6, 2016, the Court granted a final opportunity to the Respondents for filing their counters. The matter is likely to be listed on August 22, 2016.

Living Will: The petition sought the enactment of a law on the lines of the Patient Autonomy and Self-determination Act of the USA, which sanctions the practice of executing a 'living will' in the nature of an advance directive for refusal of life-prolonging medical procedures in the event of the testator's incapacitation. The matter was disposed of on February 25, 2014. Without pronouncing any order on the specific prayer made in our petition, the Court invited a Constitution Bench to resolve the inconsistencies involved in the issue and the matter was taken up on July 16, 2014. After notices were issued to all States and UTs, the

matter came up on January 15 and February 15, 2016. The ASG submitted that the government was considering a legislation on the subject. Hence, the matter was adjourned for July 20, 2016.

In June 2016, the Government released the draft Treatment of Terminally Ill Patients [Protection of Patients and Medical Practitioners] Bill, based on the recommendations of the 241st Law Commission Report and sought comments from the stakeholders. The Bill seeks to legalize passive euthanasia, subject to fulfilment of given conditions but categorically proscribes advanced medical directives or living wills.

Common Cause has submitted detailed comments to the Bill, highlight that the Constitutional guarantee of Right to Life subsumes the right to die with dignity. A living will is an attempt to safeguard this right by allowing patients to take early and informed decisions about preventing unnecessary medical procedures and a blanket proscription violates the patients' right to die with dignity.

Decriminalisation of politics: The Supreme Court had on March 10, 2014 passed an interim order directing that trials in criminal cases against MPs and MLAs must be concluded within a year of the charges being framed. The Court also directed that if the trial court is unable to complete the trial within a year, it would have to submit an explanation to, and seek an extension from, the Chief Justice of the High Court concerned. While seeking compliance of the Supreme Court order we sought specific time-bound directions for closer monitoring of all such cases.

The matter was referred to the constitution bench on March 8, 2016.

Slaughter House Pollution: This petition praying for remedial measures against the rampant malpractices in slaughter houses was taken up on January 29, 2016, and the court asked the Ministry of Environment and Forests to file the affidavit in terms of the orders issued in March and August 2015. The Court made it clear that no further opportunity would be granted to the Ministry and listed the matter for February 26, 2016. Although the Court granted further adjournment at the hearing, it imposed a cost of Rs. 25,000 on the Union of India. The Welfare Board of India too was impleaded as a respondent.

In the hearing of May 2, 2016, an additional cost of Rs. 25,000 was imposed on those states which had not submitted compliance reports as directed. The Court also granted the Union of India a final opportunity to finalize the BIS standards after taking into consideration the report of the Central Leather Research Institute as well as the draft notification that has been prepared.

The matter is likely to be listed on July 18, 2016.

Illegal allocation of captive coal blocks: This matter was taken up on May 4 and 11, 2016 but administrative issues of the CBI having no bearing on our case were settled. During the hearing on April 6, 2016 the Report of the Committee constituted in compliance of the order of September 14, 2015 was taken on record. A copy of the Report was handed over to the Attorney General with the request to assist the Court on the further course of action. The Court decided to take up the reports filed by the Enforcement Directorate as well as by the CBI for consideration on the next date of hearing on May 4, 2016. The CBI's counsel subsequently handed over a bird's eye view of investigation (from 1.01.2016 to 30.04.2016) filed by the Directorate of Enforcement and Progress Report No.16 filed by the CBI on May 4, 2016.

The matter is listed on July 7, 2016.

Illegal Mining in Odisha: Our petition to curb illegal mining in Odisha, as highlighted by the Central Empowered Committee and the Justice M. B. Shah Commission was taken up on April 21, 2014. The Court issued notices to the respondents and directed the CEC to submit a report on illegal mining. On May 16, 2014, the Court granted an interim stay on the operation of 26 mines and directed the State Govt. to dispose of all renewal applications as per the law. These matters were later taken up several times and the Court directed the amicus curiae, Mr. A D N Rao, to file his response. The Court also requested the Attorney General to assist it on the interpretation of Section 8A for disposing the IAs filed, specially the one filed by the Steel Authority of India. The bench of Justices Khehar and Nagappan citing provisions of the amended Mines and Minerals (Development and Regulations) Act, 1957 on April 4, 2016 disposed the petition, concluding that applications of miners filed before January 2015 or at least 12 months prior to expiry of the lease would have to be considered by the State.

Stating that Parliament amended MMDR Act to address miners' hardships and remedy their grievances regarding pending applications for renewals, the court said that a mining lease would not lapse automatically unless the state government has heard the companies and issued orders to that effect. According to the court, in the absence of state government orders on pending applications, the leases would be extended by two years.

Contempt Petition against lawyers strike: The contempt petition filed by Common Cause against the strike of lawyers in Delhi HC and all district courts of Delhi on the issue of conflict over pecuniary jurisdiction, in WP (C) 821/1990 (*Harish Uppal vs Union of India*) was again taken up on February 1, 2016. At the hearing, Mr. Ram Jethmalani sought more time to convene a meeting of the Bar Association. The request was granted and matter taken up on April 5, and subsequently on April 12, 2016. Mr. Jethmalani again requested for time which was granted with the direction to list the case after the summer vacation.

Inquiry against ex-Chairman, NHRC Shri K.G. Balakrishnan: This matter was taken up on March 14, 2016. The Attorney General submitted that the individuals (relatives of Mr. Balakrishnan) in whose names the properties stood were income tax assesses. He informed the Court that he had all the assessment orders of the said assesses. In view of this submission, the Attorney General was directed to file a chart indicating the said facets and also keep the assessment orders and the orders passed by the appellate authorities, if any, for perusal of the Court.

The matter has been listed for July 12, 2016.

Delhi High Court

Misuse of BSP reserved symbol: The petition challenging the order of the Central Election Commission rejecting our request for freezing the reserved symbol of BSP on account of its misuse by its government in UP could not be taken up during 2015 due to adjournments sought by the respondent, lawyers' strike and non-availability of the bench. On February 25, 2016, the counsel for the BSP contended that the said order of the ECI was passed pursuant to an order of in another petition which was still pending before the Supreme Court. The Court demanded to know why the respondent in the last five years did not seek the transfer of the petition to the Supreme Court, or seek a clarification. The Court has reserved its judgment after hearing the counsels.

Petition on electrocution by live wires: The Petition highlights the issue of recurring fatalities due to live wire electrocution, especially during the monsoon. Notice has been issued and the matter was listed on March 17, 2016. The Action Taken Report filed by respondent no 9 was also taken on record.

After an adjournment on May 25, 2016, the matter is listed on August 10, 2016. (In the meantime yet another monsoon has hit India raising fears of more avoidable accidents and electrocution deaths)

Allahabad High Court

Extension of C&AG's audit jurisdiction to NOIDA, Greater Noida and Yamuna Expressway

Authorities: The PIL on the subject was initially filed before the Supreme Court but was dismissed as withdrawn on February 24, 2015. The Allahabad High Court was approached on September 1, 2015 as per the leave granted by the Supreme Court. Notice was subsequently issued and counters and rejoinders filed. The affidavit of disclosure filed by the State government has revealed nothing new regarding the nature of its financial relationship with the authorities in question. However, the CAGs office has sought an adjournment to file a supplementary affidavit. The matter was listed for March 30, 2016, when the Court granted two weeks' time to the parties to file their response on the supplementary affidavit filed by the office of C & AG of India.

Next date of hearing has been fixed for July 5, 2016.

COMMON CAUSE ON CROWD FUNDING PLATFORM

www.azadi.in/rte

Common Cause has posted an appeal for project funds to pursue its initiative on making the citizens' Right to Education a reality.

Today thousands of Indian schools lack enough teachers, classrooms, toilets, drinking water, books, uniforms, libraries, mid-day-meal kitchens or playgrounds. Despite a constitutional guarantee, millions of children are out of school, or without quality education. If we don't intervene, business as usual will continue forever.

Through the new campaign for RTE implementation, we are engaging with central and state authorities, conducting research and exploring the possibility of legal intervention. We are already working on empowerment of School Management Committees (SMCs), on improving teaching learning outcomes and on arresting the unusually high dropout rate in schools.

Please visit www.azadi.in/rte to make a contribution. For more information on Common Cause initiative on the Right to Education please visit our website www.commoncause.in