

Decent Work and Economic Upliftment of Domestic Worker: The Call of Time

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Abstract:

Domestic work is one of the most important avenues for semi literate and literate people. In-fact, it is the primary source of income and employment for man and women working in un-organized sectors. Increase in per- capita income due to India s economic growth leads to more families falling under middle / high income households. In last few decades there has been a tremendous growth in the demand for domestic workers which has led to the trafficking and other forms of exploitation of millions of men, women and children of the both sexes and to meet this growing demand there has been a spurt of thousands of placement agencies providing domestic workers in metro-towns of many states, who are exploited in various ways as well as trafficked and remain outside the purview of any legislative control. The issue of exploitation of men, women and children domestic workers is frequent and regularly reported. With no rights and rules to fall back on, most of the domestic workers have become contemporary slaves. It is also a known fact that many women and children are trafficked and exploited by the placement agencies, which operate openly without any form of restrictions and regulations. Absence of any legal protection and any special law which led to severe exploitation men, women and children .which include depriving domestic workers from their entire salary average more than 16-18 hours of work per day, absence of proper food and living/sleeping condition, forced and total cut off from their family members, bounded labour , sexual exploitation by agent during transit, at the office of agency and at the work place in houses of employers, The list of exploitation is endless and frequently reported upon by the media .This article aims to examine the status of domestic workers in the country and the legal framework for decent work for domestic worker in India .

Keywords: Domestic workers, Exploitation, Trafficking, Un-organized sectors, Decent work etc.

INTRODUCTION:

“It is my dream that I will see domestic workers respected like other workers. It’s my dream that exploitation, low salaries and other forms of violence will not take place.”

.....Angel Benedicto, former domestic worker and current activist

Domestic workers are those workers who work within the employer's household. Domestic workers are of many types, fulltime Domestic workers and part time domestic workers and Live in workers. Full time workers are those workers who work for a single employer for a specified time period and after the

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work the worker returns back to the home. Part-time workers are those who work for two or more employers in a day and perform various house hold works. Live in workers are those who works full time for a single employer and also stays in the premises of the employer or a in a separate small house within the premises but never return to his/her home after the work. There is variety of domestic workers³: - Guard, dog walkers, gardeners, cooks, house cleaning workers, maids, chauffeurs, baby sitters etc. Domestic workers perform a variety of household services for the employer i.e. Taking care of the children and elderly dependents, housekeeping which includes cleaning and household maintenance. Other responsibilities include cooking, laundry and ironing, shopping for food and undertaking other household works. Domestic work is always undervalued and its demand is increasing day by day. Although legislation protecting domestic workers is in place in many countries, it is often not extensively enforced. In many jurisdictions, domestic work is poorly regulated and domestic workers are subject to serious abuses, including slavery.

In this article the author has mentioned that India is witnessing a constant increase in the number of domestic worker⁴ and they have lack of bargaining powers which makes them one of the most exploited sections of the society. They are more vulnerable to the ill treatment at the hands of the employer

Domestic workers in India are an unorganized sector. There are various problems faced by the workers like- No formal contracts are made to ensure an employer-employee relationship, there is a lack of organization, poor bargaining power of workers, no legislative protection⁵ has been given, and inadequate welfare measures with no provision for weekly holidays, maternity leave and health benefits are the some of the key issues that need to be addressed. This lack of regulation has led to countless violations of domestic workers' rights, including working hours ranging between 8 and 18 hours and the absence of any job security. Female domestic workers, especially those who live in their employer's home, are exploited sexually and vulnerable to sexual abuse.

DOMESTIC WORKERS IN INDIA AND ECONOMIC AND SOCIAL CHALLENGES :-

A few thousand domestic workers in India marched with placards, shouting slogans near Parliament on the 2nd of August, 2018. They were demanding legal provisions to secure their rights while the government has been planning to replace more than 30 labour laws with a few codes. For instance, the Draft Labour Code on Social Security aims to universalize social security so that the definition of employee covers all kinds of work, yet unions have expressed displeasure at some of its provisions. For instance, all workers have to be registered under the said act to avail social security benefits. Considering that a person would be called a 'worker' only if he/she works for a particular period of time in a year, the bill might exclude thousands of domestic workers. Also, experts and activists are of the opinion that these codes will further deteriorate the existing legal protection⁶ extended to domestic workers in India.

³ Recognition of the Rights of Domestic Workers in India, article by Mahanta Upasana , Gupta Indranath ISBN978-981- 13-5763- Springer Nature Singapore Pvt. Ltd

⁴ Domestic Workers in India: Status, Issues, Legal and Policy Framework - General Knowledge Today First Published: August 16, 2017

⁵ A Study on Domestic Help Workers and Factors Affecting Realisation of their Rights in the State of Punjab by Ekta Rani and Rajni Saluja ISSN 2348-2869 Print © 2016 Symbiosis Centre for Management Studies, NOIDA Journal of General Management Research, Vol. 4, Issue 2, July 2017, pp. 16–26

⁶A Report on Domestic Workers: Conditions, Rights and Responsibilities, A study of parttime domestic workers in Delhi SurabhiTandon Mehrotra, 2010

Domestic workers are not recognized⁷ by society as ‘workers’ in the first place. While many forms of labour activity take place outside the domestic domain, domestic workers perform their duties in the household. Quite an unconventional place as it is, the domain of household is still not accepted as a workplace. Though labour laws exist, it becomes very complex to administer their working in the household sector. Unlike other jobs, there are no streamlined descriptions that can be made a part of the contract. The fact that there are 4.2 million⁸ domestic workers (according to the latest data of NSSO 61st Round) which is falling gradually in a steady manner

This sector plays an important role particularly in the lives of women. First, it is evident from data that a higher percentage of domestic workers are women. This helps them in gaining economic autonomy. Secondly, more than 50 percent of working age women in India is not available for work due to responsibilities around domestic chores (ILO Report, 2014). These works including fetching water, taking care of the elderly and collecting firewood are also seen as unpaid care work, reproductive work and so on. Hiring domestic workers will ease the burden on women who wish to work outside the household. It is the ‘invisible’ labour of domestic workers that enables men and women to maintain a peaceful working life.

The followings are certain common issues and challenges faced by the domestic workers during their work at households. Let’s have a look upon those:

Problems of invisibility:

Domestic workers are faced with a plethora of problems in their workplaces. Tripti Lahiri, in her book ‘Maid in India’, writes that there was nearly 120 percent rise in the demand for domestic workers in the years following liberalization⁹ in India. The ever increasing demand for domestic workers in private households did little to secure them their rights and privileges. But due to work pressure, unsecure environment and low wage rates they lost their interest and are gradually shifting towards the other industries such as construction and manufacturing industries.

Under payments:

Under payments continue to be a problem for domestic workers. One can attribute this mainly to the perception that domestic work is not real work. There is gender-based pay gap discrimination¹⁰ in domestic work too. Cleaning, washing, cooking, laundry among others are construed to be predominantly a woman’s natural work. This results in undervaluation of the work itself. Domestic work is also seen as ‘unproductive’, because it is not directly generating economic gains to the households. Meanwhile, their contribution to national economy becomes invisible. According to a survey conducted in Ahmadabad in the western state of Gujarat, domestic worker positions are paid on average less than Rs.6, 500 per month.

Discrimination on grounds of caste:

⁷ Dar J., & Rani, M., Socio-Economic Conditions of Female Domestic Workers in Punjab: A Case Study of Sangrur District available at Research J. Humanities and Social Sciences 2014; 5(1)pp 120-128

⁸ The problems of domestic workers - New Internationalist Easier English Wiki available at <https://eewiki.newint.org/index.php>

⁹ “Living on the Margins of Development: Domestic Women Workers” Dr. Nidhi Tewathia Assistant Professor, Department of Economics, Gargi College, University of Delhi. MPRA Paper No. 82258, posted 2 November 2017 13:10 also available at UTC <https://mpra.ub.uni-muenchen.de/82258/>

¹⁰ Domestic Workers Of The World: A Global Movement For Dignity And Human Rights Review: Article By Krithika .R March 24, 2018

Discrimination on grounds of caste is evident too. Undignified work is assigned to the domestic workers because they belong to a particular class hitherto considered being 'lower caste'. Practices of untouchability have a physiological bearing in the minds of workers. After all, they are 'workers' too. The work is caste-determined, for instance, 'upper caste' women are employed in works like cooking while 'lower caste' women are employed in cleaning washrooms (according to a report by Centre for Workers' Management, Chennai).

Unregulated working hours:

Unregulated working hours have done enough damage to their lives already. There is no fixed number of hours, and even if there are any the rules aren't considered by the employers. Often, they are made to work overtime, with no benefits at all. Absence of any job security even after working between 8 hours and 18 hours a day is a dismal condition.

Sexual violence is even more prevalent in this sphere. It is women and children employed in households who are more vulnerable to sexual assaults¹¹ and harassments. In the fear of losing their jobs, they sometimes have no option but to stay calm. Violence against domestic workers not only threatens the law and order, but also curbs their fundamental rights.

Migrant workers:

Migrant workers have to face a whole range of other problems too. Most of the domestic workers in India are migrant workers, moving both within and out of India. Since these workers lack an organic link to the place they work in, they are rendered even more vulnerable. Unfamiliarity of location, inability to speak in language of the place they work in and being far away from support systems of family creates barriers to their mobility too. Migrant workers, however have an edge over others as they can hide their caste identity, therefore avoiding caste-based discrimination.

Paid leave:

Although the Minimum Wage Act of 2008 entitles every registered domestic worker for paid leave and a weekly off, workers do not receive these benefits from their employers. They are either fired or made to work under worse conditions if they try to raise voices against their employers. Considering the rising supply of domestic workers, it is hard to find another job once fired. Child labour, discrimination on grounds of religion and race still haunt domestic workers in India.

From helpers to workers:

There are laws in India that protect the interests of domestic workers. For instance, the Domestic Workers Act of 2008 was introduced to regulate the payment and working conditions of household workers. It also addressed the issues of trafficking of women and exploitation of workers. However, it is the individual states in India that govern its implementation, leading to lack of uniformity in the guidelines across the country. Besides, India is a signatory to the Convention 198-C of International Labour Organization¹² that deals with safeguarding the laws of domestic

¹¹ SEWA. 2014. Domestic Workers' Laws and Legal Issues in India. WIEGO Law and Informality Resources. Cambridge, MA, USA: WIEGO. Published by Women in Informal Employment: Globalizing and Organizing (WIEGO). A Charitable Company Limited by Guarantee – Company No. 6273538, Registered Charity No.1143510

¹² "Some Aspects of Social Security Measures in India", **BHATACHARYA, V.R.**, Metropolitan Book Co Delhi, 197

workers. But India has not ratified it yet. Ratifying the convention implies that the provisions of the same are included in the domestic laws too. Other acts like Social Security Act of 2008 and Sexual Harassment at workplace act (Prevention, Prohibition, and Redressal) Act provide protection to domestic workers in India. Yet, there is a need for a comprehensive and uniform legislation for safeguarding the rights of domestic workers. A draft bill was made under the pressure of National Platform for Domestic Workers in 2017 that still remains to be a draft. With provisions like setting up of welfare boards, registration of workers in welfare boards, accidental insurance coverage, health coverage and pensions, the draft bill is close to an ideal act. The government can also take help of NGOs and domestic workers' unions in drafting the bill. Making them a part of the policy making process is essential to address their concerns.

It is high time that we stopped calling our Bhaies 'helpers' instead of 'workers'. A rights-based approach to this problem will help understanding it even better. Domestic workers also have their rights, protected by the constitution and various other legislations. A rights-based approach will condemn the present scenario where their rights are abrogated in every possible way. Domestic work is a work like no other and should be considered as a work like any other. Treating domestic workers with dignity, respect and professionalism forms an essential part of this transformation. This will also have positive implications on gender pay gap and gendered discrimination. We are also in dire need for initiating discussions about domestic workers in India. It is saddening to know that such discussions are seldom heard of, be it in the parliament or at the household level. Enacting the laws is not the solution, effective implementation and inspections only can solve the problem. Let them work with dignity. Let them live with respect. Let them enjoy their rights. Let them not bear the brunt of parochialism. Bearing in mind the need to recognize domestic workers and their dignity, it is high time that we discussed about them on larger platforms and safeguarded their rights.

Some other challenges¹³ faced by this category of workers is due to the following reasons:

- (a) Inadequate income of the family;
- (b) Unemployed adults;
- (c) Absence of scheme for family allowances; and
- (d) Large family etc.

Illiteracy:

The higher rate of illiteracy shows the ignorance of parents, so they push their children to work force which is a supply factor and contributory cause for child labour. Parents do not think better future of their wards. Especially rural/migrated parents, tribal and people staying in slum areas do not understand their responsibilities and hence children are deprived of their right to education and development.

There is a very close nexus between child labour and illiteracy and they go hand in hand and each one supports the other. Some studies have revealed that most of the child labours are either total illiterate or partial illiterate and their parents are illiterate. No study has ever found a child labour coming from an educated family. Greed for money, and gross ignorance on the part of the parents in not sending their children to school is a sad commentary and condemnable.

¹³ Armacost, Nicola Cunningham, and Nicola Cunningham. "DOMESTIC Workers In India : A Case For Legislative Action." *Journal of the Indian Law Institute* 36, no. 1 (1994): 53-63. <http://www.jstor.org/stable/43951513>

Population Explosion and Large Family Size:

In a developing country like ours, everything is regulated by population. Population explosion is an important and major factor for the problem of child domestic labour. Parents due to their ignorance believed that children are God Gifted, great human resource and continued to go on increasing the family size is a misconception and they understand that more children means more income, they generate. Consequently large family size is burdensome and liability for them especially for poor, to tribal backward families.

Population Statistics:

According to 1971 Census, population¹⁴ of India was 548 million and in 2001 it was 1028.70 million. By the turn of 2016 the population is expected to reach 1264 million. Such a massive increase in numbers will affect economic development and require massive inputs for social services, civic amenities and infrastructure development.

Child population records 398,306,000 and interpretation of 2001 Census figures of the National Labour Institute indicate that, out of 203 million children between the ages of 5 and 14, 116 million are in schools, 12.6 million are in fulltime employment and the status of 74 million is unknown. Most, if not all, of the 87 million, not in school, do house work on family farms, work along side their parents as paid agriculture labourer's, work as domestic servants, or are otherwise employed.

The tradition of making children learn family skills :

Most traditional families believe that a child is born to them to earn more for the family. The child is just another source of income¹⁵ and traditional business families in fact put the child into business rather than send them to school. Under the pretext of training them, they make them work for hours, sometimes resorting to physical torture in case child makes mistakes. There is a myth that child labour is necessary to preserve traditional arts and crafts. Children bonded to families or who are hired labour are never taught the actual craft. Learning of a particular art or craft by children within their families, as part of their socialization, should be integrated with their education. Children should not be sacrificed at the altar of preserving traditional art.⁴⁴ There is another argument which advocates that work equips the children with skills for the future is a contributory factor to child labour¹⁶.

Unemployment and Under Employment :

Child domestic worker is as much the cause as consequence of adult unemployment and under employment. It supplements and buttresses the family income. Child labour is not only a subsidy to industries but a direct inducement for payment of low wages to adult workers. The entrance of the children into the labour market reduces the opportunities of employment for the adult and lowers the bargaining power of adult workers. Child labour involves the use of labour as its point of lowest productivity. Hence it is an insufficient utilization of labour force.

¹⁴ Article by **GANGABHUSHAN M. MOLANKAL**, Child Labour in India an Overview. <http://www.childjustice.org/wsecl/papers/Molankal2008.pdf>

¹⁶ "Some Aspects of Social Security Measures in India", **BHATACHARYA, V.R.**, Metropolitan Book Co Delhi, 1970

SUGGESTIONS:

- Domestic workers should be paid minimum wages for the amount of work done by them and also enjoy the privileges and benefits that all other form of workers receive without discrimination such as pension, paid leave, bonus, incentives etc.
- A proper regulatory measure is to be implemented for domestic workers through a legislative mechanism as they migrate from one place to another in search to living.
- Workers should be made aware of state regulation specific policies and legislations for the protection of their rights and duties.
- Draft of national policy of women domestic workers to be completed and implemented by the central government for women to reap its benefits.
- In Public Distribution shops there should be a separate section of allocation of nutritional foods such as millets,ragi,jowar and others to these workers to protect them from Mal-nutrition
- Medical benefits such as maternity benefit, ESI, Sick allowances, are to be provided as these women come from lower class society.
- Strict penalty and punishment is to be imposed for those who exploit women sexually
- Trafficking of women and other young household workers is to be tracked and record is to be maintained to prevent from kidnapping, exporting to other countries and such other crimes.
- Government can also work on providing cash incentives to these unpaid workers
- SEWA provides community insurance schemes which can be accessed for health care services.
- Various women empowerment websites and wings are open to access and seek support in terms of emergency situations where they provide financial assistance and moral strength to deal with the situation.
- Under policy for domestic workers they should have right to register as workers with the state labour department, in order to facilitate their access to rights and benefits accruing to them as workers.
- They also be provided the right to form their own associations, trade unions, protection from abuse, harassment and violence.
- An establishment of a mechanism to be done for regulation of placement agencies.

CONCLUSION:

In the beginning of the 21st century, it is very necessary for the overall development of the nation to provide socio, legal, economic and political justice towards domestic workers as their lawful right being the citizens of India. Absence of any legal protection and any special law which led to severe exploitation of domestic workers which includes men, women and children and depriving them from their entire constitutional and basic rights in absence of proper food and living/sleeping condition, proper salary, forced and total cut off from their family members, bounded labour, sexual exploitation by agent during transit, at the office of agency and at the work place in houses of employers, The list of exploitation is endless and frequently reported upon by the media but no action has been taken by neither Government neither any state agency for the development and upliftment of these category of workers. This is the need of time to framework a law relating to protection of this poor group of workers and through this article the author aims to examine the status of domestic workers in the country and the legal framework¹⁷ for decent work for domestic worker in India.

¹⁷ "Labour Welfare and Social Security's", **Subbarao, P.** Himalaya Publishing House Private Limited, Mumbai, 2008

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