

Domestic Labour Rights Belongs to Her if Domestic Labour Belongs to Her-Kind: a Situational Analysis of the Domestic Workers in West Bengal

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Abstract:--- Domestic Labour in India has not been recognised as a form of work and has neither been considered under Labour laws. The work involving care in the private sphere of home has been feminized . Thus female domestic workers face an array of problems due to non-recognition as labour. The Paper expounds on the situation of domestic workers and their condition of work in West Bengal and thus suggests why we need National and not state wise legislations for the welfare of domestic workers and that India needs to urgently ratify the 189th Convention of ILO.

Keywords— Domestic Labour , Unrecognised , Decent Work Conditions , National Legislation

I. INTRODUCTION

The history of domestic labour in India relegates the position of domestic work to that of subjugation . The traditional domestic worker has his or her rights resting on the feet of the master and his hierarchy was lower than his employer either on the basis of caste ,class or gender. The contemporary market driven economy shifting from its' earlier agrarian base has redefined domestic work as an industry which caters the need of maintenance of the household order. ... It is also associated with the growth of urban middle class , especially the increase in the number of women working outside their home and the availability of cheap domestic labour (Mehrotra Surabhi , 2010).However the conventional hierarchical suppression remains.

Domestic work includes mental, manual and emotional aspects, including care work that is necessary to maintain people and communities (Anderson 2000) Domestic work thus involving social reproduction or nurture and is centred in the private sphere of the house .Having these characteristic features the occupation is highly feminized. According to NSSO data 2009-2010 out of 2.52 million domestic workers in India approximately 57 percent are women .Also two-thirds of these domestic workers belong to urban India. Both the above statistics combined we can infer that the female labour force specifically in urban India mans the domestic labour profession. The fact that domestic work does not demand much skills or specialisation is a major

reason for women getting involved in this profession. However care receives no recognition so does domestic work, it is undervalued and thus remains unrecognised.

The lack of labour laws for domestic workers not only makes this work invisible and the attitude of the employers highly paternalistic but also poses an array of difficulties for the female domestic worker including physical assault, lack of maternity benefits and also sexual harassment at workplace. However in most of the cases the victims are bereft of rights over their rights because of no comprehensive labour laws in their favour. In many cases workplace violations go unreported.

In the wake of the 189th Convention of ILO vocalising the rights of domestic workers and their recognition we need to analyse the status of domestic labour in India and the scope of legislations in favour of due recognition of domestic work under the fold of labour. The following paper, expounds on field based analysis on working conditions of domestic workers in the State Of West Bengal and analyses the need for immediate legislation for the domestic workers at the Centr

II. FINDINGS

The following tables are based on filed based interviews undertaken with 46 female domestic workers in the selected slums of Calcutta namely Dhakuria (South 24 Paraganas) and Hridaypur (North 24 Paraganas) .The

domestic workers of these areas are headed by Srishty an NGO working for women in the informal sector.

Table 1.1:

1.1.1

Number of Houses Worked In :	
One House	More than one House
13	33

1.1.2

Number of Hours Worked Per Day :		
Less than 9 Hours	More than 9 Hours	>= 12 hours
38	2	6

Analysis :

According to Domestic Workers Welfare and Social Security Draft Act of 2010

4. “ Working hours :no employee shall be required or allowed to work in any household for more than nine hours in a day or for more than 48 hours in a week .working hours are defined as per the nature of work and taking 8 hours as maximum ,with sufficient periods of rest and food for full time workers,provided that the work span should not be more than 12hrs for live in (with 3-4hrs) rest in-between ...provided further that any adult employee may be allowed to work in such household premises for any period in excess of the limit fixed under this section subject to payment of overtime wages if period of work , exceeds 48 hrs a week and including overtime work ,does not extend to 10 hrs in any day and in aggregate 50 hrs in any week .”

6. Interval For Rest – The Periods Of Work For Employees In A Household Shall Be So Fixed That No Period Shall Exceed Five Hours Before She Has An Interval Of Rest Of Not Less Than Half Hour .”

Considering this propositions we analyse table 1.1 we would see that a majority of workers work in more than one houses ,(33 out of 46 or 71.7 %) ,thus exactly how many hours a domestic worker can be made to work in a day would be a better yardstick of deciding working hours I feel , since their work falls under the unorganised sector , there are no fixed wages per hour as implemented on a uniform basis by the State Government yet , thus they try to work for the maximum hours possible in maximum number of households to earn their living , the highest recorded within the sample is 9 houses per day by a particular respondent 13 out of 46 respondents works in one house only as shown in table 1.1 , 4 out of them work for greater than 12 hours , the kind of work done by three of these four are that of an “AYA”(nursemaid) , they are not permanent residing

members in the employers’ house . In general as able 1.2 showcases out of 46,6 work for more than 12 or equal to 12 hours , 2 work more than or equal to 9 hrs. and 38 or about 82 % work for less than 9 hours. Two interesting analysis can be drawn from this , firstly the respondents working for less than 9 hours are the majority or 82 % so knowingly or unknowingly the working hours requirement is not getting violated in 82 % of the cases . This working hours is significant because for domestic workers have double burden of domestic work,and for most of my respondents spare time meant doing household work, the concept of leisure is so obscure for them that it became impossible for me to tabulate what they did as leisure activities in the course of the day. Thus limiting their working hours to 9 hours would give them more space and time at their homes and perhaps spare time would getchannelized to some useful activities like learning sewing,or being aware of the world through daily news etc.

It was seen that workers employed as “AYAS”(nurse-maid) did not receive any timely breaks during their course of work, they said even during their lunchtime they were called to do some work or the other. They said that originally it is the rule of several service centres to employ them for 11 hours but that got extended to 12 hours in practice. This shows that the maids who were employed as through agencies and stayed at the house for longer periods faced more harassment.

Table 2:

ONE WEEKEND HOLIDAY	
Does Not Receive one weekend holiday	Receive one weekend holiday
45	1

Analysis:

The above table basically indicates that there is no concept of one holiday in a week (i.e. a weekend) or four holidays in a month , of the 46 respondents only one formally received one holiday every Sunday of the month , the rest did not get a weekend holiday as their right . There were various responses on how they managed to get holidays in spite of no formal holidays, some made excuses, some lied about ill health,some honestly took a leave and there was a cut from their salary as per the number of days missed multiplied by the wage for each day,this mainly happened for all AYAS (nurse-maids) who receive wage on a daily basis .The fact is that none of these 45 respondents knew that they deserved one holiday in a week.

On a slightly different note , taking a leave without prior notice for genuine reasons too can lead to serious

consequences , an example was the case of Kalpana Halder , who lost her job for not being able to come to her employers’ place for one evening due to heavy rainfall , the employers were also not ready to give her the due wages for the number of days she had worked in the month , a group of domestic workers went to the house of this employer to demand re-recruitment or compensation by giving wages of two months at least .In this light I would like to say that maternity leave and sickness leave along with a 15 -20 days leave in the year as being circulated as their demands in various government sectors and NGOs is not just a demand , it is their dire necessity . Many lose their job on becoming pregnant whereas it is their right to get a maternity leave, this can be secured by organising them through service centre, the pregnant mother can be substituted with another worker, and post- giving birth the mother can be given work in some other household from the service centre itself.

Another point that I want to drive home is that giving the domestic workers a leave on Sundays the day when employers to get a leave and want to relax can be an issue but I feel, this would rise only when domestic work is not recognised at par other professions and secondly domestic chores are gender stereotyped and in absence of domestic help the male members of the family should be given some domestic work responsibility during the weekends.

Table 3:

WAGES RECEIVED PER MONTH				
<500	500-1000	1000-5000	5000-8000	=>9000
Nil	5	25	16	nil

Analysis:

The Central Government has proposed a 9000 salary for domestic workers per month .Taking this into consideration I have tabulated the above table. This proposal has not been implemented yet .But if we take this as the yardstick , we see that none of by respondents receive this wage per month , the majority of my respondents (54.34 %) receive wages between the range of 1000-5000 , followed by 1000-5000 (34.7 %) , 5 out of 46 even gets salary ranging between 500-1000 .

Now evaluating the necessary salary that domestic workers should receive becomes very difficult because wages are not fixed on a per hour basis and moreover most workers (33 out of 46 for my sample as table 3.1 indicates) works in more than one houses . The wages for a particular kind of work has also not been fixed .For example I took the work of a cook to compare the wages of three workers from the same slum area of Dhakuria. A respondent named Lakshmi Mandal who does the job of cook in three houses gets

rupees 3000 per month as her total wage whereas Ruma Mohanty who works in two house as a cook gets rupees 3000 too .Another respondent named Mathura Mandal who works for an NGO as a cook and cooks for 38 people per day gets only 6500 rupees per month , thus it is obvious that different work should be classified and per hour wages determined accordingly.

While working with Sristy I came to know that a demand has been fixed at 54 rupees per hour .This demand was reached at by considering various factors like yearly expenditure on food , house rent , education , health related expenditure , expenditure on clothes etc. This is a progressive measure departing form the traditional approach of considering only calorie intake and extending requirement of money for a holistic set of activities. .

Recently Rajasthan government has come up with a comprehensive policy regarding wages of domestic workers (Times Of India February 2016 .) , according to this notification the labour for an entire day (8 hours) is Rs.5642 per month , this came into effect from January 1 ,2016 . For overtime employers will have to pay workers double the minimum fixed per hour for every hour exceeding 8 hours. Furthermore domestic helps hired for just washing dishes will have to pay a minimum of rupees 705 per month for a household of four, and for every additional member 10 percent more .I think this is a well-planned policy and can be implied in West Bengal as well. Such an approach of paying specific money for specific jobs is essential to prevent casualization of labour. The market the proponents of free market would say, should be the deciding factor for determining the wages of the workers however the market can also systematically exclude some people such as these female domestic workers whose skills have yet not been quantified by the government. Thus besides fixing rate for special work a minimum wage support is necessary.

Table 4:

EXPLOITATION AT WORKPLACE	
Has Faced Any Kind of Exploitation At Workplace	Has not faced any kind of exploitation at workplace
10	36
The Kinds of Exploitations talked about :	
<ul style="list-style-type: none"> • Does not let to use washroom • Fires worker without prior notice and valid reason and does not pay the deserved wages before firing • Uses expletives 	
<ul style="list-style-type: none"> • Beating • Delay in giving fees • Not allowed drinking water • No rest or interval in work • Forced to do chores that they are not paid for 	

Analysis:

This above table gives a general over-view of the percentage facing exploitation at workplace, which was found to be approximately 21 % .The kind of exploitation faced at workplace also has also been delineated. The major limitation in tabulating exploitation are two firstly the respondents do not openly come out with the exploitations often , in fear of being fired by the employer , many cases of sexual harassment are not even recorded , secondly in some cases the respondents narrative of the exploitation faced on hearing becomes a biased one sided understanding of the exploitation , the employers' account of the incident must also be duly considered.

Breaking The Silence a public meet held on 20th December 2016 had brought up 48 cases of violations of rights of domestic workers through various kinds of exploitations ranging from sexual exploitation to loss of income due to child-birth .Such public platforms to allow domestic workers to voice their opinion and to stand in solidarity against their oppressors are required.

III. CONCLUSION

India has yet not ratified the 189thILO convention on rights of domestic workers .Till date there has been no finalized National legislation speaking about the rights of Domestic workers, a draft policy for Domestic Workers were reached at in the year 2015 but it has not reached the implementation stage .Seven states in India has passed minimum wages declaration and two of these states have constituted welfare boards for them. As of West Bengal is concerned so such measures has been taken. At present there are two trade unions constituting of Domestic Workers namely PaschimBengal Griha Paricharika Samiti and Sramik Sahayata Kendra . These unions has yet not received legal recognition from the State Government and are striving towards the same. In the absence of government law in favor of Domestic workers the state run NGOs, Sristy , ActionAid , Durbar Disha , Pratikar to name a few are collaborating for voicing the rights of the domestic workers .In 20th December 2016 Sramik Sahayata Kendra had arranged a public hearing of around 48 untold cases of harassment as faced by the domestic workers with the aid of several NGOs working in this field. The hearing was successful and was attended from people from different walks of life ranging from the Chairperson of the West Bengal Women's' Commission to advocates and academicians and most importantly the domestic workers themselves. The purpose of this collaboration was to arise in the hearts of the suppressed domestic worker the collective awareness about their rights.

Of the decisions arrived at this hearing the following are the high-lights:

- ◆ Domestic workers should be first and foremost recognized as workers and given right over decent standards of work as propounded by the 189th ILO convention
- ◆ The panel opined that Inter-State migrants labor Act to be made applicable for domestic workers
- ◆ As per the panel the Unorganized workers social security act 2008 ,and Domestic Workers(Regulation of Employment ,Conditions of Work , Social Security and Welfare Bill) , 2008 Domestic Workers Welfare and Social Security Act ,2010 – these three bills must be made into Acts immediately by the Central Government
- ◆ Domestic Workers' platform should demand from the Central Government the monetary allocation for the Food Security Act , which would enable all pregnant domestic workers to get Rs.6000 as entitlements and additionally 26 weeks maternity leave and provision for crèche
- ◆ The idea of unionization of domestic workers were welcomed.
- ◆ It would be ideal for the domestic workers to have a flag and an identity card , as first steps towards forming an union
- ◆ The organizations formed for the welfare of the domestic workers should take into consideration that domestic workers are not a homogeneous group the different socio-economic –religion backgrounds should be catered to
- ◆ The core demands were identified to be minimum wage and child care unit for maternity benefits
- ◆ The State should establish a welfare board for domestic workers
- ◆ The panel opined greater direct participation of domestic workers in elections at every level and that they being vote- banks their demands should be effectively put before the political parties
- ◆ The panel concluded in a strong demand for a National Legislation for domestic workers

While discussions and panels concerning the rights of domestic workers are being held it is important to consider what the outcome is. Are the voices of protest so raised heeded by the Centre? So far the welfare of the labourers has surfaced in acts like the Unorganised Workers' Social Security Act 2008 .The rights of the marginalized labour as such has been secured through several department like health , education etc. However the rights of the labour as such is not declared in any particular act. Furthermore whenever we say labour the primacy is given to the male labour working in

construction sites or transportation. The female labour force working as helpers to the male labour force or at home go unrecognized. Such delay in legislation is only leading to a perpetuation of the informal, unrecognised and ostracized from the law group. The female domestic labourers unable to secure the a healthy childhood or crech facilities for their children due to lack of wage and work security and crech are forced to send their children specially female children to perform the same chores .This is how the vicious unskilled labour force gets perpetuated. The workers themselves are losing faith on the glimmering ray of hope for their rights and subjugation is slowly being ingrained into their consciousness .Soon the market led oppression of the women belonging to this sector of the informal economy would be no different from the slavery practiced in yesteryears.

es/files/Domestic-Workers-Laws-and-Legal-Issues-India.pdf)

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