

**DOMESTIC WORKERS IN INDIA : BACKGROUND AND ISSUES**

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## Domestic Workers in India: Background and Issues<sup>1</sup>

The following paper attempts to map various issues and concerns pertaining to paid domestic work, voiced by academics and activists. Studies on domestic work place focus on urbanization and the following ingredients as the key cause for the increased demand for paid care work.

- Increased Female Labour Force Participation
- Increased Income and Purchasing Power amongst urban populations
- Emergence of nuclear family units in urban areas with weaker access to larger familial support structures.

On the supply side, steep decline in agrarian produce and livelihood security in rural areas is often cited as creating a “push” towards urban areas. Further, changing youth aspirations have created a “pull” factor for younger men and women. Thus, varied processes related to uneven development and urbanization have led to a pool of migrants being available for such work. This pool consists of 4 distinct groups:

- 1) Family Migrants
- 2) Peer Group Migrants
- 3) Individual/Autonomous Migrants
- 4) International/Cross-Border Migrants (Individual /Family/Peer Group)

National estimates for 2004-05 suggest 4.75 million workers were employed by private households, 3.05 million of these were urban women. Despite such significant presence, legal and policy regulations to ensure the protection of workers employed in this sector are non-existent. Recent efforts indicate a more concerted effort at organizing, developing and promoting several draft legislations for broader debate and consensus. In this paper we attempt to profile workers in the sector and highlight the key issues which need to be considered whilst designing interventions and policies for this occupation in the labour market.

### *I. Definition*

The statistical, academic and activist communities in India and internationally have defined paid domestic work in various ways. There is need to reflect on these definitions and varied conceptualisation of domestic workers. Appropriate technical definitions shall also facilitate better targeting of programmes and legislative entitlements to workers. Such reflection shall also allow the potential laws and programmes to be tailored to suit the specific sources of vulnerabilities, insecurities and risks faced by workers. Finally, defining domestic work in a way which acknowledges the heterogeneities within the paid domestic workforce shall allow differentiated design of social protection mechanisms for different types of domestic workers.

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There are three key principles through which domestic work is defined.

1. *Types of Tasks Performed:* Definitions of domestic work based on this approach prioritise the nature of tasks and labour legislations enlist the kinds of occupational categories which would be included under domestic work. The ILO Standard classification provides details on the tasks included which are oriented around household care and reproductive activities. The statistical machinery in India categorises services performed within the private household as outlined in Box 1, though it does include personal secretaries within the umbrella industrial classification 95, which entails all services performed within private households.

#### BOX 1: SERVICES IN PRIVATE HOUSEHOLDS

<p><u>Census 2001</u> NIC 95 : Baby Sitter/Cooks/Domestic Servant/Driver/Gardeners/Gate Keepers/Governess/Maids/Other Domestic Servants/Personal Secretaries NCO 9131 : Domestic Helpers and Cleaners NCO 5131: Child Care Workers NCO 5121: House Keepers</p> <p><u>NSS (NCO 68) – 61<sup>st</sup> Round</u> NCO 531 : Domestic Servant</p>
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Internationally, there are practices in Argentina and Malaysia to exclude 'lucrative' domestic work or commercial or professional activities undertaken within a home. The Malaysian labour laws pertaining to domestic work exclude labour related to trade, business or professional activities.

2. *Place of Work:* Often domestic work is defined as services and labour provided within a private household or home. Thus, the private residence is the place of work and assumes a pivotal role in defining domestic work.

The ILO International Classification, however, broadens the scope of domestic work by including commercial establishments and institutions as places of work for domestic workers<sup>1</sup>. Countries such as Costa Rica include temples as places of work for domestics. In the case of India, the definition of 'establishment' deals with premises that are usually in the 'public' domain. Persons employed via intermediaries in such cleaning and catering jobs do not render personal service, are in fact part of an industry. The definition of domestic workers in Indian laws and development discourse refers to those working in households, the 'private' domain. Similarly, the Spanish laws state that domestic work is carried out 'in or for a household' and celebrating states within the United States of America state domestic work is 'primarily performed in the home', thereby avoiding a finite and rigid definition of a domestic workers place of work.

work<sup>4</sup>. In Indore, Madhya Pradesh, 98% of the 200 domestic workers surveyed belonged to the backward castes. Many of the domestic workers in urban areas are migrant workers. N Neetha's study on live in and live out domestic workers in Delhi found majority of workers belonged to the Scheduled Caste or Scheduled Tribe communities (Neetha 2004).

While caste and social stratification increases the probability of individuals to enter domestic work, it also affects the type of tasks performed and wages earned within the sector. Thus, certain forms of domestic work such as cleaning toilets or sanitation related activities are deemed suitable for lower caste women, while access to better paid jobs as household cooks is rendered difficult for lower caste groups. However, recent studies also suggest the breakdown of such purity related notions with lower caste women working and cooking for upper caste homes in Northern India (Kaur 2009).

## **2. Child Labour**

Another important invisible aspect of domestic workforce is child labour. Child domestic labour is culturally accepted and widely prevalent in India. While the Government estimates that around 2,56,000 children (1,85,000 in child domestic labour and over 70,000 in dhabas and restaurants) are involved in these occupations as per the 2001 Census. 20% - 40% of child labour is domestic work. The reasons for taking on domestic work for a child are mainly poverty. The child domestic workers face a host of abuse – emotional, physical and occasionally sexual and are among the most vulnerable and exploited of all child labourers. Many of these children are very young and may work up to 15 hours a day, often unpaid. The employers consider the board and lodging to be sufficient remuneration. They are deprived of contact with their families and friends, and are often confined to the employer's premises. more girls under sixteen work in domestic service than in any other category of child labour. Their young age, isolation and separation from their families and peers, and near-total dependence on their employers exacerbate their vulnerability.

The Child Labour (Prohibition and Regulation) Act, 1986 only recently has included domestic work within its ambit through inclusion in the schedule which lists out "hazardous" work through a recent amendment. Under Section 27 (A) of the Maharashtra State Public Service Conduct Act, 1997 the Maharashtra government prohibits government employees from employing children below 14 as domestic workers. Such rules can also be found in the rule books of 18 other states. The All India (Conduct) Rules, 1968 have also been amended to prohibit any government employee from employing a child below the age of 14 years.

## **3. Gendered notion of work**

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<sup>4</sup> Ahuja TS and Markose KJ, 'The plight of domestic workers in Delhi', Legal News and Views, press release, as quoted by S. Guthoskar

The very notion of domestic work is gendered and has emerged as an important feminised sphere of employment. Analysis of 2004-05 NSS data suggests that close to 74.3% of workers engaged in private households are women (Raveendran 2009). Thus women form the dominant share of workers in the sector. However, women also face more insecure wages and contracts. This is aggravated by a long standing perception that domestic work is “women’s work” requiring no skills or training and is thus severely undervalued. NSS data for 2004-05 highlights that amongst the 99.9% of informal workers engaged within private households, 28.67% are male and 71.32% are female. Thus, women are a significant part of the informal paid domestic workforce.

There is evidence of gender discrimination even within the sphere of domestic work, where male domestic workers – often employed as gardeners, security or drivers- earn more than women domestic workers. Countless cases of physical and psychological abuse, including sexual harassment have been reported, with live-in, migrant and child domestic workers being especially at risk<sup>5</sup>. In addition, the options regarding consolidating assets and wages to improve livelihoods and quality of life appear tipped in favour of male migrant domestic workers (Bhattacharya and Sharma 2009)<sup>6</sup>.

#### 4. Care and Domestic Work

Domestic workers provide important care services to households, without accessing quality care for their own homes. A recent study on women’s workforce participation supported by the ILO in Delhi suggests that care related roles and responsibilities mediate women’s decision to join the labour market (Sudarshan and Bhattacharya 2008)<sup>7</sup>. Services provided by domestic workers are moot in allowing greater degree of female labour force engagement. However, by providing these services, many female domestic workers cannot provide quality care for their children and elderly. One of the key findings of the SEWA and ISST studies in Ahmedabad and Delhi is in relation to childcare. Women often have to leave their children alone at home or in the care of a neighbour while they go to work. Many women interviewed stated that they could not take up further tasks or households simply because they had to come home and take care of their children. In Ahmedabad, 17% of the sample had grown up children, while for 12% the question was inapplicable as they had no children or had children who were attending school during their working hours. 66% of the remaining 748 women left their children alone without anyone to care for them. 31% could rely on family members or relatives, while 3% relied on other friends, neighbours or domestic workers to help them.

#### *IV. Migration and Regulation of Intermediaries*

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<sup>5</sup> Chris Bonner, 2009, “Decent Work for Domestic Workers”, Towards an International Labour Organisation Convention, WIEGO

<sup>6</sup> Bhattacharya S, Sharma D, 2009, A Stable Domestic : Shelter Security and Domestic Work in Urban Delhi’ presented at SPA Workshop on Shelter Security and Social Protection, February 2009.

<sup>7</sup> Sudarshan, R. and S. Bhattacharya (2008) “Through the Magnifying Glass: Women’s Work and Labour Force Participation in Urban Delhi”, ILO Asia Pacific Working Paper Series.

Migration continues to be an important aspect to domestic work. While it is impossible to use national data to analyse the share of migrant workers within the sector, micro studies estimate the proportion to be very high in metropolitan areas such as Delhi (Bhattacharya and Sharma 2009, Neetha 2004). Studies in Delhi and accounts from activists in Mumbai, Chennai and Pune suggest that migration affects types of domestic workers differently.

While live-out or part time workers usually migrate with families and larger kinship based communities, live-in workers are usually autonomous or peer group migrants who rely on intermediaries and contractors to facilitate migration and employment. Thus, live out workers have large social networks based on family, neighbourhood or kinship for wage fixation, work related information and social support; they usually migrate with family members.

However, live in workers have very limited access to larger social networks (Neetha 2004) due to the nature of their working contract. Mobility is heavily restricted and they do not have extended family or community based support. These workers are most vulnerable to physical and sexual abuse, excessively long working hours, and deprivation, often working in isolation, almost like bonded labour. The migrant women domestic workers face specific concerns - sexual harassment, harassment by the police and the need to regulate placement agencies. The existence of various layers of recruitment agents, the system of advance payments and the lack of regulation of employment agencies add to the complexities in delivering required social and legal protection to such workers.

Several such live-in internal migrant domestic workers are from tribal regions of the country. New actors such as employment agencies, have emerged in urban areas which provide domestic workers in return for commissions from the worker and the employers. Such labour relations also hold important entry points for regulation and exploitation. Activists and research findings highlight how agencies withhold wages due to workers and engage in scrupulous activities. Migrant live-in domestic workers also face social stigmas due to their work at places of work and areas of origin (Rao, Hossain and Bhattacharya 2009). Many Indian women also travel to countries in the Middle East, South East Asia, and sometimes Europe and North America to work as domestic workers. The information base regarding the migrant workers is even weaker – sparse, anecdotal, with very few statistics and research in the area.

### **1. Regulation of Placement Agencies**

Recent times have seen a huge increase in the number of 'placement agencies' supplying domestic workers in urban metropolitan areas. Research suggests Delhi would have close to 800 placement agencies (Neetha 2009). These agencies are intermediaries between the worker and the employer. Their operations and practices relating to commissions, wage fixation, payment and regulation vary. The supply of domestic workers relies on contractors and contacts who recruit from states such as Jharkand, Chattisgarh, Orissa, and West Bengal. These recruits are usually younger women and they are heavily

dependent on intermediaries and middlemen. Agencies are often accused by activists as being corrupt and unscrupulous for withholding wages, enforcing labour and sexual exploitation.

The recent NCW bill specifically discusses the need for agencies to be registered and regulated. Implementation of such a process will need sustained and collaborated efforts from state officials, employers, workers and unions. In her analysis of placement agencies, N Neetha (2009) suggests,

‘Placement agencies if regulated could play a pivotal role in the economy, benefiting both employers as well as workers. Formalised employment through placement agencies could give domestic work more visibility, social acceptability and status. Further, placement agencies could function as an entry point for empowering domestic workers through imparting skills, both hard as well as soft skills- bettering the employment prospects of workers’

The author further elaborates upon a vast spectrum of intermediaries and agencies, ranging from individuals with mobile organisations to workers cooperatives run by SEWA Kerala, Nirmala Niketan and Yuvati Sewa Sadan. These groups observe good practices such as maintaining a signed contract with employer, employee and the organisation; specifying wages, working hours, leave, medical aid and conditions of retirement or dismissal. Additionally, they also provide and encourage the personal and skill development of workers through their own activities, communications and events.

#### *V. Informality and Conditions of Work*

Informality is a dominant feature of domestic work. As per data available from the NSS for 2004-05, 99.9% of workers engaged in private households are informal workers, based on the definition employed by the National Commission of Enterprises in the Unorganised Sector (Raveendran 2009). As a result, workers in the sector witness serious concerns regarding the conditions of work and wage outcomes. Domestic work is often undervalued and poorly regulated, and thus many domestic workers remain overworked, underpaid and unprotected. Domestic work is also often not considered as real work and domestic workers not real workers. They are considered “like one of the family”. There is need to provide social protection and legal rights to workers which treat them at par with other wage workers. There is a need for policy to acknowledge that domestic work is carried out in conditions similar to wage work, but within the confines of the private household.

Due to weak bargaining power, lack of legal and policy recognition and the undervaluation of domestic work, workers report poor wages and working conditions across cities such as Delhi, Jaipur and Ahmedabad ( Neetha 2004, Jagori 2004, Pathare 2003, SEWA 2008). There are few studies which can substantiate the abysmal nature of working conditions and wages witnessed by domestic workers. Several of these have



been undertaken by unions and civil society organisations concerned with problems faced by workers. The recent past has seen a few research studies analyse domestic work through the realm of migration, and social networks (Kaur 2006, Neetha 2004). The following discussion draws from 2 studies completed in the cities of Ahmedabad (SEWA 2008) and Delhi (ISST 2009) between 2008-2009. While the data from the former have been published, the latter is provisional and under review.

The SEWA survey of 1045 workers was canvassed in 21 locations based on a mapping exercise conducted by union members. Table 1 summarises the wages and working outcomes for domestic workers in Ahmedabad, across 4 main localities surveyed. Table 2 relies on a sample survey of 1400 domestic workers in the National Capital Territory of Delhi. The data presented is only for the district of New Delhi, which reported the highest wage rates in the city-state.

**Table 1 : Wage Payments and Cluster Characteristics of Live Out Workers, Ahmedabad**

Characteristics	Narangpura	Chandkhedha	Sabarmati	Vadaj	Total
Number of Respondents	102	120	95	110	1045
Average Number of Years as Domestic worker	6.7	6	5.6	2.7	6.9
Average Hours working	6.3	6.7	5.3	4.7	6
Average Number of Tasks per worker	6.7	6.3	5.1	4.8	5.1
Average Number of Households in which working	3.35	3	2.56	1	2.5
Average wage cuts in per month wages for holidays	15	15	15	15	15
Average number of holidays with wage cuts per month	2	3	1	3	2.7
Average per month income (in Rs)	779	1609	1033	987	1021
Majority wage rates for Washing Clothes	155	155	155	155	155
Cleaning and Sweeping	155	155	125	155	155
Washing Utensils	155	155	155	155	155
Cooking	355	355	355	355	355

**Table 2: Wage Payments and Cluster Characteristics for Live –Out Workers , New Delhi District**

Characteristics	Jangpura	RK Puram	GK	Okhla	Total
Average Number of Months as Domestic worker	46	51	43	64	56
Average Hours working	3	4.6	3.4	2.9	3.4

Average Number of Tasks per worker	2	2.6	3.3	2.1	2.32
Average Number of Households in which working	3	1.3	4.8	5.5	4.5
Percentage share who receive paid sick leave	55	81	95	94	93
Average number of holidays with wage cuts per month	1.8	2.4	1.4	1.8	1.8
Average per month income (in Rs)	1702	2554.5	2241.9	1957	2142
Percentage who receive one holiday per week	2	57	7	10	19

The following discussion relies heavily on the ISST and SEWA findings, interspersed with comments and insights provided by activists and experts at the ILO Civil Society Consultation.

## 1. Wages

As discussed in the previous section, wage rates of part time or live out workers are based on oral contracts and negotiations with employers. These norms are also arrived at for each locality based on informal collectives of workers, mediated by social networks (Neetha 2004).

### a. Factors Influencing Wage Fixation

The pay received by live-out domestic workers is often determined by the following variables:

**i. Tasks Profile of Worker:** Data from Ahmedabad city and New Delhi district in the NCT highlight the significant wage differential between activities such as cleaning and cooking. For example, workers engaged in only washing utensils earn Rs 600 per month in New Delhi, whereas those engaged in cooking and food preparation earn Rs 1558. The difference between majority wage rates reported by workers only cleaning and those only cooking is nearly 200 Rs in Ahmedabad. Thus, the type of activity taken up by the worker has significant influence on the final earnings of workers.

Further, the number of activities taken up by workers also has an impact on the wages earned. For instance, workers performing only one task in New Delhi district would earn Rs 954 per month, whereas those performing six tasks would earn Rs 2500.

It is very important to note that the task profile of workers is strongly linked to external time constraints emanating from performing their own household care roles and caste and social discrimination.

**ii. Locality Specific Wages and Socio-Economic Profile of Employer:** The Delhi study also highlights the locality based complexities in dealing with domestic workers wages and working conditions. While the larger sample of 1400 workers reports an average income of Rs 1499, a subset of 227 workers surveyed in the New Delhi district illustrate the argument. Wages and working conditions vary with the locality, as demonstrated in Table 1 and 2. The data suggests that wage rates vary based on the socio-economic profile of employer. For example, in New Delhi district, areas reporting lower rental property prices also reported lower wages. An important point to be noted from the ISST study on domestic work in Delhi is that **wages are heavily self-regulated** (based on the variables mentioned above) and that most workers were aware of the prevailing rate in the localities and were prepared not to accept less. However workers excluded from such (informal) social networks or collectives did not have access to any information and faced major wage penalties, due to ignorance. Many workers were also aware of location based differences in rates. However, in several cases, workers could not travel the distance to higher paying localities due to their own child care responsibilities and household work.

**iii. Finally, live-in workers** have very minimal voice in negotiating wage rates as these are often fixed by intermediaries such as middlemen, relatives or agencies. Employers often provide wages directly to these institutions and activists' state that non receipt of wages is a common occurrence for full time live in workers. The illiteracy of workers increases the risk of wage based exploitation by employers and agents. The wages set by agencies are often based on the perception of 'skill', with certain agents asking for higher wage rates for workers with more work experience. In her paper discussing the nature of placement agencies in the city of Delhi, N Neetha (2009) highlights how information on wage payments received by live in workers is very difficult to collect. The wages reported vary from Rs. 1000- 4000, depending on the skill and experience of the worker. Placement agents also deduct significant shares of domestic workers' salary during their first few months to cover the brokerage expenses and transportation costs incurred by them to place the worker. Upon being placed, workers are rarely told the method by which such deductions are made.

#### **b. Principles for Minimum Wage Calculation in Labour Laws**

In India, the central legislation covering minimum wages excludes domestic work. However, several states such as Karnataka, Kerala, Andhra Pradesh, Tamil Nadu, Bihar and Rajasthan have notified minimum wages for domestic work but have no norms for implementation or monitoring. While activist groups have welcome the legal recognition of domestic work, the method of wage calculation has been criticised as inadequate, ad-hoc and arbitrary, not considering the basic expenditure related needs and complexities of domestic workers (ALF 2009). Analysing the Karnataka Minimum Wage Act, the Alternative Law Forum finds that the text of the document does not describe any guidelines, principles and norms for wage fixation. This is important, as such guidelines

need to be provided to workers as practicable inputs to guide their daily wage negotiations.

i. Needs Based Formula

With the increasing food prices and general expenditures in urban India, the mechanism of fixing wages needs to take into account price rise and the general consumption basket of urban families. A recent study on domestic workers in Bengaluru by Stree Jagruti Samithi (2004) found that prevalent wages in the domestic work sector were insufficient.

BOX 2 : INADEQUATE WAGES FOR DOMESTIC WORKERS, BENGALURU, 2004

Total Expenditure exceeds family income in two-thirds of all cases. Average expenditure is Rs. 5189/- including loan repayment and saving; Rs. 4973/- including loan repayment only; and, Rs.4154/- excluding loan and saving. School fees are Rs.1221/- on average for all families, but Rs.174/- for families with children under 12; Loan repayments are Rs.817/- on average for all families, but Rs.1148/- among just the families who have loans.

(Source : ALF 2009)

In this regard, the 'Needs Based Formula' for wage fixation set by the 15<sup>th</sup> Indian Labour Conference, recommended by the 2<sup>nd</sup> National Labour Commission in 2002, is valuable. The proposed norms are enlisted in Box 3.

BOX 3 : PRINCIPLES FOR WAGE CALCULATION, 15<sup>TH</sup> LABOUR CONFERENCE

- i. In calculating the minimum wage, the standard working class family should be taken to consist of 3 consumption units for one earner and his family consisting of his wife and two children below the age of 14 years. The earnings of women, children and adolescents should be disregarded.
- ii. Minimum food requirements should be calculated on the basis of a net intake of 2,700 calories for an average Indian adult of moderate activity. Clothing requirements should be estimated as per the per capita consumption of 18 yards of cloth per annum which give for the average workers family of four 72 yards of cloth.
- iii. In respect of housing, the norms should be the minimum rent charged by the government in any areas for houses provided under the Subsidized Industrial

- housing scheme for low- income groups.
- iv. Fuel lighting and other miscellaneous items of expenditure should constitute 20 % of the total minimum wage.

The Supreme Court of India further held that the following additional components (in addition to norms laid adopted by the 15th Labour Conference in 1957) should be added as a guide for fixing the minimum wage. These should amount to 25% of the total minimum wage.

1. Children's education
2. Medical requirement
3. Minimum recreation including festivals/ceremonies
4. Provisions for old age
5. Marriages

(Source : ALF 2009)

While the Commission suggested the above mentioned approach to wage fixation, the members also posited the need for governments and wage fixation processes to investigate and factor in the employers capacity to pay. The commission report states “the Appropriate Government should keep in mind the capacity of the industry to pay as well as the basic needs of the worker”. This is a particularly sensitive issue while contemplating principles for wage fixation in the paid domestic work sector. Workers often work for varying types of households and the socio-economic profile of employers vary significantly. The wages set should also be concerned with not pricing domestic workers out of demand, whilst setting a wage which remunerates workers suitably, to survive within an urban economy.

#### ii. Living Wage and In-Kind Payment

Activists and technical experts engaged with domestic workers and the minimum wage process suggest (ILO 2009) the need to address the capacity to pay constraints, by fixing minimum wage as reflective of an established living wage floor, which should be due to all domestic workers. The locality specific wage rates and other in-kind payments can be components which are additional top-ups to this floor.

In kind payment is another issue which complicates wage calculation for domestic workers, particularly live in workers. Many workers receive free accommodation, food, clothing and other items at personal request, which are adjusted in their wages. The value imputed to these goods in the urban context is very high and including them as valid form of wage payments may result in domestic workers without any monetary income entitlements. Thus, civil society actors suggest the need to delineate and dissociate in-kind payments from wage calculations. They highlight that minimum wage should be in monetary terms. Moreover, items considered “in-kind” should be specified so as not to

confuse them with “incentives” and bonus payments for workers such as clothing on demand and items provided during festivals.

Live in workers face sexual harassment, abuse and psychological tensions due to the limited mobility offered to them by their working and living conditions. There is need to specify the nature of accommodation, to be provided by employers and agencies for migrant domestic workers, as part of compensation. Consultations with activists discussed this issue and suggested that the cost of accommodation should be only considered “in-kind” if it is a separate living quarter where the worker can be granted privacy and for example be able to live with her family. A space in the house should not be considered as accommodation worthy of in-kind payment. Moreover, automatic deductions should be avoided, and workers should receive their pay in full in cash. Food should be automatically provided if the worker lives in the house of the employer.

### iii. Time Rated Wage Calculation

There are debates between the time rated and piece rated conceptualisation of minimum wage for domestic work. While workers in common parlance, understand and set wages based on tasks such as cleaning, cooking or washing utensils; piece rated wages can be implemented and monitored when output oriented targets are available for each worker as they are in other industries such as tobacco and garments, where piece rated wages operate.

The outputs expected from workers can vary based on the number of utensils or clothes washed, and effective calculation can be difficult. Certain unions such as the Karnataka Domestic Workers Union prefer the time rated calculation, which can be effectively tracked and monitored. Such basis can also make the calculation of overtime simpler. However, time rated calculation may discriminate against workers engaged in fewer households or working for shorter time duration. Furthermore, any time rated calculation of minimum wage needs to factor in the multiplicity of employers. Workers may spend varying hours and amounts of time in different households.

Another way to approach the debate is to combine the approaches and calculate the wages due to a worker for performing specific tasks within a specified time frame. However, active labour department engagement is needed to institute such time-motion calculations and deliberations.

### iv. Increments and Deductions

Despite inflation, domestic workers do not enjoy any mandated annual wage increments or bonus payments. While some workers enjoy such benefits, these are based on good

personal rapport with employers. The SEWA study highlights how women state that achieving wage increments is purely based on one's employer's wishes and good will. Furthermore, workers face arbitrary deductions from their wages, particularly live in workers. Finally, it is common for domestic workers to be unpaid for days when their employers are not at home or on holiday. Norms must be fixed to ensure that no wages are deducted when workers take **paid leave**, or when employers are not present to supervise work.

## **2. Hours of Work**

Live-out workers work in multiple households and thus the hours of work for the total day depend on the number of employers. On an average, workers in Ahmedabad report working for a total of 6 hours per day. However, a majority in the study in New Delhi and Ahmedabad report working extra time without any payment. The non remuneration of work done as extra time needs to be addressed. Problems pertaining to **on call and stand by periods** also need to be tackled. Activists and union members stated that workers often had to expand their working hours dependent on the schedule of their employers, without receiving any compensation for the waiting period.

Strenuous hours of work are a serious problem faced by live-in workers, where agencies and employers observe no norms regarding rest periods. Studies on live in workers highlight how women work for more than 8 hours a day and are persistently on call (Neetha 2004). There is dire need to specify rest periods, where many experts suggest a norm of 10 hours of consecutive rest period with a prohibition on overtime. Meal intervals should be provided after 5 hours of consecutive work for live-in workers.

## **3. Holiday**

While live-out workers are able to negotiate holidays with employers, they often face wage cuts for taking leave. Workers in Delhi report taking an average of 2 days holiday per month. There is need for holiday norms and standards to be set and enforced. While wages tend to be self regulated, holiday norms are a key area where workers possess little to no clarity on what their minimum entitlements are.

There are largely four categories of leave which need to be provided for. These include **maternity leave, privilege, casual and sick leave**. Many involved with the domestic work movement strongly emphasize the need to offer fully paid maternity leave for no less than 14 weeks.

Another problem faced by workers is the risk of being replaced permanently by another worker during their period of leave. The worker should be able to secure their original employment at the end of their leave period. Further, workers are not entitled to paid sick leave. Activist's reports suggest that most workers face wage cuts during illness. Unions

working with domestic workers state that workers should be entitled to paid sick leave for 12 days a year.

Live in workers report ad-hoc holiday procedures. As workers live with their employers and have limited claims to other households or resting spaces, enforcing holiday norms is further complicated. Migrant workers often take a large time period away from their workplace to visit their pre-migratory households. Many live in and live out workers are often replaced during such time as well. There is need to regulate such practices of employers and agents. Lack of holidays and personal space for workers has exacerbated their sense of isolation and vulnerability.

Key legislations which provide for a mandatory weekly holiday for workers such as the Weekly Holidays Act, 1942, and the Factories Act, 1948 (under s.52) do not currently apply to domestic workers. However, states which have notified minimum wages for domestic workers provide for a weekly day off as per the specifications of the Minimum Wages Act (under Section 13).

Calls for a weekly holiday have been a key issue around which unions and workers have galvanised support and strength. Members of the Karnataka Domestic Workers Union, Penn Thozhalalargal Sangam ('PTS') and the Pune Molkarin Sanghathan have made these demands. Due to the struggle and efforts made by the Pune Molkarin Saghathan, most domestic workers in Pune get at least 2 or 4 days paid holiday per month. With the recent enactment of the Maharashtra Domestic Workers Welfare Board Act, 2008, domestic workers in the state are guaranteed a weekly holiday.

#### **4. Contracts and Negotiations**

The nature of contracts, particularly for live out workers, is not only oral and informal, but heavily dependent on personal relationships carved between employer and employee. Thus, wage setting, conditions of work, working hours and norms of recruitment are immensely flexible and based on intense negotiations between workers and employing households, where both parties have no legal guarantees or guidelines to ensure decent work conditions. Workers suffer greatly due to this policy lacuna, as they must rely on the vagaries of local information and social networks to bargain with employers whilst deciding on wages, increments, holidays, working hours or other in-kind remuneration. In several cases, activists state that workers have limited bargaining power and must accept any wages and working conditions offered by their employers, due to the fear of losing vital income to other domestic workers. This fear is exacerbated due to the increasing supply and availability of such labour in metropolitan areas. As a result, bargaining decisions on working conditions and wages are skewed in favour of the employer.

In the case of live in workers recruited through personal contacts, many of the concerns regarding the absence of a legally endorsed written contract with finite specifications regarding working conditions and wage norms are mirrored. These workers appear to be



weaker in their ability to negotiate and bargain for improved conditions and terms of work, as they are dependent on the employing household for shelter and often have limited social networks and support in the city. There have been many frightening cases reported by activists and academics working with live in domestic workers, where employers withhold payment without providing adequate food, clothing or shelter. Physical and sexual abuse is also commonly reported. The lack of a legally recognised contract or agreement between employer and employee on working conditions also renders complaint and redressal mechanisms implausible.

There has also been an increasing trend to organise the recruitment and supply of live in domestic workers. Such a trend can be witnessed in the surge of private placement agencies and contractors who organise the recruitment of migrant domestics from their pre-migratory homes and act as a channel for their migration and employment. These workers, often young or adolescent women (Rao et al 2008, Neetha 2009), are 'placed' in employing households by agents. They charge a commission to the employing household and take a share of the workers monthly income. There are also cases where agents take complete control over workers income and employing households are meant to make direct payments to agency held bank accounts. In many such cases, workers have no control over wage negotiations and their agency is curbed. A few agencies provide the formal frills of paper work and contracts to the employer. However, these are not recognised by law as the placement agencies are often not registered institutions. Live in work in particular, occurs in isolated, largely non-regulated and privatized environment and most domestic workers negotiate job terms and pay on an individual basis or relying on an agent.

While enforcing workers and employers to use written contracts and formal agreements is an uphill task, due to the personal and flexible nature of labour demand and supply in the sector, there is a need to encourage workers to maintain written accounts of payments, hours worked and holidays. This can reduce exploitation and increase the value and recognition of paid domestic work as 'work'.

Furthermore, information on ideal minimum floor norms dealing with working conditions and wage setting need to be generated and disseminated amongst workers. Such a document needs to address the basic minimum entitlements due to workers – in terms of wages, holidays, hours of work and social security. This can be a powerful tool for live out workers, who currently collectively bargain and negotiate for wage setting and increments, working conditions and holidays through informal unions based on social networks and neighbourhood. Workers in many cases exhibit immense agency and resilience in seeking improved terms of work, however they do so in a blind environment where they are unaware of entitlements which are due to them, in exchange for their labour. A legal mechanism acknowledging and describing a model contract for domestic workers can be a catalyst for greater struggle and organising amongst workers and significant improvement in working conditions.

For live in workers, registration and norms describing the effective functioning of agencies can be an entry point to improve workers bargaining position. Further, linkages with state governments to ensure workers receive basic contact and process related information for grievance redressal and complaints at the pre-migratory stage can engender the registration of workers and assist in curtailing the migrant workers sense of isolation.

## **5.Social Protection**

There are various components to the required social protection mechanisms for domestic workers. Beyond conventional provisions for insurance and medical benefits, shelter security and habitat improvement are crucial inputs into the social protection package needed by households and labour in the urban economy. The rights and claims of the urban poor to land, infrastructure and shelter are often compromised.

### **a. Institutional and Labour Market Engagements**

While legal frameworks can create an enabling framework within which social security and decent working conditions can be achieved, domestic workers are commonly subject to different local rules of labour market engagements, which can mediate the experience of such macro policy initiatives. A host of institutions hold significance for domestic workers. These vary between social networks, households, employing households, state policies and habitat related concerns (shelter, infrastructure/amenities, placement agencies) (ISST 2009). Very little background literature or evidence based documentation is available on what role these can play in regulating working conditions for domestic workers. Studies on domestic workers in slum localities in Delhi, Jaipur and Ahmedabad (Bhattacharya and Sharma 2009, JAGORI 2008, SEWA 2008) suggests that habitat and public services bear a significant role in mediating women's working conditions and contracts. Thus, any pursuit for improved working conditions for workers needs to address and engage these institutions in the implementation structures.

### **b. Social Security**

Domestic workers need to be included in the fray of social security mechanisms provided to other wage workers. There has been much discussion on the need to set up tripartite welfare boards which shall devise and implement social security schemes and provisions for domestic workers. Activists are advocating and struggling for workers to enjoy sickness, injury, child education grants and maternity protection. Insurance models for workers need to be piloted and pursued. Currently, workers have no social protection from the state and rely on informal and familial support during crisis or emergencies.

The NCW bill for Domestic workers provides for welfare boards which shall devise and deliver schemes dealing with social security, health, medical, education and other benefits for domestic workers. The Maharashtra Domestic Workers Welfare Board Act,

2008 and the Tamil Nadu Manual Workers Act also envisage provisioning of financial assistance for the education of the children of the beneficiary; maternity benefit to the women beneficiaries and funeral expenses to the legal heir on the death of the beneficiary. The Unorganized Workers Social Security Act, 2008 states that the central government can formulate and implement welfare schemes for unorganized workers on matters relating to life and disability cover; maternity benefits; old age protection and other benefits. This is an important entry point to ensure social security reaches domestic workers.

### **c. Occupational Health**

The ILO Occupational Safety and Health Convention, 1981 (No. 155) does not exclude domestic workers from its purview. Research and accounts from activists highlight the need for occupational health interventions for domestic workers. A large share of domestic workers surveyed in Ahmedabad felt they suffered certain health problems and diseases specifically due to the work process. 18% report facing injury at work. A majority 41% of this group states they have fallen down or met an accident while working. Amongst the larger clusters sampled Sabarmati reports 38% who received injury at the workplace. Only 25% employers compensate for injury. This was a common source of anger amongst domestic workers.

Such data substantiates the need for occupational health and sickness allowance for workers. The worker should be entitled to compensation for accidents at the worksite. The Unorganized Workers Social Security Act, 2008 provides for state governments to formulate and notify suitable welfare schemes for unorganized workers, including schemes relating to employment injury benefits. The Maharashtra Welfare Board Act, 2008, also provides for medical expenses for beneficiaries through the welfare board. Legal experts state that such provisions cover the 'occupational injuries' that a domestic worker incurs during his or her work and arising out of the work (under s. 10 (b) (iii) of the said Act).

### **d. Implementation and Delivery**

Many suggestions and social security models considered by activists and state governments rely on the tripartite welfare board. The proposed legislations allow for the board to supervise design of norms and programmes for workers. The board is also responsible for facilitating registration of workers, whilst monitoring and allocating funds for the benefit of the workers. These are a large gamut of activities and the capacity of any institution to manage such a combination of tasks needs to be evaluated.

Also, due to the personal and locale specific nature of wage and working conditions negotiated by workers, there is need to decentralise this process. Institutions need to factor in the varying geographic and socio-economic profile of areas whilst setting wage fixation and working condition norms.

There is also need to look into other innovative practices which can be piloted at the locality level in collaboration with other local institutions such as Resident Welfare Associations, private registered agencies, workers co-operatives and state programme units. Furthermore, organising workers and providing information on basic entitlements at the local level shall boost the ability of the workforce to negotiate and achieve improved wages and working conditions.

## *VI. Voice and Organizing*

Organising domestic workers is a challenge as the work place is inaccessible and multiple, marked by a high rate of attrition and instability. Recent studies analyzing decent work deficits in cities in Gujarat such as Surat highlight the need to sustain and support organizations for domestic workers in order to improve bargaining power, wages and voice (Kantor, Unni and Rani 2006)<sup>8</sup>. 'The domestic worker has an ambiguous status, and remains "a special type of worker who is neither the member of the family, nor an employee in the public sphere enjoying the full advantages of socialized work"<sup>9</sup>. The isolation of domestic workers in households, their poor working conditions and low pay, as well as the correspondingly limited resources of their organizations, make it particularly difficult to organize.

Despite these difficulties there is a great deal of organizing of domestic workers all over the country. There now is several Trade Union Union in India have been working towards the rights of domestic workers both within the legal sphere and n a day-to-day basis. The Penn Thozhilargal Sangam and the Unorganized Sector Workers Union in Tamilnadu or the Domestic Workers Movement working in 23 states in the country, and the SEWA are examples. Other domestic workers organizations which are trade unions either function independently or in association with the larger regional or national level trade unions.

Cooperatives of domestic workers have also emerged as the effective way of organizing, for the domestic workers. Cooperatives can create structures that allow domestic workers to allow domestic workers to take control of their working lives, address isolation and build solidarity. Nirmala Niketan and SEWA kerala are good examples.

Apart from workers movements, many non-governmental organizations working on gender and/or labour have organized domestic workers. The effect of these unions and associations has been seen in pushing for the new legislations with regard to domestic workers apart from dealing with discrimination on a daily basis collectively. Some of these struggles have yielded success as in the case of Maharashtra with the passing of a

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<sup>8</sup> Kantor Paula , Unni Jeemol, Rani Uma, 2006. 'Decent Work Deficits' , Economic and Political Weekly 2006 , 27th May Issue.

<sup>9</sup> Arat Koc, Sedef (1989): 'In the Privacy of Our Own Home: Foreign Domestic Workers as Solution to the Crisis in the Domestic Sphere in Canada', *Studies in Political Economy* 28

specific legislation on domestic workers and the government order in Tamilnadu for the setting up of a welfare board for domestic workers.

The invisibility of domestic workers manifests itself in several ways. Not included in the wider notion of a 'worker' category, they lack the right to claim certain benefits such as social security or welfare claims. Working from home, these workers have less voice vis-à-vis employers or public authorities than other workers. Organising at the grassroots is fundamental to finding solutions to the various problems faced by domestic workers and addressing the myriad vulnerabilities that they face. Organizing domestic workers, as other informal workers, is the key to their empowerment: for personal, social and economic empowerment; to raise their visibility as a group; and to provide a mechanism for effectively representing their interests, or giving them "voice", in their struggles around immediate issues. There is a need to sustain and support organizations for domestic workers in order to improve bargaining power, wages and voice. An international convention will further efforts to rethink organizing as necessary to the effective implementation of any legislation for domestic workers.

### *Conclusion*

With the growing significance of domestic work within the urban labour market, there is concomitant need for providing minimum legal protection and social security for workers generating important household and care services. There are several issues raised in this paper that need to guide discussions on the possible legal and welfare interventions.

To begin with, the definition of the 'domestic worker' needs greater clarity. There are three distinct approaches – defining domestic work based on place of work, tasks performed or the nature of employer or remuneration. Adequate definitional clarity shall allow for effective targeting and design of programmes and laws.

Wages and working conditions for workers are poor due to the informal and oral nature of contracts. There is need to prescribe a minimum floor legislation through a model contract which can assist workers in bargaining for better labour outcomes. Wages for the domestic workers are abysmally low and determined by factors such as tasks performed, hours of work and the socio-economic profile of employers. As domestic workers are often women and hail from socially discriminated communities, their work is further undervalued.

There are important debates on the mechanism to be used to calculate minimum wages. Wages can be determined in a time rated or piece rated manner; based on a floor level living wage which takes into account the expenditure related needs of domestic workers.

Several issues in wage setting relate to the live-in domestic workers, such as the regulation of agencies, leave periods (including annual, sick and maternity leave), hours of work, 'on call' periods/ rest periods. There is immediate need to register and regulate placement agencies. This can be a first step to counter concerns regarding the social, sexual and economic harassment of live in workers.

Reconceptualising the legal framework so as enable effective implementation is imperative. This requires national labour laws to extend recognition to domestic work as

'work' through inclusion of the sector within the ambit of minimum wage and dispute settlement laws. The record of implementation and enforcement of legal and welfare provisions for domestic workers has been patchy and leaves much to desire. There is need to encourage the formation of organisations and unions of domestic workers in conjunction with linkages with existing central and state programmes. The welfare board model needs to be investigated as an appropriate method for the delivery of social security. Alternative residential area based mechanisms for social security and dispute settlements can also be piloted.

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