

Human Rights of Domestic Workers: A Revelation by Housemaids in Smart City of Bhubaneswar, India¹

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Abstract

Today's educated working women face role conflict and stress in meeting the expectations of family and worklife. The only solace or relief that they find is through the cooperation of the domestic helps that they hire to perform household chores. Urban India provides a lot of employment to these women domestic workers in unorganised sector that is in the domestic sphere who migrate from the rural areas to meet their daily needs and help their family in meeting the demands of a better livelihood. Some of them work full time and some perform hour based part time work in different households to earn a living. Even children are also employed to work in the domestic sphere. The diverse work that they perform includes looking after children and elderly, cooking, cleaning, washing and managing the household. The present study attempts to explore the challenges that these women domestic helps face in the urban household environment. Contentions for a better pay, respect and empathy of the employers, perks and day breaks are some of the things that they face in their work-life. However, these women end up being starved, battered, neglected, deprived and even physically and sexually assaulted by the employers. The present study is a humble endeavour to bring to light the challenges that the domestic workers encounter in their urban work environment in the smart city of Bhubaneswar, India, in a human rights perspective.

Key words: Domestic labour, urban unskilled work, domestic helps, smart city

1. Introduction

Working women in urban area have to shoulder the responsibility of both home and workplace. They are overburdened by the role conflict and in order to justice to both the quarters she seeks solace in the service of housekeepers also known as domestic helps and housemaids. Although these women counterparts also can be termed working women employed in unskilled work, they are deprived of the basic rights of a worker and remain poor, starved, deprived and abused. The housekeepers visit their homes from rural areas as daily commuters or stay in the neighbourhood slums. Urban India provides a lot of employment to the women housekeepers in unorganised sector that is in the domestic sphere. They migrate from the rural areas to meet their daily needs and help their family in meeting

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the demands of a better livelihood. Some are minors and illiterate. Some of them work full time and some perform hour based part time work in different households to earn a living. Even children are also employed to work in the domestic sphere. The diverse work that they perform includes looking after children and elderly, cooking, cleaning, washing and managing the household. The present study is a humble endeavour to bring to light the challenges that the housemaids encounter, and their demands for safe urban work environment in the smart city of Bhubaneswar, India in a human rights perspective.

Domestic work has enabled many women to enter the labour market and benefit from economic autonomy. However, this has not translated into gender equality and equality of wages, freedom of expression, forced labour or unpaid labour.. Data released by the Ministry of Women and Child Development in February 2014, published in response to a question tabled in the upper house of Parliament, track reports of violence against domestic helpers between 2010 and 2012. Overall, in India's 28 states and 7 union territories, there were 3,564 cases of alleged violence against domestic workers reported in 2012, up slightly from 3,517 in 2011 and 3,422 in 2010.⁴ . International Labour Organization (ILO) was established as a UN specialized agency to promote social justice and human rights of labour and workers. Accordingly, ILO has argued the need to change the prevalent discrimination and oppression against domestic workers in work place, private domestic workers unique position, mostly for women. There are large number of poor vulnerable women domestic workers and they badly needed amelioration. With that end in view ILO has developed a number of Conventions and thereby member states who are signatory of this Conventions, it is obligatory for such states to recognize the rights of as obligatory. India is a signatory to the Convention 189 on Decent Works for Domestic Workers, though India is yet to ratify this Convention. But in reality, the condition of domestic workers is very grim and sad as regards protection of their rights.

According to the National Human Rights Commission (2002-2003) , 90 per cent of trafficking in India is internal. Lack of employment in the rural and tribal areas alleviates the migration of women in the urban areas. India offers a transit for trafficking women and girls to the Middle East for domestic work from within as well as our bordering countries. Ignorance, poverty, illiteracy exposes these women to an ambit of abuse and exploitation.⁵This paper is an attempt to look into the ground reality through an empirical study in the smart city of Bhubaneswar, whether the domestic workers are protected under the human rights regime both under international law and our national laws.

2. Concepts Domestic works mainly focus on domestic servants which means and include a person employed in connection with the work of a private dwelling-house and not in connection with any trade, business, or profession carried on by the employer in such dwelling-house and includes a cook, house-servant, butler, child's nurse, valet, footman, gardener, washerman or washerwoman, watchman, groom and driver or cleaner of any vehicle licensed for private use.

⁴Govt of India Dept. of Women and Child Development, 2014.

⁵SEWA. 2014. *Domestic Workers' Laws and Legal Issues in India*. WIEGO Law and Informality Resources. Cambridge, MA, USA: WIEGO.

Hired domestic workers ease the burden of individual households by undertaking household chores in return for remuneration. The tasks include the care of children and the elderly, cooking, driving, cleaning, grocery shopping, running errands and taking care of household pets, particularly in urban areas. However, despite the benefits this work brings to individual households, domestic workers are often not recognized as workers by society and tasks performed by them are not recognized as 'work'.

“Domestic Worker” means, a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary basis or permanent, part time or full time to do the household work or allied work. Household and allied work includes but is not limited to activities such as cooking or a part of it, washing clothes or utensils, cleaning or dusting of the house, caring/nursing of the children/sick/old/handicapped.⁶

Domestic worker means any person engaged in domestic work within the employment relationship.⁷

Domestic workers can be classified as full time workers, live in workers and part time workers.

Domestic work means work performed in or for a household or households.⁸

Human Rights of Domestic Workers in International Perspective

The Universal Declaration of Human Rights in Art. 20 says: every human being has a right to freedom of peaceful assembly and association. Keeping this end in view a global movement developed for enforcing the poor and vulnerable domestic workers. On the basis of this fundamental human rights the ILO was established. ILO now recognized through various conventions - the right to collective bargaining (1949) elimination of forced or compulsory labour (1930), abolition of child labour and elimination of discrimination in respect of employment and occupation.

Conventions and Recommendations are drawn up by representatives of governments, employers and workers and are adopted at the annual International Labour Conference. Once a standard is adopted, member states are required under article 19(6) of the ILO Constitution, to *submit* it to their competent authority (normally Parliament) within a period of twelve months for consideration. In the case of Conventions, this means consideration for *ratification*. If it is ratified, a Convention generally comes into force for that country one year after the date of ratification. Ratifying countries undertake to apply the Convention in national law and practice and to report on its application at regular intervals. Technical assistance is provided by the ILO, if necessary. In addition, representation and complaint procedures can be initiated against countries for violations of a Convention that they have ratified. The Conventions of ILO in these regards are as follows:

⁶Domestic Worker (Registration, Welfare and Social Security) Act, 2008

⁷ Article 1 (b) of the ILO definition C-189

⁸ Domestic Workers Regulation of Work and Social Security Bill, 2017

1. *Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)*
2. *Right to Organize and Collective Bargaining Convention, 1949 (No. 98)*
3. *Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)*
4. *Abolition of Forced Labour Convention, 1957 (No. 105)*
5. *Minimum Age Convention, 1973 (No. 138)*
6. *Worst Forms of Child Labour Convention, 1999 (No. 182)*
7. *Equal Remuneration Convention, 1951 (No. 100)*

The ILO Governing Body has also designated another four Conventions as governance (or priority) instruments, thereby encouraging member States to ratify them because of their importance for the functioning of the international labour standards system. The ILO Declaration on Social Justice for a Fair Globalization , in its Follow-up, emphasizes the significance of these Conventions from the viewpoint of governance. The four governance Conventions are:

1. *Labour Inspection Convention, 1947 (No. 81)*
2. *Employment Policy Convention, 1964 (No. 122)*
3. *Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
4. *Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)*

Human Rights Of Domestic Workers In India

The Indian Constitution has recognized many human rights laws through various articles. The Directive Principles of State Policies in Articles 39, 41, 42,43, and 43A gave effect to law passed by our parliament. These subjects' matters are enshrined in entries 22,23,24 of List - III in the 7th Schedule. Some states have declared minimum wages for domestic workers. Maharashtra Government has enacted the Welfare Act of Domestic Workers. Tasks performed by them are not recognized as 'work'. Domestic workers in India continue to struggle for visibility and recognition. While several legislations such as the Unorganized Social Security Act, 2008, Sexual Harassment against Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 and Minimum Wages Schedules notified in various states refer to domestic workers, there remains an absence of comprehensive, uniformly applicable, national legislation that guarantees fair terms of employment and decent working conditions. Domestic workers should however be guaranteed the same terms of employment as enjoyed by other workers.

The state governments of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Karnataka, Kerala, Maharashtra, Odisha, Rajasthan and Tamil Nadu have taken several initiatives to improve the working conditions of domestic workers and to provide access to social security schemes. Seven states including Andhra Pradesh, Bihar, Jharkhand, Karnataka, Kerala, Odisha, and

Rajasthan have introduced minimum wages for domestic workers. The state governments of Kerala, Maharashtra, Tamil Nadu have also constituted Welfare Boards for domestic workers who are able to avail of welfare benefits by registering with these Boards. However, despite these efforts, a large majority of domestic workers remain outside the purview of labour laws even today.⁹

The Ministry of Labour & Employment is considering to formulate a National Policy on Domestic Workers which is in the draft stage. The salient features of the proposed draft National Policy on Domestic Workers are as under: (i) Inclusion of Domestic Workers in the existing legislations. (ii) Domestic workers will have the right to register as unorganized workers. Such registration will facilitate their access to rights & benefits. (iii) Right to form their own associations/unions (iv) Right to minimum wages, access to social security (v) Right to enhance their skills (vi) Protection of Domestic Workers from abuse and exploitation (vii) Domestic Workers to have access to courts, tribunals for grievance redressal (viii) Establishment of a mechanism for regulation of private placement agencies. (ix) Establishment of a grievance redressal system for domestic workers.¹⁰

The following legislations are needs amendments to include the domestic workers under them : (a) The Minimum Wages Act, 1948; (b) The Maternity Benefit Act, 1961 and Maternity Benefits (Amendment) Act, 2017; (c) Workman's Compensation Act, 1923; (d) Inter-State Migrant Workers Act, 1979; (e) Payment of Wages Act, 1936; (f) Equal Remuneration Act, 1976; (g) Employee's State Insurance Act, 1948; (h) Employees Provident Fund Act, 1952; and the (i) Payment of Gratuity Act, 1972.

3. Methodology Adopted

In this empirical research, primary data has been collected through face to face interview of the housemaids and government reports. Secondary data has been collected from journal articles, books, web sources. It is an exploratory case study of 100 women domestic workers in the smart city of Bhubaneswar. Since there is no registered list of the women domestic helps, non-probability convenience sampling has been used to select the sample.

4. Revelation from the Domestic Workers

(A) About the sample:

- 63% of the domestic helps were between the age of 21 to 40 yrs, 10% below the age of 20.
- 56% had secondary education and about one fourth were illiterate.
- 60% were married and with 1 to 3 children who were dependents.
- 67% earn more than Rs 5000 (70\$) per month.

⁹United Nations in India, Rights for Domestic Workers, 6th January, 2021 available at <https://in.one.un.org/page/rights-for-domestic-workers/> accessed on 4th June, 2021.

¹⁰ <https://pib.gov.in/PressReleasePage.aspx?PRID=1564261> accessed on 5th June, 2021.

- Most work during daytime and 83% devoted evenings to their family
- Leisure is spent watching television
- 68% did not have any time for themselves

(B) Job satisfaction of the domestic helps in Bhubaneswar

- 57% of the domestic helps enjoyed their work, while the rest were unsatisfied with the workplace.
- 47% of the housemaids got one day break every week. The rest 53 percent did not get any break during the week. They worked tirelessly through out the month.
- Only 35 percent of the women domestic workers got an annual break mostly for a week. They preferred to use this time to visit their ancestral home in the rural areas. However, this break did not coincide with festivities. They have to work during festivals too.
- 88% were offered refreshments during their work hours by their employers. This acts as an incentive to many as they do not have to worry about food. Whatever morsel they get from the households they somehow manage their morning meals with it.
- 85% got invitations to join the employers during festivities and special occasions and received gifts. Even when they visit the households during festivals they have to fulfil their daily chores in the workplace.
- 92% felt safe working in households in Bhubaneswar and hence they prefer to work within family households and not single male households.

(C) Challenges faced by the Domestic Helps

- The domestic helps found late night duties quite challenging. 59 percent had to perform late night duties much against their choice. However 85 percent felt afraid to work late night. 42 of them have heard that their acquaintances working in other households have faced indecent remarks.
- The house maids are apprehensive when they join a new household. They are very conscious about their social and economic status and are fearful of how they will be treated in a new workplace.
- 30 percent were comfortable working in nuclear families as number of members is less. 22 percent preferred to work for senior citizens and felt safe and secure. They have a discomfort working in single male households.
- Only 4 percent have received physical abuse, however verbal and psychological abuse have been experienced by 40% of the housemaids.
- Seemingly enough 56% of the domestic workers would prefer to have an alternative profession which implies their dissatisfaction with their work. 60 percent were not happy with the payment that they received.

- The domestic helps do not get any maternity benefits and all of them grumbled that they do not receive any salary post-delivery till they are able to join work. Due to this, the housemaids cannot avail the minimum tenure of 120 days of leave with pay post-delivery and joins work as soon as they can.
- The housemaids complained of not having any sick leave. Many times, their salaries are deducted if they are on leave.
- 85 percent of the domestic helps did not have a health insurance but about 70 percent tried in their own way to save money for the future especially for the education of their children. In many cases due to ignorance, they invest in non- banking micro finance agencies where they get cheated.

5. Conclusion

Domestic work takes place in an unconventional place of work, i.e., the household. It calls for several challenges: (a) gaining public acceptance of a household as a workplace; (b) implementation of labour laws such as minimum wages and regularized work hours, paid leaves; (d) lack of effective means to regulate working conditions, for example, through sleek job expositis which could be offered through standard contracts; (e) unlike work in a formal setting, domestic work is not guided by clear and agreed production or output goals; (f) enforcement of labour laws is a constriction as privacy norms do not prefigure well with the idea of labour inspectors intruding private households and to check compliance; (g) domestic workers as not just “helpers” who are “part of the family” but as employed workers entitled to the rights and dignity of a worker; (h) protecting the domestic workers from physical and sexual abuse and ensuring social security; and (i) discrimination on grounds of religion, caste and ethnicity.

Often, these challenges are placed in a law-and-order framework instead of a labour rights framework. Regulating domestic work through a single legislation is the only way to address abuses against domestic workers. It is also argued that there is a need of a central legislation to protect human rights of the domestic workers. National Platform for Domestic Workers, New Delhi, initiated a movement for a central legislation and to that end in view, a draft Domestic Workers Regulation of Work and Social Security Bill 2017 had been submitted to Government of India which is remain pending since 2017. Punjab has enforced the Punjab Domestic Workers Act, 2019 which guarantees the needed work culture and professionalism to domestic work. Similar such initiatives are also to be taken by other states especially those which have a good percentage of urban population.