

Issue Brief

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India's Domestic Workers: Key Issues Remain Swept Aside

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Photo Caption: India's domestic workers continue to remain a vulnerable section of the informal workforce. File photo: The Hindu.

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ABSTRACT

They may have been elevated, in terms of politically correct vocabulary, from ‘servants’ to ‘maids’, and now as ‘domestic workers’. However, despite high-sounding intentions and some hesitant calls for progress, much remains to be done to improve the lot of this neglected and vulnerable workforce. Accurate numbers, an acceptable legal definition, protection by state enforcement agencies, and other such key ingredients for effective policy making remain elusive for this workforce, which has been chronically afflicted by official apathy.

In this Issue Brief, **Neetha N., Professor, Centre for Women's Development Studies, New Delhi**, contextualises the reasons behind the continued neglect of India’s domestic workers. She draws attention to the socio-economic equations that result in an asymmetric balance of forces in this unique relationship between employer and employee, where the workplace is the former’s home and the latter’s workspace.

This imbalance is further aggravated by a form of patron-client relationship in employment, where other factors, such as caste, gender, vulnerability, internal work hierarchies, and weak or non-existent and unenforceable contractual obligations, are embedded. Consequently, the indispensable role played by domestic workers in the smooth functioning of many a household is matched by a persistent devaluation of the very nature of the job. Mere laws and policies, she emphasises, will remain statements of intent — and further evidence of state neglect — unless they draw from stakeholder consultations and lessons gained from the ground.

I. NATURE AND SOCIO-ECONOMIC CONTEXT OF DOMESTIC WORK

Paid domestic work, though a highly individuated employment relationship, is no longer an occupation that is invisibilised from public attention. Media reports and popular discussions on workers have increased the public awareness about the several crises this section of the informal workforce faces. However, whether this visibility has made any difference to the lives of domestic workers requires careful analysis.

Paid domestic work emerged as an important sector of employment since the 1990s with structural changes in the economy resulting in both increased incomes to some sections of the population and deprivation of opportunities for others — in particular vulnerable rural sections. This phase resulted in the increased feminisation of paid domestic work with rural women migrants from marginalised communities entering the homes of the elite and the middle class in large numbers to undertake housework. The fact that it is the inability to take up other employment either because of non-availability of jobs or non-suitability of a potential employee complicates the analysis of its feminisation. These women remained uncounted and were invisible for many years, with varied employment relations and specificity of work existing simultaneously.

A unique feature that sets domestic work apart from other forms of labour — both formal and informal — is that this can count as one of the few in which the personal and professional spaces are blurred between the employer and the employee. The very nature of the workplace in which this paid employment takes place — the dwelling unit of the employer — creates the setting in which personal circumstances and inter-personal dynamics dictate the balance of negotiations, which is, in any case, in favour of the employee. The nature and degree of the employee's personal equation with the employer, therefore, holds the key in determining the employment condition of worker. This, in turn, is embedded in economic, social, and cultural inequalities (Ray & Qayum, 2009)¹.

Though domestic work shows similar structural characteristics and features across the world, the nuances of power relations and its dynamics are drawn from and reproduced in local circumstances and family structures. The different systems of domestic worker arrangements — part time, full time and

¹ Ray, R and Qayum, S. 2009. Cultures of Servitude: Modernity, Domesticity, and Class in India, *Stanford University Press*, Stanford.

live-ins — are critical for a better understanding of the sector and the possibilities for policy interventions.

The common image, as it dominates the sector, is often that of the part-time worker in urban areas who works in multiple households in a single day. These workers can undertake diverse tasks, including house-cleaning, cleaning utensils and clothes, cooking, care of children and the elderly, shopping, and other activities associated with the regular and smooth functioning of the employer's household. This system favours employers as they can hire workers according to the requirement where caste and other demographic characteristics are also considerations. Thus, often, workers from lower castes are employed in cleaning tasks, while those from upper castes are hired for non-cleaning tasks. Live-in workers, who are at call any time and may have to undertake multiple tasks, are often the worst exploited with restrictions on mobility and dependence on the employer for their everyday needs, including food.

A task-based understanding of domestic work and the system of multiple employers complicates a simplistic reading of the work relation (Neetha 2004)². For instance, in the household-work hierarchy, those performing cleaning tasks, dominated by marginalised communities, are placed at the lowest rung. Thus, the sector reflects varied degrees of power relations where apart from class, gender and caste are important dimensions, which are not easily separable (Gothoskar, 2013)³. Thus, the domain of domestic work, which is deeply embedded in personal relations between the employer and the employee, is one that is socially devalued (Neetha, 2013)⁴ because of the very nature of the tasks performed by the employee to eke out a living.

Work-related and workplace specificities make it very different from other sectors of employment though one or two of these characteristics may, to some extent, be true for other informal sectors. The workplace is the home of the employer, a private space. However, employers do not see themselves as “formal” employers or their homes as “regular” workplaces, though the strategies of labour extraction and unfair employment practices are many times similar to other labour-vulnerable sectors. The employer-employee relationship is often difficult to comprehend with aspects of domination, dependence, and inequality constantly lurking under the surface. Another important factor is that this is

² **Neetha, N. 2004.** “Making of Female Bread Winners: Migration and Social Networking of Women Domestics in Delhi”, *Economic and Political Weekly*, Review of Women Studies, 39 (17), 1681-1689.

³ **Gothoskar, S. 2013.** “The Plight of Domestic Workers: Confluence of Gender, Class and Caste Hierarchies” *Economic and Political Weekly*, 48 (22), 63- 75.

⁴ **Neetha, N. 2013.** ‘Paid Domestic Work: Making Sense of the Jigsaw Puzzle’, *Economic and Political Weekly*, Review of Women Studies, Vol – XLVIII, No. 43.

an area of work where the employer and the employee are mostly females, leading to its framing as women against women, around gendered reproductive labour.

Employers sometimes try to forge close, personal ties with their workers and may appear to be protective and generous. However, through the everyday negotiation of work, there is an assertion of superiority along with trivialisation of the work performed, bringing back hierarchy and inequality into the relationship. Thus, the maternal and the market-based approaches may exist on a continuum, sharing fundamental hierarchical assumptions.

Wage rates and other non-wage benefits are often a matter of multiple factors, making it impossible to arrive at uniform wage rates for the same task, even within the same locality. Low wages⁵, unfair working conditions, including absence of leave, and/or irregular paid weekly off-days, denial of rest and food, introduction of additional tasks, and increased workload without additional compensation are issues that are noted in the sector. Lack of any social security protection force workers to opt for non-market relationships (Sen, 2016)⁶, negatively affecting their negotiation of wages, its revisions, and other conditions of work, especially leave. High levels of job insecurity are also noted with arbitrary dismissals. The pandemic laid open the cracks in domestic work relations. The ease with which domestic workers were thrown out of their workplaces and the hardship that many of them went through during the pandemic raised disturbing questions of extreme vulnerability.

⁵ **Neetha, N. 2013.** 'Minimum Wages for Domestic Work: Mirroring Devalued Housework', (Table 4, p. 80) *Economic and Political Weekly*, October 26, Vol. 48, No. 43, pp.77-84

⁶ **Samita Sen. 2016.** 'A pragmatic intimacy? Familiarity, dependency and social subordination', in *Pratyaha: everyday life worlds, dilemmas, contestations and negotiations*, (eds) Prasanta Ray and Nandini Ghosh (New Delhi: Primus Books, 2016).

II. STATE INTERVENTION: THE STORY OF EXCLUSION AND PREJUDICE

State regulation has been almost absent in the sector with some piecemeal efforts in various States pointing to the larger reluctance to accept the private realm as a place of work. Among all these arbitrary interventions, one of the most important state interventions has been the inclusion of domestic work in the list of Scheduled Employment under the purview of Minimum Wages Act, 1948. A matter of serious concern has been the differences across States in defining the sector, method of wage calculation and its enforcement (Neetha, 2015)⁷. In all States, domestic work is seen mostly as unskilled work with minimum wages fixed much below that of other informal sector work. This leads us to the more fundamental question of lack of acknowledgement of skill within this form of labour even by the state, which is rooted in the nature of work performed, i.e., housework and care work. The understanding that domestic work is an extension of one's domesticity and, thus, does not require much skill underlines its undervaluation. Moreover, the gendered division of work related to domestic housekeeping under patriarchy makes this challenge not an easy one to address in an effective manner to the benefit of employees in this sector.

Within this complexity, even in States where differential wages across tasks are specified, 'cleaning' is located at end of the task-hierarchy, reflecting the social understanding of who performs such work. Hourly, daily, monthly, and overtime wage calculations are complicated given the various systems of domestic work, especially part-time work. Exemptions given to employers on record-keeping leave the worker with no proof for their employment in the event of any violations. The restrictions on labour inspections, based on employers' right to privacy, is another dimension that points to the lack of any serious interest in protecting the rights of workers.

The introduction of four Labour Codes repealing and replacing existing labour laws have brought in new challenges and uncertainties (Mazumdar & Neetha, 2020)⁸. The Code on Wages (CoW), by taking out the list of schedules of employment as against the Minimum Wages Act 1948, may disenfranchise domestic workers given the definition of an employee or a worker which is only in relation to the establishment or industry. Thus, another battle may have to be fought by domestic workers and

⁷ Neetha, N. 2015. 'Minimum wage setting practices in domestic work: An inter -state analysis', Conditions of work and employment series - No. 66, International Labour Office, Inclusive Labour Markets, Labour Relations and Working Conditions Branch - Geneva: ILO.

⁸ Mazumdar, I and Neetha, N. 2020. 'Crossroads and boundaries: labour migration, trafficking and gender', *Economic and Political Weekly*, Review of Women Studies, LV (20): 66-75.

organisations representing their interests to get coverage under the Code. The Occupational Safety, Health and Working Conditions Code (OSHWCC) excludes private households and thus all provisions on safety, health, or working conditions (weekly and daily working hours, leave, overtime, night shifts, etc) would not be applicable to domestic workers. Domestic workers are not specifically mentioned in the Code on Social Security which raises anxiety in terms of domestic workers' coverage as individual States are yet to lay down the conditions of various schemes mentioned. Further, as gig workers are specially mentioned in this Code and the increase in such workers employed through platform-based aggregators may lead to a divide among domestic workers, by creating two segments: those signing up for such aggregators and the 'traditional' domestic worker.

Attempts to regulate placement agencies with trafficking as the main entry point has not been able to address the poor working conditions and violence against full time workers. Although the judiciary has intervened in favour of the domestic worker by insisting on documentation and registration of placement agencies, inadequate follow-up by the authorities concerned has resulted in many incidents of even brutal physical violence against such workers.

Yet another intervention, which is at present the focus of the state is skill development. Professionalisation of the sector through imparting skills is understood to address the issues of low wages and lack of dignity to domestic work. It has been noted that the skill development programmes have a civilising mission rooted in unequal power relationship. The focus on bringing in behavioural changes in workers whereby docility and submissiveness is furthered even in a market relationship underlines the approach of the skill development projects. Such an approach suffers from the neglect of the perspective of rights of the workers. (Neetha, 2021)⁹. Further, the very idea that employers are ready to employ trained workers at better wage rates is still a questionable proposition.

Although the sector exhibits specificities at various levels, there are overwhelming issues that binds the sector and workers. The absence of a critical political mass by the domestic workers results in political apathy on issues relating to protecting the working conditions of these workers, evident from the continuation of poor conditions of work. The stigma of the low-grade work still haunts the sector and a sense of unworthiness is deep rooted among domestic workers cutting across all categories.

⁹ Misconstrued Notions and Misplaced Interventions: An Assessment of State Policy on Domestic Work in India, *The Indian Journal of Labour Economics*, 64(4): 543–564.

The background work on the ILO Domestic Workers Convention 189 has led to the drafting of a national policy on domestic work in 2012. The fate of this policy is still unclear with many drafts framed over the years. India's position of not ratifying the ILO convention that forms the rubric for protection of domestic workers speaks of the state's approach to the sector and its workers. The model of employment that the state proposes through its policies is surely one of casualisation of domestic work with employers having the power to decide on the terms of employment.

III. ORGANISING DOMESTIC WORKERS: LABOUR AND WOMEN RIGHTS

With the changed approach to employment relations and labour regulations that characterise current governance frameworks, even when the state is compelled to regulate the sector, nothing much could be expected in terms of its implementation. The possibility of social transformation through legislation is a contested issue though the law may provide a baseline for social action. With the existing prejudices around housework and care work, care work and its workers may have to remain at the lower end of the spectrum of informal sector workers even if they are acknowledged as an integral part of this sector and are extended some of the fundamental rights at work. In such a context, unless there are strong unions who could fight for the rights of workers, the law is likely to remain on paper.

Organising domestic workers is a challenge owing to the specificity of work, workplace characteristics and the profile of workers who are mostly poor migrants. (Neetha & Palriwala, 2011¹⁰). Thus, only a small section of the domestic workers is organised who are mostly in select cities or locations. The shift towards an employment-oriented definition of domestic work following the ILO convention is seen to create more issues in terms of organisation building. It is also being seen as a strategy to check the growing unity among women domestic workers and its emergence as a critical political constituency.

There have been many attempts towards organising domestic workers in the past, whether from the perspective of social welfare or from labour rights. Women's organisations have, off and on, raised issues pertaining to domestic workers and sought to bring them into collective groups, but it is only in recent years that more concerted and focussed efforts have been made (Devika, et.al, 2011)¹¹. Domestic work with its feminisation brings together two women who are divided in terms of privilege and opportunity and thus uniting them as women have raised issues.

The labour rights framework has gained much focus since the ILO convention with an expansion of union activities among domestic workers. Unions are faced with the unique challenge of responding to multiple vulnerabilities that domestic workers face due to their poor socio-economic status

¹⁰ Neetha, N and Palriwala, R. 2011. 'Why the absence of Law? Domestic Workers in India', *Canadian Journal of Women and the Law*, Special Issue on Decent Work for Domestic Workers, January, 23 (1), 97-119.

¹¹ Devika, J., et. al. 2011. 'A Tactful Union?: Domestic Workers' Unionism, Politics and Citizenship in Kerala, India', *Indian Journal of Gender Studies*, 18 (2), 185-215.

(Moghe, 2019)¹². The material and sociocultural inequalities of women domestic workers are equally, if not more, important than the precariat nature of their jobs which requires unions to intervene at multiple levels unlike in other sectors. Thus, the sector and its workers are at the crossroads of two possible political alignments — women’s movement and trade unions. There has been much success in unionisation in places where women’s movements have been partners in the unionisation of workers. Despite increasing the number of unionised domestic workers, the necessary element of building political alliances with other workers in other informal sectors is yet to gather any steam.

¹² **Moghe, K. 2019.** Organising Domestic Workers in Pune City in Neetha N. (ed). *Working at Others’ Homes: The Specifics and Challenges of Paid Domestic Work*, Tulika Books, New Delhi, 215-230.

IV. LABOUR RIGHTS RECOGNITION: DIFFICULT QUESTIONS AND UNCERTAINTIES

The discussions clearly point to the reality that the existing interventions have not been able to bring in required changes in the sector as many domestic workers are still to acquire their rights as workers. The state's approach to the sector has changed over time from that of a complete neglect to the current phase marked by lack of clarity, hesitancy, and uncertainty. The period from mid-2000s till about 2014 marks the phase of some state intervention even though it could be seen as a forceful response to international pressure as part of the ILO convention.

The nature of workplace and the way in which domestic work is structured give employers unlimited control, thereby reproducing hierarchies. Therefore, ensuring secure and dignified employment to domestic workers is a challenge that requires multiple strategies of which legal intervention and organisation building are central. Claims making and claiming due rights is one of the keys to collectivise the hugely spread and diverse set of workers. Laws need to be enacted drawing and building on the existing political agency and capacities of domestic workers. Such intervention should aim at lending minimum core entitlements to workers which could bring some parity in bargaining power. Ensuring access to redressal mechanisms, which can work as a check on employers, is also equally important.

Activists and unions have now stepped up efforts to ensure legal protection both at the State and national levels. The current focus is on framing a separate law for domestic workers which would account for the complexity of this work. Many draft bills, including private member's Bills, were introduced in recent years without any success. Some of the critical issues that informed the discussions on legal intervention are:

1. **Lack of data:** There is an astounding lack of data on domestic workers, evident from the widely varying estimates that are available. This makes it difficult to arrive at a definite macro profile of workers, a critical ingredient for any policy intervention. The issue has been raised time and again without much response from the state. The special survey on domestic workers by Labour Bureau which was to come up with the required data in 2022 is yet to be released and there is no certainty by when the data would be made available. Credible macro-level data is key to any effective policy making for the sector as existing discussions are mostly based on micro level studies that are biased towards specific locations.

2. **Definition of Domestic Work:** For any legal intervention, it is important to define the sector. Defining what constitute domestic work or domestic workers is still an arena of conflict, pulled by those with diverse interests. With the ILO convention on domestic work, Convention 189, which follows an employment relationship approach to the sector, the question of defining domestic work has gained much importance. As per the Convention¹³, work performed in or for a private household or households is considered domestic work and all those who perform such work are domestic workers.

By implication, this definition includes apart from domestic workers, gardeners, drivers and security guards and other workers who are employed by the private household. With this definition, which do not include those who “work only occasionally or sporadically and not on an occupational basis”, many of the gendered specificities of the sector are noted to disappear, including the fact that the work is devalued housework and care work. This would also make all claims making difficult as wages, working conditions, and the extent of patronage-based relationship for each of the categories are different.

3. **Formalisation of Employment and Proof of Employment:** Discussions on regulation are often anchored in the understanding of the sector as any informal sector with demands for its formalisation through employment contracts or registration of workers by employers. However, experiences from the sector as well as from other informal sectors show how difficult and complex it is to formulate and implement any formal contract, especially when multiple employers are involved.

Even when a symbolic contract exists, it is difficult to implement such contracts given the highly asymmetric balance of power between the employer and the employee. The employers are seen to give justification of contractual relations on matters related to leave or wage increases but may draw on informal patronage-based relations when they want the worker to be flexible with tasks and, also, overtime. Another challenge is to make the legal system open to the issues of domestic workers both in terms of its implementation and enforcement.

¹³ International Labour Organization. 2011. [C189 - Domestic Workers Convention, 2011 \(No. 189\)](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189).
[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189].

Registering workers by the employers is another demand that has been part of many draft Bills on the sector. This would help workers not only as a proof of employment in the event of any violations, but also as eligible beneficiaries for accessing related social security provisions, if any. Though such registration may sound reasonable and workable, resistance by employers in general to any such demand is known and thus registration is difficult to expect given the current socio-political context.

These issues outlined above, whether of defining the sector or establishing and formalising the required employer-employee relationship would determine the fate of workers in this sector with uncertainty looming large with changed perspective on labour rights. With States such as Delhi and Kerala actively considering bringing in legislative interventions, the issues are once again at the centre stage. That said, in the absence of required consultations with stake holders and taking note of the learnings from the field, any set of laws may remain as evidence to the ongoing apathy of the state to the conditions of domestic workers.



About the Author

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