



EMPOWERING DOMESTIC WORKERS: A CALL FOR FAIR MINIMUM WAGES AND DIGNIFIED LABOUR CONDITIONS

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“The minimum wage can play a vital role in lifting hard working families above the poverty line”

Adam Cohen

ABSTRACT

This article appraises the convergence of minimum wages and the experiences of domestic workers, a vital yet often marginalized manpower. The situation of domestic workers is explored, revealing pervasive challenges such as deficient remuneration, job insecurity, and societal stigma. The article underscores the importance of fair minimum wages in addressing these issues, emphasizing economic empowerment, improved working conditions and social recognition as potential outcomes. Global initiatives and best practices are highlighted, showcasing successful reforms in various regions. The call to action urges policy reforms, heightened public awareness and collaborative efforts to ensure fair compensation and dignified treatment for domestic workers. Ultimately, the article contends that acknowledging the rights of domestic workers and implementing comprehensive reforms are essential steps toward fostering a more just and equitable society.

Keywords: Domestic workers, insecurity, marginalized, minimum wages, remuneration.

I. INTRODUCTION

The present scenario in the country is that domestic workers acquire a large portion in the informal sector workforce. Whereas, most of the activities performed by the domestic workers are not noticeable by the outside world as these are carried out inside an individual's household. The work performed by them is totally on the basis of nature of employment and verbal understanding which is purely temporary and informal. They work according to the will of their employers. Employers are the supreme authority in making decision about their employment.

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Determination of minimum wages in an occupation is one of the most important factor for an employed individual. It gives power to an individual of the work being performed by him/her as per their capacity. This is a provision which safeguards a worker belonging from vulnerable sections of the society such as domestic workers. In fact, at an international platform, Convention No. 189 specifically states that “Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex”.¹

Basically domestic workers are categorized under two heads: Firstly, the workers who performs activities on full time basis for only one employer and also resides in the employer’s place in household or in a dwelling being availed by respective employer and do not return back to their usual place of residence every day after completion of work known as full time domestic workers. Secondly, the workers who perform work for number of employers for particular hours in a day or perform specific activities for number of employers per day and returns back to their usual place of residence are known as part- time domestic workers. This categorization of domestic worker is on the basis of their living arrangements, nature of work and background.

Unfortunately, domestic workers are not considered as workers because of the fact that they are not recruited formally and belong to the unorganized sector. Also, there is no proper record maintained by the concerned authorities of the number of domestic workers existing in the country because there is no provision of getting registered. Further, these are outside the purview of the various important labour legislations. Because of lack of protection under respective legislations, domestic workers are highly vulnerable to abusive practices regarding payment of remuneration. The informal nature of employment and absence of written agreements of employment left them with empty handed and were unable to take benefits like proper working hours, weekly rest periods, overtime wages, medical assistance etc.

¹ ILO Convention No. 189, Article 11



This work is among one of the ‘lowest paid work’ if compared with other labour works. Factors responsible for the low pay are illiteracy or inadequate attainment of education, undervaluation of activities performed by workers, low bargaining power of domestic workers. The remuneration of the workers are decided by considering various issues like the activities being carried out by the workers, hours of work, locality of the employers, their social status i.e. caste, class etc., skills (unskilled, skilled, semi-skilled, highly skilled) and other labour market conditions etc. Number of debates and discussions were held regarding the fixation of wages. The problem in fixation of minimum wages is that on what grounds wages should be fixed like the wage to be time rated or piece rated, full time or for some particular time, on basis of hours or weekly, size of the house or number of members residing in a particular house, extension of working hours.²

In some cases the remuneration of the workers involved are fixed by the recruiting person of their employers according to the rate of the area where they are residing which means the fixation of wages are locality based. Bargaining power and their interest in the work of the domestic workers also plays role in the wage fixation. The workers who are performing activities in this sector for many years may be able to bargain and demand their employer’s high rates whereas those who are new in this field easily agree to discharge their duties on lesser wages than the normal existing rates in the specific area. The types of work performed by the worker as well as the economic ability of the recruiting person are also the factors that affect the criteria for fixation of wages.³

Next major issue for the fixation of wages is regarding the minimum fixed wages of the workers which should be higher than the cost of living index because this sector is largely occupied by the female workers or by the workers which are unable to afford their basic amenities. Various

² www.wiego.org/informal_economy_law/domestic-workers-india last visited 14 January,2024

³ Surabhi Tandon Mehrotra, ‘Domestic Workers: Conditions, Rights and Responsibilities’ (2010) *Jagori*, New Delhi <http://www.jagori.org/wp-content/uploads/2006/01/Final_DW_English_report_10-8-2011.pdf> accessed 8 September 2023



issues affect the wage structure such as duration of work, rest periods, leave taken, regulation of placement agencies etc.⁴

Two proposals has made for the protection, welfare and for enhancing the conditions of their work. One proposal was made by the NCW which has initiated the Domestic Workers (Registration Social Security & Welfare) Act, 2008. Another proposal was made by the NCCUW & Nirmala Niketan has advocated for Domestic Workers (Regulation of Employment, Conditions of work, Social Security & Welfare) Bill, 2008 (NCCUW). Both these defines ‘wages’ which includes all remuneration which are in form of money which must be payable to worker depending on employment contract conditions but these remunerations does not include house accommodation, electricity, water, medical charges or other services provided by the concerned government; deposition of money in provident fund or other government schemes regarding social security; transportation charges; etc. for the purpose of domestic workers.

The reality check behind this is that wages for most workers lacks fundamental prerequisites of life mainly in the cases where the worker is supreme earner for the family and liability of all dependants of family lies on its shoulders.⁵ There is no fixation of minimum wages for domestic work; it changes among employers, locality, working conditions, irrespective of hours of work.⁶ The MW Act, 1948 and PW Act, 1936 are also not applicable on them because they are nowhere specified under the term “worker” defined in ID Act,1947.

In case of other sectors, some of the appraises on which the economic factors are dependent includes: affected percentage of workers by the rise in the minimum wage level, what will be the effect by this rise on total wage bill and the average wage ratio. But if talking about the workers involved in domestic work, these are determined by the choice of the employer or their capacity to pay the wages to the domestic workers employed by them. It also depends on the locality,

⁴ Kamala Sankaran, Shalini Sinha and Roopa Madhav, ‘Domestic Workers- Background document’ *WIEGO Law Pilot Project on the Informal Economy* (2009) India < http://www.wiego.org/informal_economy_law/india/content/dw_background_note.pdf> accessed 2 September 2023.

⁵ Nicola Cunningham Armcost, ‘Domestic Workers in India: A case for Legislative Action’(1994) 36 JILI 53

⁶ Neetha N., ‘Contours of Domestic Service: Characteristics, Work relations & regulations’ (2009) 52 Indian Journal of Labour Economics 489



their status and as well as their budget means how much their pocket allows to pay for their work.⁷

Kerala High Court in the case of *Association of Planters of Kerala v State of Kerala*⁸ ruled that “A failure to fix or revise minimum wages was not only a statutory violation but is a breach of fundamental right enshrined in Art. 23 of Indian Constitution. A duty is cast upon the State by provisions of the Act and Article 23 to fix and revise the minimum rates of wages. The continuance of rates of wages since seven years, which would be less than the minimum payable is illegal and workers are entitled to retrospective fixation or revision from the date it is due for revision.”

II. NATURE OF DOMESTIC WORK

The domestic work is a highly female centric work being performed by the number of individuals which belongs from poor and marginalized sections of the society. Domestic work involves those activities which a woman in a household is shouldered without charging like cleaning, cooking, washing etc. Other characteristics of this work includes non-recognition of work, no dire requirement of skills, weak bargaining power, absence of regulatory provisions and insufficient measures of welfare like health benefits, maternity benefits, weekly rests etc. In this form of work there is complete absence of employment security as the work is being performed according to the will of the employer and also there is no provision regarding the regulation of relationship maintained between employer and employee. The working hours varies from one employer to another. Another main concern is the vulnerability to abuse for the women engaged in this sector especially for the workers residing at employer’s house as this work is performed within the boundaries of a household of an employer. Other factors which define the nature of the work being performed by the domestic workers are:

- Lack of conducive work environment;

⁷ https://www.ilo.org/global/topics/wages/minimum-wages/domestic-workers/WCMS_459075/lang--en/index.htm

⁸ (1996) IILLJ 267 Ker



- Non- acknowledgement of skills;
- Long and unregulated working hours;
- Informal employer- employee relationship;
- Lack of formal agreements regarding employment;
- Non- recognition of work performed;
- Undervaluation of domestic work;
- Lack of benefits arising out of employment;
- Work performed in private sphere;
- High level of insecurity, etc.

III. RESPONSIBLE FACTORS FOR ABSENCE OF “MINIMUM WAGES” FOR DOMESTIC WORKERS

- **Informal nature of employment:** From the last decades till now, the workers involved in the domestic activities are not included in any of the noteworthy labour legislations due to the various reasons which include the type of the work performed and the unidentified relationship between employer and employee maintained by this work. Domestic workers perform their activities in private space of the employers instead of performing in the establishments used commercially. Another major drawback lies in applicability and exclusivity in the definition of the workers and the term ‘workplace’ defined under labour legislations. The work performed in the households is not contemplated as real one; the work is only categorized as ‘extension of household services’. As a result of all these reasons and the employment relationships maintained by this work, the concerned authorities are unable to maintain even a rough estimate regarding the number of workers involved in this work and their contribution towards the

economy of the country.⁹ In view of the fact that the work is unproductive and the non-exchange of services in the market therefore the work is out of the purview from the GNP calculation.¹⁰ The activities carried on in the households of the employers are not considered as ‘work’. It is a worldwide problem and also in our country India, the workers engaged in the domestic work are continuously fighting for their visibility and recognition because the work done by them is undertaken behind the closed doors of the employers. There is complete absence of some exhaustive, national legislation which assures working and employment conditions of the workers.¹¹

- **Absence of proper categorization of domestic workers:** For fixation of minimum wages the important tool for deciding is the category of domestic workers. Due to lack of any specific legislation regarding domestic workers, the domestic workers are not categorized in any form. Domestic workers can be categorized according to their skill power (skilled, unskilled, semi-skilled, highly skilled), time basis (full time or part time), living arrangements (live in or live out), on the basis of type of work performed (cleaning, cooking, washing, guarding, driving, etc.). Therefore, these are some categories according to which their classification can be done so that fixation of minimum wages for them can be made easily.
- **Low bargaining power:** The domestic work sector is highly unregistered work being performed in almost everyone’s household by a domestic work. Because of lack of registration and visibility from the outside world leads to low bargaining power of them. Another major issue for this is there is absence of any labour legislation which regulates the employer- employee relationship. They are hired and fired according to the will of employer. Also, due to unemployment there is abundance of labour workforce which is ready to get recruited for sub standard wages.

⁹ Asha D’Souza, ‘Moving towards Decent work for Domestic Workers: An overview of ILO’s Work’ (2010) International Labour Office Working paper 2/2010 < http://ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_142905.pdf> accessed 9 September 2023

¹⁰ Ibid

¹¹ <<http://in.one.un.org/page/rights-for-domestic-workers/>> accessed 10 September 2023



- **Invisible nature of work:** ‘Invisibility’ is considered as one of the distinguished characteristics of this relationship. The workers are recruited for the work performed within the four walls of a household of an employer which is concealed from the outside world. This is a relationship which is not bound by any contract whether legally or mutually, generally undeclared and non availability of any mechanism regarding dispute resolution and labour inspection. The matter of invisibility is considered as a barrier in protecting the interests of workers. Therefore the concerned authorities are with empty hands in providing legal protections to the workers engaged in domestic work.
 - **Lack of fixation authority:** As the domestic work is a work belongs to the unorganized sector of labour market and also it is out of the purview from various labour legislations. Hence, there is no specific legislation which regulates the situation of domestic workers and provides for protection regarding living and working conditions. Due to non- applicability of any specific legislation, there is no authority which regularizes their situation and provide help in any of the matter relating to work. It is only reason that no one has authority to fix their minimum wages and also they can’t make any complaints regarding their vulnerable circumstances being faced by them during the course of their employment.
 - **Not covered under any labour legislation:** Being a work of unorganized nature, the domestic work and domestic workers are out of the scope from number of labour legislations which leads a domestic worker with empty hands concerning rights, protection, security, obligations, benefits etc. Legislations like Minimum Wages Act, 1948; The Payment of Wages Act, 1936; The Maternity Benefit Act, 1961; The Payment of Bonus Act, 1965, etc. There is complete absence of any specific legislation for regulating the situation of domestic workers and also for providing protection at the time of recruiting as well as during the course of employment.
 - **Home not considered as ‘workplace’:** Domestic workers are recruited for the work carried in households which is categorized as private sphere rather than firms or enterprises which are included in commercial establishments. This leads them to make invisible as workers from the outside world and from the eyes of law. The homes of the individuals are out of the purview of definition of ‘workplace’ because homes are treated as a private sphere of an
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individual and making amendment in the definition of ‘workplace’ and including homes in the definition violates the Right of an individual of privacy. Homes are the personal areas of an individual and hence no regulation can regulate the private sphere of an individual.

- **Undervaluation of activities performed:** Most of the work performed by domestic workers is considered as ‘women’s work’ therefore recognized as of less value and rock-bottom status like cooking, cleaning etc. reason being the existence of patriarchal system in the country. Generally the workers were called by the names ‘servants’ which in back gives inferior feelings as well as dishonorable status therefore a distinction was made in general people. The other main lacuna for the undignified status of workers involved in this work is the place where this work is carried on i.e. the house of an employer. Due to the private nature of work, the concerned authorities are unable to take action against the improper working conditions overcome by workers, unenforceability of labour legislations and cases of vulnerability and abuse. The domestic work is not considered as valuable work due to the fact that it is just an extension of daily based activities performed within one’s household, therefore not considered as real work and also observed as a help of the employer in performance of household activities.

IV. STEPS TAKEN BY GOVERNEMENT

The term ‘domestic workers’ was included for the first time in the Unorganised Workers Social Security Act, 2008 but there was complete absence of provisions specifically dealing with the domestic workers. After that, a major step was taken by the government of the country by enacting four new labour codes where some kind of protection was given and the criteria was given for fixation of minimum wages of workers. These code defines the relevant important terms which are as follows:

- **“Wage worker”** under clause 2(90) of Code on Social Security

“Wage Worker means a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work,

whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home- based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the State Government, as the case may be.”¹²

- **“Wages”** under clause 2(y) of Code on Wages & cl. 2(88) of Code on Social Security “means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes-
 - (a) Basic pay;
 - (b) Dearness allowance; and
 - (c) Retaining allowance, if any”,¹³

But there are certain categories as well which does not come under the purview of definition of ‘wages’.

In consonance with this, some state governments have taken initiatives to safeguard the interests and providing protection to the domestic workers as these days they are the main contributors towards the national economy of the country. Till now, only some states (Andhra Pradesh, Bihar, Jharkhand, Karnataka, Kerala, Orissa, Rajasthan, Tamil Nadu etc.) of the country have initiated basic minimum remuneration for workers belonging to the domestic work for their welfare and upbringing of their families. These are as follows:

Wages are wholly based on the locality/area of the employer, which further depends on economic capacity as well as communal attributes of both the parties i.e. the recruiting person and the person being recruited. It is very strenuous to approach for a sustained remuneration on

¹² Code on Social Security Cl. 2(90).

¹³ Code on Wages, 2019 Cl. 2(y); Code on Social Security, 2020 Cl. 2(88).



daily basis for these household activities even for some particular society/local area.¹⁴ As domestic work involves a number of activities, like washing clothes/utensils, cleaning and sweeping the house, baby-sitting, care for aged persons etc. so, wages differ depending on the type of domestic work that a specific worker performs.¹⁵

V. SUGGESTIONS

- There must be implementation of specific labour legislation handling issues of domestic workers regarding working and living conditions.
- Awareness campaigns should be started in order not only to raise awareness but for making far reaching impact.
- The relationship between employer and employee should be formalized and regularized.
- Minimum wages should be fixed on the basis of nature of work and time consumed in performing the work i.e. on hourly basis.
- Registration of domestic workers should be made mandatory.
- Proper categorization of domestic workers should be made by the concerned authorities.
- Minimum wages should respect the principle of equal pay for work of equal value.
- Minimum wage should be fixed according to the need of workers and their families by considering cost of living, relative living standards being enjoyed by other workers, social security benefits etc.
- The problems and circumstances should be taken into account by the government and concerned authorities relating to working conditions, minimum wages, health issues, living conditions, decent working, social security benefits, exploitation/abuse, violation of rights and working hours.

¹⁴ Neetha N., 'Making of Female Bread Winners: Migration and Social Networking of Women Domestic in Delhi' (2004) 43 Economic and Political Weekly 1681

¹⁵ Neetha N., 'Contours of Domestic Service: Characteristics, Work relations & regulations', (2009) 52 Indian Journal of Labour Economics 489



VI. CONCLUSION

In the era of globalization, the domestic work is still an unrecognized work and workers participation in this work is on high rise. There are various reasons responsible for the growth of this particular sector like absence of employment opportunities, low education system, non-availability of basic facilities, insecurity, lack of medical facilities in rural areas etc. Like other types of workers, domestic workers should also have right to minimum wages for the work performed by them. The principle of equality should be followed as a fundamental one. By fixation of minimum wages for them they will be safeguarded from number of insecurities relating to employment, old age, social security, health security etc. Domestic workers contributes large share towards national economy of the country but still they efforts are unnoticeable and are highly invisible in the society. Implementation of some legislation surely will make them powerful as well as make a help in providing them protection and just and humane conditions of working and living.

Fair minimum wages are not just an economic necessity but a moral imperative, especially when it comes to the often-overlooked sector of domestic work. By acknowledging the rights of domestic workers and implementing reforms that ensure fair compensation, we can contribute to a more just and equitable society where the dignity of all workers is respected. It is time to recognize and value the essential contributions of domestic workers and provide them with the economic security and dignity they rightfully deserve.