

Human Rights of Domestic Workers in India a Socio Legal Study with Special Reference to Bareilly of Uttar Pradesh

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Abstract:

The domestic labour sector as an economic activity is far larger than it should be, and it employs an excessive number of employers who are not subject to any restrictions to which they are subject. As a result of their low literacy rate and the fact that they are unable to find employment opportunities in the agricultural and industrial sectors, a sizeable number of people choose to work in the domestic sector. Both of these factors contribute to their decision to work in the domestic sector. Despite the fact that it is completed in exchange for a certain sum of money, the activity is often considered to be low-paying and has no reputation within the industry. In addition to the regular jobs that they do on a daily basis, women who work in domestic service confront additional problems. These issues include systemic exploitation in the form of low pay, high workloads, and long hours. Additional challenges include systemic exploitation. Concerning frequent instances of employers arresting and assaulting their employees have been brought to light, which is proof that they are subjected to significant dangers similar to those that have been recorded elsewhere. The programs have not yet been implemented into law, despite the fact that successive governments have developed plans for the future.

Keywords: Human, Rights, Socio, Legal

INTRODUCTION

On the question of the exploitation of women and children who work in domestic service, there have been many and consistent reports made on the subject. Because they do not have any rights or rules accessible to them as a backup, the majority of domestic assistants have become modern-day slaves. This is because they get no compensation for their work. Additionally, it is a well-known fact that placement agencies, who operate openly and without any form of limits or laws, are responsible for the trafficking and exploitation of a substantial number of innocent women and children. This is a fact that has been widely acknowledged.

Due to the fact that they are paid very low incomes, they do not have any job security, and they are not protected by any official labor legislation, women who work in the unorganized sector are in a state of despair. Their predicament becomes very challenging as a result of this. The phrase "women workers in the unorganized sector" refers to the majority of the operations that are carried out by small and family firms. These businesses are often non-unionized and utilize family labor in some form or another. The term represents the majority of the operations that are carried out. Among the characteristics that are

most frequently observed in this sector of the economy are the following: the small size of the establishment, which frequently consists of just one person, with maybe a couple of hired workers; the temporary nature of employment; workers who are stupid and illiterate; employers who are superior and dominant; and the dispersed nature of the business.

The Status of Indian Women Domestic Workers

The socio-economic conditions of female domestic workers in India have not significantly improved even though there has been a substantial amount of progress made. People who worked as domestic workers in India had challenges not just at their homes but also in the places where they were employed. In the goal of securing employment opportunities in urban areas, they travel from rural areas to metropolitan areas in search of employment opportunities. In spite of the fact that their work is of high quality, they get less recognition and reward for their efforts. The parents exert a great deal of work in order to make certain that their children will have a more promising future. They do not have access to institutional care facilities in their areas that are capable of providing them with high-quality medical attention at costs that are within their financial capabilities.

Domestic workers who are female are more likely to resort to unpleasant coping techniques, such as leaving their children alone at home, enlisting the aid of an older sister or a younger cousin, or bringing their children to work, if they are authorized to do so. These are all examples of unfavourable coping strategies. While these techniques have the potential to have a detrimental impact on the health and education of the children, they also have the potential to have a bad impact on the productivity of the domestic workers. Many people in India are employed by the unorganized sector, which is responsible for giving employment opportunities to a sizeable segment of the labor force. This sector is responsible for employing a considerable fraction of the workforce. Women who are engaged in the informal sector and who work as domestic workers dwell in a wide variety of slum communities. These communities are characterized by their lack of proper housing and lack of amenities.

The Reasons for the Rise in Domestic Work

Domestic work is an increasingly important source of employment in today's society, and its significance is growing. Despite the fact that employment in the domestic sector was not minimal in India previous to the nation's independence, the need for domestic workers in India has greatly increased after the country obtained its independence. The bulk of individuals who worked in domestic service during the pre-modern era were members of the affluent aristocracy. For example, kings during the medieval period and landowners during the colonial period were examples of people who would fall into this category. Despite the fact that the era of kings and landlords in independent India is drawing to a close, there is a rising need for domestic staff. This is the case despite the fact that the period of monarchs and landlords is coming to an end. The bulk of this increase may be ascribed to the growing demand from the consumer market in India that is comprised of middle class individuals. During the last few years, a number of research on domestic labor in India have been carried out, and the findings of these studies have shown that there has been an increase in the number of migrant female domestic workers who are employed in the cities. They have also made the observation that the organization of domestic work is generally informal. This is another finding that they have made. Furthermore, they have succeeded in drawing attention to the vulnerabilities of domestic workers¹, who are members of the parts of society that are less educated and less wealthy. According to the findings of

these studies, a significant proportion of domestic workers are women who are members of castes that are seen as being on the margins of society.

An International Viewpoint

The workforce that is involved in informal employment across the globe is comprised of a significant component of the workforce that is comprised of domestic workers. Additionally, they are among the most susceptible categories of workers that are employed in the job. They are hired by private households, and the circumstances of their employment are sometimes not crystal apparent. In addition, they are not included in any book, and they are not subject to the terms of any rule or regulation pertaining to the labor market.

"any person engaged in domestic work within an employment relationship" is the definition of a domestic worker that is provided by the International Labor Organization (ILO). Domestic workers may be hired on a full-time or part-time basis; they can be employed by a single family or by several employers; they can live in the house of the employer (also known as a live-in worker) or they can live in their own property (also known as a live-out worker). Domestic workers can be employed by a single family or by multiple families. An individual who is hired as a domestic worker may find employment in a nation that is not the same as the one in where they were born.

Domestic workers are protected from any and all forms of abuse, harassment, and assault according to the Convention of 2011, which was established in 2011. It also outlines the requirements for decent employment for domestic workers. Through the implementation of this agreement, the rights of domestic workers are brought into the wider context of human rights. To regulate working hours, remuneration, occupational health and safety, and social security compensation, the Convention specifies standard operating procedures. These processes are also used to regulate social security compensation. Additionally, it defines criteria for the employment of migrant domestic workers, child domestic workers, live-in domestic workers, and private employment agencies. These guidelines are essential for the employment of domestic workers. The Convention lays a strong emphasis on the need of ensuring that domestic workers have access to suitable mechanisms for the settlement of disputes and the filing of complaints with the competent authorities. India has not yet ratified the Convention, despite the fact that India has been a major supporter of the Convention's ratification.

OBJECTIVES OF THE STUDY

- 1 To comprehend the organizational obstacles that domestic workers confront.
- 2 To conduct empirical research with the purpose of obtaining particular results and offering suggestions that are appropriate to the topic.

Setting up Domestic Workers

Workers in the domestic service industry in various countries have a long history of organizing themselves into labor unions. This is true to a certain degree. The flip side of the coin is that their unions have always had a hard time growing in number, gaining power, and, for many of them, continuing to exist. Over the course of the last few years, there have been hints of a comeback in the organizing of domestic workers. This rebirth is characterized by the use of both traditional and alternative organizational models and practices.

The resurrection is a response to the global shifts that have taken place in the labor market, as well as the continued high levels of exploitation that have been occurring. On the other hand, there is a revival of interest and concern among non-governmental organizations (NGOs), trade unions, academia, development practitioners, and governments over the quandary or predicament of domestic workers. This is due to the fact that domestic workers are going through a difficult time. One way in which this has been communicated is by the inclusion of a Discussion on Decent Work for Domestic Workers on the agenda of the International Labour Conference (ILC) of the International Labor Organization (ILO) in the year 2011. An international labor standard (Convention and/or Recommendation) on domestic employment is about to be adopted in the year 2011, and the objective of this debate is to make such adoption possible. As a result, this is encouraging further organizing by domestic workers, which is supported by the trade union movement. This is particularly for changes in international and national legislation, the formation of new alliances, campaigns by non-governmental organizations and other formations, increased research, and activities that are supportive of the movement by a variety of organizations. During this time period, those who are employed in the domestic service industry have the opportunity to organize for their own empowerment.

The Perception of Domestic Workers and Socioeconomic Circumstances

Domestic employment has a long history in India, and it began with both men and women working as "servants" in the homes of other people. This practice has been around for a very long time. There were three parts of the relationship between rich people and their servants that were considered to be the most important: loyalty, obligation, and patronage. In the past, the bulk of the servants were employed by men. The hierarchy was established according to caste; individuals belonging to lower castes were tasked with the "dirty" work of cleaning, whilst men belonging to higher castes were known to be trained in the art of cooking. While it is true that domestic work is not a new phenomenon in India, it cannot be only regarded a continuation of the old feudal system in which the affluent employed "servants." This is because domestic employment is not a new phenomenon. The nature of labor and the people who do it have been undergoing rapid transformations in both urban and rural settings.

These shifts have been happening at a rapid rate. At the moment, the majority of the workforce is comprised of women who are employed in domestic service; yet, they are not recognized as workers, and their labor is deemed to be "undervalued." Women's labor in their homes is not accorded any value as a consequence of the gendered notion of housekeeping. By extension, even paid employment in the homes of others is not considered to be work because of this gendered conception. This is the most important factor contributing to these phenomena. It is also underappreciated since it is often carried out by migrant women who come from lower castes and are impoverished. This is another reason why it is underfunded. Not just in their own minds, but also in the minds of society as a whole, all of these circumstances contribute to the perception that the quality of their job is worse than it really is.

Domestic Work Nature

The term "domestic worker" refers to a person who performs their duties without leaving the premises of their employer's home. Domestic workers are able to give a wide variety of home services to individuals or families. These services may be of a variety of various kinds. Additionally, these services include the cleaning and maintenance of the home, which is often referred to as housekeeping. Additionally, these services include the provision of care for dependents who are elderly or youngsters. Cooking, doing

laundry and ironing, going grocery shopping, and doing other errands around the house are all examples of jobs that may fall under the category of obligations. The majority of people who work in domestic service opt to make their home inside the same household in which they are employed. Despite the fact that the term "domestic worker" originates from an older English word, there are certain servants who do not work inside the home. These servants are not considered to be domestic workers.

The word "service" was formerly used to refer to domestic service, which was the employment of persons for remuneration in the residence of their employer. During this time period, the term "service" was used to refer to residential service. Throughout the course of history and in a variety of countries, it evolved into a hierarchical structure at various times in time. Domestic labor is difficult to categorize into discrete categories due to the fact that it involves a broad range of different duties, contexts, and relationships. This involves a broad variety of tasks, some of which include but are not limited to the following: cleaning, ironing, and doing laundry; going shopping, cooking meals, and fetching water; giving care for sick, elderly, and young people; taking care of pets; sweeping and tidying up the garden. When it comes to this line of work, employees are engaged in a broad range of different employment agreements.

The Role of the ILO in Protecting Domestic Workers

As a consequence of the rise in the number of individuals working from home, labor regulations and collective bargaining have been evaded, which has led to work standards that do not fall within the limitations of what is considered acceptable. The International Labor Organization (ILO) Convention on Home Work, which was written in 1996, is the only ILO Convention that is specifically addressed at the informal sector. This convention was drafted in 1996. The legislation lays forth fundamental standards for home workers, including those pertaining to salary and working conditions. A variety of activist groups collaborated in order to bring about the development of this conference. One of the suggestions that was related with this, which was also accepted in 1996, details a comprehensive strategy to improve the living conditions of those who work from home. Currently, only Finland and Ireland have ratified the Convention; however, a number of other countries are considering the potential of adopting national legislation that is in conformity with the Convention and its Recommendation. This trend is expected to continue in the near future.

Human Rights of Domestic Workers

When it comes to the regulation of the employment of domestic workers, the Convention takes into account, among other things, human rights. Beginning with the Preamble, it makes reference to a large number of international human rights accords, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These agreements are referred to throughout the document. It is stated in Article 3(1) that Member States "shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention." This was mentioned in order to ensure that the Convention was followed. Furthermore, the second paragraph of Article 3 places an emphasis on the value of freedom of association, the elimination of forced labor, the prohibition of child labor, and the removal of discrimination with respect to domestic workers. In addition to this, it places a legal emphasis on the rights of domestic workers to have a private life (article 6), as well as the risk of abuse occurring inside the privacy of the family of the employer (article 5). In these provisions, which represent the special

concerns that emerge from the home labor connection, the public-private divide that is distinctive of the home work link is expressed. There is a desire expressed in the Convention for the state to interfere in a location that is not only the place of employment of the domestic worker at the present time, but also the home of the workers and their employers (in the case of live-in domestic workers). A number of civil rights, including access to justice and privacy, as well as social and labor rights, including working hours and minimum wage, are included in the Domestic Workers' Convention. These rights are also covered in the convention. The human rights law that is being discussed at this conference uses an integrated approach. The traditional boundaries that have existed between civil and social rights are broken down by this integrated approach, which is a posture that we find in human rights law. In human rights legislation, the international community has occasionally opted for an artificially tight division between various forms of human rights.

Protecting Domestic Workers on Social Media

For the most part, the fact that social security is a human right and that its compliance is the major rationale for ensuring that people who do domestic work be offered social protection is the primary foundation for ensuring that social protection is provided to them. With the adoption of the Domestic Workers Convention in 2011 and the Domestic Workers Recommendation in 2011, which accompanied the Convention, as well as the Social Protection Floors Recommendation in 2012 and the recent adoption of the Transition from the Informal to the Formal Economy Recommendation in 2015, the world has taken a significant step toward securing the rights of domestic workers in terms of both their employment and their social security. A great deal of progress has been made in this direction. On the other hand, the results of this study suggest that the obligation is not even close to being completed at this point.

The vision of the International Labor Organization (ILO), which was published in the Social Protection Floors Recommendation in 2012, plays a vital role in the covering of domestic workers. This vision was provided in 2012. This is owing to the fact that the International Labor Organization (ILO) is of the opinion that the cornerstone for the implementation and maintenance of national comprehensive social security systems is the concept of universality of protection, which includes workers in the informal sector. That "each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work," in order to offer social protection for domestic workers, is a provision that is required in accordance with the requirements of Article 14, which states that "each Member shall take appropriate measures."

Sexual, physical, and psychological abuse

When women and girls are hired as domestic workers in private families, they often place themselves in a situation where they are susceptible to all types of abuse, including sexual, physical, and psychological abuse. This is because they are vulnerable to all of these kinds of abuse throughout their employment. The fact that they are by themselves is one of the factors that contributes to the increased dangers that they face. Other factors include the power imbalance that exists between their employer and the domestic worker, the lack of knowledge or the opportunity to seek assistance, and the financial constraints and debts that cause them to be terrified of losing their job. All of these factors contribute to the increased dangers that they face. As a result of the fact that domestic workers are only permitted to operate inside the context of the family, the likelihood of abuse occurring is significantly increased.

When compared to other workers, young women are often far more reliant on their employers and typically experience greater levels of isolation than other workers. Children are especially susceptible to this phenomenon.

Trafficking

When a woman needed charcoal, she went to the market to make her purchase. She was ready to buy charcoal. It was a woman in Lomé who was looking for a girl like me to live with her and conduct domestic chores. She was looking for someone like me. She found me and informed my mother about the presence of this lady whom she had discovered. I was handed over to her by my mother as a consequence of her visit to my mother. I am not aware of the exact amount of money that the woman sent to my mother, but she did transfer part of it to her.

Domestic worker abuse and diplomatic immunity

When it comes to universal protection for domestic workers, the issue of diplomatic immunity is another one that should be brought to your notice. This is because it falls within the umbrella of universal protection. Domestic staff who accompany ambassadors are often exposed to mistreatment, according to accounts that are frequently published in the media. The frequency of this is rather typical. Over the course of the last several years, this matter has received some attention from both the media and academic establishments. This is because these diplomats are given immunity, which enables them to often enjoy impunity for seriously abusive activities. This is the reason why this is the case. According to the findings of Kalayaan, about 3.8% of the domestic workers employed by diplomats are victims of human trafficking.

National Domestic Worker Policy

2009 saw the establishment of a task force by the government to address the issue of domestic workers. This task force was tasked with the job of making recommendations for a policy framework. A task force was constituted at the national level to handle this matter. The accomplishment of this task resulted in the production of a number of reports and recommendations. It is recommended in the draft national plan for domestic workers that modifications be made to the existing labor laws in order to guarantee that domestic workers be provided the same labor rights as other workers. In addition to this, the strategy that is being suggested asks for the promotion of domestic employment as a "legitimate labor market activity." For this reason, the government has recently taken a few acts that are aimed at broadening the application of a few formal sector legislation to cover domestic workers. These actions have been adopted in light of the background described above. These laws include those that apply to minimum wages and sexual harassment, as well as those that pertain to aid programs that have been created by the government specifically for this purpose. As a consequence of this, the issues that have been impacting the sector seem to have been brought to the forefront, and some progress has been made as a result of this.

Protecting Domestic Workers: The Apex Court's Judicial Response Guidelines

The Delhi Government was given permission to work on a pilot project for a period of three months on August 4 by the Supreme Court bench, which was comprised of Justices Kurian Joseph and R. Banumathi. By enlisting the participation of all duty holders, the objective of this initiative is to make

certain that all domestic workers in Delhi are registered in accordance with the Unorganized Workers Social Security Act, which was passed in 2008. Within a period of three months, the Government of the National Capital Territory of Delhi has been given the instruction to produce an affidavit that provides a detailed account of the progress that has been made in relation to the matter of registration.

The decision regarding the subject was handed down by the bench in the course of the process of hearing the SLP that was being presented by ShramjeeviMahila Samiti in the year 2012. In less than a month, the bench made a request to the National Social Security Board, which had just been constituted, to provide a statement that detailed the activities it had taken to promote the welfare of the unorganized sector, with a particular emphasis on the domestic workers. In an earlier statement, the National Legal Services Authority (NALSA) stated that it was prepared to give aid in this scenario; nevertheless, it found difficulties in reaching the many domestic workers when it attempted to do so. In accordance with the senior attorney for the appellant, Colin Gonsalves, it was suggested that the Labour Department might potentially deliver justice to the domestic workers if it worked together with the RWAs and NALSA via its paralegal volunteers.

CONCLUSION

In accordance with the Convention, it is recognized that employment in the home sphere is regarded to be labor, and that domestic workers, just like other workers, are entitled to decent working conditions. For the purpose of providing domestic workers with additional benefits and protection, the government is required to make modifications to the following pieces of legislation: the Minimum Wages Act for the year 1948, the Maternity Benefit Act for the year 1961, the Workman's Compensation Act for the year 1923, the Inter-State Migrant Workers Act for the year 1979, the Payment of Wages Act for the year 1936, the Equal Remuneration Act for the year 1976, and the Payment of Gratuity Act for the year 1972. These amendments are necessary in order to fulfill the purpose of providing domestic workers with additional benefits and protection.

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