

National Platform for Domestic Workers

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To,
The Honourable Prime Minister
Government of India
Delhi-110001

Subject: Enactment of Comprehensive Legislation for Domestic Workers

1. We, the Domestic Workers of India, who number over fifty million and of whom a substantial number are women, hailing from the dalit, backward and tribal communities, hereby petition the august Parliament of India through you to recognize our plight and enact an appropriate law for our protection.

2. There is yet no exact data on our numbers. Our estimated numbers vary from 4.75 million (NSS 2005) to over 90 million, according to some sources. While the former is a gross under estimation, the latter may be exaggerated. However, it can be safely estimated that we number more than 50 million in our country.

3. A large section of domestic workers come from vulnerable communities and backward areas. Most of us are poor, illiterate, unskilled and do not understand the urban labour market. Our work is undervalued, underpaid and poorly regulated. Lack of decent wages, work conditions and defined work time, violence, abuse, sexual harassment at workplace, victimization at the hands of traffickers/placement agencies, forced migration, lack of welfare measures and lack of skill development avenues resulting in stagnation are major issues that we face as domestic workers.

4. A considerable segment of us stay in the houses of employers as 24 hour live-in workers. We are migrants who are exploited by middle men (who call themselves 'placement agencies') who take huge advances from well meaning employers and deprive us of our dues. These middle men literally recreate the conditions of indentured labour and make a fortune by supplying our labour and creating inhuman conditions of work and payment. Most of the migrants are tribal girls; about 40% are below the age of 14 years. Far away from our families, such tribal girls among us are exploited both by the employers and placement agencies. Besides live in workers, there are others of us who work for a full day but this day can be anywhere between 8-14 hours. Others of us work for a few hours in each house and may work for 2-5 houses in one day. None of us get any off time, paid off days or other benefits

5. Some steps have been taken by the Government of India in recent years to provide legal protection and social security to us domestic workers. We have been included in The Unorganized Workers' Social Security Act (2008) and the Sexual Harassment of

Women at Workplace (Prevention, Prohibition and Redressal) Act (2013). A National Policy on Domestic Workers with the objective of regulation and extension of welfare measures has been formulated by the Ministry of Labour but it is yet to be notified. There have been other measures like extending the Rashtriya Swasthya Bima Yojana (RSBY) to domestic workers and the notification of Minimum Wages by a few State governments.

6. But given our large numbers and the enormity of the problems we face, these steps remain grossly inadequate. An analysis of labour legislations in India shows that we are not included in the scope of several labour laws because of constraints in the definition of either the 'workman', 'employer' or 'establishment'. The nature of our work, the specificity of the employee-employer relationship, and the workplace being the private household instead of a public place or private establishment, excludes our coverage from the existing laws. Even the placement agencies escape from the ambit of labour laws, because of such definitional issues. To include domestic workers under these laws, definitions will have to be amended. Laws that need such amendments include The Minimum Wages Act 1948, The Maternity Benefit Act 1961, Workmen's Compensation Act 1923, Inter State Migrant Workers Act 1979, Payment of Wages Act 1936, Equal Remuneration Act 1976, Employee's State Insurance Act 1948, Employees Provident Fund Act 1952, and the Payment of Gratuity Act, 1972. Only an integrated law can regulate the placement agencies and the conditions of domestic work and provide social security to us. Mere extension of the Shops & Establishments Act, as has been done in Delhi, is no solution to our problems of exploitation and abuse.

7. India is known for the very progressive labour laws it adopted even before Independence and in subsequent years. Some of them are the Workmen's Compensation Act, 1923, the Trade Union Act, 1926 and the Payment of Wages Act, 1936. After Independence our Government has passed more than 40 central Labour Legislations. Nevertheless, these legislations have benefited only the workers of the organised sector when in actual fact 93% of labour fall into the unorganised sector.

8. It is under these circumstances that we require the help of the authorities and institutions to protect us. The task does not involve any substantial fund allocation since the solution lies in regulating recruitment and conditions at work in a sector where the rendering of services and the systems of remuneration is in the private realm.

9. Our private working space cannot be hidden from public gaze. It must become an open transparent space where recruitment and conditions of work are appropriately regulated by the law of the land. For this we need a special sectoral law on the lines of other sectoral laws such as the *Dock Workers (Regulation of Employment) Act 1948*, *Beedi and Cigar Workers (Conditions of Employment) Act, 1966*, The Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969 and The Building and Other Construction Workers (RE&CS) Act, 1996.

10. We have the expertise among ourselves in India as well as useful guidelines from the ILO as contained in the ILO Convention on Decent Work for Domestic Workers (Convention 189) to enact legislation to protect this sector. The Government of India has already voted in favour of this Convention in June 2011 although it is yet to ratify it. What we require now is the political will to enact a comprehensive law to safeguard our rights and provide us with social security.

11. Only a central law can meet the requirements of regulating this sector since the workers frequently cross inter-state boundaries. The nearest law on the statute book, namely the Inter State Migrant Workers Act, has proved hopelessly inadequate. Only an integrated law can regulate the placement agencies and the conditions of domestic work and provide social security to us.

12. Beginning with The Domestic Workers (Conditions of Employment) Bill, 1959, there have been many attempts to legislate for this sector, but without success. The most recent was The Domestic Workers (Conditions of Service) Bill, 2009, a Private Member's Bill introduced in Parliament by Shri Arjun Ram Meghwal. There are other Bills such as that developed by the National Commission for Women in 2008, and by the Domestic Workers Rights Campaign in 2010. But we still do not have an Act of the Parliament to protect the rights and welfare of the largest as well as the fastest growing sector of employment for women in the urban areas. This is a grave lacuna, especially in the light of the ILO Convention 189. Articles 41 and 43A of the Constitution of India are the basis for our demands.

13. Given the size and special working conditions of the domestic workers, there must be a separate Central Legislation to protect our rights. The Comprehensive Legislation for domestic workers that we demand should contain the following non negotiable:

- a. The Law should regulate employment, conditions of work and provide social protection simultaneously: This includes fixation of wages and other conditions of work, resolution of disputes and protection of employment besides provision of social security, child care facilities, housing, training and skill formation.
- b. A Tripartite Board should be the instrument for implementation of the Act: The composition of the Board and its lower formations must be tripartite in nature and give the pride of place to workers through their elected representatives with proportionate representation for women workers. Such a Board should be autonomous in order to function effectively like the ESI or Provident Funds. There should be a mechanism for dispute and grievance redressal within the Board.
- c. The Board should undertake:
 - Registration of workers and their social security contributions
 - Regulation of conditions of work
 - Social protection
 - Registration of employers and collection of their contribution for social security
 - Monitoring of payment of minimum wages
 - There should be a help line in the Board and also a complaints committee at all levels to handle sexual harassment complaints of domestic workers.
- d. It is the responsibility of the Board to register the Placement Agencies: This would entail that the agencies supply records to the Board with names, addresses and photographs of the domestic workers on their roles and pay fees accordingly. They should specify what services they provide to the worker and the employer especially if the workers are from the outside.

- e. Domestic workers should be encouraged to organize their own collectives or cooperatives while going to work and while registering with the Board should not be treated like labour supply agencies.
- f. The Board should provide skill up gradation training for domestic workers.
- g. There should be a smart card for the workers that is recognized all over the country so that they get their benefits when they retire wherever they are. This also provides portability of social security if the worker has worked in another state.
- h. While the Central Act will provide a model format and rules there must be provision in the law for the State governments to set up as many schemes as necessary in each state. As conditions of work vary in each region, appropriate suggestions may be taken from the local domestic workers representatives.

As the Standing Committee for Labour has suggested that 3% of the GDP be earmarked for social security of the unorganized workers, a proportionate amount should be set aside for the security of the domestic workers. 1% of the house tax collected by the local bodies should also be added to the fund of this particular Welfare Board.

It is our earnest request that our petition carrying the signatures of thousands of domestic workers is sympathetically considered and appropriate action taken. We would like to remind you that we domestic workers and our families form an important sector of voters in each and every constituency of the Lok Sabha, especially in the urban and semi-urban areas.

We will be grateful if an opportunity is afforded to some of our representatives to appear before you and make an oral submission as well.

We, on behalf of over five crores domestic workers, thank you, in the hope that our petition receives the utmost consideration at your hands.

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