

Domestic Workers: Protection of Rights and their Way Forward

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Abstract

Domestic work is one of the world's oldest occupations. In developing and developed countries alike, the domestic sector absorbs significant number of workers, many of whom belong to the poorest segments of society with little access to other work or employment. Domestic worker is an invisible labour force. In Bangladesh, they are not considered as labourers and the sector is recognized as a non-formal sector. There is no legislation to protect this distressed segment, though the International Labour Organisation (ILO) adopted a convention (Convention No.189) to recognize the domestic workers as 'labour' and to ensure their human rights along with decent jobs.

Keywords: Domestic work, Non-formal sector, Invisible labour force, Decent jobs, Helping-hand, Infringement, External interventions, Dispute settlement mechanisms Contravention.

Introduction

Domestic work is one of the world's oldest occupations. In developing and developed countries alike, the domestic sector absorbs significant number of workers, many of whom belong to the poorest segment of society with little access to other work or employment. In many countries, domestic work is performed to a large extent or even exclusively by migrant workers, mainly women, who migrate in order to earn money to support their families in their home countries. Domestic workers may cook or clean, or care for children, the elderly or the disabled, tasks that have been traditionally assigned to women in the vast majority of societies and that have been largely uncompensated. However, domestic work may also include gardening, chauffeuring or providing security services, tasks more often performed by men.

The entrenchment of domestic work in the informal economy is very significant because of the highly particular nature of their work, specifically, the fact that it is performed in the home of a private individual, often in the absence of co-workers and frequently in the absence of a written contract of employment or any external monitoring. Since domestic work has been viewed as outside "productive" labor market activity, it has often been excluded from labor and employment legislation, either explicitly or implicitly. Yet similar tasks performed outside the household are treated differently. The issue is on dire urgency to think of and to have a keen look which really is interrelated to the major phase of basic human rights and greater national development.

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Background

In prehistoric era, ancient Greece, Rome and various other early civilizations, domestic service was performed almost exclusively by slaves. In medieval Europe much of the necessary labor activities were performed by the serfs. Domestic servants became wage earners in the United States and in most European countries by the 1870s. Domestic service, as an occupation, reached its height in Victorian England. The great households of the royalty and gentry employed large number of servants of both sexes. A man could work his way up from groom to valet and then on to butler or even steward. Similarly, a woman could rise from scullery maid to cook or from chamber maid to housekeeper. Usually, stewards and housekeepers had private servants for themselves.

Domestic work for wages in employer's residence is sometimes simply termed "service". It was evolved into a hierarchical system in different countries over the times. Before the 20th century, domestic workers were not protected by law. The situation of females was more aggravated because there was no law to protect themselves from the unscrupulous employers or other members of the family. This system peaked onwards the close of the Victorian era in Britain which became complicated and rigid during the Edwardian period. The equivalent in the United States was the Gilded Age. In practice, most domestic workers throughout the world are from the same country in which they work. They may live at home though they are usually live-in domestics. Due to huge gap between urban and rural incomes and the lack of employment opportunities in the rural areas even an ordinary mid-class urban family can afford to employ a full-time live-in servant. The majority of domestic workers in China, Mexico, India and other populous developing countries are people from the rustic areas who are employed by urban families. In Brazil domestic workers are hired under a registered contract; and they have most of the rights of any other workers which include a minimum wage, remunerated vacations and a paid weekly day off. It is not uncommon, however, to hire servants without registering them. Since servants come almost always from the lower, uneducated classes, they are sometimes ignorant of their rights especially in the rural region. Nevertheless, domestic employees often without a proper contract, sometimes sue their employers to get compensation and protection from abuses.

Hypothesis

The study proceeds on following hypotheses:

- Failure to manage the household on their own, women are compelled to become domestic workers;
- As there is no specific law regarding domestic workers, their miseries are increasing day by day.

Objective of the study

The main objective of the study is to investigate into the real situation of domestic workers in Bangladesh.

The specific objectives of the study are:

- to analyse the socio-economic condition of domestic workers;
- to find out the nature of work, environment of working place, working hour, mode of payment of wages, advantage and disadvantage of work;
- to enquire the awareness of the domestic workers regarding their rights and relevant laws;
- to identify the ways of enacting a new and suitable law dealing for the domestic worker's situation.

Methodology

The present paper aims to identify the existing legal system with respect to the domestic workers. It will attempt to identify the ways to move onward and create a better legal administration applicable to the situation of the domestic workers. To assess the present condition of domestic workers in Bangladesh, various books, journals, internet, survey report have been used. For this study the secondary sources have also been consulted/used.

Domestic Workers in South Asia

Child domestic workers are a common scene throughout South Asia. It is the most common and least noticed form of child labour. Many of these children start working at a very early age i.e. from five maximum. Most child domestic workers are girls, as they are seen to be better suited to carry out household chores. Some of these children can earn a decent income if they find a kind and caring family who may even educate them or help them get married or get an odd or small jobs. The less fortunate get no pay and live a life of hardship and misery. They are often locked inside the house, scolded, beaten and abused. Almost half of South Asia's 1.4 billion population fall under the poverty line, earning less than \$ 1.25 a day (UNICEF, 2013). About 70 percent of this population is poor and came from the rural areas. Extreme poverty compelled children to be sent to work at a very early age to supplement the family's mere income. Work done by children becomes child labour when it is their primary occupation and it also denies them education and affect their overall development. Such work can be exploitative and abusive and can ruin the child's prospects for a better future. Child labour ranges from debt bondage to child domestic work, child sex work, child factory work and other commercial or hazardous work (UNICEF, 2001).

South Asia is predominantly a patriarchal region in the world. Female infanticide, neglect, high maternal mortality and lower access to health care and food make it the only region where there are fewer women than men. Girls are seen as temporary members of the family and are not valued enough to warrant serious investment. Fewer girls are sent to schools in South Asia and even fewer stay on to complete school. Low enrolment, combined with high drop-out rates and low

quality education equip girls poorly for the future. Over 80 percent of child domestic workers are girls. Girls are seen as naturally suited for household work; hardly any of them is supposed as capable of doing other types of work. Society and social structures perpetuate the belief that a girl's or a woman's rightful place is the home and that their skills only lie in domestic works. Since women and girls have lower socio-economic status than men and boys, daughters are more "disposable" than sons and they are the first ones to be sent out to work. Most girls are socialized into subservience and docility and hence are unable to protect themselves against physical and emotional abuse. Besides, being less educated, they are more vulnerable to exploitation and even more unaware of their rights than the boys. This makes girls particularly vulnerable to violence and exploitation (UNICEF, 2001).

Domestic Workers in Bangladesh

Bangladesh is one of the poorest countries of the world. It became independent in 1971 with numerous socio-economic problems. Poverty, illiteracy, corruption and over population are deep rooted problems. About 31.5% people live below the subsistence level (BBS, 2011). A cognizable number of male in Bangladesh have a tendency to abandon wife with children. Extreme poverty, separation and divorce of wife make women helpless. In search of livelihood they are compelled to migrate to the city with their children. Most of them become workers as well as domestic workers.

Domestic worker means residential helping hands in consideration of wages. In Bangladesh, domestic workers is overwhelmingly comprises of women. Common gendered beliefs do not attach much value to services provided by women and it validates the under-paying of female child domestic workers. The domestic workers are generally poor girls from countryside. Usually the urban environment is unfamiliar to them. Therefore, they are above all isolated (Fyfe, 1989). In Bangladesh a significant number of children are employed as domestic workers in private households. Increasing landlessness, economic hardship and unbalanced resource distribution has culminated in the increasing breakdown of the traditional joint family structures. In addition it is normal practice among the poorer sections of the population to leave women and children vulnerable because they are the least able to find alternative means of security (Kabeer, 1985). Failure to manage the household on their own, women are compelled to migrate to urban areas to seek a livelihood. In this situation, some may get jobs in factories and different forms of waged employment but others are compelled to join as domestic workers in private households. Domestic work is one of the most unstable, low-paid and unprotected forms of employment. Many of them are overworked and underpaid. The situation generates particular concern when domestic workers are merely children. Abuse and exploitation are common for child domestic workers. The fact is that on account of their young age they often live in the employers' household amidst of vulnerability of verbal and physical violence.

Child Domestic Worker: A Global Scenario

Children's engagement in domestic work is one of the worst forms of child labour. Child domestic labour is very complex and problematical issue. They are often isolated from their own families and have little or no opportunity to make friends or socialize them. The risks, negative

impacts and indignities faced by children in domestic work also vary widely. In Bangladesh, India and Nepal, they may be at the employers' beck and call around the clock and rarely leave the house. They may have no separate place to sleep and only eat left-overs; this would be less common in Latin America. Domestic service by children is an example of child labour exploitation where they are subjected to subhuman working conditions and are deprived of their fundamental rights (Black, 2002). Domestic child labourers are among the most invisible child labourers. The number of children exploited in private households is unknown because of the hidden nature of the work (UNICEF, 2007).

In the region discussed in this article, there are laws against child labour. These laws prohibit employment of children in certain dangerous occupations and also define conditions under which children may work in others. They typically set a uniform minimum age below which no children may be employed in hazardous occupations. In India, Nepal, Bangladesh, Pakistan and Sri Lanka, the age at which children may legally begin to work coincides with the age up to which school attendance is compulsory. In most countries the child labour law is applicable only in formal or registered factory units. The home-based and other small informal sectors are not covered by legislation. Attention has focused on child work in the urban sector, while the bulk of children work in the rural areas. Thus, the legal framework leaves the greater part of working children without legal protection, including those children who are working as domestic workers. Legal provisions regarding child labour are discussed below:

India: Child Labour (Prohibition and Regulation) Act, 1986 and the National Policy on Child Labour prohibit employment of children in certain listed hazardous industries and provide regulation of employment of children in other. Domestic child labour is not a prohibited occupation for children in India. The Government of India has amended the Central Civil Service Conduct rules to prohibit Civil Servants from employing children of below 14 as domestic worker. A survey carried out in India in 2000 estimates that roughly one out of every five children under 14 years working outside the family is a domestic child worker (MICS, 2000). Nearly 45 percent of households above the poverty line in 18 main cities in the state of Tamil Nadu, India, employ domestic help. 10 percent of these servants are children (Peace Trust, 2000). A study in Chennai shows that 82 out of 100 domestic child workers are girls (Peace Trust, 2000). In Bangladesh an estimated 300,000 child domestics below the age of 14 are working in Dhaka alone; 81 percent of them are girls (Arunodaya and Anti Slavery International, 1999). In Sri Lanka, an estimated 100,000 children are employed in domestic service and food catering (Childscope, 1997). A sample survey conducted in eight towns of the Southern Province indicates that out of every 100 houses, 28 employ domestic servants. 25 percent of the domestic workers are children below the age of 14 (De Silva, Harendra, et. al, 1997). 55,000 children under the age of 18 work as domestic servants in Nepal. In Kathmandu Municipality alone, an estimated 22,000 children under the age of 18 work in this sector, with one in every five household employing a child for an adult job. More than half of these workers (57 percent) are boys (ILO-IPEC, 2001). In Pakistan, there is no estimate available on the incidence of domestic child workers. Qualitative studies on the issue show that the phenomenon is widespread in urban areas. According to the Child Labour Survey conducted in 1996, it is estimated that about eight percent of the 3.3 million working children in

the country were involved in personal and social services. This indirectly indicates the incidence of domestic child workers in Pakistan (Government of Pakistan and ILO-IPEC, 1996).

Bangladesh: Children’s Act 1974 prohibits employment of children in certain hazardous industries. It also provides for regulation in other industries. As domestic child labour is not considered hazardous so it is not prohibited in Bangladesh.

Pakistan: Employment of Children Act (1991) (Act No.V) prohibits employment of children in certain occupations and processes that are considered hazardous. The Act is applicable only to formal sector of employment. Domestic child labour is not considered hazardous and not prohibited in Pakistan.

Nepal: The Children’s Act (1992) is a comprehensive law that seeks to protect children’s rights. Child Labour (Prohibition and Regulation) Act, 2000 prohibits employment of children of below 16 years of age in certain hazardous occupations. Domestic child labour is not considered hazardous in Nepal.

Sri Lanka: The minimum age for employment in any occupation is set at 14 years by amending the earlier legislation dealing with the employment of young persons. Although an ordinance of 1961 is existing in Bangladesh to register them, yet its application is hardly found. Some relevant sections of the ordinance have been discussed here.

Types of Domestic Workers

According to Article 1 of the Domestic Workers Convention, 2011 (No. 189), “domestic workers” means any person engaged in domestic work within an employment relationship. The workers mainly come from rural areas with extreme poverty background. A large number of them are minors and majority of them are women and girls. Aspiring for a better future, parents often send their children to work as domestic workers. They think that by serving for a few years their children will get a better life. An office job is a target if the child is a boy and for girls, the hope of a good marriage is preferable. Domestic service is considered more secured than working in any other work. It does not require a lot of experience. Inexperienced young children can therefore easily find jobs in urban homes. Adult domestic workers basically consist of either ‘*bandha*’ (literally meaning ‘bound’) or ‘*chhuta*’ (literally meaning ‘non-bound’) workers. Such children mainly form a category of workers whose parents, mostly mothers, are either ‘*bandha*’ or ‘*chhuta*’ worker (Rahman, 1995). These children generally assist their mothers with their chores. There is another type of child domestic worker who is popularly referred to as ‘*pichhis*’. They generally live with their employers in an unfamiliar environment (Rahman, 1995). Domestic workers are categorized in these three ways. Depending on this category their works are assigned by their employers.

Assigned Works

Child Domestic workers are the invisible labor force as are adult domestic workers. But they work in the most arduous and abusive situations. They play an important role in completing the household chores though they are hypothetically defined as simply “helping- hand”. They have to do boring and troublesome work. The assigned works of domestic workers are washing clothes, cleaning the house, washing kitchen and its utensils, cooking and grinding spices, looking after small children and keeping them company, running numerous errands for various family members and helping her mistress in all her household chores. Having finished their assigned works they are engaged in massage services, combing and plucking grey hair, cleaning lice, etc (Rahman, 1995).

Conditions of Domestic Workers in Bangladesh

Child Domestic Worker (CDW) is an additional form of child labour. The employment of children as domestic worker involves a variety of issues regarding children as well as their rights. These issues covers various aspects of work, sex, poverty, societal and cultural norms and attitudes, law and protection.

The Baseline Survey on Child Domestic Labour (CDL) in Bangladesh estimates that there are approximately two million domestic workers in Bangladesh, of which 12.7 percent are child domestic workers. The number of child domestic workers in Bangladesh is 421,426, of which 147,943 work in Dhaka city alone and the remainders (273,543) work in other urban and rural households. Of the CDWs, 78 percent are females and 94 percent work full-time. Approximately 1.1 percent households employ CDWs in Bangladesh. On an average, 3.3 percent of urban households employ CDWs, whereas it is only 0.8 percent for rural households. The incidence of child domestic labour is highest in metropolitan cities, followed by other cities and urban areas. About 4.4 percent of city corporation households, employ CDWs with highest concentration in Sylhet (9.6 percent) and lowest in Khulna (2.2 percent). There are 2.2 CDWs for serving every one thousand people in Bangladesh, and this number is 1.6 in rural areas and 9.1 in city corporation areas. Substantial variations in the concentration of CDWs also exist by division and region/former districts. The minimum age for a CDW was recorded at 6. About 6 percent of CDWs have age below 8 years, 21 percent below 11 years and 74 percent in the age range 12-17 years. Nearly 50 percent never attended schools and only 11 percent are currently attending schools. Family poverty/hunger is the main reason for migration of children from home to work outside as CDWs. They come from very poor families. The family circumstances are not favourable at all for their natural growth and development. The parents are unable to provide food and education to them and thus they are forced to work for their livelihood as well as for supporting their families. Most of their families have no cultivable land. The main sources of income of these families are day labour, domestic work, small trading and rickshaw pulling. About 23 percent of these children start working at age below 8 years, 33 percent at age 9-11 years and 33 percent at age 12-14 years. More than 99 percent of the CDWs work 7 days a week and thus they are devoid of weekly holidays. Not only do the children work through the week,

they also work for exceedingly long hours. About 90 percent wake up by 7 O'clock in the morning and start working, and 75 percent sleep after 9 p.m. On an average, they work 9 hours a day. The responses of employers in this regards did not vary greatly from those of the child domestic workers. The employers reported mean length of working hours for a CDW to be 7 hours a day. Length of daily working hours vary by age; the CDWs of higher age group are more likely to work for longer hours. There appears to have some variation in the type of works that male and female CDWs perform in urban and rural localities. The most common jobs that a female CDW performs are dish washing, help in cooking, serving food, washing clothes, cooking food, looking after baby, and mopping floors. Males/boys perform jobs like purchasing daily essentials, mopping floors, raising cattle, and gardening. Almost 52 percent of CDWs (consisting of 58 percent girls and 32 percent boys) do not receive any wage. A male receive Tk. 315 for a month on an average, and it is only Tk. 89 for a female. In addition to monthly wages, they also receive some other benefits like food, clothing and some toiletries, the money value of which is on an average Tk. 813. Employers' responses on these issues were not much different from those of the CDWs. About 90 percent of the CDWs sleep at employers' place. A great majority of them are allowed to sleep in bed rooms. Most of them (97 percent) consider sleeping place at employers house is better than or as good as that of their own house. Among those who fell sick in employers house, more than nine in every ten reported of receiving some kind of medical treatment during sickness, but 34 percent had to work during sickness. Large majority (87 percent) of CDWs do not see any advantage of working as CDWs. However, majority also consider it as a guarantee of getting food, security and safety. About 93 percent consider that there is no difference between food they receive and the food their masters' consume. About 60 percent of CDWs face some kind of abuse like scolding, slapping or beating. However, 78 percent reported that the overall treatment of the employers is either good or very good. Employers' treatment as perceived by the poor children may be confined to three meals a day, new clothes at Eid and other festivals, and security and safety. About 80 percent of CDWs would like to attend school if they are given such opportunity. Surprisingly, employers' attitude towards their education is also favourable, though only 11 percent are allowed to attend school. About 90 percent employers are aware of the fact that employing a child for work is legally forbidden, but majority do not know the minimum age for work. In view of the consideration of employers, there are some advantages of employing CDWs. These are mainly, it is easy to deal with them (80 percent), and they are less expensive (13 percent) (ILO, 2006). The survey findings as highlighted above are expected to boost the knowledge of Child Labour situation in Bangladesh. It will help the policy makers to develop appropriate strategies and interventions to combat child labour, specially child domestic labour.

A Survey conducted by the Bangladesh Institute of Labour Studies (BILS)

Domestic workers are in fact, an invisible labour force. They are working in most laborious and exploitative situation. They constitute a significant portion of the urban child workers. In order to expose the situation of domestic workers, Bangladesh Institute of Labour Studies (BILS) conducted a survey on domestic workers in Dhaka City in 2006. It is found that 50% workers are between the age limit of 05-15 years and 76.67% are female. Amongst them 46.67% identified poverty as a major cause to choose such a job, whilst lack education and unskilled in any job also

forced them to opt for the job. It is a matter of regret that though the domestic workers are very low paid they are forced to work for longer hours. 46.67% domestic workers work 11-12 hours but their average wage is TK.509.6. According to 50% workers their wage range is TK.301-600. 60% workers get their wages in regular basis and 40% get irregularly. They have no separate room for sleeping. The survey disclosed that 40% domestic workers sleep in the drawing room or on the floor of bed room, 33.33% at kitchen, 16.67% in veranda, and 3.33% in a store room. Only 6.67% sleep in a separate room. Domestic workers do not enjoy any regular holidays or any days off during the week. According to the survey 63.33% workers never get holiday. Among them 66.67% have no facilities for education, 53.33% have no recreational facilities. Moreover 83.33% are the victims of all forms of verbal abuse, 46.67% of corporeal punishment, 46.67% of threatening to discharge, 63.33% of burdensome work, 16.67% of sexual harassment 40% of insecurity and 67.67% of disappointment (BILS, 2006).

A survey conducted by the International Labour Organisation (ILO)

In order to unveil the real situation of domestic workers, 22 domestic workers were interviewed by ILO. It was found that the domestic workers were migrating from rural areas to the Dhaka city. Most of them came with their family members, relatives and neighbours. The age of the domestic workers ranged from 7-17 years. They performed all kinds of household chores, such as sweeping, washing clothes (manually) cleaning dishes, cooking and helping in cooking, grinding spices, looking after babies and old man of the family, making beds, shopping from the corner stores etc. But their remuneration was reasonably determined. It ranged from Tk. 80-400 per month. Some young newcomers did not get any wage for first few months. In most cases the earning money was handed over to their parents. There is no system of agreement for employing the domestic workers. So the terms and conditions of employment were not favourable to them and their duration of service becomes totally dependent on the whims of their masters. As a result they were discharged at any time. It was found that most of the domestic workers worked 16-17 hours a day. In severe cases they worked up to 18-19 hours a day. A few of them unusually could take rest and watch television for some time. In most cases the domestic workers get insufficient facilities and in some cases they had a comfortable life. The educational situation of the domestic workers was very poor. Most of them were illiterate. Some of them attended school for a few months and discontinued. A few domestic workers were found to have completed the primary level of education. Only 5 percent workers completed the grade –VI. In the study area, domestic workers were found to be seldom punished or abused by the employers. Most of them said that they were rebuked by their employers sometimes. Beating domestic workers by the employers was found in one case only. There were some employers who did not rebuke them under any circumstances. The domestic workers had little scope to spend money due to their low income. Besides, they had little time to go out and spend money. Some of them gave their salary to their guardians retaining a small amount for them. There were some domestic workers who were not paid in cash and therefore, had no scope to spend money. Some of them were found to spend money buying peanuts and soft drinks. One of them was found to have saved Tk. 7,000 which she used for purchasing land in her own village. The domestic workers slept in their employers' residence. Most of them used to sleep on the floor. They were provided with pillows, mosquito nets, curtains, mats, mattresses, low-cost quilts, etc. A few of them had cot to sleep. Only 5

percent of the domestic workers slept in the same room with the mistress of the house. The domestic workers were provided food, clothes and accommodation. During festivals they were given special clothes. Moreover, some of them were given extra money when they visited their village home. In case of sickness, the cost of treatment was borne by the employers. There was no particular pattern of leave granted to the domestic workers. Some of them got leave for 2-3 weeks a year. Some were granted leave for a few days for paying a visit to their village home/family. During sickness they were allowed to take rest. They did not have weekly or monthly leave. Leave was given according to the conveniences of the employers (Rahman, 1997).

Legal Interventions

The Domestic Servants' Registration Ordinance 1961

Domestic workers are the victims of an unjust society. But there is no legislation to protect this distressed segment. The East Pakistan Domestic Servants' Registration Ordinance, 1961 was promulgated providing for registration of domestic workers only for the Dhaka Cantonment areas. Under the ordinance, the term domestic servant means every person who renders domestic services to his/her employer in return of wages or any other consideration. The Ordinance requires for compulsory registration of domestic workers with the Officer-in-Charge of the local police-station or any other police officer. The necessary requirements for registration are name, address or addresses, a copy of own photograph in duplicate, finger impression and measurements. Enquiries will be conducted by the officer-in-charge of the police station or the authorized officer about the correctness of the particulars. After satisfying about the correctness of the particulars, the officer in charge of the police station or the authorized officer shall issue a registration card containing a photograph on it. According to the Ordinance, no person shall work as a domestic worker without getting a registration card from the concerned authority. The Ordinance also provides for penalty with simple imprisonment which may extend to one month or fine or both for infringement of the provisions of the Ordinance (The Domestic Servants' Registration Ordinance, 1961).

Drawbacks of the Ordinance

From the above discussion it is clear that the Ordinance was passed only for the registration of domestic workers in Dhaka City. In this Ordinance, police reserves absolute power and authority of issuing registration card. In our country the police are not friendly with the ordinary people so they do not dare to go to the police station normally. According to the Ordinance, anytime a domestic worker moves out of a house in search of a new job s/he would require reporting again and again to the nearest police station. The other drawback of the Ordinance is that though 50% domestic workers are children, yet it has totally ignored this greater part of workers.

In fact, under this Ordinance, the absolute responsibility of registration is on the domestic workers themselves. But the Ordinance did not mention at all about the responsibility of the employer. Besides this, considering the socio-economic-cultural and educational conditions, the general public of Bangladesh are unaware about the basics that interrupt their livelihood. In this context, it is very much amazing that a poor domestic worker shall go to the police station to register themselves before their employment in a private household.

In this Ordinance, no contract of employment is there for this domestic worker. In fact, there is no provision of written contract either in the Ordinance or any other law in Bangladesh for employing the domestic workers in private households. Therefore, the hours of work are not limited. So their rest, leisure and weekly holidays are absent. They are not sufficiently salaried and they do not get any opportunity to contact with outsiders. In addition, most of the cases the duties and functions of domestic helpers are not defined clearly. In addition, they are expected to function competently within a full range of occupations associated with the household.

The law itself is opposed to fundamental right as it has set out clear discrimination. No other professionals are required to report to the police station. Right from the beginning it is presumed that they are going to commit some offence, and as such they are required to report to the police station from the start of their service. Social dogma is reflected through this law which requires immediate attention of the legislators. The law should be amended so that registration of domestic workers will be the obligatory duty of the employers and they will face penalty or punishment for contravening the provisions of this Ordinance.

Constitutional Provisions

Although the Constitution of the People's Republic of Bangladesh has guaranteed equal rights to all citizens, yet the reality is different. Under the Constitution, emancipation of the peasants, workers and backward sections of the people from all kinds of exploitation are the fundamental duties of the State. The fundamental responsibilities of the State are providing food, clothing, shelter, education and medical care, ensuring right to work, rest, recreation, leisure and social security. It also gives guarantee for removing illiteracy from the country by free and compulsory education. According to the Constitution, the state will make special provision in favour of women and children. Forced labour is prohibited and considered as a punishable offence under the Constitution. (The Constitution, 1972). If we look into the conditions of the domestic workers, it is easy to comprehend how much inconsistencies are there in the Constitution and in reality.

International Initiatives

With the intention of recognising domestic workers as 'labour' and ensuring their human rights along with decent jobs, the International Labour Organisation (ILO) adopted a convention (Convention No. 189) titled 'Decent Work for Domestic Workers' in its 100th conference at Geneva from June 1 to June 17, 2011. It will enter into force on September 05, 2013.

The new ILO standards set out the same basic labour rights as those available to other workers like reasonable working hours, rest of at least one day in a week, a limit on in-kind payment, clear information on terms and conditions of employment (written contracts) as well as respect for fundamental principles and rights at work including among others freedom of association and the right to collective bargaining. It includes clear definition and scope of domestic workers. It also reinforces the fundamental rights of these workers, including to decent working and living conditions, protection from all forms of abuse, occupational health and safety, working time and access to dispute settlement mechanisms. In addition, it highlights the need to eliminate child domestic labour.

International Labour Organisation (ILO) also adopted a Recommendation. The new Recommendation includes reference to freedom of association for domestic workers (the right to form and join trade unions) and the need to respect their work-life balance. In addition, it ensures the identification and prohibition of hazardous domestic work for children and protection for young domestic workers, i.e. children above the minimum age of employment but below the age of 18 and who are therefore protected by ILO Convention No. 182 on the Worst Forms of Child Labour. The government, employers' and workers' representatives of Bangladesh submitted their votes in favour of the convention. The convention should be implemented in accordance with the national laws of the country. A new law consistent with the newly adopted convention should be enacted for the domestic workers across the world.

Recommendations

Like most other countries, employers of domestic workers are individual household members, who are less used to dealing with laws and regulations than employers in the formal sectors. Hence, provisions should, as far as possible, be drafted in an accessible manner and accompanied by tools and strategies for their communication and dissemination. Workers will be benefitted equally from such measures, as in many instances, they are not familiar with relevant laws and regulations that may protect them.

The labour Laws in Bangladesh formerly consisted of various statutes, each dealing with one or more aspects. The Labour Act, 2006 was promulgated repealing most of the earlier statutes and modifying some others. This Act provides more or less the total labour law related provisions applicable in Bangladesh.

The Labour Act excludes domestic workers from its domain. Section 1(4) (Na) expressly says that the law shall not be applicable to domestic workers. The proposition of this provision is very clear. Domestic workers cannot claim any of the rights guaranteed under the Act of 2006. Furthermore, there is no scope for them to go to the labour courts. However, the Bangladesh Labour Act, 2006 does not extend to the protections of domestic workers.

But there has been a landmark directive (Bangladesh National Women Lawyers Association v. The Cabinet Division, Bangladesh Supreme Court, 2011) regarding child domestic help. The court directed, among others, to take immediate steps to prohibit the employment of children below the age of twelve with a view to ensuring childhood education; implement provisions of the National Elimination of Child Labour Policy 2010 that would increase protections for child domestic workers; include "domestic workers" under the protections provided by the Labour Act, 2006; maintain a register with details about children entered into service with a view to combating trafficking; mandate health check-ups for domestic labourers and ensure proper medical treatment and compensation by employers for all domestic workers.

As the process of including the domestic workers in the Bangladesh Labour Act 2006 and for the enactment of a separate law for them, a draft policy on protection and welfare of domestic

workers titled 'Domestic Workers Protection and Welfare Policy 2010' has been finalised by the Ministry of Labour and Employment based on the advocacy of the Domestic Workers' Rights Network. The trade union movement of Bangladesh has also proposed for such inclusion.

Child domestic labour is almost exclusively carried out in private homes, and thus it is hidden from public view and eludes inspection. Almost without exception, children who are in domestic labour are victims of exploitation, often of several different kinds. They are exploited economically when they have to work long hours with no time off, low wages or no remuneration at all. Child domestic workers are rarely counted by national statistics because it is difficult to reach them and often remain hidden behind the closed doors (Chowdhury, 2013).

In Bangladesh, most of the laws, conventions and policies regarding child labour consider domestic work as informal sector. Domestic workers are excluded from the Labour Law 2006. Even the National Child Labour Policy 2010 has recognized domestic work as informal sector. As a result, the relevant authorities, for example, the Labour Inspector is not allowed to monitor the work condition in private households. The domestic workers especially the child domestic workers often face mental, physical, verbal, sexual abuse and economic exploitation (Save the Children & ASK, 2009).

It is a matter of regret that the domestic workers have been excluded from the definition of labour as per section 1(4)(O) of the Bangladesh Labour Act, 2006 and it is recognized as a non-formal sector. The works for which domestic helps are engaged are usually repetitive, monotonous, burdensome, unproductive and unrewarding. They have no limited working hours, rest, leisure, education and week end facility. Domestic helps are not adequately paid. Furthermore, the relation between the employer and the employee are arbitrary and dictatorial. To protect the rights of the domestic workers some recommendations are given below:

- The domestic workers are not regarded as the labourers so very often they become the victim of physical, mental, verbal, sexual and economic exploitation because of exemption from law. For the protection of domestic helps they should be treated as labourers and be included in the Bangladesh Labour Act, 2006.
- Full-time (*bandha*) domestic workers should be registered in the local police station so that police can take action in case of unusual incident. If the address is changed the employer will inform the matter of the previous police station and will take certified copy of the same.
- Domestic helps should be appointed by a written contract with the employer before a third person.
- Full-time domestic helpers should be provided with identification card with photograph just after appointment.
- Wages/salary should be fixed before appointment. The wages/salary must be paid in cash in monthly basis.
- The working hour, holiday and leisure should be fixed according to the international labour standard and existing law of the country.

- The employers should take initiative for providing literacy, education and training for developing as skill of the domestic workers.
- If the domestic helps get injured and die, then compensation must be paid to the victim's family.
- Domestic helps should not be hurt, oppressed and harassed by any member of the employer's family, relatives and guests. Again he/she will not misbehave with children, sick and old man and woman of the employer's family and if it is done, the employer can repeal the employment-contract, can take fine which can be adjusted with the salary.
- In the usual case for removal and dismissal, one month prior notice from both the sides will be served. This occupation should not be dependent on the whims of the employer. If there is a specific allegation, the employee can be terminated by informing the matter to the authority of registration.

Except the above, protecting the personal liberty and freedom of movement of domestic workers may require legislative efforts at the level of criminal law. Acknowledging the heightened risk of the violation of these rights under the particular circumstances of domestic employment, some countries have established criminal offences and penalties specifically addressing the domestic work which may serve as a powerful deterrent to employers.

Like physical confinement, an employer's interference with the domestic worker's communication with friends, family and others outside the workplace may have the effect of cutting a worker off from resources and support that might otherwise enable her or him to leave an unsuitable or exploitative employment situation. Some countries have taken legislative and regulatory measures that recognize the need to protect domestic workers' ability to communicate with people and institutions outside the workplace.

Conclusion

In many countries domestic workers are excluded from labour legislation and their working conditions remain unregulated. In addition, they are not usually considered as "workers" or "employees" and their work is undervalued. In other countries, labour legislation comprises discriminatory provisions for domestic workers. They may even be denied the right to organise trade unions. Bangladesh is not free from this trend.

It is evident that a special law, Nari O Shishu Nirjatan Daman Ain 2000 was promulgated to take strict measures against crimes oppressing women and children and to safeguard them. Though many of the provisions of this statute deal with the issues of domestic workers, yet no specific notice was given to the domestic workers. Thus even under the Nari O Shishu Nirjatan Daman Ain 2000, there are very few cases where the domestic worker is the complainant. They generally do not move the courts unless the crime is a serious one where the police take over and a criminal case is started.

As domestic workers are not recognized laborers under the Bangladesh Labor Act, 2006, they are not included in the national statistics. In fact, the Act of 2006 was designed for workers of the formal sector and the domestic workers of the informal sector were kept outside its purview. So the domestic workers should be included in the national statistics and be recognized as laborers by the said Act. Their wages should be fixed considering their working hours and working hours should be fixed considering their age. The age limit of the domestic workers should be determined as per the Bangladesh Labor Act, 2006. Attempt should be taken for the provision of education and holiday. At least two hours for education and holiday should be given for once in a week. As there is no agreement for employing a domestic worker so the tenure of their employment absolutely depends on the whims of their masters. As a result they may be disguised at any time. So the employers' attitude towards domestic workers should be changed.

Attempt should be taken for the awareness of the mass people regarding their miseries. They should treat them justly. Emphasis should be given to protect the basic rights as well as the human rights of the domestic workers. The new Convention and Recommendation that will not only protect domestic workers and lead to improved working conditions, but will also ultimately provide a legal platform upon which a much stronger campaign to tackle child domestic labour can be built.

Domestic workers should have legal protection on clearly defined daily hours of work and rest periods; night work and overtime, including adequate compensation; clearly defined weekly rest and leave periods; minimum wage and payment of wages; standards on termination of employment; and, social security protection.

A new law should be introduced considering the present socio-economic conditions which can cover all types of domestic helps and will regulate their employment, wages and working hours, provision of education and recreational facility and above all will protect them. In the neighboring country like India, domestic child labor is not a prohibited occupation for children. But the Government of India has taken step for the protection of domestic child labor. It has amended the Central Civil Service Conduct rules to prohibit Civil Servants from employing children below the age of 14 as domestic workers. So Bangladesh can take initiative to introduce a policy or a law that is India considering the inhumane condition of domestic workers. Law should be framed strictly and executed accordingly because it would remain paper- tiger without proper execution.

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