

MINUTES OF THE CONFERENCE ON VULNERABILITY, LEGAL PROTECTION AND HUMAN RIGHTS OF DOMESTIC WORKERS HELD ON 16th APRIL, 2021

The Commission organised a virtual conference on 'Vulnerability, Legal Protection and Human Rights of Domestic Workers' on 16th April, 2021, under the chairpersonship of Smt. Jyotika Kalra, Hon'ble Member, NHRC. The conference was attended by representatives of the National Commission for Scheduled Castes, National Commission for Scheduled Tribes, International Labour Organization, civil society organizations apart from independent experts working towards protecting the rights of domestic workers, as listed below: -

1. Mr. Kaushal Kumar, Deputy Director, National Commission for Scheduled Castes
2. Mr. K Touthang, Joint Secretary, National Commission for Scheduled Tribes
3. Ms. Vrinda Grover, Advocate Supreme Court of India
4. Mr. Gunjan Singh, Advocate, Supreme Court of India
5. Ms. Aya Matsuura, Gender Specialist, International Labour Organisation for South Asia
6. Ms. Jayashree Velankar, Director, JAGORI, New Delhi
7. Mr. Bhuwan Ribhu, Advocate, Bachpan Bachao Andolan
8. Ms. Geeta Menon, Co-Founder, Stree Jagruti Samiti, Bengaluru
9. Dr. Sister Lissy Joseph, Founder Chairperson, National Workers' Movement, Hyderabad
10. Ms. Smita Khanijow, National Thematic Leader -Informal Work & Women Workers, Action Aid India
11. Ms. Maya John, Convener, Gharelu Kamgar Union (GKU), Delhi
12. Ms. Kiran Moghe, President, Pune Zilla Gharkamgar Sangathan
13. Dr. Neetha N, Professor, Centre for Women's Development Studies, Delhi
14. Ms. Mona Gupta, CEO, Domestic Workers' Sector Skill Council (DWSSC)
15. Dr. Nandita Mondal, Assistant Professor, Centre for Labour Studies, School of Management and Labour Studies, TISS, Mumbai
16. Dr. Pekham Basu, Assistant Professor, Chairperson- Centre for Equity and Justice for Children and Families, School of Social Work, TISS, Mumbai
17. Dr. Himani Gupta, Associate Professor, JIIMS, New Delhi
18. Ms. Anushikha Thompson, Project Officer, Chetanalaya, Delhi State Domestic Workers Sangathan
19. Ms. Anweshaa Ghosh, Research Fellow, Institute of Social Studies Trust
20. Mr. Ankit Jha, Project Associate, Informal Workers' Right to the City Youth for Unity and Voluntary Action (YUVA)
21. Ms. Aditi Yagnik, Assistant Organizing Coordinator, SEWA Delhi
22. Ms. Syeda Mehjabin Rehman, Informal Workers' Right to the City Youth for Unity and Voluntary Action (YUVA)
23. Ms. Raju Vanjare, Informal Workers' Right to the City Youth for Unity and Voluntary Action (YUVA)

NHRC Officials

1. Ms. Jyotika Kalra, Hon'ble Member
2. Ms. Anita Sinha, Joint Secretary

3. Ms. Manzil Saini, DIG
4. Mr. Sunil Arora, Joint Registrar (Law)
5. Dr. MDS Tyagi, Joint Director (Research)
6. Mr Srinivasa Kammath, Deputy Registrar (Law)
7. Mr. Om Prakash Vyas, Deputy Registrar (Law)
8. Mr. K.K Shrivastava, Assistant Registrar (Law)
9. Ms. Diana Thomas, JRC
10. Ms. Sakshi Thapar, JRC
11. Ms. Chandrali Sarkar, JRC

The objective of the conference was to deliberate upon and to make recommendations on the following: -

- a) Effective measures that can be taken up by the Central and State Government(s) to include domestic workers in the existing labour legislations and ensure equivalent protection for them.
- b) The effective implementation of various Acts for the welfare and progress of domestic workers which primarily depend on the actions of State Governments and compliance by civil society.
- c) Strategies to improve the situation of migrant domestic workers in India, especially during the pandemic.
- d) Formulation of a Standard Operating Procedure/ guidelines (regarding the complaints of domestic workers) to be followed by all the stakeholders/functionaries dealing with the issues of domestic workers.

In the welcome address **Smt. Anita Sinha, Joint Secretary, NHRC**, stated that the National Human Rights Commission is greatly concerned with the human rights of the domestic workers and looking at their current predicament of being underpaid, unvalued and exploited, felt a need to open a dialogue on the issues of domestic workers and facilitate their access to decent and safe working conditions. Further, the house was appraised in the inaugural speech by **Smt. Jyotika Kalra, Hon'ble Member, NHRC**, regarding the nature of the complaints received by the Commission about the alleged commission/attempt of suicide of full-time domestic workers. She said many such cases are often neglected or deemed to be suicide without further investigating whether these suicides were abetted. All the steps taken by the police protect the interests of the employers while the poor domestic workers are left neglected. She reiterated that domestic workers are denied minimum wages and are often sexually harassed/ abused, wrongfully accused of theft because of their vulnerability as live-in/full-time domestic workers. Further, given their vulnerability and often being from the tribal areas, they are also susceptible to trafficking. Therefore, a dialogue on how to constitute an institutional mechanism that will protect the rights of the domestic workers is indeed a need of the hour.

The participants of the conference identified several issues and challenges faced by domestic workers; they are as follows: -

1. **Lack of Comprehensive Legislation:** Despite the rise in the number of domestic workers in India there is a lack of comprehensive legislation to protect their service condition. The Unorganised Workers Social Security Act, 2008, included domestic workers in its definition of wage workers and provides for registration of unorganised workers to access social security

schemes framed by the Central and the State Government(s). It does not provide any statutory benefits, uniform rate chart for domestic work, compensation for injury, insurance, pension and health benefits keeping the peculiarity and nature of their work.

2. **Non-registration of Domestic Workers:** The Unorganised Workers Social Security Act, 2008, envisages to register unorganised workers and issuance of identity cards by the State. However, the States have been flouting the Supreme Court directive of 31st January 2019 to State and UTs to register 10% domestic workers every month.
3. **Lack of Single Window Grievance Redressal System:** There is no grievance redressal mechanism for domestic workers providing a single-window access for all their needs whether related to welfare matters, social protection, social security, protection from abuse, harassment and violence, addressing grievances against the employer or placement agency, or for settlement of disputes through the courts or through alternative dispute resolution mechanisms
4. **Lack of National Policy for Domestic Workers:** There is a lack of National Policy for regulating Domestic Work: -
 - a. The Draft Labour Code on Social Security and Welfare has identified DW as employees and households as workplace and envisages an apex body, the National Council, to regulate their working as a supervisory and monitoring body. But there is a continuous delay in implementing the Code. Further, the Code fails to set up a tripartite Board at the district level, resulting in over-centralisation.
 - b. The National Policy for Domestic Worker which is being drafted by the Ministry of Labour and Employment is still in the draft stage.
5. **Poor Regulation of Private Placement Agencies:** Lack of effective legislation regulating the functioning of placement agencies often leads to greater economic exploitation of domestic workers. They grant greater bargaining power to employers in terms of determining work hours, wages, and have been known to boycott trade union of workers. Further, they are often involved in serious crimes like human trafficking and abuse of domestic workers.
6. **Reluctance on the part of the State Governments to Regulate Domestic Work:** Not all States and UTs have established Welfare Boards for domestic workers. Further, the ones which have, are mostly on paper without proper implementation of the provisions of the Unorganised Workers Social Security Act, 2008. Further, the role of the State is negligible in registration of domestic workers' trade unions and registration of the DWs, grievance redressal mechanism and regulation of placement agencies.
7. **Lack of proper Housing Facilities for Domestic Workers:** No separate provision exists which ensures access to proper housing facilities for domestic workers who predominantly migrate from the tribal areas to urban cities with no contact or connections in the cities.
8. **Lack of access to Social Security and Health Facilities:** Part-time and live-in domestic workers have little or no access to basic social security and healthcare benefits, unemployment protection, or maternity benefits. With wages for domestic workers often already below minimum wage, the lack of social security has a paralysing impact on their livelihood in cases of health issues, which is quite frequent courtesy the systemic nutritional deficiency.
9. **Lack of Awareness among Domestic Workers:** Domestic Workers belonging to the vulnerable sections of the society, are often unaware of their rights against violation by employers and placement agencies.
10. **Criminal Intimidation of Domestic Workers by Law Enforcement Agencies:** Law enforcement agencies often target domestic workers during any criminal or civil cases making the grievance redressal system (GRS) more employer-friendly. Further, the law enforcement

agencies fall short of investigating fraudulent placement agencies to curb human trafficking and sexual abuse of the domestic workers.

11. **Rise of Unemployment among Domestic Workers during the Pandemic:** The pandemic has increased socio-economic vulnerability of domestic workers and many other informal workers as well. The biggest one is the loss of jobs and livelihoods due to nationwide lockdown.
12. **Non-ratification of ILO Labour Convention on Domestic Workers (189):** India has signed the ILO Convention on Domestic Worker, 2011, but has not ratified it citing the reason that the national laws and practices are not in conformity with the provisions of the Convention.

RECOMMENDATIONS:

1. WORKING CONDITIONS

- a. **Registration for Private Placement Agencies:** Ensure establishment of State Portal for registration of private placement agencies providing domestic workers. Further, the State labour department should maintain the record of such placement agencies and regulate the working of such agencies.
 - b. **Centralised registration for Domestic Workers:** Ensure establishment of a national portal for registration of domestic workers. Further, the State municipalities or state social welfare boards may be given the responsibility to regulate such registration and follow the Supreme Court directive of January 31, 2019, of registering 10% domestic workers each month, so as to enable the workers to access social security schemes.
 - c. **Registration of Employers:** The State should make a provision for the registration of employers along with the domestic workers. There should be written agreement between the employer and the domestic worker.
 - d. **National Policy for Domestic Workers:** There should be a National Policy regulating the holistic working conditions of the domestic workers and this should be done under the purview of labour laws.
 - e. **State Welfare Boards for Domestic Workers:** Working Welfare Boards for domestic workers may be constituted by State government/UTs such that domestic workers are able to avail welfare benefits and grievance redressal by registering with these Boards. Further, the working of the State Welfare Boards may be regulated by the parent Central Ministry.
 - f. **Single Window Access:** Ensure boards single-window access to domestic workers for all their needs whether related to welfare matters, social protection, social security.
 - g. **Uniform Rate Card:** A uniform rate card for the services rendered by the domestic workers should be formulated to determine the decent wages of domestic workers. Further, the state government should set a minimum wage limit for domestic workers in a stipulated time frame in each state.
 - h. **Expand the Mandate of Existing Social Security Scheme:** The mandate of the existing social security schemes like Rashtriya Swatha Bhima Yojna and National Health Insurance Scheme may be expanded and modified to include and address the social and medical grievances and health consultation of domestic workers.
 - i. **Unionisation:** Ensure registration of domestic workers trade unions by the district municipalities and their subsequent representation in the Welfare Boards.
- . (Ministry of Labour and Employment, GoI, and Department of Labour and Employment, State Governments)

2. MITIGATING THE IMPACT OF PANDEMIC

- a. **Access to social and financial insurance during pandemic:** During the pandemic domestic work should be recognised as ‘essential services’ and social and financial insurance shall be made available by the registered placement agencies or under Disaster Management Act, 2005.
- b. **Access to Helpline:** Ensure creation of helpline for grievance redressal of domestic workers.
- c. **Welfare of the children of Domestic Workers:** Adequate arrangements should be made for education and welfare of children of domestic workers, who have been laid off during the pandemic.
- d. **Skill development of Domestic Workers:** Further development and mapping of their skills should also be done considering the impact of pandemic.

(Ministry of Labour and Employment, GoI, and Department of Labour and Employment, State Governments)

3. CRIMINAL JUSTICE SYSTEM

- a. **Sensitization of Prosecution Agencies:** The prosecution agencies need to be sensitized to curb the issue of unnecessary criminal intimidation of domestic workers.
- b. **Complaints of Domestic Workers against employers:** Such complaints should be registered on priority basis at Police Station. At the time of registration of complaints, adequate arrangements should be made for the stay and security of domestic workers. They should also be given financial support to enable them to contest the complaints against their employer.
- c. **Identity of victim Domestic Worker** should be preserved and not to be disclosed.

(Ministry of Home Affairs, GoI and, DEPARTMENT OF HOME State Governments)

4. COMPLAINTS BY DOMESTIC WORKERS

- a. Formulation of a Standard Operating Procedure/ Guidelines to be followed by all the stakeholders/functionaries dealing with the complaints of domestic workers.

(National Human Rights Commission)

Having enumerated the above-mentioned recommendations, the conference ended with a vote of thanks by Dr M. D. S. Tyagi, Joint Director (Research).