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DOMESTIC WORKERS IN INDIA: AN INVISIBLE WORKFORCE

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ISSUE BRIEF

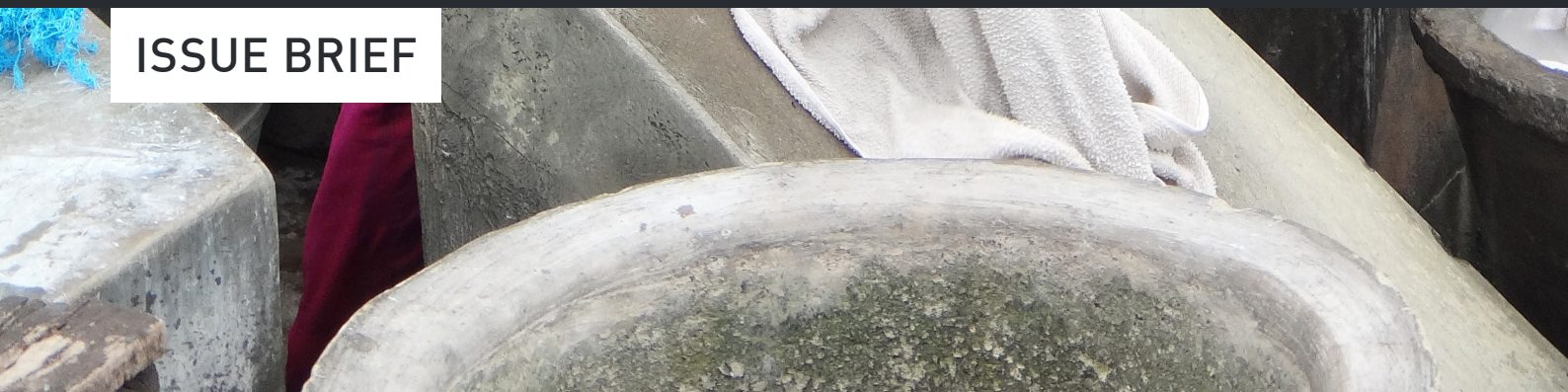


TABLE OF CONTENTS

1. ABSTRACT	1
2. CONTEXT	1
3. SITUATING DOMESTIC WORKERS IN DATA AND POLICY	2
4. SPECIFICITY OF THE DOMESTIC WORK INDUSTRY	3
5. THE GENDERED NATURE OF DOMESTIC WORK	5
6. CASTE STIGMA	7
7. EMERGING TRENDS: PLACEMENT AGENCIES AND GIG ECONOMY	8
8. CONCLUSION	9
9. BIBLIOGRAPHY	10

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| ABSTRACT

Domestic workers are an indispensable part of the everyday lives of a large segment of India's urban population. However, in the absence of a national policy to recognise the specific nature of domestic work, their categorisation as 'workers' is merely theoretical. This issue brief highlights the isolated nature of domestic work in India, with particular reference to legislative and social issues, which keep them at bay from availing their rights as 'recognised workers'.

| CONTEXT

The International Labour Organisation characterises domestic workers as workers who perform domestic work for pay and remuneration (ILO 2018). The nature of their work includes a range of services in the domestic sphere, such as sweeping, cleaning, washing clothes, care work, driving, and security, among others. According to NSSO (2012), India has 39 lakh people employed as domestic workers, out of which at least 26 lakh are women.

Over the years, there has been an increase in both the supply and demand for domestic workers in India. Economist Jayati Ghosh (2014) highlights two broad reasons for this. Firstly, despite the high economic growth in India, employment opportunities continue to be scarce. Secondly, there has been a substantial rise in inequality in India, which, on one hand has led to a growing need for additional income through self-employment but on the other hand, India has witnessed a rising middle class population that is now capable of expanding its expenditure and afford to hire domestic workers (ibid.).

The spike in domestic workers is also amplified by economic processes such as industrialisation and urbanisation, which have led an increasing surplus of unskilled workers from rural agrarian economies to move to cities in search of better sources of income. Most of these workers are a part of the informal urban economy, particularly in the ever-expanding services sector (Neetha and Palriwala 2011, Sarkar 2019). While domestic work provides better opportunities and presumably a better quality of life to mostly unskilled rural women workers and the urban poor, its informal and highly deregulated nature creates conditions for poor work environment, low wages, routine harassment, and abuse. This issue brief highlights the isolated nature of domestic work in India, with particular reference to the specificity of the domestic work industry and a wide range of concerns, which keep domestic workers from accessing their rights as 'recognised workers'.

SITUATING DOMESTIC WORKERS IN DATA AND POLICY

THE PROBLEM OF DATA

In India, domestic work is one of the largest and yet the least regulated industry. This is evident from the paucity of official data at the intermediate level concerning domestic workers along with the presence of conflicting estimates. With the increasing role of domestic workers in running urban households, the NSSO data quoted earlier seems contentious, particularly when compared with various estimates.

In 2010, Harish Rawat, the then Minister of State for Labour and Employment stated that based on an estimate of around 30 million white-collar population, it could be argued that there were more than 15 million domestic workers in India (Sinha 2020). As per National Domestic Workers' Movement (NDWM), the total number of domestic workers in India range from official estimates of 4.2 million to unofficial estimates (based on statistics from non-governmental organisations) of more than 50 million (NDWM n.d.). It has also been reported that over 12.6 million domestic workers in the country are underage (below 18 years), with 86% of them being girls. Moreover, 25% of the total underage domestic workers are below 14 years of age (UFDWRs 2010). Thus, in the absence of clear data on the number of such workers, it is difficult to create appropriate policy responses to address their concerns.

INCOHERENT POLICY ACTION

Policy responses to the regulation of domestic workers began in 1959, when the Domestic Workers (Conditions of Service) Bill, a private member bill and All India Domestic Servants Bill were tabled in the Rajya Sabha and Lok Sabha respectively. These bills covered a range of clauses such as minimum wages, maximum working hours and registration of domestic workers by the local police. (Armacost 1994, Neetha and Palriwala 2011). In 1972 and 1996, two more private member bills were introduced in the Lok Sabha. These bills highlighted the need to bring domestic workers under the purview of the Industrial Disputes Act¹. In addition to these bills, the House Workers (Conditions of Service) Bill, focusing on the need for every employer to contribute to a House Workers' Welfare Fund was formulated in 1989 (Mann 2015). However, none of the above-mentioned bills were enacted. Till date, with the exemption of the Unorganised Workers' Social Security Act, domestic workers in India are excluded from critical national labour laws such as The Factories Act 1948 and The National Minimum Wages Act 1948.

TABLE 1: STATUS OF NATIONAL LAWS CONCERNING DOMESTIC WORKERS

National Laws Concerning Domestic Workers	Status
Ratified Right to Organise Convention	Absent
Ratified Freedom of Association	Absent
Domestic Workers Legislation	Absent
Included Under Labour Legislation	Pending

SOURCE: A HANDBOOK ON DOMESTIC WORKER RIGHTS ACROSS ASIA, 2010

¹ More details of the Industrial Disputes Act can be found here: <https://indiacode.nic.in/bitstream/123456789/2169/1/A1947-14.pdf>

Over the years, certain laws such as the Child Labour (Prohibition and Regulation) Act 1986 (through an amendment in 2006), the Unorganised Social Security Act 2008 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 have been extended to domestic workers. Through welfare boards, some Indian states² have amended specific provisions to facilitate social security benefits to domestic workers. However, these existing laws are still fragmented and inadequate.

I SPECIFICITY OF THE DOMESTIC WORK INDUSTRY

As specified by the ILO Domestic Workers Convention, 2011 (No. 189), Article 1:

- (a) The term “domestic work” means work performed in or for a household or households;
- (b) The term “domestic worker” means any person engaged in domestic work within an employment relationship;
- (c) A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker (Chigateri et al. 2016: 95).

Following ILO’s International Standard Classification of Occupations (ISCO), domestic workers were included under Category 9 - personal social and community services (under National Industrial Classification (NIC)³. Based on everyday working hours and nature of employment, domestic workers are classified into part-time, full-time and live-in workers (Table 1) (Chigateri 2016, WIEGO n.d.).

TABLE 2: CATEGORISATION OF DOMESTIC WORKERS

Category	Definition
Part-Time Worker	Works for more than one employer for a specified number of daily working hours or performs specific tasks for each of the multiple employers everyday.
Full-Time Worker	Works for a single employer everyday for a specified number of hours, and returns to her/his home every day after work.
Live-In Worker	Works full time for a single employer and stays in the premises of the employer or in a dwelling provided by the employer and does not return to her/his home every day after work.

SOURCE: WIEGO N.D.

² Kerala (Kerala Artisan and Skilled Workers’ Welfare Fund), Maharashtra (Maharashtra Domestic Workers Welfare Board Act, 2008), and Tamil Nadu: (Manual Workers Act (Regulation and Employment and Conditions of Work), 1982. More details here:

https://vvgnli.gov.in/sites/default/files/137-2019-Kingshuk_Sarkar.pdf

³ More details available here:

<https://www.ilo.org/public/english/bureau/stat/isco/>

According to the definitions mentioned above, domestic work as an occupation is not defined by a set of tasks but instead by the place of work, and in the context of this issue brief, a private household (Sarkar 2019). As opposed to other occupational sectors, these definitions fail to consider the complexity and the specific nature of the domestic work in India.

Unlike other workplaces, the prescribed definitions of domestic work do not recognise 'private households' as work establishments bound by labour laws (EPW n.d.). It is imperative to point out that a domestic worker's workplace is highly fragmented. During the course of one working day, most part-time workers juggle between one household to another. Even within one household, domestic workers often run errands (such as purchasing groceries) which spatially lie outside the purview of the private household of their employers. Consequently, legislation pertaining to workers such as the Industry Disputes Act, 1947, the Employee's Provident Fund Act, 1952 and Factories Act, 1948 do not recognise the labour performed by domestic workers in private households as 'work'. However, if domestic workers perform the same tasks in an office or a factory, the labour laws become immediately applicable.

Further, the sub-categorisation of domestic workers as 'helpers', 'housemaids' and 'servants' limits the understanding of their work to merely cleaning and cooking (Neetha 2009). Most domestic workers perform a wide range of tasks. Thus, the existing definitions are devoid of a clear understanding of the nature of tasks which fall under these categories and have failed to recognise the specialisation and differentiation which domestic work as an occupation demands (ibid.). For instance, if a minimum daily wage and working hours are laid down, the stipulated norms would apply only to one employer. However, considering the specificity of this sector, most part-time domestic workers are employed in more than one household. The average daily working hours of work across multiple households are often equal or greater than that of a full-time worker employed at a factory or a worker who falls under the purview of 'normal working hours' in labour laws (Neetha 2017).

Due to the difference among categories of domestic workers — part-time and live-in, the methods of determining minimum wages are complex, employing either 'a need-based formula' or a living wage, based on time and piece rate (Sarkar 2019:10). It is also argued by some that there is a need to standardise the type and amount of work performed, while others focus on only standardising the minimum wage floor since most domestic workers are recruited by word of mouth. Thus, their wages differ invariably across localities, depending on the socio-economic capacity of the employers and the bargaining power of the workers (ibid.). However, it is imperative to highlight that the benefits of the National Minimum Wages Act 1948, can be extended to domestic workers, but only through state legislations. However, in India, only ten states and one Union Territory have released notifications about minimum wages: Karnataka (2004), Kerala (2005), Andhra Pradesh (2007), Tamil Nadu (2007), Rajasthan (2007), Bihar (2009), Odisha (2009), Assam (2013), Meghalaya (2013), Jharkhand (2014) and the Union Territory of Dadra and Nagar Haveli (2007) (Chigateri 2016: 105).

THE GENDERED NATURE OF DOMESTIC WORK

The homogenisation of domestic workers into a single rigid category assumes that the issues faced by female domestic workers are the same as their male counterparts. For decades, domestic work has been gravely gendered. The disproportionately large presence of women in domestic work is driven by the belief that women are conditioned to perform care work. Domestic work is perceived as unskilled labour and hence, is undervalued and underpaid. In urban India, in the last decade, along with its growing feminisation, the total share of domestic labour in the overall employment of women has increased. Of the total increase in the number of female workers, 14.4% accounted for domestic work (Chandrasekhar and Ghosh 2012). The overwhelmingly high presence of women in domestic work and the unregulated nature of their work, makes them vulnerable to abuse and violence at their workplace.

TABLE 3: GROWTH OF DOMESTIC WORKERS BY CATEGORY

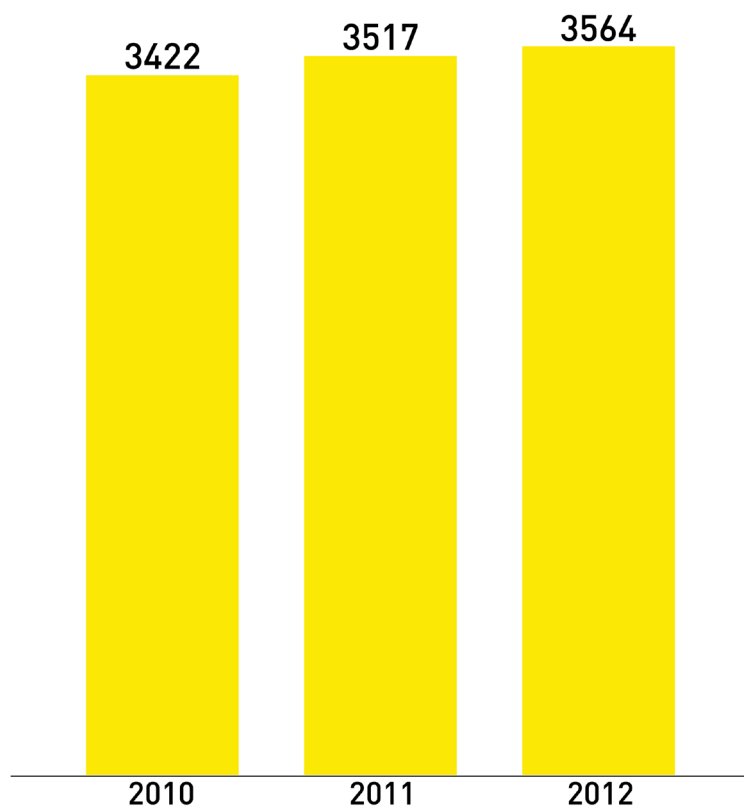
	1999-2000			2004-2005		
	Number of Workers	Percentage of total female employment	Female share	Number of Workers	Percentage of total female employment	Female share
Housemaid/servant	438,200	0.4	80.4	2,381,100	1.6	87.4
Cook	6,400	0.0	72.6	96,600	0.1	73.9
Governess/babysitter	2,600	0.0	76.4	69,600	0.0	74.2
Total domestic workers	447,100	0.4	63.4	2,547,400	1.8	71.6

SOURCE: RAJNI PALRIWALA AND NEETHA N., "PAID CARE WORKERS IN INDIA: DOMESTIC WORKERS AND ANGANWADI WORKERS" (GENEVA:UN RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT (UNRISD), 2009), UNRISD

VIOLENCE AS A CONSEQUENCE

Over the years, the number of reported cases of violence against domestic workers has been on the rise (Gothoskar 2013). As per last available data (Figure 1), between 2010 and 2012, reported cases of violence against domestic workers saw a steady rise from 3422 to 3564 (PIB 2014).

FIGURE 1: REPORTED CASES OF VIOLENCE AGAINST DOMESTIC WORKERS BETWEEN 2010-2012



SOURCE: PIB, 2014

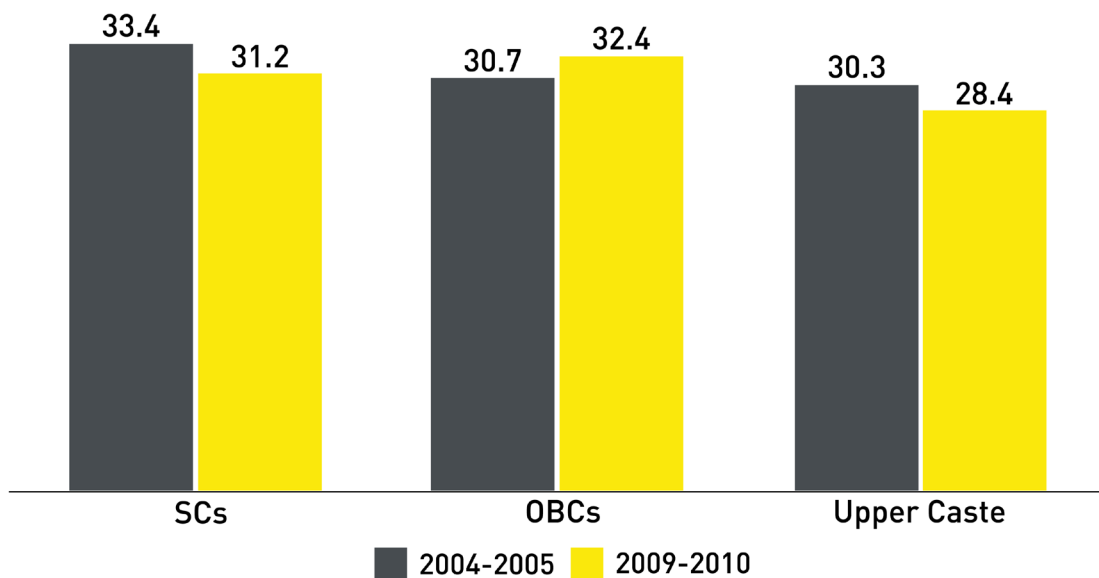
The findings from a survey conducted on sexual harassment in 2018, among 291 domestic workers by Martha Farrell Foundation in South Delhi highlighted that 92% of respondents recognised the existence of different kinds of ongoing sexual harassment around them. However, only 29% admitted to having faced it themselves (Martha Farrell Foundation 2018; Rajkotwala and Mehta 2020). According to the survey, 65.6% of the respondents recognised stalking as the most common form of harassment, followed by lewd gestures and whistling (61.8%) and sending text messages and WhatsApp messages with sexual innuendos (52%). Fearing loss of employment, stigmatisation and lack of community support it can be easily argued that these cases are grossly underreported, with actual numbers being much higher. It has further been reported that even when domestic workers seem to have secured their rights of regular payment of wages, they often face allegations and false complaints of theft from their employers (Chigateri 2016).

Gender, however, is not the only factor that is associated with vulnerability to abuse, as caste plays a decisive role in the kind of domestic work one gets to perform, making some domestic workers doubly marginalised.

CASTE STIGMA

In India, caste plays a critical role in the organisation and delegation of tasks which fall under the purview of paid domestic work. Rooted in notions of purity and pollution it is often argued that cooking is a task limited to Brahmins and other upper castes (Marriot 1976). In contrast, tasks such as waste collection and cleaning of toilets are usually allocated to Balmikis, (Bhangis or Jamdars), Dalits and the scheduled castes (Raghuram 2001; Chigateri 2007). A Bangalore-based study stated that women from Scheduled Castes constituted about 75% of domestic workers, followed by 15% OBCs, 8% Scheduled Tribes and upper castes occupying the remaining 2% of the workforce (Chigateri 2016).

FIGURE 2: PERCENTAGE CASTE COMPOSITION OF DOMESTIC WORKERS



SOURCE: (NSSO DATA) 2004-2005 AND 2009-2010

As per NSSO 2004-05 and NSSO 2009-10, there has been a declining trend for workers belonging to Scheduled Castes and Upper Castes (NSSO 2005, 2010). Still, OBC workers constitute the highest proportion of domestic workers. Therefore, despite a change in the overall caste composition, an overwhelming majority of domestic workers belong to the lower castes.

I EMERGING TRENDS: PLACEMENT AGENCIES AND GIG ECONOMY

In the past few years, there has been a staggering growth of placement agencies, which act as intermediaries or middlemen in facilitating the recruitment process between domestic workers and employers. Some 'formalised' agencies are backed by cooperatives societies, trade unions or voluntary organisations. However, it has also been reported that several placement agencies are not registered and function primarily for profit motives (Neetha 2009). These agencies mobilise large numbers of women, especially young and unmarried girls from rural and tribal areas, who have little to no knowledge of the local language (ibid.). Most of these agencies do not provide support to domestic workers during illness or interim stay in the absence of their employers, nor do they ensure safe working conditions for domestic workers. India has no national law to regulate placement agencies, which makes domestic workers prone to exploitation by both middlemen as well as employers. To address this loophole, the Delhi Government drafted the Delhi Private Placement Agencies (Regulation) Bill, 2012, which lays down strict laws for mandatory registration of all placement agencies, along with one kin of the domestic worker (Chigateri 2016.). However, this Bill has received criticism for not providing any legal mandate to register employers along with domestic workers (ibid.).

Another emerging trend in the domestic labour industry is the increase in the use of phone-based applications and web portals for hiring domestic workers. Gig economy networks have often been hailed for their ability to create flexible work opportunities for women, especially those excluded from the broader labour market (Hunt and Samman 2019). However, most of these digital platforms have neither any mechanisms for dispute redressal, nor do they provide any employment contracts (Kasliwal 2020). While some of these registered companies are governed by the Companies Act, 2013, there is no national legislation which regulates these expanding digital platforms and gig economy networks.

| CONCLUSION

In 2011, India voted in favour of ILO's Convention 189 aimed at ensuring dignity and legal protection of domestic workers. However, the convention is yet to be ratified. In the same year, the Rashtriya Swasthya Bima Yojna (RSBY), a cashless health insurance scheme was extended to domestic workers, but only registered workers fall under its purview (Dev and Vijayalakshmi 2020). In August 2016, The Domestic Workers' Welfare Bill, 2016, a private member bill was introduced in the Lok Sabha. The bill focused on recognising a private household as a workplace, rights to migrant workers, an enhanced definition of wages (including travel allowances, insurance, among others) and contract registration (Virk 2017). In 2019, the government announced that a draft National Policy of Domestic Workers was being formulated (Rajkotwala and Mehta 2020). However, both the bill and policy draft are still pending.

The plight of domestic workers and the precarious nature of their labour is amplified during the COVID-19 pandemic. It has been reported that despite the ongoing lockdown and the increasing risk of contracting the disease, many domestic workers are being compelled to travel to the households of multiple employers, while many others have not been paid their salaries. While many domestic workers have lost their jobs due to the belief that only the poor could be 'potential carriers' of the virus, several others have been asked by their employers to present COVID test reports before rejoining their place of work, with little to no accountability by the employers to do the same (Viswanath 2020; Ganapatye and Rao 2020).

With no formal contracts, ineffective legislation and poor bargaining power, the categorisation of domestic workers as 'workers' is merely theoretical. For decades, the usage of terms such as 'maids', 'helps', 'servants' and '*naukar/naukarani*' to address domestic workers has further reinforced the exploitative hierarchy of servitude between employers and workers, reducing the labour of domestic workers into a mere social transaction as opposed to an economic one. Therefore, along with prioritising a comprehensive national policy, there is a grave need to address the structural issues at a societal level which are actively obstructing the path of domestic workers from availing their rights as workers and in leading a life of dignity.

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