

Recommendations for the Domestic Workers Sector for the Fourth Cycle of the Universal Periodic Review

1. Executive Summary

- 1.1. As of 2022, Domestic Workers continue to be amongst the most vulnerable of groups in the unorganized sector in India. There are an estimated 20-80 million Domestic Workers in the countryⁱ, yet both actual numbers and the very definitions of 'Domestic Workers' and 'Domestic Work' continue to be vague. Furthermore, there exists limited legislation covering Domestic Workers, including lack of effective regulation of the sector and welfare schemes for these workers. These dynamics have meant that Domestic Workers have been particularly vulnerable to exploitation and socio-economic upheavals such as that brought about by the Covid-19 Pandemic.
- 1.2. The vacuum of effective legislation is in spite of mutual agreement by both the Government of India and various stakeholders on the vulnerability of Domestic Workers in their reports during the Third Cycle of the UPR in 2017. The 152 recommendations accepted by the Government of India from the UPR Working Group included Recommendation 39 for India to '*Consider ratifying the ILO Domestic Workers Convention, 2011 (No. 189)*'.ⁱⁱ Concerned with 'Decent Work for Domestic Workers', The Convention covers basic rights of Domestic Workers, remuneration, social security, occupational health and safety and dispute settlement, complaints and enforcement, among other things.ⁱⁱⁱ A prerequisite of ratifying the Convention would be the introduction of comprehensive national legislation for Domestic Workers and their sector, something which is visibly absent in India.
- 1.3. The impact that lack of legislation, definitional clarity and statistical visibility have had on Domestic Workers has been made glaringly visible by the Pandemic. Many have lost work, seen a drastic reduction in their incomes and have received limited support over the course of lockdowns. The current situation calls for an urgent response on the part of the Government of India to address the issues faced by the Domestic Workers sector. Such response requires providing clarity in definition of 'Domestic Workers' and 'Domestic Work', statistical visibility of Domestic Workers, drafting comprehensive national legislation for Domestic Workers and ultimately the ratification of ILO Convention 189 by India.

2. Contemporary Situation of Domestic Workers in India

- 2.1. In February 2022, the Montfort Social Institute, Gruhakarmikula Union Telangana State and the Domestic Workers Federation Andhra Pradesh carried out a Socio-Economic Survey of Domestic Workers. This survey covered 400 domestic workers from 9 towns in Telangana and Andhra Pradesh, including both large cities and small towns. Through a close-ended questionnaire, the survey tracked the status of fundamental rights, working conditions and demographics of Domestic Workers, and the impact of the Covid-19 Pandemic on these workers.
- 2.2. A similar survey had been conducted by Montfort Social Institute in 2017 at the time of the Third Cycle of the UPR. It covered 1600 Domestic Workers in 11 towns in Telangana and Andhra Pradesh^{iv}.

2.3. A comparative analysis on the status of working conditions, wage conditions and social security in 2017 and 2022, depicts the changes in the situation of Domestic Workers in India since the last UPR cycle:

S.No.	Criteria	2017	2022	Remarks
Working Conditions				
1	Percentage of Domestic Workers not having a written contract with their employers	97.6%	95%	There has been a mere 2.6% increase in the number of Domestic Workers who now have a written contract with their employers
2	Percentage of Domestic Workers who have experienced some form of workplace harassment	14.8%	7.25%	The rate of reported incidents of workplace harassment has dropped by 7.55%
i	Verbal Abuse	14.1%	3.75%	A significant drop of 10.35% in reported incidents of verbal abuse at the workplace
ii	Physical Violence	0.7%	3.5%	Reported incidents of physical violence at the workplace has increased by 2.8%
3	Percentage of Domestic Workers without a weekly-day off	95.8%	70.5%	There has only been a 25.3% increase in the number of Domestic Workers who now have a weekly-day off
Wage Conditions				
1	Percentage of Domestic Workers receiving Minimum Wages as per state Government Order	19%	77.3%	58.3% more Domestic Workers are now receiving Minimum Wages as per their respective state Government Order
2	Percentage of Domestic Workers who have experienced withholding of wages by employers	1.2%	7.2%	There has been a 6% increase in Domestic Workers who have experienced withholding of wages by their employers
3	Percentage of Domestic Workers who do not receive any increment in their wages	68.6%	87.8%	There is a 19.2% increase in Domestic Workers who do not receive any increment in their wages from their employers
3	Minimum Wage for Domestic Workers in Telangana	Rs.6956.40 ^v	Rs.8625 ^{vi}	The Minimum Wage for Domestic Workers in Telangana has increased by only 23.9% in the last 5 years.
4	Minimum Wage for Domestic Workers in Andhra Pradesh	Rs.6627 ^{vii}	Rs.6320 ^{viii}	The Minimum Wage for Domestic Workers in Andhra Pradesh has in fact decreased by 4.6%
Social Security				
1	Percentage of Domestic Workers not benefiting	27.6%	12.75%	There is a 14.85% decrease in the number of Domestic Workers who

	from any Social Security scheme		are uncovered by Social Security measures
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3. Impact of Crises on Domestic Workers

- 3.1.** Domestic Workers have been particularly vulnerable during socio-economic crises that have rocked the country.
- 3.2.** In 2016, the Demonetization of Indian Banknotes had a critical impact on Domestic Workers. Actual case studies of Domestic Workers have shown that with Demonetization many employers had either lost their jobs or saw a significant reduction in their ability to pay their employees. Many Domestic Workers were thus unable to receive their wages during this period or completely lost work.
- 3.3.** During the First Covid-19 Lockdown in 2020, Domestic Workers were prevented from going to work, both due to movement restrictions but primarily owing to fear amongst their employers of the former acting as carriers of the virus. In a study on Domestic Workers in Delhi post the Lockdowns conducted by the Institute of Social Studies Trust, 86% of Domestic Workers saw a reduction in the number of houses they worked in due to their employers fearing Covid infection^x.
- 3.4.** Similar trends were seen in the 9 towns surveyed in our study. Though unable to go to work due to no fault of their own, 84.2% of our respondents were not paid their wages during the Lockdown. Only 84.3% were able to receive some form of Government support during this period. This primarily came in the form of rations. By the end of the First Lockdown, 66% Domestic Workers saw a reduction in their incomes and the number of houses they worked in with 58.25% of workers experiencing a reduction in their incomes by 25% or more.
- 3.5.** Similar dynamics persisted into the Second Lockdown in 2021. 76.3% workers did not receive their wages during the period and only 62.3% received Government support. 53% of workers saw a reduction in their income and a drop in the number of houses they worked in. For 46%, of Domestic Workers, their incomes had dropped by 25% or more.
- 3.6.** The significant financial crisis that the Pandemic has created amongst Domestic Workers has been noted in other parts of India as well. In the aforementioned study on Domestic Workers in Delhi it was revealed that while 51% of respondents tried to manage during the Lockdowns with whatever savings and assets they had, 33% had to resort to taking loans, either from relatives, friends or employers or sometimes from moneylenders^x. Only 3% of respondents received monetary help from the government. Data from our study, showed some improvement on the part of the state governments of Telangana and Andhra Pradesh such that 14.2% of Domestic Workers in the First Lockdown and 14.3% in the Second Lockdown received government cash assistance.

4. Existing Legislation and Status of Implementation of Recommendations

- 4.1.** In May 2020, the National Human Rights Commission of India released the Mid-Term Report on the UPR III that reviewed the implementation of the 152 recommendations accepted by the Government of India. The report explains that in October 2018, the

Commission had organized a “Meeting of Stakeholders on Implementation of UPR-III recommendations” that reviewed said status of implementation, a meeting that was attended by the representatives of the Union Ministries, State Human Rights Commissions (SHRC), UN agencies in India and Civil Society Organizations (CSOs).^{xi} Ascertaining the progress of the recommendations helped determine what issues needed to be taken forward with the Government. In reference to Recommendation 39 regarding Domestic Workers, this took place through the organising by the NHRC of a regional conference on human rights of Domestic Workers in August 2019.

- 4.2.** This regional conference was attended by representatives from the NHRC, Ministry of Labour and Employment, state governments, state HRCs, Domestic Worker’s unions, NGOs, academics and lawyers working with the Domestic Workers sector. Discussing the contemporary dynamics of the sector and its hurdles, the conference committee compiled a set of recommendations for regulation of the Domestic Workers sector which was sent to the Ministry of Labour and Employment for further action. These recommendations called for clarity in the definition of Domestic Work, accurate statistical data, mandatory registration, regulation of working conditions and an overall regulatory legislative framework for Domestic Workers^{xii}. The recommendations also advised on the skilling of Domestic Workers, registration of migrant workers in their home state, improved functionality of state welfare boards and inclusion of Domestic Workers in the Labour Code.
- 4.3.** In February 2019, a press release by the Ministry of Labour and Employment stated that while the Central Government has not enacted any separate law specifically on Domestic Workers, the Ministry was considering formulating a National Policy on Domestic Workers which was in its draft stage^{xiii}. This proposed policy would include Domestic Workers in existing legislations, protect them from abuse and exploitation and give them the rights to minimum wages, access social security, register as unorganized workers and form their own unions/associations.
- 4.4.** The Policy, though having been in its drafting stage since 2010, has not seen any movement towards being finalized. Likewise, though India had adopted ILO Convention 189 in 2011, it has not yet been ratified. No national policy, let alone national legislation, has yet been put in place for Domestic Workers in India
- 4.5.** Only three pieces of legislation specifically identify and cover Domestic Workers.
- 4.6.** The Unorganized Workers Social Security Act, 2008 provides for the formulation of social security schemes for all unorganized workers, including Domestic Workers. State Government are mandated to formulate social security schemes for said groups covering housing, employment injury benefits, skill upgradation of workers, financial benefits, provident funds, education schemes for children and old age homes.^{xiv}
- 4.7.** The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 enacted by the Government of India ensures safe workspaces, both in the organised and unorganised sector, for all women. Through the inclusion of ‘dwelling place or house’ in its definition of a workplace, the Act thus covers Domestic Workers with its purview.
- 4.8.** In Telangana, Andhra Pradesh, Tamil Nadu, Kerala, Karnataka, Jharkhand, Odisha, Punjab, Haryana, Rajasthan and Tripura State Governments have included Domestic Workers in the schedule of Minimum Wages Act. Domestic Workers are allowed to seek redressal in case of any grievance over wages.^{xv} Government Orders by various state governments define

minimum wage for Domestic Workers in their state.

- 4.9.** Domestic Workers, furthermore, have not been specifically mentioned as a category in the 4 Labour Codes that are set to replace the 29 Labour Laws in India in the financial year 2022-23. Only 5 out of 90 clauses on Social Security in the Codes address unorganised workers who form 93% of India's workforce.
- 4.10.** Likewise, as of date, only the state Government of Maharashtra has an active Welfare Board for Domestic Workers,
- 4.11.** In August 2021, the Ministry of Labour and Employment, Government of India, launched the e-Shram Portal, an online portal for the registration of unorganized workers. Upon registration, workers are issued an e-Shram card with a unique 'Universal Account Number' (UAN). The portal seeks to build a comprehensive data base of unorganized workers and will help in the delivery of Central and state government social security schemes to them. Domestic Workers are included as a category under the e-Shram Portal and the card is the first government-sanctioned identification card received by them as a workers group. However, the only social security scheme linked to it as of date is insurance of 'Rs. 2 Lakhs at the time of accidental death and permanent disability and Rs. 1 Lakh in case of partial disability.'
- 4.12.** The Government of India launched an All-India Survey of Domestic Workers in November 2021 in an effort to enumerate the number of workers in the sector, working conditions, wage conditions and socio-economic characteristics.
- 4.13.** While several developments have been made since the Third Cycle of the UPR, the lack of comprehensiveness of said developments and their limited scope have meant that progress in the work conditions, wage conditions and social security coverage of Domestic Workers has been slow. The gaps in official policy for the sector have been glaringly visible over the course of the Pandemic, as Domestic Workers have struggled to survive.

5. Recommendations

- 5.1.** Given the limited improvements in the situation of Domestic Workers in India today and the impact of the Covid-19 Pandemic upon the sector, the following recommendations are made:
- I. Various draft policies of the Government of India with regards to Domestic Workers have varied definitions of who Domestic Workers are and what Domestic Work entails. This has created difficulties in both the making and implementation of policy, legislation and social security schemes for Domestic Workers in India.

The definition of Domestic Work and Domestic Workers as per ILO Convention 189 is:

- '(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.'^{xvi}

Recommendation: The definitions adopted by ILO Convention 189 on Domestic Work and Domestic Workers must be adopted by the Government of India

- II. Existent statistical data on Domestic Workers is highly disparate. It ranges from the official number of 4.75 million (National Sample Survey 2005) to as much as anywhere between 20 to 80 million according to the ILO.^{xvii} Though an All-India Survey of Domestic Workers has been initiated by the Government of India, there is hardly any felicitation that is taking place so that Domestic workers can actually participate in the survey, particularly given their status of literacy as well restrictions on movement posed by work and household responsibilities.

Recommendation: A definitive survey for correct statistical data on Domestic Workers must be conducted. Domestic workers must be included as a category in the Census of India

- III. Though India is a signatory to the ILO Convention 189 on 'Decent Work for Domestic Workers' adopted by 2011, the Government of India has still not ratified the convention. This is in spite of India having the largest number of Domestic Workers in the world as well as being amongst the largest sending countries of Domestic Workers.

Recommendation: India ratifies ILO Convention 189 at the earliest.

- IV. As of date, only two national laws, the Unorganized Workers Social Security Act, 2008 and the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 have been enacted for Domestic Workers. The Social Security Act has now been replaced by the Social Security Code which does not mention Domestic Workers

Recommendation: Given the number of Domestic Workers and the specificity of their work of a comprehensive legislation should be adopted by the Government of India

ⁱ (About Domestic Work , 2010)

ⁱⁱ (Subject-Wise Classification of India's UPR III Recommendations)

ⁱⁱⁱ (C189 - Domestic Workers Convention, 2011 (No. 189))

^{iv} (MSI, 2017)

^v Minimum Wage for 8 hours of work as per notification issued vide G.O.Ms.No.60 for the period 01-04-2017 to 30-09-2017

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- ^{vi} Minimum Wage for 8 hours of work as per notification issued vide G.O.Ms.No.60 for the period 01-10-2021 to 31-03-2022
- ^{vii} Minimum Wage for 8 hours of work as per notification issued vide G.O.Ms.No.60 for the period 01-04-2017 to 30-09-2017
- ^{viii} Minimum Wage for 8 hours of work as per notification issued vide G.O.Ms.No.60 for the period 01-10-2021 to 31-03-2022
- ^{ix} (Banerjee, 2021)
- ^x (Banerjee, 2021)
- ^{xi} (NHRC, United Nations – Universal Periodic Review (UPR-III) Mid-Term Report of India, 2020)
- ^{xii} (NHRC, Minutes of the Meeting of the Stakeholders on UPR – III, 2018)
- ^{xiii} (Press Information Bureau, 2019)
- ^{xiv} (Press Information Bureau, 2019)
- ^{xv} (Press Information Bureau, 2019)
- ^{xvi} (C189 - Domestic Workers Convention, 2011 (No. 189))
- ^{xvii} (About Domestic Work , 2010)