

DOMESTIC WORKERS

Know Your Rights



**Handbook for Organizers in
Domestic Work Sector**

The ILO Convention 189 concerning decent work for domestic workers is founded on the fundamental premise that domestic workers are neither “servants” nor “members of the family” nor second-class workers. This instrument provides the basis for ensuring that under the law domestic workers have the respect and rights that workers in the formal economy have long fought for and acquired. Convention 189 guarantees minimum labour protection to domestic workers on par with other categories of workers. Domestic workers are entitled to decent work as are all workers.

Juan Somavia

Director General, ILO

DOMESTIC WORKERS : CONTRIBUTION & CONDITION



Domestic work forms one of the largest female occupations in urban India. They contribute to the well being of families and enable other women and men to engage in paid and productive employment by doing their household tasks for them, thereby raising family income and helping the economy to function.

Domestic work is still not perceived as “real work” and its social and economic value is often unrecognized. Regulated work conditions, wage and condition of employment which are available to other class of workers are not available to domestic workers. Domestic Workers themselves receive the least payment among all workers and are forced to live in

substandard conditions. The live-in workers are vulnerable to violence and sexual harassment at workplace. Housing is a serious problem for most domestic workers in the cities.

According to 2001 census report there are about 6.4 million domestic workers in India. But organizations working with domestic workers estimate their number to around 40-50 million.

RIGHT TO DECENT WAGE



Wage

Domestic workers are governed and covered under Minimum Wages Act 1948. However, labour is a state issue. Under the

Minimum Wages Act the State Governments are directed to bring any sector which has 1000 employees in the whole state engaged in such employment, under the schedule of employment and fix minimum rate of wages.

According to the Act minimum rate of wages may be fixed as per piece rate on the basis of hour, day or by such longer wage period. Within each employment category, there are 4 levels of skill categories: unskilled, semi-skilled, skilled and highly skilled.

The minimum rate of wages may include:

- a) A basis rate of wage
- b) The cost of living allowance which may be revised every six months as per the increase in cost of living.

The right of workers for a fair and living wage has been promoted by the Indian Labour Conference, Supreme Court of India (*Raptakos Brett Vs Union of India*) and the Constitution of India. Article 43 of the Constitution of India states that the state shall endeavour to secure by suitable legislation or economic organization or in any other way to all workers a living wage, conditions of work ensuring a decent standard of life and full enjoyment of pleasure and social and cultural opportunities. The International Labour Conference has adopted a Convention (189) on Decent Work.

The Labour Conference in 1957, expressed that such a wage should compensate for a minimum of 2700 units per family where family was considered as 3 units. Besides, it should

include cost of clothing, house rent, fuel and transportation. The Supreme Court in its guidelines in the Raptakos Brett case later added other components like education of children, medical expenses, old age and expenses for festivals etc.

The Supreme Court further declared that minimum wage does not mean a subsistence wage, but a living wage. While a fair wage is the wage that meets all basic necessities, the living wage is all inclusive. The Supreme Court has held that capacity to pay is not relevant for payment of a living wage.

Weekly Day off

Every worker has the right for a day of rest in every period of seven days

Workers whose service is availed on a day of rest shall be paid not less than the overtime rate.

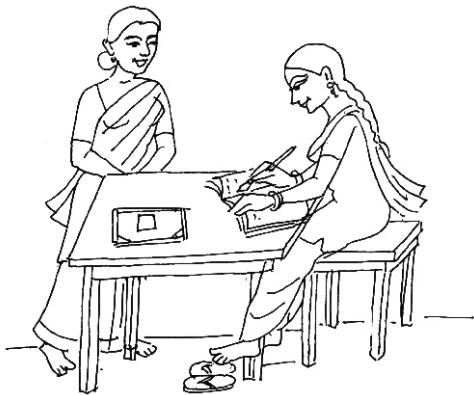
Overtime Pay:

A worker whose service is availed beyond his/her normal working hours, the employer shall pay his/her for every hour or for part of an hour at the rate of twice the normal payment.

BASIC CONDITIONS OF EMPLOYMENT

Domestic workers have the right to be informed of the terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements in particular: (ILO C 189, Art. 7)

- a) Name and address of the employer and the worker.
- b) The address of the usual workplace or workplaces.
- c) The type of work to be performed.
- d) The remuneration, method of calculation and periodicity of payment.
- e) The normal hours of work.
- f) Paid annual leave, daily and weekly rest periods.
- g) The provision for food and accommodation if applicable.
- h) Terms and conditions relating to the termination of employment including any period of notice by either the worker or the employer.



Violation of Rights at Work Place can be minimized by regularization of work through written contract.

SOCIAL SECURITY UNDER WELFARE BOARDS

Entitlements under Social Security

1. Life and Disability cover
2. Health and maternity benefits.
3. Old age protection
4. Provident fund
5. Employment injury benefit
6. Housing
7. Educational schemes for children
8. Skill up gradation
9. Funeral assistance
10. Old age homes



Conditions for registration under the State Social Security Board:

1. Completed 14 years of age.
2. Self declaration confirming that he/she is an unorganized worker.
3. Application should be made to the District Administration in the prescribed form.
4. The registered worker is issued identity card by the district administration which shall be a smart card, carrying a unique identification number and shall be portable.

**Decent Housing and Pension is
Domestic Workers' Right**

Rashtriya Swasthya Bima Yojana

In June 2011 the Government of India decided to extent RSBY to all domestic workers.

Criteria for identification of Domestic Workers

The State Governments would identify the domestic workers. For identification of domestic workers, any of the following two would be treated as evidence of persons working as domestic workers:

1. Certificate by registered Resident Welfare Association to the effect that a person is working as a domestic worker in the area;
2. Employer certificate
3. Certificate from a registered trade union that the concerned person is working as a domestic worker;
4. Police verification certificate which certifies that the person is working as a domestic worker.



Benefits under the Scheme include:

- ☞ Smart card based cashless health insurance cover of Rs.30,000 per annum for a family of five on family floater basis
- ☞ All pre-existing diseases to be covered
- ☞ Hospitalization expenses, taking care of most of the illnesses, including maternity benefits
- ☞ Transportation cost of Rs.100/- per visit with an overall limit of Rs.1000/- per annum.

Funding Pattern:

- ☞ Under the scheme, contribution of Government of India is 75% of the estimated annual premium of Rs. 750, subject to a maximum of Rs. 565 per family per annum. Additionally, the cost of the smart card, estimated to be Rs. 60, is borne by the Central Government.
- ☞ Remaining 25% of the annual premium, as well as any additional premium is borne by the State Governments. In case of the States in the North Eastern Region and Jammu & Kashmir, the Central Government share is 90%.
- ☞ The beneficiary would pay Rs. 30 per annum as registration/renewal fee.
- ☞ The administrative and other related cost of administering the scheme would be borne by the State Government.

Areas for further improvement in RSBY:

- ☑ Health insurance cover to be increased to at least Rs. 50,000 per annum.
- ☑ OPD services to be included under the scheme.
- ☑ All tests prior to treatment to be included under the scheme.
- ☑ Providing all medicine both during treatment as well as convulsion period to be included under the scheme.

ILO Convention 189 Decent Work for Domestic Workers

On 16 June 2011, the International Labour Conference of the International Labour Organization adopted the Convention concerning decent work for domestic workers.

What is Convention No. 189 about?

Convention No. 189 offers specific protection to domestic workers. It lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers.

What is domestic work?

Convention No. 189 defines domestic work as “work performed in or for a household or households”. This work may include tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, even taking care of household pets.

Who is a domestic worker?

Under the Convention, a domestic worker is “any person engaged in domestic work within an employment relationship”. A domestic worker may work on full-time or part-time basis; may be employed by a single household or by multiple employers; may be residing in the household of the (live-in worker) or may be living in his or her own residence (live-out). A domestic worker may be working in a country of which she/he is not a national.

Who is the employer of a domestic worker?

The employer of a domestic worker may be a member of the household for which the work is performed, or an agency or enterprise that employs domestic workers and makes them available to households.

Basic rights of domestic workers

Promotion and protection of the human rights of all domestic workers

Respect and protection of fundamental principles and rights at work:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) elimination of all forms of forced or compulsory labour;
- (c) abolition of child labour; and
- (d) elimination of discrimination in respect of employment and occupation

Effective protection against all forms of abuse, harassment and violence.

Fair terms of employment and decent living conditions.

Hours of work

Measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work, overtime compensation, periods of daily and weekly rest, and annual paid leave.

- ▶ Weekly rest period of at least 24 consecutive hours.
- ▶ Regulation of stand-by hours

Remuneration

- ♦ Payment of minimum wage if minimum wage exists for other workers.
- ♦ Payment of wages must be paid in cash, directly to the worker, and at regular interval of no longer than one month. Payment by cheque or bank transfer – when allowed by law or collective agreements, or with worker's consent.
- ♦ In-kind payment is allowed under 3 conditions: only a limited proportion of total remuneration; monetary value is fair and reasonable; the items or services given as in-kind payment of personal use by and benefit to the workers.
- ♦ Fees charged by private employment agencies are not to be deducted from the remuneration.

Occupational safety and health

- ♦ Right to safe and healthy working environment.
- ♦ Measures are put in place to ensure workers' occupational safety and health.

Social security

- ♦ Social security protection, including maternity benefits.
- ♦ Conditions that are not less favourable than those applicable to workers generally.

Standards concerning live-in workers

- ♦ Decent living conditions that respect the workers' privacy.
- ♦ Freedom to reach agreement with their employers or potential employers on whether or not to reside in the household.
- ♦ No obligation to remain in the household or with its members during their periods of rest or leave.
- ♦ Right to keep their identity and travel documents in their possession.
- ♦ Regulation of stand-by hours.

Standards concerning migrant domestic workers

- ♦ A written contract that is enforceable in the country of employment, or a written job offer, prior to traveling to the country of employment.
- ♦ Clear conditions under which domestic workers are entitled to repatriation at the end of their employment.
- ♦ Protection of domestic workers from abusive practices by private employment agencies. Cooperation among sending and receiving countries to ensure the effective application of the provisions of the Convention to migrant domestic workers.

Private employment agencies

Measures to be put in place:

- ▶ regulate of the operation of private employment agencies;
- ▶ ensure adequate machinery for the investigation of complaints by domestic workers;
- ▶ provide adequate protection of domestic workers and prevention of abuses, in collaboration with other Members where appropriate;
- ▶ consider concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices.



**Domestic Workers are Workers,
Treat Domestic Workers like any other Workers.**



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