

CONTOURS OF DOMESTIC SERVICE: CHARACTERISTICS, WORK RELATIONS AND REGULATION

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This paper provides a broader overview of domestic service in India, outlining the socio-economic and demographic characteristics of the workforce. The definitional issues involved in understanding domestic work are discussed, with special reference to national classifications. The extant pattern of work relations in the occupation and the prominent role played by placement agencies are highlighted. Through a detailed discussion of the evolving legal interventions and state level responses to this segment of workers, the paper also emphatically underlines the need for appropriate legal intervention to ensure fair work conditions and social security to this highly vulnerable and marginalised segment of the workforce.

I. INTRODUCTION

Domestic service is now accepted as an important category of work worldwide, though resistance continues in addressing the issues of domestic workers. The sector is one of the most exploited and the least protected by labour laws. Domestic service remains a highly personalised and informal service, where the workplace is the employer's home. This characteristic has been central in keeping domestic workers outside any intervention—domestic workers are largely absent from state policy—be it labour laws or social policy. Their absence in state policy is also tied to the social and economic devaluation of care and its gendered, class, and caste characteristics (Palriwala and Neetha, 2009). This aspect becomes clear if one examines their socio-economic composition and characteristics. In this context, the paper gives a macro picture of the sector and maps some of the central issues and concerns.

The rest of the paper is divided into six sections. Section II discusses the definitional issues of domestic work and sets out some of the existing divisions. The growth and broad characteristics of domestic workers are discussed in Section III. Further, Section IV explores wages and work relations in domestic work. The role and functioning of placement agencies, which are emerging as important institutions in domestic work, are discussed in Section V. State responses and some of the recent legislative interventions are discussed in Section VI. Finally, Section VII sums up and concludes the discussion.

II. DEFINING DOMESTIC SERVICE/WORKERS

The term 'domestic service' is difficult to define, as the duties of the domestic workers are not so well-defined. In common parlance, the term is defined as a person who is engaged

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on a part-time or full-time basis in domestic service, in return for remuneration payable in cash or kind, for a fixed period. The terms of employment may be expressed or implied. This definition, which is based on the task performed, is the most commonly accepted one worldwide. It, however, does not acknowledge the place of work— which is largely private households. Although domestic work takes place largely in households or homes, such services could also take place in ‘establishments/institutions’ other than residential homes. Internationally, countries differ in the definition of domestic workers, with few countries collecting data on domestic workers. The ILO’s International Standard Classification of Occupations (ISCO) recognises domestic work under two broad classification groupings (groupings 5 and 9) and identifies associated tasks. Classification 5 addresses commercial establishments, institutions and private households. It covers two key categories: housekeeping (minor group 512), which includes housekeepers and related workers and cooks; and personal care and related workers, including childcare workers and home-based personal care workers (minor group 513). Classification 913 speaks specifically of “domestic and related helpers, cleaners and launderers”. It covers “private households, hotels, offices, hospitals and other establishments, as well as a variety of vehicles to keep interiors and fixtures clean”.

As in the case of many other countries, in India too, domestic workers are included under the category ‘personal social and community services’ (Category 9) under the National Industrial Classification (NIC) followed by national data collection agencies. Within this Category 95, which is that of private households with employed persons, is usually taken as domestic workers, which as discussed earlier, is sub-categorised further. The place of work is clearly a factor that is addressed in this classification limiting it to private households. Further, the sub-categorisation does give some insight into the task-based divisions such as cooks and governess/baby sitters. However, the category ‘housemaid/servant’ and ‘others’ are omnibus categories, which do not provide any insight into the tasks that are performed by these workers. Since cooks and baby sitters are categorised separately, one may assume that housemaids/servants are those either doing only cleaning tasks or combining many tasks. However, all those who are familiar with the issues of domestic workers would be aware of the multitude of tasks that many workers perform, and also about the growing number of workers who perform only cleaning tasks. The degree of specialisation and differentiation is clearly one aspect that needs to be captured in the surveys on domestic workers. Nevertheless, multiplicity of tasks is an important aspect that needs attention in the context of domestic workers.

The National Classification of Occupations (NCO), 1968, which was followed in the last two quinquennial rounds of the NSS, captures domestic workers under division 5, which is that of Service Workers. Group 51, comprising Housekeepers, Matrons and Stewards (Domestic and Institutional); 52—Cooks, Waiters, Bartenders and Related Workers (Domestic and Institutional); 53—Maids and Other Housekeeping Service Workers n.e.c.¹ are categories which would record domestic workers. However, Groups 51 and 52 combine both ‘domestic and institutional’, and even further sub-categories of these groups do not separate it across

'domestic' or 'institutional'. The data pertaining to Group 53 is commonly used to estimate domestic workers, which would give an under-estimated picture as many domestic workers would get counted in Groups 51 and 52 as well. Within Group 53, maids and domestic workers appear as separate categories (the sub-categories of Group 53 are: (530—Ayah, Nurse, Maids; 531—Domestic Servants; and 539—Maids and Related Housekeeping Service workers, n.e.c.), with maids appearing in two sub-categories. This creates ambiguity not only on the distinction between maids and domestic workers but also as to who would get captured as maids under the two sub-categories. Such ambiguities are bound to affect the quality of data collected, which is otherwise often criticised for the poor reporting of the number of domestic workers.

In the absence of any accepted statistical definition of domestic workers, various researchers, activists and policy-makers have conceptualised domestic service in different ways, largely depending on their focus of analysis. Distinctions often made in the literature on domestic service are that of full-time, part-time and live-ins and live-outs. Full-time and part-time classification, as used in the literature on domestic work, is different from what is normally understood in the literature on employment or in the legal sphere. Since the workplaces of domestic workers are the employers' home, live-in workers are normally full-time workers, who would be available for work throughout the day and night as required by the employer. On the other hand, part-time work does not necessarily mean that paid domestic work is not a full-time activity for the worker. In the existing literature on domestic service, the terms 'live-out workers' and 'part-time workers' are often used interchangeably. While one category (that of live-out workers) is purely based on the place of residence of the worker, the other indicates duration of the work. Most 'part-timers' undertake the same/heterogeneous tasks in different households. They are thus 'part-time' from the point of view of the employer and not from that of the worker. Aggregate daily hours of work, across all the households that the worker is employed in, may be greater than that of a 'full time' worker in a factory or construction site or as defined as 'normal working hours' under any labour laws. Further, all live-out workers may not be 'part-timers', as many would work only in one house throughout the day and may return to their residence only at night. These confusions and ambiguities have not only resulted in the invisibility of many domestic workers but have also adversely affected efforts for ensuring legislative and social security entitlements for them.

III. GROWTH AND PROFILE OF DOMESTIC SERVICE

Despite a long history of paid domestic workers in India, little documentation exists on the subject pertaining to the period prior to the present century. No comprehensive data on the number of domestic workers, their gender composition, the profile of employers, wages and other conditions of work is available for this period. However, the available research and documentations point to varied and changing profiles of workers, the nature of service and relations of work. An important aspect emerging from these studies is the presence of male workers and its feminising profile over time. The Labour Bureau Survey of full-time

domestic workers in Delhi (1981)² found that neither sex had monopoly over this occupation. According to the Shramshakti Report (1988), out of 23 lakh domestic workers, 16.8 lakh are female workers. The study commissioned by the Catholic Bishops Conference in 1980 estimated that 78 per cent of domestic workers in 12 cities were female and in Bombay, 90 per cent were female. The study also pointed out the gender stratification in paid domestic work with the men concentrated in better paying jobs. All the diverse regional studies during the period, however, point to sub-standard conditions of work, largely based on feudal relations.

Domestic labour as a special category of workers did receive special attention during the last one or two decades, largely due to the rising prominence of the sector in terms of female employment. Concomitantly, there has been a growing body of literature on the subject though it is largely in the form of regional studies based on a sample population. The growth of the sector during this period has been explained in terms of the process of economic growth and modernisation. Growth and urbanisation are said to encourage the growth of the domestic service workforce, as they produce an affordable class of employers and a surplus of unskilled workers. The agrarian crisis in rural areas and the loss of livelihoods have resulted in the sourcing of a regular supply of cheap workers, for whom this is the only promising option.

As per the NSSO estimates in 2004-05, the number of workers employed in private households, largely domestic workers, are 4.75 million. Of these, 3.05 million are women workers in urban areas, making the sector the most prominent in female employment in urban areas. The category 'private household with employed persons', which is popularly used to estimate the number of domestic workers includes five sub-categories such as Housemaid/servant; Cook; Gardener; Gate-keeper/*chowkidar*/ watchman; Governess/babysitter, and others. Of these categories, gardeners and gate-keepers/*chowkidars*/watchmen are highly male-centred sectors and hence need to be separated from the rest of the categories to obtain an accurate picture of the feminisation process in the sector.

Table 1
Domestic Workers across Sub-categories

<i>Categories of workers</i>	<i>No. of workers ('00)</i>		<i>Female share</i>	
	<i>1999-2000</i>	<i>2004-05</i>	<i>1999-2000</i>	<i>2004-05</i>
Housemaid/servant	4,382	23,811	80.4	87.4
Cook	64	966	72.6	73.9
Governess/babysitter	26	696	76.4	74.2
Total domestic workers	4,471	25,474	63.4	71.6

Source: Unit level NSS Employment and Unemployment Data.

The female share of the sector is as high as 71.6 per cent, which shows an increased trend over the period. The category of housemaid/servant shows a high degree of feminisation, with 87.4 per cent of the workers in this category being females. The percentage of domestic workers in total female employment in the services sector increased from 11.8 per cent in

Table 2
Distribution of Domestic Workers: Occupational Categories (000's)

Categories of workers	1993-94			1999-00			2004-05		
	Absolute no. of workers	Fem. share in employment	Percentage to total fem. employment	Absolute no. of workers	Fem. share in employment	Percentage to total fem. employment	Absolute no. of workers	Fem. share in employment	Percentage to total fem. employment
Housekeepers, Matrons and Stewards (Domestic and Institutional)	29	44.0	0.0	31	27.1	0.02	50	51.6	0.0
Cooks, Waiters, Bartenders and Related Workers (Domestic and Institutional)	251	18.3	0.2	444	23.5	0.3	642	24.9	0.4
Maids and Related Housekeeping Service Workers, n.e.c.	1,977	86.5	1.4	2,328	87.8	1.6	3,677	90.8	2.1
Total Workers	2,258	60.7	1.6	2,802	59.3	2.0	4,370	64.3	2.5

Source: Unit level NSS Employment and Unemployment Data.

1999-2000 to 27.1 per cent in 2004-05, with a phenomenal increase in the number of workers by about 2.25 million in a short span of five years (Palriwala and Neetha, 2009). Much of this increase may be due to more careful categorisation and enumeration,³ but many micro studies (Moghe, 2006) also suggest a recent, phenomenal growth.

A major limitation of the above data is that it is restricted to two points in time very close to each other, 1999-2000 and 2004-05. The Employment and Unemployment Surveys under the National Occupational Classification of workers capture domestic workers under the occupational categories of: (i) Housekeepers, Matrons and Stewards (Domestic and Institutional); (ii) Cooks, Waiters, Bartenders and Related Workers (Domestic and Institutional); (iii) Maids and Related Housekeeping Service Workers, n.e.c. As discussed earlier, these categories include workers who are employed in housekeeping services in institutions, and the exercise of estimating their number also carries the possibility of under-counting and under-reporting, which has to be taken into account. Despite the limitations of this data, it can be used to obtain a rough estimate of the size of the sector and its growth over a longer period.

Since two of these categories cover both the institutional and domestic categories of workers, the numbers are much higher than those under the national classification of industries. Again, the data show a huge increase in the share of women workers across all categories, confirming a trend of steady growth since the early 1990s. The female share in the various occupational categories is highest among ‘maids and related housekeeping service workers’, accounting for 91 per cent of the category. The preference for domestic work among poor women is documented in many studies (Neetha, 2003; Kaur, 2006; ISST, 2009). Poor women find it convenient to be employed as domestic labour in the surrounding residential areas. It is convenient for them to shoulder their own double burden if the work is available in the close vicinity, especially if it permits them a few hours at home in between the shifts. Although it is definitely not an unskilled work, there are fewer barriers to entry, and many perceive it as an extension of work done in one’s own home, though in a different socio-cultural situation.

Inter-state migrant women account for a majority of domestic workers (Neetha, 2004). The growing demand for domestic workers has also resulted in the regular flow of domestic workers from particular pockets of out-migration. The macro data on domestic workers is

Figure 1
Age-wise Distribution of Domestic Workers

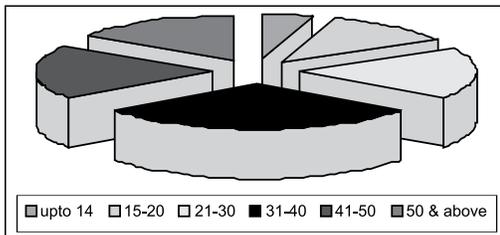
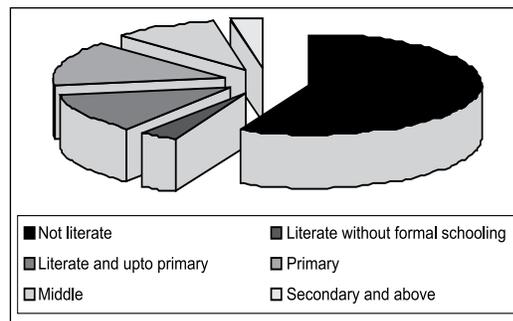


Figure 2
Education-wise Distribution of Domestic Workers

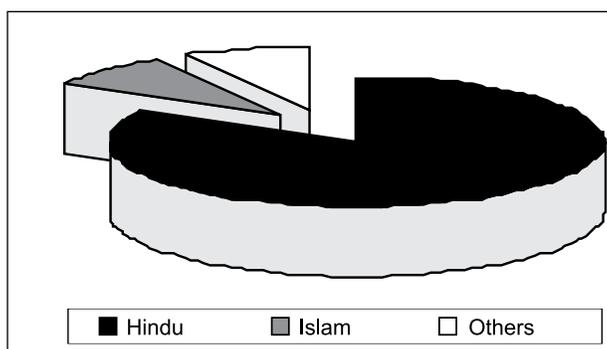


not fully reliable. Nevertheless, combined with micro studies, it does give valuable insights into the broad trends and patterns in the socio-economic characteristics of domestic workers. The broad characteristics that emerge from the macro data are that workers are largely married women, illiterate or without any formal schooling, and mainly in the age group 21-40 years (see Figures 1 and 2).

A majority of these workers belong to the Hindu community (see Figure 3). Given that the proportion of Muslims who are below the poverty line is higher than that of Hindus, the fact that they are not entering paid domestic work in the same proportion needs to be explained in socio-cultural terms.

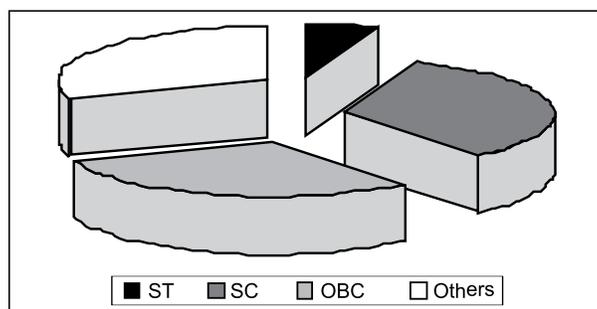
The category of Scheduled Castes (SCs) was found to constitute a very large part of domestic workers, viz. 33.4 per cent, in 2004-05 (Figure 4). What is interesting is the share of the upward castes (30.3 per cent), which is almost equivalent to that of the Other Backward Classes (OBCs) (30.7 per cent). Given the low social status attached to domestic work, the substantial shares of upward caste women do suggest an increasing pressure on women to take up employment and the lack of alternative employment opportunities, which drives them to domestic work.

Figure 3
Religion-wise Distribution of Domestic Workers



Most of the above characterisations may get blurred when a distinction is made between live-ins (full-time workers) and live-outs (largely part-time workers). Much of the growth in domestic work during the last two decades has been that of 'live-outs' or 'part-time' workers, who perform specific tasks in different households but stay at their own residences. As discussed earlier, this system is typically associated with the urban, nuclear households. A significant proportion of the live-out domestic workers is drawn from squatter settlements/slums, located in the periphery of large residential areas. The growth of part time/live-out domestic workers is attributed mainly to two factors. Firstly, the limited space in middle class households makes it difficult to accommodate resident domestic workers. Secondly, the cost advantages in hiring the services of part time workers also add to the demand for these workers. Micro level studies have also noted a strong preference among workers to stay outside the employer's residence, which would free them from bondage at least for a few hours (Neetha and Mazumdar, 2009).

Figure 4
Caste-wise Distribution of Domestic Workers



At the macro level, it is impossible to distinguish between full-time, part-time, live-in and live-out workers, and hence to draw a comparative picture. However, regional studies do provide important insights into these differentiations. While live-ins, who are full-time workers, account for a small proportion of the total workers in the sector, increasing segregation in terms of community and caste status is reported. Young, largely Christian women from tribal pockets dominate the sector of full-time workers, especially in urban centres. There has been an increasing demand for full-time live-in domestic workers.

The domination of SC women in the part-time live-out category is evident from many micro level studies. However, there seems to be a discernible decline in the proportion of SC workers over time, largely on account of the increased number of upper caste women entering into the occupation. A study of the live-out domestic workers in Delhi in 2003 shows SC workers constituting 77.5 per cent of the workers (Neetha, 2003). In contrast to this, a study of domestic workers in 2008 shows that only 40 per cent of them were SCs (still the highest), while upper caste women accounted for 32 per cent of the total, which is much above that of women from OBCs (26.7 per cent) (Neetha and Mazumdar, 2009). A similar finding is also shared by another study conducted during the same period (ISST, 2009). Even if one takes into account the possibility of over-/under-representation, which could happen in small sample surveys, it does clearly reflect the changing profile of these workers.

What is evident from the micro studies is the strong segmentation in domestic work tasks that are based on caste divisions (Neetha, 2003; ISST, 2009). The main tasks associated with domestic work include sweeping and mopping; cleaning utensils; washing clothes; cooking; taking care of babies and the elderly; shopping and other outside work that are required for the smooth functioning of the household. While the proportions of SC women are very high in the cleaning tasks, they form a smaller though increasing proportion among cooks and child-carers. This could be related to the notions of purity and pollution, wherein upper caste households reportedly do not allow a lower caste person to enter the kitchen (Palriwala and Neetha, 2009). However, of late, flexibility in caste norms has also been reported which is aided by the fact that a substantial proportion of domestic workers are migrants. Thus, people who would not be undertaking domestic work in the place of origin do it elsewhere

(Kasturi, 1990). On the other hand, upper caste employers also hire migrant workers from lower castes even for tasks such as cooking, though the latter would not have otherwise been hired for such work in their native places (Raghuram, 2001).

IV. WAGES AND WORK RELATIONS

Apart from the devaluation and feminisation of domestic service and the varieties in the nature of domestic labour market, an important aspect that warrants elaboration is the nature of domestic labour relations. In the erstwhile aristocratic set-up, the work relationships were based on unwritten agreements and expectations, in paternalistic line. Current situations show that in many societies, both patronage and contract-based relations exist simultaneously, which may differ across societies and regions. Work relations, thus, become the products of both economic and cultural factors. Domestic service is distinct from other wage-earning occupations, in terms of wage payments, working conditions and work relations, with informality being a dominant feature of domestic work. As per the data available from the NSS for 2004-05, 99.9 per cent of the workers engaged in private households are informal workers, based on the definition employed by the National Commission of Enterprises in the Unorganised Sector (NCEUS) (Raveendran, 2009). The work relations in these occupations cannot purely be captured in economic terms, as a considerable amount of subjectivity and personal dealings define the employment relations. The nature of contracts is mostly oral and informal, but heavily dependent on personal relationships

There is no uniformity in the level of wages, hours of work and the number of working days. As there is no minimum wage fixed for domestic work, it varies across employers, irrespective of the quantum and hours of work. Wages do vary across locations and geographical areas, depending on the economic and social characteristics of the employers and employees. It is difficult to arrive at a uniform daily wage rate for domestic work even for a specified locality (Neetha, 2004). As domestic work involves a number of activities, wages could vary depending on the type of domestic work that a particular worker performs. The wages received by domestic workers show a large dispersion across tasks. Apart from the variation across larger divisions such as cook, cleaner, and carers, wage rates vary within these divisions as well. A domestic worker under the category 'cleaner' may only perform house cleaning or can take up other cleaning work, such as washing of clothes and/or dishes. For urban, part-time workers, wages even vary with the exact task for which they are engaged, reflecting the socio-cultural hierarchy of the work. The number of times that such a task is performed during the day and the time required to complete the task are also variables that enter wage calculation. Studies show that monthly wage rates in urban areas range from Rs. 100 to Rs. 400 per month for tasks such as washing clothes, utensils, or sweeping and mopping floors. Wages for the care of children and cooking, which are better positioned in the hierarchy, are in the range of Rs. 500-1500 per month. Wages for sweeping and mopping floors are also influenced by the area of the house, while some tasks are related to the number of individuals in the family being served (washing clothes and utensils, cooking) (Palriwala and Neetha, 2009).

There is also no uniformity or regulation of the hours of work, number of working days in a week, and other conditions of work. Most domestic workers have a seven-day week and hardly any annual vacations. Even sick leave or negotiated leave affects their income (Neetha, 2004; Kaur, 2006). In a situation of extreme hierarchy and informality, the mutually agreed terms are usually biased against the domestic worker. There is no security of employment and many workers suffer from occupational health problems. The conditions of work and lower socio-economic status of these workers gives sufficient pointers to the possibility of physical and sexual violence against them, which is largely under-reported (Neetha, 2008). Thus, the wage setting, conditions of work, and working hours are immensely flexible. Workers have limited bargaining power and have to accept the wages and working conditions offered by the employers. The fear of losing employment with an increase in the number of migrant labour competing for such employment affects the bargaining power of these workers.

V. PLACEMENT AGENCIES IN DOMESTIC SERVICE

A recent development in domestic service has been the emergence and expansion of 'placement' agencies managed by private entrepreneurs and voluntary associations. During the past few years, there has been a visible growth in the number of agencies/individuals supplying domestic workers, especially in metropolitan cities. The placement agencies play the important role of an intermediary between the worker and the employer. They function with varied terms and conditions placed on the employer and in services offered to the worker, and differ considerably in their objectives. The commissions they charge, their share from domestic workers, wages, and the absence of regulation are the major attractions for 'entrepreneurs' entering this field. Large numbers of women (especially unmarried girls) are mobilised from tribal pockets. These women migrants depend on middlemen as they are strangers to the city, are often illiterate, and have scanty knowledge of the local language.

Most of the discussions on placement agencies are in the context of Delhi, partly due to the availability of studies/interventions but largely due to the vast spread of the agencies in the city. The discussions below are largely based on Delhi. Nevertheless, the issues would remain the same for the rest of India.

As per broad estimates, there are over 800-1000 placement agencies in the capital city of Delhi itself. Although the term 'placement agencies' may suggest a somewhat organised and formal form of recruitment and placement of workers, in the context of domestic workers, it denotes a range of informal arrangements. Placement agencies or domestic service providers are not homogenous entities but differ drastically in almost all aspects such as size, nature of operations, objectives and the services offered to employers as well as workers. Although all the agencies could be well classified within the category of the informal sector, the degrees and parameters of informality vary across agencies. At one end, there are more formal agencies with more or less defined terms and conditions of placement and its enforcement. A well-defined organisational set-up and services characterise these agencies.

A 'formalised' agency is generally backed by some legal or social structure/institution, which guides its existence and working in the sphere of placement of domestics. They are either registered under and/or backed by a trade union (for example, the Self Employed Women's Association or SEWA in many states), a co-operative society (for example, Nirmala Niketan in Delhi), voluntary organisations (for example, the Tribal Development Society in Delhi) or a Church (for example, the Yuvati Seva Sadan in Delhi)⁴. These agencies treat their role as service providers of domestic work well within the objectives and agenda of their organisation. Thus, the registration of the parent organisation (under the Trade Union Act or Society's Act) is treated as the registration for placement also. These organisations generally provide extended services to domestic workers apart from doing placement services⁵. These include the provision of hostel facilities, soft and vocational skill-imparting activities (for example, literacy classes, training on basic hygiene, cooking of basic food, handling of household appliances, attending phone calls, etc.), the provision of hostel facilities—both prior-service and in-service periods, provision of socialisation avenues—such as weekly meetings, excursions and celebration of regional festivals (for example, Karma, etc.).

At the other end, there are agencies, which are run or managed by an individual or individuals with purely a commercial objective with varying and individualised terms and conditions of work⁶. Further, there is a complete absence of any services to the domestic worker. A large number of agencies fall in between, with the maximum number being closer to the highly informal model, with varying services provided to the employers as well as workers. These agencies frequently change their identities, locations and phone numbers—in some cases, due to their intermittent engagement in the placement business and in most cases, to avoid 'undesirable' interventions of authorities and previous clients (both employers and workers).

Although there is a definite and marked difference in terms of placement services across agencies, the recruitment of workers shows considerable similarity. Most of the agencies rely on middlemen or agents. It is documented that each agency has up to 10-12 agents attached to them, who make visits to village areas each month or once in two months and look for possible families/individuals who can be persuaded to send their girls to work as domestic workers⁷. Apart from these recruitment agents, some agencies, mostly the formalised ones, have other sources for recruiting workers. A major stream is through networking with regional parishes and organisations, wherein the priests/organisations in local regions act as connecting links or facilitators.

While few placement agencies do have established office set-ups, most of them usually function in a small room, which is normally located in a backward locality. These offices usually have limited furniture and a signboard indicating their 'registered' status⁸. The degree of commercial interest is another difference that marks these agencies. While a majority of these placement agencies are purely commercial, and guided largely by profit considerations, welfare provisions to workers (different degrees) do find space in the objectives of a few of them. Some agencies also extend help to migrant workers who are estranged in the city, having been either cheated/exploited by middlemen or employers. Due to their different

social/legal status, they take up the dual role of both referees and players in the placement business, which is often on account of the fact that there is no such approved government agency or legal authority to take up the issues of the domestic workers.

The profits of placement agencies are handsome as compared to the running costs involved. The cost of running a placement agency comprises the cost of office space (many placement agencies do not even have any office space) and payment to recruiting agents⁹. All the agencies charge a registration from the employer, which ranges from Rs. 4500-10,000 from the employer, for a contract of 11 months¹⁰. It is also reported that a few agencies even take a repayable security deposit from the employer. The security amount is the equivalent of 2-3 months of wages and is taken by the agency to ensure that the workers are not removed by the employers on their own. Many agencies place more than 25 domestic workers (some even above 100). This high rate of commission/profit explains the existence and increase in individuals/organisations in the placement of domestic workers.

Non-payment of wages, elements of forced/bonded labour, and the possibility of sexual exploitation (by the middlemen, agents and employers) are among the concerns raised in the literature on domestic workers. Most agencies do not share the information regarding the negotiated wages with the workers. The wages often ranges from Rs. 1000-4000, depending on the years of experience. These agents adjust a considerable proportion of the domestic workers' salary of the initial months as brokerage expenses, transportation costs, etc. In many cases, the salary is directly collected by the placement agency only. As most of the women are illiterate, they are not aware of the terms of the employment contract, and can be easily exploited by the agencies as well as the employers. The agencies quite often take no responsibility for the workers and are not bothered about their working conditions or have no extended commitment attached such as support during illness or provision of interim stay, when the employers are away for longer durations.

Most of the placement agencies display a board saying 'Registered', next to their name, but in fact there is no law to register and regulate placement agencies. Many agencies are unregistered as against only a few which are registered. Even among the registered ones, there is no uniformity regarding their registration. As discussed earlier, some placement agencies are registered as co-operative societies, some as trade unions and others as voluntary organisations or non-governmental organisations (NGOs) registered under the Society's Registration Act. They treat their registration as per the Trade Union Act or the Society's Act as the registration for placing domestic workers.

VI. STATE AND LEGISLATIVE RESPONSES

Workers engaged in personal service are not considered workmen as per the Trade Unions Act, 1926, which became the basis for further judgements and laws. Thus, most labour laws do not consider the household or home an 'industry' or an industrial workplace to which labour laws could apply. The implications then are that the domestic worker is not a worker and cannot have recourse to labour laws or labour courts in case a dispute arises with the employer (Sankaran, *et al*, 2009). The most decisive outcome of such a position is the implicit exclusion of domestic workers from the National Minimum Wages Act, 1948¹¹.

However, since 1959, there has there have been eight Private Members Bill¹² introduced in the Parliament on domestic workers, which were withdrawn or allowed to lapse¹³. As early as 1959, a Domestic Workers (Conditions of Service) Bill was moved in the Rajya Sabha as a private member's bill. This bill, together with the All India Domestic Servants Bill, introduced in the Lok Sabha, included clauses for minimum wages, maximum hours of work, a weekly day of rest, 15 days of paid, annual leave, casual leave, and the maintenance of a register of domestic workers by the local police. In 1972 and 1977, two further 'private member' bills [Domestic Workers (Conditions of Service) Bill, 1972 and the Domestic Workers (Conditions of Service) Bill, 1977] were introduced in the Lok Sabha. The government ignored recommendations of the Committee on the Status of Women in India, 1974, and the National Commission on Self Employed Women and Women in the Informal Sector (1988) on the need to legislate on domestic work. The House Workers (Conditions of Service) Bill of 1989 and Domestic Workers (Conditions of Service) Bill 1990 met with the same fate.

The concern often raised in the context of legislation since the initial attempts is that of employment loss if a law mandating domestic workers for minimum wages and working conditions is enacted. These concerns were raised as early as 1959 by the Deputy Labour Minister while speaking against the legislation "large scale retrenchment and shrinkage in employment opportunities as a result of enforcement" (Armocost, 1994).

A second argument is that laws protecting domestic workers would be difficult to enforce, which was again voiced in 1959. "Administration, enforcement and inspection would be difficult" and thus it was hoped that "the impact of public opinion and development of social conscience and awakening would gradually improve the condition of domestic workers" (Armocost, 1994).

Employment is often played against legislations though there are enough evidences to show that legislations do not always lead to retrenchment, but would rather streamline job opportunities, thereby ensuring decent conditions of work. The difficulties in enforcement relate to issues, which are common to all informal sector work and need to be addressed by policy-makers. However, the denial of their basic labour rights to domestic workers has to be understood in a larger socio-political context. The gendered and class aspects of domestic work, combined with the general devaluation of care work, explain the State's approach to the concerns and legislation on domestic workers.

Largely, as a result of the child labour campaign, child domestic work was listed in 2006 under the list of hazardous occupations in the Child Labour Prohibition and Regulation Act, 1986. Further, special sanctions on government employees who may employ child labour are also in place (Sankaran, *et al.*, 2009). In Andhra Pradesh, Bihar, Karnataka, Kerala, Maharashtra, Rajasthan, and Tamil Nadu, the preliminary or final notification including domestic workers in the minimum wages schedule has been announced. In Tamil Nadu, domestic work has been added to the Manual Workers Act (Regulation and Employment and Conditions of Work Act), 1982.

Domestic Workers have also been included in the Kerala Artisan and Skilled Workers' Welfare Fund, enabling them to avail of social security schemes. In Maharashtra, the State

Welfare Board Bill for domestic workers was passed in July 2008. The provisions of the bill include health insurance, pension and Provident Fund to domestic workers as also paid annual leaves and weekly offs. However, given the record of non-implementation of labour laws and the lack of organised strength, the number of workers who have benefited from these laws is another matter. Domestic workers are also covered under the recent Unorganised Workers Social Security Act, 2008. However, the limited definition of social security and its beneficiaries are matters of concern. The BPL income of Rs. 500 is too less even for bare existence in urban areas and would thus render most domestic workers in urban areas out of its coverage (Palriwala and Neetha, 2009).

However, counter-political pressures are also evident in the removal of domestic work from the scheduled list under the Minimum Wages Act in Karnataka between 1993 (after a year of its inclusion) and 2004. In June 2005, the State of Karnataka again brought 'domestic work' into the schedule contained in the Minimum Wages Act.

Despite the mushrooming of placement agencies, at present, there are no laws to regulate them. Discussions have focussed on the possibilities of a number of existing laws being expanded to include domestic workers or on the possibilities of new legislation pertaining to informal workers taking them into its ambit. With some modification, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 could help in regulating the agencies. A third possibility from among the existing laws is the Shops and Establishments Act, 1954. All business and commercial establishments have to be registered under the Act within 30 days of commencement of work. The Act is enforced through the Chief Inspector of Shops (CIS) and various inspectors under the Act. The Chief Inspector functions under the supervision of Deputy Labour Commissioners (CIS), who, in turn, function under the supervision of the Labour Commissioner. However, it is a state legislation and each state has framed its own rules for the Act.

In Delhi, registration under the Act was mandatory prior to 23 November 1989 since when the same has been kept in abeyance. The Act was repealed in 1989 citing duplication in registration—shops and commercial establishments were already registered by the Sales Tax and Excise department. In the absence of any coordination and sharing of information between the Sales Tax and Labour Departments, the monitoring of establishments would be possible only if the placement agencies involved in the provision of domestic work are registered under the Shops and Establishments Act, 1954. It could be made mandatory for all placement agencies to register under the Act, which could check the expansion and working of these agencies.

The National Commission for Women attempts to address some of these concerns through a Domestic Workers (Registration, Social Security and Welfare) Bill, 2008 and has held consultations around this bill. The proposal seeks to establish a compulsory registration procedure for all domestic workers, including part-time and full-time workers, the setting up a Domestic Workers Welfare Fund to which workers and employers have to contribute, registration of service providers (defined as placement agencies for domestic

workers), regulation of working conditions, and fines and imprisonment for violation of the provisions of the bill. Central and state level boards are to be set up for administering the law. Additionally, it provides for the setting up of a Central Advisory Committee, State Advisory Committees, and Inspectors to implement the provisions of the Act. Interestingly, it grants powers of inspection to any registered trade union (Sankaran, *et al.*, 2009). A similar proposal has also been drafted by the National Campaign Committee for Unorganised Workers (NCCUW) and Nirmala Niketan—Domestic Workers (Regulation of Employment), Conditions of Work, Social Security and Welfare) Bill, 2008.

The debates and discussion around the bill concerns the definition of a domestic work, employer, wages, mode of delivery of welfare benefits and its implementation. The NCW bill excludes workers performing the same tasks in office spaces and in other establishments, and does not specifically exclude child labour employed in domestic work. However, the NCCUW bill excludes child workers and also provides for workers engaged in domestic work in office spaces and in other establishments. Further, though these bills take into account many of the specificities of domestic work, there is a need to draw on the experiences of successful attempts such as welfare boards relating to head-load workers, construction workers, etc. in the states of Kerala, Maharashtra and Tamil Nadu in designing its implementation. Regulating and monitoring conditions of work for the domestic workers is not easy and has proven to be an uphill task.

The fact that domestic service produces utilities, not commodities or anything fully tangible, the measurement of output becomes difficult leading to ambiguities in fixing wages. As Caplow (1954) notes: “in domestic service, work cannot be subjected to any comparative tests, since it has the character almost unique in wage paid industry, of being carried on for use, not for profit, and the settlement of wages remains an individual bargain between employer and employed”. The ambiguity in fixing minimum wages is evident in all the discussions on regulating domestic work and is an issue that many domestic workers’ organisations are confronted with. Debates over the norms for setting wages include issues such as the use of the time rate or piece rate; hourly or weekly; part-time or full-time; based on size of the household or persons per household, over time; payment in kind; calculation for boarding, medical care and other necessities¹⁴. This complexity is not addressed even in the recent NCW bill. The bill does not enumerate the hourly rates, weekly rates and the monthly rates payable or the criteria to work out wages, though the NCCUW draft acknowledges the importance of setting the criteria for determining the minimum wages in the Statute¹⁵ (Sankaran, *et al.*, 2009). Defining minimum wages is fundamental in improving the conditions of domestic workers. One could draw on the attempts of states such as Karnataka and Maharashtra, which now have few years of experience in this regard. Further, many organisations working with domestic workers have come out with specific guidelines in the calculation of minimum wages. There is a need to examine these attempts as well as the experiences with regard to other informal sector occupations (construction, head-load workers, and so on) to arrive at a practical proposal on fixing and implementing minimum wages.

VII. CONCLUSION

Domestic service is a major and growing informal sector activity, largely occupied by women. Women from certain areas or regions with specific socio-economic backgrounds are found to be concentrated in this occupation. This has been seen as an outcome of the transformations in the agrarian economy, which has resulted in an unprecedented mobility of labour to urban areas. This, together with changes in class relations, increasing inequality and development of new lifestyles and patterns of living among the urban middle class, have resulted in the growth of the service. Illiteracy, low caste and migrant status, lack of alternative employment opportunities, dependence on placement agencies, and so on, make domestic workers vulnerable to various exploitations. Long working hours, low pay, absence of job security and low social status define the occupation. Although these are the characteristics of many informal sector occupations, the absence of legal protection makes domestic workers particularly vulnerable to many labour market exploitations.

The existing ambiguities in defining 'domestic work' and 'domestic workers' needs immediate attention. This will not only help in the proper recording of the sector and changes within it but also in designing relevant policies and programmes for the sector. However, such efforts should aim at capturing them as an identifiable category, which is why there is a need to acknowledge the diversity in domestic service as well.

The recognition of 'household' as a workplace seems to be the only answer in regulating the sector. This would enable domestic workers to demand basic rights at work such as minimum wages and regulation of working hours. This would also help in regulating the growth and functioning of placement agencies. Legal interventions that recognise domestic workers as 'workers' and the home as a 'workplace' are thus fundamental in improving the conditions of domestic workers. In this context, enactment of the Bill proposed by NCW is critical, as that would help improve the conditions of millions of domestic workers.

Notes

1. n.e.c. means 'not elsewhere classified'.
2. The Labour Bureau has surveyed 64 full-time workers of the Gharelu Karamchari Association in Delhi (1970).
3. This is borne by the drastic decline in the number of workers included in "other service" activities in the same period.
4. The Church acts as an important network in the process of migration and also in the placement of live-in workers. The emergence of the Church as a central agency in facilitating the migration for domestic work dates back to 1976, when the first organisation was set up under the Religious of Mary Immaculate. A sister concern of this organisation was established in 1987. (For details see Neetha, 2003.)
5. With the huge exodus of tribal girls during the late 1980s, an organisation of tribal domestics, the Delhi Domestic Working Women's Forum (DDWWF) was set up by the Indian Social Institute in 1991. The organisation has been working in close association with the Church. Committees of the organisation were developed in each Parish to help in the co-ordination of the activities of the Forum. The organisation received full support from the Archbishop of Delhi who, in writing, requested all the Parish priests to co-operate and provide space to the women for weekly meetings. Thus, the Church became the central point of organising domestics workers. In order to streamline the recruitment and placement procedures,

- the organisation came out with recruitment forms and provided support and legal consultancy to tribal workers. The Forum was thus instrumental in making the system of recruitment forms, which states the names and addresses of the employee and employer, working conditions and leave, and other facilities and conditions of dismissal or withdrawal.
6. The extent of informality is evident from the following case: Mr. X had migrated to Delhi from Jharkhand looking for a job. Through some contact, he started working in a canteen which provides door-to-door delivery of food. As he is from Jharkhand, the person who owned the canteen asked him whether he can get a girl from Jharkhand to work as a domestic help for someone known to him. He was also promised a commission for procuring the domestic worker. He got one girl (a relative of his) and slowly he realised that placing girls in domestic work is a lucrative business. Initially, his circle was limited to relatives or neighbours or known people, but now he has started mobilising such workers through extended contacts. He started initially with a small commission of Rs. 1000. But now his commission ranges from Rs. 4000- 7000. The commission varies depending on the requirement of the employer, the age and work experience of the domestic worker. He runs this business purely through contacts and has no office. The whole business is run through his mobile phones (he owns two phones).
 7. Agents often give incomplete or false information about the terms of employment and create debt bondage with prospective domestic workers or their family members by providing some advance amount in the form of loans.
 8. Most of the placement agencies (including those who do not have much connection with the Church) use symbols of cross, Jesus, etc. and name their agencies after Saints, giving a false image of their closeness to the Church.
 9. On an average, the commission given to a labour agent or middlemen is Rs. 1000-3000 per head.
 10. In many cases, agencies frequently shift the workers from one employer to another to maximise commissions, even without consulting the worker.
 11. The Central Government sets minimum wages for 45 occupations from which domestic work is excluded.
 12. Five in the Lok Sabha and three in the Rajya Sabha.
 13. For details, see Armacost, 1994.
 14. In June 2005, the State of Karnataka brought 'domestic work' into the schedule contained in the Minimum Wages Act. According to the notification, a domestic worker who worked for eight hours was entitled to an amount ranging between Rs. 1600 and Rs. 1800 per month. If the number of members in the employing household were more than four, the charges went up to Rs. 2200. If she/he worked more than eight hours, the rate doubled.
 15. Some organisations working with domestic workers have suggested specific guidelines in the calculation of minimum wages, which broadly takes into account the task-based divisions as well as working time. The Alternative Law Forum, Bengaluru has recommended the following method for calculating wages—a prescribed minimum wages +1 to 5 per cent of the household income +10 per cent annual increment + overtime for time worked beyond agreed period of work or duration of work + additional wage for additional work. Stree Jagruti, Bengaluru have also proposed some guidelines for minimum wage calculation.

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