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### An Empirical Study On The Vulnerable Sector Of Domestic Helpers

*Dr. Kavita Solanki*

Assistant Professor, University School of Law and Legal Studies, Guru Gobind Singh  
Indraprastha University, Dwarka, New Delhi, India

Email: kavitasolankilaw@gmail.com

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#### ABSTRACT

Domestic helpers are the backbone of the Indian economy, as they support thousands of men and women working in other sectors of economy, thereby supporting development of the country. But, they form vulnerable segments of the country's labour force. The condition of domestic helpers at present and in past had not been very conducive. Their work, may sometimes be invisible but they are at disadvantage position due to lack of enactment of laws & policies, particularly for this sector of society. Due to the demand for domestic helpers tremendous growth in placement agencies has been noticed in metro and big cities. In absence of legal protection except in few states this has led to severe exploitation of women and children like depriving from salary, long working hours, long standing, situation of malnutrition, total cut-off from their family members, sexual exploitation by agent during transit and office of agency, and employers, unfavorable living and sleeping conditions and suicides etc. Domestic helpers can be: part time worker, full time worker and live-in worker. This paper attempts to formulate a framework for the protection of domestic helpers through empirical work. For this purpose, empirical research has been conducted and presented here.

#### 1. Introduction

Domestic work has never been recognized and still not considered as "real work" in almost all countries across the world. In labor market it is categorized under the purview of unorganized sector.<sup>i</sup> Unfortunately, in India, we have not yet been able to devise a computation method to value housework yet. In fact, housework still gets clubbed as unproductive work and homemakers with beggars.<sup>ii</sup>

The definition of domestic servant mentioned in *Black's law Dictionary*, as "a servant who resides in the same house with the master". But the term does not include "workmen" or "laborer's" employed out of doors<sup>iii</sup>. In 2000, UNHRC has declared "domestic workers as a form of contemporary slavery". Domestic

workers come under unorganized sector<sup>iv</sup> as Ministry of Labor and Employment, in its 2008 report classified unorganized labor into four groups. Domestic workers come under service categories.

Labour Code on Social Security provides the broad definition of **domestic worker**<sup>v</sup> means, “a person who is employed for remuneration whether in cash or kind, in any house hold through any agency or directly, either on a temporary or contract basis or permanent, part time or full time to do the household or allied work and includes a replacement worker who is working as a replacement for the main workers for a short and specific period of time”.

In India, there are many labour laws<sup>vi</sup> on statute book and these laws are more beneficial to industrial workers than to domestic helpers.

The Second National Commission<sup>vii</sup> on Labor, had proposed that legislations dealing with the issues of social security to be grouped into one single code for complete labor force irrespective of the essence of employment (contracted employment, home based employment, self employed or wage worker). This has been welcomed as an essential step taken towards the procurement of 2030 SDGs Goal 8 which talks about the “Decent Work and Economic Growth” adopted in September 2015 at the UN Summit<sup>viii</sup>. In order to remove all forms of inequality and for maintaining the principle of “Right to Equality”, India is cosignatory to the SDGs. The main concerned areas of SDGs are termination of poverty and discrimination so that peace and harmony can be ensured at large.<sup>ix</sup>

In pursuance with both bodies, the concerned authorities have reached on a conclusion for formulation of a single code which specifically deals with the provisions relating to social security for the entire workforce.

Prior to this, domestic workers have been included under the *Unorganised workers Social Security Act, 2008*<sup>x</sup>, *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*<sup>xi</sup>. So many bills<sup>xii</sup> had been introduced in Parliament for the protection of Domestic Worker. There have been other measures like extending the Rashtritya Swastha Bima Yojana (RSBY) to domestic workers and the notification of minimum wages by some state governments.<sup>xiii</sup> The Government enacted a Code on Social Security in 2018<sup>xiv</sup> for labour which includes unorganized sector and domestic workers are also part of it.

Recently, the Government of India has passed a Code on Social Security, 2020 in order to provide protection to domestic helpers. Under this Code, the domestic workers are included under the term ‘wage worker’ as “means a person employed for remuneration in the unorganized sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and the State Government, as the case may be.”

Some of the main provisions of the Code are:

- Establishment of Social Security Boards (Section 6);
- Maintaining of database for Inter-state Migrant workers;
- Registration of unorganized workers (Section 113);
- Formulation of welfare schemes for unorganized workers (Section 109);
- Helpline, facilitation centre etc. for unorganized workers ( Section 112);
- Workers Re-skilling Fund

Therefore, it can be assumed that these provisions all together will improve the vulnerable situation of domestic workers but only when this code gets implemented. The Code on Social Security, 2020 has been passed by the government but implementation is still pending.

## 2. Objectives

The specific objectives of the study are:

- To analysis the socio-economic profile of domestic helpers.
- To understand their occupation structure and wage structure.
- To examine the challenges (social/personal) being faced by them.
- To examine their working backgrounds.
- To examine what type of contact made by the employers to make the service of domestic helper available.
- To find out solution of prolonged problem in society.

## 3. Methodology

The present research study dwells on the socio-legal aspects of the domestic helpers. At Dwarka, New Delhi which is a big city having mix of urban, working and rural background people where demand of domestic worker is very high. Areas selected for conducting research were sector 16, sector 17 and sector 18 which are big residential apartment complex. Research methodology used for the study is *descriptive*. The data collected from primary as well as secondary sources. The primary data collected through interview schedule and questionnaires and telephonic interview. Secondary data collected through the books, journals, research papers, reports and reports published by ILO and Government of India.

The sample size for domestic helpers is 50 respondents which were selected through *convenient sampling technique*. For research

- 50 domestic helpers were interviewed for answering schedule.
- Second target groups were employers, 40 employers were interviewed.
- 2 placement agency agents were interviewed telephonically for answering for schedule.

#### 4. Data Analysis And Interpretation

**TABLE – 1.1**

Age	Below 15 yrs	15-20 yrs	20-25 yrs	25-30 yrs	30-35 yrs	35- 40 yrs	40-45 yrs	Above 45 yrs
No. of domestic helpers		6	11	20	6	1	3	3

Table points out the age- groups of the domestic helpers. It is evident that their maximum number falls within the age group of 25-30 years.

**TABLE-1.2**

Education Level	Illiterate	Primary	Below 10 <sup>th</sup>	Below 12 <sup>th</sup>	Graduation
No. of Domestic helpers	27	10	10	2	1

Table- II shows the level of education of the domestic helpers. Most of the domestic helpers are illiterate. They can understand their problems but they are not conscious about their rights. 10 domestic helpers have done primary education, 10 domestic helpers could not complete their 10<sup>th</sup>, 2 were below 12<sup>th</sup> standard, one was pursuing graduate but could not complete. This is what is inferred from the way they answered the question.

**TABLE –1.3**

Age got married	Before 14 years	Before 16 years	Before 18 years	Before 20 years	After 20 years
Number of Domestic helpers	4	18	13	9	3

Table shows at what age domestic helpers got married. Out of 50 domestic helpers, 4 got married before 14 years of age, 18 got married before 16 years of age, 13 married before 18 years, 9 got married after completing 18 but before 20 years and 3 got married after attaining 20 years of age.

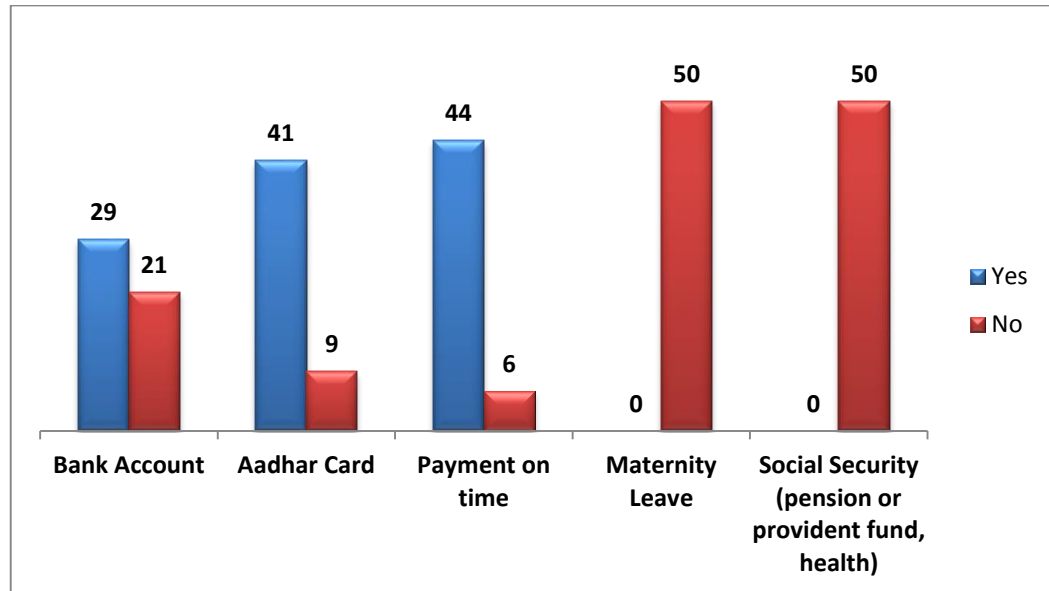
**Table -1.4: DISTRIBUTION OF DOMESTIC HELPERS ACCORDING TO THEIR STANDARD OF LIVING****Table (a):- Facilities**

Table indicates that out of 50 domestic helpers 29 had bank account, some had their bank account in their villages only. 41 had their aadhar cards, 44 receives payments on time while 6 receives delayed payment after one week. No one had benefit of maternity leave<sup>xv</sup> with wages and no social security for any one.

## 5. Findings

1. It is found that all domestic helpers are women. 42 out of the 50 domestic helpers are married.
2. It is found that 20 domestic helpers fall into the age bracket of 25 to 30 years. This is the age during which a person's earning capacity is at its peak. Another 11 of helpers are in the age bracket of 20-25 years and only 3 are 45+ years.
3. It can be interpreted that 30 of the domestic helpers belong to Hindu religion, 18 Muslims, 2 Christians.
4. Education is considered as the major component of human resource development and socio- economic development of the society. The result reveals that 27 of the domestic helpers are illiterate. Majority means 47 of the workers have not completed even 10<sup>th</sup> standard. As educational level is very low, so they never had any other option except domestic work.
5. Majority of domestic helpers have either 4 or more than four children in their family.
6. More surprising appreciating is that all 50 of domestic helpers does not send their children as their substitute. This shows that the domestic helpers don't want their children to continue in same type of work and so they are giving importance to education.<sup>xvi</sup>

7. It is found that 48 domestic helpers are coming in job directly not through agents. Only 2 came through placement agency later they also shifted to direct placement
8. As far as Adhar is concerned except 9 all had their adhar cards, 29 had bank accounts out of 50.
9. All 50 of domestic helpers take off for 4 days in a month. 44 receive their income on time 6 domestic helpers receive payment late by week.
10. It is very sad to know that 33 of the domestic helpers live in Kacha house on rent basis, 2 had their own kaccha house, 15 staying in a pakka house on rent basis in areas Rajapuri Sector 3 Dwarka, Goyla Dairy Dwarka, Dhobi Ghat near CRPF School Dwarka, Bharat Vihar A block Dwarka, Najafgarh.
11. It was very shocking to know that per 100 houses they are having only 2 toilets (privately constructed) and 2 bathrooms for all. In case of emergency they go to Sulabh, women pay Rs.1 and men pay Rs. 2. They do not have proper sanitation facilities in their house. They use common sanitation facilities.<sup>xvii</sup>
12. The analysis indicated that all of domestic helpers have not taken any loan.
13. It is revealed that all of the domestic helpers are ready to accept other type of work and want to change their job because of low self esteem if government provide alternative job<sup>xviii</sup> and 44 would preferred to go to their respective villages.
14. The table shows that 31 of the domestic helpers said that they don't know about government schemes and 39 of the domestic helpers were not aware about skill India<sup>xix</sup>.
15. In this study it was found that Social Security Schemes are totally absent, neither the employers nor the governments have taken steps to protect the domestic helpers in certain contingencies. Now it is for the government to take immediate measures for the extension of schemes to all workers including unorganized means domestic helpers also.
16. Domestic helpers availed weekly holiday i.e. Sunday. But they should also be given 7 holidays in a year with wages. If the domestic workers or helpers are asked to work on all the days, the efficiency of the helpers will diminish and their health<sup>xx</sup> will be affected.
17. As we found in this study that majority of women are involvement in this job so in their absence majority of time no one is there to look after their children and if drop them at another place, daily we are reading and finding crimes are happening against children. Creche<sup>xxi</sup> facility has to be provided to domestic workers children.
18. The employment of domestic helpers is not secure because appointment orders are not issued by the employers. There is, therefore, an imperative need to issue service cards for saving the workers from abrupt termination of their services even though they have put in considerable service. This would ensure them and their dependents some measure of security of benefits against contingencies like unemployment, disablement and sickness and if they are coming through placement agency their contract is

of 11 months, easily placement agencies escape from liability because of non binding of contract.

19. Regarding Placement Agencies- It was found that there is a close nexus between placement agencies and police. Two placement agencies were interviewed. One of the agent told that agent and placement agencies are two different persons. Agent is the person who brings the maids or servants or domestic workers or domestic helpers from their respective villages. On the question of accountability, view of placement agencies is that

- Parents of domestic helpers<sup>xxiii</sup> has to be blamed first for sending their daughters or sons to cities, the reason may be poverty and they treat and look their children only earning members. He told that in majority of the cases both of parents consume alcohol. Sometime domestic helpers are also having attraction to city life because of excitement and lure for metro city life style prefer to come and earn here. Sometimes agent play fiduciary relation with domestic helpers and their family members for job in cities, some time because of love affair and promise for marriage domestic helpers run away from villages with agents. The role of agent is only to get commission per domestic helper. Later on responsibility comes on bureau only.
- Police is also liable, police person brings or take domestic helpers to police station on a complaint by employer, but they don't book them for doing any crime. They don't lodge complaint against domestic helpers but they brings placement agencies to settle matter means placement agencies has to pay handsome amount to settle the disputes and agent easily escapes from liability after getting commission.
- Role of NGOs is also very important. Good NGO's are having sufficient funds so they can afford to stand for good cause. Problem is with small NGO's, those who are not having government or other funding, they also fix their commission to settle matters. Thus in reality things can get exaggerated with the involvement of NGO's.
- On the name of the verification hardly few agencies comply with the proper procedure. Police persons having the nexus with few NGO's (not reputed ones) both parties distributes their commission. It is the grievance of agencies that if police receive complaint either from employer or domestic helpers, they have to file a complaint, why the placement agencies have to be blamed and punished. Other point agency said that there should be accountability of agents also who brings the domestic helpers from their native places, drop at placement agencies and get their commission.

## 6. Suggestions:

### Need of the hour: A Special Legislation for domestic helpers

- There is an urgent need to bring about a change in the social and psychological attitude of the people towards domestic helpers and sensitize

them to their issues and plight. Domestic helpers social and legal position needs to be strengthened in our society so that they too can conduct their lives with dignity. Hence there is a need to improve the living and working conditions, as well as to promote decent employment and income opportunities for women domestic helpers.

- Unfortunately in our country domestic helpers come under unorganized sector and unregulated category. There is no dedicated government agency to deal with all the issues relating to domestic helper and employer. There is no check and balance on employer because of strong and dominating position. Even it is not clear in case of domestic helper, who is employer? Whether government, placement agency, agent and master with whom if they resides. In spite of so many legislation and bills, not even a single legislation is adequate to address the problem. There must be some government agencies to deal with the issues timely, effectively and in a cost efficient ways to adjudicate all such issues among domestic helpers and placement agencies and household employers.
- Recently Labour Code on Social Security 2018<sup>xxiii</sup> has been passed it includes domestic workers also. It lays down the procedure for getting enrolled linked with aadhar card. People are not aware about this new introduced code. It is the duty of the Government to explain the procedure to follow and implemented otherwise there is no sense to waste the hardened money of tax payer in parliamentary proceedings if there is lack of political will to implement. It was found in this study that out of 50 domestic helpers, 41 had there aadhar cards with them because the government had interest into the implementation of aadhar card. There is no requirement to have so many laws if they cannot cater the need of target group.
- Every citizen should to be treated with equality irrespective of special status or sovereign immunity.
- Role of media is very important to highlight issues of domestic workers and for spreading awareness about the government schemes among the people which are away from the healthy world. For this, use of regional languages should be adopted for generating awareness.
- In order to overcome the problems of domestic workers and for addressing their issues most of the countries have adopted the ILO convention on domestic workers and taken necessary steps for implementation of specific legislation but India has not ratified ILO's convention yet, therefore there is urgent need to make separate legislation for the protection of domestic helper.

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<sup>i</sup> Nicola Piper, 'Contributions of Migrant domestic workers to sustainable development' (UN women United Nations Entity for Gender Equality and the Empowerment of Women, Thailand, 2013).

<sup>ii</sup> Monalisa Saha, 'Are women workers really benefiting from women-centric modifications at their workspace?' (2019) 61 JILI 260.

<sup>iii</sup> Black's Law Dictionary.



<sup>iv</sup> Defined broadly, unorganized sector where workers are home based, self employed or wage workers, means they are not having any written contracts regarding their employment with their employer. Ruma Ghosh p. 67

<sup>v</sup> Labour Code on Social Security, 2018, cl. 2.40

<sup>vi</sup> Legislation such as Minimum wages Act 1948, Employee's compensation Act, 1923, Standing Orders Act 1948, Trade Union Act 1926, Factory Act 1948, Payment of Wages Act 1936, Industrial Disputes Act 1947, Maternity Benefit Act 1961 and Laws dealing with provident funds and so on. All these laws covering matters such as minimum wages, working hours, overtime allowance, weekly rest for one day, paid holidays on festivals, paid holidays on every Sunday, compensation in case of death of employee to the dependants and injury for permanent total disablement, partial disablement and occupational injury in the course of employment and out of course of employment.

<sup>vii</sup> Submitted its report in June 2002

<sup>viii</sup> The Sustainable Development Goals (SDGs) came into effect in January 2016, and they will continue to guide United Nations Development Programme (UNDP) policy and funding until 2030.

<sup>ix</sup> Annual Report (2018-19) Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment, Government of India. Available at: <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>. (last visited on July 15, 2020)

Sashi Rani, "Development with inclusive policy", *Yojana*, September 2019, ISSN-0971-8400 p.58

<sup>x</sup> The Government of India passed the landmark Unorganized Workers Social Security Act in 2008. The purpose of the Act was to provide India's large unorganized sector workforce with a minimum level of social protection that would enable them to endure income and health related shocks, stay out of poverty and ultimately allow them to lead dignified lives.

<sup>xi</sup> S.C.Srivastav, 'Legal Protection & Social security in unorganized sector' (Bookline Publishing House, New Delhi, 2017)

<sup>xii</sup> The Domestic Workers (condition of service) Bill, 2008, The Domestic Workers (Welfare and Regulation of Employment) Bill, 2015, The Domestic Workers Bill, 2016, The Domestic Workers (Decent working condition) Bill, 2015, The Domestic Workers (Regulation of Work and Social Security) Bill, 2017.

<sup>xiii</sup> In April 2004 the Karnataka Government passed the Minimum Wages Act for domestic workers. Similar Notification were issued in the state Government of Kerala (23<sup>rd</sup> May 2005), Andhra Pradesh (24<sup>th</sup> April 2007) and Rajasthan (4<sup>th</sup> July, 2007). The State of Tamil Nadu also included domestic workers in their unorganized workers group. It constituted domestic workers welfare board on the 22<sup>nd</sup> January 2007. Further it issued notification for the Minimum Wages Act for Domestic workers in August 2007. The State of Maharashtra enacted Maharashtra Domestic Workers Welfare Board Act, 2008<sup>xiii</sup>. Bihar and Meghalaya also have brought domestic workers under the schedule employment of Minimum Wages Act, 1948. Efforts are in other states as well.

<sup>xiv</sup> On the recommendation of second national commission on labour, the Ministry of Labour and Employment has taken steps so proposed four labour codes after making amalgamation of 44 existing central labour laws. Labour Code on Social Security is one of them. Ruma Ghosh, 'Protecting the Unprotected' *Yojana* July 2017 p.66

<sup>xv</sup> Under Maternity Benefit (Amendment) Act, 2017 Sec. 11A(1) an employer is mandated to establish a creche within or separately from the establishment if it employed more than 50 employees, available at <https://labour.gov.in/sites/default/files/Maternity%20Benefit%20Amendment%20Act%2C2017%20.pdf> (last visited 13 February, 2020)

The maternity Benefit Programme has been implemented from 1January, 2017 in all the districts of the country. The Programme is named as Pradhan Mantri Matru Vandana Yojana (PMMVY). Under this programme, "a cash incentive of Rs. 5000 is provided directly to the bank/post office Account of Pregnant women and Lactating Mothers for first living child of the family,subject to fulfilling specific conditions relating to maternal and child health". "Kilkari & Mobile Academy is to create proper awareness among pregnant women, parents of the children and field workers about the importance of Anti Natal Care (ANC), institutional delivery, Post natal Care and immunization".

<sup>xvi</sup> Those persons belonging to EWS category and who are not included for reservation for SCs, STs and OBCs would be entitled to get 10% reservation in education and employment. Article 15(6) and 16(6) have been inserted in the Constitution vide the Constitution (103<sup>rd</sup> Amendemnt, 2019).

<sup>xvii</sup> Among all other important schemes, construction of toilets at household levels is being done under Swachh Bharat Abhiyaan to protect dignity & safety of women. *Supra* 7 id 59.

<sup>xviii</sup> Self Employed Programmes- The Indian Government introduced a new scheme called Prime Minister Employment Generation Programme (PMEGP) after amalgamation of Rural Employment Generation Programme

(REGP) with 'Prime Minister Rozgar Yojana (PMRY) with effect from 1-4-2008. The main objectives of PMEGP are:-

- (i) Setting up of new self employment ventures for rural and urban people (to provide job opportunities) and;
- (ii) To bring closer broadly spread traditional artisans.

<sup>xix</sup> The Skill India initiative was launched in 2015. A flagship Programme Pradhan Mantri Kaushal Vikas Yojana (PMKVY) is aimed at mobilizing the youth to take up industry relevant skill training and recognize and certify prior learning. PMKVY's first version launched in 2015, had a target to train 1 crore youth by 2020. During 2015-16, 19.8 lakh youth were trained as against the target of 24 lakhs.

<sup>xx</sup> Article 43 of the Indian Constitution also directs that "the state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, condition of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities".

Article 47 of DPSP provides for "the duty of the state to improve public health. However, the court has always recognised the health as being integral part of the right to life".

*Paschim Banga Khet Majoor Samiti V. State of West Bengal* (1996)4 SCC 37.

*In Consumer Education and Research Centre V. Union of India* (1995) 3 SCC 42.

<sup>xxi</sup> Women centric legislation that regulated paid workspace. Section 48 of the Factories Act, 1948; section 44 of the Inter state Migrant Workmen Act, 1979; Section 12 of the Plantation of Labour Act, 1951; Section 35 Building and the Other Construction Act, 1996; Section 14 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 mandated the creation of crèche at workspace if it employed a certain number of women.

<sup>xxii</sup> Parents of domestic helpers treat girl child as a burden because they have to start lump sum of their savings for their daughter's wedding.

<sup>xxiii</sup> This new Social Security Code would not only be a decent signal or relief to the resident of one state but a honourable right for all workers of the country. Under this code there would be an Unique Aadhar Based Registration System that would be compulsory for all workers. Secondly, there would be Portable Social Security Account - would be opened for all workers. After registration this portable security account would be linked to the AADHAR number of the worker. They can see and care of the contribution transfer and benefit entitlement even if worker shifts or migrates from one state to the other. <http://labour.gov.in/whatsnew/draft-labour-code-social-security-welfare>.