

Women's Actions through the FPAR

The FPAR created space for women unionists to share their knowledge on the wage structure of factory workers comprising minimum bonus, Dearness Allowance (DA), inflation neutralisation, social security and other benefits. Domestic workers got the information to compare their wages from employers and reported that there were no regular increments in their wages. FPAR finding also demonstrates that there is no guarantee that real wages will be protected with regular periodicity, and the level of real wage protection will also vary. This is important because if there is no set minimum wage for the sector, the increase will serve to neutralise inflation. If there is no practice of increasing annual wages, the protection of real wages is left to the employer.

Recommendations

To the government of India:

- Ensure and monitor the implementation of the national minimum wage for domestic workers as stipulated in the Minimum Wage Act⁶ 1948.
- Recognise domestic work as work and provide legal protections and rights to domestic workers including social protection and rights to organise.
- Ratify ILO Convention No. 189 on Domestic Workers and ensure that the employers and recruitment companies abide by the Convention No. 189 and relevant international labour standards as set by ILO.

To the government of Tamil Nadu:

- Immediately implement the national minimum wage for domestic workers as stipulated in the Minimum Wage Act⁷ 1948.
- Provide systematic grievance mechanisms to address the labour and human rights violations against domestic workers in the workplace, as stated in the Minimum Wages Act 1948.
- Formulate labour inspection mechanism for domestic workers in accordance with the international labour standards set by the ILO.

To the employers and recruitment companies:

- Provide adequate and accountable information on working conditions including overall roles/responsibilities/tasks, working hours, wage and benefits through a written employment contract.
- Abide by the Minimum Wage Act of 1948 and provide a living wage that will meet the basic standards of living. For extra work involving extra time, a commensurate hourly wage should be observed.

⁶ Ibid.
⁷ Ibid.

About Penn Thozhilalargal Sangam (PTS)

Penn Thozhilalargal Sangam (Women Workers Union) is an independent trade union of women workers in the informal sector in Chennai, Kanchipuram and Thirvallur Districts. With a membership of more than 18,000 domestic workers, construction workers, sweepers and street vendors, the union has been campaigning for fair wages, social security and a violence-free workplace since 2001.



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APWLD, a regional feminist and women's rights organisation with 266 members in 30 countries in Asia and the Pacific. This FPAR is part of APWLD's Labour Programme. APWLD worked with and supported 11 partner organisations from nine countries to conduct FPAR on women's labour rights in Asia and the Pacific between 2017 and 2019.



The situation of domestic workers in Chennai City, India

In the last three decades, since economic liberalisation was introduced in India in 1991, the decline in rural employment, low wages in agricultural employment and the removal of subsidies to the small agricultural sector have led to rural-urban migration in many parts of India, including Chennai. The shift in the employment sector in the Chennai area is driven by infrastructure development which tends to accommodate the needs of the middle class, such as big gate housing, shopping malls, entertainment centres and Information Technology (IT) parks. Today, women's employment is largely concentrated in the household sector, IT industries and hotels as facility workers, municipal cleaning work, retail and packaging.

The increase in domestic work can be partly explained by the phenomenon of the decline in the agricultural sector employment, which has prompted rural farm workers to migrate to cities in search of new sources of livelihood. In the decade after the economic liberalisation, there was a nearly 120 percent rise in the number of domestic workers in India. According to the International Labour Organisation (ILO), there are at least 4.75 million¹ domestic workers in India, of which three million are women domestic workers. Similarly, the 2011-2012 National Sample Survey Office (NSSO) data puts the number of domestic workers at 3.9 million.² However, trade unions estimate the number to be around 10 million with women constituting over two-thirds, and a vast majority coming from vulnerable communities – Adivasis, Dalits, landless or Other Backward Classes (OBCs). Nearly all of them are migrants from rural areas or inter-state migrants. In Tamil Nadu alone, trade unions estimate the number of domestic workers to be about 1.8 million³.

Working conditions in the domestic work sector continue to be unregulated. There is no written employment contract that specifies the rights and obligations of employers and workers. The absence of state policies regulating working conditions makes domestic workers vulnerable to various forms of abuse and rights violations. There are no guidelines and tools to calculate domestic workers' wages or record the time taken for certain jobs. Serious rights violations such as forced labour, physical and sexual abuses rarely get reported, not to mention the non-existence of formal grievance redressal mechanisms for domestic workers.

Unions have played an important role in establishing a grievance redress system, assisting workers to keep wage and employment records, and resolving conflicts that arise between domestic workers and their employers.

¹ The number is considered as severe underestimation and the true number to be more between 20 million to 80 million workers. Retrieve from https://www.ilo.org/newdelhi/areasof-work/WCMS_141187/lang-en/index.htm

² Estimated taken from January 2019. Retrieve from <https://thewire.in/labour/domestic-servants-informal-workforce>

³ Bhattacharya, D., Sukumar, M., Mani, M., The Centre for Workers' Management (2016) 'Living on the Margins: A Study of Domestic Workers in Chennai' retrieved from <https://www.amrc.org.hk/sites/default/files/Domestic%20workers%20in%20Chennai%20India%20-%20CWM.pdf>

Feminist Participatory Action Research (FPAR) of Pen Thozhilalargal Sangam (PTS)

Through the Labour FPAR, PTS together with the Garment and Fashion Workers Union (GAFWU) organised women domestic workers to identify problems and establish workforce mobilisation strategies in the following three community areas: AKR Nagar, Mogaippair; Hastinapuram, Chrompet; and Perumbakkam. The FPAR research team has conducted one training, one union programme meeting and 20 district community meetings. A total of 951 women union leaders, members and domestic workers participated in the FPAR meetings and processes.

FPAR FINDINGS:

The working conditions of women domestic workers in Chennai, India

Lack of Access to Health Services and Social Protection

Domestic workers suffer from severe body aches due to physical strains and repetitive stress injuries, gynaecological problems due to heavy physical work, acute urinary problems due to lack of access to toilets, and recurring colds due to handling water continuously. Employers blame the workers for these problems, and workers also believe that it is their own weak physical constitution that causes their illnesses. While the latter may be true, especially given their lack of nutrition, it is also valid that most of these illnesses are due to the conditions in which domestic workers are made to work. Most of the time, no provisions are made by employers to ensure their physical wellbeing. The workers are not covered by any social security, medical insurance and accident protection although they are entitled with the protections as stipulated in the Unorganised Social Security Act 2008.

With no maternity benefits, domestic workers have only one option to work late into their pregnancies, risking their own life and that of the child. Entitlement to maternity leave is a major concern for women domestic workers. The lack of coverage is due to the exclusion of domestic workers from existing legal provisions that establish the right to maternity leave. In addition to maternity leave entitlements, the provision of cash benefits during such leave is also important to domestic workers as this allows women to suspend their economic activities around childbirth. Without income replacement, however, the provision of maternity leave alone is likely to lose its practical effect, especially among low-income populations that rely on wages, such as domestic workers.

In addition, the lack of limits on the weekly hours of work is a critical issue that affects workers' health, both physical and mental. The determination of weekly rest periods is an important element in working time regulations. This ensures that workers enjoy at least one day off per week for both physical rest and a mental break from the work environment. Workers participated in the FPAR journey also raised the issues on the lack of access to drinking water, toilets, and equipment that reduce physical strain at work, protection from the weather (some workers in Ambattur area narrated that they are made to wash dishes and clothes outside the house without any protection even during heavy rains) and provision of leave in case of illness.

The fact that employers are not in any way held responsible for the health and social security needs of their workers also allows the employers to push the workers to work even when they are sick. When the workers are too sick to work, the employers' response, in most cases, has been to terminate the workers. Organisations of informal workers have always sought health and social security benefits from the state as the premise has always been that employers are non-identifiable. However, this should not be the case for domestic workers.

For domestic work, the employer-employee relationship is not clearly defined for either the worker or employer. While it is almost mandatory for domestic workers today in most urban centres to register for police verification, which in itself presupposes that workers are potential criminals, there is no equivalent regulation or any mechanism for employers to have them registered and make them responsible for the safety and social security of the workers. However, in the absence of such a mechanism to hold employers accountable, registering domestic workers under Employees' State Insurance (ESI) could be a possible way forward for them to access quality public healthcare.



Forced overtime with no compensation

Due to the lack of a written contract that describes the roles of the workers, employers often ask workers to perform additional tasks or the same tasks for more people in case of house guests without any extra pay. The extra hours required to complete these additional tasks are also not recognised. If workers raise concerns about this, in most cases, employers invent issues of underperformance of the workers to avoid payment. Priority issues for the unions organising domestic workers include standardisation of work schedules, tasks and wages.

Lack of affordable and adequate housing

The issue of high, unaffordable rents for houses in the city was one that was repeatedly raised in the discussion on wages and why these were not enough to support even a nuclear family. This was inextricably linked to the fact that wages in an area are linked to its inhabitants' affluence. If workers moved to a locality where rents were cheaper, finding employers nearby paying better wages would be harder, and these workers would have to travel long distances to be able to earn the same wage but spend a considerable amount of their wages on travel costs. For a worker living near a middle- or upper-class locality where wages are comparably higher, rents would be higher too and lower their disposable income. This is a paradoxical situation that affects domestic workers in particular.

Discrimination and harassment at workplaces

Domestic workers find them in a situation where they are not treated with their dignity, and hence experience multiple forms of discrimination and harassments. Domestic workers face discrimination in the use of lifts, toilets as well as in how, when and where they eat to list a few. They may also face uncalled for attention from male members of the household, which most workers hesitate to report. They are most likely to quit the job rather than report sexual harassment to protect their jobs.

Lack of implementation of the Minimum Wage Act⁴

The Minimum Wage (MW) Act has been in place since 1948 and the right protection for a domestic worker as a worker is expressly stipulated in the law. The Act defines the employee as, "who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical...other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person". Each state is responsible for the implementation and enforcement of this Act.

However, in Tamil Nadu, domestic workers were brought under the coverage of the Minimum Wage Act only in 2007. The minimum wage ranged from Rs 6,456 (USD 86.74) per month to Rs 7,595 (USD102.05) per month was decided only in 2018⁵. The government is refusing to prescribe a living wage, and keeping the issue on a backburner. PTS evolved a strategy to assist workers and collectively set their own rates, starting from the union branch level.

⁴ The Minimum Wage Act of 1948 retrieved from <http://www.ilo.org/dyn/travail/docs/623/Minimum%20Wages%20Act%201948.pdf>

⁵ The range of wages depends on the zones the domestic workers work; corporation areas, municipal areas, and other areas. According to the notification, Domestic workers are categorised as unskilled workers. Source: Tamil Nadu Government Gazette Extraordinary on Fixation Of Minimum Rates Of Wages For The Employment In Domestic Work Under The Minimum Wages Act, 1948 (Central Act XI Of 1948.) http://www.stationeryprinting.tn.gov.in/extraordinary/2018/257_Ex_II_2.pdf