

GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

Draft National Policy for Domestic Workers

The Ministry of Labour & Employment set up a Task Force to evolve policy framework for domestic workers in the context of regulatory mechanism and providing social security. The Task Force has now submitted its report alongwith Draft National Policy for Domestic Workers. Draft National Policy is enclosed.

2. Draft National Policy for Domestic Workers is placed in the public domain for inviting comments and suggestions which can be forwarded at the following e-mail addresses by 30.11.2011.

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DRAFT NATIONAL POLICY FOR DOMESTIC WORKERS

AS SUGGESTED BY THE TASK FORCE CONSTITUTED BY THE GOVERNMENT

1 PREAMBLE

- 1.1 The Government accords high priority to making decent work a reality for domestic workers.
- 1.2 Considering that domestic work is a sector:
 - 1.2.1 That contributes significantly to the economy by providing care services, enabling men and women with family responsibilities to engage in productive employment and helping increase paid employment within the country;
 - 1.2.2 That remains invisible and under reported, both in the labour market and in the society;
 - 1.2.3 That enables men and women with little education to gain first entry in the labour market, without which their employment avenues will be further limited;
 - 1.2.4 That engages a large population of rural men and women from vulnerable communities and backward areas, many of whom are illiterate and unexposed to the urban way of life;
 - 1.2.5 Characterised by lack of job security, decent wages and proper work conditions, defined work time, weekly holiday and may suffer from loneliness, violence, abuse, and sexual harassment at workplace, victimization at the hands of traffickers/ placement agencies, forced migration, and the work is generally undervalued and many domestic workers remain overworked, underpaid and unprotected;
 - 1.2.6 Insufficiently covered by social protection measures, such as health insurance, maternity protection, old age security, accidental benefit;
 - 1.2.7 That offers limited access to skills development resulting in career stagnation and no significant increase in the well being of the worker;
 - 1.2.8 That is not regulated, as it concerns work with private households as employers, multiple work arrangements such as part time workers, full time workers and live-in workers;
 - 1.2.9 Beset with the presence of unregistered placement agencies that tend to exploit the workers;
 - 1.2.10 Where no child should be employed;
- 1.3 It warrants particular attention rather than exclusion and hence calls for inclusion in the existing legislations as well as supplementing these with legislations specific to domestic

workers, to enable them to fully enjoy their rights as workers.

1.4 Recalling that the Constitution of India guarantees the fundamental right to equality to all citizens and the fundamental principles of right to livelihood and rights at work apply to all women and men who engage in economic activity including domestic work, the domestic workers- like other workers- have the right to:

- 1.4.1 Minimum wage protection and suitable limitation of payments in kind;
- 1.4.2 Normal hours of work, including compensation for overtime, and suitable daily and weekly rest periods;
- 1.4.3 Paid annual leave and sick leave;
- 1.4.4 Social security coverage including maternity benefits;
- 1.4.5 Safe and healthy place to stay and sufficient food (if the worker stays in the home of the employer i.e. a live-in worker);
- 1.4.6 Protection against sexual harassment at the place of work;
- 1.4.7 Safe working environment and protection from hazards and accidents at workplace;
- 1.4.8 Work with dignity and respect;
- 1.4.9 Register as workers with the Labour Departments and be recognized as workers;
- 1.4.10 Access schemes and benefits which are available or will be made available to other categories of workers.

1.5 Suitable amendments may be made in all the relevant legislations applicable to workers generally to explicitly include domestic workers and to enable their effective implementation and enforcement. The legislations include, but not limited to, the following:

- 1.5.1 The Workmen's Compensation Act 1923,
- 1.5.2 The Trade Union Act 1926,
- 1.5.3 The Payment of Wages Act 1936,
- 1.5.4 The Minimum Wages Act 1948,
- 1.5.5 The Maternity Benefit Act 1961,
- 1.5.6 The Contract Labour (Regulation and. Abolition) Act, 1970.
- 1.5.7 The Equal Remuneration Act 1976 ,

- 1.5.8 The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act 1979.
- 1.6 The Government deems it appropriate to formulate a National Policy to establish and promote the labour rights of domestic workers and to extend to domestic workers all such rights and protection which is available to other categories of workers. It is also recognized that domestic workers should be covered under the existing labour legislations, if required, by making a suitable amendment to the legislation; as well as in existing and proposed laws and schemes meant for other workers generally.

2 AIMS AND OBJECTIVES

- 2.1 The Policy places an obligation on the Central and State Governments to take effective and appropriate measures to ensure that domestic workers are able to exercise their labour rights as guaranteed under the Indian Constitution. The policy aims to promote domestic workers' human rights and fundamental principles and rights at work by bringing them in the ambit of labour legislations, and relevant labour policies and schemes that are available to other workers in India. The Policy lays down a labour rights framework to facilitate the inclusion through amendments in Central and State labour legislations where required, and setting up of legislative mechanism to address any inconsistencies, insufficiencies and inapplicability arising from their specific nature of work for which existing legislations are not able to address.
- 2.2 *The Policy aims at providing a direction for Central and State Governments to establish formal rights of domestic workers and ensure domestic workers can exercise their rights by:*
- 2.2.1 Explicitly and effectively expanding the scope of applicable legislations to domestic workers by making necessary amendments in legislations, policy and schemes to grant domestic workers rights that are enshrined in laws for other categories of workers;
 - 2.2.2 Setting up of legislative mechanism to address any inconsistencies, insufficiencies and inapplicability arising from their specific nature of work for which exiting legislations are not able to address;
 - 2.2.3 Setting up an institutional mechanism which provides for social security cover, social protection benefits, fair terms of employment, grievance redressal and disputes resolutions, which can be easily used by the domestic workers;
 - 2.2.4 Facilitating the process to register as workers and being recognized as workers;
 - 2.2.5 Promoting the rights of domestic workers to organize, form their own associations or join an organisation of their choosing;
 - 2.2.6 Promoting the skill development as one of the entry points to professionalize domestic work and enhance employability, wages and living and working

conditions;

- 2.2.7 Setting up necessary mechanisms to protect the rights of domestic workers who seek work abroad;
 - 2.2.8 Setting up necessary mechanisms to regulate placement agencies;
 - 2.2.9 Establishing the roles and responsibilities of the government, the private household employer and the workers and employers organizations, including through the adoption of the Code of Practice;
 - 2.2.10 Creating public awareness of domestic work as legitimate labour market activity and the household employers' obligations under the law to provide decent working and living conditions;
- 2.3 The Policy shall be read and interpreted as to promote, protect and advance the the aims and objectives, and any narrow or technical interpretation of the provisions is to be avoided.

3 SCOPE AND DEFINITION

- 3.1 **Domestic worker:** For the purpose of this policy, the “domestic worker” means, a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary or permanent, part time or full time basis to do the household work, but does not include any member of the family of an employer:
- 3.1.1 **Types of domestic workers**, based on the hours of work and nature of employment relationship: The domestic workers can be:
 - 3.1.1.1 Part-time worker i.e. worker who works for one or more employers for a specified number of hours per day or performs specific tasks for each of the multiple employers every day.
 - 3.1.1.2 Full-time worker i.e. worker who works for a single employer every day for a specified number of hours (normal full day work) and who returns back to her/his home every day after work.
 - 3.1.1.3 Live-in worker i.e. worker who works full time for a single employer and also stays on the premises of the employer or in a dwelling provided by the employer (which is close or next to the house of the employer) and does not return back to her/his home every day after work.
- 3.2 **Employer:** For the purpose of this policy, the “employer” means, a person or a household who employs or benefits from the employment of domestic worker/s, irrespective of the number or type of domestic worker/s employed, or the nature of the employment or the time period for which such employment exists or the nature of activity/ies performed by the domestic worker/s.
- 3.3 **Placement agency/agents:** A placement agency is any organization/ agency/ institution/

association/ union, public or private business or individual/s providing placement, sourcing and recruitment services relating to domestic workers.

4 SUBSTANTIVE PROVISIONS

- 4.1 **Legislative inclusion and designing specific legislative mechanism:** Domestic workers shall be included in the appropriate existing labour legislations, if they are not included as of now, and suitable amendments shall be made, if required to enable their inclusion. The Central Government, through the mechanisms set up to implement this Policy, shall facilitate in identifying what is the nature, if any, of the constraints in including domestic workers into existing major labour legislations (see for example paragraph 1.5 this Policy), and others laws, programs and polices, as appropriate. If the provisions of the existing legislation/s cannot be extended to domestic worker to provide equivalent protection available to other categories of workers generally because of practical or other reasons, reasons thereof shall be provided for the same. In such cases the appropriate Government shall take measures to achieve equivalent protection by other means, including legislative means, as necessary, and address any inconsistencies, insufficiencies and inapplicability which existing legislations are not able to address.
- 4.2 **Right to register as workers:** Domestic workers have the right to register as workers with the State Labour Departments (or any other suitable mechanism devised under the Unorganized Sectors Workers Act etc.). Registration of the domestic workers should be done under the aegis of the Ministry of Labour and Employment and its State Labour Departments. Such registration is to certify the worker status of the domestic workers, with a view to facilitating their access to rights and benefits accruing to them as workers and enable the domestic worker to seek legal remedies in case of disputes related to wages and conditions of work/service between the domestic worker and the employer of the domestic worker.
- 4.3 **Right to organise:** Domestic workers have the right to form their own associations, trade unions or join an organisation of their choosing. The Central Government in collaboration with workers organizations and organizations of domestic workers shall identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers' organizations of their own choosing and to the right of organizations of domestic workers to join workers' organizations, federations and confederations.
- 4.4 **Right to fair terms of employment, social protection and labour welfare:** Domestic workers have a right to fair terms of employment relating to: minimum wage protection; setting suitable limitation on payments in kind; establishing normal hours of work, rest periods, paid leave etc.; access to social security; work in safe and healthy workplaces; and protection from abuse, harassment and violence. Workers shall have social security and social protection and such social security benefits will be in accordance with legislations which includes, amongst others: health and maternity benefits (including, but not limited to health insurance, cost of institutional delivery, pre and post partum support); death and disability benefits (including, but not limited to life insurance, accidental insurance and compensation in case of accidents); old age benefits (including, but not limited to gratuity and pension). Appropriate implementation mechanisms shall be developed at the State levels to facilitate workers access to decent working conditions. In addition, implementation of health insurance scheme, RSBY to domestic workers shall be undertaken as a matter of priority.

- 4.5 **Protection of domestic workers who seek work abroad:** Domestic workers who are recruited to work overseas must be protected from abuse and exploitation. For the purpose of this policy, migrating domestic workers also include Indian workers who accompany their employers on overseas long term assignments. Legislations and policies need to ensure that domestic workers taking up work abroad or accompanying their employers abroad shall be appropriately briefed and made aware about their rights and privileges in the country of work and trained as appropriate as part of the existing emigration procedures of the Ministry of Overseas Indian Affairs. Furthermore, the Ministry of Labour and Employment shall, in collaboration with the Ministry of Overseas Indian Affairs, set up a mechanism to ensure potential migrant domestic workers receive written job offer or contract of employment addressing the terms and conditions of employment prior to crossing national borders for the purpose of taking up domestic work to which the offer or contract applies, and the terms of conditions of the contract must be explained to the worker in a language which is understood by her/him. The mechanism shall also include measures to ensure that domestic workers are briefed about the helpline numbers or the contact points, such as embassies, or names and address of the civil society organizations/workers organizations in the country of work, which can provide assistance and relief in case of infringement of any rights, abuse or conditions of distress, which the domestic workers may face. This policy shall not affect any more favourable provisions applicable to domestic or migrant workers under other bilateral/multilateral instruments/treaties or foreign legislations, policies, programs or schemes etc.
- 4.6 **Rights to skills development:** Domestic workers have a right to enhance their professional skills and employment opportunities through skills development. Domestic work is a skilled occupation which requires skills ranging from basic skills to highly specialised skills. State Governments shall make efforts to establish policies and programmes that encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate. In pursuance of this, State Governments are encouraged to include domestic work as one of the occupations in the State level implementation of the National Skills Development Initiative (SDI) (an initiative of the Directorate-General of Education and Training, Ministry of Labour and Employment, Government of India). As part of the work of the National Skills Development Initiative, DGET has established a national competency standard for domestic work which are being used to certify domestic workers' skills under the Modular Employable Skills (MES) scheme implemented by DGET through the registered Vocational Training Providers (VTPs) and Government ITIs/ITCs. It has also developed the curriculum, teaching and learning materials which can be readily used at the State levels. Further, the National Skills Development Initiative is encouraged to put in place measures to carry out pre and post training evaluation to monitor the outcomes of the training programs in terms of competency built, the effect of the training on job growth, job enrichment, enhancement of wages and quality of work and family life and living conditions of the domestic workers who enroll and successfully complete the training programs.
- 4.7 **Regulation of placement agencies:** The Central Government shall establish a mechanism for the regulation of the placement agencies, which will promote the rights of workers to just and fair working conditions. Till such a mechanism is formulated, such agencies should be mandatory registered under the Shops and Commercial Establishments Act, 1953. This registration will be done in addition to and irrespective of the registration/non registration of such agency under any other existing Act or legal provision; and the placement agencies should maintain and make available all necessary records pertaining to domestic workers

placed, details of the employers, wages, mode of payment of wages, working hours, nature of work, and duration of placement and the copy of the contract to be sent every six months to the State Labour Departments.

- 4.8 **Grievance redressal:** All domestic workers, either by themselves or through a representative, shall have easy access to courts, tribunals or other dispute resolution procedures under conditions that are not less favourable than those available to workers generally. The Ministry of Labour and Employment shall make sure that domestic workers are able to secure access to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment. The Ministry of Labour and Employment shall set up an appropriate grievance redressal mechanism to protect the rights and welfare of domestic workers. Such mechanism shall provide a single window access to domestic workers for all their needs, whether related to welfare matters, social protection, social security, protection from abuse, harassment and violence, addressing grievance against the employer or placement agency, or for settlement of disputes through the courts or through alternate dispute resolution mechanisms. In case of a dispute between the domestic worker and the employer; or between domestic worker and placement agency; or between the placement agency and the employer, where ever possible, the parties shall be encouraged to settle the dispute amicably, and otherwise by mediation and/or arbitration. In such cases, the domestic workers, either by themselves or through a representative (such as a trade union or a domestic workers organization or a civil society organization or any other representative nominated by the domestic workers) shall make the request for dispute settlement. Any mechanisms described above, however, do not prevent the domestic workers or any other party to the dispute from seeking legal remedies, available under any other law of the state.
- 4.9 **Awareness creation on employers' obligations:** The message that domestic work is a legitimate labour market activity which is undertaken in an employment relationship and that workers are entitled to a enjoy fair terms of employment and decent working and living conditions must be disseminated to the public. The Ministry of Labour and Employment, in collaboration with workers' and employers' organizations, representative organizations of domestic workers and employers of domestic workers and other stakeholders, will develop a Code of Practice for domestic workers and their employers and work towards creating public awareness on this. The Central and State labour departments will provide information on good practices in the employment of domestic workers, legal requirements for employment of domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers. To enable Labour Department officials to provide effective information and support to employers of domestic workers and others, stakeholders' trainings, workshops and seminars shall be organized to develop a clear understanding of this Policy, domestic workers' issues and the progress of the Policy implementation and on any other issues that further the aims of this policy.

5 IMPLEMENTATION OF THE POLICY

- 5.1 The Ministry of Labour and Employment, Government of India, shall be responsible for establishing the mechanisms to implement the National Policy on Domestic Workers, starting with setting up the Implementation Committee comprising representatives of the Ministry of Labour and Employment, Ministry of Women and Child, workers' and employers' organizations, representative organizations of domestic workers and employers of domestic workers and other stakeholders as deemed appropriate.

- 5.2 The Implementation Committee shall undertake the following activities:
- 5.2.1 Monitor the implementation of the Policy particularly in ensuring that necessary actions are taken by the responsible authorities to extend legislative coverage to domestic workers for the purposes of protecting their rights as workers, and in instances where existing mechanisms are deemed inadequate to grant domestic workers equivalent protection, suggest additional mechanisms that may be considered.
 - 5.2.2 Define the functioning of a tripartite institutional mechanism at the State level which shall be responsible for securing domestic workers' access to social protection, welfare measures, fair wages, and decent conditions of work, and address any grievances.
 - 5.2.3 Evolve a mechanism for seeking a report from the State tripartite institutional mechanism.
 - 5.2.4 Function as information source for domestic workers and employers on areas relating to workers' rights.
 - 5.2.5 Collect and analyse information, and take stock of the progress in meeting the policy objectives with a view to devising strategies and guidelines to be implemented by the appropriate Governments . It shall also be responsible for taking strategic decisions to improve the implementation of the policy and the Implementing Committee will submit recommendations to the Ministry of Labour and Employment accordingly.
- 5.3 The Ministry of Labour and Employment as part of its role to implement the Policy will also facilitate implementation of regular situational analysis and assessments, especially respect to payment of wages, working hours, safe and healthy living and working condition. Other areas include promoting and facilitating the collection of accurate statistics on domestic workers through national statistical instruments.
- 5.4 As referred in paragraph 5.2.2 an appropriate tripartite institutional mechanism on Domestic Workers shall be established at the State levels to implement the substantive provisions of the Policy, particularly registration of the workers, facilitating the regulation of work, collection of contributions for social protection, extension of the social security benefits, facilitating work related to regulating placement agencies and to providing access to grievance redressal through provision of a help line. The tripartite institutional mechanism will have adequate representation of the State labour departments, employers' and workers' organizations, representative organisations of domestic workers and employers of domestic workers and other stakeholders.
- 5.5 Respective State Governments shall set up appropriate grievance redressal mechanisms, which will protect the rights and welfare of domestic workers. Such mechanisms shall provide a single window access to domestic workers for all their needs, whether related to welfare matters, social protection, social security, protection from abuse, harassment and violence, addressing grievance against the employer or placement agency, or for settlement of disputes through alternate dispute resolution or facilitating free legal aid. Such a mechanism shall be constituted as part of the tripartite institutional mechanism referred in paragraph 5.4.

- 5.6 Central Government and respective State Governments shall facilitate and encourage workers' and employers' organisations, representative organisations of domestic workers and employers of domestic workers and other stakeholders to spread awareness about this Policy to domestic workers and their employers.
- 5.7 Central Government and respective State Governments shall facilitate and encourage workers' and employers' organisations, representative organisations of domestic workers and employers of domestic workers to continue their efforts to organize domestic workers and employers of domestic workers with a view to engage in a constructive social dialogue in the implementation of this Policy.
- 5.8 Central Government and respective State Governments shall facilitate and encourage workers' and employers' organisations, representative organisations of domestic workers and employers of domestic workers to engage with Resident Welfare Associations (RWAs) or equivalents where they exist , to work jointly towards:
- 5.8.1 spreading awareness about this policy and promote the adoption of the Code by the employers of the domestic workers and other stakeholders (when drafted).
 - 5.8.2 motivating households in the RWA community to help domestic workers connect with benefits and privileges provided by the government and also encourage their members to send their domestic workers for skills trainings.
 - 5.8.3 developing common facilities, such as toilets and rest room/day shelter for the domestic workers. Crèches may also be built so as to enable the domestic workers with small children to promote family and work life balance. The gender specific concerns of the women domestic workers should be built into such initiatives.

6 TIMELINE FOR IMPLEMENTATION

- 6.1 The Ministry of Labour and Employment shall establish the Implementation Committee as stated in paragraphs 5.1 and 5.2 within three months of the adoption of the Policy.
- 6.2 The Implementation Committee shall produce an implementation plan of the Policy within three months from the date of its establishment and submit it to the Ministry of Labour and Employment.
- 6.3 The Implementation Committee will hold information dissemination session with State Labour Departments on the contents of the Policy and assist in the establishment of the State level tripartite institutional mechanism in collaboration with other stake-holders. The State level tripartite institutional mechanism shall be established within ten months from the date of establishment of the Implementation Committee.
- 6.4 An activity report shall be produced by the State tripartite institutional mechanisms on an annual basis, which will be compiled into a national report by the Implementation Committee, and will be used to provide advice to the Ministry of Labour and Employment on

the progress, requirements for evolving of the Policy.

7 BUDGETARY AND FINANCIAL PROVISIONS

- 7.1 All the stakeholders viz. Central/State Governments Ministries/Departments, employers/workers organizations, , key national organizations and civil societies etc. who are directly responsible for implementing the policy on domestic work shall make suitable allocation in their budgets to ensure regular flow of finances for promoting and protecting the rights of domestic workers in line with the objectives of this Policy. The funds allocated for Unorganized Sector Workers or any other funds for workers generally at the Central or state level, shall also be made available for the implementation of the policy.