

Minimum Wages for Domestic Work

Mirroring Devalued Housework

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Apart from labour market issues that govern legislative interventions, a critical factor in understanding the responses of the state to the issues domestic workers face is the social understanding of household work. Minimum wages for domestic workers in the few states where it is mandated are among the lowest in the informal sector, reflecting the undervaluation of housework even when it enters the market. Better statutory minimum wages for domestic workers would not only help protect their rights, but could also shake the social and political foundations of household work, leading to a new valuation of it.

In the neo-liberal era not much is expected from the state towards protecting the interests of the working class. However, the neglect and apathy of the state to issues related to domestic workers has a much longer history. A cursory look at the long list of various attempts to regulate the sector clearly reveals this (Neetha and Palriwala 2011). The central reasons that are often cited for the reluctance of the state to regulate the sector are the location of work and the informal employment relations that characterise it. Domestic work is carried out in private households. Thus, the legal view that abjures the recognition of the home as a workplace explains the absence of labour regulations in the sector. Domestic workers are excluded from the coverage of many core labour laws as they do not qualify under the definitions of “workmen”, “employer”, or “establishment” in them (Sankaran, Sinha and Madhav 2007).¹ So, an extension of the definition of the workplace has been thought of as a possible solution to regulating domestic work.

With burgeoning numbers of domestic workers in all urban towns and cities, the pressure on the state to respond to the issues of these workers has become more intense in recent years (Government of India 2011). These interventions are discrete and vary across different states, and there are differences among states in terms of their actual impact. One of the most important interventions is the recent inclusion of domestic work in the list of scheduled employment under the Minimum Wages Act of 1948 in a few states. Such a legal extension recognises private households as workplaces and is thus a key intervention. However, an analysis of the process of fixing the minimum wage rate and its implementation points to the need to view the sector and the nature of its “work” beyond the legal paradigm, locating it in the larger gendered social and political context. The interconnectedness of the sector with unpaid household work and its devaluation surround the legal intervention. Apart from a gendered understanding of housework, hierarchies within household tasks linked to caste-based divisions are visible in this legal intervention.

This paper, on the basis of examining the minimum wages of domestic workers in various states, analyses how the legal intervention translates the social understanding of domestic work, which leads to further gendering and segmenting it. The extension of the minimum wage legislation to domestic work provides for situating the state’s understanding of the occupation and the nature of work involved in it. Though there are variations across states in the method of wage fixation, the definition of domestic work, the statutory wage rates, and their enforcement,

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the interventions are founded on a given understanding of housework, its gendering, and skill levels. Even unions and organisations that have contributed actively to this legislation seem to have either consented to the social understanding of domestic work and its skill base or are silent on these critical issues.

This paper is based on a study of minimum wages conducted for the International Labour Organisation (ILO) in 2012 in five states – Andhra Pradesh, Bihar, Karnataka, Kerala and Rajasthan – where a minimum wage for domestic work has been notified. The findings are based on secondary and primary data collected from each of these states. Apart from the minimum wage notifications and related secondary documents, interviews and discussions were held with officials of the labour department, members of various unions and organisations working among domestic workers, researchers and lawyers, and selected domestic workers in the states considered.²

Extension of the Act to Domestic Work

Though not much progress has been made in terms of legislative interventions in domestic work, the minimum wage coverage has been extended to domestic workers in a few states.³ The Minimum Wages Act, 1948 empowers the central and state governments to fix and revise the minimum rates of wages payable to workers in scheduled employments. Minimum wages for domestic workers have been notified in seven states in the country – Andhra Pradesh, Bihar, Karnataka, Kerala, Rajasthan, Jharkhand and Odisha. In Tamil Nadu, Maharashtra and Assam, though domestic work has been included in the list of scheduled employment, a minimum wage rate has not yet been fixed. Karnataka was the first state to notify minimum wages for domestic work in 2004, Bihar and Andhra Pradesh did so in 2007, Rajasthan in 2008, Kerala and Jharkhand in 2010, and Odisha in 2012. The ILO study did not cover Jharkhand because of its close association with Bihar, and Odisha because the rates came into effect only in 2012.

The inclusion of domestic work under the Minimum Wages Act in different states has not only differed in terms of when it happened, but also in terms of the impetus behind it. Among the states studied, in Karnataka, Andhra Pradesh and Kerala, unions and organisations working among domestic workers were instrumental in bringing the sector under the Act. In all these states, there was intense campaigning by unions and organisations, which pressured the political leadership and bureaucracy, and resulted in the notification of minimum wages. These unions and organisations were also a part of the process of wage setting, though indirectly. Contrary to this, in Bihar and Rajasthan, it was a direction from the Union Ministry of Labour that initiated the process of fixing minimum wages.⁴

Under the Act, two methods are provided for fixing and revising minimum wages – the committee method and the notification method. None of the states followed the committee method for fixing minimum wages. The government adopts the committee method when it feels that it does not have sufficient knowledge or information about the scheduled employment. The processes in all the states were characterised by the absence of domestic workers, employers and organisations

working among them, or minimal consultation with them. In states where some consultation took place, it was partial and selective (for details, see Neetha 2012). Further, the consultation was characterised by low levels of deliberation. The understanding that domestic work is too trivial to be studied or that it is a universal activity that is well known could have been behind this. Even in minimum wage advisory boards, members seem to lack clarity about the criteria and basis for setting minimum wage rates and other conditions of work. A lack of understanding of and engagement with the specificity of the sector is evident in the details of this intervention.

Definitional Variations across States

To unpack a state's position and understanding of domestic work, it is important to analyse its definition of the sector, which is critical to operationalising the regulation. None of the state notifications define the occupation in terms of an employment relationship or as employment within private households. All of them define domestic work in terms of tasks undertaken. Though task-based wage fixation may be the easiest route, this risks exclusion – all those whose task has not been listed can be continued to be paid less than the notified minimum wage. Given the nature of domestic work and its specificities, many domestic workers are sure to be left out of a generalised task-based definition. The all-embracing category of "others" listed in all the notifications (except Kerala), which is supposed to address non-listed tasks, is too ambiguous and could be interpreted differently.

The tasks listed in the notifications vary across states, though at the overall level some uniformity exists (Table 1). Barring Kerala, domestic work is defined in terms of the traditional gendered understanding of housework, such as cleaning, cooking, and basic care. Only Kerala lists driving, gardening,

Table 1: State-wise Details of Stipulated Duration and Tasks

States	Rates Fixed for Duration	Tasks Listed in the Notification
Karnataka	Per day – 8 hours	Washing clothes/washing utensils/ housekeeping and looking after children/and other work
Andhra Pradesh	½ hour; 1 hour; 1½ hours; 8 hours	Cleaning vessels/washing clothes/ sweeping and swabbing floor/babysitting /care of old or infirm persons/kitchen shopping/taking children to school and back/other household chores
Bihar	1 hour; 8 hours	Washing clothes/washing utensils/ housekeeping and looking after children/taking children to school and back/other miscellaneous domestic work
Rajasthan	1 hour; 8 hours	Washing clothes and vessels and sweeping and mopping/childcare/ taking children to school and back, and other household work.
Kerala	1 hour; >1 hour and < 5 hours; 8 hours; monthly	Washing clothes; washing utensils; sweeping and cleaning house premises and mopping; shopping for vegetables and items related to cooking; cooking assistance; taking care of children and taking them to school; taking care of elderly, disabled etc; cooking; any other household work; driving of personal cars; gardening and assistance; home nursing; working as security/watchman.

Source: State gazettes.

and private security guards in the notification under the list of tasks.⁵ This social definition of domestic work was commonly shared by trade unions, organisations of domestic workers, employers, workers and labour officials across states.

Task-based methods of fixing minimum wages for a particular sector are not uncommon. Often this division makes further distinctions between skill categories – skilled, semi-skilled and unskilled. However, the notifications on minimum wages for domestic workers are not explicit about the skill category of this kind of employment, except in Bihar. In the Bihar government's notification, domestic workers are categorised as unskilled workers, with the explanation that "unskilled work means work which involves simple operations that require little or no skill or experience on the job".

Childcare is listed in all the notifications, while care of the aged and sick figures only in the notifications of Andhra Pradesh and Kerala. No task in the domestic work notification schedule in any of the states is classified as skilled, which means that none of them is seen as worthy of being considered skilled work. This also means that no matter how many years of work a worker may put into undertaking these tasks, such work will remain unskilled. The worker's experience in these tasks is not worthy of consideration. The Kerala notification differentiates

general care tasks and specialised care demanding technical expertise (the category of home nurse) with marginally different wages. This move, though apparently acknowledging levels of skill, results in only a negligible wage difference, thus effectively making no change to the overall deskilling and devaluation of this category of workers.

The notifications of the states clearly reveal that the definition of paid domestic work is not rooted in the employment relationship that governs this sector, but in the social understanding of domestic work. Paid domestic work is understood in terms of the tasks that women perform customarily at home without pay. There are reservations among policymakers, unions, and organisations working among domestic workers on the inclusion of specialised care tasks, and tasks such as gardening, ironing, driving, and so on, in the minimum wage notification for domestic work. These reservations, more than any purported practical difficulties (given the gendered segregation across tasks) of a broader definition, clearly emanate from a social understanding of domestic work. Domestic work is quite simply a non-technical and unskilled occupation, a view shared by all the stakeholders. Surprisingly, many unions or organisations working among domestic workers, though they advocate recognising domestic work as skilled work, also argue for such divisions.

The duration for which minimum wage rates are fixed further reveals the states' regressive approach. Minimum wage rates for domestic work are fixed either for an hour or a day as opposed to for a month, which is the general norm. Kerala provides for monthly wages but differentiates daily wages rates into different categories on the basis of working time. In the Kerala notification, wages rates have been fixed differently for the first one hour and for additional hours up to a maximum of five hours. The payment for additional hours is less compared to the first hour. However, it provides for an eight-hour wage if the worker works with one employer continuously for more than five hours.

Though, on the one hand, wage differentiations across duration do take into account the part-time nature of domestic work, on the other, it allows employers to pay workers on an hourly basis, leading to increased work intensity. Thus, part-time workers who work in multiple houses are at the risk of both self-exploitation and exploitation by their employers. As the payment is on an hourly or daily basis, employers could also conveniently deny weekly rest days. Further, in defining the wage rate in terms of eight hours of work, there is a lack of appreciation of the existence of live-in workers and their work specificities. Overtime wages are either ignored or casually provided for.

Table 2: State-wise Details of Minimum Wage Rates (September 2012)

States	Tasks	Current Wage Rates (Monthly)
Karnataka	Washing clothes/washing utensils/housekeeping and cleaning house	8 hours – Rs 165.58 (daily)
	Washing utensils/washing clothes/housekeeping and looking after children	8 hours – Rs 170.58 (daily)
Andhra Pradesh	Cleaning vessels/washing clothes/sweeping and swabbing floor/babysitting /care of old or infirm persons/kitchen shopping/taking children to school and back/other household chores	½ hour – Rs 284 (monthly)
		1 hour – Rs 565 (monthly)
		1½ – Rs 848 (monthly)
		8 hours – Rs 4,521 (monthly)
Bihar	Washing clothes/washing utensils/housekeeping (house of 1,000 sq ft) and looking after the children/ taking them to school and back/other miscellaneous domestic work	1 hour – Rs 470 (monthly)
		8 hours – Rs 3,749 (monthly)
Rajasthan	Washing clothes and vessels and sweeping and mopping/childcare/taking children to school and back and other household work	60 minutes – Rs 543 (monthly) 8 hours – Rs 4,342 (monthly)
Kerala	Washing clothes, washing utensils, sweeping and cleaning house premises and mopping floors, shopping of vegetables and items related to cooking, cooking assistance, other household work	Per hour – Rs 26.25 (daily)
		Additional hours till 5 hours – Rs 15 (daily)
		8 hours – Rs 136.50 (daily) Monthly wage – Rs 3,549
	Taking care of children and taking them to school, taking care of elders, disabled, etc	Per hour – Rs 26.75 (daily)
		Additional hours till 5 hours – Rs 15.50 (daily)
		8 hours – Rs 140.70 (daily) Monthly wage – Rs 3,658.20
	Cooking	Per hour – 27.82 (daily)
		Additional hours till 5 hours – Rs 15.50 (daily)
		8 hours – Rs 149.70 (daily) Monthly wage – Rs 3,876.60
	Driving of personal cars, gardening, home nursing (day time)	Per hour – Rs 28.25 (daily)
Additional hours till 5 hours – Rs 17 (daily)		
8 hours – Rs 153.3 (daily) Monthly wage – Rs 3,985.80		
Working as home nurse (live-in)	8 hours – Rs 153.3 (daily) Monthly wage – Rs 3,985.80	
Working as security/watchman/gardening workers	8 hours – Rs 149.70 (daily) Monthly wage – Rs 3,876.60	

Source: Labour department records, various states.

The wage rates prescribed by the Act do not suggest any clear method of calculation, though minimum wages are to be notified taking into account the skill component of the tasks as well as the requirements of the worker and his/her family to maintain themselves. The arbitrariness in fixing minimum wage rates for domestic work has been pointed out by various organisations.⁶ There is variation across states in the minimum wage rates, as is evident from Table 2 (p 79). Kerala has the lowest rates and Karnataka has the highest if daily and monthly wage rates are considered. The variations in the minimum wages between states defy explanation.

In Andhra Pradesh, Bihar and Rajasthan, all tasks have the same minimum wage rate. Karnataka has two separate wage rates, with higher rates for housework with childcare. However, cooking is missing from the list of tasks. Kerala differentiates wage rates for various tasks in accordance with the social understanding of their hierarchy, but the rates do not differ much across these tasks. Thus, cleaning work has the lowest wage rate, though the difference in wage rates between routine cleaning work and non-specialised care work for an hour is just 50 paise. Cooks, security guards, and workers engaged in gardening activities share the same minimum wage, but it is higher than that of cleaning and care workers. Drivers, gardeners, and home nurses have the highest wage rates. However, the difference in wage rates between the highest paid task and the lowest paid task for an hour is just Rs 2. This makes it clear that more than monetary differences in wages it is the social understanding of a given task that the notifications exemplify.

The task-based differentiations in minimum wages are more complex than suggested when the social profile of workers performing these tasks is analysed. The differential rates across tasks assume a class hierarchy in establishing minimum wages. There is a considerable segregation in terms of tasks along caste lines in all the states, though the degree to which such notions exist vary not only between states but also by rural/urban distinction and local parameters. Cleaning is considered to be one general task, though sometimes cleaning utensils and washing clothes are considered better in terms of status than sweeping and mopping floors. The over-representation of lower castes in cleaning operations is well documented (Raghuram 2001; Neetha 2009) and true of all states. But in many states, they are also cooking, though to a lower extent. The presence of upper castes is reportedly the lowest in sweeping and mopping, though some combine these tasks with cooking. Interestingly, wherever the wage rates are differentiated, this social hierarchy is reproduced.

A lack of understanding of the specificities of the sector and the ambiguities involved in setting minimum wages across states become more apparent if one calculates the differences

Table 3: State-wise Comparison of Daily Wage Rates for Cleaning Tasks (September 2012)

State	1 Hour	2 Hours	5 Hours	6 Hours	8 Hours
Karnataka	20.70	41.40	103.5	124.20	165.58
Andhra Pradesh	21.73	43.46	108.65	130.38	173.85
Bihar	18.08	36.15	90.38	108.46	144.62
Rajasthan	20.88	41.77	104.42	125.31	167.08
Kerala	26.25	41.25	86.25	136.50	136.50

Source: Estimated from Table 2.

in daily wage rates for different hours of work for different states based on the statutory minimum wage. Table 3 gives the differential wage rates for different states for different hours of work on a daily basis.

Hourly wage rates are very important as a large section of domestic workers are part-time workers. Thus, if a worker works only for an hour a day for a particular household, the wage rate is highest in Kerala. In Karnataka, for cleaning tasks the rate for an hour is roughly Rs 21, while in Kerala it is Rs 26.25. Since Kerala has differential hourly wage rates, this advantage disappears for durations above one hour as the rates are lower for additional hours.

An analysis of wage rates across various time intervals for these states clearly reveals that wage calculations using the existing rates are complicated for any worker. The rates can be complicated further by bringing in additional factors such as multiple tasks. That a complicated method of wage calculation has been designed for a sector where almost all workers are known to be illiterate or poorly educated is itself indicative of the state's disregard and disinterest in protecting the rights of these workers.

Discrimination through Devaluation

An analysis of minimum wages across other comparable sectors of informal employment helps understand the social and legal devaluation of domestic work. The biggest challenge in doing so is to come up with a comparable occupational category. Other forms of employment within private households are yet to make it to the list of scheduled employment in all the states studied, except Kerala. In Kerala, as mentioned, there is a hierarchy of such jobs in terms of minimum wages, with cleaning tasks at the bottom. Categories such as driving, gardening and security guards are placed at the top of the hierarchy, definitely reflecting the social hierarchy with gender as a central axis. Cleaning and sweeping take place outside the household as well, with many workers involved in cleaning public roads and other public places. Though the nature of the workplace is different, the description of work is comparable and could be used to understand the discriminatory approach of the state and the devaluation of domestic work. Another way to look at the issue is to compare the minimum wage of domestic workers with occupations that these women workers would have taken up in the absence of domestic work. One such is construction, where women are largely into unskilled tasks. Table 4 compares the daily

Table 4: Minimum Wages of Domestic Workers Compared to Other Informal Sector Employment (in Rs)

State	Domestic Work	Sweeping and Cleaning Workers	Construction Work – Unskilled
Karnataka	165.58	225.38 for Zone A; 195.38 for Zone B; 165.38 for Zone C.	172.58* and 171.01**
Andhra Pradesh	173.85	260.56	197.31
Bihar	144.62	157	157
Rajasthan	144.73	147	147
Kerala	136.50	286.05*	178.46

* Lowest wage for an all-inclusive "other categories" notified for the sector.

** Lowest among unskilled categories for zone I and II; the wages for unskilled workers in municipality and corporation areas is higher.

Source: State gazettes.

minimum wage rates of domestic workers with that of sweeping and cleaning workers and unskilled workers in construction.⁷

Table 4 clearly shows the devaluation of paid domestic work. In all the states, the minimum wage for domestic work is fixed at rates lower than that of sweeping and cleaning workers employed by local administrative bodies or private employers to perform tasks outside private households. How does one explain this uniformity across states in setting poor and discriminatory wages for domestic workers? Nothing but the difficulty in accepting housework as “productive work” underlies this devaluation. This is despite the domestic labour debate and the wages for housework campaigns of the 1970s, which brought the exploitative aspects of domestic work into public discourse. More recent attempts to value unpaid care work, which have found some resonance in our context, also seem to have made no major change in the valuation of housework at the ground level.

Making a Living Is an Everyday Struggle

Discussions were held with workers and union or organisation members on the adequacy of the amount fixed under the Act for maintaining a minimum standard of living. In all the states, workers generally pointed out that the prescribed wages were inadequate to live in cities. Most workers in all the states except Kerala were migrants and many did not own a house. Thus, they had to pay about Rs 1,000 a month as rent, with it being as high as Rs 1,500 to Rs 2,000 in Bangalore. Further, based on interactions with workers as well as organisations, it was evident that 75% to 80% of domestic workers were single breadwinners. Husbands were either unemployed and/or were drunkards, which resulted in women taking over the responsibility of running the house. There were also many women who were separated from their husbands and running houses on their own. In the southern states, a considerable number of the domestic workers were in the age group of 40-50 years, though there were also a good number of young girls 14 years and above. Mostly, these girls either helped their mothers with their paid work or carried out independent part-time work before and after school. There were also many old women in the occupation, except in Rajasthan. Since old workers cannot manage to work for many households, their incomes are lower and living conditions deplorable.

According to the coordinator of the Stree Jagruti Samiti, Bangalore, two-thirds of domestic workers have taken loans at exorbitant rates from local moneylenders to meet contingencies. Food price increases and general inflation cropped up in all the discussions with workers and unions as factors that put increased pressure on domestic workers. The rise in expenditure on children's education and health was also pointed out. Children and workers themselves were reported to fall sick frequently, largely due to their poor conditions of living and the absence of balanced, timely food. Some workers also incurred expenses for transport. In Bangalore, workers who earned Rs 5,000 to Rs 6,000 a month reported that they found it difficult to manage with overall price increases, and many said that they had to cut down on their food expenditure.

Given this reality, it is evident that minimum wages in none of the states is sufficient to meet the basic needs of domestic workers. This is true even if one assumes that workers do the tasks that pay them the maximum for eight hours a day. The highest minimum wage for domestic work per month is in Karnataka – Rs 5,117 (Rs 170.58 × 30). On an average, a domestic worker can work only for four to five hours, performing three or four tasks. It is rarely feasible to work eight hours per day because they have other duties as wives and mothers. Let us take the case of a domestic worker engaged in five houses with three cleaning tasks (sweeping, mopping and washing utensils), which is usually taken as one hour of work by the employer (though the actual time and work may exceed this). Based on the minimum wages that have been notified, such a worker would have a monthly earning of Rs 3,583 in Bangalore, Rs 3,260 in Hyderabad, Rs 3,133 in Jaipur; Rs 2,712 in Patna, and Rs 3,938 in Thiruvananthapuram. Compare this with those workers who manage to earn Rs 5,000 to Rs 6,000 and are still not able to meet their basic needs. This statutory floor wage as a minimum standard of living is unrealistic.

As per a 2011 estimate, if the poverty lines allowing nutrition norms of 2,200 calories in rural and 2,100 calories in urban areas are to be met, it requires at least Rs 1,085 a month (Rs 36 a day) and Rs 1,800 a month (Rs 60 a day) per person, respectively (Patnaik 2011). If each full-time worker has to support at least two dependents, this corresponds to a minimum daily wage of Rs 108 and Rs 180, respectively. Even this is an underestimation as no margin exists for medical emergencies, other cultural and life cycle necessities, or old age. Thus, it is quite evident that the statutory wage rates are far below what is required by domestic workers. Moreover, the difference between market wage and minimum wage could have been addressed to some extent if the state governments had given due attention to the specificity of the sector and its workers. Explicit comments on the nature of housework as “light”, in contrast to “hard manual work”, were common when the issue of poor wages was raised, by male-dominated trade unions. More worryingly, such views were shared by some state male trade union leaders who were involved in organising domestic workers.

Work Hours and Other Provisions

The disinterest and half-heartedness of the state in accepting domestic work as work and extending labour rights to these workers are evident not only in terms of definitional issues and rates, but also in specifying basic conditions of work such as working hours, overtime, and so on. The Act enables governments to (a) fix the number of hours of work which shall constitute a normal working day, inclusive of one or more specified intervals; (b) provide for overtime rate wages; (c) provide for a day of rest in every period of seven days; and (d) provide for payment for work on a day of rest at a rate not less than the overtime rate.

In all the notifications on minimum wages for domestic workers, specifically or otherwise, the normal number of working hours a day is defined or assumed to be a maximum of eight hours. In Rajasthan and Kerala, there is direct mention

of eight hours as the normal working day, while in other states there is an inbuilt assumption of eight hours since the rates are given for an eight-hour schedule. In the context of a growing number of live-in workers, who constitute about 10% to 20% of domestic workers, the assumption of an eight-hour working day shows how distant the interventions are from the realities of the sector.⁸

Part-time domestic workers who have multiple employers will always be working less than the stipulated working time of eight hours under one employer. But, when the working hours across various houses are put together, the worker may have to work for more than the normal working time of eight hours. Since the selection of the number of households and timing is an individual decision, regulating the working time for part-time workers is an issue. The legislations in all the states have conveniently ignored this specificity of the sector by mechanically extending the provision as in the case of other informal sector employment. The only way to prevent a worker from working more than normal hours is to ensure an adequate income, which could be achieved through better hourly wage rates. However none of this seems to concern the states, which have fixed the wages at such low levels.

As for rest intervals, none of the notifications makes any provision for a break and assumes that workers work continuously. Domestic workers not being worthy enough to claim rest intervals is definitely an outcome of the social understanding of housework as light, natural and trivial. Further, except in Karnataka and Rajasthan, there is no mention about wages over and above the eight hours of a normal working day, or overtime wages. Yet another issue involving overtime provisions is the maximum limit of permissible overtime hours. All the notifications are silent on this issue, confirming the prevalent understanding of housework as gentle and natural.

Even in states where overtime wages are specified, the calculation of overtime and its payment is a problem for the part-time worker who works in different houses, about which the regulation is silent. Overtime wages are payable if a worker is made to work for more than eight hours. But in the case of part-time workers with multiple employers, to which employer or set of employers is the overtime rate to be applied? Moreover, a usual practice is assigning more tasks to part-time domestic workers than what was agreed on initially. These tasks are not well defined and could vary from cutting vegetables, folding clothes, and shopping to bathing and supervising a child, all of which extend the hours of work in a particular household. Further, on days when there is extra work (on account of guests, functions, or festivals), it exceeds the normal working time. Even if workers do extra work in just one particular household on a given day, their total working hours get extended. Whether they are then eligible for overtime is an issue that must be debated. Though it is possible to identify the employer responsible for overtime work, the way overtime wages are understood in the Act is not of any help. Since domestic work arrangements are different from other sectors of informal employment, a mere extension of these provisions is nothing but a half-hearted response on the part of the states.

The absence of a weekly rest day is a frequently highlighted issue, which the notifications provide for only partially, and there is no clause to penalise employers. The minimum wage for all states specifies the number of working days as 26 per month. In some states, four days of compulsory weekly off/rest in a month is specified. Though rest days are provided in all the states, most of them do not mention the pay if workers are made to work on rest days.

On the whole, in states where the protection of minimum wages is extended, the intervention is characterised by ambiguities not only in wage rates, but also in the minimum rights of workers. Assumptions about housework underlie the many problems with the provisions of the Minimum Wages Act. This combined with the near absence of wider consultations with workers and employers explains the current state of affairs.

Protection of Employers' Interest: Enforcement Issues

There are specific notes under the minimum wage notifications that directly affect their enforcement, which are rooted in the non-recognition of the home as a workplace. Every employer under the Minimum Wages Act, 1948 is required to maintain registers and records of workers, giving particulars of the employees, the work performed by them, the wages paid to them, the receipts given by them, and any other particulars. However, in three states (Karnataka, Andhra Pradesh and Kerala) the notification specifies that employers are exempt from maintaining registers and records.⁹ In the other two states (Bihar and Rajasthan), though there are no exemptions for employers from record keeping, there is the tacit understanding of an exemption in the official perception of the Act. Further, no employer or worker is aware of this provision in these states and there has been no attempt to publicise the requirement, which virtually nullifies its utility.

Yet another issue is the restriction on inspections. While labour inspectors are free to conduct inspections for any violations of the Minimum Wages Act, 1948, in the case of domestic work, restrictions exist in Karnataka, Andhra Pradesh and Kerala. In Karnataka, the notification states, "Inspectors are prohibited from entry to any residential location; but the commissioner of labour can direct any inspector to inspect any domestic premises under any of the labour Enactments and Rules thereunder".¹⁰ In Andhra Pradesh, it specifies, "Inspectors are prohibited from entry to any residential location. But the commissioner of labour can direct any inspector to inspect any domestic premises under any of the labour Enactments and Rules thereunder."¹¹ In Kerala, though the notification does not restrict inspections, a special order that followed it restricts them in accordance with the advice of the minimum wage advisory board. It says, "Inspection could only be conducted if there are written complaints. Further no one below the rank of District Labour Officer (Enforcement) unless directed by the State Labour Commissioner could inspect houses and take any action."¹²

Thus, in these states, the notifications do not provide for implementation mechanisms such as regular inspections and regulations for the maintenance of a wage register by the employer. This adversely affects the spirit of the legislation

and reflects the reluctance of the state to address the issues faced by domestic workers. Interestingly, the provisions for exemption from record keeping and restricting inspections have been put in place in all the states where unions were active and demanded legislation. Clearly, this move is in anticipation of the possibility of unions demanding inspections and strict enforcement. Without any records, should there be a minimum wage dispute, a worker has to prove his/her employment contract, which is simply impossible given his/her socio-economic condition. In Rajasthan and Bihar, there are no restrictions on inspections and, by law, records are to be maintained. In these states, unions and organisations were less active during the legislation and the need for such a cover was probably not anticipated when the law was extended. There have been no instances of *suo moto* inspections under the Act in Bihar and Rajasthan where these are not restricted.

There has not been much attempt to disseminate information about the coverage of the sector under the Act, which is critical to its enforcement. Thus, the wage rates largely remain on paper, with very few workers or employers being aware of the existence of such legislation. Many workers get wages lower than the statutory rates. In general, however, the market wage rate for domestic work in metro cities, where there has been an increase in the demand for domestic workers, is higher than the minimum wage.

In all the states, labour department officials said no complaints of violation of the Act had been received. A common response was, "Unless the domestic worker, an NGO [non-governmental organisation] or organisation/union files a formal complaint, the department is unable to look into the issues of domestic workers." Many officials were of the view that workers were getting more than minimum wages, which made the need for enforcement superfluous. However, members of unions in Karnataka and Rajasthan complained that the labour department was reluctant to conduct inspections even if a complaint was made and they had to insist that they be carried out. Apart from administrative difficulties, the notion of households as private spaces seems to influence the approach to law enforcement in the sector. Reflecting this, the assistant labour commissioner in one of the states said, "Restriction on implementation is an important component of the act as one cannot disturb the privacy of households."¹³ The legal position restricting record keeping and labour inspection is based on the capitalist assumption of a separation of home and workplace, where homes are treated as places where non-market relations prevail. This assumption has been contested in the case of home-based subcontracted work, and the extension of labour regulations has been legally sanctioned.

Conclusions

A number of states have extended minimum wages to domestic workers in recent years. However, these interventions have not had much of an impact on the sector in terms of improved working conditions. Instead, the gendered understanding of housework and its devaluation seem to have received legal sanction through the extension of the minimum wage legislation

to domestic workers. The definitions of domestic work in terms of tasks are guided by the traditional understanding of housework – as a non-technical, unskilled occupation. Not only has domestic work been gendered by these interventions, hierarchies within it based on caste divisions have also been given legal sanction. Wage rates for cleaning tasks, which is dominated by women from the lower castes, are at the low end of the scale wherever a task-based differentiation is followed. Further, these legislations have overlooked the specificity of the sector and its workers – the calculations are confusing and its implications for various categories are ambiguous. The notified wage rates are low across states, with Kerala having the lowest. A question that arises when one analyses the minimum wage notifications is how all the state governments could decide on wage rates for domestic workers that are lower than in other informal sector occupations.

The social understanding of housework as women's work requiring no skill has been at the heart of estimating the value of paid domestic work. Further, the ambiguities and variations across states in terms of periods (hourly, daily and monthly) and a widespread preference for hourly and daily rates are not suggestive of a policy that protects workers. The poor statutory wages for domestic work tend to put part-time workers at a disadvantage, and they form the largest segment of domestic workers across all these states. The differences between part-time and full-time workers, with the latter divided into live-in and live-out workers, have not been acknowledged. There are also no proper provisions for working hours and overtime wages in many states. Restrictions on inspections and exemptions from record keeping are nothing but a callous response to workers who do not have an organised voice. It nullifies the benefits of extending the Act and denies workers basic provisions, thus benefiting expanding middle-class interests.

Domestic work is a highly personalised and informal service, where the workplace is the employer's home. In such a work situation, a worker from a poor social and economic background is likely to find it difficult to contest her/his employment conditions. Domestic workers are largely drawn from sections of the population who have been oppressed and made voiceless. In a context of growing inequalities, they are not easily able to demand much public attention. What makes matters worse is that they are engaged in housework, which is socially devalued. These specificities of the sector must be taken into account if any legislative interventions are to benefit these workers. Though the recent interventions have helped in accepting domestic workers as "workers", their actual wage situation and other conditions reflect continuing devaluation.

Thus, while legal interventions in the sector, especially fixing minimum wages, are positive moves, the stereotyping of gendered social values is a problem. The analysis suggests that half-hearted legal intervention is peculiar to the tasks that domestic workers perform, and the gender, classes, and castes that they represent. So, the problem of legislating on domestic work is intertwined with the issue of housework, its gendering, and its social valuation. The states' position on housework and the regulation of paid forms of care work are fundamental to

the struggles of domestic workers. Better statutory wages for domestic work could perhaps contribute to a revaluation of unpaid housework. This would have a profound effect on the social and political foundations of gender relations in the country. Various possibilities of implementing labour standards

for this sector are being discussed following an upsurge in organised movements of domestic workers, catalysed by the ILO's Convention on Domestic Workers (Convention No 189). Women's movements need to wake up to this opportunity and push for a better recognition of housework.

NOTES

- 1 Domestic workers are not included in the central list of scheduled employments under the Minimum Wages Act of 1948. Domestic workers are excluded from core labour laws such as the Payment of Wages Act (1936), the Workmen's Compensation Act (1923), the Contract Labour (Regulation and Abolition) Act (1970), and the Maternity Benefit Act (1961). These labour laws, mostly drafted between 1930 and 1970, were intended for manufacturing units and classify every employee as a workman, who is defined as "any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work". Since a household is not identified as an industry, domestic workers are outside the purview of these acts. The two recent interventions at the central level, The Unorganised Workers Social Security Act (2008) and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013), have included domestic workers; though in both cases they were excluded in the first round. The government of India has voted in favour of adopting the ILO convention, which puts some obligation on the state to come up with legislation/policies protecting domestic workers.
- 2 See Neetha (2012) for detailed discussions on the methodology of the study.
- 3 The provisions of the Act (Section 27) empower the appropriate state government to add any employment to the schedule, which in its opinion needs to have a fixed minimum wage. The procedure requires only a three-month notification by the state government in the official gazette, followed by another notification adding the employment to the schedule.
- 4 Based on the recommendation of the task force on domestic work, the Ministry of Labour and Employment had once again written to all state governments to notify minimum wages for domestic work.
- 5 Even in Kerala, the preliminary notification had only "driver" apart from the traditional housework tasks. The other categories, gardener and security guards, were added to the list on the recommendation of the minimum wage advisory board, which took into consideration the need to cover all workers working for or in private households.
- 6 For details of this, see "Domestic Worker Productivity: A Rationale", Stree Jagruti Samiti, 2005.
- 7 The actual wage in construction is higher. However, the number of days of employment is an issue because it is highly variable. This uncertainty has made many construction workers shift to domestic work, and in some cases workers take up both simultaneously. In Andhra Pradesh, a few domestic workers reported that they work in only one or two houses in the morning and then go for construction work if it is available. They expressed readiness to remain in construction work if there was job security because the wages were higher and the work was socially more acceptable.
- 8 There are no accurate estimates of their number as they mostly go uncounted because they stay with their employers.
- 9 In Kerala, these provisions were not part of the minimum wage notification, but were issued later in the form of an executive order; Karnataka Notification No KAE 15 LMW 04, dated 12 March 2004, published in the gazette dated 13 April 2004; Andhra Pradesh Gazette, extraordinary; GO Ms No 119, Labour, Employment Training and Factories, (Lab II, 10 Dec 2007).
- 10 Karnataka Notification No KAE 15 LMW 04, dated 12 March 2004, published in the gazette dated 13 April 2004.
- 11 Andhra Pradesh Gazette, extraordinary; GO Ms No 119, Labour, Employment Training and Factories, (Lab II, 10 Dec 2007).
- 12 Minutes of the minimum wage advisory board meeting, Kerala, given in the Annexure 2 of Neetha (2012).

- 13 Gurudas Bhatt, Assistant Labour Commissioner, Bangalore, interviewed on 7 August 2012.

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