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Thoughts, Ideologies and Public Policies

Guest Editor

Dr. Arwah Madan

Associate Professor

Dept. of Economics

St. Mira's College for Girls, Pune

Executive Editors of the issue:

Dr. Manisha Pimpalkhare

Dr. Meenal Sumant

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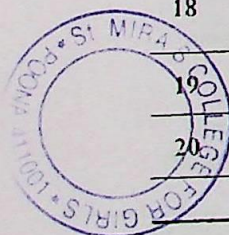
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## INDEX

No.	Title of the Paper	Author's Name	Page No.
<b>Thoughts</b>			
1	'Meeting Grounds' and 'Points of Departure': Exploring the Idea of 'Imaginary Dialogue' between Marx and Gandhi in the Light of Challenges to Human Society	Ms. Ishwari Kale	05
2	A Marxist Approach to Arundhati Roy's 'The God of Small Things'	Dr. Anagha Baldota	10
3	Gandhi's Economic Thought and Economic Globalization : An Analysis	Dr. Shikha Jyoti Deka	14
4	Relevance of Marxist Ideas in Contemporary Socio Political and Economic System in India	Sushant Kamble & Ms. Assunta Mendonca Sandhir	19
5	Marxian Concept of Religion- Its Critique	Tushar Jadhav	24
6	A Comparative Study of Gandhian Ideas: Historical and Contemporary Perspective	Shubham Jain	28
<b>Ideologies</b>			
7	Ideology of Mahatma Gandhi: Implications in Today's Modern World with Specific Reference to Youth Demography	Priyank Kaseria & Rimjhim Agarwal	35
8	Analysing the Relevance of Mahatma Gandhi's Ideas for India's Rural Development in a Globalized World	Dr. Amita Yadwadkar	41
9	Gandhian Ideology: Modern Interpretations and the Indian National Movement	Pratik Korde	48
10	Mahatma Gandhi: The Sage of our Time	Somnath B. Mahale	52
11	RBI Autonomy and Monetary Policy since Liberalization	Nandita Malini Barua & Dr. Arwah Madan	56
12	Gandhi's Perspective on Education	Dr Anuja Saluja	69
<b>Public Policies</b>			
13	Gandhi's Perspective on Women's Participation in the freedom Struggle: A Review	Dr. Rachana Singh	73
14	British Policies during Transition: A Study of the Social Policies in 19 <sup>th</sup> Century Western India	Dr. Sandhya Pandit	77
15	Historical Legacies—Principles of Public Administration	Dr. Hemam Karuna Devi	84
16	Early Rays of 'Western' Medicine in Bengal: Colonial Policies and Indigenous Involvement	Dr. Aishwaryarupa Majumdar	89
17	National Policy on Domestic Work: The Way Forward	Dr. Manisha Pimpalkhare	95
18	Public Policy, Governance and Development Performance with Special Reference to the Vidarbha Region in Maharashtra	Arundhati Agte & Dr. Kapil Chandrayan	99
	Towards Building a Resilient, Sustainable and Inclusive Development Model: Challenges & Opportunities	Nishant Upadhyay & Dr Arwah Madan	105
	India's R&D Expenditure: Analysis and Implications for Future	Kalyani Honrao	110





## National Policy on Domestic Work: The Way Forward

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### Abstract:

*Paid domestic work is one of the largest and fastest growing service sector generating millions of jobs worldwide. As an informal sector, it suffers from inadequate regulation especially with respect to the security and welfare of the large number of women domestic workers. The need for defining the work conditions is equally critical in case of this sector owing to the specific nature of work involved. While at international level, a milestone has been set in this respect with the adoption of ILO Convention C 189, at the national level a lot needs to be done in India. A Draft National Policy on Domestic Workers already exists along with numerous draft bills waiting to see the light of the day. This paper seeks to review the existing legal and institutional structures that inadequately cover the regulatory requirements of this sector.*

Keywords: Domestic Work, ILO C189, National Policy, Informal Sector

### Introduction:

Domestic work was one of the fastest growing work sectors globally in the last decade. According to an ILO (2013) estimate, there are 67 million domestic workers globally; indicating a large share of this sector in global employment. Despite the reality of millions of people engaged in domestic work, an effective coverage under national laws is missing for many of them. The specific nature of domestic work, to a large extent, has contributed to the gaps in the legal protection of domestic work. In the recent past, the international labour standard setting in the form of an ILO Convention for domestic work has inspired a series of legislations concerning domestic work across the nations. In countries where the legal and protective mechanisms are in place, research has taken place into the efficacy of such measures in improving the conditions of domestic workers. A strong demand for public policy on the social security for domestic workers has also emerged globally. Studies exploring such mechanisms and their efficacy offer a renewed perspective on the need for a sound public policy in this respect. (Ramirez-Machado 2003, Mantouvalou 2006, Alley 2009, Smith 2011, Einat Albin and Mantouvalou 2012) This paper attempts to assess the gap between existing legal and institutional measures in India and the international standards. The paper is based on secondary data available from International Labour Organisation (ILO) and Government reports.

### History of Policy on Domestic Work in India

For a long time, the history of attempts to legislate on the issue of domestic work in India remained a series of halfhearted measures and draft bills that never came into being. (Arnacost, 1994). At present two legislations, namely, the Unorganized Social Security Act, 2008, Sexual Harassment against Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 include domestic workers in their scope. At present, 11 states and one Union Territory have fixed minimum wages for domestic workers (Labour Bureau, 2015). States of Kerala, Maharashtra, Karnataka and Tamilnadu have included domestic workers in their welfare



schemes. However, a uniform and comprehensive national policy on domestic work in India is still awaited.

Some of the issues that hinder the development of a robust policy on domestic work are as follows. Firstly, domestic work is not considered as work in a real sense. Generally, it is seen as an extension of women's work inside the house. Secondly, the work is less amenable to monitoring because the workplace happens to be a private household. Such monitoring might be construed as interference in the private space of the employer's household. Thirdly, the paid domestic work, however essential it might be for the smooth running of the household and therefor for the economy, is considered as unskilled, low value work that can be sorted out between individuals and households without any government intervention. Further, the domestic work involves such a diverse set of activities that policy making and raising legal structures may become a complicated task.

#### **ILO and C 189**

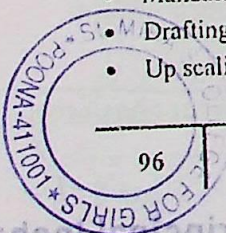
International Labour Organisation (ILO) has set labour standards for domestic workers- the invisible and vulnerable sector- in the form of Domestic Workers Convention 2011(ILO,2011). So far 24 countries have ratified this convention. A major section of these countries are from Africa and Europe while the countries from Asia and Gulf have remained away from the process. Incidentally, these regions (Asia and Gulf countries) represent the least protection for domestic workers (ILO 2013). ILO convention C 189 provides the following-

- Appropriate definition of domestic worker with the emphasis on 'employment relationship'.
- Setting minimum age requirements
- Protection of work rights as well as human rights of the domestic workers
- Protection from all forms of exploitation and abuse from employers / private agents
- Provision of safe and healthy work atmosphere
- Regulation of work conditions like work hours, leaves, rest periods, wages etc. at level no less than other workers
- Information dissemination to the domestic worker regarding work conditions especially for migrant workers.
- Protection of privacy and freedom for domestic workers
- Effective and accessible grievance redressal mechanism

#### **Task Force on Domestic Workers in India**

The Task Force on Domestic Workers was set up in December 2009 with a view to create guidelines for policy on Domestic Workers with respect to Regulatory Mechanisms and Welfare Measures for Domestic Workers in India. The Task Force was also mandated to contribute knowledge in the preparation of India Paper to be presented at ILC 2010. The first report of the Task Force recommended the following-

- Extension of Welfare Schemes to domestic workers primarily RSBY;
- Fixation and enforcement of Minimum Wages for domestic workers;
- Mandatory registration of placement agencies under Shops and Establishment Act, 1953;
- Drafting of National Policy for Domestic Workers.
- Up scaling the skills and training programmes for domestic workers





The action taken by the Central government for a larger part consisted of instructions sent to the State governments to do the needful as Labour is a State subject. (Task Force Report, 2011: 4) The Task Force, in its final report, recognized the need for a comprehensive policy on domestic workers to formally protect their labour rights. It noted that despite the progress in extending coverage of welfare schemes to domestic workers, their work conditions remain unregulated. In particular, the issues like payment of fair wages commensurate with their skill, their right to register as workers, right to organize, right to grievance redressal and right to create public awareness about employers' obligation deserve more policy interventions. (Task Force Report, 2011: 6)

#### The National Policy on Domestic Workers

The Task Force also submitted the Draft National Policy for Domestic Workers (henceforth referred to as the Policy) to the government. The Policy recognizes the dire conditions of domestic workers (article 1.2) and comments that this sector deserves greater attention instead of exclusion because of these specificities. It further reiterates the constitutional position that domestic workers must enjoy the work rights like other workers (article 1.4) It further suggests suitable amendments to existing legislations to facilitate inclusion of domestic workers. (article 1.5) Section 4 of the Policy outlines the substantive provisions for domestic workers which include- Legislative inclusion and designated laws for domestic workers; Right to register as worker; Right to organize; Right to fair terms of employment and labour welfare ; Protection of migrant domestic workers; Right to skill development; Regulation of placement agencies; Grievance redressal mechanisms and orientation of employers.

For implementation of the policy, the Ministry of Labour and Employment will set up an Implementation Committee with representative from all stakeholders like employers and relevant ministries. It also suggests setting up and strengthening Tripartite Institutional structures at the state level which will be responsible for carrying out the substantive provisions outlined above.

#### Conclusion

The policy outlined in the report of the Task Force closely follows the provisions of the ILO convention C 189, in the sense that it incorporates the essential elements of protection of domestic worker's rights as workers. The specific nature of the domestic work activity – often referred to as 'work like any other; work like no other', however needs further attention. A few pointers in this regard are as follows-

Registration of domestic workers is vital for many purposes an important one being framing of welfare schemes and provision of adequate funds for the same. However, it is practically impossible without the reasonably accurate estimate of the number of domestic workers. The estimates of number of domestic workers in India vary wildly (ILO2016) and there is no reliable source of information for the same. Registration of domestic workers is actually a first step in designing any meaningful policy instrument. In case of Maharashtra Domestic Workers Welfare Board, the registration with the Board is voluntary. Taking into account the low level of literacy and awareness among the domestic workers, it is unlikely that there would be 100% coverage for the domestic workers in the state.

The Policy does refer to fixing the wage rates for domestic workers. However, the work is so diverse and multi skilled that a uniform wage rate would not be a useful tool of intervention. A differentiated wage rate based on time/piece rate according to activity will be



more appropriate though infinitely complicated to administer. Further, the issue of pension for the domestic workers is equally grave, as the older domestic workers find it difficult to carry on physically demanding work. The issue of protecting their human right to a dignified life becomes more relevant here. A more important policy question here would be that of bearing the financial burden of such pension scheme.

Further, the policy needs to consider participation from the employers as a critical element of the policy. At present, the Maharashtra Domestic Workers Welfare Board has no provision for including the employers in the working of the board or its deliberations. In the absence of such interactions, the Board in effect is a mechanism for doling out welfare benefits rather than a tri partite body for negotiations. The Task Force did talk about a Code of Practice for employers. However it is not seen as a part of the Policy.

While it is important to protect work rights of the domestic workers, it is equally important to elevate the status of domestic work from a household based, low value, women's work to a vital, skill based, remunerative occupation. This will, no doubt require a social change on the part of employers, who currently do not necessarily view themselves as employers of domestic workers but as consumers of their service. A legal provision in this respect will help in creating awareness among the employers about their responsibility as employers which essentially goes beyond payment of wages.

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