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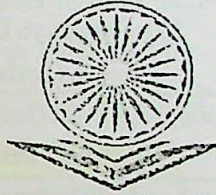
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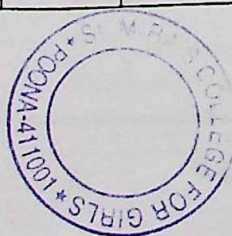
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6. India's Emigration Policy - Migrant Domestic Workers

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Abstract

Paid domestic work has been a phenomenally growing work sector generating a large portion of employment worldwide. According to ILO, domestic work creates 67 million jobs globally and is growing rapidly in the last decade. Increasing globalization of economies and growing demand for care work from the global north, has contributed to global expansion of paid domestic work, at the same time creating a large pool of migrant domestic workers with their special needs of regulation and policy. India features as the destination of many Bangladeshi immigrants who take up domestic work in India and also as the country of origin for many women domestic workers employed in Gulf countries. The paper discusses the global movements and international policy structures like ILO convention on Domestic Workers C 189, in the context of women domestic workers in general and migrant women domestic workers in particular. It also attempts to outline the foreign policy framework for migrant domestic workers, with reference to their special needs and adequacy of the current policy measures to address the same.

Key words: Domestic work, ILO, Migrant domestic workers

I: Introduction

The incidence of paid domestic work has been rising globally since the advent of globalization. ILO has characterized this sector as the fastest growing employment sector. ILO report (2016) puts the number of workers engaged in domestic work world wide at 67 million. Out of these, 11.5 million are international migrants. A globalizing world economy, changing demographics of the developed countries, rising female work force participation in the global North has contributed to a parallel increase in the demand for migrant domestic and care workers. Poverty, unchanged gender roles in patriarchy based societies of the developing countries has further accelerated the process of out migration of domestic workers from the poor countries. The subject of migrant domestic workers merits attention from policy makers,

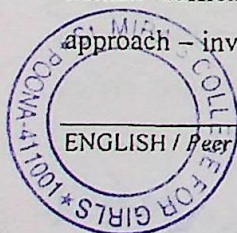
academicians from the field of Economics, Feminists and law makers as the subject involves one of the most vulnerable groups of people as most of them are women, from low income countries and employed in an unregulated work with exploitative work practices. Emigration flows are increasing in size, the structure of the emigrant class is varied and fluid, a feminisation of migration is evident and the process of migration has increasingly political implications considering the perceptions in host countries and the working and living conditions of the migrant work force. The process of feminization of migration is evident in India as the numbers of women migrants from India are increasing with a sizable proportion emigrating independently or as primary economic migrants. Gendered occupational segmentation lands them in the marginalized situations in the selected areas of work such as services, health and hospitality sectors resulting in operational issues relating to their safety, protection and welfare. (G. Gurucharan 2013).

The paper is organized as follows: Section II presents the recent developments in International Policy framework for domestic workers. Section III discusses the current policy framework in India with respect to migrant domestic workers and the inadequacies thereof. Section IV presents the problems of migrant domestic workers from India Section V presents conclusions.

II: ILO and Migrant Domestic Workers

ILO instruments that cover the migrant workers include- . Convention C 97-Migration for Employment Convention (Revised), 1949 which requires ratifying states to provide free assistance and information service, medical service and services for transfer of earnings for migrant workers and preventing spreading of misleading and /or wrong information. Further, Migrant Workers (Supplementary Provisions) Convention, 1975(No.143) lists the provisions to tackle illegal migration while protecting the basic human rights of all migrant workers, ensuring equality of opportunity and treatment in all aspects of work between national workers and migrant workers.

In 2011, ILO adopted the Decent Work for Domestic Workers Convention (C189) which offers guidelines on ensuring decent working and living conditions for domestic workers including migrant domestic workers. Two major issues linked to migrant domestic workers are human trafficking and forced labour. These ILO instruments have advocated a rights based approach – involving worker's as well as human rights- to address these issues. Such provisions



also offer an opportunity to the member countries to create a legal and institutional forum for protecting the interests of the migrant domestic workers. Convention 189 for Decent Work for Domestic Workers has included provisions for migrant domestic workers. Article 8 of the Convention stipulates that a migrant domestic worker should receive a written job offer or contract of employment enforceable in the host country before migrating. Also the conditions of repatriation after the contract is over have to be stipulated. Article 15 of the Convention stipulates that the recruiting agency must be governed by the national laws in order to prevent abuse or investigate a reported abuse or malpractice by recruiting /placement agencies and protection of migrant domestic workers.

III: Current Policy Framework in India

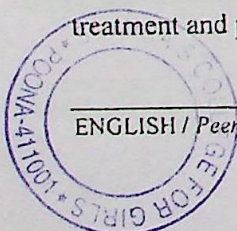
International migration is governed not only by the driving factors of sociopolitical, demographic, and economic shifts in the globalizing economy, but it is conditioned by existence of or lack of institutional structures and agents ; the voice of policy makers that rule the day, along with information networks for sharing views and experiences of migration and the loopholes in the established mechanism that allow unauthorized migration.(UN 2018)

In India, The Gulf boom of 70s led to a spurt in emigration and also resulted in the rise of a large network of recruiting agents who subjected the unskilled and semi skilled workers to exploitative practices. It was in this backdrop that the Emigration Act of 1983 was enacted. It continued with the protectionist measures envisioned in the pre independence regulatory structures. Under the of the 1983 Act, the office of the Controller General of Emigrants in the Ministry of External Affairs was re-nominated, as the Protector General of Emigrants (PGE), which was transferred to the Ministry of Overseas Indian Affairs in 2004. The PGE works eight field offices called Protectors of Emigrants (POE) located in the eight cities. The Act brought in a system of 'clearance' from the Protector of Emigrants in order to cross national boundaries. Later, a system of Emigration Check Required (ECR) and Emigration Check Not Required (ECNR) was introduced. The ECNR status is granted based on the education level of the passport holder. The most recent minimum education level is SSC for ECNR status. Less educated emigrants, mostly working in the unskilled and semi-skilled jobs, require additional safeguards as they are more susceptible to abuse. Further, emigration clearance is required only for emigration to 17 countries listed by the Government of India as countries requiring such clearance. The ECR passport holders must their application for emigration clearance directly as

'individuals' or through registered Recruiting Agents (RA) to the POE. As per Emigration Act 1983, PGE grants the official license to registered RA after careful scrutiny. In 1999, the Government of India banned assignment of Indian workers for employment as housemaids or male domestics in Kuwait. This was further followed up by the fixing a minimum age requirement of 30 years for any Indian citizens to be employed as housemaids in the Gulf countries, which was later applied to all ECR countries and all ECR passports for all types of employment. Another regulation, making a direct employment contract between the worker and the employer mandatory, resulted in ban on recruitment of ECR categories of women by the RAs. These regulations, instead of being protective in nature, appear to be preventive and thereby encourage more illicit channels of migration than the formal ones. In an attempt to protect the interests of the emigrant workers, the Government of India had introduced the "Pravasi Bharatiya Bima Yojana, 2003", which was later upgraded in 2006, an insurance scheme compulsory for ECR emigrants. Central government has recently proposed to revamp the Emigration Act with a new Emigration Bill involving formation of Emigration Management Authority to safeguard the interests of Indian migrants especially in the context of changing global realities of migration.

IV: Problems of Migrant Indian Domestic Workers

In the case of the unskilled and semi skilled workers, emigration offers an opportunity to earn and support family which is otherwise denied in the country of origin. However, the experience of many women from India employed as domestic workers in Gulf countries tells a different story. One that of abuse and violation of their human rights as well as workers' rights. They suffer from unfair work conditions, social, psychological and cultural isolation. The physical abuse is usually combined with economic exploitation manifested in non payment of wages. Violation of work contract comes in the form of excessive work load, absence of leaves, inadequate food and lodging. The number of complaints received from women domestic workers employed in Gulf countries was given by Hon, Minister of External Affairs in March 2018 indicating a notable size of such persecution against migrant domestic workers. The nature of these complaints include – altering of employment contract to make it unfavourable to the worker, change of job as compared to what was agreed upon earlier, cheating by sponsor, higher fees charged by RAs, non payment of wages, unsatisfactory working and living conditions, ill treatment and physical abuse.



V: Conclusion

Migration of women for economic opportunities usually hides a story of poverty and inequality of opportunity in an unequal, patriarchal society. Sometimes this may offer a way out of economic stagnation and deprivation. However, more often than not, such spatial relocation entails a horror of abuse – physical as well as mental. Adding the legal repercussions of the irregular or informal migration, it seems like a dream turned into nightmare. A government intervention in such cases is an absolute necessity. Moreover, a proactive approach in policy making which encourages safe passage to these workers is also desperately needed. While a protective shield of law is a must, a judicious mix of measures and incentives that allow the labour to benefit from opportunities springing up from the constantly evolving global scenario has to be created.

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