



**New Trade Union Initiative**  
B-137 Dayanand Colony, First Floor,  
Lajpat Nagar Part IV,  
New Delhi 110024  
Tel: 91-11-26214538 /26486931  
Fax: 91-11- 26486931  
E-Mail: secretariat@ntui.org.in

Mr. S R Joshi  
Deputy Director-General (Labour Welfare)  
Government of India  
Shram Shakti Bhavan  
New Delhi

**7 December 2011**

Dear Sir,

**NTUI Comments on Draft National Policy on Domestic Workers**

In pursuance of the Government's call for views and comments on the Draft National Policy for Domestic Workers we are enclosing our preliminary comments on the policy.

With India agreeing to ratify the ILO Convention on 'Decent Work for Domestic Workers', this 'Draft National Policy for Domestic Workers' is far from adequate in addressing the legislative requirements as envisaged under the Convention. This Policy is merely a limited framework for formulating legislation for promoting decent work for domestic workers. The long standing demand of organizations and unions organising domestic workers have been for a comprehensive legislation that will both regulate working conditions of and provide protection to domestic workers. The National Commission for Women (NCW) has drafted the 'Domestic Workers Welfare and Social Security Bill, 2010' after consultations and discussions with the domestic workers' organisations and unions.

1. **Need for a Comprehensive Domestic Workers' Legislation:** In its aims and objectives, the policy attempts to lay down a legislative 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.* This framework of extending existing legislations to domestic workers cannot adequately address the problems of domestic workers given the specificity of the nature of the work where the employer, by virtue of being households, is necessarily invisible and hence difficult to monitor. Existing legislations such as The Workmen's Compensation Act 1923, The Payment of Wages Act 1936, The Minimum Wages Act 1948, The Maternity Benefit Act 1961, The Contract Labour (Regulation and Abolition) Act, 1970, The Equal Remuneration Act 1976, or The Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act 1979, necessarily assumes visibility of the worker as well as the employers and hence is difficult to access even for contract workers in formal employments.

Domestic workers hence require a comprehensive legislation that will, beyond recognizing them as workers, both regulate their conditions of work along with providing social security benefits with specific provisions for registering them as workers, creating tripartite workers' welfare boards for provision of social security benefits, and in-built monitoring mechanisms that can be made effective in the framework of a household as an employer.

2. **Definition of Domestic Work and Worker:** The definition though attempts to encompass most workers employed in households it fails to recognize the invisibility of this work and hence the scope of this definition. The very fact that it is difficult to prove employment relation in a household, it is essential to build in a process of registration of domestic workers in the definition thereby establishing their legal entity. Further it is important to define a 'household' as a private dwelling unit to establish the area of work of a domestic worker.
3. **Section 4.2 - Registration of Domestic Workers, Employment Contracts:** While the right of domestic workers to register as workers with state labour departments is essential for the implementation of the comprehensive legislation or even this policy, it is far more important to enforce an employment contract between the domestic worker and the employer in every instance of employment in order to create a viable mechanism for establishing an employer-employee relation in domestic work, not just for raising disputes but also for seeking social security benefits. Workers seeking employment overseas should mandatorily register both with the Labour Departments and the Ministry for Overseas Indian Affairs to ensure protection of their legal rights.
4. **Section 4.7 - Regulation of placement agencies:** Mandatory registration of placement agencies under the Shops and Establishments Act, 1953, till a suitable mechanism is formulated as envisaged by the policy, has so far, even with its limited applicability, failed to monitor the growing number of placement agencies in the urban centres leading to growing number of cases of human trafficking, child labour, physical and sexual abuse, and 'wage theft'. The comprehensive legislation for domestic workers should put in place a strict regulatory framework to monitor all establishments or individuals that 'supply' workers. This should also include overseas employers and placement agencies 'supplying' workers to overseas employers.
5. **Section 4.8 - Grievance Redressal:** The grievance redressal mechanism for the comprehensive legislation should include specific punitive measures for violations under this legislation. This will provide a basis for filing complaints in cases of violation. Representation of workers by their organizations and unions should also be encouraged to promote right to association and collective bargaining.
6. **Section 6 - Time-line for Implementation:** The proposed timeline for creating a legislation that is binding for all employers and placement agencies is too long drawn with too many administrative blocks on the way to ensure a prompt process for the much needed legislation.
7. **Section 7 – Budgetary Support for the Legislation:** Finally, the policy makes no specific mention of how resources would be raised to finance the social security provisions for the domestic workers. The experience of the implementation of the Unorganised Workers Social Security Act without sufficient budgetary allocation has left the legislation without any teeth. The domestic workers legislation, hence, to be made effective, needs to have a tripartite framework to pool resources in order to make the legislation effective.

Yours sincerely,



Ashim Roy  
General Secretary