

Socio-economic impact of COVID-19 and beyond on women domestic workers in Nepal

Challenges and the way forward

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In urban market economies, domestic workers make significant contributions to the functioning of households and labour markets. They are often excluded from social and labour protection and face serious decent work deficits. Domestic work is undervalued, often informal and invisible, and mainly carried out by women and children- mostly girl children. Many of them are migrants and are from disadvantaged communities.² Domestic work entails tasks such as cleaning the house, cooking, washing and ironing clothes, taking care of children, elderly or sick members of a family, gardening, guarding the house, driving for the family, and even taking care of household pets. In general, domestic workers perform more than one or multiple of these activities in their workplace.³ As per Domestic Worker Convention 2011 (189) and Domestic Workers Recommendation (201) of International Labour Organization (ILO), the term domestic work means work performed in or for a household or households, and the term domestic worker is defined as any person engaged in domestic work with an employment relationship. A person who performs domestic work occasionally, and not on occupational basis is not a domestic worker.

The ILO estimates that there are at least 67 million domestic workers globally (excluding child labourers)⁴ out of which 80% are females.⁵ There are various categories of domestic workers: some of them may work on full-time or part-time basis; some may be employed by a single household while others may work for multiple employers; some may reside in the household of the employer (live-in worker) while others may work out of his or her own residence (live out). Domestic workers are predominantly women and comprise one of the most disadvantaged workforces in the world of work. Many of them come from poverty and belong to socially disadvantaged groups. Majority have had limited access to education and are often subject to physical, sexual, psychological or other forms of abuse, harassment and violence⁶ because their workplace is shielded from the public, and they generally lack co-workers. The world of work is transforming with respect to demographic, socio-economic and environmental factors and the demand for domestic work is increasing. If these issues are not properly addressed along with greater investments in care infrastructure, gender and social inequalities in the area of work will increase.

It is estimated that Nepal has at least 200,000 domestic workers⁷ and majority of them are female. According to a study conducted in 2011,⁸ more than half (64.1%) of the domestic

² People who have limited or no access to basic human rights and protection granted by the state.

³ https://www.ilo.org/public/libdoc/ilo/2016/116B09_14_engl.pdf

⁴ https://www.ilo.org/global/docs/WCMS_209773/lang--en/index.htm

⁵ https://www.ilo.org/global/docs/WCMS_209773/lang--en/index.htm

⁶ In a highly patriarchal context, the paradigm of vulnerability can lead to overly protective measures that deprive the very worker from her rights and agency.

⁷ <https://archive.nepalitimes.com/article/nation/Modern-day-domestic-slaves-domestic-workers,3785>

⁸ Isolated within the Walls – A Situation Analysis of Domestic Workers in Nepal - A Study on Situation Analysis of Domestic Workers in Nepal (2011); GEFONT/TUC-UK; pg.6 available at

workers are from ethnic or indigenous origins including Madhesi and Newar groups followed by Chhetris (13.2%) and Brahmins (11.3%). In many households, these workers are the sole income-generating members. According to a rapid assessment conducted by the Home Workers' Union Nepal of General Federation of Nepalese Trade Union (GEFONT)⁹, 85% of the domestic workers lost their jobs because of COVID-19 and are now unemployed.

Domestic work is typically undertaken by workers in private workplaces based on informal terms, generally with no employment or work contracts, very low wages, and excessively long hours. Recognizing the need to ensure that their work is decent is critical to improving social justice and gender equality for all at the workplace. Other common challenges of domestic workers include highly unequal labour relations including violence and harassment, lack of voice and limited access to justice. Additionally, there is a need to promote formalizing the informal economy (as in R204 - Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)), as a way to address the negative aspects associated with informality, and bringing domestic workers as part of mainstream workforce in terms of their access to rights, and work related entitlements.

Situation of the domestic workers during COVID-19

The ILO estimates that 49.3% of domestic workers were significantly impacted globally during the early stages of the pandemic (as of 15 March 2020). This figure peaked at 73.7% on 15 May, before falling to 72.3% on 4 June 2020. While the pandemic has impacted domestic workers at multiple levels, one of the main consequences of COVID-19 has been the reduction of employment, the working hours and, in some cases, loss of jobs, resulting from fear and restricted mobility associated with confinement measures of lockdown.¹⁰ While some employers have stated that they would let their domestic workers resume work when the situation got better, there was no guarantee that would happen as many employers viewed their domestic workers as virus carriers. Many of them work at different households¹¹ and

http://www.idwfed.org/en/resources/isolated-within-the-walls-2013-a-situation-analysis-of-domestic-workers-in-nepal/@@display-file/attachment_1

⁹<https://kathmandupost.com/national/2020/06/21/out-of-job-domestic-workers-are-struggling-for-survival-even-as-lockdown-is-relaxed>

¹⁰https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_747961.pdf

¹¹ Based on the discussion during “Domestic Workers and COVID-19 in Nepal” dated on June 19, 2020 on the occasion of International Domestic Workers Day.

this situation has made them redundant which translates to less paid work and less income when it's needed the most.

The pandemic has affected various groups of domestic workers in different ways. For instance, those recruited via placement agencies have had lesser issues in Nepal because they have a formal contract with the employer, enforceable by law. However, they do not comprehensively address all the necessary requirements of the labour law, let alone the requirement for emergency situations brought on by COVID-19.

For live-in domestic workers, their work load has increased a lot. As all members of the household are at home or working from home, it substantially increases the workload and consequently the time allocated for chores such as cooking, cleaning, washing and care taking. This in turn has direct effect on their well-being as they have very few hours of proper rest. On the other hand, live-out domestic workers have experienced problems in commuting to and from their workspace due to government imposed mobility restriction during lockdown. This has also directly impacted on their ability to earn a living. In some cases, both live-in and live-out domestic workers worked throughout the lockdown but did not receive wages on time. Job security has been a great concern for all domestic workers since they do not have formal agreement with the employers.

With their source of income either lost or reduced, most domestic workers are facing an economic crisis. They have problem managing daily food expenses, providing education and health services to their family, and saving money for future use. For instance, most of the schools have started online class but lack of electronic equipment and amenities such as computers, internet connection, and mobile phones makes it difficult for their children to equally participate with their peer groups.

To cope with COVID-19 pandemic, the local government and civil society organizations have been distributing immediate relief¹² to the people of their respective areas. However, as domestic work does not fall under the relief distribution criteria set by the Government of Nepal, it has been reported that not all domestic workers have received such support. In case of those who received relief packages, it was only sufficient for a few days.

Key issues for domestic workers in Nepal

¹² Food items such as rice, lentils, gram, cereals etc. and non-food items such as soap, hand wash, sanitary pads and cloths etc.

The key issues and challenges identified for women domestic workers in Nepal can be divided into two parts- immediate and mid-term/long-term as highlighted below:

Immediate issues:

- 1. Relief:** Domestic workers have been in great need of food support through relief packages as they have been sustaining their livelihood on daily wages. Due to the imposed lockdown after the COVID-19 crisis, wage cuts and loss of jobs among their family members including themselves have affected their capacity to make ends meet.

Some of the local government, institutions and organizations have provided relief support to domestic workers through ward or municipality offices. However, some of them were found to have been excluded in the list prepared by the municipality as they were only listing names of household owners in the locality and most of the domestic workers do not own houses or are not locals from the community. Therefore, the implementation of the registration of domestic workers' provision mentioned in the civil code¹³ would help to reach out to domestic workers in the community. Additionally, many domestic workers do not know the procedure to receive relief at their local level. Even for those who have received relief support, it is only enough to sustain their daily food requirements for a few days. Therefore, relief measures should include domestic workers as a priority, and should look for more sustainable alternatives for them.

- 2. Loss of job and lack of alternative livelihood option:** During COVID-19 crisis and subsequent lockdown, many domestic workers lost their jobs or saw their wages cut. Those who lost their jobs were unable to search for new employment due to the lockdown while some were waiting for their employer's call to resume their employment after certain duration. Additionally, their vulnerability is amplified by the fact that they do not have money to invest in enterprise and lack collateral and income stability to access loans. During the lockdown, most were confined to their homes, relying on social security, relief and support from their own social networks to meet their basic needs.

¹³ Section 644 (3), Civil Code of Nepal 2017

3. Education: All the educational institutions have been closed since March 24, 2020 across the country as a mitigation measure to cope with the spread of COVID-19 pandemic. Nevertheless, many of the schools are conducting classes through online platforms. The children of domestic workers, however, due to lack of essential equipment such as laptop, mobile phones, internet and proper space for learning at home, have not been able to participate in such online classes. This has created inequality in the access to education for the children of various economic backgrounds in the same school, causing much stress to domestic workers as parents.¹⁴

4. Access to sexual and reproductive health and access to information: Menstrual hygiene products, contraceptives as well as medicines were often not accessible due to the lockdown, and when they were, it was difficult for domestic workers to afford them. Similarly, they usually do not have television, mobile/smartphones, internet facility to access basic COVID-19 related information, and therefore are not up-to-date on protective measures for their safety and well-being. They are also unable to buy sanitation and hygiene products such as face masks, gloves, sanitizers, soaps, towels, etc. that are essential in the current pandemic situation.

5. Stress and mental health issues: Food insecurity, fear of contracting coronavirus, lack of alternate livelihood options, pressure to earn and handle household chores, including taking care of children, being stigmatized as a possible transmitter of COVID-19, and uncertainty of future have increased stress among domestic workers. This has impacted the well-being of domestic workers at a personal level and strained their relationships in their households. In some cases, while domestic workers and their male partners are without employment and living together during the crisis, there have been incidents where women have been mentally or physically abused by their partners.¹⁵ Therefore, mental health of domestic workers should be provided serious consideration by providing sessions on stress management and psychosocial counseling.

¹⁴ Based on the discussion during “Domestic Workers and COVID-19 in Nepal” dated on June 19, 2020 on the occasion of International Domestic Workers Day.

¹⁵ Based on the discussion during “Domestic Workers and COVID-19 in Nepal” dated on June 19, 2020 on the occasion of International Domestic Workers Day.

6. Shelter or living space: Safe living space has been an immediate need for both live-in and live-out domestic workers. Since live-out domestic workers are not earning during the pandemic, it has been difficult for them to pay rent. They have also not received any remission on the house rent as publicized by the Nepal government. As a result, many domestic workers without their daily job could lose their rented space. Additionally, some of the live-in domestic workers have also lost their jobs. Consequently, with no place to stay during initial COVID-19 crisis and their villages too far to reach, it was extremely difficult for them to find a safe living space during lockdown.

7. Salary: Domestic workers rely on their daily wages as they do not have regular savings. Their salary is barely sufficient to meet their daily needs. Therefore access to salary at a predetermined, regular time is very important for them. However, some of the domestic workers were denied salary during initial days of lockdown even if they had worked the previous month. Some employers have not paid their domestic workers who continue to work at their homes while some of the domestic workers cannot go to their employers' house to collect their salary for the previous month(s). Given the lack of a formal agreement between the employer and domestic workers, they cannot claim their salary and are waiting for the crisis to be over.

Mid-term and long term issues:

1. Recognition of work (no identity of the DW labour, contract letter, and working hours): Usually, domestic work is not recognized as genuine work and that limits domestic workers access to a safe working environment, social security provisions and complaint mechanisms in case of abuse or exploitation making them more vulnerable. As a result, the domestic workers are forced to work in difficult circumstances; they may experience sexual abuse and be treated poorly with limited food, water, and paid unfairly. The ILO Convention 189 explicitly affirms that domestic workers are real workers. They are neither “members of the family”, servants nor second-workers. Domestic workers must enjoy the same basic labour rights and guarantees as those available to other workers.¹⁶ However, in the context of Nepal, domestic workers are not recognized as formal workers. They are not given employment contract and/or appointment letters by their employers who then are

¹⁶https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/--travail/documents/publication/wcms_159839.pdf

exempt from any legal obligations to respect the laws concerning the rights of domestic workers. In the absence of any contractual obligation infrastructure, procedures, and effective systems to manage domestic work at place and weak labour inspection, domestic workers are unable to benefit from basic labour rights like standard working hours, basic living wages, holidays and leave etc. These difficulties are also associated with other factors such as lack of legal recognition of domestic work as an occupation, the existence of discriminatory social and legal practices, as well as other socio-cultural elements which engender a low social value for domestic work.¹⁷

2. Job insecurity/Short term nature of work: One of the issues faced by several domestic workers is the short-term work commitment of their work, which makes them more vulnerable to violation of their rights. These characteristics include workers frequently having more than one employer, high job turnover rate, in-kind payment, receipt of wage income is highly irregular, and labour relations are not usually established through an employment contract.

3. Socio-economic impact of COVID-19 on domestic workers: Domestic workers are sometimes thought to carry the virus and hence not allowed to enter the premises or house by the employer. In case of live-in domestic workers, their mobility may be highly restricted within the premises and they are not granted outside time-off (e.g., weekly off) under the fear that they might bring the virus into the house. Domestic workers are often depicted as “being part of the family”, rather than “workers”. As a result, the employment relationship is often informal and undocumented, and is not bound by a contract that can protect their rights. All the above factors contribute to a situation where the work of domestic workers is undervalued in monetary terms, as reflected in the generally low-wages received. Further, it is under-valued in societal terms in that its economic and social value is not adequately recognized by governments, citizens and others.¹⁸

4. Harassment and violence at the workplace: Domestic work is often carried out in a very private sphere without much monitoring and accessibility from outside. Workers work in an isolated manner, cut off from other workers and are often difficult to reach. All these factors undermine the possibility of decent working conditions. It also makes them vulnerable to harassment and violence at the

¹⁷ https://www.ilo.org/public/libdoc/ilo/2016/116B09_14_engl.pdf

¹⁸ https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_159839.pdf

workplace.¹⁹ Domestic workers are exposed to conditions that are far from the concept of decent work promoted by the ILO. This situation primarily reflects the low social and economic value societies usually place on this activity. This is often reflected by inadequate laws and lack of effective enforcement of those that do exist.²⁰

Providing domestic workers with stronger rights and recognizing them as workers would help combat gender-based discrimination, and discrimination on the grounds of race, national extraction or caste that often manifests itself in the sector and other forms of harassment and violence in the workplace.²¹

5. Undervalued work: As discussed above, domestic work is not considered even as work and is often treated in a very informal manner. There is a myth that domestic work does not require any skills.²² Domestic work is treated similar to work that is traditionally performed by women without a wage, that the work “is not aimed at providing added value, but at providing care to millions of households”.²³ As women have traditionally been considered capable of doing the work, and the skills other women teach them in the home are perceived to be innate, domestic work is looked upon as unskilled, meriting low pay.²⁴ However, domestic work can include various activities that require specialized and core competencies including but not limited to cooking, child and elderly care, interpersonal communication and event management. Therefore, it is recommended to have policies and practices that develop qualification standards for domestic work enabling recognition of prior learning (RPL) and linking specific certified qualifications to better wages.²⁵

¹⁹ On one end there are workers from lower castes, usually migrants who are socially isolated in the home of employers. On the other end, employers are better positioned to maintain their position of domination and protect their interests against workers in case of litigation. Employer share similar class markers with their neighbours, residence authorities, municipal authorities, police, lawyers, etc. They also have greater capacity to leverage social, economic and symbolic capital to be considered more trustworthy than the worker. Under such asymmetrical relations, violence – when it occurs – tends to remain unreported and more frequent.

²⁰ https://www.ilo.org/public/libdoc/ilo/2016/116B09_14_engl.pdf

²¹ <https://16dayscampaign.org/wp-content/uploads/2018/11/Platform-of-Demands-Violence-and-Harassment-Against-Women-ILC-2018.pdf>

²² https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_617232.pdf

²³ https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_159839.pdf

²⁴ Ibid

²⁵ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new_delhi/documents/publication/wcms_617232.pdf



6. Lack of standard contract and code of conduct for both employer and employee:

The non-recognition of domestic work makes compliance to laws and regulations on the part of both employer and employee difficult. Domestic work is often managed in a very informal manner and conducted on an ad hoc basis resulting in several labour rights and human rights violations. It is very important to lay out some basic rules and legally binding terms and conditions consisting of employers' and employees' rights, duties and responsibilities to make domestic work more visible and ensure decent working conditions. The set of code of conduct for both the parties associated with this sector of work will clearly define the roles and responsibilities for both employees and employers. Similarly, having a standard contract that is legally binding will help recognize domestic work and have access to legal remedies.

7. Research and advocacy for implementation of labour law and the rights of domestic worker:

There is a lack of evidence to determine the actual number of domestic workers and what their concerns and needs are. Therefore, extensive research in this area is very important to carry forward advocacy and inform better laws and policies. Similarly, supporting domestic workers to organize and supporting them to advocate for their issue is also equally important.

8. Inclusion of domestic workers in social security schemes:

Article 20 of ILO Recommendation No. 201 on Domestic Workers considers domestic work and as such domestic workers are entitled to social security to which both workers and employers should contribute. Social security should be available for domestic workers regardless of whether they work for multiple employers or not, and whether they are migrant workers or not.²⁶ Regardless of whether these provisions are in place or not, there are several obstacles to ensuring domestic workers' social security rights. Some issues to ensure while extending social security coverage to the domestic work sector includes the regulation of informality, casual work, in-kind payments, contributory methods, inspection of private homes, information on rights and responsibilities; and low level of organization of domestic workers, among others.²⁷

²⁶ https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:R201

²⁷ https://www.ilo.org/public/libdoc/ilo/2016/116B09_14_engl.pdf

To cope with these issues, several countries with high levels of social protection coverage for the domestic work sector have implemented a combination of strategies that include: the application of mandatory rather than voluntary coverage; differentiated contributory schemes in relation to those applied to other employees; government subsidies; fiscal incentives; registration plans for workers who have more than one employer (multi-employer) or who work part-time; education and awareness-raising programmes targeting domestic workers and their employers; use of information technologies; and implementation of service voucher mechanisms and presumptive schemes.²⁸

9. Occupational Safety and Health (OHS) issues (*health and sanitation, decent working conditions, gloves, mask, live in-separate room and rest rooms for DWs*): Occupational Health & Safety (OHS) regulations, which aim to prevent injury or illness in the workplace, most often protect formal workers in formal work environments. These regulations do not protect workers who work in private homes. Although domestic work provides employment for many and includes many health and safety hazards that are further exacerbated by domestic workers' socio-economic conditions, and that would be in a precarious position should they experience health issue, OHS legislation in many countries does not cover them.²⁹ Similarly, COVID-19 crisis has posed several threats to domestic work and work conditions as maintaining physical distance is often difficult in the case of domestic work. Further, there are direct implications on their treatment in the workplace, paid leave, access to safe transportation to work, medical services, access to safety measures and products (mask, sanitizers, gloves etc.). Likewise, in case of live-in domestic workers it is important that they are provided with enough safety measures related information, separate room to stay or room with enough physical distance maintained, availability of adequate and nutritious food and access to medical services when needed.

10. Financial literacy training: Most domestic workers are semi-literate and illiterate, it is important to provide financial literacy training (some may even need adult literacy training) for their economic empowerment.³⁰ This will help them to keep record of their income and expenditure allowing them to plan for saving and other investments.

²⁸ https://www.ilo.org/public/libdoc/ilo/2016/116B09_14_engl.pdf

²⁹ https://www.wiego.org/sites/default/files/resources/files/OHS_DW_Eng_2012.pdf

³⁰ Trade unions tend to do this best (e.g. IDWF in Hong Kong, SEWA in India). They usually establish training centres in cooperation with Government, in which unions provide training.

Analysis of laws in Nepal relating to the labour rights of domestic worker

The labour rights of domestic workers have been derived from the Constitution of Nepal (2015). Further, the Labour Act (2017) has included domestic work as a specific type of industry and service. Also, there are Labour Rules (2018), State Civil Code (2017), Contribution based social Security Act Nepal (2017), which have also defined some rights to the domestic workers.

On analyzing these current legislations through the rights of domestic workers against international standard, including the ILO C189 and Recommendation 201, the following gaps have been identified:

1. Definition and scope of application of labour laws: The Labour Act 2017 has provided that it shall act as a minimum standard for workers and on matters relating to the workers, including domestic work.³¹

Gap: The Labour Act, 2017, has not explicitly determined some provisions such as leave or minimum wage for domestic workers and says it shall be determined later through specific or other legislation, rules, guidelines and government order.

2. Formalizing the employment relationship: The Labour Act states that the employer shall employ any worker entering into employment by entering into a contract. Thus, the law has provided the basis for formation of various legal grounds for the domestic worker to claim their rights.

Gap: However, considering the different nature of domestic work, the specific guideline is yet to be enacted approving the specific format for written contract or particular of employment of domestic workers.³² In absence of such compulsory requirement at law,

³¹ Chapter 13, of The Labour Act 2017 has stated domestic workers as specific service.

³² There may need to be different rules and regulations for live-out and part time workers (priority) and live-in domestic workers

only a few domestic workers recruited through recruiting agencies can get standard contracts. The contract still does not cover the overall aspect of the rights and protections provided by the labour law to all labourers.

3. Fundamental principles and rights at work: In international human rights law and labour law, the labourers enjoy various sets of rights ranging from right to freedom of association - trade union to collective bargaining to eliminate forced labour, child labour to any form of discrimination in employment and occupation.

In Nepal, the fundamental principles and rights at work are ensured, protected and regulated by the Constitution and several legislations. The rights of a domestic worker in this context are analyzed as:

- a) **Freedom of association and the right to collective bargaining:** There is a trade union of domestic workers like the Home Workers Trade Union of Nepal (HUN), which is now affiliated to GEFONT who have been advocating for various issues relating to the domestic worker's rights such as guarantee of minimum wage, recognition of work, contribution on social security for domestic workers etc. However, there are still large percentages of domestic workers who are not linked with the trade union. As a result, though laws have explicitly mentioned there is no informal sector of labour, domestic work remains unorganized.³³
- b) **Eradication of forced labour:** The labour Act has explicitly mentioned the eradication of forced labour. Several indicators of forced labour are prevalent in domestic work such as abuse of vulnerability, deception in recruitment, restriction of movement, and isolation. Rules and regulations can regulate this.
- c) **Abolition of child labour:** Though the labour Act has prohibited child labour, there are significant numbers of children involved in domestic work in practice. Due to the prevalence of child labour in domestic work, the government's policy to eradicate child labour in the country has been adversely affected. Regulating a minimum age for domestic work would be important as per ILO C138 and C189. Likewise notifying the risk of child labour would help it get close to C182.

³³ This can be given incentives through rules and regulations

d) Elimination of discrimination in employment and occupation

- i. Inclusive anti-discrimination and equality laws: The constitution of Nepal guarantees equality and non-discrimination under the fundamental rights that are also guaranteed under Labour Act, 2017. So, in principle, there is a guarantee of inclusive anti-discrimination and equality laws. However, in practice, domestic workers are not treated humanely and often face different forms of violence and harassment at workplace or discriminated against based on their caste, class, gender and in case of women during the time of menstruation. The Labour law of Nepal also provides the rights against non-discrimination and sexual harassment on various grounds, including on sex.
- ii. Violence against Domestic workers: Domestic workers are likely to suffer from personal abuse, harassment and violence at their workplace. There is general criminal law that prohibits such abuse, harassment and violence. However, the work-related abuse, harassment and violence towards the domestic workers should be directly dealt with by separate labour law and labour court. The general criminal law does not necessarily protect domestic abuse, harassment and violence as they are more vulnerable to mistreatment by an individual at work.
- iii. Sexual harassment and other harassment based on prohibited grounds of discrimination: Criminal law prohibits sexual harassment to women and girls at public place. Also, there is a separate law prohibiting sexual harassment at the workplace. However, this law does not meet the international standard required by ILO. It does not cover the informal work sectors and different aspects of mental, verbal violence and harassment at the world of work.
- iv. Discrimination based on the status of pregnancy: The Labour Law provides specific protection to the pregnant women labourer. However, if the domestic worker is pregnant, she is most likely to be terminated from her job. Additionally, she is not entitled to any maternity leave or a contribution from social security.
- v. Caste-based discrimination and untouchability while menstruating: In Nepal, there is separate law prohibiting caste-based discrimination and untouchability during menstruation. However, in practice it is found the domestic worker of lower caste are intentionally provided work according to their caste at household, like they are prohibited from cooking or entering the kitchen and involved in other household chores. Though the law provides that one can lodge complaints, so far,

not a single domestic worker has filed a complaint against such behaviour. Yet, the domestic workers association has raised this discrimination in various forums.

Likewise, Nepal's law prohibits untouchability during menstruation; however in practice, many households still treat women domestic workers differently. Women domestic workers are not allowed in the kitchen to cook meals, so they are given forced leave during the first four days of menstruation³⁴ which they should later compensate for working on other days. Though this issue has been raised in public forums, there has been no complaint lodged according to the law.

4. Living Conditions: In terms of live-in domestic workers, the accommodation and food facilities are provided by the employers. However, the law does not stipulate the adequate standard of living that such live-in domestic workers are entitled to or the employers are required to provide. In practice, depending on the employer's social status and personal will, the live-in domestic workers are provided the accommodation and food. Also, the domestic workers often raise that the accommodation and food provided by the employers are discriminatory and inhumane which is against the constitution and fundamental rights of individuals. Yet, there is no system for monitoring live-in domestic workers' living condition by the government and concerned labour authorities.

5. Working Time: The labour law has regulated working time in general. However, in terms of domestic workers, it is still to be prescribed by the law.

- a. **Normal hours of work:** The ordinary hours of work for domestic workers is generally 8 hours a day according to Section 28 of Labour Act, 2017. However, in terms of working hours the workers work more than any other workers as the household chores start from early morning and continue beyond the evening.³⁵
- b. **Overtime:** The law generally requires limitations of overtime, compensation and record-keeping for the overtime. However, in the case of domestic workers they have to work overtime on various occasions such as the presence of a large number of friends and relatives, during festivals and other important occasions at employer's house, and such. However, the domestic workers' contribution of services and work during such situations at their employer's house is not recorded and valued. The employers recognize their work only at

³⁴ Based on the discussion during "Domestic Workers and COVID-19 in Nepal" dated on June 19, 2020 on the occasion of International Domestic Workers Day.

³⁵ This applies for live-in arrangements, not for live-out which may be more frequent.

a personal level and often domestic workers receive leftover food for their additional work.

- c. **Rest period and breaks:** Labour law has prescribed daily and weekly rest and breaks for all labourers. Although, in practice, if the domestic workers ask for a break at their employer's home they are likely to be threatened or given more work. The weekly breaks are not regular for domestic workers. Instead, it is determined by the bargaining of the employers and domestic workers.
- d. **Night work:** The labour law requires limitations on the performance of night work with compensation. For women workers, it even requires transportation from the employer's office to their residence. However, there is still no clear data on Nepal about the domestic workers who work at night and whether they have been provided with the employers' transportation service for jobs.
- e. **Leave:** The concept of paid leave, public holidays, sick leave, maternity leave and other personal leave is guaranteed under the labour law of Nepal. However, it has not adequately prescribed all of these leave for domestic workers and have even provided enough space for employers to determine the festivals and other personal leave of the domestic workers. So, there requires enactment of new guidelines or amendments on labour rules to comprehensively determine domestic workers' weekly days off including festive holidays.

6. Remuneration: The law requires the minimum wage of domestic workers to be prescribed in law, separately. It also states the remuneration shall be specifically mentioned in the contract. In the absence of a contract and determination of minimum wage, many domestic workers are paid below the minimum wage prescribed by labour law in general. For example, during the time of COVID-19 imposed lockdown, the domestic workers are not able to seek legal remedy in case of non-payment of minimum wage by the employer or if there is wage cut off. In practice, it is also found that employers do not give regular payment to the domestic workers. Although the law has prohibited any sort of deduction in salary, at household, if the domestic workers happen to damage the household items, they are likely to have their salary deducted. Yet, such practices are not reported to the labour court for legal remedy.

7. Ensuring compliance: There is no monitoring authority to ensure the labour law's compliance by the employers, recruitment agencies and the consequences there upon in domestic work. The protection under criminal law is not sufficient to protect domestic workers from all kinds of abuse, harassment and violence in private households.

8. Social security: The contribution-based social security scheme for formal workers is not applicable to households (who employ domestic workers as wage workers) as it applies currently only to enterprises. The scheme for workers not employed by any enterprises is not announced yet but if announced, it appears that domestic workers will be treated similar to own-account workers rather than wage workers in enterprises.

9. Compliance with international labour and human rights standards: While domestic workers have been included in the labour law, there is a gap in implementing provisions relevant to domestic workers. Further, the government has not ratified ILO Convention 189 on Domestic Work yet. If provisions for domestic work in Nepal's labour law are implemented, this could help formalize the hiring of domestic workers, grant them benefits such as living wages and access to social security, and redress in case of abuse and exploitation. Currently, there are no legal safeguards for women domestic workers for their loss of work, wages and discrimination of workers as potential carriers of COVID-19.

Case studies

Muna Aagdembe Limbu, one of the members of the Domestic Workers Trade Union of Nepal, a permanent resident of Panchthar district in eastern Nepal, is currently residing temporarily at Ratopul, Kathmandu. She lost her job because of the COVID-19 lockdown. She shouldered the responsibility of taking care of her elderly parents who are living with her in a small rented room. Due to the lockdown, she could not take her mother, a cancer patient, to the Bhaktapur Cancer Hospital. With the help of Domestic Workers Trade Union wing of GEFONT Nepal, she was able to take her mother to the hospital, and the Union also helped her by providing medicines for two months, paying for health equipment, and by giving necessary food support for three months.

She was not aware of GEFONT trade union, and now that she received support from them, she is happy to be a part of it, and has committed to participate in each programme of the union.

Nisha Shrestha lives in a small hut in Chappal Kharkhana, Kathmandu. Her husband is a member of *Nirman Karmi Occupation Union Nepal (Construction workers Union)*. She has a young daughter and is pregnant with another baby. Her mother-in-law is also with her for health treatment. Considering her critical condition, she received some relief materials

sufficient for two months. She used to provide for her family working as a domestic worker but now she is jobless.

Sangita Meheta is from Saptari district, now she is currently residing at a temporary home in Basundhara, Kathmandu. She lives with her husband and daughter. Before the COVID-19 pandemic, her daughter and husband used to work daily to provide for the family but the lockdown has rendered them both jobless. They were provided with food relief packages which was sufficient for three months. However, when the lockdown got extended, they ran out of food, and they started to struggle to make ends meet. So, they contacted the general secretary of the trade union who sent the staff of the Beauty Carmel Union of GEFONT to their rescue by providing them with food.

Some good efforts by Local Representatives:

Local representatives of Basundhara, Kathmandu ward no. 3 provided relief packages to domestic workers three times during the COVID-19 lockdown. Currently, domestic workers are continuing their employment by maintaining physical distance and taking preventative measures to protect themselves and others from the disease.

Similarly, domestic workers received relief packages and protective gears from the one-door policy in Sankharapur, Kathmandu Metropolitan city. The workers are also engaged in mask production for income generation.

Next steps and way forward³⁶

- The registration mechanism should be put in place at the local level that could address many problems related to work insecurity of domestic workers such as not having employment letters, ad hoc dismissal etc.
- Define the working hours and fix the payment of different categories of domestic workers³⁷ including live-in, live-out, and part time domestic workers.

³⁶ Relevant stakeholders and domestic workers raised these points during series of consultation meetings.

³⁷ Agreeing on payment based on different tasks of domestic work and number of members in the family. For example: Employers agree on different tasks that domestic worker should do, sweeping and mopping floors, dish washing, washing clothes, taking care of children/old age persons etc.,



- It is essential to bring all the domestic workers under the social protection mechanism, and ensure protection of their human and labour rights.
- During the pandemic, relief packages provided to domestic workers were only sufficient to fulfil their immediate needs. In the long term, there is a need for awareness on the importance of saving along with the consideration to advocate on maintaining a decent pay scale³⁸ for domestic workers. If the remuneration is not sufficient to meet the daily needs, it will be very hard for them to save.
- Linking domestic workers to networks and union will further strengthen their security and collective efforts.
- There is a need to make agreements/ contracts for domestic workers, including the clauses related to emergency situations like the COVID-19 pandemic.
- The local government should have plans for skill development and the employment opportunities for women workers.
- Participation and consultation of all sectors is necessary including the private recruitment agency and individuals as employers while making laws and codes of conduct for domestic workers for their buy-in.
- Implementation of provisions on registration of domestic workers in local level, developing guidelines for them and promotion of domestic work recruitment.
- Online survey of employers to understand how much they know about the issue and domestic workers' rights.
- Effective implementation and monitoring of law regarding domestic workers. The Labour Act has a provision that says the government of Nepal can separately define the minimum remuneration of the domestic worker but this has not been done. This had created a lot of confusion and uncertainty among domestic workers so it is crucial that the Government come up with the standard operating guideline and standard contract to make domestic work a decent and recognizable work.
- Develop Code of Conduct for domestic workers and employers in Nepal.
- Ratification of ILO Convention 189 on domestic workers and its domestication at the local level to national level.

³⁸ For instance, domestic workers should get at least basic minimum wages as prescribed by the government and or collectively agreeing on wage rates to each local context.

- Information campaigns for employers of domestic workers are equally important to sensitize employers paying domestic workers full wages during the lockdown period, ensuring appropriate facilities for sanitization and physical distancing, protection of rights of domestic workers in line with the labour law.

Recommendations³⁹:

1. Ratify the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.
2. Ensure effective implementation of legislation on the minimum wage in all sectors esp. in the domestic work sector.
3. Expedite the development of regulation and code of conduct for both domestic workers and their employers.
4. Ensure the implementation of laws on sexual harassment in the workplace and ratify ILO convention 190.
5. Ensure to introduce effective policy to end gender wage gap and implement measures to value, reduce and redistribute unpaid care and domestic work.
6. Adopt a policy to enhance socio-economic reintegration of returnee women migrant workers to the country through social justice measures, such as reducing discrimination and inequality, ensuring decent work for all people and guaranteeing social protection.
7. Extend labour protection in national law to domestic workers, including by having a written contract stating their specific duties and remuneration, payment for overtime, working hours, working conditions, days of rest, annual leave, freedom of association and social security protection, including with respect to maternity and pension rights and health insurance.
8. Ensure local governments are mandated to register domestic work at the institutional level.

³⁹ These recommendations were drawn after a series of consultation with relevant stakeholders and domestic workers.

9. Guarantee all vulnerable domestic workers are not left behind in terms of relief packages provided by the government during crisis situations for. E.g. COVID-19 pandemic.
10. Ensure domestic workers have access to information on government employment schemes, soft loans and others to support their livelihood.
11. Extend psychosocial support through phone or free hotline services in case domestic workers need any kind of assistance regarding their mental health during COVID-19 pandemic.
12. Guarantee and ensure all women equal access to employment opportunities in the labour market within and outside of the country including by lifting discriminatory restrictions imposed on domestic workers endeavouring to work at the countries of destination.
13. Build in the standards provided in the National Labour Act, including those for domestic work, in all bilateral agreements with countries of destination and enhance gender-sensitive, legal awareness about foreign employment on pre-departure and post-arrival orientation services to women domestic workers.
14. Establish tripartite committees comprising of employer, employee and local government representatives at local level to address issues and grievances of domestic workers

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