**How can the law help domestic workers?**

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Slogans of banning child domestic workers are making headlines once again in public seminars and media, gaining attention of the wider civil society due to two ghastly incidents recently.

Rizwana, a 14-year-old domestic maid, was skinned from the head that was left to be infested with maggots. The extent of her suffering is harrowing – her frail body had the weight of multiple painful injuries: fractured teeth, ribs and visible strangulation marks. The employer – wife of a judge and resident of Islamabad – tortured the girl for months who was given in bonded labour by her parents.

Within weeks, there was a second case – in Khairpur Sindh – that left the whole country shocked. A 10-year-old domestic maid, Fatima, could be seen in a CCTV video, writhing in pain and dying in the house of an influential local ‘pir’, the employer. Beaten and tortured, the death was caused due to rape multiple times.

The abuse meted out to child and women domestic workers is not new and time and again media picks up a case and it gains momentum publicly. A study by the International Labor Organization (ILO) determines that one in every four households in Pakistan hires a child domestic worker. According to another ILO survey, 8.5 million domestic workers are employed in the country who lack basic education or skills to find alternative employment, so they opt for this mode of earning to escape abject poverty and to earn bread and butter for their families.

Domestic work is generally undervalued, invisible and informal as most of these workers belong to most underprivileged communities. They are always susceptible to discrimination with regards to forced or child labour, working conditions, terms of employment, denial of rightful wages, lack of inspection and law enforcement involvement.

The constitution of Pakistan clearly provides a range of provisions with regard to labour or domestic workers rights. Article 11 of the constitution prohibits all forms of slavery, forced labour, services of cruel nature and children (below the age of 14 years) engaged in any “factory or mine or any other hazardous employment”. Article 23 provides protection to every person against being deprived of their property. This article is against the bonded labour system that is also prohibited under the Bonded Labour Act.

Article 25 lays down the right of equality of all the citizens before the law and prohibition of discrimination on the grounds of sex alone. Similarly, Article 37(e) obligates the state to make provisions for securing just and humane conditions of work, “ensuring that children and women are not employed in settings unsuited to their age or sex”. Moreover, Article 38(a) obligates the state to promote social and economic well-being of people by “equitable rights of employers and employees”.

Consequently, there has been a country-wide realization to undertake concrete policy reforms, legal steps and compliance to protect domestic workers, especially children. In this context, the Punjab Domestic Workers Act 2019, complying with global norms and International Labor Organization’s agreements was enacted by the provincial assembly of Punjab.

In similar vein, to cater for a huge number of domestic workers living in the Capital Territory of Islamabad and an increasing number of incidents involving abuses and ill-treatment against them, parliament enacted the Islamabad Capital Territory Domestic Workers Act, 2022 which was moved by this author and that entrenched a legal and contractual mechanism to regulate and protect the rights as well as employment conditions of domestic workers.

As a much-needed initiative, I introduced the Act that recognized the economic and social value of thousands of domestic workers residing in Islamabad by bringing them into the mainstream as against their previous exclusion from labour and social protection coverage. Most importantly, the Act banned children under the age of 15 years from being employed. Prior to the Act domestic workers were considered as ‘invisible’, with their employment status not more than ‘modern-day slaves’, while the Act introduced key injunctions given as below:

One, the Act prohibits working of a child below the age of 15 years in a household. Two, the Act allows children under the age of 18 years to do light work in a household, which entails domestic work that is part time in nature and is not likely to harm the child’s health, safety and education. Three, the Act further restricts bonded labour or partly forced labour.

Four, an employer cannot assign extra work to the domestic worker without his/her free will. Five, the Act extends benefits for a domestic worker, including medical care for not only the worker but also his/her dependents. Six, other benefits include any contribution by the employer in respect of persons employed with him under any scheme of the Employees Social Security Ordinance 1965.

Seven, under the Act every time a domestic worker is hired, a letter of employment, should be drafted, which clearly states the terms and conditions of his/her employment, including the nature of work and the amount of wage. Eight, domestic workers are also restricted from working for more than eight hours a day unless they are paid overtime.

Nine, the law further provides a ceiling on weekly working time, which cannot exceed fifty-six hours. Moreover, it entitles them to leave and holidays as well as wages during same in addition to maternity benefits, accommodation, medical examination, vaccination and inoculation.

Ten, the employer is required to pay the minimum mandated wage. And, finally, the Act establishes a governing body and requires every domestic worker to make an application for registration in order to benefit from the fund created under this Act. The body should be notified at the earliest so that it can raise awareness amongst people about the rights of domestic workers to stop further exploitation.

This author also commenced to initiate and propose the Islamabad Capital Territory Domestic Workers Rules, 2023 to strengthen the legal and contractual mechanism in favour of the domestic workers given in the Act. The said rules criminalized bonded labour of a domestic worker and specified the incidents when a domestic worker falls under the bonded labour system, when work is appropriated: first, in consideration of an advance (peshgi) obtained by the worker or his family member. Second, in pursuance of any customary or social obligation. And, third, without wages or for nominal wages against any economical consideration received by the worker; or forfeit their freedom of acquiring other employment, or freely move from place to place or the right to appropriate or sell their labour. The rules clearly prohibit forced labour where work is extracted involuntarily or under threat of penalty.

As per Section 5 (1) of the Act, its rules must give the format of letter of employment regarding job description, working hours, allocated holidays and rate of wages. It is not only mandatory on the employer to provide a letter of employment to a domestic worker, but rules obligate the government to publicize minimum wage rate to employers and all concerned. The rules allow mandatory maternity leave of minimum six weeks and grant of wage to female domestic workers for that time. The proposed rules also specify the mode of termination by or of a domestic worker and mandatory issuance of experience certificate by employers.

In Section 23, the Act required the federal government to establish a Dispute Resolution Committee for effective enforcement. Therefore, the rules specify the members of the committee, assigning the assistant commissioner as the chairperson, while an officer of labour department, a lawyer, a domestic workers representative and a child rights expert, an employers’ representative and an expert in labour issues, as members. It is incumbent on the federal government to make, notify and enforce the rules required by Section 2(q) read in conjunction with Section 36 of the Islamabad Capital Territory Domestic Workers Act, 2022.

In conclusion, I want to share my earnest concern that the rules that were coordinated by the author and jointly drafted by the Ministry of Law and Justice, International Labour Organization and Unicef, are still lying unattended in government corridors. All the media hype, seminars and pledges are yet to transform into a strong political will to implement the Act that is already in place by immediate passage of the rules and their unmitigated implementation with full commitment.

The writer, mover of the new law, is a former MNA, former convener of the Parliamentary Caucus on Child Rights, and the Global Co-Chair of the International Parliamentary Education Network.