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RIGHTS WATCH

Need for regulating recruiting culture of domestic workers

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Domestic workers (DWs) are one of the most vulnerable and marginalised groups in our society, largely made up of women and children. Although they suffer harassment, physical torture and verbal abuse, they play an important role by contributing to the country's household income and labour.

There is, however, no law to protect DWs, except the Domestic Servants' Registration Ordinance of 1961, promulgated to compel domestic workers in five metropolitan areas of Dhaka to register with the police. In 2010, the National Child Labour Elimination Policy, while classifying child labour, included 'domestic works' as part of the informal sector. Later, in light of human rights activism, domestic work was recognised as a profession in the Labour Act 2013. However, it also placed domestic work into the informal sector. Thus, DWs are not entitled to have the benefits of formal sector workers. In 2015, the government formulated the Domestic Worker Protection and Welfare Policy, which is not legally binding; hence, no provision has yet been implemented to protect DWs' rights.

Several groups – including NGOs and INGOs, government officials, DWs representatives, the Bangladesh Labour Foundation, the Domestic Worker Association, and others – have advocated for a long time to enact a comprehensive law to protect the rights of DWs. Their key emphasis is on recognising domestic work as a profession, protecting DWs' labour and social rights (ensuring minimum salary, welfare, education, training, safety, and security), establishing a monitoring cell and so forth. The following analysis addresses yet another justification for enacting a law: to regulate the recently developed recruiting agencies.

Most DWs in Bangladesh get employment via referrals from other DWs, family members,

or the family they serve. However, there has been a dearth of DWs over the last several years, primarily for two reasons. Firstly, economically disadvantaged children now have access to education due to policies and actions the government has adopted. Secondly, the garment industry attracts more female workers for better wages with weekly holidays. Thus, some recruiting agencies (mostly Dhaka-based) have emerged, intending to provide DWs quickly.

Although Bangladesh is yet to ratify the Convention concerning Decent Work for Domestic Workers of 2011, adopted by the International Labour Organisation, its provision is relevant to the current analysis. Article 15 prescribes that member states must determine the conditions governing the operation of private employment agencies recruiting DWs following national laws, regulations and practices to safeguard DWs from abusive activities. The 2015 Policy, as mentioned above, lacks recruiting agency provisions. It recommends that if a verbal contract, understanding, or agreement exists, it is preferable to conclude the discussion in the presence of a third party acceptable to both the DW and the employer. Therefore, these growing agencies' legal status, responsibility and obligations are left undefined.

In the absence of any specific law, if these agencies are functioning based on practice prevalent in the country, there is, unfortunately, no authority to monitor whether they are operating in conformity with the current practice. Moreover, 'practice' varies from city to city, area to area. Even across the whole country, there is no fixed wage for any specific work. Salary varies by working hour, nature of work and place. In the 2015 Policy, the policymakers did not declare the minimum wage for the DWs. Even if one assumes that the recruiting agencies fix the wage based on practice, a question comes whether the recruiting agencies are

predominantly targeting upper-class families and unreasonably increasing the remuneration of DWs and making it a new practice. Moreover, the ILO Convention prohibits deducting the fees charged by private employment agencies from the salary of DWs. Although some recruiting agencies claim to take separate fees as their service charge, there is no standard fee that all agencies charge. And the overall result is a scenario where employment practices are dissimilar and inconsistent.

In the global community, the term 'maid' has gained pejorative connotations. Unfortunately, the majority of these recruiting companies refer to DWs as "maids", and some of them use the terms "maid" and "domestic worker" interchangeably. Using such a derogatory term directly influences how DWs are seen and abused. Hiring a DW is being compared to renting a car using E-app by some of these agencies. Hence, these agencies fail to treat DWs with the respect and dignity they deserve and instead, they are promoting a contemporary form of slavery.

Additional reasonings as to why recruiting agencies should be governed by legal regulation include: providing a list of safety and security measures they must take, describing adequate procedures for investigating complaints, specifying respective obligations of and fraudulent practices concerning recruiting agencies' activities, determining the agency's role in sexual or verbal harassment allegations against the employer and alleged theft accusations by the employer.

Despite these factors, it is hard to disregard altogether the initiative to digitise this platform. However, the absence of legislation and proper authority to regulate the operations would undermine noble intentions and lead to arbitrariness.

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RIGHTS ADVOCACY

Dealing with air pollution to protect human rights

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The right to life is a fundamental human right enshrined under article 32 of the Constitution of Bangladesh. But this right requires other supplementary elements associated with it to be fulfilled, like a healthy environment. Due to rapid industrialisation in urban areas, the quality of air is however worsening now-a-days. Dhaka has recently been ranked 4th for having the worst air quality.

Anybody can now easily feel the air quality of any place. For example, Gazipur, a metropolitan city situated in Dhaka, is well-known for having many factories for ready-made garments, medicines, etc. While writing this piece, the Air Quality Index (AQI) of Gazipur was 8, indicating high percentage of PM 2.5 and PM 10, respectively, referring to 'particulate matter less than 2.5 microns and 10 microns'. Not only this, even the quantity of Ozone was 154.04 micrograms per cubic meter. In 1979, the WHO registered the average natural concentrations of ground-level ozone as around 30-100 micrograms per cubic meter. Needless to say, the health impacts of these exposures are horrifying.

Article 18A of the Constitution of Bangladesh states that 'the State shall endeavour to protect and improve the environment, and to preserve and safeguard the natural resources... for the present and future citizens.' Though this fundamental principle of state policy is not judicially enforceable, the State has a moral obligation to



respect this provision during administration. Further, article 32 upholds right to life. Right to healthy environment has been recognised as an element of right to life under article 32 in *Dr. Mohiuddin Faruque v Government of Bangladesh* (1996). Right to life has also been recognised by various international instruments including article 6 of the ICCPR. The continued pollution of the environment as a threat to human life has paved the way to use this right to life aspect in our country.

Apart from this, the 1972 Stockholm Declaration in its first principle states that, 'Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being'. Also, the Rio Declaration of 1992 reaffirmed this by enunciating that 'human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with the nature'. Further, the right to a clean, healthy, and sustainable environment was declared an important human right by the United Nations Human Rights Council on October 8, 2021.

The severe river pollution caused by factories in the name of industrialisation is known to everyone but the slow poisoning happening through this process is still unnoticed or fundamentally ignored. Furthermore, these polluted areas are densely populated as well. If proper clinical tests are conducted on the inhabitants of these areas, we can perceive the actual scenario. Over the years, Bangladesh has adopted a number of laws to minimise pollution. What we now need is the proper administration of laws to protect natural environment and human beings.

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LAW LETTER

Impact of global food crisis on women's rights

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According to an annual study report published in July 2022 by the USAID Care Bangladesh, 21% of women and girls experienced violence at the household level due to price hikes in Bangladesh. The growing global food insecurity has become a contributing factor to gender-based violence in households. The soaring food crisis and price hikes in essential commodities are worsening the already fragile women's rights situation in Bangladesh. Domestic violence has been a silent human rights abuse for a long time and is expected to be worse when the IMF is projecting a one third of the world economy to be in recession in 2023.

Domestic violence is recognised as a human rights violation in international law. According to article 3 of the UDHR, everyone has the right to life; and security of the person is also reflected in articles 6 and 9 of the ICCPR. Right to the highest standard of physical and mental health



has also been guaranteed under article 12 of the ICESCR. According to article 2 of the CEDAW, the state parties must agree to condemn discrimination against women in all its forms including domestic

violence. The monitoring body of the CEDAW in 1992 had also adopted General Recommendation No. 19 which specifically addressed domestic violence as a form of discrimination covered by the CEDAW.

CEDAW Recommendation No. 19 also mentioned that violence against women is also a violation of the right to protection from cruel, inhuman or degrading treatment or punishment guaranteed by article 5 of the UDHR and article 7 of the ICCPR. This has also been affirmed by the Committee Against Torture responsible for monitoring the Convention Against Torture (CAT) which prohibits any form of torture. Bangladesh is a signatory to the CEDAW and has ratified UDHR, ICCPR, ICESCR and CAT, legally bound to take steps to prevent domestic violence.

Section 3 of the Domestic Violence Prevention and Protection Act, 2010 defines domestic violence as 'physical, psychological, sexual or economic abuse against women or children of a family by any other person of that family with whom the victim is, or has been, in family relationship'.

Domestic violence also violates other constitutional and legal rights of the victims. Domestic violence is a

gender-based offence which violates the fundamental right of equality before law under article 27 of the Constitution and further violates article 28(l) of the Constitution which protects women and children from discrimination based on gender. Domestic violence also includes economic abuses. Not providing the wife with dowry and maintenance, depriving women from inheritance can be treated as economic abuse which violates the right of women protected by sections 9 and 10 of the Muslim Family Law Ordinance, 1961.

As the global food crisis has a direct nexus with increased domestic violence in households, it is a direct contributor to violation of international human rights covenants and domestic laws of the country. Domestic violence has now become the worst form of human rights violation which is to some extent invisible and needs to be addressed immediately.

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