
Examining the Legal and Administrative Framework of The Rights of Domestic Workers in Pakistan

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KEYWORD

*Live-in worker,
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ABSTRACT

This research study explores the legal and administrative framework that governs the rights of domestic workers in Pakistan. The study aims to examine the level of protection and enforcement of domestic worker rights within the country. It also seeks to identify the challenges and gaps in the implementation of domestic workers laws and regulations, highlighting areas where improvements are needed. A mix-methods analytical technique applied in this study includes Legal Analysis, Situational Analysis, Stakeholder Analysis, Gap Analysis, and SWOT-EETH Analysis. By analyzing existing laws, regulations, and administrative practices as well as conducting interviews with relevant stakeholders, this research found that domestic workers face numerous challenges, including low wages, long working hours, workplace harassment, lack of social protection, and limited access to justice. The findings highlight the need for national-level uniform legal reforms, effective implementation, and improved administrative mechanisms to safeguard the rights and improve the conditions of domestic workers in the country. This research is a foundation for future advocacy efforts and policy development aimed at improving the rights and well-being of domestic workers in the country.

INTRODUCTION

Domestic Worker is a person who provides services of a domestic nature in a household. Domestic nature services include cleaning the house, cooking, washing and ironing clothes, taking care for children or elderly or sick members of family, working on the garden, driving (chauffeur) and taking care of household pets. The Punjab Domestic Workers Act 2019 has defined domestic work as any work which takes within or for the household and includes child care, old age care, sick care, natal/post-natal care and related matters. (Punjab Laws Online, 2019)

The ILO convention on rights of domestic workers has defined it as the worker who enters into professional relationship with one or many families to carry out domestic work, but worker engaged occasionally or sporadically and not on occupational basis is not a domestic worker. (ILO, 2011)

The domestic worker may be called as live in worker when residing in the household of the employer and live out worker when residing in his/her own house. Domestic worker may either be engaged by his employer on full time or part time basis. In Pakistan about 30% of the domestic workers are live-in workers amongst whom about half are inter districts migrants. Child Domestic Worker (CDW) and Female Domestic Worker (FDW) are two main forms of domestic workers being most exploited and abused workers in Pakistan. (Shahnaz, 2017)

In Pakistan, millions of domestic workers are regularly engaged by middle/upper class residents and richly contribute to the informal economy

which is 75% of total labour force in the country (khan, 2022). However, due to invisible nature of work, there are no precise estimates of domestic workers in Pakistan. According to one of the ILO studies about 4-10% of total employment in developing countries is generated by domestic workers making it about 8.25 million in Pakistan (Shafeeq, 2022). Moreover, a study conducted by Pakistan Institute of Development Economics (PIDE) exhibit that every other house has a domestic worker, revealing that domestic work is a major chunk of informal economy and 50% of them are female. (Khawar, 2022)

Domestic work is an unregulated sector and therefore most vulnerable to abuse. It is a most common practice in Pakistan that 12-14 years of age children are engaged in domestic work which the ILO convention termed as most hazardous. Employer's attitude towards domestic worker is much harder and perpetually abuses them mostly due to lukewarm support from domestic workers themselves. Domestic workers suffer appalling abuse and mistreatment from their employers. Most domestic workers are hired informally without limits put on their working hours. Domestic workers mostly female are often hired for one task but are engaged to do many more. The employers do not want to be accountable for the working conditions they provide and wages they pay to them. (Asrar, 2021)

Despite the fact that 16th June is observed as international domestic workers day across the globe and twenty-nine countries have ratified the ILO C-189, fifty countries have completed their legitimization, fifteen million workers improve their

rights and many domestic unions formed (WIEGO, 2022), Pakistan has still to ratify the ILO convention on rights of domestic workers. Moreover, the rights of domestic workers have been covered indirectly in Universal Declaration of Human Rights, ILO conventions, SDGs 8 (Target 8.7), National Policy Framework on Human Rights 2022-2027 and part of Fundamental Rights and Policy 1973 Constitution of Pakistan, rights of domestic workers remained neglected due to limited legislations and non-implementation of labour laws. This situation, therefore, exploited by the employers by denying the fundamental rights of domestic workers. (MoHR, 2022)

A number of cases of abuse and improper treatment by the employer against domestic workers were highlighted by the media, which threw focus on their rights. Similarly, Lahore High Court while deciding a writ petition seeking legislation for the rights of domestic worker ordered the Punjab Government to make legislation for the domestic workers. As a result, the Punjab Domestic Worker Act 2019 was enacted (The News, 2018). Later on, regulatory frame work for rights of domestic workers in federal territory was considered expedient and the Islamabad Capital Territory Act 2021 enacted. (Pakistan Observer, 2022)

Enactment of these basic laws for safeguarding rights of domestic workers is a big push but still the case of domestic violence continues which are reported but not acted upon despite the fact that eighteen amendment of 1973 constitution has empowered the provincial governments to tackle this issue (Fakhar, 2019). For example, an eight years old girl was tortured by a family in Gujranwala. These cases need to be pursued by the police and taken up actively by investigation agencies which are what human rights activists called domestic violence as endemic in Pakistan. (Shahid, 2022)

Moreover, when critical appraisal of the rights of domestic worker in context of legal and administrative framework is carried out it would reveal that implementation of existing laws is surely a major issue. There is no statistical data of the domestic workers due to invisible nature of their job (Shafeeq, 2022). The registration process of domestic workers is slow due to uncompromising behavior of the employers. Workplace inspection is not carried out. Debt bondage is common. There is no proper complaint redressal mechanism. Even the domestic workers are not known about these laws. Furthermore, illiteracy, poverty unemployment and culture of society has aggravated the situation as there is steady increase in employment of domestic workers by middle and upper-class families. (Khan & Zafar, 2021)

Rights of domestic workers in Pakistan have always been violated by their employers. Though limited legislations exist aim to protect this vulnerable group, however, implementation of these laws is weak resulting in lack of institutional accountability and respect for rights of domestic workers. Therefore, it is expedient to carry out the study that how to regulate terms of employment of domestic workers and protect their rights by enacting domestic workers laws and policies across the country.

Foregoing in view, this study is aimed to explore gaps and suggest way forward for remedial measures expedient to be taken for regulating employment of domestic workers and safeguarding their rights in Pakistan.

This study covers critical analysis of rights of the domestic workers in the context of legal and administrative frame work in Pakistan and identifies gaps and challenges and suggests a way forward.

Methodology Adopted

This study is based on both primary data (interviews) and secondary data (internet, research papers, reports, newspapers, and official websites). Qualitative methods adopted for analysis. The analytical techniques applied in this study include Legal Analysis, Situational Analysis, Stakeholder Analysis, Gap Analysis and SWOT-EETH Analysis.

Due to a lack of available information regarding the exact distribution and characteristics of the target population of domestic workers within the district Nowshera, a random sampling technique was chosen to introduce an element of unpredictability and minimize potential biases in domestic workers selection for interviews.

ANALYSIS AND RESULTS

Legal Framework:

Relevant laws and acts were gathered from official government documents and scholarly articles. In-depth reviews and comparisons of these legal sources were conducted and the following implications identified.

- Article 3: Article 4: Article 7: Article 11: Article 17: Article 25 Article 73e: under Constitution of Islamic Republic of Pakistan pertain to the fundamental rights of the citizen of Pakistan (National Assembly of Pakistan, 2018), therefore, indirectly cover the matters of domestic workers.
- Section 55-A under Minimum Wage Act 1961 has included domestic workers in definition of work (The Pakistan Code, 2022). However, no wage for domestic worker so far notified.

- Section 53 under Sindh Employees Social Security Act, 2016 provides that employer shall provide medical care to domestic workers (Sindh Act, 2016). But no such facility available.
- The Punjab Domestic Workers Act, 2019 and the ICT Domestic Worker Act 2022 are complete legal documents which envisage provisions for protecting rights of the domestic workers, their terms of employment and provide the social security, safety and health care facilities.
- While perusing the enacted laws it is surfaced that rights of domestic workers have been covered under provisions of constitution of Pakistan but no special laws enacted till 1960's. The Punjab Social Security Ordinance 1965 & Employees Social Security Act 2016 remained confine to medical health care overlooking other rights of domestic workers meaning by that domestic workers were not recognized as workers till enactment of the Punjab Domestic Workers Act 2019 and the ICT Domestic Workers Act 2022 which describes the following:
 - Recognized rights of the domestic workers
 - Prohibited child labour below age 15 years
 - Restricted bonded labor not authorizing to assign extra work to the domestic workers without their free will (The Punjab Laws Online, 2019, The Pakistan Code, 2022)

After a thorough analysis of these laws, the following gaps were found:

- Stipulated six-week maternity leave for women against 12-week maternity benefits established under the provision of Pakistan labour laws (WageIndicator Foundation, 2022)
- There is no mechanism that how to supervise the child domestic work by not specifying their safe working conditions
- There is no complaint mechanism for minor domestic workers in particular till their rescue from abuse at work place
- There is no mechanism for Social Protection of the migrant domestic workers
- Minimum age set as 15 years for domestic worker in the Punjab Domestic Workers Act 2019 (The Punjab Laws Online, 2019) is against ILO standard of age 18 years (ILO, 2017) and 16 years age as stipulated for compulsory schooling in Pakistan (Zaidi, 2021)

Situational Analysis:

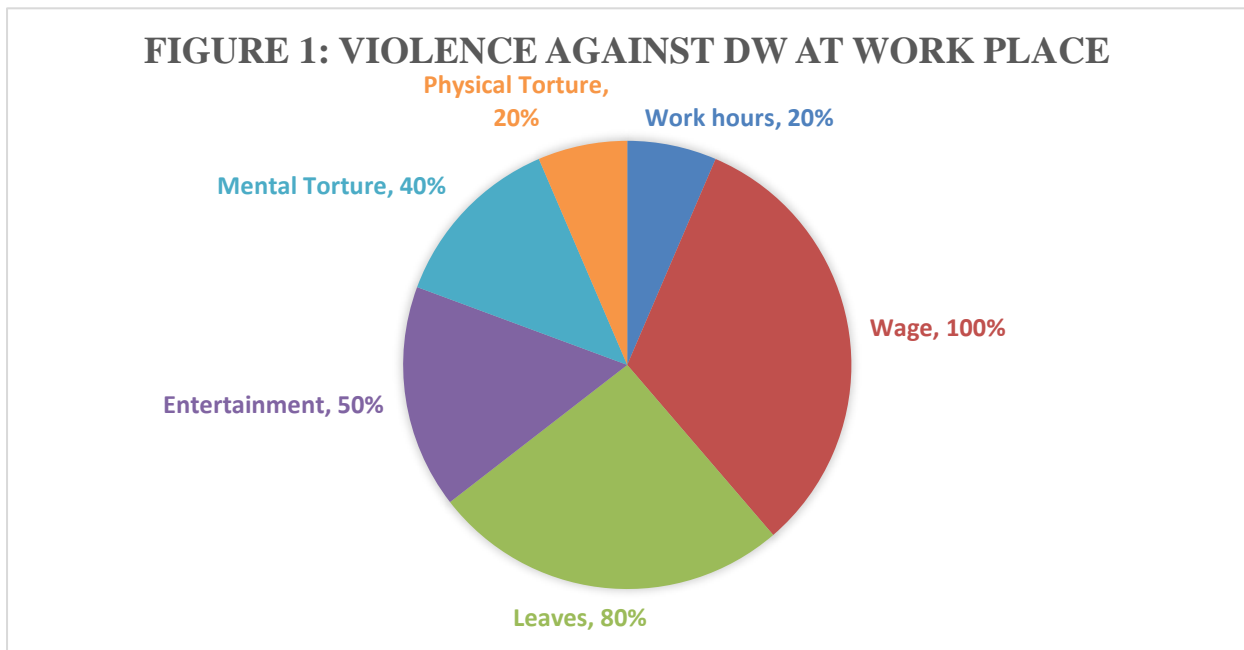
Ten numbers domestic workers were randomly selected for interview in district Nowshera in order to ascertain what kind of violence they face at their work place. All the interviewees were uneducated. In this context the Deputy General Secretary, Pakistan Workers Federation was also telephonically interviewed, who supported the responses of interviewees. The detail is given in Table 1 and Figure 1

Table 1: Violence Against DWs at Work Place

Name	Age	Nature of Work	Workhours	Wage in Rs.	Leaves/month	Entertainment	Mental Torture	Physical Torture
Aysha	11	Servant	14	5000	01	Yes	Yes	Yes
Noor	09	-do-	06	5000	00	Yes	Yes	No
Muneeba	16	-do-	06	5000	01	Yes	No	No
Ambreen	38	-do-	06	5000	01	No	Yes	No
Sohail	16	Chauffer	06	Bonded	02	No	No	No

Sana	12	Servant	06	2500	01	No	Yes	Yes
Amjid	52	Chauffer	06	Bonded	02	No	No	No
Wanai	64	Servant	08	3000	04	Yes	No	No
ShehrBano	40	-do-	4	5000	01	No	No	No
Wazir	28	Cook	14	Bonded	00	Yes	No	No
Saif Ali	18	Gardner	4	Bonded	00	No	No	No

Source: Field Survey



Source: Field Survey

Stakeholder Analysis:

Key stakeholders were identified through extensive literature review and expert consultations. The power and interest of each stakeholder were

gathered through in-depth observations to understand strategies for the improvement of the rights of domestic workers.

Table 2: Power and Interest of Stakeholders Regarding Rights of DWs

Stakeholders	Power	Interest	Strategies for improvement of the rights of domestic workers
Government	High	Low	Legislation at Federal and Provincial level
Standing Committee/ National Commission on Human Rights	High	Low	Viewing all its aspects and axillary laws, which fell within ambit of rights of the domestic workers, for example, health, safety, harassment at work place

Administrative Department	High	Low	Rules of Business and Policy implementation
District Administration	High	Low	Implementation of the Acts/Rules
Police Department	High	Low	Registration of reports and rescue of the victims of violence
NGOs	Low	High	Key interventions like awareness of the rights of domestic workers and counseling to the victims of violence.
Employers	High	Low	Registration of the employees and improvement of the working conditions
Domestic Workers	Low	High	Protection of their Rights through legal and institutional policies

Source: (Author's Own Observations)

Gap Analysis:

The Gap Analysis was performed by comparing the current situation of affairs with the desired situation. This involved analyzing the ICT Domestic Workers Act 2022 (The Pakistan Code, 2022), the Punjab Domestic Workers Act 2019

(Punjab Laws Online, 2019) and scholarly articles (Shahid, 2022), (Fakhar, 2019) and (Zaidi, 2021) to pinpoint areas of improvement where action is needed.

Table 3: Action Needed on the Basis of Current and Desired Situation

Current Situation	Desired Situation	Action Needed
There is no proper data available	Proper data base of domestic workers must be maintained	Government to take initiatives on priority basis to develop a proper database by utilizing services of stakeholder departments
Legal protection mechanism for rights is available in the Punjab & ICT Areas	Legal protection mechanism may be uniformly made across the country	All provinces should ensure regulatory framework for domestic workers
There is lack of public scrutiny for live-in workers leading dangers to health and safety which may also expose them to sexual exploitation	There should be proper mechanism for public scrutiny of the homes wherein domestic workers are engaged	This clause may be added in the enacted Acts
Under section 25 of the Punjab Domestic Workers Act 2019 a committee for resolution of disputes has been mentioned but there is no complaint mechanism for a minor domestic worker	Proper complaint mechanism or rehabilitation process may be devised for a minor domestic worker when he is recovered from abuse at work site	Section 25 may be amended
Domestic workers are not covered under EOBI	Registration with EOBI is needed	EOBI benefits may be extended to domestic workers
Minimum age of domestic worker is 15 years and 18 years age is stipulated for the domestic worker engaged in hazardous work	Minimum age may be fixed 16 years as article 25A of constitution of Pakistan envisages schooling age 16 years	Amendment under section 3 of the Punjab Domestic Workers 2019 may be made

Source: (Author's Own Observations)

SWOT Analysis:

In Table 4 the internal and external aspects of the legal and administrative framework of domestic workers identified.

Table 4: Strengths, Weaknesses, Opportunities, and Threats

Strengths	Weaknesses
<ul style="list-style-type: none"> • Legal Backing • Administrative departments & field formations exist • Major segment of workforce 	<ul style="list-style-type: none"> • No uniform laws • Not covered in Rules of Business • Lack of statistical data
Opportunities	Threats
<ul style="list-style-type: none"> • Political will for legislation • Values of society • Use NGOs for awareness • Coordination among Departments 	<ul style="list-style-type: none"> • Poverty, illiteracy and culture factor • Behavior of employers • Financial constraint • Logistic facilities at district level

Source: (Author’s Own Observations)

EETH Analysis:

On the basis of available data and information the enhancement of strengths, the elimination of weaknesses, taking advantage of opportunities and hedging against threats were identified as given in Table 5.

Table 5: EETH and Corresponding Strategies

Enhancement of strength	Elimination of weaknesses
<ul style="list-style-type: none"> • Make special laws for domestic workers • Improve coordination among the relevant departments/institutions • Proper survey may be arranged 	<ul style="list-style-type: none"> • Removal of overlapping /contradictions in laws • Wing either under social welfare or labour department may be established • Services of NADRA, domestic workers unions, Local Government and District Administration (Rev. staff) may be utilized
Take advantage of Opportunities	Hedge against Threats
<ul style="list-style-type: none"> • Political commitments and resources of the relevant department may be utilized • Violence/harassment of domestic workers may be dealt as a crime • Services of expert NGOs. may be hired/utilized. • Better liaison among the departments 	<ul style="list-style-type: none"> • Education for all and poverty alleviation strategies may be adopted • Rules of Business may be amended • Role of religion, political and social workers • Logistic facilities of the departments may be strengthened

Source: (Author’s Own Observations)

Issues and Challenges

The issues and challenges have been derived from analysis and results section. The detail is as under:

1) Poverty, illiteracy and cultural factors

Poverty and illiteracy compel the poor people to adopt low paid jobs. Domestic workers being poor, illiterate and having no skills, do not find alternative employment. Illiterate

parents having lower expectations from schooling of the child prioritize to domestic work more suitable even if they are low paid. Moreover, culture restricts women to prefer work behind the doors even they are low paid.

2) Lack of data

There is lack of mechanism for data collection regarding domestic workers. None

of the departments own responsibility to collect data on domestic workers. Further, due to its invisible nature facts are not reported. Therefore, any risk of exploitation, abuse cannot be addressed.

3) Lack of regulatory framework

Only two laws “The Punjab Domestic Workers Act, 2019” and “The ICT Domestic Workers Act 2022” have so far been enacted. The rest of the federating units have not bothered to enact laws for protecting rights of the domestic workers and safeguarding their rights which has aggravated the issue of domestic works exposing this vulnerable group to abuse and exploitation.

4) Gaps in the laws pertaining to domestic workers

Enactment of “The Punjab Domestic Workers Act 2019” and “The ICT Domestic Workers Act 2022” is encouraging but critical review of the Acts surface some of flaws which need early amendments. The gaps include lack of criteria for inspection of domestic workplaces, filing complaints against the employers, availing EOBI benefits, minimum age of domestic workers and the registration of employers.

5) Implementation of the laws

Implementation of the laws governing the rights of domestic workers is a real challenge due to minimal support of the stakeholders.

6) Lack of awareness

The PESSI is responsible institution for registration of the domestic workers in Punjab for which online android application has also been launched. But due to lack of awareness about the domestic labour laws amongst the general public, domestic workers and employers they are not convinced to register domestic workers leading to low wages, long hours of work, heavy workload, violence at work place, bonded labour and unregulated terms of employments.

Conclusion:

There is lack of legal mechanism for protection of rights of the domestic workers, therefore, they remained exploited by their employers. Though, some legal and administrative measures exist but non-implementation has further aggravated the situation in terms of regulating employment of domestic workers and safeguarding their rights. Therefore, legal framework is necessary to be adopted and implemented across the country to

safeguard the rights of domestic workers in Pakistan.

Policy Implications

1. Short Term:

- **Mass Media Campaign**

Mass media campaign for awareness regarding rights of domestic workers and enactment of new laws may be launched by government through district administration, religious and social workers across the country.

- **Implementation of existing Laws**

The existing laws shall be implemented. Registration of the domestic workers may be enhanced through PESSI and similar drive for registration may further be initiated across the county by utilizing services of relevant departments.

2. Medium Term:

- **Amendment in Rules of Business**

The subject of rights of domestic workers may be incorporated in the relevant departments i.e.the Social Welfare department or Labour department for initiating further legislation.

- **Amendment in existing laws**

The gaps identified are necessary to be incorporated/amended in the existing laws for safeguarding the rights of domestic workers.

- **Establishment of data base**

Proper mechanism may be developed for survey of domestic workers across the country through Pakistan Bureau of Statistics to collect their number duly categorized in context of gender, age, nature of work and misery of any kind

3. Long Term:

- **Enactment of laws**

Regulatory framework is necessary to be adopted across the country so as to regulate the terms of employment of domestic workers and safeguard their rights.

- **Rectification/compliance of international laws**

The ILO convention on rights of domestic workers may be rectified and all the international laws governing the rights of domestic workers may be adopted.

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