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BEYOND PRIVATE POWER OF EMPLOYERS AND PRECARITY

TOWARDS MUNICIPALIZATION OF PAID DOMESTIC WORK

The precarious personalized paid domestic work relation can be transformed through municipalization. Going beyond the current legal framework, formalization of domestic work is only possible if the state authority situates itself as the principal employer. Municipalization of domestic work will make it a *public good* and constitute domestic workers as *public employees*. This stands to benefit not only domestic workers, but the larger community of households. The cost of the municipalization of domestic work would be collectively borne through municipal taxes. The present context is apt for such interventions given emerging trends of re-municipalization of certain services and public utilities in recent years in some European countries and parts of Latin America. In countries where municipalities are rendering services and utilities to large impoverished sections of society, domestic work can be added on as municipal service.

INTRODUCTION

Unlike other workplaces which are comparatively easier to identify due to their presence in the public domain, the domestic worker's workplace is atypical considering it is the private home of someone else. Entering this atypical workplace, which appears like a black hole from which no information comes out, a large volume of domestic workers are actually lost to enumerators.

Nonetheless, the data we do have seems to indicate some crucial trends. For instance, as per a 2021 report of the International Labour Organization (ILO), the vast majority of domestic workers are employed in two regions: about half (50.6 per cent) of the world's domestic workers can be found in Asia and the Pacific, while another quarter are in the Americas. After Asia and the Pacific and the Americas, Africa has the third-largest number of domestic workers.

With a comparatively smaller share of domestic workers, several hundred thousand *migrant* domestic workers are known to be employed in the European Union (EU). They often work in "undeclared" situations because of discriminatory work permit systems. The increasing demand for domestic workers in large parts of Europe stems from what

has been identified as a growing "care crisis". Combined with the increasing informality of the sector, this attracts an unprecedented flow of female migrants from Asia, Africa, and increasingly from Eastern Europe for such paid work.

The overall vast numbers of domestic workers at a global level and their general working conditions warrant a close scrutiny of the embeddedness of the problems characterizing this industry, in particular, the highly *privatized* employer-employee relations. Notably, despite the ILO deliberations that culminated in the Domestic Workers Convention, 2011 (No. 189), the privatized nature of the work relation, the feminization of paid domestic work; the concentration of the most vulnerable sections of women in such work; and its undervaluation in terms of unpaid overtime, low stagnant wages, etc. are conditions that continue to prevail. Convention 189 speaks of minimum standards of work, effective complaint mechanisms and compliance with legislation, labour inspection, etc. Paradoxically, such rights of domestic workers have been envisaged in the context of the state's steady withdrawal from the regulation of employer-employee work relations, including those of the formal sector. Given this, and the burgeoning numbers of domestic workers, there is a need to critically rethink the interventions traditionally sought in this domain of paid work.

We proceed to argue that the highly personalized nature of this work relation can be transformed through municipalization. Greater socialization and formalization of domestic work is only possible through a paradigm that positions the state firmly in this domain of work relations; thereby, fundamentally transforming the work process itself. This paper delineates measures for greater socialization of (paid) domestic work *through the state*. These measures stand to benefit *all* segments of domestic workers, as well as *all* classes of households, not just a handful of better-off consumers.

BLIND-SPOTS IN CONTEMPORARY LAWS

Of some 108 countries surveyed by the ILO in 2021, 88 percent cover domestic workers at least partially, and there is reportedly a growing tendency to cover domestic workers through both the general labour laws and specific

labour laws or subordinate regulations. But mere inclusion in labour law is not an indicator of the level of coverage. There are countries that do not identify domestic workers as “workers”, and consequently, these workers do not figure in several key labour laws on trade unions, redressing disputes, unfair dismissal, payment of wages, provision of compensation, maternity benefits, etc. Considering that the sector is largely made up of vulnerable groups – constituting impoverished migrants, races facing discrimination, vulnerable minorities, stigmatized castes, etc. – these groups are all the more disproportionately affected by a lack of protections.

Even if some laws are amended by governments, *not all* important legislation has been amended, and therefore, the overall labour law regime in several countries is ridden with inconsistencies, and hardly benefits domestic workers. Take for instance the case of live-in domestic workers. Since the residence of live-in domestic workers is that of their employers, and this constitutes a private domain, regulation of work hours becomes extremely difficult, creating a situation akin to slavery. When the very identity, “worker”, is built on quantifiable labour time, the continued recognition of the full-time live-in domestic “help” keeps such workers tied to informality since such work agreements will remain nearly impossible to regulate, and the work performed under them extremely difficult to quantify. Several studies, including recent ones by the ILO, reveal that live-in domestic workers face outright discriminatory limits on their normal weekly hours, which is true even in Latin American countries where domestic workers are relatively well organized.

In South Asian countries, households get adolescent or even child domestic workers from rural hinterlands to live with and work for them on the grounds that they are “taking care” of them and “educating” them. Furthermore, the growing call for separate legislation for domestic workers has proven a dead end. In the case of South Asian countries where some form of legislative action has been cautiously introduced, governments restrict themselves to issues of skilling and social security, but do not touch the required amendments to several key labour laws that expressly shape the fundamentals of the work agreement, the nature of work, as well as ensure the right to unionize, and guarantee active regulation of work contracts by the state.

In the context of the fleeting organization of domestic workers and regular undercutting of collective bargaining by continuous entry of new (migrant) workers, existing welfare legislation for this workforce dangerously positions the onus of enforcement largely with the state. But, what if the state is passive/inactive and reactionary, and what if the labour force is unorganized and disadvantaged in asserting claims for benefits? It is important to recognize that even in places where domestic workers are organized, we largely see sporadic and chequered organizational history. Hence, welfarist measures/regulations in themselves are hardly reassuring, for these measures tendentially reduce labour to a *beneficiary* rather than a *rights-holder*. In fact, this format of welfarist measures syncs well with the growing deregulation paradigm. In circumstances in which the absence of protections and regulation happen to propel workers’ self-action, state regulation materializes mostly to curtail and criminalize workers’ action.

CURRENT INITIATIVES AND THEIR LIMITATIONS

There is need to envision expansive intervention so as to cover all the different stages in the process of paid domestic

work: recruitment, immigration, allocation of work, payment of wages, etc. For one, this would require a close rethinking of the framework of immigration policies in countries sending and receiving domestic workers as part of long global care chains. Even more important are concrete state interventions that facilitate the complete transformation of the work process itself by situating the state as the employer-in-contract.

An intervention at this level and of this extent reduces the arduous negotiations that an individual domestic worker often has to make with *multiple* employers and that occur in a private space that employers themselves dominate. With the state constituting the principal employer, domestic workers become more empowered to negotiate their rights as workers with a single entity, and the work relationship embodies the logic of *public* relations despite the workplace being another person’s home. How does this assertion about transforming the work process stand in light of current practices and proposals like the voucher system and tax credit/deduction schemes?

While some state interventions have taken place under the voucher system and other special schemes, the positive results have been very limited. This is because state interventions are limited to the final stage, i.e., wage-payment/subsidy for wages, rather than at the beginning of the work process, i.e., allocation of a workplace, and at subsequent important conjunctures such as contract renegotiation, work inspection, disputes redressal, etc. To a limited extent, existing forms of corporatization of domestic work revolving around housekeeping companies that are recognized by state agencies involves a depersonalization of housework. However, domestic work mobilized under *private* companies that cater to households which can afford the high price of their services, keeps such services beyond the reach of more economically vulnerable households. Furthermore, as long as this work amounts to a profit venture for a private company, the scope for violation of labour laws and underhand hiring of “undocumented” (im)migrant labourers on worse employment terms looms large. Given this, piecemeal state intervention through the voucher system, tax benefit schemes, etc., guarantees very little. In particular, these have failed to curtail the growth of exploitative one-on-one informal work agreements between individual households and women domestic workers (often undocumented migrants).

In many high-income countries, we have seen a rapid increase in digital platform companies that provide domestic and care work at lower rates. Often classified as self-employed, even in cases in which their work is supervised and under a relationship of dependency, domestic workers engaged in digital labour platforms tend to lack access to labour rights and social protection. Essentially then, the lion share of benefits are accrued by the platform company and employing households, as they are able to access cheap and convenient services from pliant domestic workers.

We clearly need struggles for new resurrected forms of *public* provisioning of labour required for various kinds of social reproduction. In the case of domestic work, such interventions will amount to killing two birds with one stone:

- (i) freeing the domestic worker from the personalized, informal nature of work by constituting the hiring household *merely* as the workplace and *not* the employing authority; and
- (ii) weakening the existing gendered division of housework and caring responsibilities within family structures, and

consequently, reducing the tremendous burden of housework borne by women and children of poorer households.

CHANGING WORLDS OF WORK AND CONTEMPORARY DOMESTIC WORK

The history of public/state regulation of labour relations amply reveals the exclusion of domestic work relations and the resulting reinforcement of the privatized and informal nature of an otherwise very concrete form of labour extraction. In earlier times, of course, all work relations were seen as *private, domestic* relations. However, the assemblage of large numbers of workers at crucial points of the capitalist value creation chain, and labour's visible collective mobilization against exploitative work arrangements in new workplaces, such as factories, propelled the steady recognition of employer-employee relations not as *private, domestic* relations, but as constituting the *public* domain of social relations.

In contrast to these changing circumstances of workers in legally defined workplaces, scores of informal workers, including domestic workers, have continued to labour under some form of contractual obligations – usually verbal – that are heavily weighted against them. The predominantly personalized, familial nature of the domestic worker's workplace has been used as the ideological justification for non-regulation by public authority (the state) in many parts of the world. This has persisted in spite of trends toward the municipalization of certain kinds of work, such as scavenging, street cleaning, waste-management, etc. in the nineteenth and twentieth centuries.

In other words, this paid work relation is considered a *private* matter between two parties, which sidelines the concrete civic principles of contract underlying this work relation, and allows the state to deny legal subjecthood to domestic workers, as is evident in many parts of the world. The result is numerous ambiguities written into the legislative entitlements governing this sector and/or poor implementation of otherwise concrete laws that seek to enhance the rights of domestic workers.

In many parts of the world the performance of paid domestic work in the *private, familial domain*, in which state regulation is markedly absent, has rarely allowed for the standardization of wages and conditions of work, or for effective unionization of domestic workers. Further, the employers' writ runs large, and, in their private domains, they assert a *quasi-judicial* power over workers, in that they exercise the authority to both accuse and adjudicate on claims like theft, non-payment of wages, acts of "insubordination", etc. – a practice which leaves workers in very vulnerable conditions. This vulnerability is exceptionally high in the case of full-time live-in workers whose entire being and access to the public arena is determined by the employer.

The umbilical cord connecting the domestic worker to this paid work through a *private* employer needs to be severed. Simply put, the work process in itself needs to be overhauled by transforming who the principal employer is in the work relation. The need for this transformation is evident because as long as the individual employer or private housekeeping agency is the wage-provider, the unilateral power and dominance of the employer-in-contract will continue to dictate working conditions and wage levels. Even when placement agencies or housekeeping companies are regulated, the state refrains from active regulation of the actual work relation between the domestic worker and (principal) employer,

i.e., the employing household. Until domestic workers are *not* made workers of city governments/town councils, municipalities, etc., state regulation of working conditions in this sector shall remain episodic and paternalistic. Public scrutiny or intervention would largely materialize only *when the public authority deems fit*.

MUNICIPALIZATION: A WAY FORWARD

Instead of workers being pitched against the enormous private power of an employer, or for that matter being pitched against a multitude of employers, a more concerted struggle for standardized labour norms can unfold with housework becoming a public/municipal work regulated by the state. These are possibilities that should be explored.

Notably, in several parts of the world there are precedents of municipalization of stigmatized labour related to waste-management, as well as public utilities or services of general economic interest such as water supply, sewage, public transport, childcare, elderly care, care for the disabled, etc. It is these forms of municipal control and management of certain public utilities, especially through their own companies and employees, that are noteworthy.

By the 1930s and 1940s, in European countries that witnessed the rise of a social democratic welfare state regime or socialist regimes, a policy thrust emerged stating that the public (state or municipal) sector and its personnel were best suited to carry out services in the common interest. Correspondingly, personal social services and many more public utilities came to be rendered directly by the local authorities and their personnel, while third-sector non-profits and charities were increasingly pushed out. Of course, this trend was steadily curtailed by the late 1970s and early 1980s as neo-liberal policy beliefs gained ground.

However, as we entered the mid-2000s, despite the persistent impulse of EU-led market liberalization, the dissatisfaction with private service providers triggered the comeback of public/municipal agencies, such as in the case of energy and water sectors of some European countries. Such trends of re-municipalization can also be seen in parts of Latin America. Further, municipalities continue to provide public services in several poor countries where a large section of people are burdened by extreme poverty and private capital does not deem certain investments profitable.

The come-back has unfolded in two ways. For one, we are seeing municipal companies being established afresh or expanding, for example by merging and by forming intermunicipal companies. Secondly, municipalities have proceeded to re-municipalize facilities and services by buying back shares previously sold to private companies or by re-insourcing previously outsourced services after the completion of the respective concession contracts. It is this wave of re-municipalization that we can ally with when pressing for the positioning of state authority as an employer in the paid domestic work industry.

The question is: what if the state pushed out private players and situated itself as the recruiter, the authority that allots the tasks/unit of work, the wage-payer, and thus, the principal employer in this domain of work? Can we begin to ask ourselves what the municipalization of the bulk of housework in our society would amount to and possibly facilitate in the long run?

We expect that, in a transitional period, municipalization of domestic work could unfold with municipalities setting up widespread employment-exchange offices for allocation of domestic workers to households as per their skills

acquired and needs of requisitioning households, as well as facilitating collective bargaining agreements. Within such a format or early phase of municipalization, it would be private households that would still pay the larger part of wages to the domestic worker through the municipal agency.

However, a more advanced stage of municipalization would, of course, involve local budget management around the collection of a cess that could financially support the transition of domestic workers into actual *public employees*. The municipal cess would best be accompanied by some form of additional financial contribution to be collected from wealthy households, which could be channelized to pay for a component of the municipal domestic worker's salary. With financial backing, a municipality would be in a better position to pay this workforce as its own employees. The municipalities would set up a system of inspection and disputes redressal, as well as tripartite boards, comprising representatives of the state, households and domestic workers, for periodic review of wages and welfare benefits. The municipality would thereby transition into being the *principal employer*, whilst also ensuring poorer households' access to quality domestic services and care work. Hence, economically vulnerable households that are struggling to take care of their sick and infirm family members, and/or have pregnant female members who need housework assistance, would *de facto* become one of the biggest beneficiaries of such municipalization that strives to make many more personal services a *public good*.

This apart, with domestic workers becoming employees of the state, paid domestic work would make the transition of becoming public work, leading to a much-needed transformation in the employer-employee relationship of this burgeoning industry. Having a public authority to hold accountable for their work conditions, domestic workers stand to benefit hugely as they would begin to emerge out of their highly vulnerable condition in the private domains of existing employers, as well as from the onerous task of negotiating with a multitude of employers as is the case with a large number of part-time workers in Latin America, Asia, Africa and the Pacific region.

It is essentially through the bodies of municipal authority (public employment-exchange offices, wage boards, etc.) that domestic workers will find greater space to organize and channel their collective efforts; without which implementation of protective or welfarist legislation is a distant dream. As municipal domestic workers physically proliferate across neighbourhoods, they can also – as individuals or in their collectives – come to act as the eyes and ears of the municipality when it comes to calling out individual one-on-one domestic work agreements, identifying non-registered (new) domestic workers looking for work, and exposing exploitation and malpractices by requisitioning households as well as erring municipal domestic workers.

Municipalization of domestic work is one of the crucial ways to place the state firmly within this domain of social reproduction, but it also tendentially represents an enhancement of women's claims on the state. While upper classes of women, by subletting the drudgery of housework onto a domestic worker, have continued to escape many of the repercussions of patriarchal domesticity, the vast majority of women from the working-class and labouring poor are trapped in the drudgery of back-breaking, routinized housework that eats into their leisure time and access to regular

waged employment outside the home. The latter are consequently living half-lives as non-persons and as "maids" within their own families. It is to this majority section of women, who await liberation from lonely, mundane housework, that our programmatic solutions should talk to.

CONCLUSION

With respect to the growing deregulatory industrial relations paradigm, and the intrinsically privatized nature of domestic work in its current form, existing ILO-led discourses prove highly inadequate. At present, there is dire need for an approach that takes us well beyond piecemeal welfarist and other labour legislation that stops short of actually changing the format of highly individualized employer-employee relations in domestic work by firmly imbricating the state within this domain of work. Clearly, the push for formalization of domestic work and its enhanced socialization can no longer be abstracted from the question of and struggles for transforming the personalized nature of this work and the corresponding employer-employee relationship built on enormous private power of employers. The state must be brought in for regulation of this world of work ultimately as the principal employer. Thus, for real change to unfold in the status of domestic workers, we can no longer call for anything less than the constitution of a tripartite structure of work relations in this industry.

Until society is in a condition to facilitate higher forms of socialization of social reproduction, and thereby, bring domestic work out of the isolated private realm to the realm of public socialized work, an interim measure is the push towards its municipalization. We have much ground to gain with such a demand, given the trends of re-municipalization of erstwhile public utilities and services in recent years. Even more significantly, municipalization of domestic work catapults the question of this work's formalization from merely an issue of domestic workers to a larger community issue.

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