

DOMESTIC WORKERS

LEGAL PROTECTION

MECHANISMS

IN PAKISTAN



Women in Struggle for Empowerment



Disclaimer

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FOREWORD

Domestic work is an important source of employment for women in particular, many of whom do not have the skills or education to find alternative employment. Millions of workers including women, girls and boys are engaged in domestic work in Pakistan and are contributing to the informal economy significantly. However, they were not recognized as 'workers' per the definition set in the national labour laws till January 2019, when Punjab Government introduced a new legislation to protect the rights of these workers.

International Labour Organization (ILO) has defined domestic work as the form of modern slavery. Elimination of modern slavery by 2030 is part of Goal 8 (Target 8.7) of the Sustainable Development Goals of which Pakistan is a party. The rights of domestic workers in Pakistan were neglected since long. There was no legal mechanism for the protection of labour rights of these workers. However, realizing the importance of domestic work, in January 2019, the Govt. of Punjab introduced "Punjab Domestic Workers Act, 2019" to enforce the rights of the domestic workers. The law envisages the provisions for protecting the rights of the domestic workers, regulating their terms of employment, working conditions of service and provision of social protection and welfare.

It was a long standing demand of the domestic workers to recognize them as workers. Therefore, it is appreciable on the part of govt. to safeguard the rights of these workers, as majority of them belong to the marginalized communities. It has been observed that the hard labour of such workers is exploited by their owners. The barely minimum wages don't commensurate with their work output. Their physical, mental and emotional well being also lack adequate attention.

The report in hand is a humble effort by WISE to document the legal mechanisms available to domestic workers at national and international levels and analyse the new law from workers' perspective highlighting the room for improvements in the Punjab Domestic Workers Act, 2019. Hope the policy makers, legislatures, social researchers, trade unions and activists would find it useful for advocacy measures. We also hope the said law would help improve the working conditions and lives of domestic workers. Also hope Govt. would take appropriate and speedy measures to implement the law in letter and spirit.

Bushra Khaliq
Executive Director
Nov 2019

ABBREVIATIONS

CNIC	Computerized National Identity Card
DG	Director General
EOBI	Employees Old Age Benefit Institution
FGDs	Focus Group Discussions
LHC	Lahore High Court
ILO	International Labour Organization
NHRF	Norwegian Human Rights Fund
PESSI	Punjab Employees Social Security Institution
NGO	Non-Governmental Organization
CDWs	Child Domestic Workers
WISE	Women in Struggle for Empowerment

BACKGROUND

The rights of domestic workers in Pakistan have long been neglected. They have been deprived of their fundamental rights and are exploited by their owners. Domestic work is generally undervalued, invisible and is mainly carried out by women and girls, many of whom belong to disadvantaged communities. These workers are particularly vulnerable to discrimination in respect of working conditions, terms of employment and to other abuses of human rights. Such workers are forced to face issues like long and unlimited working hours, violence and multiple forms of abuse at work, forced/child labour, lack of minimum wage, labour inspection and law enforcement.

“ Domestic work makes up a huge portion of Pakistan's informal sector. About 74% of labour work force is engaged in the informal sector, of which domestic workers are the biggest chunk and 50% of them are females. About 29.1% of women aged 15 to 64 year are unpaid domestic workers in rural and urban areas of the Punjab¹. According to a survey report there are about 675,000 domestic workers in Punjab² with majority of them as women and children. ”

The role of Lahore High Court with regard to Domestic Workers Act, 2019 must be lauded. In March 2018, Justice Jawad Hassan of LHC allowed a petition seeking legislation for the rights of domestic workers and ordered the Punjab government to make laws for them within two months. The order was passed on a petition moved by Advocate Sheraz Zaka³.

In his detailed verdict Justice Jawad Hassan remarked that “a comprehensive social and electronic media campaign be launched by the government for creating awareness amongst people regarding plight of domestic workers”. The judge also formed a committee to ensure that the Punjab government should take legislative measures to protect the fundamental rights of domestic workers⁴.

As result of LHC directions, The Punjab Govt. finally introduced legislation for the domestic workers in February 2019 and passed Punjab Domestic Workers Act, 2019. The law aims to bring domestic workers under the jurisdiction of labour laws, protect their rights and welfare, provide them with social security, safety and health facilities and regulate their employment conditions.

Later the judge further directed the provincial government to ensure enforcement of Punjab Domestic Workers Act, 2019 and suggested that a day in the year may be notified as a “Domestic Workers Day” along with the “Labour Day” to share sympathies with the domestic workers⁵.

The judge also directed the provincial government to frame rules for effective implementation of the Act by reflecting it in the schedule 2 of Punjab Government Rules of Business, 2001 and to make all the rules as prescribed under Section 2(q) read with Section 38 of the Act of 2019 to enable the departments concerned to applicable the law in letter and spirit.

After the Punjab Govt. the National Assembly of Pakistan also passed the law in May 2019 to protect the rights of the domestic workers, “The Islamabad Capital Territory Domestic Workers Act, 2019”⁶.

1 <https://www.pakistantoday.com.pk/2019/06/26/29-1pc-women-unpaid-domestic-workers-in-punjab-report/>

2 Commissioner Social Security Punjab Saqib Manan, <https://www.urdupoint.com/en/pakistan/enforcement-of-punjab-domestic-workers-act-20-665660.html>

3 <https://nation.com.pk/20-Mar-2018/govt-told-to-make-laws-for-domestic-workers>

4 <https://www.thenews.com.pk/print/292095-lhc-forms-commission-on-domestic-workers>

5 <https://www.thenews.com.pk/print/437009-lhc-orders-govt-to-enforce-domestic-workers-act>

6 <https://fp.brecorder.com/2019/05/20190509470877/>

LITERATURE REVIEW

The ILO Convention on Domestic Workers, (C-189) formally the Convention concerning Decent Work for Domestic Workers sets labor standards for domestic workers. It was adopted during the 100th session of the International Labor Organization and entered into force on 5 September 2013.⁷ The Convention is founded on the fundamental premise that domestic workers are neither “servants”, nor “members of the family” nor second-class workers. It gives guarantees and minimum labor protections to domestic workers on par with other categories of workers.⁸

“

Since 2013, Governments in nearly 50 countries have updated their legislation to provide better employment protection for domestic workers, and 29 countries have already ratified the Convention.⁹ An estimated 15 million workers now have improved rights and protections at work, included the right to at least one day off per week, doubling or even tripling of the applicable minimum wage as well as access to social protection. Dozens of new unions for domestic workers have been formed in different countries since 2011, with a total membership of some 100,000.¹⁰

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An ILO report estimated that around 4-10 per cent of total employment in the developing countries is provided by domestic work.¹¹ While males are also employed as domestic workers (gardeners, chauffeurs, cooks and guards), a large percentage of domestic workers are women (for home, child and elderly care).

In Pakistan about half of the live-in-workers are migrants. Some 50,000 (50%) moved to their workplace from Chakwal, Hafizabad, Kasur, Sheikhpura, Okara, Nankana Sahib, Chinot, Khushab, Mianwali, Multan, Khanewal, Lodhran, Vehari, Sahiwal, Bahawalpur and Rahim Yar Khan districts in Punjab. Another 37% have migrated from Peshawar, Charsadda, Kohat, Abbottabad, Mansehra, Batagram, Upper Dir, Chitral, and Fata in KP, while 10% migrated from Hyderabad, Tharparkar and Karachi Central in Sindh.¹²

7 https://en.wikipedia.org/wiki/Convention_on_Domestic_Workers

8 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/--travail/documents/publication/wcms_168266.pdf

9 <https://www.wiego.org/ratification-countries-domestic-workers-convention-c189>

10 <https://www.ituc-csi.org/five-years-of-progress-f>

11 <http://tns.thenews.com.pk/regulating-domestic-work/#.XbW4HC2B0zY>

12 Ibid

There are no clear estimates of the total number of domestic workers in Pakistan. However, according to the Labor Force Survey 2014-15 there are 100,000 live-in workers in the country, 73% male and 27% females. Most (64%) of them are illiterate and the majority (55%) work in cities. Punjab, provides 78% of total domestic workers. About one tenth (13%) are under age (less than 14 years) and 8% fall in the age bracket of 15 to 18 years. About 91% of the domestic help is not trained. The average net salary of half of the pool of live-in-workers is between Rs. 5,000-10,000 per month, 28% earn Rs. 10,000-15,000 monthly.¹³

Broadly, domestic workers can be divided in two main groups: live-in and live-out (day based and task specific). According to the Labor Force Survey 2014-15, there are 0.464 million domestic workers in the country. Of these, 0.1 million are live-in domestic workers while 0.364 million are either day based or task specific.¹⁴

The labour laws in Pakistan mention domestic workers only twice. While in India, there are 8 labour laws that include domestic workers. Of these, Domestic Workers (Registration, Social Security and Welfare) Act, 2008 exclusively stipulates a number of provisions. Seven states have notified minimum wages for domestic workers under the Minimum Wages Act, 1948.¹⁵

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“Violence against child domestic workers (CDWs) is a big issue. From January 2010 till Jun 2013, total 41 cases of torture on CDWs were reported by the media and civil society organizations. Of the total, 19 CDWs died due to torture inflicted or other deadly tricks applied by their employers. The children of all ages have become victims of brutal torture and majority of them are girls. Out of 41 reported cases of CDWs, 34 were girls”.¹⁶

At least 65 child domestic workers were subjected to brutal torture across Punjab in past two years of 2016-17. Lahore topped the list where two children were tortured to death by their mistresses and an overall of 20 cases were registered.

As data has not been updated in recent years, it can be assumed that the numbers are much today.¹⁷

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13 <https://www.dawn.com/news/1320018> Domestic workers left out of legal cover (Dr Lubna Shahnaz, March 13, 2017)

14 <https://paycheck.pk/labour-laws/domestic-workers-in-pakistan>

15 (<https://www.dawn.com/news/1159615>, Hidden workers, Zeenat Hisam)

16 <http://www.isj.org.pk/wp-content/uploads/2013/06/The-unending-plaint-of-child-domestic-workers-in-Pakistan.pdf> (a Report by the CRM Punjab, the ISJ, SPARC & PILER)

17 <http://dunyanews.tv/en/Crime/369080-Two-child-domestic-workers-killed-65-subjected-to>



“In rural areas of Pakistan women are compelled to opt for menial work under bonded labour, when they are entangled in the debt circle coiled up by the landlords in the rural quarters. Often the debts have to be paid with unfairly higher interest rates and sometimes the generations are pledged into the process. Rarely so - if the migration seems to offer the solution to the dismal situation in the rural setting; they move, in the quest for a better life in urban constituencies, results only in falling for domestic labour due to the limited skills of the female workers”.¹⁸

Domestic child labour is the most hazardous and fatal profession as has been indicated by various news reports of beatings, thrashings and killing of child domestic workers.

While domestic workers were mentioned in the labour legislation since 1960s, no minimum wage was ever announced for these workers. The new law refers to declaration of minimum wage for domestic workers and takes into account the principle of equal pay for the work of equal value. This essentially means that a guard at the house and nanny for children must be paid the same wage (Iftikhar Ahmad, Sidra Nizamuddin Jan 20, 2019).

PESSI claims that under the law the registration process of domestic workers is simple and easier. It could be made through Android mobile Application as well. Under the registration campaign, camps are usually established in different housing societies, in cooperation with concerned administrations, NGOs and employment agencies of domestic workers in order to obtain maximum number of registration and useful data of domestic workers.¹⁹

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Prime minister Imran Khan has also directed the Punjab Govt. to speed up measures. While chairing a meeting regarding Punjab Labour Policy, he said “Implementation of laws to protect domestic workers' rights is responsibility of the govt. and society. Protecting the rights of workers is not only liability of the govt. but it is also our religious and moral obligation. Mere making laws for protecting the rights of workers is not enough, the real challenge is to ensure implementation of these laws in letter and spirit”.²⁰

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18 (Shahid, A. (2010). Silent Voices, Untold Stories: Women Domestic Workers in Pakistan and their Struggle for Empowerment. Oxford University Press, Governance and Management Review Vol. 2, No. 2, December 2017)

19 <https://www.thenews.com.pk/print/471158-registration-of-domestic-workers-starts>

20 <https://www.brecorder.com/2019/04/13/488810/pm-directs-implementation-of-laws-to-protect-domestic-workers-rights/>

STAKEHOLDERS' INTERVIEWS

DEPARTMENT OF LABOR & HUMAN RESOURCE, PUNJAB

Muhammad Shahid, Deputy Director Labour Inspection, expressing his views said Domestic work takes place inside people's homes, ... so it is often not even recognized as 'work'. Many employers think that they are in fact doing a favour on those that they employ, rather than the other way round. However, the Punjab Domestic Workers Act, 2019 recognizes them as workers, with rights available to other workers, like; right to form union, right to bargain, occupational health & safety under Punjab Industrial Act, 2010.

The new law protects the rights of the domestic workers and they would have facilities like other workers including health cover, he informed. The Labor and Human Resource Department of Government of Punjab has started registration of domestic workers to regularize their jobs to stop their exploitation by providing them with minimum wages, social security, vocational training, health benefits and injuries compensation etc.

Under the new Punjab Domestic Workers Act, 2019, the employees will get registered throughout the province. In the first phase Labor of Department and PESSI have started the registration from Lahore, Rawalpindi, Faisalabad and Multan.²¹ According the Bureau of Statics there are about 675,000 domestic workers in Punjab. Which means it is huge task.

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Methodology adopted for this purpose included registration camps, established in different housing societies with the cooperation of the local administration. House-to-House visits were also made to register both; employers and domestic workers. So far, till Nov 2019, around 12500 domestic workers have been registered. Out of which 37% registration was made by PESSI, 36% by the Labor Department and rest of the 27% is done through online android application, launched by PESSI.

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Lot of work has yet to be done. For instance, a task force is performing the functions of the Governing Body. Similarly, Domestic Workers Welfare Fund, Dispute Resolution Committees at Union Council (or Ward) level and Appellate Authorities at district level and Inspection system have yet to be formed. The labor Department exploring ways and means to connect the registered workers with “Ahsaas” program of the Federal Govt. in order to get maximum benefits for them.

²¹ <https://fp.brecorder.com/2019/05/20190529481981/>

PUNJAB EMPLOYEES SOCIAL SECURITY INSTITUTION (PESSI)

Babar Abbass, Director General Contribution & Benefits, informed that PESSI is the focal department with regard to the implementation of the Domestic Workers law. The process of registration of domestic workers has been started after the introduction of the law in Feb 2019 and as of Nov 2019, some 13261 workers and employers have been registered.

The registration campaign has faced occasional hurdles as managements at some housing societies and private towns are reluctant to cooperate in this regard. Anyhow the campaign goes on though slowly. The department has also issued a form consisting of two pages which workers and employer, both will fill and submit to the department. In the form nature of work, category of worker, mode of payment and CNIC of workers and Employers are mentioned.

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The process of issuance of social security cards has not been started yet. However, consultations were on how to extend social protection to these workers in the absence of the contribution from the Domestic Workers' Welfare Fund. “A proposal in this regard has been submitted to the provincial govt. and we are waiting for the seed money to run the fund as early as possible”, said the DG.

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As far as awareness is concerned, he said advertisement is being run on PESSI website, however, no proposal is under consideration to launch full fledged awareness campaign through print or electronic media, he added.

DOMESTIC WORKERS UNION

Ms. Arooma Shehzad, General Secretary Domestic Workers Union Pakistan, told it is estimated that there are at least 8.5 million domestic workers in Pakistan, many of whom are women and often children. Majority of the children engaged in domestic work are bonded, she opined. Almost all middle class families in the country engage some form of domestic help, and though these workers take care of the things that are most important in life – homes, children, food – their work goes unrecognized and uncounted.

Domestic work is a critical source of employment for millions of girls and women. They take care of the things that constitute the very fabric of our lives. We need to make sure these workers receive the dignity, the treatment, the salaries and the respect that they deserve, she observed.

The Labor department and PESSI has launched campaign to register the domestic workers, but it is not enough to set up registration camps only in the housing societies. They, rather, need to set up camps in the localities where domestic workers reside, she added.

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Domestic work must be declared hazardous work and thus the minimum age for engagement in domestic work (live-in) must be raised to 18 years. Domestic work could be 'decent' work - if the workers who do it are paid and treated decently. The work itself is not 'indecent'. What is indecent is the way that many, many domestic workers are treated by the owners.

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Talking about the The Domestic Workers' Act, 2019, she said there are flaws in this laws and it is not workable. The employers are afraid to register and it is not easy to approach the lived-in domestic workers. What maximum can be done is to approach the lived-out workers and register them, she suggested. Inspection of workplaces and monitoring of the working conditions is almost impossible under this law. The only feasible alternative is to create awareness among the domestic workers and convince them to register themselves with PESSI and EOBI, she recommended.

PLACEMENT AGENCIES

Umbrella²²

A Lahore based employment agency provides part time, domestic services, catering to everyday requirements. It offers Cooks, Maids (cleaning, ironing, laundry etc.), Drivers, Male helpers/cleaners, Elderly care attendants and Child care nannies @ Rs.300-400 per hour. It is catering the posh areas of the city. Umbrella claims it is the first company in Lahore and its workers are medically screened, background checked and trained.

Mauqa Online²³

Is another placement agency serving in Islamabad, Rawalpindi and Lahore. It provides domestic helpers on demand for chores like cleaning, cooking, dish washing, laundry, babysitting @ Rs. 250 per hour. Customers can book desired services on line as well as through App.

OLX

Various service providers can be found on OLX, engaged in provision of part time and fulltime services of domestic workers like; Maids, Cooks, Drivers, Couples, Nurses, Patient Care, Baby Sitters, Child Nanny, House Keeping, Helpers, Security Guards. They have their company names but not registered with govt. Some of them have their face book pages and others have just phone numbers.



²² <http://umbrellaonline.pk>

²³ <https://www.mauqa.online/about>

DOMESTIC WORKERS' VOICES



To document views of the domestic workers, WISE organized six focus group discussions in six union councils of Lahore and Sheikhpura. Following are some findings of those FDGs.

Lack of legal awareness: During FGDs with women domestic workers, majority of the workers were found, unaware of the new law recently enacted to protect their labour rights. Out of total 37 women only 3 were little bit aware of the law. When explained, they welcomed this positive step of the government and called it a huge relief that domestic workers were being finally recognised after a long time.

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Lack of registration: Among the participants, none of the domestic workers were found registered with PESSI. Although registration process has yet to be started in district Sheikhpura, but even the workers belonging to Lahore were not aware of it. Despite the fact that online application for registration is there but these workers were not aware. Majority of workers told that their employers never shared anything about the app. “I don't know my employer is aware about the registration App, at least I have never been told about the registration.”, said Parveen (39) from Shahdhra”.


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Low wages: Talking about the issues they usually face at workplace, majority of the domestic workers said that the wages they are paid by owners don't match with the amount of work they perform. “I work part time in a house and my monthly salary is Rs. 6000-/- but my employer deducts wages whenever I avail leave on account of sickness, told Shazia (30 years), who works in big house in Samanabad. I want to be registered but don't know the procedure”, she added.

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Debt bondage: Advance payment from the employer is a common practice in domestic work. Out of 37 workers, 19 or 51% were found bonded; either themselves or their children. “I am full time worker with two adjacent work places (3 hours at each workplace) and earn something around Rs. 9,000/per month. I took advance of Rs. 10,000 for a domestic emergency from one of my employers six months ago. Deduction is Rs. 1000-/ monthly, told Asia (41 years) from Badami Bagh”.

”

A teal silhouette of a woman in a sari is shown on the left side of the page. She is standing and filling a large, rectangular water container with a tap. A small circular object, possibly a lid or a small pot, is being held above the tap. The background is a light blue and green geometric pattern.

Zainab hails (mother of 5 children) from Atari, district Sheikhpura, works in two separate houses in Alrehman Housing Society. Her daughter (Misbah 14) is in-house domestic worker in the house of a retired police officer in the same society. “Misbah is my second daughter, I withdrew her from school at the age of 12 and put her in the house of Mr. Z against a loan of Rs. 30,000-/. It is two years now Misba lives there, do dusting and cleaning of the house. There are no fix wages of Misbah. We are poor, my husband is a daily wager and remain hand to mouth most of the time”, she added.

INTERNATIONAL CONVENTIONS & INSTRUMENTS

UNIVERSAL DECLARATION OF HUMAN RIGHTS COVER THE RIGHTS OF THE DOMESTIC WORKERS

Article 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

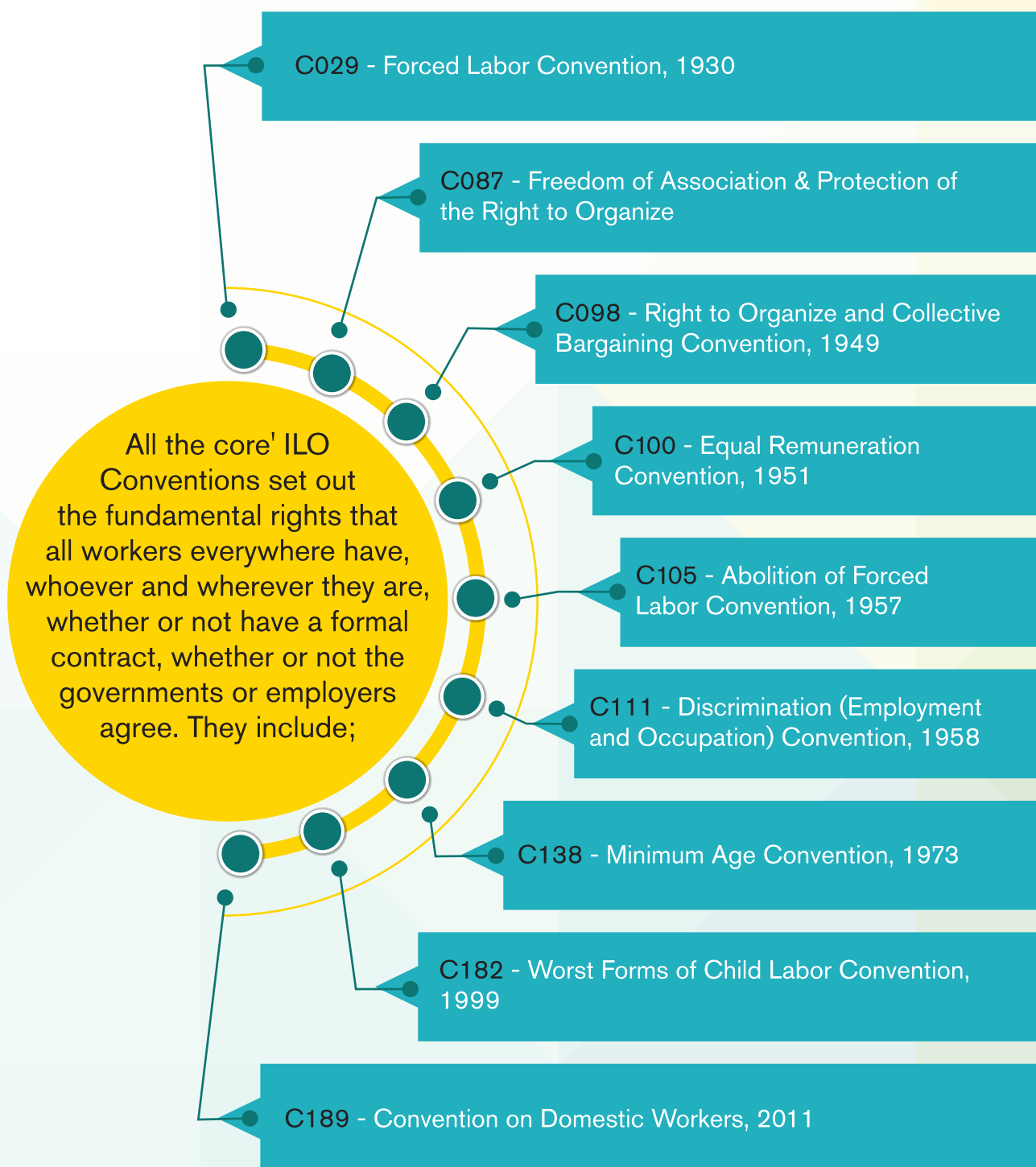
Article 23 (2) Everyone, without any discrimination, has the right to equal pay for equal work.

Article 23 (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24 Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

"All human beings
are born free and
equal in dignity and
rights."
Article 1

ILO CONVENTIONS WHICH ALSO COVER THE RIGHTS OF THE DOMESTIC WORKERS



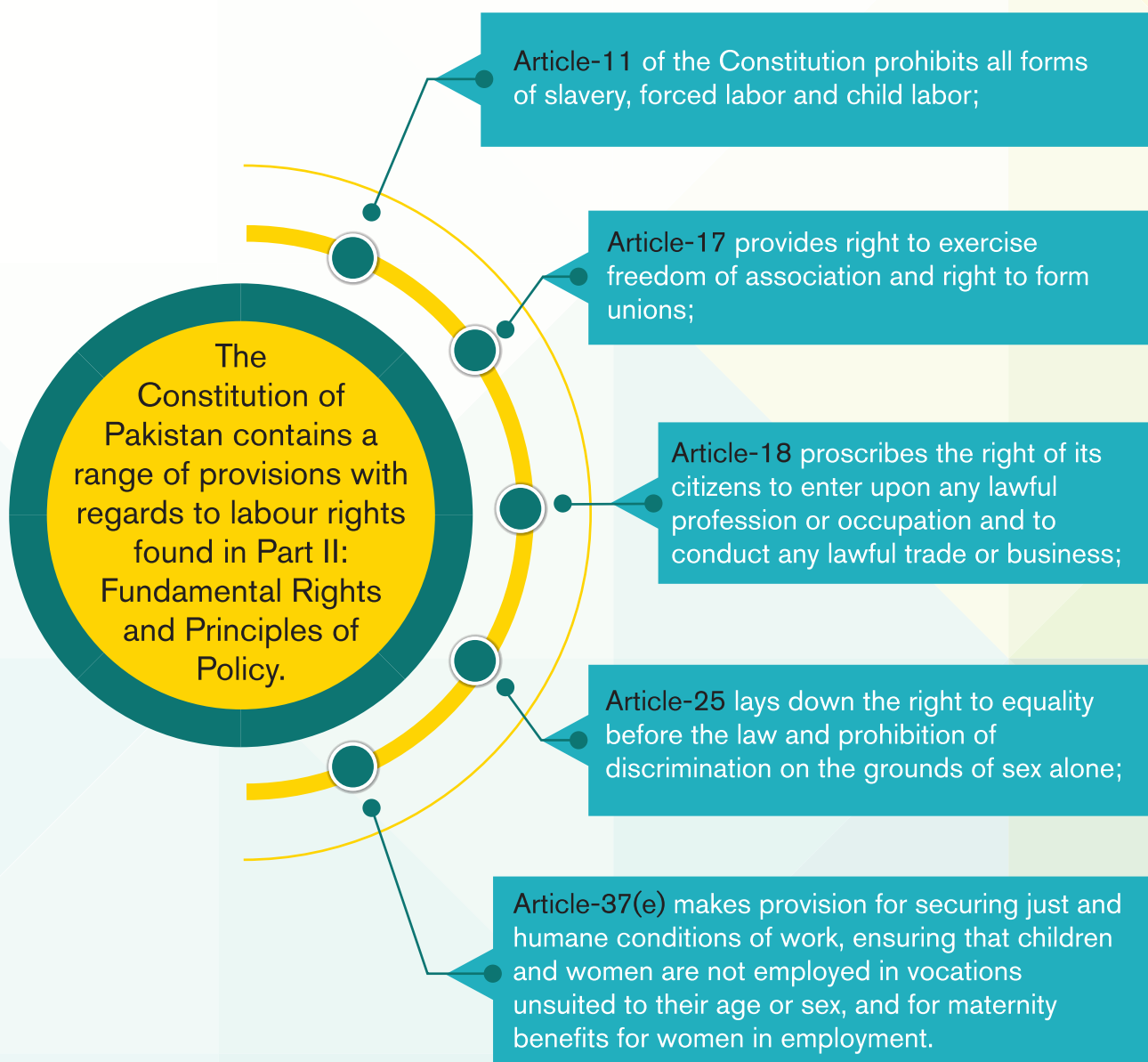
16TH JUNE: INTERNATIONAL DAY OF DOMESTIC WORKERS

On 16th June 2011, the ILO Convention C189 Decent Work for Domestic Workers was introduced, a huge and historic achievement not only for domestic workers, but also the entire labour movement. Since then, 70 countries have taken measures to adopt or reform law and policy, including 29 countries that have ratified Convention No. 189. Pertinent to mention that Pakistan has yet to ratify C 189

Every year on 16 June, domestic workers, trade unions across the world admire the C-189 and highlight the plight of the workers and raise their demands through demos and rallies. The ILO has a big role to play, to reach out to countries that still exploit this sector and to help strengthen the federation when it comes to educating workers, so that C189 can become a powerful tool for justice.

NATIONAL LAWS GOVERNING DOMESTIC WORKERS

CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN



PROVINCIAL EMPLOYEES SOCIAL SECURITY ORDINANCE, 1965

The Provincial Employees Social Security Ordinance 1965 (applicable in Baluchistan, ICT, Khyber Pakhtunkhwa and Punjab) requires an employer to provide health care (including maternity care) to the full time domestic workers. Section 55-A covers “Medical treatment of domestic servants’ and stipulates that ‘every employer of a domestic servant shall be liable to provide [medical treatment] at his/her own cost”.

According to this law, domestic servant is “any person working whole-time in connection with the work of any household for any consideration, whether in cash or in kind”. This law requires an employer, employing a domestic worker, to provide his domestic servant with full medical care at his own cost. However, there is no mechanism provided in this law to check as to whether an employer is following this requirement or not.

MINIMUM WAGES ACT, 1961

The Minimum Wages Act, 1961 includes “domestic work” in its definition of “worker”. But the government has never notified the minimum wages applicable to domestic workers under this law in the last 55 years.

BONDED LABOR SYSTEM (ABOLITION) ACT, 1992

The law was introduced with the avowed purpose of abolishing the bonded labor system and with the view of preventing the economic and physical exploitation of the labor class in the country and for the matters connected to it. As measured by the Global Slavery Index 2018, 3.2m persons are trapped in various forms of slavery in Pakistan. The report alleges instances of bonded labor in agriculture, brick kilns and mining.

DOMESTIC WORKERS (EMPLOYMENT RIGHTS) ACT, 2013

Domestic Workers (Employment Rights) Act, 2013 - was drafted and presented in Senate in 2013 but lapsed. It was again submitted in 2015 and passed by the Senate in 2017. It provides domestic workers with all those rights available to other formal sector workers. But it only covers Islamabad and federal capital territory.

SINDH EMPLOYEES' SOCIAL SECURITY ACT, 2016

Similar provision can also found in Sindh Employees' Social Security Act, 2016 (Section 59). The Minimum Wages Ordinance of 1961 (applicable in Baluchistan, ICT, and Punjab) also includes domestic workers in the definition of workers however government has not notified the minimum wages as applicable to these workers under this law. No such provision is found in the Khyber Pakhtunkhwa Minimum Wages Act, 2013 and Sindh Minimum Wages Act, 2015.

PUNJAB DOMESTIC WORKERS ACT, 2019

The law was introduced in January 2019 and aims at providing for the regulation of employment of domestic workers in the province. It envisages the provisions for protecting the rights of the domestic workers, regulating their terms of employment, working conditions of service and provision of social protection and welfare.

The Act prohibits child labour, under 15 years, bounded labour, forced labour and discrimination besides regulating the manner of employment, leaves, holidays, maternity leave and wages of daily wages workers to bring them at par with other former sector workers. It also provides the mechanism of disputes resolution.

PUNJAB DOMESTIC WORKERS ACT, 2019 - A CRITICAL REVIEW

After years of lobbying for a law, the provincial assembly passed the Punjab Domestic Workers Act in February 2019, which intends to help enforce the rights of those who 'provide services of a domestic nature in a household, including child care, old age care, sick care or natal/post-natal care' along with other work in a household. The law is a positive step taken by the government that domestic workers have been finally recognized as workers. By and large it is considered as good law on accounts of its following strengths.

STRENGTHS

The new law recognises the economic and social value of more than 8 million domestic workers in the country, brings domestic work into the mainstream, and addresses the exclusion of domestic workers from labour and social protection mechanisms.

Legal Protection: The Act gives protection to the domestic workers by recognizing their rights, whereas before this, domestic workers were considered as 'invisible', in fact their terms of employment were such that they were regarded as almost 'modern day slaves'. This is a step forward, notwithstanding the fact the gaps within the Act.

Minimum age of worker: This Act prohibits the working of a child below the age of 15 years in a household in any capacity. It, however, allows children under the age of 18 to do light work in a household. The light work as defined in the Act, entails domestic work which is part-time in nature and is not likely to harm the child's health, safety and education.

Restriction on bonded/forced labour: The new law further restricts bonded labour or partly forced, labour. An employer cannot assign extra work to the domestic worker without his/her free will.

Medical Care: The Act extends benefits for a domestic worker, including medical care for not only the worker but also his/her dependents. Other benefits include, disablement pension and survivor's pension under the Punjab Employees Social Security Ordinance 1965.

Letter of employment: 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 the work and the amount of wages. Domestic workers are also restricted from working for more than eight hours in a day, unless they are paid overtime.

The law further provides a ceiling on weekly working time, which cannot exceed fifty-six hours. Moreover, it entitles them to leave and holidays, wages during leave and holidays, maternity benefits, accommodation, medical examination, vaccination and inoculation. The employer is required to pay at least the minimum mandated wage.

Registration & Social protection: 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 immediately and should also raise awareness amongst the people about the rights of the domestic worker to avoid further exploitation

However, at the same time the law has certain inconsistencies and, unable to meet the desired objective of promotion of decent work for domestic workers.

GAPS IN PUNJAB DOMESTIC WORKERS ACT, 2019

Discrimination: While the law aims at promoting gender equality and refers to non-discrimination on various grounds, the maternity benefit for women is set at equivalent to six weeks' wages. The general provision under Pakistan's labour laws is 12-week maternity benefit. Laws cannot promote discrimination among the workforce on the basis of occupation in access to basic social protection benefits.

Lack of public scrutiny: Homes are not safe havens for domestic workers, especially child domestic workers. Working in a home presents serious dangers to the health and safety of such workers. Since there is a lack of public scrutiny, child domestic workers may be exposed to sexual exploitation.

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Child Labor & Workplace Inspections: The Act says that no one under the age of 15 years can be allowed to work; this means from age 15 they can be employed. The age limit makes the concept of protecting minors redundant, however, no safe working conditions have been specified. Thus all children will be working unsupervised. Labour inspectors do not have the powers to check into how a domestic worker is being treated.

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Lack of Complaint Mechanism For Child Workers: For a minor domestic worker in particular, there is no complaint mechanism or rehabilitation process mentioned, once they are recovered and rescued from abuse at workplace.

Social Protection: in case of social security cards If a worker whose family lived in Sindh but he worked in Punjab, could not receive family benefits through the card if it was registered in Punjab. On the other hand, if his social security card was registered in one province and he was working somewhere else he could not avail the benefits. This is a ridiculous situation and the provinces and departments need to coordinate over this.

Employees Old Age Benefit Institution (EOBI): The Act does not mention how the Employees Old-Age Benefits Institution will cover domestic worker: will they be given the old-age pension benefit? Also, if the labour inspectors are not allowed to inspect households where these workers worked, how will any violation be observed? It questioned how the workers, who were already vulnerable and unsafe, will be expected to file complaints.

Registration: The process of registration is not fully clear. Although registration of domestic workers is not a difficult process but the questions is through what mechanism the employer would issue the contract letter and who will check this? Would inspectors be inducted area wise or UC wise? How will this whole system function, especially when we are already short of labour inspectors for factories.

Minimum Age: The minimum age for employment is set at 15 years for both live-in and live-out domestic workers. However, as has been recommended in ILO instruments on the subject, the minimum age for live-in domestic work should generally be 18 years. The minimum age for employment, in principle, cannot be less than the compulsory schooling age. The 18th Constitutional Amendment sets the compulsory schooling age at 16 years (Article 25-A). By setting the minimum age for employment lower than the age of compulsory schooling, the government has undermined the compulsory schooling legislation.

“

"The domestic work also involves carrying heavy loads, exposure to chemicals, sharp objects, hot stoves and deprivation of education. Domestic work must be declared hazardous work and thus the minimum age for engagement in domestic work (live-in) must be raised to 18 years".

”

Hazardous occupation: Instead of declaring domestic work as a hazardous occupation, as has been done in India, Punjab did not include it in its list of 38 hazardous works under Punjab Restriction on Employment of Children Act, 2016. There is a misconception among the policy makers that domestic work is a non-hazardous activity. The most common hazards in domestic work include long working hours and isolation.

RECOMMENDATIONS

- Govt. should launch intensive public awareness campaign regarding the new law and rights of the domestic workers as majority of workers are not aware of this law.
- The govt. should frame rules of business without further delay for effective implementation of the law by reflecting it in the schedule 2 of Punjab Government Rules of Business, 2001 and to make all the rules as prescribed under Section 2(q) read with Section 38 of the Act of 2019 to enable the departments concerned to applicable the law in letter and spirit.
- The government should establish without delay the authority/governing body as envisaged in the Act, with at least 2 women members of workers.
- The registration process is slow as only 13000 workers have been registered by Nov 2019, in the first phase, during last 10 months. Target groups should be mobilized effectively.
- Workers trade unions, civil society organizations may be involved to speed up the registration process across the province.
- The administration of different housing societies, towns and localities be made bound to cooperate, register and report domestic workers.
- Seed money for Domestic Workers Welfare Fund should be announced to start social protection measures for the workers.
- Social Security cards have not been issued to the domestic workers, registered so far. Till the functioning of the Workers Welfare Fund, these workers be connected to other welfare programs like Ahsaas program.

- Domestic workers should be given representation through their union in the task force, currently working in place of governing body.
- Minimum Wage Board for domestic workers should be announced for the implementation of the Minimum Wage Act.
- Dispute Resolution Committees at UC (ward) level must be established and have domestic workers' representation.
- The minimum age for the employment of domestic workers is set at 15 years. In principle, it cannot be less than the compulsory schooling age, there the age limit should be reviewed accordingly.
- Amendments should be made in the law providing complaint and rehabilitation mechanisms for minor domestic workers once they are recovered and rescued from the workplace.
- Like ban on under age labor, there should be a ban also on over age (may be 60+ years) labor.
- Consultations should be initiated with Workers organizations and civil society organizations to address the lacunas in the Domestic Workers Act, 2019 and introduce necessary amendments.
- Govt. should notify a day as a “Domestic Workers Day” along with the “Labor Day” to share sympathies with the domestic workers.

ANNEXURES

Annexure - A 

Domestic Workers Registration Form (Section 20 of The Punjab Domestic Workers Act, 2019)

1. Name of the Worker: _____
2. Father's Name: _____
3. Date of Birth: _____
4. Contact No. of Worker: _____
5. CNIC No.: _____
6. Address: _____
7. Category of Worker: _____ (Piece Work, Part Time or Full Time)
If Part Time then time of work _____ hours
8. Type of Work: _____
9. Name of Employer: _____
10. Address of Employer: _____
11. Contact No. of Employer: _____
12. CNIC No. of Employer: _____
13. Wage: _____
14. Mode of Payment: _____ (Cash or Other)

Dated: _____ (Signature of Worker) _____

For Office Use Only:

Name of Worker: _____

Registration No.: _____



**Domestic Employer Registration Form
(Section 21 of The Punjab Domestic Workers Act, 2019)**

1. Name of the Employer: _____
2. Father's Name: _____
3. Contact No. of Employer: _____
4. CNIC No.: _____
5. Address: _____

S. No.	Name of Worker	Address of Worker	Category of Work (Piece rate, Part Time or Full Time)	Type of Work	Mode of Payment (Cash or Other)
1					
2					
3					

Dated: _____ (Signature of Employer) _____

For Office Use Only:

Name of Occupier: _____

Registration No.: _____

Annexure - C



Domestic Workers Registration

Punjab IT Board Health & Fitness

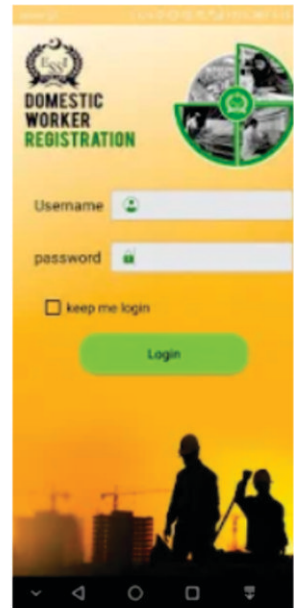
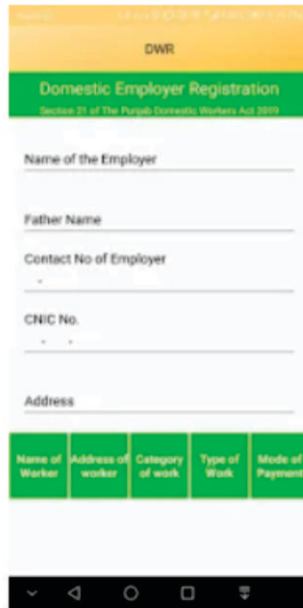
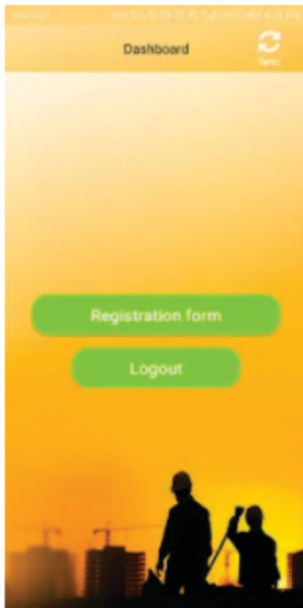
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