

RIGHTS OF DOMESTIC WORKERS IN BILL FOR PROTECTION OF WOMEN AGAINST SEXUAL HARASSMENT AT THE WORKPLACE.

Draft Statement

JOINT STATEMENT OF THE RAJASTHAN WOMEN'S AND HUMAN RIGHTS GROUPS

On the Recently Introduced

BILL FOR PROTECTION OF WOMEN AGAINST SEXUAL HARASSMENT AT THE WORKPLACE.

PRESS RELEASE

Women's organisations of Rajasthan welcome the introduction in the Lok Sabha of the Bill on the Protection of Women Against Sexual Harassment at the Work place. This bill has been introduced after a consistent struggle by women's organizations for several years.

However, we are deeply concerned about certain provisions in the draft. It is unfortunate that "false and malicious complaints" of sexual harassment have been made punishable in the proposed law. This is totally against the Vishaka Judgment which had clearly stated that no action should be taken against a woman for making a complaint. The entire civil law to deal with cases of sexual harassment was meant to be enacted to provide a conducive atmosphere in which women victims could make a complaint, because women employees are usually extremely hesitant to lodge a complaint for fear of reprisal. Our experience of dealing with cases and as members of complaint committees has shown us how accusations of false complaints are routinely made against the women victims. Though mere inability to substantiate the complaint or provide adequate proof has not been made punishable, we feel that this is not good enough. It would be highly improper for the complaints Committee to pronounce judgment on this matter. The fact that she can be proceeded against will hang like a Damocles' sword over the victim's head. Rajasthan Women's groups demands that there should be no such clause in the Bill. Any person who feels that a false complaint has been made against him can always take recourse to the criminal or civil law in this regard relating to defamation etc.

It is also unfortunate that the proposed Bill does not apply to domestic workers. This is despite the fact that the NCW draft had specifically listed domestic work in its scheduled list of unorganized work. Leaving this vulnerable section of women workers out of the purview of this Bill is unacceptable. Since the Domestic Workers are already under the purview of the minimum wages act in several States, this exclusion is a reversal of the struggle in this area.

The proposed Government Bill lays down that complaint committees with at least 50% women members will be set up in institutions and a local committee will be constituted by a District officer for victims of sexual harassment in very small institutions or in situations where no complaint committee is available. However since the discretion to appoint the committee rests solely with the District officer, it is liable to be exercised in an arbitrary manner. A more transparent procedure should be prescribed under the proposed law.

We demand that the changes suggested above should be incorporated in the bill and thereafter that the bill be passed without any delay.

**ALL INDIA DEMOCRATIC WOMEN'S ASSOCIATION
15, TALKATORA ROAD, NEW DELHI - 110001**

PH: 23710476, 23319566

Email : aidwacec@gmail.com, aidwa@rediffmail.com

**AIDWA Press Statement on
Bill for Protection of Women against Sexual Harassment at the Workplace.**

AIDWA welcomes the introduction in the Lok Sabha of the Bill on the Protection of Women Against Sexual Harassment at the Work place. This bill has been introduced after a consistent struggle by women's organizations for several years.

However, AIDWA is deeply concerned about certain provisions in the draft. It is unfortunate that "false and malicious complaints" of sexual harassment have been made punishable in the proposed law. This is totally against the Vishaka Judgment which had clearly stated that no action should be taken against a woman for making a complaint. The entire civil law to deal with cases of sexual harassment was meant to be enacted to provide a conducive atmosphere in which women victims could make a complaint, because women employees are usually extremely hesitant to lodge a complaint for fear of reprisal. Our experience of dealing with cases and as members of complaint committees has shown us how accusations of false complaints are routinely made against the women victims. Though mere inability to substantiate the complaint or provide adequate proof has not been made punishable, we feel that this is not good enough. It would be highly improper for the complaints Committee to pronounce judgment on this matter. The fact that she can be proceeded against will hang like a Damocles' sword over the victim's head. AIDWA demands that there should be no such clause in the Bill. Any person who feels that a false complaint has been made against him can always take recourse to the criminal or civil law in this regard relating to defamation etc.

It is also unfortunate that the proposed Bill does not apply to domestic workers. This is despite the fact that the NCW draft had specifically listed domestic work in its scheduled list of unorganized work. Leaving this vulnerable section of women workers out of the purview of this Bill is unacceptable.

The proposed Government Bill lays down that complaint committees with at least 50% women members will be set up in institutions and a local committee will be constituted by a District officer for victims of sexual harassment in very small institutions or in situations where no complaint committee is available. However since the discretion to appoint the committee rests solely with the District officer, it is liable to be exercised in an arbitrary manner. A more transparent procedure should be prescribed under the proposed law. AIDWA has also always demanded that all recommendations of punishment of the complaint committees to the employers/District officers must be accepted and implemented and no additional inquiries should be initiated.

AIDWA demands that the changes suggested above should be incorporated in the bill and thereafter that the bill be passed without any delay.

Sudha Sundararaman
General Secretary, AIDWA

Kirti Singh
Legal Convenor, AIDWA

15-12-2010
Farah

Gmail: Response-Domestic Worker...

Farah Naqvi
310 Qutab View Apartments
Jain Mandir Dada Bari Road
Mehrauli, New Delhi 110030, India
Tel: 91-11-26645274, 91-11-981111055, 1

Statement of Women Against Sexual Harassment at the Workplace

AIDWA welcomes the introduction in the Lok Sabha of the Bill on the Protection of Women Against Sexual Harassment at the Work place. This Bill has been introduced after a consistent struggle by women's organisations for several years.

However, AIDWA is deeply concerned about certain provisions in the Bill. It is unfortunate that "false and malicious complaints" of sexual harassment have been made punishable in the proposed law. This is totally against the Vishaka Judgment which had clearly stated that an action should be taken against a woman for making a complaint. The entire civil law is based on cases of sexual harassment where it is intended to provide a conducive atmosphere in which women victims could make a complaint, because women employees are usually extremely hesitant to lodge a complaint for fear of reprisal. Our experience of dealing with cases and members of complaint committees has shown us how accusations of false complaints are constantly made against the women victims. Though most ready to substantiate the complaint or provide adequate proof has not been made punishable, we feel that this is not good enough. It would be highly improper for the committee to pronounce judgment on this matter. The fact that she can be proceeded against with lying like a Damocles' sword over the victim's head, AIDWA demands that there should be no such clause in the Bill. Any person who feels that a false complaint has been made against him can always take recourse to the criminal or civil law in this regard relating to defamation etc.

It is also unfortunate that the proposed Bill does not apply to domestic workers. This is despite the fact that the SCW had had specifically listed domestic work in its scheduled list of unorganised work, leaving the vulnerable section of women workers out of the purview of this Bill is unacceptable.

The proposed Government Bill lays down that complaint committees with at least 30% women members will be set up in institutions and a local committee will be constituted by a District Officer for victims of sexual harassment in very small institutions or in situations where no complaint committee is available. However, since the discretion to appoint the committee rests solely with the District Officer, it is liable to be exercised in an arbitrary manner. A more transparent procedure should be prescribed under the proposed law. AIDWA has also always demanded that all recommendations of punishment of the complaint committees to the employer/District Officer must be accepted and implemented and no additional inquiries should be initiated.

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Kirti Singh
Legal Counsel, AIDWA

General Secretary, AIDWA

**Draft Resolution to be adopted on Domestic Workers at the Meeting of the National
Advisory Council on 21 December, 2010, with recommendations to the government**

1. The National Advisory Council (NAC) is surprised and deeply distressed to find that domestic workers have been explicitly excluded from the purview of the *Protection of Women against Sexual Harassment at Workplace Bill, 2010*. Domestic work is the largest female occupation in Urban India today. Statistics on domestic workers vary from 4.75 million (NSS 2005) to over 90 million. Given the considerable increase in the number of middle class families where both partners work, there is a quantum jump in the number of domestic workers employed by them. Most domestic workers come from vulnerable communities and backward areas. They are poor, illiterate and unskilled. Domestic work is undervalued, underpaid and poorly regulated. Lack of decent wages, work conditions and defined work time, violence, abuse, and victimization at the hands of employers as well as traffickers/ placement agencies, forced migration, and lack of welfare measures, are major issues of the sector. Their work place being the confines of private homes, domestic workers, especially the live-in-ones, are prone to sexual harassment and abuse, without access to any complaint mechanism or remedial measures. This being so, discrimination of domestic workers by excluding them from the Bill, and existing laws that protect rights of workers, make them extremely vulnerable. Their exclusion constitutes a violation of their right to equality, right against discrimination and the right to life and work with dignity as enshrined in articles 13(2), 14, 15, 16, 19, 21 and 23 of the Constitution.
2. The nature of work, the specificity of the employee-employer relationship, and the work in private households instead of public and private establishments, excludes the coverage of domestic workers from the existing laws. Even the placement agencies escape from the ambit of labour laws, because of definitional issues. To include domestic workers under these laws, definitions have to be amended. Laws that need such amendments include The Minimum Wages Act 1948, The Maternity Benefit Act 1961, Workmen's Compensation Act 1926, Inter State Migrant Workers Act 1976, Payment of Wages Act 1936, Equal Remuneration Act 1976, Employee's State Insurance Act, Employees Provident Fund Act, and Payment of Gratuity Act, 1972.
3. Given the above factors, the NAC urges the central government to include them within the ambit of *Protection of Women against Sexual Harassment at Workplace Bill, 2010*.
4. Given their large numbers, special situation of domestic workers as workers in households, their vulnerability and the contribution they make to the economy of the country as service providers, the NAC strongly recommends a working group to examine the existing laws so as to provide domestic workers the same protection, rights and security as are available to other workers.

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Sudha Sundaraman
General Secretary, AIDWA

Kirti Singh
Legal Convenor, AIDWA

To,
Dr. Rita Sharma,
Secretary,
National Advisory Council,
2, Motilal Nehru Place,
New Delhi 110011.

Subject : Protection of the Rights of Domestic Workers

Dear Ritaji,

I am writing with reference to your letter of December 8th, 2010. You had kindly sent me the responses of the Ministries of Labour and Women & Child Development, Government of India, to your letter to them dated December 1st, 2010.

I have been through the responses received and would like to share my views.

1. The response of the Ministry of Labour is satisfactory and indicates that the Government of India has now decided to support the text of the Convention and Recommendation on Decent Work for Domestic Workers, albeit with certain reservations.

The reservations essentially pertain to the issue of entering the private domain of individuals who are employing domestic workers—i.e. invasion of privacy issues. In this context, the Task Force on Domestic Workers is actively working towards both reduction of vulnerability of domestic workers, according them full rights as workers (including basic social security) and developing practical ways to enforce laws, while addressing the issue of monitoring workers' rights within the private homes of individuals.

I have seen the Task Force minutes. The members include workers' representatives, government representatives and those of the ILO. I note that employers' representatives are not present. Some consultations with them may be necessary so that a consensus is built up and India supports the ILO Convention to be discussed at the International Labour Conference (ILC) in 2011.

The Task Force is also examining the possibility of regulations, but the first step is extending social security through schemes like RSBY and recommending that state governments include domestic workers in the Minimum Wages Act.

In sum, the Labour Ministry's response is satisfactory and shows that they are actively working towards reduction of vulnerability of domestic workers and attaining of their rights.

2. The response of the Ministry of Women and Child Development is not satisfactory with regard to the exclusion of domestic workers from the Protection of Women Against Sexual Harassment at Workplace Bill.

Their main argument is the issue of the workplace of domestic workers being the private homes of individuals. They, therefore, recommend that domestic workers take recourse to provisions under criminal law instead.

While one would agree that the fact that private homes are domestic workers' workplaces poses special challenges, it in no way should exclude these women who

12-2010

Gmail - Re: Follow up to NAC mtg

SH Bill 2010.pdf
265K

To:
Dr. Rita Sharma
Secretary,
National Advisory Council,
2, Motilal Nehru Place,
New Delhi 110011

Subject: Protection of the Rights of Domestic Workers

Dear Rajali,

I am writing with reference to your letter of December 8, 2010. You had kindly sent me the response of the Minister of Labour and Women & Child Development, Government of India, in your letter to them dated December 1, 2010.

I have been through the response received and would like to share my views.

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While one would agree that the fact that private homes are domestic workers' workplaces poses special challenges, it is no way should exclude these women who

are among the most vulnerable of workers and whose numbers are steadily growing, as more women enter the workforce. The Ministry should have consulted with the Task Force set up by the Labour Ministry, both to ensure congruence of approach and also to determine the best, practical way to enforce the law.

Further, taking recourse to criminal law would apply to all women—that avenue is open to all. Then why single out domestic workers for this, knowing that in practice, it is extremely difficult for a poor woman worker to register her FIR?

In sum, there is no strong argument for excluding millions of domestic workers who are poor, working women, most often from the vulnerable communities of our society.

I feel strongly that domestic workers should be included in the proposed law, and as discussed with other NAC colleagues, we should pass a resolution to this effect. I will be circulating a revised resolution soon.

As the proposed Bill has been introduced in Parliament, I request that we take up this matter in our next NAC meeting.

With best wishes,

Sincerely,

Mirai Chatterjee

15-12-2010

Gmail - Re: Follow up to NAC mtg



aruna roy <arunaroy@gmail.co

Re: Follow up to NAC mtg

1 message

Farah Naqvi <farah310@gmail.com>

Sun, Nov 28, 2010 at 6:07

To: aaga@thermaxindia.com, Aruna Roy <arunaroy@gmail.com>, Deep Joshi <deepjoshi97@gmail.com>, Dr Shivakumar <akshivakumar@gmail.com>, Dr Jean Dreze <jaandaraz@gmail.com>, Harsh Mander <manderharsh@gmail.com>, Madhav Gadgil <madhav.gadgil@gmail.com>, Meerai Chatterjee <miraichatterjee@sewa.org>, Mirai Chatterjee <social@sewass.org>, Narendra Jadhav <dr.ndj@nic.in>, Narer Jadhav <dnarendra.jadhav@gmail.com>, NC Saxena <nareshsaxena@hotmail.com>, Pramod Tandon <profptandon@gmail.com>, Ram Dayal Munda <rdmunda@yahoo.co.uk>, Swaminathan MS <swami@mssrf.res.in>

Dear Mirai:

They may like to use the NCW draft as the reference point, since that is the only one in the public domain, including examining the schedule appended to it which describes "domestic work" and Section 16 (punishment for false complaints).

Additionally, perhaps the NAC secretariat can get us the content of the Cabinet note prepared by Ministry of WCD, so that we are not flailing in the dark.

Also, for future work on this issue, the Domestic Workers Social Security Act, 2010 is attached.

Warmly,

Farah (both legislations are attached and were also on the NCW website the last time I checked).

On Sun, Nov 28, 2010 at 5:41 PM, Mirai Chatterjee <miraichatterjee@sewa.org> wrote:

Farah,

I have asked Nalini and Varghese of the domestic workers campaign to do a first draft of what we want to say. I will send to you as soon as I get it. Please do take a look and help with it. Thanks.

Best,
Mirai

----- Original Message -----

From: Farah Naqvi

To: Anu Agha ; Aruna Roy ; Deep Joshi ; Dr AK Shivakumar ; Dr Jean Dreze ; Harsh Mander ; Madhav Gadgil ; Meerai Chatterjee ; Mirai Chatterjee ; Narendra Jadhav ; Narendra Jadhav ; NC Saxena ; Pramod Tandon ; Ram Dayal Munda ; Swaminathan MS ; dhiraj srivastava ; K.Raju ; Manisha Verma ; Ravi ; Rita Sharma

Sent: Sunday, November 28, 2010 10:31 AM

Subject: Re: Sorry-Ignore last mail-read this one - Sexual Harasmnt-Follow-up on NAC meeting

Hi Friends - forgot to include Sec. 16 referred to in last mail. Please ignore that mail and read this mail. Farah

On Sun, Nov 28, 2010 at 10:22 AM, Farah Naqvi <farah310@gmail.com> wrote:

Dear Mirai & Respected Colleagues:

As follow up to the decision to prepare a resolution on the exclusion of domestic workers from the sexual harassment at the workplace bill, please find below an short article on this issue I had written for the HT last week (before the NAC meeting). The Ministry of WCD removed their 2007 Bill (which was flashing "NEW" on their website) the day after the article appeared!

<https://mail.google.com/mail/?ui=2&ik...>

The issue is really two-fold:

1. Exclusion of domestic workers from the purview of the bill
2. Section 16 of the draft bill in the public domain (on the National Commission for Women website), given below:

16. (1): Punishment for False or Malicious complaint and false evidence:

Where the committee or the local committee, as the case may be, arrives at a conclusion that allegations against the respondent is false or malicious or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer to take action against the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him or whereon such service rules have been made, in such manner as may be prescribed

Many women's organisations and legal experts, including ASG Indira Jaising (unofficially), are clear that this will make the bill totally ineffective. For it seems that any case "not proved" is by definition "false". Which woman, especially a domestic worker, will complain about sexual harassment against an employer with this kind of counter-threat? We need explanation on this from WCD, and to consider including this in the memorandum.

There is of course also the issue of transparency in law-making. No one seems to know when and why the NCW's recommendations on domestic workers inclusion were changed by the Ministry of WCD? But that is the subject for a much larger discussion.

warmly, Farah

The last to know

Farah Naqvi

, Hindustan Times

November 23, 2010

First Published: 21:15 IST(23/11/2010)

Last Updated: 21:23 IST(23/11/2010)

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Laws in India are made by stealth, under cover of darkness. The Protection of Women against Sexual Harassment at the Workplace Bill, 2010, made news recently when the Cabinet cleared it. It's now apparently waiting in the wings to enter Parliament. Media reports tell us that domestic workers aren't covered by the Bill. National Sample Survey Organisation 2004-05 counts over 4.7 million domestic workers in India. But given the size of the burgeoning middle class, estimates are at least thrice that number.

They are among the most vulnerable and unprotected women in the unorganised sector. The nature of their work — being holed up in isolated spaces of millions of private homes with demeaning work conditions, no guarantees of minimum wages or social security — makes it imperative that social protection legislation embraces them first, not last. We are told that there is also a provision to penalise women who make 'false' complaints. This would kill the Bill. Imagine a sexually harassed woman having to not only prove harassment against a male 'superior' but also to protect herself when she fails to do so. These provisions are absurd and unacceptable. But it seems even more absurd to march the streets on the basis of dubious facts.

The website of the Ministry of Women & Child Development, which has steered the Bill, flashes 'New' next to a link that reads 'The Protection of Women Against Sexual Harassment at the Workplace Bill, 2007... Comments invited - By March 31, 2007'. That was not 'new' at all. Next stop: the website of the National Commission for Women (NCW). The Bill here is dated January 28, 2010. The NCW version has Section 16 — penalising women for 'false' or 'malicious' complaints. But it also has a schedule containing 'list of employments in the unorganised sector'. Here, domestic work, gardening, baby-sitting, cooking, cleaning, et al, is listed. So is this the Bill that the Cabinet cleared? A phone call to the NCW yields a blank — "We know nothing about the

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Gmail - Re: Follow up to NAC mtg

Bill that the Cabinet has cleared. Please look at our website." Meanwhile, a feminist e-group has circulated what they think might be the 'real' Bill — put out by the law ministry in July 2010. But this doesn't have any schedule appended to it. So can domestic workers seek protection or not? Civil society consultations on this bill — such as they were — concluded over two years ago.

Is this how laws are to be made in our country? Keep them on the back burner after a few token consultations and one day, when no one is looking, sneak them out, modify and bamboozle them through Parliament. This law can affect thousands of women, it can change equity in our workplaces, it's something that the women's movement has fought long and hard for. Yet, in this last mile they are the last to know. Far more crucial legislations to fulfil the UPA's promise to end gender discrimination and promote inclusivity are in the pipeline - including criminal law amendments on rape and sexual assault. Will they all be treated like State secrets until their debut in Parliament?

Jurisdictions around the world have mechanisms to involve citizens in law-making. The U.S. has some direct democracy provisions like referendums. Our very own Right To Information Act has established principles of transparency in governance. We need to extend that to law-making. I am personally wary of direct democracy methods (referendums, plebiscites, legislative veto) which can easily turn into crude majoritarianism. But we can think of representative democracy mechanisms and processes that include citizens groups and mandate broad civic participation in law-making. Democratic governance demands that we do so. Without participation and transparency in our legislative process, we dishonour our democracy. And we end up with lousy laws.

Farah Naqvi is a writer and activist working on gender and minority rights. The views expressed by the author are personal.

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2 attachments

 domestic_worker_welfare_and_social_security_act_2010.pdf
254K

<https://mail.google.com/mail/?ui=2&ik...>

15-12-2010

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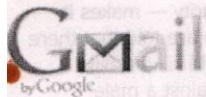
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Jain Mandir Dada Bari Road
Mehrauli, New Delhi 110030, India
Tel: 91-11-26645274, 91-11-9811105521

12-2010

Gmail - RE: Response-Domestic Worker...



aruna roy <arunaroy@gmail.com>

RE: Response-Domestic Workers' Resolution

message

Tue, Dec 14, 2010 at 9:48 PM

larsh <manderharsh@gmail.com>

Reply-To: manderharsh@gmail.com

To: Farah Naqvi <farah310@gmail.com>, Mirai Chatterjee <social@sewass.org>
Cc: dhiraj srivastava <dhiraj.srivastava@gmail.com>, Swami-MSSRF <swami@mssrf.res.in>, Narendra Jadhav <narendra.jadhav@yahoo.co.uk>, Pramod <profptandon@gmail.com>, Jean Dreze <jean.dreze@gmail.com>, Madhav Gadgil <madhav.gadgil@gmail.com>, a. k. shiva kumar <akshivakumar@gmail.com>, Rita Sharma <ritasharma@gmail.com>, "K.Raju" <kr.raju@gmail.com>, Ravi <sravi@nic.in>
Naresh Saxena <nareshsaxena@hotmail.com>, Deepjoshi97@gmail.com, aaga@thermaxindia.com, Manisha Verma <manisha.verma@yahoo.com>

Dear Mirai and Farah,

I fully agree that the NAC resolution at this stage should be to include domestic workers in the legislation on sexual harassment in the workplace. Their exclusion will be a great injustice to a very vulnerable group which is paradoxically simultaneously invisible and visible everywhere, with few protections.

Warm regards,

Harsh

From: Farah Naqvi [mailto:farah310@gmail.com]

Sent: Tuesday, December 14, 2010 6:37 PM

To: Mirai Chatterjee

Cc: dhiraj srivastava; Swami-MSSRF; Narendra Jadhav, rdmunda@yahoo.co.uk; Pramod; Jean Dreze; aruna roy; Madhav Gadgil; Naresh Saxena; a. k. shiva kumar; deepjoshi97@gmail.com; aaga@thermaxindia.com; harsh; Rita Sharma; K.Raju; Manisha Verma; Ravi

Subject: Re: Response-Domestic Workers' Resolution

Dear Mirai:

Thanks. I had given my response earlier (given below). I feel that if the NAC considers a resolution specifically on the Sexual Harassment of Women at the Workplace Bill, it must take into account the core concerns of the women's movement that has been associated with the history of this Bill - beginning with the campaign which supported Bhanwari, to the Vishakha judgement and now the Bill. As I have written to you and communicated on phone there are two concerns:

1. The inclusion of domestic workers
2. the false complaints clause which will render the Bill a non-starter for all women, especially for domestic workers

In my view both concerns must be reflected in the NAC resolution.

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1/3

15-12-2010

Gmail - Sexual Harasmnt-Follow-up on...



aruna roy <arunaroy@gmail.com>

Sexual Harasmnt-Follow-up on NAC meeting

1 message

Farah Naqvi <farah310@gmail.com>

Sun, Nov 28, 2010 at 10:22 AM

To: Anu Agha <aaga@thermaxindia.com>, Aruna Roy <arunaroy@gmail.com>, Deep Joshi <deepjoshi97@gmail.com>, Dr AK Shivakumar <akshivakumar@gmail.com>, Dr Jean Dreze <jaandaraz@gmail.com>, Harsh Mander <manderharsh@gmail.com>, Madhav Gadgil <madhav.gadgil@gmail.com>, Meerai Chatterjee <miraichatterjee@sewa.org>, Mirai Chatterjee <social@sewass.org>, Narendra Jadhav <dr.ndj@nic.in>, Narendra Jadhav <dnarendra.jadhav@gmail.com>, N Saxena <nareshsaxena@hotmail.com>, Pramod Tandon <profptandon@gmail.com>, Ram Dayal Munda <rdmunda@yahoo.co.uk>, Swaminathan MS <swami@mssrf.res.in>, dhiraj srivastava <dhiraj.srivastava@gmail.com>, "K.Raju" <krajuhyd@yahoo.com>, Manisha Verma <nac.director@gmail.com>, Ravi <sravi@nic.in>, Rita Sharma <ritasharma@gmail.com>

Dear Mirai & Respected Colleagues:

- As follow up to the decision to prepare a resolution on the exclusion of domestic workers from the sexual harassment at the workplace bill, please find below an short article on this issue I had written for the HT last week (before the NAC meeting). The Ministry of WCD removed their 2007 Bill (which was flashing "NEW" on their website) the day after the article appeared!

The issue is really two-fold:

1. Exclusion of domestic workers from the purview of the bill
2. Section 16 of the draft bill in the public domain (on the National Commission for Women website), given below:

Many women's organisations and legal experts, including ASG Indira Jaising (unofficially), are clear that this will make the bill totally ineffective. For it seems that any case "not proved" is by definition "false". Which woman, especially a domestic worker, will complain about sexual harassment against an employer with this kind of counter-threat? We need explanation on this from WCD, and to consider including this in the memorandum.

- There is of course also the issue of transparency in law-making. No one seems to know when and why the NCW's recommendations on domestic workers inclusion were changed by the Ministry of WCD? But that is the subject for a much larger discussion.

warmly, Farah

The last to know

Farah Naqvi

, Hindustan Times

November 23, 2010

First Published: 21:15 IST(23/11/2010)

Last Updated: 21:23 IST(23/11/2010)

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Laws in India are made by stealth, under cover of darkness. The Protection of Women against Sexual Harassment at the Workplace Bill, 2010, made news recently when the Cabinet cleared it. It's now apparently waiting in the wings to enter Parliament. Media reports tell us that domestic workers aren't covered by the Bill. National Sample Survey Organisation 2004-05 counts over 4.7 million domestic workers in India. But given the size of the burgeoning middle class, estimates are at least thrice that number.

They are among the most vulnerable and unprotected women in the unorganised sector. The nature of their work — being holed up in isolated spaces of millions of private homes with

<https://mail.google.com/mail/?ui=2&ik...>

12-2010

Gmail: Response-Domestic Worker...

NAC MEETING 9- DOMESTIC WORKERS

As I have already communicated to you in a separate mail, I support the setting up of a WG on this issue, however, I am not sure this needs to be part of a NAC resolution. It can be a separate NAC decision. Likewise, para 2, in my opinion may form the subject of discussion in such a WG.

I am attaching the All India Democratic Women's Association (AIDWA) statement on the Bill, which reflects the two core concerns I have earlier mentioned. Autonomous women's groups also have a statement, which I can send later.

warm regards,

Farah

On Tue, Dec 14, 2010 at 4:57 PM, Mirai Chatterjee <social@sewass.org> wrote:

Dear All,

I am sending you the resolution on domestic workers, revised version, for your consideration and comments.

With best wishes,

Mirai

Dear Mirai:

I feel strongly that we will have to separate the two issues:

1. Specific points related to the Sexual Harassment Bill, 2010, which has already been tabled in Lok Sabha on Dec. 7th - as I have earlier mentioned a few things, there are 2 salient points - "false complaints" clause and "inclusion of domestic workers", on which there can be quick consensus and a resolution proposed.

2. Other recommendations relating to rights of Domestic Workers - on which it might be good to have more discussion in a Working Group before passing a resolution. And again, as I have also said earlier, we need to make mention of the Domestic Workers Security Act (even if only to critique it) in this context.

I would be happy to jointly draft and propose a NAC resolution based only on point 1 above, also appending statements issued by women's groups on this recently, and to seek wider consensus among NAC members on such a resolution.

warmly,

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