
Decent Work for Domestic workers – ILO Convention 189

**COSATU DOMESTIC WORKERS
SUMMIT**

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Background

- The composition of the domestic workforce changes by country and over time, but, everywhere, their numbers are growing.
 - The ILO estimates domestic worker employment between 4 and 10 per cent of total employment in developing countries and up to 2.5 per cent of total employment in industrialized countries.
 - While domestic work is overwhelmingly comprised of women, an important proportion of them migrants, men also work as gardeners or as guardians in private homes or as family chauffeurs.
 - Changes in the organization and intensification of work are responsible for this increase.
 - As a result, reliance on domestic work has increased everywhere across the world as a private strategy to counter mounting work-family tensions.
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Background

- In South Africa according to the latest QLFS there is 876000 domestic workers with almost 1 million employers
 - Other research indicates that there is about 1 million domestic workers in the country
 - Domestic workers registered with the UIF amounts to 647126 (July 2011 figures)
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Context

- Despite its growing social and economic significance, domestic work has been, and remains, one of the most precarious, low-paid, insecure and unprotected forms of employment.
 - Many domestic workers are overworked, underpaid and unprotected. Abuse and exploitation are common, especially when children and migrant workers are involved...
 - The serious decent work deficits facing domestic workers are a consequence of their legal and social vulnerability. Domestic workers are excluded either de jure or de facto from the effective protection of national labour law and social security regimes-both in industrialized and developing countries.
 - Another flagrant case is the exclusion of domestic workers from the scope of occupational safety and health legislation in most countries, as the household is erroneously perceived as safe and non-threatening.
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ILO Convention

- The 100th annual Conference of the International Labour Organization (ILO) on Thursday, 16 June 2011 adopted a historic set of international standards aimed at improving the working conditions of tens of millions of domestic workers worldwide.
 - The Convention on Domestic Workers (2011) was adopted by a vote of 396 to 16, with 63 abstentions and the accompanying Recommendation by a vote of 434 to 8, with 42 abstentions.
 - The two standards will be the 189th Convention and the supplementing 201st Recommendation adopted by the Labour Organization since its creation in 1919. The Convention is an international treaty that is binding on Member States that ratify it, while the Recommendation provides more detailed guidance on how to apply the Convention.
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The instrument generally provides for:

- The Convention defines domestic work as work performed in or for a household or households.
 - While the new instruments cover all domestic workers, they provide for special measures to protect those workers who, because of their young age or nationality or live-in status, may be exposed to additional risks relative to their peers, among others.
 - Domestic workers around the world must have the same basic labour rights as those available to other workers
 - Respect for the fundamental principles and rights at work including freedom of association and the right to collective bargaining.
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The Convention and Recommendation provides for:

- Conditions of employment such as
 - Working hours,
 - terms and conditions of employment
 - the period of probation or trial period, if applicable;
 - Terms of repatriation, if applicable
 - National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed
 - free to reach agreement with their employer or potential employer on whether to reside on the premises
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The Convention and Recommendation provides for:

Further conditions of employment

- enjoy minimum wage coverage, where such coverage exists
 - National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind
 - the right to a safe and healthy working environment.
 - effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices,
 - access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.
 - their right to privacy was also recognized, along with the importance of protecting the right to privacy of the household members.
 - The strengthening of protection of young domestic workers by the setting of a minimum age for domestic workers, and by ensuring that domestic work should not deprive them of compulsory schooling, or interfere with their future education or vocational training.
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And further....

- The instruments addresses the plight of life-in domestic workers by spelling out the minimum requirements in respect of:
 - accommodation and meals,
 - protecting the confidentiality of their personal data, and
 - by protecting these workers from possible violence or endless working days.
 - It pays particular attention to the vulnerability of migrant workers by providing for measures to ensure that they receive a written employment contract or job offer before travelling to the country of employment.
 - The inclusion of monitoring mechanisms through labour inspections and the need to respect the privacy of households.
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Where do we fall short

Where do we stand legislatively:

- Need to look at the whole regime to determine where we are located:
 - Constitution provides for the freedom of association
 - LRA (and the mechanisms that it establish) provides for access to dispute resolution mechanism
 - BCEA provides for conditions of employment but also the establishment of sectoral determinations – which has been established
 - Sectoral determinations – establishing conditions of employment
 - Minimum wage coverage
 - Unemployment Insurance coverage
 - Social Security coverage -
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Generally

- Our legislative framework already provides what the instrument requires to a large extent....



Where do we fall short...

- Occupational Health and Safety –extending protection of OSHA in current proposed amendments being drafted
 - Regulation of placement agencies – current amendments and proposed legislation seeks to address this issue generally
 - Provision for migrant workers - although our legislation (flowing from our Constitution) applies to irrespective
 - especially as it relates to the protection of social security benefits
 - right to repatriation
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The role of Unions in promoting decent work for domestic workers

What can be done

■ Trade Unions

- Strengthening of organisational capacity
 - skills development
 - Understanding their position and identify challenges
 - enable domestic workers to be knowledgeable about their rights and recourse to challenge violations of their rights
 - Articulate demands for change
 - protecting the rights of workers – freedom of association
 - utilization of different platforms to advance interest of workers
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**There should however be a
broader strategy**

That should entail.....

- Empowerment of domestic workers – concerted collaborative efforts between trade unions, government and NGO's to develop empowerment programmes that reach the majority of domestic workers
 - This transformation is important not only from a trade union perspective but fits in the transformation agenda as envisaged in the Constitution
 - The need to create awareness, this is not only a government imperative!
 - The need to ensure that through policies and legislation the full contribution of domestic workers to the economy is recognized
 - Identify and deal with the obstacles that impacts negatively on the enjoyment of these rights
 - The need to develop a culture of compliance – whether through an improved inspectorate or otherwise
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Thank You
