

## ILO Convention No. 189 Concerning Decent Work for Domestic Workers, 2011

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*In acknowledgement of the value of domestic workers in South Africa, 26 July 2012 was marked as the National Domestic Workers' Day. Domestic workers the world over are some of the most important members of society, who work tirelessly to ensure that families are able to optimally exploit their potential by providing vital support and assistance with their domestic chores. Unfortunately, they remain the most unacknowledged workers and often earn meagre wages that can hardly sustain their own livelihoods.*

It was therefore a welcome and commendable gesture by South Africa to dedicate a day to celebrate and honour domestic workers. Beyond having a dedicated day to celebrate the contribution by domestic workers to society and the national economy it is also important to give real recognition and support to the equitable realisation of their own socio-economic and cultural rights.

The International Labour Organization (ILO), in recognition of the significant contribution of domestic workers to the global economy, adopted the 'International Labour Organization Convention Concerning Decent Work for Domestic Workers' (ILO Convention No 189) in Geneva in June 2011. The Convention is a reflection of the recurrent debates and discussions between various employers and workers' representatives on the regulation of fair labour practices to ensure the sector can offer decent work for domestic workers. It sets the international standards and norms for decent work and applies to all domestic workers globally.

According to the ILO, it is estimated that there at least about 53 million domestic workers worldwide. However, experts in the field differ and some project the number to be in the region of 100 million. In South Africa, according to the 2010 Labour Force Survey, it is estimated that there are about 880 000 domestic workers, the majority of whom are women. Like elsewhere in the world, for most of these workers, particularly migrants and those under 18 years old, the conditions and circumstances of their work are poor and exploitative. Some could even amount to forced labour and/or modern forms of slavery. The Convention requires that domestic workers enjoy minimum wage coverage without discrimination based on sex. It further stipulates that 'domestic workers shall be paid directly in cash at intervals but not less often than once a month'. With regard to decent work for domestic workers it proposed that member states should take measures to ensure that they

enjoy freedom of association and the effective recognition of the right to collective bargaining. This would in essence require member states to 'support measures to strengthen the capacity of organisations of domestic workers to protect the interests of their members.'

The Convention further acknowledges that domestic workers provide an indispensable contribution to society. All over the world, domestic workers do important but unglorified chores in private households, including cleaning, cooking, gardening, looking after children or elderly people and guarding homes, among many others tasks. Despite this, domestic workers remain undervalued and are regarded as unskilled and often lack the social recognition and legal protection that is enjoyed by other workers. The 2010 report of the Special Rapporteur on Contemporary Forms of Slavery recognises that, because the nature of their work, domestic workers are:

particularly vulnerable to economic exploitation, abuse and, in extreme cases, subjugation to domestic servitude and domestic slavery.

The Convention acknowledges that domestic work continues to be:

undervalued and invisible, and is mainly carried out by women and girls, many of whom are migrants or members of historically disadvantaged communities and therefore particularly vulnerable to discrimination in respect of conditions of employment and of work and other abuses of human rights'. Their vulnerability means domestic workers are often subject to unfair and exploitative labour practices.

South Africa has enacted specific legislation to protect workers:

- The Labour Relations Act 66 of 1996 enables employee's right to freedom of association and important aspects of the right to fair labour practices.
- The Basic Conditions of Employment Act (No. 75 of 1997), as amended by the Basic Conditions of Employment Amendment Act, 2002.) further implements the right to fair labour practices.
- The Employment Equity Act No. 55 of 1998 regulates the right to equality in the employment context.
- The Sectorial Determination 7: Domestic Workers Sector (SD7), promulgated in 2002, regulates the working conditions of domestic workers.

Despite these progressive legislative measures that formally recognise domestic workers, domestic work in South Africa remains unregulated as they occupy a subordinate status in the labour market. Furthermore, since they are isolated in private homes, the informal nature of domes-

tic employment make traditional trade union organisation difficult. Ten years after minimum wages were introduced, it questionable to what extent these regulations have been implemented and what impact they have had on domestic workers in terms of employment and earnings. Thus to achieve the goal of decent work for all domestic workers nationally, a multi-faceted approach will be required other than legislation.

Despite these gaps and challenges, it is hoped that the ILO Convention No 189 will inspire and guide South Africa in securing decent work conditions for domestic workers. As a country that prides itself on its commitment to respect the fundamental human rights of all without discrimination, it is imperative that South Africa ratifies the Convention and ensures the rights of domestic workers are respected and upheld in practice. It is also encouraging to note that the South African Domestic Service and Allied Workers Union (SADSAWU) and the University of the Western Cape (UWC) Social Law Project have established the Domestic Workers Research Project to research and inform the dialogue on decent work for domestic workers in South Africa.

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For further details on the International Labour Organization Convention Concerning Decent Work for Domestic Workers, see [http://www.ilo.org/ilc/ILCSessions/100thSession/reports/provisional-records/WCMS\\_157836/lang--nl/index.htm](http://www.ilo.org/ilc/ILCSessions/100thSession/reports/provisional-records/WCMS_157836/lang--nl/index.htm)

Also see:

United Nations Human Rights Council Report of the Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences, Gulnara Shahinian. June 2010. UN Doc A/HRC/15/20

Domestic Workers Research Project (DWRP), launched in January 2009, by the Social Law Project at University of the Western Cape. <http://www.dwrp.org.za/>