Labour law coverage for domestic workers: What, Why and How?

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What is labour law coverage?

- Means that specific rights and protections are available under the country's generally applicable laws and regulations governing employment and labour matters.

- Labour law is enforced by the State.

- Labour law systems vary.

- Usually a central piece of legislation, supplemented by other regulatory enactments.
An agreement made between the employer & worker

Creates mutual rights and obligations between the parties
- Not a generally applicable norm

Formalizes and shapes the employment relationship

Labour law requirements for contacts
- Form & Content
- Model contracts, standard employment contracts

Is “enforced” by the parties
- Party alleging violation must bring a claim
Why extending labour law to domestic workers?

- **Recognition** of domestic workers and as “real workers”
- Pronounced **imbalance of power** between workers and employer
- Nature of **workplace & tasks performed**: clear worker protection needs
- Public policy dimension – costs of non-intervention & ad hoc approaches

“*All are equal before the law and are entitled without any discrimination to equal protection of the law*”

*Universal Declaration of Human Rights, Art. 7*
Global status quo: Minimum wage coverage

- Statutory minimum wage for domestic workers is lower than for other workers: 2.9 million (5.5%)
- Statutory minimum wage for domestic workers is the same or higher than for other workers: 27.2 million (51.8%)
- No statutory minimum wage applicable to domestic workers: 22.3 million (42.5%)
- Information not available / federal countries with provisions that differ between states: 0.1 million (0.2%)

* Includes cases where comparison to benchmark minimum wage is not possible
Global status quo: Limitation of weekly hours of work

- No limitations of normal weekly hours for domestic workers: 29.7 million (56.6%)
- Limitation of normal weekly hours less favourable than for other workers: 1.9 million (3.6%)
- Limitation of normal weekly hours same or more favourable than for other workers: 20.9 million (39.7%)
- Information not available / federal countries with provisions that differ between states: 0.1 million (0.2%)
Global status quo: Entitlement to maternity leave

- Maternity leave entitlements are the same or more favourable than for other workers: 27.6 million (63.3%)
- Information not available or federal countries with provisions that differ between states: 0.1 million (0.2%)
- No entitlement to maternity leave: 15.6 million (35.9%)
- Maternity leave entitlements less favourable than for other worker: 0.3 million (0.7%)

Note: These figures indicate percentages of female domestic workers.
Regional status quo (2010)

- Only 1 per cent of domestic workers in the region is covered by national labour laws.
How to extent labour law to domestic worker?

- Reform steps depend on national legislative context
- Labour Code or separate Law on domestic work?
  - What matter is that domestic workers enjoy protection on an equal footing with other workers
  - Limiting coverage to a separate law: risk of protection gaps
  - Combination usually better – separate law to address issues specific to domestic work, as needed
- Law or subsidiary enactment (regulation, decree etc.)?
  - Law: Main protections and rights
  - Subsidiary enactment: more details & matters that require updating
International legal framework

- Universal Declaration of Human Rights and UN human rights treaties
- ILO Declaration on Fundamental Principles and Rights at Work
- ILO Conventions and Recommendations:
  - Fundamental Conventions
  - Convention No. 189 and Recommendation No. 201
  - Conventions Nos. 97 and 143 concerning migrant workers
  - Instruments on minimum wages, wage protection, maternity protection, social security, occupational safety and health etc.
C.189 & R.201:
Some key protections (selection)

- **Remuneration**
  - Minimum wage coverage
  - In cash or other lawful methods
  - In kind payments only limited & under strict conditions

- **Working time**
  - Normal hours, weekly & daily rest, paid annual leave: towards equal treatment
  - Minimum 24 consecutive hours of weekly rest

- **Social security, including maternity protection**
  - Conditions not less favorable than those applicable to workers generally (progressive implementation)
  - Bilateral or multilateral agreements
Planning for reform

• Taking stock of on-going initiatives for better regulation of domestic work
• What are the challenges and ways to address them?
• How to involve all relevant public bodies?
• What role for social dialogue?
• How to raise awareness of the public?
• How to ensure that views of domestic workers themselves and their employers are taken into account?