



International
Labour
Office



DOMESTIC WORK POLICY BRIEF

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Coverage of domestic workers by key working conditions laws

According to the most recent global and regional estimates of domestic workers produced by the ILO's Conditions of Work and Employment Programme (TRAVAIL), at least 52.6 million women and men above the age of 15 were domestic workers in their main job in 2010 (ILO, 2011a).¹ This figure represents a significant share of global wage employment, some 3.6 per cent worldwide. Women comprise the overwhelming majority of domestic workers, 43.6 million or some 83 per cent of the total. Domestic work is an important source of wage employment for women, accounting for 7.5 per cent of women employees worldwide (see ILO, 2011a).

In spite of the valuable role played by domestic workers in the functioning of individual households and society as a whole, they remain one of the least protected groups of workers under national labour legislation. The ILO law and practice report on domestic work, which had been prepared for the 99th Session of the International Labour Conference in June 2010, presented information on the legislative practices of member States in a range of policy areas concerning working conditions, social protection, freedom of association and collective bargaining (ILO, 2009). While some countries have put in place policies and laws that extend labour and social protection — albeit in varying degrees and ways — to domestic workers, this group remains unprotected in many other places.

This policy brief aims to expand factual knowledge on the extent to which domestic workers are covered by or excluded from entitlements commonly enjoyed by other wage workers under national laws. It focuses on three key working conditions laws, namely minimum wage legislation, working time provisions and maternity protection. By combining national statistics on the number of domestic workers with information on national legislation, the estimates presented below indicate the proportion of domestic workers who are not entitled to a minimum wage under national law, have no limitation of their normal weekly working hours, or lack entitlements to maternity leave or maternity cash benefits. Before discussing the main results, the underlying methodology and perspective of this analytical work are presented.²

1. Methodology and perspective

The estimates of the extent to which domestic workers are covered by key working conditions laws are based on two sources: firstly, statistical data on the number of domestic workers in a given country, which are available from the database compiled for the global and regional estimates on domestic workers (ILO, 2011a); secondly, legal information on the coverage of domestic workers by working conditions laws. The latter had been compiled by the ILO as part of the preparations for the international labour standard-setting process,³ and combined with

¹ New minimum global and regional estimates of the number of domestic workers are presented in ILO (2011a), they are based on data drawn exclusively from official statistics covering 117 countries and territories and a solid methodology that provides unbiased, verifiable regional and global figures.

² A full report by the authors giving more detailed analysis of the data will be available in autumn 2011, where a full methodological appendix will be provided.

³ See ILO (2010a).



additional information gathered from national sources during the on-going update of the ILO's Database on Employment and Working Conditions Laws.⁴ Based on the textual information that describes the coverage of relevant laws in detail, we developed a coding scheme to record how far domestic workers are covered by key working conditions laws, and whether the provisions applicable to them are identical to those applicable to other wage workers, or are less (respectively, more) favourable.

In contrast to earlier publications, which listed the number of countries that excluded or included domestic workers from working conditions laws (ILO, 2009), this policy brief is interested in the question of how many domestic workers are covered by legal provisions, hence giving greater weight to countries with many domestic workers. To produce these estimates, both legal and statistical information are needed for a given country, a combination that is available for a total of 68 countries and territories. Since these include the world's largest countries, the combined database contains information covering countries that between them account for 83.8 per cent of global employment. To correct for the remaining data gaps, a non-response weight was constructed based on the same methodology that had been used to produce the global and regional estimates of domestic workers (see ILO, 2011a).⁵ Where legal provisions differ for live-in and live-out domestic workers, both were given equal weight.

By their very nature, the statistics presented in this brief refer to the minimum entitlements of domestic workers under national law. The actual working conditions of domestic workers can diverge from this. Employers can grant their domestic worker a free Sunday even where legislation does not compel them to do so, or both parties might agree on such a provision when negotiating an employment contract. Reversely, some employers coerce their domestic workers to work without interruption, even where national legislation obliges them to respect a weekly day of rest. However imperfect implementation might be, legal provisions still establish a reference point that serves as a minimum standard.

Legal minimum standards on working conditions are relevant for both domestic workers and their employers (mainly private households). They facilitate the conclusion and formalization of employment relationships for domestic workers. They can simplify negotiations by

providing a binding reference, thus lowering transaction costs and addressing the power imbalance between both parties. Given that collective bargaining remains rare in the domestic work sector, statutory entitlements provide a minimum level of protection to be enjoyed by all workers, which are ultimately enforceable in court. All of this is also important from a human rights perspective.⁶

Extending the reach of labour law is a means of bringing domestic workers within the formal economy and the mainstream of the Decent Work Agenda. As articulated by the International Labour Conference in its 2002 Resolution concerning decent work and the informal economy, "[t]he challenge of reducing decent work deficits is greatest where work is performed outside the scope or application of the legal and institutional frameworks" (International Labour Conference, 2002, para. 2).

2. The coverage of domestic workers by key working conditions laws

Minimum wage coverage

Minimum wage provisions are important instruments to protect the most vulnerable and lowest paid workers from unduly low wages.⁷ Domestic workers often belong to this group and data show that they receive substantially lower wages in comparison to other employees.⁸ While just over half of domestic workers are entitled to the same general minimum wage as other workers,⁹ 2.9 million domestic workers (5.5 per cent of the total) are entitled to a minimum wage below the general level (see Figure 1). Moreover, 22.3 million domestic workers (42.5 per cent of the total) do not have any protection against unduly low wages and no minimum wage is applicable to them. This is only partly due to the fact that they live in countries without minimum wage legislation (0.8 million); 21.5 million domestic workers are not covered by minimum wage regulations where these exist for other workers (not tabulated).

While a large majority of domestic workers in advanced countries and in Latin America and the Caribbean is covered by minimum wage legislation, the overwhelming majority of domestic workers in Asia and the Middle East remains unprotected. Given that the primary objective of minimum wage legislation is to protect vulnerable workers at the bottom of the wage distribution, this is a serious gap in coverage.

⁴ *The Database of Conditions of Work and Employment Laws contains comprehensive legal information which provides a picture of the regulatory environment of working time, minimum wages and maternity protection in more than 100 countries around the world. See <http://www.ilo.org/dyn/travail/travmain.home>.*

⁵ *Weights were calculated for all responding countries, apart from China, that entered the coverage estimate with a weight of one and the tentative estimate on the number of domestic workers discussed in ILO (2011a).*

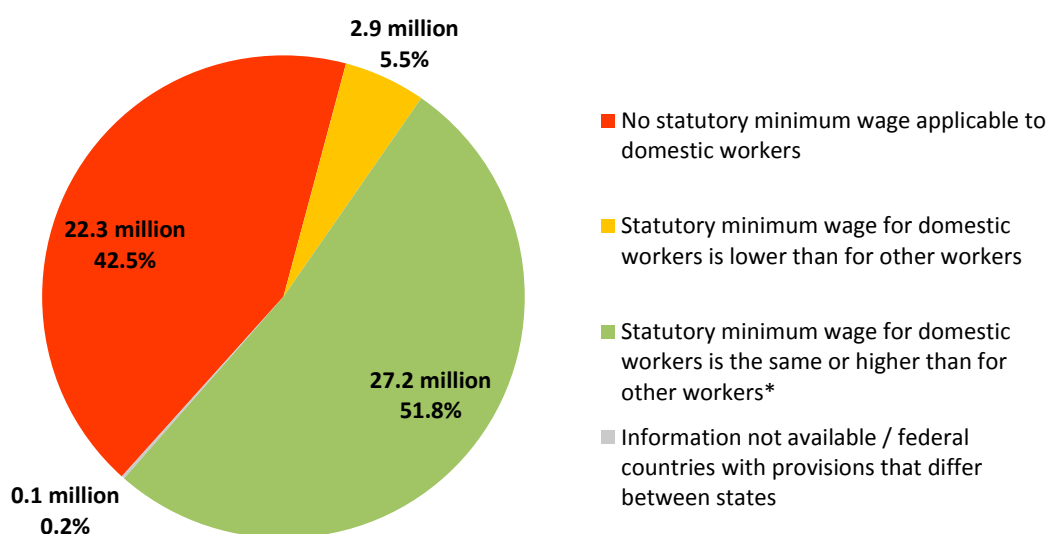
⁶ *The Universal Declaration of Human Rights proclaims that everyone has the right to just and favourable conditions of work (articles 23 and 24). The UN Committee on Economic, Social and Cultural Rights has emphasized that "domestic and agricultural work must be properly regulated by national legislation so that domestic and agricultural workers enjoy the same level of protection as other workers" (UN Committee on Economic, Social and Cultural Rights, 2006, paragraph 10).*

⁷ *See the preamble of the ILO's Minimum Wage Fixing Convention, 1970 (No. 131).*

⁸ *See ILO (2011b).*

⁹ *This figure includes a small minority (0.3 per cent of the total), where the minimum wage for domestic workers is higher than the general minimum wage, and a larger group (9.6 per cent of the total), where a comparison to a "benchmark" minimum wage was not possible.*

Figure 1. Minimum wage coverage for domestic workers



* Includes cases where comparison to benchmark minimum wage is not possible.

Source: ILO estimates based on data from official sources.

Regulation of working hours

Many domestic workers are not covered by provisions regulating their working time. One important element of working time regulation is normal weekly hours limits, which establish how long the normal workweek can be (i.e. before overtime work). As can be seen in Figure 2, there is no applicable limitation of the normal weekly hours of work for 29.7 million domestic workers (or 56.6 per cent of the total). The coverage is weakest in Asia and the Middle East, where more than 95 per cent of domestic workers are not entitled to such a limit (not tabulated). This has resulted in extremely long working hours, especially among live-in domestic workers who, in many cases, are expected to be available at all times (ILO, 2011c; Rodriguez, 2007; Galotti, 2009; Tous et al., 2010; Kundu, 2008; Esim and Smith, 2004). As with minimum wages, the low level of working time protection is primarily caused by the exclusion of domestic workers from existing national standards on normal weekly hours (28.2 million domestic workers; not tabulated), and only in a minority of cases it is due to the absence of any standard on weekly working hours for all types of workers. Where domestic workers

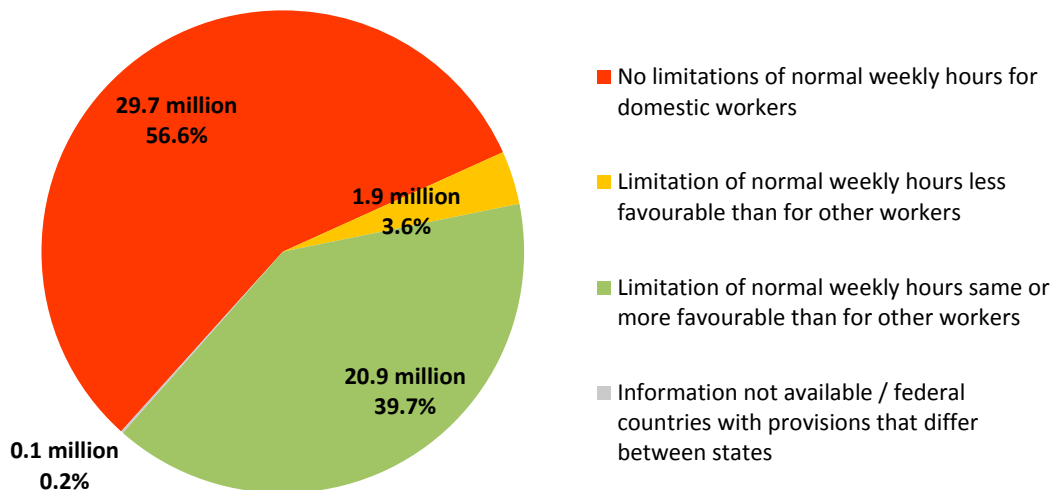
are entitled to a limitation of their normal weekly hours, the statutory limits are sometimes less favourable than those enjoyed by other workers. Some 1.9 million domestic workers (3.6 per cent of the total) are covered by a higher weekly normal hours limit than that applicable to other workers, while 20.9 million (39.7 per cent) enjoy at least the equivalent. In sum, there are thus still large gaps in the regulation of the working time of domestic workers.

In addition to the limitation of normal weekly hours of work, the delineation of weekly rest periods is an important element in working time regulations. This ensures that workers enjoy at least one day-off per week, typically (but not necessarily) on a Sunday or another religious holiday. As shown in Figure 3, 25.7 million workers employed by private households are currently entitled to such a weekly rest period of at least 24 consecutive hours. This group is protected on the same terms as other wage workers (and in a small number of cases, some have in fact longer rest periods; not tabulated). However, the chart below also shows that there is still a huge gap in the statutory provision of weekly rest periods: 44.8 per cent of all domestic workers, or 23.6 million worldwide, are not entitled to

weekly rest under national law. Most of them live in Asia and the Middle East: in both regions, less than 5 per cent of all domestic workers are entitled to a weekly day of rest under national law. While protection is generally good in the advanced countries and in Latin America, the picture is mixed in Africa and Central and Eastern Europe and

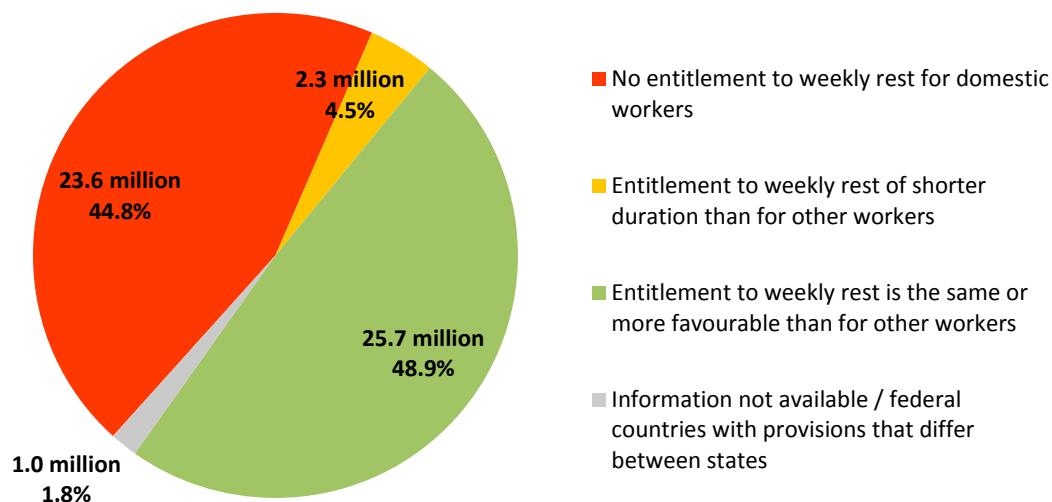
the CIS countries (not tabulated). Extending entitlements to weekly rest to domestic workers is essential, not only to preserve their health and safety and to enable them to spend time with their families (work-family balance), but also to create conditions that allow them to provide quality services to their employer.

Figure 2. Limitation of normal weekly hours of work for domestic workers under national law



Source: ILO estimates based on data from official sources.

Figure 3. Entitlement to weekly rest (at least 24 consecutive hours) for domestic workers under national law



Source: ILO estimates based on data from official sources.

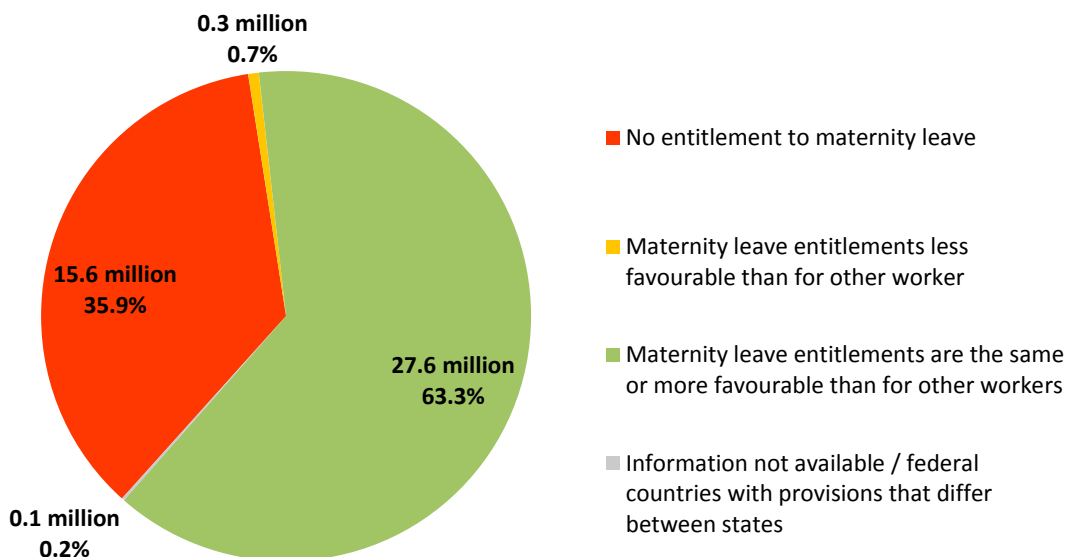
Maternity protection

The entitlement to maternity leave is a major concern, since the overwhelming majority of domestic workers are women (see ILO, 2011a). However, less than two-thirds of all female domestic workers are currently entitled to maternity leave under national law. Among them, approximately 27.6 million women domestic workers (63.3 per cent of all female domestic workers) are entitled to leave periods of at least the same duration as other workers, and a further 0.3 million (0.7 per cent of the total) to shorter maternity leave (see Figure 4). On the other hand, 15.6 million women employed by private households (or 35.9 per cent of the total) have no legal entitlement to maternity leave. Among them are 13.3 million domestic workers in Asia and 1.3 million in the Middle East.

The lack of coverage is due to the exclusion of domestic workers from existing provisions that establish the right to maternity leave for other types of workers. In line with the ILO Maternity Protection Convention, 2000 (No. 183), which aims at covering all employed women, including those in atypical forms of dependent work, extending maternity leave protection to domestic workers is key to advancing decent work for this group of workers.

In addition to maternity leave entitlements, the provision of cash benefits during such leave is also of particular importance to a predominantly female occupational category such as domestic work. Cash benefits are indispensable to making it economically feasible for women to suspend their economic activities around childbirth. Without income replacement, the provision for maternity leave is likely to lose its practical effect, especially among low-income populations that rely on wages, such as domestic workers. Figure 5 shows that 17.3 million women employed by private households (39.6 per cent of the total) are not entitled to cash benefits during maternity leave. As in the case of maternity leave, most women domestic workers with no maternity cash benefits entitlements are in Asia and the Middle East (13.3 million and 1.3 million, respectively). The lack of coverage is the result of the exclusion of domestic workers from existing provisions that establish the right to maternity cash benefits for other types of workers. Since such entitlements are relatively common in Latin America, Africa and the advanced countries, almost 60 per cent of all female domestic workers worldwide (approximately 25.4 million) are entitled to maternity cash benefits that are at least as favourable as those paid to other workers.

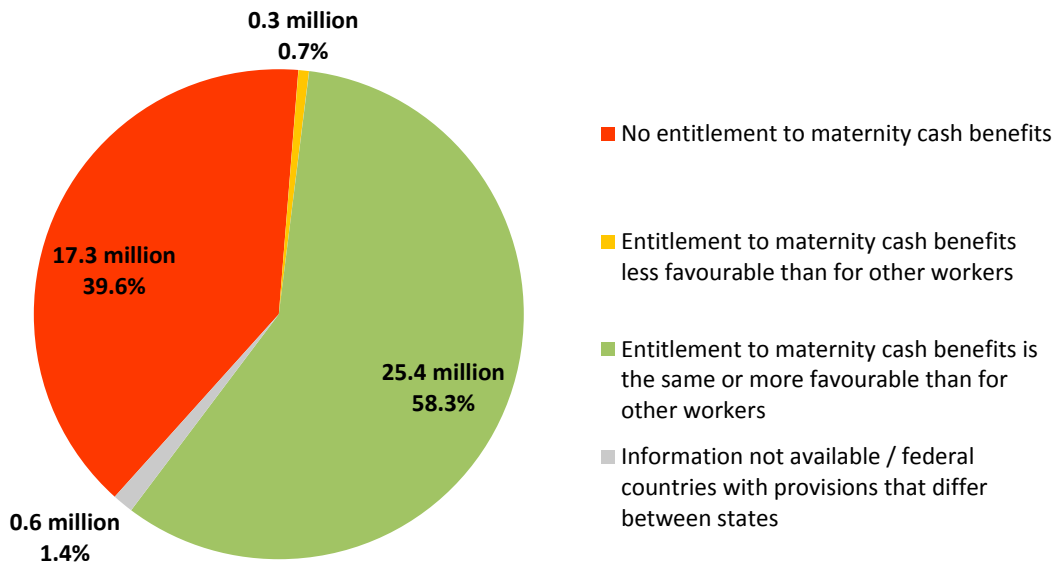
Figure 4. Entitlement to maternity leave for domestic workers under national law



Note: The figure only refers to female domestic workers.

Source: ILO estimates based on data from official sources.

Figure 5. Entitlement to cash benefits during maternity leave for domestic workers under national law



Note: The figure only refers to female domestic workers.
 Source: ILO estimates based on data from official sources.

3. Conclusions: Towards decent work for domestic workers

This policy brief has analyzed how far domestic workers are covered by key working conditions laws, and has shown that a substantial proportion of them does not enjoy the same protection commonly enjoyed by other categories of wage workers. Despite being particularly vulnerable to unduly low wages and long working hours, approximately 42.5 per cent of all domestic workers are not entitled to a minimum wage under national law, more than half (56.6 per cent) have no statutory limitation of their normal weekly hours of work, and 44.8 per cent of them are not entitled to weekly rest. Moreover, more than

one-third (35.9 per cent) of women domestic workers has no entitlement to maternity leave under national law, and a larger proportion (39.6 per cent) is not entitled to maternity cash benefits. Where domestic workers are covered under national legislation, the provisions applicable to them are frequently less favourable than those that apply to other wage workers. These findings highlight the relevance of the discussion on new international labour standards for domestic workers at the 100th Session of the International Labour Conference in June 2011, with a view to addressing the current protection gaps affecting millions of domestic workers worldwide.

References

- Esim, S. and Smith, M. (2004): *Gender and migration in Arab states: The case of domestic workers* (Beirut, ILO).
- Galotti, M. (2009): *The gender dimension of domestic work in Western Europe*, International Migration Papers No. 96 (Geneva, ILO).
- International Labour Conference (2002): *Resolution concerning decent work and the informal economy*, adopted at the 90th Session in 2002 (Geneva).
- International Labour Office (ILO) (2009): *Decent work for domestic workers*. Report IV(1), International Labour Conference, 99th Session, 2010 (Geneva).
- (2011a): *Global and regional estimates on domestic workers*, Domestic Work Policy Brief No. 4 (Geneva).
- (2011b): *Remuneration in domestic work*, Domestic Work Policy Brief No.1 (Geneva).
- (2011c): *Working hours in domestic work*, Domestic Work Policy Brief No. 2 (Geneva).
- (forthcoming): *Maternity protection and work-family measures for domestic worker*. Domestic Work Policy Brief No. 6 (Geneva).
- Kundu, A. (2008): *Conditions of work and rights of the female domestic workers of Kolkata*, MPRA Paper No. 7636, Munich Personal RePEc Archive.
- Rodriguez, E.G. (2007): “The ‘hidden side’ of the new economy: On transnational migration, domestic work and unprecedented intimacy”, in *Frontiers*, Vol. 28, No. 3, pp. 60-83.
- Tous, S., Veasna, N. and Cormaci, S. (2010): *Study on living and working conditions of domestic workers in Cambodia* (Bangkok, ILO).
- United Nations Committee on Economic, Social and Cultural Rights (2006): *The Right to Work: General Comment No. 18 regarding Article 6 of the International Covenant on Economic, Social and Cultural Rights*, document no. E/C.12/GC/18 (6 February 2006).

The Domestic Work Policy Brief series aims to stimulate and inform policy debates on advancing decent work for domestic workers. It provides information on terms and conditions of employment in domestic work, policy issues and different views on these issues, and varied approaches to addressing them around the world.

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