



ILO's WORK IN PROGRESS

The right to rest for domestic workers – Setting a floor

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Limiting working time to ensure adequate rest to workers has been a key issue ever since the founding of the ILO. Indeed, it was in this area that the first labour standards were set in 1919 with the Hours of Work (Industry) Convention (No. 1), setting the norm of the 8 hour working day and 48 hour working week. The right “to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay” is also enshrined in the Universal Declaration of Human Rights (Art.24).

Still, there are large groups of workers who lack this essential human right, of which domestic workers are a prominent example. Amongst domestic workers worldwide, more than half have no legal right to weekly limits on working hours. Furthermore, their working hours are often less predictable than those of other workers. Live-in domestic workers particularly work long hours, more than 60 hours per week in certain countries. Domestic workers are also often excluded from legislation regulating the right to rest. Less than half of domestic workers in the world are legally entitled to weekly rest and annual leave.

Working excessively long hours with little or no rest combined with insufficient and interrupted sleep can lead to negative impacts on health (ILO 2011), such as increasing the risk of type 2 diabetes, heart disease and depression to mention a few. The physical and mental fatigue resulting from working excessive hours affects workers’ ability to perform their tasks, and some studies indicate that this leads to an increased risk of workplace accidents. The negative effects of long daily working hours are further exacerbated by lack of weekly rest. The lack of sufficient rest is in many countries the norm for domestic workers. In addition to these health and safety risks, working long hours makes it difficult for domestic workers to maintain proper work-life balance.

The situation is particularly dire for live-in domestic workers who are often expected to be available 24/7, to respond to the various needs of their employers. Moreover, even when they are legally entitled to breaks, daily and weekly rest, such rights can be difficult to enforce on employers of live-in domestic workers. Studies show that employers who see domestic workers taking a break tend to immediately assign the worker another task. Not even an uninterrupted nightly rest is guaranteed for live-in domestic workers, especially those with care responsibilities for children, elders, sick or disabled family members, whose sleep is often interrupted to provide unscheduled care in addition to their daily tasks.

As the ILO implements its strategy on domestic work, collaborating with national constituents and other stakeholders around the world, the Office has identified many policy questions of concern to constituents. In response, the Office has combined efforts to answer these frequently asked questions, drawing from country level experience, empirical research, and knowledge-sharing. The «work in progress» series will showcase the Office’s research work in progress on these policy areas.

Facts about domestic workers

- 29.9% of domestic workers are completely excluded from the scope of national labour laws.
- 56.6% of domestic workers are not covered by national limitations of normal weekly hours.
- 44.9% of domestic workers have no entitlement to weekly rest.
- 44.4% of domestic workers are excluded from annual leave provisions.

ILO 2013

Regulating all the dimensions of working time for domestic workers can be a complex affair. Moreover, the fact that their workplace is a private home creates legal obstacles to the effective enforcement of such regulations.

In response to requests as to how to ensure the proper implementation of Article 10 of the Domestic Workers Convention, 2011 (No. 189) we suggest, as one possible approach among others, to address these issues from a different angle, namely ensuring that domestic workers effectively enjoy their basic human right to rest. To facilitate its implementation across countries, the right to rest would be presented in the form of building blocks that constituents could assemble progressively, following an incremental approach.

The building blocks of the right to rest

One possible first step towards ensuring the right to sufficient rest for domestic workers is to introduce a minimum standard for daily and weekly rest. Convention No. 189 provides for a standard on weekly rest of 24 consecutive hours, but is silent on the minimum duration of daily rest, apart from a provision on equal treatment. ILO standards of a general scope do not regulate daily rest as such. Relevant provisions can nonetheless be found at the regional level and may offer guidance in this regard. The EU Directive on working time has set a minimum standard of 11 consecutive hours of daily rest. Introducing these two requirements, the “11/24 rule”, at the national level could be a first step towards the effective protection of domestic workers’ right to rest.

Ideally, the daily rest would include the period between 21.00 and 06.00 to allow for sufficient sleep and recuperation, and the weekly rest would be granted at a time enabling the domestic worker to participate in social, cultural and/or religious activities. In our view, given the serious occupational health and safety risks associated with excessive hours and lack of rest, introducing the 11/24 rule would offer policy makers and social partners a tremendous opportunity to substantially improve many domestic workers’ health and wellbeing.

Several countries have already fulfilled the 11/24 minimum standard or are moving in this direction. As an example, Chile recently introduced new regulations regarding domestic workers. Live-in domestic workers have a right to 12 hours daily rest, of which 9 need to be consecutive, and both Saturdays and Sundays off. Working hours of live-out domestic workers are limited to 45 hours per week, with a maximum of 6 working days.

Once this first step is completed, constituents may decide to put in place additional building blocks with a view to establishing comprehensive protection regarding the right to rest for domestic workers. These may include the introduction of rest and meal breaks, paid annual leave and leave for family events and emergencies, as well the regulation of the number and scheduling of working hours, including standby time.

In order to support constituents' efforts towards the implementation of Article 10 of Convention No. 189, the ILO is currently conducting research into good practices at the national level. The outcome of this work will be a policy brief offering concrete suggestions on ways to effectively protect the right to rest for domestic workers.

What does Article 10 of Convention No. 189 say?

- States parties must take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave, taking into account the special characteristics of domestic work.
- Weekly rest must be at least 24 consecutive hours.
- Standby time must be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Recommendation No. 201 contains a number of additional provisions regarding, inter alia, the recording of working hours, meal and rest breaks, and compensatory rest when domestic workers are required to work during the period of daily or weekly rest.

References:

- International Labour Office, 2013. Domestic workers across the World: global and regional statistics and the extent of legal protection. Geneva.
- International Labour Office, Conditions of Work and Employment Programme, 2011. Working time in the twenty-first century: report for discussion at the Tripartite Meeting of Experts on Working Time Arrangements 2011 (17-21 October 2011). ILO, Geneva.