

# Effects of Domestic Workers Act in South Africa: A steep road to recognition

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## abstract

Although domestic workers comprise a significant portion of the working class, they have hardly been mentioned in South African labour force surveys and discussions in the past – despite the fact that more than one million people are employed as domestic workers in private households. Women dominate this sector of the labour market and this may have contributed to shunning of the domestic sector. It was with the introduction of the Sectoral Determination Seven of the Basic Conditions of Employment Act that the country began to pay more attention and in turn debate issues related to the sector. Despite domestic workers' favourable reception of the Act, they reveal a range of reactions to its clauses. This *perspective* reports on a study that sought to find out domestic workers' knowledge of the Act, how it has impacted on their lives and if they had begun to reap benefits from it. The focus of the *perspective* is limited to 28 randomly selected private households' domestic workers in the eThekweni municipality studied over a period of a year for 43 days.

## keywords

domestic workers, informal sector, basic conditions of employment, labour

## Introduction and background

Studies<sup>1</sup> conducted in the developing world reveal that the informal sector is an important feature in most of the developing nations of Africa, Latin America and Asia.

Noting that urban informal employment accounts for half of Africa and Asia, one of the leading international scholars of the informal sector, Martha Alter Chen (2001:72) asserts that:

The contribution of the informal sector – not only its size – is quite large. The contribution of informal sector income to total household income is significant in many regions: for example, in several African countries, informal sector income accounts for nearly 30% of total income and over 40% of total urban income.

INFORMAL SECTOR AS SHARE OF	LATIN AMERICA CARRIBEAN	AFRICA	ASIA
Non-agricultural employment	57%	78%	45-85%
Urban employment	40%	61%	40-60%
New jobs	83%	93%	NA

Source: *Charmes 1998a (updated 2000) in Alter Chen (2001).*

Available world statistics put the non-agricultural workforce in the informal sector at a lower percentage than expected (See Table 2). Although dated, it may be argued that this indicates that some sectors are often overlooked or underestimated, like our household domestic sector. One possible reason for the oversight may be due to the fact that this sector is largely a female sector, a gender that has traditionally been overlooked in most of the world's social life.

Domestic workers in South Africa constitute one of the largest single sectors of the country's labour force. Latest (2008) statistics published by *Statistics South Africa*<sup>2</sup> estimate that there are approximately 1 057 000 domestic workers in paid employment in South Africa and that they collectively make up 8% of the total employed population. This is a significant number that contributes towards ensuring that a number of families are not subjected to abject poverty. Various studies<sup>3</sup> on the South African domestic sector suggest that a substantial number of dependants rely on the income provided by domestic workers and many households are reported to be headed by women. The study that is discussed in this article found that out of 28 participants, a significant number serve as the sole breadwinner of a household thus ensuring that extreme poverty is minimised in a number of poor households.

Remunerated domestic work provides employment and income to a vast number of rural and urban poor and is a significant component of the informal sector. However, women who work in the sector remain relatively poor despite their significant contribution in economic terms to gross domestic product. For instance, although the average earnings of women are reported to be lower than that of their male counterparts (Burger and Derek, 2006 and Casale and Posel, 2002), in the informal sector, they are reported to be even lower. The reason for this is the continued low regard and attitude towards the sector. However, it should be noted that domestic work in South Africa has improved compared to the early nineteenth century's "pattern of coercion and oppressive control" (Cock, 1990:76). Cock's earlier work, *Maids and Madams* published in 1980 and a film by Hamermes (1985) detail how the previous apartheid government of South Africa placed limits on these workers' political activities and right to affiliate with workers' unions.

Although the current government of South Africa has taken a number of positive legislative steps to address the domestic workers' sector, recent studies reveal that the full benefits are yet to be enjoyed by the workers (Hertz, 2004; Fish, 2006a; and Ally, 2008). One of this government's enactments is a Domestic Act known as the Sectoral Determination Seven, which provides a

**Table 2: Share of non-agricultural workforce, female and male, in informal sector and women's share of informal sector**

	Percentage of non-agricultural labor force that is in the informal sector, 1991/1997		Women's share of the informal sector in the non-agricultural labor force, 1991/1997
	WOMEN	MEN	
Benin	97	83	62
Chad	97	59	53
Guinea	84	61	37
Kenya	83	59	60
Mali	96	91	59
South Africa	30	14	61
Tunisia	39	52	18

Source: *The World's Women 2000: Trends and Statistics* (UN, 2000)

legal framework for the protection of domestic workers' rights. Prior to the enactment of the Sectoral Determination Seven cover, domestic workers were for instance not covered by the Wage Act 5 of 1957. Although this is not a living wage, relative to the past the current wages for workers stands at a significantly improved rate of R1,066.83 – R1,166.06/month or R5.98/hour.

Taking into consideration these historical changes, in this *perspective*, I offer a critical analysis of some realities faced by domestic workers, and examine the relationship between the social inequality of these workers, their gender and labour policy that sought to bring change for domestic labour. It analyses tensions between the status, gender and legal priorities of South Africa's new democracy and the actual reality of the majority of the sector's population, i.e. female workers. Discussing the perceived status of domestic workers and their working conditions, it presents their day-to-day experiences following the introduction and or their knowledge of the Sectoral Determination Seven.

### Data gathering method

The discussion of this *perspective* emanates from ethnographic data and in-depth interviews that were conducted between May and November 2007 over 43 days. What sparked off interest for the study was my involvement in Methodist church volunteer work that was capacitating domestic workers with computer skills. Whilst learning computer skills they chatted endlessly about their work, employers and difficulties they face in different households. With the help of two research assistants, Mduduzi Ntuli and Xoliswa Gama, I subsequently conducted interviews with 28 domestic workers within and outside this church community. Eighteen respondents were interviewed following referrals by domestic workers from this community. In addition, we conducted four focus group discussions. With the exception of three interviews with illegal foreign



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*The full benefits of recent legislation addressing domestic workers are yet to be enjoyed.*

nationals, all interviews were conducted in Zulu and later translated into English. Interviews with foreign nationals were conducted in English. The interviews ranged from 30 minutes to one hour in length. None of the interviews were recorded as most participants felt uncomfortable to talk into a recording device. Notes from the interviews were written up and reflected on within a day of conducting the interviews to ensure most data collected during the interviews was not lost. In addition, telephone call interviews were made, mostly for the purpose of validating collected data and responding to queries that arose during the analysis of collected data. Informed by values advocated by feminist research scholars, Stanley & Wise (1983) and Bowles & Klein (1983); all attempts were made to allow and encourage the

participants to lead the discussions. All data quoted and used for the *perspective* was collected in eThekweni and outside the places of employment of domestic workers.

Marital status of the participants varied: among the 28 interviewees, 10 were married, 11 had stay-in partners and seven were on their own because they were either widowed or had recently separated. The majority (15) were in their late 30s, while nine were in their 20s and four were between 40 and 60 years old. Ten of the participants had completed senior primary education and started high school education whilst 14 did not reach high school. Four had attended a tertiary institution but none graduated. All the names used in the discussion of the *perspective* are pseudonyms.

### **The continued feminisation of the domestic labour force is one of the significant factors that contribute to the low regard attached to the sector**

The study was carried out with employees of four neighbourhoods of eThekweni Municipality: Bellair, Chatsworth, Kwa-Mashu and Westville. In each neighbourhood, researchers interviewed respondents individually as well as carried out at least one focus group discussion with groups of three-five women. The researchers sought to find out how much knowledge the respondents have about policies that govern their employment as well as their working conditions. The research team studied eight domestic workers in some detail, in the form of additional interviews in person and over the telephone. This group were not necessarily regarded as representatives, but were excluded for in-depth interviews on the basis that they had worked in the sector the longest, i.e. more than ten years.

Nineteen participants of the study reported that they were either primary single breadwinners or the only breadwinners in their households. Beukman, (2008) affirms this fact as he points out that in

many instances, domestic workers are primary breadwinners and caregivers in their own homes. All the participants of this study were female.

In relation to three decades ago there are fewer male than female domestic workers (Maziya, 1999 and Skinner, 2006) within the sector. The men tend to be older and the women younger. Many women enter the sector after numerous failed job-hunts elsewhere or when they are widowed. The study also revealed that although women are more educated than men they are paid lower wages compared to their male counterparts: household cleaners or gardeners. The continued feminisation of the domestic labour force is one of the significant factors that contribute to the low regard attached to the sector. It is due to such similar regard for women that Sherry Ortner (1974) posed a question that continues to feature in many analyses of gender and culture studies. The rhetorical question she posed was: what could be common to every culture such that all cultures place a lower value on women?

### **Philosophical underpinnings and analysis**

In order to appreciate as well as contextualise the respondents and their situation better, the study uses the feminist intersectionality theory, also referred to by some scholars<sup>4</sup> as integrated analysis. Intersectionality 'starts from the premise that people live multiple, layered identities derived from social relations, history and the operation of structures of power' ([www.awid.org/facts&issues](http://www.awid.org/facts&issues)). This study examines experiences of domestic workers taking into consideration Jacqueline Andall's (2000) work and recommendations about studying domestic service. She advocates for the use of an integrated approach to studying marginal participants and advances that all characteristics of an individual or group must be taken into consideration, i.e. background, affiliation, gender, ethnicity, experiences, class, etc. This study therefore adopts an integrated form of analysis

where gender, nationality, and class are understood to be interconnected in locating the experiences of the participants in relation to their domestic services.

The use of intersectionality as a concept of analysis is significant in understanding the multiple forms of vulnerability and oppression experienced by female domestic workers: as women, black, seen as servants rather than employees and belonging to the poor working class in particular (with some as foreign nationals). Because of their multiple identities, their day-to-day realities and varied experiences are least considered when labour policies are initiated or amended hence SADSAWU<sup>5</sup> and Black Sash<sup>6</sup> in a 2008 submission to the Department of Labour on 'domestic worker wages and conditions of employment' call for a review of labour policies that exclude domestic servants. It becomes therefore essential to consult widely, even beyond SADSAWU as this study revealed that fewer and fewer domestic servants affiliate with the union.

In this study, we find domestic workers simultaneously undergoing various experiences that are too diverse to collapse into one single category. For instances a similar experience of 'living in two worlds' i.e. working in an expensive household during the day and going back to a shack in the afternoon was viewed and defined differently by two participants. Ntenjwa, a 58-year-old woman marvels at the experience and says *ngiyindlovukazi futhi ngingumuntukazana* (I am both a queen and a pauper). Reflecting on the extreme swings in her life, Thoko who is of the same age as Ntenjwa refers to the experience as an unfair, oppressive lifestyle (*impilo engafanele enegcindezelo*) that she cannot escape because of her domestic servant's status. She concludes by pointing out that her job is oppressive and a form of discrimination. We found that in most cases, the study's participants' experiences collude to put female domestic workers in positions of vulnerability, for example the fact that they work

at a low wage rate; less than that received by the male workers for the same work. Intersectionality is therefore an important theoretical tool as, in an encompassing manner; it reflects the reality of the life and vulnerability faced by women at different levels and situations. For domestic workers, their work and society's value attached to it assign low status to them – a position that policy or legal processes cannot easily challenge. This status is not just arbitrary but is apportioned to domestic workers, first due to their female gender and their low social class.

### Status of domestic workers

Domestic workers are not only one of the most disadvantaged groups but it is common to find those who benefit the most from their service accord them minimal social value. Some participants of this study told me that there is a general perception that their work is not real work and that they are a bunch of illiterate workers. This study, though covering a small sample, challenges the widely accepted belief that a significant negative characteristic of the sector is the domestic workers' lack of skills, training and education. More than 65% (18 out of 28) of the workers reported having had some job related formal training and all had at least completed senior primary school education.

### There is a general perception that their work is not real work and that they are a bunch of illiterate workers

The Zulu language's derogatory term, *amakhishi* (kitchens) refers to their work place. Associated with this word are a number of terms used to refer to domestic workers irrespective of their age, e.g. girl or boy, maid, domestic servant, servant, housekeeper, housecleaner, domestic helper etc. I am not aware of any other line of work that employs such a long list of terms to refer to its work force. All indicate the general regard for

these workers as low status; refereed by Grant (1997: 62) as an employee group that is 'regarded as servants for ideological and historical reasons ... an economic underclass of employees'. There has been an observation that even within their own union movement SADSAWU, domestic workers are given third class status (Grossman in Grant, 1997). It is due to this regard that one of our participants, Solani who seemed extremely unhappy with her black employer, in a disappointed manner said;

Show me one person who is proud of being a domestic worker or a child that dreams and desires to be in this kind of a job some day. Does that not tell you something about this so-called 'job'? Besides, my situation is worst as my very own people exploit me. My employer does not respect nor has ever referred to the law you say protects workers like me, and the pay to which I am entitled.

Grant (1997) writes about the vulnerability of women in the domestic sector, noting that it has layers of colonial and racial oppression; a factor that the feminist intersectionality theory urges gender practitioners to take into consideration in their analyses. This study found that an additional dimension to their vulnerability that needs a concerted form of investigation is class, and specifically within a single race group. Domestic workers are generally vulnerable due to their class and the fact that they are being viewed as servants rather than employees. They are more likely to be poor and less likely to get formal education, health care or clean water and sanitation. The focus of this *perspective's* discussion is on female domestic workers because women constitute the bulk of the informal-sector labour supply (Sarkar S and Bhumali, 2005) and that domestic work is the largest single sector where women are employed (Madonsela, 1994). The reason we concentrate on women is that there is a significant overlap between being a woman working in the

domestic sector and being poor. There is also a significant overlap between being a woman, providing domestic service, and sustaining a family with your pay. Some of the respondents of this study provided evidence on the linkages between gender, poverty, vulnerability – and the role that legislation has played in worsening the situation. Smarties talked about how she thinks her employer reacted to news<sup>7</sup> that the Department of Labour was making house visits checking on defaulters who had not registered domestic workers;

Smarties: In August 2007, I was told there was no money to pay my salary, so I had to go on an unpaid leave until the end of the year. I think this was my employer's way of avoiding the department finding out that I was not registered.

Author: Did you know that this was unlawful?

Smarties: Then I did not know. Later I learnt that the family's gardener (who is a man) was not only registered but had been getting a better wage than what I was getting.

Author: What about the fact that the Department of Labour expects you to report employer's non-compliance?

Smarties: All I know is that the law impacted on me differently. As a breadwinner that was tough. There is no way I can run to the department with a complaint.

The nature of the power imbalances between domestic workers and their employers prevent them from demanding their rights that, at least on a surface level, are enshrined in the Domestic Workers Act. Despite this factor there are reports of some domestic workers who challenge their employers through the courts or the CCMA (Commission for Conciliation, Mediation and Arbitration). Although

this happens at a very minimal scale hence it often makes the news<sup>9</sup>, it is an indication that the introduction of the Act has empowered some domestic workers and encourages them to demand their rights. Discussing their changed status in post-apartheid South Africa, Ally (2008) notes that the state has given domestic workers a different political status – they now have a right to organise into trade unions. On the other hand she decries the state as articulator, representative, and protector of domestic workers' collective interests and says the state has displaced the union in these roles, and depoliticised it' (Ally, 2008:01). Subsequently Ally (*ibid*) argues that domestic workers are not just vulnerable but the most vulnerable within the sector.

In a patriarchal society like South Africa, domestic work is feminised as it is traditionally understood as women's unpaid duty in marriage. In practical terms, this repeats itself outside personal relationships. In turn 'there has been little mind shift in the value attached to these duties, which are treated as unskilled and of little social value' (Grant, 1997: 62). Phindile, a single woman in her late 30s confirms Grant's argument;

There is no respect for this kind of a job, by everyone. Although there is now a change if I compare to what we used to earn about 15 years ago, I have never been too optimistic about this work. I must say that I was surprised to learn about the new legislation and for what I know – I am not surprised about the difficulty of ensuring relevant people fully comply.

Collective demands have been accommodated by the legislation and working conditions improved, but individual experiences of domestic workers indicate that a change or institution in the law is yet to bring any significant change. An understanding that there is legislation and policy that protects workers when in fact the relevant authorities are not vigorous in enforcing the law further compounds the social and economic vulnerability of domestic workers.

Further, economic hardships faced by workers who are on a very low minimum wage worsen in the current global financial crisis. This places an additional burden on employees in the sector as Zama pointed out: "it is impossible to deal with debt repayments let alone reduction". As a result domestic workers like Phindile say they are unable to cope with worsening poverty, unemployment and the HIV/AIDS pandemic that beset their families. The Domestic Workers Act cannot adequately deal with all these realities that women face.

### Provisions of the Act

The Basic Conditions of Employment Act (BCEA) 75 of 1997 provides employees<sup>9</sup> with certain minimum protection<sup>10</sup>. In terms of the BCEA Sectoral Determination Seven was launched in 2002 and reviewed in 2005. This is a legislative process that has yielded to almost all of the domestic workers' demands, (see Table 3 for the rights that are protected by the legislation). It stipulates minimum wages, working hours, number of leave days, overtime and termination rules thereby establishing fair conditions of employment for employees in the domestic sector. Until the existence of the Domestic Workers Act the employees of the sector were only covered by the Basic Conditions of Employment Act 3 of 1983 and the Labour Relations Act 66 of 1995<sup>11</sup>.

Recent literature<sup>14</sup> on South Africa's domestic servants argues that the worker's lives have significantly improved over time. Indeed in theory domestic workers' wages and working conditions have improved following the implementation of Sectoral Determination Seven but this research study found that more than 70% of the participants have a different story to tell as they cite working conditions that impact negatively on their well-being. Most participants of the study were aware of the existence of this law, acknowledged that it seeks to improve the sector's working conditions but said their personal working conditions had not significantly improved as a result of the legislation.

Table: 3 some domestic employee's rights & benefits: sectoral determination seven	
Hours of work	<ul style="list-style-type: none"> <li>No more than 45 hours a week</li> <li>No more than nine hours a week</li> <li>No more than eight hours a day if working more than five days a week</li> </ul>
Rest periods	<ul style="list-style-type: none"> <li>Daily – 12 consecutive hours</li> <li>Weekly – 35 consecutive hours</li> </ul>
Overtime	<ul style="list-style-type: none"> <li>No more than three hours a day or more than 15 hours per week</li> <li>Payable when working longer than prescribed ordinary hours per day or week</li> <li>Overtime payment               <ul style="list-style-type: none"> <li>Area A<sup>12</sup> – 27 + hours per week – R4,10 + R2.05 = R6,15</li> <li>Area B<sup>13</sup> – 27 + hours per week – R3,33 + R1.66 = R4,99</li> </ul> </li> </ul>
Night work after 6 p.m. and before 6 a.m.	<ul style="list-style-type: none"> <li>Only in written agreement and must be compensated</li> <li>Standby from 8 p.m. – 6 a.m. = R20 per shift</li> </ul>
Sunday work	<ul style="list-style-type: none"> <li>Voluntary, cannot be forced</li> <li>Should be paid double day's wage, if not ordinarily work on Sunday</li> </ul>
Wage	<ul style="list-style-type: none"> <li>Prescribed minimum wage applies, revised on 1 Dec 2007               <ul style="list-style-type: none"> <li>Area A – R1066,83 – R1166,06/month (R5,98)</li> <li>Area B – R946,04/month (R4,85)</li> </ul> </li> </ul>
Public holidays	<ul style="list-style-type: none"> <li>Voluntary, cannot be forced</li> <li>If working should be paid double day's wage</li> </ul>
Annual leave	<ul style="list-style-type: none"> <li>Not less than three weeks per year for full time employees</li> <li>One day for every 17 days or one hour for every 17 hours worked</li> </ul>

Adapted from: Department of Labour, [www.labour.gov.za/content/legislation/acts/basic\\_guides](http://www.labour.gov.za/content/legislation/acts/basic_guides).

Domestic workers now enjoy a greater recognition of their rights. However, it is necessary to note that part of this success should first be attributed to their own agency as they 'have had a long history of collective organisation and unionisation. They were amongst the first members of a new proletariat class to organise' (Ally, 2008: 03). Ally (*ibid*) gives a detailed historical account of how the sector organised and unionised. One significant process that led to the ratification of Sectoral Determination Seven was the work of The Gender Monitoring and Advocacy Coalition<sup>15</sup> – which advocated for the inclusion of domestic workers within the Unemployment Insurance Fund (UIF)<sup>16</sup>. However, there are some concerns about the legislation.

### Gaps within the law

A recent call by the Department of Labour for stakeholders to forward submissions on wages and working conditions affecting the Domestic Worker

Sector highlighted the challenges facing domestic workers. A pertinent concern raised by the Black Sash is that domestic workers continue to be excluded from the provisions of COIDA<sup>17</sup> thereby 'leaving them vulnerable and unable to claim the same social security rights afforded to other workers' (Beukman, 2008: 02). On the other hand, SADSAWU says the new minimum wages for the sector need to be set above inflation. They then propose for the maximum increase above the recommended CPIX<sup>18</sup> plus 2% as of 1 December 2008, and that given the current trends the increase should not be capped when CPIX increases beyond 10%.

Relative to other workers, domestic workers do not face obvious work hazards, however in private households occupational hazards and the risk of work related injuries are a probability. In essence, they are not afforded protection in terms of the Compensation for Occupational Injuries and Diseases Act 130 of 1993, which grants benefits to employees who are injured at work or who contract



work-related illnesses. These workers are excluded from the COIDA provisions, which mean that if a domestic worker is injured or has a fatal accident whilst on duty; neither she nor her dependents can claim any benefits from the Compensation Fund. The Constitutional and International Commitments South Africa has undertaken suggest that the domestic sector should be included under the COIDA provisions. It is unacceptable that 14 years into the South African democracy, a solution to this challenge is yet to be found to ensure that domestic worker' rights are realised. I believe that the reason for a delay in realising this right is gendered. It is related to the fact that the domestic sector is largely serviced by women. In an effort to mainstream the domestic employment sector in labour policies, the South African government has used what Osborne *et al.* (2008) refer to as an *expert-bureaucratic*<sup>19</sup> instead of a *participative-democratic*<sup>20</sup> model. These models need not be mutually exclusive (Nott 2002 and Donaghy 2004) in order to achieve gender sensitive and equitable policies that will maximise benefits derived by the sector from legislative frameworks that apply to most workers.

Vast inequalities exist within the sector and are difficult to police or enforce. In addition, crime levels contribute to the difficulty of policing the implementation of policies that seek to ensure domestic workers' rights. In an attempt to understand the effects of domestic workers' legal frameworks, we must note that the Domestic Workers Act can not cover every aspect of the job. It is hard to impose policies upon this complicated industry that is difficult to monitor. For instance, unlike other employers, employers of domestic servants do not have to account; draw plans to address any imbalances; submit reports or conduct any studies as some labour policies stipulate. There is no blueprint for how the policies governing the sector should be understood; nor is there a 'one-size-fits-all' practice from one household to the next. It therefore becomes difficult to speak of

significant transformation as domestic workers operate in private spaces. Some workers within the sector say there is a perception amongst some employers that Sectoral Determination Seven was a government imposition that brought about an unnecessary intrusion, which has led to strained relations between employers and employees.

Given that domestic workers are a poor working class, there have been comments that the country's social security should include them (see Triegaardt 2006). Triegaardt (*ibid*) further argues that although the South African Constitution (1996) makes provision for social assistance for people without any income, Section 27 (1) [c] stipulates that it is the right of everyone to access social security and appropriate social assistance if they are unable to support themselves and their dependents. Quoting studies from other developing countries within the SADC<sup>21</sup> region Triegaardt bemoans that definitions of social security are limited as they merely focus on the formal wage economy whilst excluding the reality of the context of poverty and social exclusion of for instance, the working poor within the informal job market. Thus, it is essential for the policy approach for social security to include domestic workers who are vulnerable, poor and marginalised.

### Impact and knowledge of the law

Two main questions posed to the participants of the study were intended to check their knowledge and effects of the Domestic Workers Act. We found that despite the awareness about the labour policies, the structural limits and nature of domestic work place limits the likelihood of workers exercising their rights. Gugu, a thirty-year-old widowed mother of three with a first year level tertiary education recalled an unpleasant conversation she had with her employer;

The 2007 household raids were a blow for me. It put a stop on a raise I had gotten used to getting at the end of November of each year for the past four years. Following a visit by the

Department of Labour's officers, my employer told me I was not going to get any raise that year as I was far too above the minimum wage. She was very angry at the process.

Some participants of one of the focus group discussions said that since the introduction of the Sectoral Determination Seven they have received threats from their employers. Nozipho said she was forced to quit employment with a black African family that;

Nozipho: Never stopped to remind me of how lucky I was to have a job and that I could be jobless at any time, as my pay had gone up too much.

Author: Is this a common experience?

Smarties: Absolutely, proper change is yet to come for me. I have not experienced any.

Zama: When I got a raise, my employer asked me to do gardening as well – a task I had never done before. No questions were asked. I did as I was told – but that has stopped now.

This is an indication of the domestic workers' vulnerability. Their job is insecure and thus unstable. The study found that knowledge about one's rights and labour laws applicable to a job is not enough because most participants said they would prefer not to question or challenge their employers and risk the possibility of losing their jobs. "*Ngiyawazi lo mthetho kodwa kusizani?*" (I know about this law but of what use is the knowledge?) I cannot question my temperamental employer about overtime lest I anger her and find myself without a job and thus unable to support all my unemployed adult children and my two grandchildren. This job is my life. *Ngiyazi kodwa kusizani?*" was Thoko's tearful expression.

Domestic workers, therefore experience

higher dependency burdens. There was a general view and complaint about employers' disregard for the law and an attitude of entitlement to their service. Gugu, a former member of SADSAWU and the most assertive and outspoken amongst the group, relayed similar sentiments to those shared by Thoko. She talked about the probability of finding herself in the streets, which make her think twice before raising any concerns or asking questions – looking me straight in the eye she said: "What if I lose my job and risk having no means to support my children?" Gugu's words indicate the conflict between having agency about her well-being and her fear of an uncertain future. About her previous affiliation with the domestic workers' union, she said many workers she knows are not 'union' (SADSAWU) members as they discovered membership does not guarantee you anything. She quoted some fellow workers in the past who laid complaints that either took too long to attend to or fell away. She reckons it is a waste of money to subscribe to it.

Further discussions with the respondents revealed that a feeling of helplessness existed amongst a number of employees within the sector. I asked if they were aware about a limit on the number of hours of work and leave;

What leave, what limited number of hours are you talking about? I know exactly what I am entitled to but of what use is it? Getting paid at the end of each month is more important for me than fighting for the rights that can lead me to begging in the streets.

At least twice a month the Mkhize's slaughter or have relatives coming over for a variety of ceremonies – that means me being on my feet the entire weekend; from Thursday preparing for the functions which involves brewing the Zulu beer till Monday when I have to ensure the house is back to its state prior to the start of a new week. (Smarties)

Overtime pay is unheard of for me. The Wrights like entertaining at weekends – which is not good news for me – as it means longer and unpaid hours. How do I complain, as I would have nowhere else to go if I were to lose this job? I often wish I were not staying on the premises as I am taken for a ride. (Mato)

About leave, I have a different positive experience than some people and believe the new law has everything to do with that. Prior to the introduction of the new conditions, my employer and I fought over leave. That is something of the past. Signing the contract ushered relief for me. (Dudu)

Ntenjwa, a live-in worker commenting on discrepancy between her contract and her work said she first got information about the domestic worker sector policies from her employer. Subsequently she signed a contract detailing her working hours. However; "She makes endless requests which often translate into working long hours. In most cases, I do not mind her requests as we have a good relationship but it does inconvenience me at times." Arguing that domestic workers should be paid better wages than those stipulated by the Sectoral Determination Seven. Thembi, a live-in mother of three young children confides,

Thembi: One hard reality to deal with is being away from my children. I am torn by the emotional strain of living without them for the most part of the year.

Author: But one of my respondents told me that her emotional connection with her children eases given that her employer pays her well, about three times more than what is stipulated by the law.

Phindi: She is one of a few who are lucky but

even then – no payment can compensate that kind of pain, physical separation is painful.

Out of the 28 participants of the study, 11 respondents had not signed or could not remember if they signed employment contracts. Some of these respondents said having more than one employer poses problems in relation to contracts hence most did not recall much about signing. Khanyi, an illegal foreign national working for three different employers said her undocumented status poses problems for her and felt the issue of contracts was not a priority for her. On the same subject another foreign national, Nontando said: "You get employed by too many people, which is a difficulty on its own besides my citizenship. Wonder, it would be interesting to see what would go into my contract as I have to be a jack-of-all-trades for all the different employers who have different preferences and household regulations. I find myself performing all kinds of unrelated task; as a nurse, dressmaker, interior decorator, cook, cleaner as well as gardener."

## Relationships

As most domestic work happens with people and in personal private spaces, it is not easy to escape tense relations that may go off among family members. It is inevitable for domestic workers to find themselves in the middle of domestic or family feuds. Participants referred to a number of conflicts and violence to which they are regularly exposed. Whilst some listed the heartache of listening to and being drawn into partners' fights, others reported instances of finding themselves in the thick of things and eventually, accidentally or deliberately experiencing violence as well. Khanyi posed a question I could not answer at the time; "Does the law protect me against such feuds that happen on the job?" The current legislation is silent on abuse or violence by the 'master of the house'; neither does a requirement

exist for domestic workers employers to draw up sexual harassment or assault policies. Although none of the study's participants cited any direct experience of sexual assault at the hands of an employer, it is not an impossible occurrence. Thokozani, a twenty-seven year-old single woman confided that, for her, a marriage proposal by her widowed employer made her feel uncomfortable and left her with a sense of being 'somehow sexually assaulted'. Thokozani got a marriage proposal from her employer within three months of his wife's death. She says she found the proposal very confusing; 'on one hand I felt here is an opportunity to completely change my life but on the other it just did not feel right to accept the proposal. Subsequently this man touches and looks at me in ways that make me feel extremely uncomfortable'.

We found that some relationships between the workers and their employers or their families are healthy and rewarding. Solani told us about her love for the children she looks after; she treats them just like hers who, however have to be without a mother for more than three-to-four months in a row. Gugu told us she has become a mother to her employers' children and talks passionately about her emotional closeness to them. She says they prefer to be in her company than their parents' company and perceives her employers as being neglectful. About this, she beams: 'What is most rewarding about my job is caring for the kids of my employer, it is being a mother to them. We are very close and unfortunately madam does not take kindly to this reality.' For Gugu the emotional attachment, appreciation and love she gets from the children boosts her self-esteem and somehow makes up for other things she does not like or difficulties she faces on the job.

Mato said her employer is like a big sister to her and is appreciative of the fact that she is treated warmly as any other member of the family.

## Concluding remarks

In this *perspective*, I have sought to discuss the complexity of domestic workers' lives in the context of what is generally understood as an era of improved working conditions for domestic workers. Although labour policies have made strides in recognising domestic workers and improving the wages for the sector, they has not succeeded in providing a realistic and fair minimum wage. The fact that the sector is personal, a female industry and is individualised renders domestic workers vulnerable to high levels of verbal, sexual and emotional abuse.

Getting domestic workers to speak with one voice is difficult due to individualised employment. They are fragmented by different conditions of employment and some, with personal relationships with too many employers. The difficulty is further compounded by their different geographical locations. The study found that domestic workers have good knowledge of the law that governs their sector and know their rights but do not feel empowered enough to demand them fully out of fear of losing their jobs. One of the difficulties facing employees within the sector is that it is mainly female and therefore this factor presents dynamics of patriarchy and power that need to be addressed as part of the National Democratic Revolution's policy on gender equity. It is female domestic workers' intersectional multiple identities (female, poor, power imbalance, foreign citizen, vulnerable) that make them experience profound discrimination and feel vulnerable.

In most studies on domestic workers, 'the employer' is readily understood as a person who is both white and oppressive. This study challenged this fact as four of the six participants employed by black families reported some shocking and exploitative labour practices by – as they put it, "our black sisters". This may not be a new phenomenon but the reason could be that previous studies were largely conducted in white households.

It is essential that South African society acknowledges the good work done by domestic

workers and begins to regard it as a formal job, as their role is very important and feeds into the smooth running of other sectors that are considered more important. Generally, the study found that the following areas of the domestic sector are not dealt with appropriately or largely ignored – an indication that compliance with the existing legislation is a challenge:

- Right to annual leave, maternity, and holidays
- Clear contracts of employment with registration at the Department of Labour
- Dismissals without a hearing
- Hours of work and overtime, standby (night duty) and stay-in
- Harassment and exploitation.

There is a need to improve the livelihoods of domestic workers, as it is apparent that they cannot solely be the prerogative of their employers or the Department of Labour. In addition to constant consultation with them, efforts to establish work with or include other organisations in advocating for a better life for these vulnerable workers is important.

## Notes

- 1 See Tokman, 1992; International Labour Office Report, Geneva, 2002; Lan, 2003; and Sarkar and Bhuiamali, 2005.
- 2 Statistics South Africa Labour Survey Report of September 2007 released in March 2008.
- 3 See for instance Ally, 2006 & 2008; Cock, 1980; Hertz, 2004 and Fish, 2006a & 2006b.
- 4 For example Crenshaw, 1994; Kolawole, 2001 and Andall, 2000.
- 5 South African Domestic Service and Allied Workers Union
- 6 Black Sash is a non-governmental organisation that advances equality, social justice and human rights.
- 7 On 3 November 2007 *The Independent on Saturday* published an article by Fiona Gounden, entitled "Register Domestic Workers – or else" in which she reported on the Department of Labour's plan to inspect 16 000 eThekweni Municipality workplaces by the end of the year in order to make sure at least an additional 20 000 households register their domestic workers. Noncompliance was reported to carry a fine ranging from R50,000 to R500,000.
- 8 See *The Cape Times*, April 22 and May 12;
- 9 It is not all employees that are covered by the Act but domestic employees (this includes gardeners, maids, child-minders and cooks) are covered by the Basic

- Conditions of Employment Act.
- 10 See [www.labour.gov.za/content/legislation/acts/basic-guides](http://www.labour.gov.za/content/legislation/acts/basic-guides).
- 11 These pieces of legislation had a number of exceptions and different conditions that were not beneficial to the domestic sector (see Grant, 1997).
- 12 Refers to urban areas, see Department of Labour's Government Gazette, No. 23732 for a list areas covered by this category.
- 13 Refers to rural and peri-urban areas, see Department of Labour's Government Gazette, No. 23732 for a list of areas covered by this category.
- 14 See Ally, 2006 & 2008; Hertz, 2004 and Fish, 2006a & 2006b.
- 15 This coalition was known as GMAC-UIF (Gender Monitoring and Advocacy Coalition for the Unemployment Insurance Fund) with the Commission for Gender Equality as the coordinator.
- 16 Unemployment Insurance Fund (UIF).
- 17 Compensation for Occupational Injuries and Diseases.
- 18 Consumer price index.
- 19 In this model, policies are analysed or revised by experts that are closely related to and located within or outside bureaucratic institutions. The analysis is often conducted in a centralised top-down fashion that may be disguised as consultative.
- 20 Widespread consultation that largely prioritises beneficiaries is conducted with a range of individuals, community, civic and interest groups.
- 21 Southern African Development Community.

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