

# Domestic labour pains

Government has made strides in protecting vulnerable workers such as domestic workers.

**Shireen Ally** however, highlights the results of a survey, which reveals that domestic workers remain vulnerable because they are not sufficiently empowered to claim and enhance their rights.

There are more than a million domestic workers in South Africa, making it one of the largest sectors of the labour market and the largest single sector where women are employed. Hidden in homes, working in isolation, domestic workers have always been amongst the most vulnerable workers, working under oppressive conditions, and subject to terrible pay and dehumanising racism and sexism. In her study of domestic workers and the politics of exploitation in South Africa, Jacklyn Cock identified one of the key vulnerabilities of the sector: 'Domestic workers are not protected by any legislation - there are no laws stipulating the minimum

wages, hours of work or other conditions of service. They are located in a legal vacuum' (Cock 1980:10)

Since 1994, that legal vacuum has been filled. There has been legislative recognition that domestics are actually workers, and that paid domestic labour is real work. The Basic Conditions of Employment Act (BCEA) was extended in 1998 to include domestic workers, thereby guaranteeing them the same rights and protections as all other workers. And, in 2002, more specific regulation was introduced with a landmark sectoral determination, establishing a compulsory minimum wage, annual increases, and employment contracts. Domestic service is now also recognised as skilled work through the introduction of certified training by the Domestics Chamber of the Services Sector Education and Training Authority.

These legislative protections are crucial. But, analysis of the sector reveals that it is not sufficient to fill the legal vacuum without challenging the economic vulnerability of domestic workers that prevents them from claiming their rights. Domestic service is still amongst the most exploitative, invisible, and racially stratified institutions in SA. An analysis of the September 2003 Labour Force Survey shows that one out of five employed coloured women and one out of three employed African women (formal and informal sector workers) in SA is currently a domestic worker. Paid domestic work is therefore the largest single category of employment for African women. The data also shows that domestic workers are still amongst the most economically vulnerable. In 2003, the vast majority (89.1%) earned less than R1 000 per month, and almost half (47.3%) earned less than R500 per month.

A recent study showed that domestic workers are more likely than any other occupational category to be victims of

intimate femicide (female murder), illustrating the continued social vulnerability of domestics as well.

While domestic service is now primarily part-time and live out, this has not meant an end to the phenomenon of backyard domestics. And for part-time domestics, the burden of securing housing and enough employers to make a full work week makes domestic work even more precarious. In addition, many workers are forced, due to lack of available work, to rely on sometimes-unscrupulous employment agencies. In the growing number of African households, who employ domestics, there is the continued exploitation of kinship systems as rural relatives are recruited into domestic servitude.

While more than 600 000 domestics have been registered under the UIF this does not necessarily reflect extensive compliance with the BCEA. Suggesting the extent of unfair labour practices for this sector, domestic workers currently provide the second largest caseload for the CCMA, with almost eleven thousand (11 119) cases referred in 2003 alone. While most employers (about 60%) have registered their domestics, and signed contracts with them, there is extensive non-compliance in the areas of wages and working hours. Domestic workers are still afraid to exercise their rights to fair labour practices or minimum wages, and even to their constitutional right of freedom of association, for fear of compromising the only source of income for a, usually, extended family.

This investigation into the sector revealed that, while filling the legal vacuum is critical, workers have not been sufficiently empowered to claim and enhance their rights. The wage stipulations of the sectoral determination, specifically, actually reinforce the low-wage, low-status nature of domestic work, and thereby reinforce the economic vulnerability of workers. The stipulated minimum wage for a



full-time domestic worker in an urban area is currently R861,90. Annemarie van Zyl, executive manager of Employment Standards at the Department of Labour, and chief architect of the sectoral determination for domestic workers, argues that it was ultimately the trade off between poverty alleviation and employer affordability that had to be considered in determining a minimum wage level. But the levels of the eventual determination do so little to improve the economic conditions of domestics that researchers Ryklief & Bethanie correctly ask whether it might be more appropriately viewed as a 'license to exploit'.

Access to the labour of domestics makes the labour of the men and women for whom

they work possible. Not ensuring that domestics are paid a decent, living wage only reinforces a system of cheap labour, and undermines any effort to improve the conditions of workers, and the status of domestic labour. The legislation formalises and regulates the relationship, thereby resolving many exploitative practices, but by not dignifying domestic work with a respectable minimum wage that has social and economic value, the legislation potentially secures the structural location of domestic workers, rather than offering a challenge to it.

Some stakeholders clearly articulate these claims. Eunice Dhladhla, deputy secretary-general of the South African Domestic Service and Allied Workers Union (SADSAWU) argues

that the legislation has actually not achieved justice for domestics, and in fact, has compromised it: 'Since this labour thing started... that is where the problem started. That is where the apartheid started again. It's alive and kicking in the suburbs'

The protections against unfair labour practices introduced by the legislation are absolutely crucial. But, protecting workers in an institution without challenging the cycle of economic coercion that sustains it, is limited.

Unemployment Insurance Fund (UIF) benefits have been extended to domestics and have effectively established a measure of social security that has eased their vulnerability. But, domestics still remain excluded from workmen's compensation, and do not have the protection of a pension fund. Comprehensive social security, poverty eradication, and sustainable job creation are necessary to reduce the economic dependency of African women on low-paying domestic work.

Except for social grants that cover the non-working population (disability, pension, and child), domestic workers, like all other workers, do not have access to any other form of social security that may prevent their dependence on low-wage work. The establishment of a National Social Security Agency will more efficiently administer available grants, but domestic workers need access to social security that more effectively covers the working population. This would make them less vulnerable to exploitative wages and working conditions, and empower them to enforce the rights extended through the legislation.

Simply filling the legal vacuum is not enough for this sector. Without more effective social security and poverty eradication, domestic workers remain exploitable by suburban households seeking cheap labour. Even if their dependence on domestic service was relieved, a living wage is necessary to ensure that workers have sustainable livelihoods, rather than swelling the ranks of the working poor.

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*Ally is a lecturer in the Sociology Department at the University of Witwatersrand*