

# Slaves in South Africa

## Hidden lives of Basotho domestic workers

Many South Africans know Basotho domestic workers yet turn a blind eye to their exploitation. **Laura Griffin** tells how these women live fearful, hidden lives in South Africa despite their being regarded as employees under South Africa's Labour Relations Act.

**S**itting in her village in Lesotho, MaLerato (not her real name) recounts her time working in South Africa:

"Last year, we had problems, and I couldn't pay the children's school fees. Because I didn't go to school, and not knowing any English, I went into domestic service, over there in South Africa. I felt so bad, leaving my children behind.

...The work was hard, very hard. I got up at five in the morning and then got off at around midnight. I was working from Monday to Monday. The employers were rude to me; they would be angry to find me sleeping.

It's hard working in the kitchens, especially for us from Lesotho. It's better for people who have rights. The employers like us foreigners because they want to cheat us... I knew all the legal obligations, I knew them very well. But if she didn't comply with them what could I do to her? She would threaten me, saying that she would call 10111 and send me back to Lesotho. While I was there you would never see me, I was always indoors. I was always afraid of being deported.

... There is nothing nice I can say about staying in South Africa. It's only nice because I knew when I was working hard like that, with sweat running down, I knew I was

going to get money at the end of the month, to bring back to my children. Money is the only thing that takes me in there."

Sadly, MaLerato's story is not unique. Based on interviews and observations carried out over 11 months of research across both countries, this article traces the journeys and working lives of Basotho migrant domestic workers, and reflects on their uneasy relationship with the trade union.

### RIGHTS WITHOUT RIGHTS

While Basotho migrant mineworkers are well known as retrenchments have increased in recent years, more and more Basotho *women* have become breadwinners and entered waged work across the border in South Africa.

Often domestic service is the only option, so by calling her friends and family, especially those already in South Africa, she finds a job working for a black South African family, or perhaps a couple of young professionals from Lesotho. She knows her opportunities are limited, so she usually accepts whatever is available.

When she leaves home and crosses the Caledon River, the crucial difference between her migration and her father's mine-

work kicks in. Domestic workers cannot obtain work permits for South Africa, so she must hide that she's coming to work, and ask for a 30-day visitor's pass instead.

Too much luggage also draws attention, so she must pack light, and if questioned, invent a story about visiting family. All this deception and suspicion make the border a very stressful place for Basotho women.

Only when she arrives at her employer's house does a migrant domestic worker find out the working conditions. Pay level and tasks are simply announced by her employer. There is no question of negotiation. She has no contract to sign, no paperwork to fill in. No rights.

Of course, under the South African Constitution, "all people in our country" have basic rights, including fair labour practices, with or without a legal contract. And according to a recent change of heart by the CCMA (Commission for Conciliation Mediation & Arbitration) and the Labour Court, illegal migrants *can* be regarded as 'employees' for the purposes of the Labour Relations Act. But in reality, the fact that migrant domestics are working illegally creates a special place for them in the South African job market.

Knowing that the employment is

illegal, an employer can take advantage of the opportunity to exploit their domestic worker. There is no threat of the worker calling the Labour Department or CCMA if she is forced to work overtime, not paid the minimum wage, or dismissed without notice.

As a result, Basotho women have earned a reputation with employers, as cheap, submissive, exploitable labour. Even if she is aware of domestic service regulations, like the minimum wage, the worker's illegality prevents her from exercising those rights. Her bargaining power with her employer is already undermined, and her relationship with the state is that of fear rather than entitlement. In her mind, rights are "for people with ID books", "for the South African citizens", not for Basotho.

Just as they slip through the cracks of border regulation, these women also escape the reach of labour laws and agencies for domestic service. Under the Basic Conditions of Employment Act (BLEA), the sectoral determination for domestic workers applies to "all domestic workers in the Republic of South Africa", not just citizens. But the forms to register a domestic worker under the Unemployment Insurance Fund (UIF) require the worker's ID number. There is no official recognition or protection for non-citizen workers, because there aren't meant to be any.

The Mosotho domestic's illegal status makes her invisible at the street level as well as the institutional level. As a cross-border migrant, it makes more sense for her to obtain 'live-in' domestic work. This saves her the hassle and cost of renting another home in South Africa, say in a nearby township, and then commuting back and forth each day. It also



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helps her avoid the gaze of state officials like police, by "staying indoors a lot".

But this 'hiding away' from state surveillance makes the worker more dependent upon her employer for necessities like shelter, food and electricity. She's likely to work longer hours, and be on-call even during 'off' days.

She is also socially isolated, because she has little chance to meet and chat with other domestic workers. This makes it harder to find out about others' wage levels and working conditions, to learn strategies for handling conflict with employers, or to find another job when things go wrong. So although hiding at the employer's house keeps the Mosotho worker safe from police harassment, it worsens her dependence on her employer, and lowers her bargaining power in the workplace.

At the end of the month, she must return to Lesotho, to get her passport stamped for another 30 days. Even though the trip costs precious money, it gives her the opportunity to bring her wage home and check that her children are alright. Having dodged police road blocks, she arrives at the border to hide once again that

she's been working in South Africa, and lie to any inquisitive border officials. If she overstays by just one day, she can face huge fines or bribes, or even destruction of her passport.

And so this cycle of travelling back and forth, working and returning, hiding and lying, continues for as long as she is fortunate enough to have employment in South Africa.

If she is dismissed, the worker packs her bags and returns home, and tries for another opportunity in South Africa. She has little access to legal mechanisms if she has been unfairly dismissed or not paid her wages. However, it is at this point, when she has nothing left to lose in South Africa, that the union, if it does play a part, may enter her life.

### ROLE OF UNION

Basotho domestics' relationship with the union is short, but complex.

According to general secretary Myrtle Witbooi, Sadsawu (South African Domestic Service and Allied Workers' Union) does not exclude non-citizens from membership or representation, and does not keep records based on members' nationality. As with other



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unions, however it is trapped between a rock and a hard place when it comes to migrant workers.

The union's main priority is its members, the vast majority of whom are South African. For these members, foreigners represent unwelcome competition in an industry where labour supply already exceeds job opportunities. Especially because Basothos are accepting lower wages and worse working conditions.

But Sadsawu would like to include migrants, as this would strengthen its representativeness, and enhance legal and other protections afforded to domestic workers. The acceptance of lower wages and worse working conditions by some workers threatens the effectiveness of legal protections for the whole industry.

In addition, if foreign domestic workers are especially vulnerable or exploited, they are (or should be) of particular concern for the union. Yet these workers, including Basotho domestics, do not make use of the union's services for their own reasons.

First, their illegality and dependence on the employer mean that efforts to join the union may be met with threats of dismissal.

Second, with wages lower than the legal minimum, and costs for returning home each month, these workers' budgets are incredibly tight, which leaves little room for union membership fees.

Third, these women maintain mobile lifestyles, and their continued presence in South Africa usually depends upon having a job. This means that Basotho and other foreign women tend to approach the union only when they have been dismissed. Then the union is asked to assist a worker who is not a member and when the case is resolved, the worker disappears.

As Sadsawu assistant secretary general Eunice Dhladhla points out, this is not 'real', effective membership. Where the union only encounters non-citizen domestic workers after their dismissal, there is no ongoing relationship required for effective union participation or representation.

Finally, there is the connection between union and state. As Shireen Ally observed in her research, since the 2002 legal reforms aimed at including and protecting domestic workers, Sadsawu's principal function is state regulation of the industry, and state protection of workers. As

illegal workers, Basotho domestics are unlikely to approach a state-affiliated union for assistance. They fear that the union could provide information to the authorities, leading to fines, bribery, detention or even deportation.

In the same way, if the union's capacity to reach and protect domestic workers is via the state, it may lack the means to help workers who aren't technically protected by state laws, or who state agents and institutions don't view sympathetically. The result is a complex and difficult relationship between the union and foreign domestic workers, which makes these workers all the more exploitable and invisible.

### OUR HEARTS REMAIN SORE

Domestic workers will continue to flow from the villages of Lesotho into South Africa and back again. Meanwhile, the immigration laws and border practices don't fulfil their purpose. They don't stop 'unauthorised' migrants from entering South Africa, and they don't exclude these migrants from the labour market. But they do produce a new female army of illegal exploitable workers from Lesotho, the ultimate labour reserve.

The result: dispersed and isolated workers who, while hiding from authorities, also elude the protections of labour laws and unions. Simply because they are constructed by state laws as 'illegal', these workers face hardships and challenges unseen and unsung. Surely it is time to acknowledge these women's presence and their lives. LB

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