

'We want a union'

finding a home for domestic workers

At the end of 1996 the South African Domestic Workers' Union (SADWU) resolved to dissolve itself. The resolution, which was strongly supported by the COSATU office bearers, also stated that SADWU should be integrated into one of the federation's affiliates. In the long term, SADWU members should belong to the new COSATU service sector union.

SADWU members have yet to find a home in COSATU. They feel angry and betrayed. There is a feeling that COSATU is 'throwing us (the domestic workers) outside'. The Self-Employed Women's Union (SEWU), which is not affiliated to COSATU, decided at its September Conference to organise domestic workers. However, domestic workers still retain a strong loyalty to COSATU. They hope the federation will offer them the solidarity they so desperately need.

A 'viable' option?

There is a view inside COSATU that a domestic workers' union is not a 'viable' option. Those who hold this view question whether such a union can be sustained in the long term, because of its dependence on outside resources, the geographical spread of workers and the actual experience of SADWU and its declining membership.

These views have encouraged COSATU to look elsewhere for solutions to the problems facing domestic workers. The

Domestic workers have still not found a home in COSATU.

Advice offices are being mooted as a way of catering for their needs. Rob Rees argues that, while these offices may perform a useful function, they should not be seen as a substitute for union organisation.

focus has been on advice offices.

While advice offices can play an important role in providing domestic workers with legal assistance and education around their rights, they are unable to go beyond these roles. They face limitations when it comes to changing the law, as well as challenging the class, race and gender oppression that domestic workers face.

It is a political necessity, simply on the grounds of social justice, for COSATU to find an organisational home for domestic workers. Such a home should formally interact with advice offices. Sustainable resources, greater legislative protection for domestic workers and solidarity from COSATU will be required. The strengths and weaknesses of SADWU must be carefully assessed.

Finding a home

All sections of the working class, whatever their problems and difficulties, need an organisational home that allows them to discuss and find solutions to their problems. Domestic workers in particular have a need for such organisation. They are the poorest of the poor workers. They work under appalling conditions for poverty wages (the overall median wage is R386 per month, 40% of which is payment in kind), largely in isolation from other workers. Their employers use the market, the threat of unemployment and the fact that their work is socially defined as unskilled and 'women's work' to maintain these conditions. Domestic workers are not covered by the Compensation for Occupational Injuries and Diseases Act (COIDA) or the UIF. Many employers simply ignore the provisions of the BCEA, which do apply to domestic workers.

Even amongst the organised working class, domestic workers have little social standing: 'When you look at other affiliates and even your friends, you feel embarrassed, you feel so small...to them, you are nothing, you are illiterate...if you want to add in a meeting, you put your hand up for such a long time, they will say "Oh, it's just SADWU", but they do not even know what you want to say.'

There are close to one million domestic workers in South Africa. This exceeds the number of workers in either agriculture or mining. The sector is overwhelmingly African and largely female. A third of all African women in South Africa are employed as domestic workers. A large and growing number of domestic workers are employed on a casual or part-time basis. In short, the sector represents the most challenging problems facing the union movement - gross class exploitation, widespread racism, the extreme oppression of women and an

isolated and increasingly casualised workforce.

Problems

The problems domestic workers face can be grouped into three categories:

- *Dealing with violations of the laws that cover domestic workers.* Such issues include wage, overtime and retrenchment payments, sick and annual leave, unfair labour practices and dismissals and civil claims around assaults and injuries.
- *Education, training and publicity* around the rights that domestic workers have and how these might be implemented. This could include training for transferable skills like literacy, numeracy and driving.
- *Changing the law and bringing about recognition for the work and skills that domestic workers perform.* This might include recognition of prior learning, minimum wage legislation, workmen's compensation and UIF. It also includes more complicated social issues which entails challenging the undervaluing of women's work and the market, as well as the isolated structure of domestic workers' employment relationship.

Are advice offices able to deal with these problems?

Legal problems

Advice offices engage with problems after they have occurred. They deal mainly with individual workers and offer individual solutions based on existing legal rights and the extent to which these have been transgressed. They will be able to help with claims related to outstanding wages, overtime, retrenchment, annual and sick leave. However, advice offices are currently not able to represent workers in unfair labour practice cases at the CCMA.

This is likely to change in the future. The vast majority of complaints from domestic workers who go to advice offices and the Department of Labour (DOL) are dismissals and money outstanding.

The current work performed by the DOL is similar to that of advice offices. However, workers complain that one office sends them away and the other sends them in a different direction. Offices that serve domestic workers need to stay open during the inconvenient times that workers are 'off'. They also need to offer telephonic advice. They should be located close to where domestic workers work or at places they are able to conveniently travel to.

Education and training

The National Community Based Paralegal Movement (NCBPM) has drawn together some 250 advice offices around the country. It has managed to secure modest funding from the Department of Justice. Around 40% of the advice offices' case load relates to labour issues. The offices also engage in some education and training around workers' legal rights. There is, however, no space for training around a broader political or organisational agenda. Unless there are adequate resources and/or direction from COSATU or an organisation of domestic workers, this situation is not likely to change much.

The DOL has participated in workshops on domestic workers' rights, often utilising the networks that still exist around the old SADWU. They have conducted radio broadcasts, which have brought to their attention the large number of domestic workers who are still unaware of their rights. Money has been made available for people or organisations willing to conduct training courses for domestic workers on their rights under the LRA and BCEA. The

Department also intends running a high profile advertising campaign around the employment contract it has devised for domestic workers. In the Western Cape, it has attempted to form a co-ordinating forum between institutions and bodies dealing with different aspects of the problems facing domestic workers. It is considering ways to develop better monitoring, certification criteria and the development of a code of conduct for institutions that supply domestic workers.

Changing the law

Some advice offices have relations with unions, but these are often *ad hoc* and based on personal contacts. This weakens their potential to change the law and fight for social justice. Where advice offices do engage in campaigns, it is often on behalf of workers, rather than as a means to unite and empower workers to fight for change themselves. Advice offices are generally accountable to a management structure, which does not include representation from their client base.

The advice offices are also unable to take forward questions of generic skills training, issues around child-care and alternative employment options.

The advice offices clearly perform useful functions. They cater for the mainly unorganised from particularly marginal and vulnerable employment sectors. They offer individual workers the possibility of solving some of the problems they face, by making use of their legal rights. They offer some education around these rights. In a limited way, by making use of their national body, they could assist in lobbying for legal change. In the past, they have assisted in promoting a collective identity for domestic workers by referring them to SADWU and assisting the union with some of its casework. They could help the unions by, for example, sharing venues.

Limitations

By themselves, however, the advice offices cannot deal with a range of the most fundamental problems that domestic workers face, including the need to fight for an adequate minimum wage, extension of the UIF, retirement benefits and greater protection against dismissal. Their orientation towards individual problems means that the advice offices are inadequate vehicles to begin to deal with the social isolation of domestic workers, the demeaning stature of their work and the low value attached to it. This is not a legalistic function. It is first and foremost a political task, involving the construction of an organised home for domestic workers.

Developing a model

There are four possible models for advice offices that would serve the needs of domestic workers:

- *New advice offices for domestic workers, which are narrowly case orientated.*
These offices would offer advice and assistance only, exclusively to domestic workers. The advantages are specialisation and ability to develop a deeper understanding of how to use the law to service domestic workers. The disadvantage is that this is all it does, given the inadequacies of the current legislation and the difficulties of enforcing the law.
- *New advice offices with wider, more pro-active functions.*
These offices would undertake a more activist role, including education/training and campaigning/organising. They might also house a wider range of functions, including generic skills training, social/cultural activities and job placement.



Domestic workers are socially isolated.

- *Utilising existing advice office infrastructure, but expanding the activities.*

The existing advice office infrastructure can be strengthened through resources that allow for dedicated education/training as well as campaigning and organising domestic workers. The advantage of this model is that it makes use of an existing broad experience regarding the handling of cases, although the actual quality of specific offices would need further assessment. It assumes that the para-legals would be willing to co-operate and depends on COSATU's willingness to engage with them in an ongoing way. The federation's ability to do so would be strengthened if there was an organisational home for domestic workers inside COSATU.

Using COSATU and affiliate infrastructure.

This entails making space inside existing COSATU and affiliate offices. This would reduce rent and capital expenditure, but would require resources for advice, education/training and organising/campaigning. This has the tremendous advantage of providing the space for interaction between domestic workers and other organised workers. It is also something that domestic workers have been asking for. As a beginning, this could be located in offices linked to COSATU regions. It would require some head office co-ordination.

The beginnings of a solution must lie in the last model. This is what domestic workers want. This offers the most useful gains for the organised working class.

There is, however, no reason to leave it at this. The massive scale of the problems facing domestic workers requires that all of these options be explored. COSATU could make far better use of the existing advice offices, not only to the advantage of domestic workers, but for other vulnerable workers. A more formal and constructive relationship with the para-legal movement could be based on the offices referring

workers to the relevant trade union, the regular exchange of information on trends associated with largely unorganised workers and campaigns around common concerns.

All of these interventions will be strengthened if COSATU provides an organisational home to domestic workers. This would become the place to manage and direct other interactions, locating them in a wider strategic perspective.

'We want a union'

Organised domestic workers are not opposed to advice offices. What they are opposed to is advice offices as a substitute for a union.

Finding a 'viable' home for domestic workers is part of the ongoing demarcation process in COSATU. The federation needs to consider the impact an advice office initiative may have on future organisation. Most advice offices offer their services free of charge, as does the DOL. This may impact on the willingness of domestic workers to pay union subscriptions. This also depends, however, on the vibrancy and effectiveness of a future organisation.

To build a successful organisation of domestic workers requires:

- union resources (for example, organiser training, paid time-off, venues and transport);
- a legal framework that provides effective regulated protection (a minimum wage, UIF etc);
- solidarity from both unions and the progressive movement.

Providing resources will require adequate funding. In his submission to COSATU's September Commission, researcher, Jonathan Grossman, proposed two funding mechanisms:

- a levy on employers;
- a voluntary solidarity contribution from

Who pays?

The advice offices are already receiving some financial assistance from the Department of Justice. They are currently lobbying for greater support. Support from COSATU could strengthen their hand in this regard. No-one has yet accessed the DOL money which is available to do LRA and BCEA education for domestic or farmworkers.

Through its Strengthening Civil Society Fund, the DOL is prepared to fund a pilot domestic worker service centre. The parameters of such a project need to be explored.



Domestic workers' work is not highly valued.

those COSATU members who are willing and able to afford it.

It is also possible to get domestic workers to contribute a small amount towards their organisation. There are, however, problems with securing regular flows of income through stop orders: If domestic workers are to build their organisation, they must secure regular financial support.

Labour pool

While there is a need to strengthen the legislative framework, enforcement will always be a problem. This will only be challenged through replacing the individual employment relationship in the home with a labour pool. Such a pool would both supply labour and ensure that the minimum or negotiated standards are met. It may be possible to institutionalise labour pools as a municipal service.

Finding a home for domestic workers inside a COSATU affiliate depends in part on funding from an external source. This could be an interim measure. Which affiliate workers find themselves in depends, in part,

on the long-term perspective of transformation in this sector. If COSATU goes the route of developing a labour pool based in municipalities, domestic workers will fall logically under SAMWU. A pilot service in a municipality, funded by the DOL, would be the logical first step towards achieving this. ★

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Rob Rees is a researcher at Naledi. The report on which this article is based was a request by COSATU to investigate the feasibility of advice offices.