Labour inspection and other compliance mechanisms in the domestic work sector

Introductory guide
LABOUR INSPECTION
AND OTHER COMPLIANCE
MECHANISMS
IN THE DOMESTIC WORK SECTOR

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INTRODUCTORY GUIDE
Domestic workers represent an important segment of the worldwide employed population and, in many countries, a significant part of the informal economy. Informality renders many of these workers invisible, unrepresented and unprotected. On many occasions even the nature of the employment relationship is blurred; employers do not recognize the workers as employees and often do not consider their contribution to the household as real work.

Many domestic workers are exposed to a variety of abuse, including the violation of basic human rights such as freedom of movement and respect of privacy. The vulnerability of domestic workers may increase if they are children, migrants or from ethnic minorities. Other violations of their rights concerning payment of wages, working hours, living conditions and lack of protection against work-related accidents and diseases are frequently found. The causes for non-compliance with applicable legal standards may have several converging reasons, from deficits of information to administrative burdens, lack of belief in institutions and poor enforcement capacity, among other, depending on each national context.

The recognition of the need to make Decent Work a reality for domestic workers led to the adoption by the International Labour Conference in June 2011, of the Domestic Workers Convention, 2011 (No. 189) and Domestic Workers Recommendation, 2011 (No. 201). Since then, there is a growing interest of member States in improving working conditions for domestic workers across all regions. ILO’s constituents have been expressing increasing demands in understanding how countries are putting in practice Convention No. 189, developing their laws, policies and institutional approaches to improve the protection of domestic workers rights, including on how to “develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations”, such as required by Article 17(2) of Convention No. 189.

In a diversity of regional knowledge sharing forums, organized by the ILO in Africa, the Americas, the Arab States, Asia and the Pacific, and Europe and Central Asia in 2011 and 2012, and meetings with governments and social partners on several occasions, there was a consensus that knowledge on how member States are developing and ensuring compliance of legislation with regards to domestic work is still insufficient. Furthermore, concerns were expressed about the effectiveness of labour inspectorates in the sector, which often is not seen as priority not least due to the fact that there is limited access to workplaces. Nonetheless, while some national authorities are quite active addressing domestic work, in South American countries, for example, in other regions enforcement agencies are cautious about how to use their limited resources in a sector where the level of formal complaints tends to be low.
This publication corresponds to one of the core areas of the ILO strategy for action (2011–2015) as a follow up to the Resolution concerning efforts to make decent work a reality for domestic workers worldwide adopted by the International Labour Conference in June 2011 in connection with the Domestic Workers Convention (No. 189), 2011, and Recommendation (No. 201), 2011. It aims to contribute to a better understanding of the challenges for compliance in the domestic work sector. It also identifies how countries have defined policies and practices to provide better services to domestic workers and their employers in the domain of working conditions, with a specific focus on labour inspection.

The guide provides information in a user-friendly manner, aiming to assist member States identify practical measures to address non-compliance issues and to better shape the action of relevant institutions, mainly labour inspectorates, to bring the laws protecting domestic workers into practice.

The guide is a collaborative effort with colleagues from different departments and branches of the ILO, in particular the Fundamental Principles and Rights at Work Branch (FPRW); the International Programme on the Elimination of Child Labour (IPEC); the Conditions of Work and Equality Department (WORKQUALITY); the Gender, Equality and Diversity Branch (GED); the Bureau for Workers’ Activities (ACTRAV); and the Bureau for Employers’ Activities (ACT/EMP). Special acknowledgment to Joaquim Pintado Nunes who coordinated research, Amelita King Dejardin, Martin Oelz and José Maria Ramirez-Machado for their valuable inputs. The photos used in this publication have been selected from the results of a photographic competition organized by the ILO Decent Work Team for South Asia and Country Office for India (DWT/CO-New Delhi) to promote decent work for domestic workers.

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Domestic workers are also workers
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In the past two decades, owing to women’s growing inclusion in the labour market and to the ageing population, the number of domestic workers has grown by over 20 million and is likely to continue to increase in the coming years. Although a precise quantification of the worldwide number of domestic workers would be difficult to achieve, especially as a result of their participation in the informal economy, the International Labour Organization (ILO) estimates for 2010 suggest that there are at least 52.6 million domestic workers, who account for 3.6 per cent of overall wage employment and 7.5 per cent of female wage employment. Estimates also point to a high prevalence of women engaged in domestic work (83 per cent) (ILO, 2013a).

Domestic workers are among the most vulnerable workers. The sector has been traditionally viewed as an entry point into the labour market for low-skilled and disadvantaged communities. The low socioeconomic status of domestic workers; the stigma of such work, which is viewed in many countries as a non-productive activity; the isolated nature of the workplace; and a still-weak collective voice make these workers particularly vulnerable to exploitation and adverse working conditions. Their situation is often characterized by excessively long and unpredictable hours of work, heavy workloads, and low wages or unlawful payment in kind, as well as lack of social protection. Many of them are exposed to discrimination and violence in the workplace. Domestic workers, particularly women and children, face all manner of psychological and sexual abuse (Ramirez-Machado, 2003) and, in the worst cases, can be trapped in situations of forced and child labour. Other issues are the places where they live in the households for which they work, with inadequate accommodation, and deprivation of family life.

The consensus on the need to provide better frameworks for protection of the rights of domestic workers and to make decent work a reality for them has led the ILO to adopt the Domestic Workers Convention, 2011 (No. 189) and Recommendation 2011 (No. 201). These instruments lay down basic principles and minimum labour standards for domestic work while recognizing its specific nature, the varied employment arrangements in which domestic workers are engaged, and the differing legal regimes and socioeconomic circumstances of member States. The Convention also highlights the importance of taking measures to ensure compliance with laws and regulations protecting domestic workers, including accessible complaint mechanisms, and of developing and implementing labour inspection, enforcement measures and penalties.

Although many countries’ legislation already grants domestic workers rights in line with those of other workers, even in these countries there are significant compliance gaps. In some cases, the law does not cover satisfactorily the sector or, where it does, domestic work is not subject to mechanisms such as
labour inspection. In other cases, a lack of institutional resources or capacities adds to the specificities of the sector, namely, the invisibility of the workforce and the inviolability of the household, making the work of labour inspectorates and other supervisory mechanisms particularly difficult.

This guide focuses on the challenges that countries face in promoting compliance with labour legislation covering the domestic work sector. It intends to provide government agencies, including labour inspectorates and other institutions that enforce labour regulations, as well as social partners and, more generally, domestic workers and their employers, with an overview of:

- the ILO framework on domestic workers’ rights;
- current challenges to the effective application of national labour legislation covering domestic work;
- enabling measures for compliance;
- existing labour inspection systems and methods dealing with domestic work with a view to highlighting existing gaps and weaknesses, as well as good practices.

Where possible, the guide provides examples and suggestions for advocacy and awareness-raising, monitoring, and law enforcement initiatives that have been or could be implemented in different countries. Although special attention is paid to labour inspection systems as these are, by definition, the public service for protection of the rights of workers while engaged in work, other compliance mechanisms are mentioned to the extent that they apply to domestic workers and their employers.

The first part of the guide is devoted to the specificities of the sector, related challenges, and ways in which international labour standards and national legislation have addressed them. It goes on to introduce practices adopted by countries in an effort to enhance compliance in the domestic work sector.

Lastly, practical tools, such as guidelines for the development of labour inspection campaigns for the sector, a checklist for inspection visits, and examples of model labour contracts, are contained in the appendices.

The guide does not seek to be comprehensive on the subjects that it covers, but rather to briefly introduce the variety of challenges to compliance in the sector and the specific responses needed in order to address them.
The specificities of domestic work make any government regulatory and compliance approach quite challenging; the sector is characterized by widespread informality, and stereotypes that undervalue the importance of this type of work persist in many countries. Furthermore, the relationship between domestic workers and their employers is atypical in the sense that such work is performed in the privacy of the household, in premises that were not built to be workplaces, and for individuals who tend not to see themselves as employers.

**DIVERSE EMPLOYMENT ARRANGEMENTS**

Domestic workers offer their work through a variety of arrangements, either directly to the household or through intermediaries or even public services. They may work for a single employer, on an on-call basis or under multiple part-time contracts for different households and may provide their services either informally or within the formal economy. They may live in the household for which they work or commute daily from home to the workplace. Many domestic workers are also related to their employers by kinship and are not seen as employees. In Africa, for example, there are countless cases of young girls working for relatives in exchange for cash, lodging, board or proximity to school. The term confiage is commonly used in West Africa for children who move from rural areas to the homes of relatives to obtain a formal education and repay this favour with work. In Haiti, families who lack the resources
to care for their children send them to host households, where they work as restavecs and, in exchange, their basic needs are met.

**Box 1  Multiple employers of domestic workers**

The employers of domestic workers may be household members, enterprises rendering commercial services, private agencies that place workers at the household’s disposal,¹ or even public institutions. The law in most countries recognizes the different type of employers in the sector, but doubts arise where the work is rendered to multiple employers, especially if they live in the same household. To clarify this, Spanish legislation establishes that “for the purposes of this special employment relationship, the employer shall be deemed to be the household, who may be the homeowner or the resident in whose name the home or place of residence where the domestic services are performed is owned or rented. If these services are performed for two or more persons who live together in the same house unit but do not constitute a family or a legal entity, the householder is deemed to be either the resident of the housing unit or the person representing the residents, a status which may be held successively by each member of the group.”²

Domestic workers may be self-employed and, as with any other business, may undertake to provide the contractor with a result against a negotiated price under the rules of commercial law. Frequently, though, the apparent rendering of services hides an employment relationship that is not recognized as such by the employer. In these cases, the domestic worker responds to orders and instructions under the same circumstance as other workers but without coverage under labour law and, in most cases, with less favourable social protection status.³

**INFORMALITY**

Domestic workers are often “invisible”, meaning that they are completely undeclared⁴ for purposes of social security registration or other compulsory declaration requirements. In some cases, moonlighters perform paid domestic services in addition to a regular declared job from which they receive social protection. Even where the relationship is registered with the social security authorities, wages may not be fully declared, for example, by not reporting the value of remuneration in kind or declaring full-time work as part-time. Undeclared work in this sector, as in others, undermines decent work standards and workers are deprived of entitlements under national labour laws and, even where social protection schemes for domestic workers exist, they are not covered by social security. Such work also constitutes a serious threat to social security systems and foments distributive injustice since social contributions and taxes are paid by some workers and employers while others receive a “free ride” for most of the services offered by the State.

Informal employment relationships involving domestic workers are common in many countries, as recognized by the participants in two ILO regional knowledge-sharing forums, held in Lisbon, Portugal, from 11 to 12 October 2012 and in Dar es Salaam, Tanzania, from 28 to 30 May 2012. At the latter event, some participants explained that in most African countries, social security for domestic workers seemed

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¹ According to a survey conducted by the Home Services Association, in countries such as China, more than half a million service business agencies, primarily of small scale, employing 20 million people provide private households with domestic work.

² Article 1 of Royal Decree 1620/2011 of 14 November 2011.

³ For more information on the difference between commercial and labour relationships, see ILO Employment Relationship Recommendation, 2006 (No. 198).

⁴ The concept of undeclared work is defined in different ways by experts and in legislation (i.e. illegal work, irregular work, illegal employment, unregistered employment, hidden employment, “black labour”, etc.). A commonly accepted definition of “hidden employment”, proposed by the Organisation for Economic Co-operation and Development (OECD), is work, “which, while not illegal in itself, has not been declared to one or more administrative authorities” (OECD Employment Outlook, 2004, p. 232). A similar definition has been proposed by the European Union, for which undeclared work is defined as “any paid activities that are lawful as regards their nature but not declared to the public authorities, bearing in mind that differences in the regulatory system of Member States must be taken into account” (Communication of the Commission on Undeclared Work (COM/1998/0219), 7 April 1998.

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to be a new thing which was not accepted by employers. The extension of informality also applies to other regions; for example, the European Foundation for the Improvement of Living and Working Conditions has estimated that, in the European Union, the incidence of undeclared work in private households was 19 per cent as at 2008 (Eurofound, 2008).

**UNLAWFUL RECRUITMENT**

Domestic workers may be recruited by the household directly, or through private or employment agencies or brokers operating illegally. In some countries, private agencies play an important role in matching labour market demands. Their services can be useful in preventing abuse by informing employers and workers about their rights and obligations before and during the contractual relationship, particularly if their activity is appropriately regulated. However, they can also give rise to abuse, especially where the worker is a migrant, by providing false information about the terms and conditions of employment or sponsoring various forms of exploitation, including forced labour.

### Box 2  ■ Protection of domestic workers recruited or placed by private employment agencies

Article 15 of the Domestic Workers Convention, 2011 (No. 189) asks governments, in consultation with the most representative organizations of employers and workers and, where they exist, organizations representing the sector, to regulate and monitor the activity of private employment agencies by:

- Determining the conditions governing the operation of such agencies;
- Ensuring that adequate mechanisms exist for the investigation of complaints, alleged abuses and fraudulent practices;
- Adopting measures, where possible with other member States, to provide adequate protection and prevent abuses of domestic workers recruited or placed in their territory by private employment agencies, including by prohibiting agencies that engage in such practices and abuses;
- Considering concluding bilateral, regional or multilateral agreements with other countries to prevent abuses in recruitment, placement and employment;
- Taking measures to ensure that fees charged by the agencies are not deducted from the remuneration of domestic workers.

These provisions should be applied in conjunction with the standards set by the Private Employment Convention, 1997 (No. 181) and the Private Employment Agencies Recommendation, 1997 (No. 188).

**MIGRANT DOMESTIC WORKERS**

In many countries, domestic workers are, to a large extent, migrants, many of whom find themselves in an irregular situation that renders them particularly vulnerable to abuse and exploitation. Migrant domestic workers may be excluded from the scope of national labour legislation or benefit from only limited legal protection. Work visas are delivered for a limited period of time and may be tied to the duration or renewal of work contracts or to a specific employer, creating fear of job loss and expulsion from the country. In some member States, the fact that migrant workers cannot leave the employer through whom the work permit was issued constrains mobility and provides grounds for abuses (Ramirez-Machado, 2003, p. 4).

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5 In the Philippines, for example, private employment agencies are responsible for ensuring that domestic workers receive the best terms and conditions of employment and that the employment agreement stipulates conditions consistent with the law. It is further expected that they provide pre-employment orientation briefings to inform domestic workers and employers of their rights and responsibilities (Art. 6, section 36 (c), of the Act instituting policies for the protection and welfare of domestic workers (Act No. 10361 of 18 January 2013)).
Even more than other workers, migrant domestic workers suffer from a lack of information about their rights and possible remedies against abuses and, when aware of them, often hesitate to lodge a complaint because of possible repercussions for their relationship with their employers and fear of deportation.

The status of migrant workers may also be unclear. In the European Union, for example, cases of _au pairs_ being exploited as domestic workers have been reported; abuses include non-payment of wages, excessive working hours, discrimination and sexual assault. An ILO Bureau for Workers’ Activities and International Training Centre (ACTRAV/ITC-ILO) study reveals that “[s]uch an abuse of au-pair work regards migrant workers especially from the global South, for whom such an extremely badly paid and strongly exploited form of employment often is the only possible way to obtain a legal residence status in the EU” (ILO, 2013c, p. 10).

**FORCED LABOUR**

According to the ILO 2012 _Global estimate of forced labour_ (ILO, 2012a), domestic work, along with agriculture and construction, is one of the economic sectors with the highest incidence of forced labour. The sector may be prone to exploitation since, although domestic workers do not necessarily operate in remote areas, they are even more invisible than workers in plantations, mines or other places hidden from public scrutiny. Domestic workers, particularly if they are migrants, are often restricted in their movement and forbidden to leave the household, speak to other people, answer the door or the phone or use their private cell phones. Original contracts are replaced by less favourable ones when the workers arrive in the destination country and their identification documents are retained by their employers, who sometimes believe themselves entitled to keep them, particularly if there was a high fee to pay for a visa or the services of a recruitment agency. Cases in which domestic workers have had to pay an employer or private employment agency in order to recover their passports have been reported.

Forced labour also exists where workers enter the employment relationship voluntarily but then find themselves in circumstances that interfere with their freedom to withdraw from it. In some countries, migrant domestic workers require their employers’ permission in order to leave the household (thereby restricting their potential to contact protection mechanisms) or cannot go out unless accompanied by members of the household; there are even countries in which an employer can complain to the police if the domestic worker leaves before the agreed contract termination date, as a result of which the worker is detained and returned to the workplace.

These workers may be completely unknown to others, including the neighbours, with only the members of the household aware of their existence. Both the workplace and the outside world may be viewed as hostile since the workers are likely to be unfamiliar with the country’s culture and language and may not even know where they are, particularly if they are victims of human trafficking. They may also lose contact with their families as they may not be authorized to communicate with them. All of these circumstances make them highly vulnerable and constitute a serious violation of their human rights.

**DISCRIMINATION**

Domestic workers are often victims of direct or indirect discrimination because many of them are women; because of their status as migrants; and because they often belong to disadvantaged groups, such as ethnic minorities and indigenous and tribal peoples, and are viewed as having a low place on the social scale. Evidence from some countries, e.g. the United Kingdom, also reveals stereotypes based on nationality, which tends to be seen as an indicator of personality and skill levels (Cox, 1999). In Malaysia, Filipino domestic workers receive higher wages than similarly employed Indonesians, while in Jordan they are better paid than Sri Lankan and Ethiopian nationals (ILO, 2010a, p. 8).

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Discrimination may be direct7 (e.g. where an employer employs only women in the household although this is not an inherent requirement of the job, or where live-in domestic workers receive different treatment as regards accommodation on the basis of their national extraction, social origin or other grounds) or indirect8 (e.g. giving a bonus to some domestic workers but not to others in the same household as compensation for availability for flexible working hours may be discriminatory as it places workers who assume family responsibilities, typically women, at a disadvantage).

Another potential source of discrimination when terms of employment are agreed is the differential wage gap between men and women where remuneration for the same occupation or for jobs of equal value differs (for example, in line with gender stereotypes, a private household that employs a male driver and a female childcare worker where the nature of their tasks, their levels of responsibility and the demand for the quantity and quality of their work are similar, but the wage is set at a higher level for the male worker).9

Female domestic workers often experience maternity-based discrimination. This is a frequent cause of denial of employment and of job loss, even in countries that provide for maternity leave, particularly where the employment relationship is informal.

VIOLENCE AND HARASSMENT

Domestic workers may experience all forms of violence, including shouting, insults, threats and beatings for work performance (e.g. breaking a fragile item), unannounced absence from the household or refusing sexual advances from an employer.

Sexual harassment is a particular problem in this sector as many domestic workers are young women. Offenders may include the employer, other members of or persons present in the household, and even other domestic workers. While some countries have already adapted their laws to cover these violations, many others still have legal gaps since anti-discrimination laws may not extend to the domestic work sector. In the United States, for example, some of the legislation on discrimination and harassment does not cover domestic workers, either because they are specifically excluded from its scope or because it applies only to the employers of multiple employees. For example, the 1964 Civil Rights Act and the 1990 Americans with Disabilities Act protect workers from discrimination on grounds of race or disability but apply only to employers of at least 15 workers (Domestic Workers United, 2010).

CHILD LABOUR

Vulnerable workers involved in domestic work include children. The ILO estimates that, although the exact number of child domestic workers is unknown, 17.2 million children aged 5 to 17 worldwide were engaged in domestic work as at 2012 and, of these, 11.2 million were between 5 and 14 years of age (ILO, 2013b). They perform operations such as cleaning, ironing, gardening, collecting water and looking after other children or older persons. The CEACR (Committee of Experts on the Application of Conventions and Recommendations) has noted that child domestic workers are a high-risk group because of their exposure to, among other things, long hours of work, poor food and hazards implicit in their working conditions (ILO, 2012b, para. 553). In fact, children working as domestic workers may be exposed to risks that the ILO, in its Recommendation No. 190, considers as falling into the category of hazardous work and are thus to be viewed as affected by one of the worst forms of child labour. This includes any work that exposes them to physical, psychological or sexual abuse; work in any kind of

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7 Where prohibited grounds are used to justify job-related differences in recruitment or selection practices or as a basis for assigning workers different working conditions.

8 There is indirect discrimination where a practice appears to be neutral but leads to disadvantages for people of one sex, race, nationality, religion, etc.

9 Article 11 of Convention No. 189 provides that remuneration should be established without discrimination based on sex. The elimination of discrimination in respect of remuneration includes wages and all types of bonuses and payments. See the Equal Remuneration Convention, 1951 (No. 100) and Recommendation, 1951 (No. 90).
unsafe or unhealthy environment; work under difficult conditions, such as long and irregular working periods or during the night or where the worker is unreasonably confined to the premises of the employer; and exposure to emotional strain, stress and poor living conditions. Child domestic workers also report that they face discrimination and isolation in their daily work and that their situation, and how they got to be there, makes them highly dependent on their employers (ILO, 2013e).

With regard to the minimum age for employment, many countries (Bahrain, Belgium, China, Ghana, Guatemala, Latvia, Oman, Peru and the Russian Federation) explicitly or implicitly include domestic workers in the protection provided by minimum age laws, but even then, as in other countries that do not extend their legislation to this sector, cases of child domestic workers below the minimum age of employment or compulsory schooling are reported. For example, a large majority of domestic workers in Ghana are children, who are denied the right to attend school in violation of the Children’s Act (Act No. 732 of 2007) (ILO, 2009, p. 28).

There is evidence that significant numbers of child domestic workers have entered debt bondage in exchange for payment to a third party or as repayment of an outstanding debt. In many countries, child domestic work has been identified as a trafficking issue where brokers intermediate between the parents and the employing family, often deceitfully, and transport the child to the receiving household (ILO, 2013e). These children are often deprived of contact with people of their own age and with their own family members.

OCCUPATIONAL SAFETY AND HEALTH DEFICIT

Exposure to occupational hazards is an area of concern for all categories of domestic workers. Households often present a wide range of hazards that are unconsidered, especially as they may be unknown to both the employer and the domestic worker.

Domestic workers carry out all types of domestic chores in the household: they clean floors, stairs, ceilings, roofs and balconies with the risk of falling from a height or at the same level; scrub kitchens, toilets, courtyards and garages and take care of gardens, where they are exposed to hazardous substances; carry heavy weights, such as garbage, furniture and ladders, with a risk of developing muscular disorders; and carry out tasks, such as shopping, driving, picking up children from school and walking the family pet, which expose them to a variety of outside hazards and commuting accidents. They may be subjected to verbal violence and isolation, and thus to increasing psychosocial pressure; they may also be deprived of regular sleep and rest periods, eat unfamiliar food and face constant demands from the employer and other members of the household. The intimacy of the working environment may make them prone to sexual harassment and at risk of infection from sexually transmissible diseases.

Risks may be increased by the fact that homes are environments that are not designed primarily or regulated as workplaces and, unlike industries, are not subject to risk assessments or licensing requirements. For domestic workers, the workplace is any home where the family stays, whether a habitual residence or a sporadic one, such as a holiday apartment or hotel. Consequently, the hazards encountered in these different places may also be diverse, virtually ignored by both parties or, as with vacation hotels, beyond their direct control.

As the majority of domestic workers are female, maternity protection is an area of concern that should be a focus of risk assessment. Exposure to hazardous substances, the handling of heavy loads or other demanding chores may pose a threat to the mother or the foetus. Male workers, too, may be exposed to substances with an effect on their reproductive ability (e.g. exposure to pesticides when gardening).

10 A study conducted in Brazil, for example, found that the incidence of non-fatal accidents incurred by domestic workers was 7.3 per cent as compared with 4.5 per cent for other workers. See S. Santana et al.: “Emprego em serviços domésticos e acidentes de trabalho não fatais”, in Revista de Saúde Pública (2003, Vol. 37, No. 1), pp. 1-12.
The following table shows some of the hazards to which domestic workers may be exposed (adapted from ILO, 2011a, p. 29):

**Table 1: Occupational hazards in domestic work**

<table>
<thead>
<tr>
<th>Tasks</th>
<th>Hazards conditions</th>
<th>Potential injuries/ health problems</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooking, cleaning, ironing, and other household chores</td>
<td>Sharp blades, hot surfaces and tools, toxic chemicals (e.g. bleaches), heavy loads (e.g. carpets, furniture) and work at height (e.g. cleaning windows, ceilings and stairs)</td>
<td>Cuts, burns, respiratory diseases, dermatitis, allergies, ergonomic injuries, broken bones, concussions and even death.</td>
</tr>
<tr>
<td>Gardening</td>
<td>Sharp objects, heavy loads, adverse weather, stinging insects, toxic pesticides, fertilizer and poorly guarded machinery</td>
<td>Cuts, musculoskeletal disorders, heat stroke, sunburn, dehydration, insect and animal bites and neurological effects</td>
</tr>
<tr>
<td>Gathering fuel, water and groceries</td>
<td>Heavy loads, traffic and long distances by foot</td>
<td>Back and other muscle pain, injury from traffic accidents or urban violence, and harassment</td>
</tr>
<tr>
<td>All tasks when performed out of the public view</td>
<td>Inadequate food and shelter, long hours, lack of privacy, abuse and humiliating or degrading treatment</td>
<td>Sleep disturbances, exhaustion, hunger, depression, behavioural disorders, bruises, burns and other injuries incurred from abuse</td>
</tr>
<tr>
<td>All tasks when performed alone</td>
<td>Isolation and separation from peers and family</td>
<td>Psychosocial disorders</td>
</tr>
</tbody>
</table>

**REMNUNERATION**

Domestic workers often suffer abuses in remuneration (ILO, 2011b). Estimates suggest that domestic workers typically earn less than half the amount of the average wage and, in some cases, less than 20 per cent of that amount. They are also frequently victims of abuses such as:

- overtime requirements without compensation;
- a high portion of their remuneration paid in kind and excessive cash value attributed to in-kind payments;
- imposition of in-kind payments or deductions without the workers’ prior knowledge and agreement;
- lack of payment or late payment of wages.

**WORKING AND REST HOURS**

Working hours of domestic workers around the world are among the longest and most unpredictable and, in practice, are quite variable, ranging from an average of 65.9 hours per week in Malaysia to 15.1 hours per week in Austria (ILO, 2013a, p. 57). Even in countries with legislation under which domestic workers’ rights are on a par with those of other workers, many such workers are still excluded from application of the general working-time regulations on the grounds that their work is different from standard office and factory jobs since the needs of household members are not always predictable or have no defined limits.

According to estimates (2010), there is no upper limit on normal weekly hours for 56.6 per cent of the world’s domestic workers. In regions such as the Middle East, Asia and the Pacific, this affects an even higher proportion of domestic workers (ILO, 2013a, p. 57). In particular, live-in domestic workers are often expected to work around the clock, with very little rest and with long or unpredictable periods of
“on-call” or “standby” that are difficult to measure. This leads to uncertainty as to the total number of hours worked and to inadequate documentation of these hours (ILO, 2011c), which, in addition to being excessive, may remain unpaid. Long and unpredictable working hours impose a high cost on workers’ health and well-being and, in turn, erode their efficiency and the quality of service that they provide to their employers’ households (ILO, 2011c).
2.1. INTERNATIONAL LABOUR STANDARDS

The Domestic Workers Convention, 2011 (No. 189) entered into force on 5 September 2013. As at 1 July 2014, it had been ratified by Argentina, Bolivia, Colombia, Costa Rica, Ecuador, Germany, Guyana, Italy, Mauritius, Nicaragua, Paraguay, the Philippines, South Africa and Uruguay.

Convention No. 189 and the Domestic Workers Recommendation, 2011 (No. 201) are the first international instruments devoted specifically to domestic work. However, it should be recalled that, unless otherwise provided, all ILO Conventions and Recommendations are applicable to domestic workers. Convention No. 189 highlights some of the instruments that are relevant to the sector (see Table 2).

As defined in the Convention, “domestic workers” are persons engaged in domestic work within an employment relationship. The notion of domestic work refers to work performed in or for a household or households. It can involve a wide range of tasks that may differ from country to country (e.g. cooking, housecleaning, washing and ironing, babysitting, taking care of older persons and sick people, gardening, driving the family car, guarding the house or taking care of the family pet).

The Convention excludes from the definition of “domestic worker” persons who perform domestic work only occasionally or sporadically and not on an occupational basis.
The Convention applies to all domestic workers, whether they work full- or part-time and whether they live in the household for which they work (“live-in workers”) or commute from home to work. Domestic workers may work for a single household or for several households in parallel. They may be employed to carry out the full range of household chores or for specific duties, such as caring for children or older persons or cooking.

Under the Convention, ratifying member States have an obligation to take measures in a number of areas in order to promote decent work for domestic workers and to better protect their rights at work.

13 The minimum age [….] shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years” (Art. 2(3)). “A Member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years” (Art. 2(4)).

According to Convention No. 182, the worst forms of child labour include all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and all work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

| List of conventions of special relevance for the domestic work sector |
|-------------------------|------------------|
| Convention No. 29 | 1930 | Forced labour |
| Convention No. 81 | 1947 | Labour Inspection in Industry and Commerce |
| Convention No. 87 | 1948 | Freedom of Association and Protection of the Right to Organize |
| Convention No. 97 | 1949 | Migration for Employment (Revised) |
| Convention No. 98 | 1949 | Right to Organize and Collective Bargaining |
| Convention No. 100 | 1951 | Equal Remuneration |
| Convention No. 105 | 1957 | Abolition of Forced Labour |
| Convention No. 111 | 1958 | Discrimination (Employment and Occupation) |
| Convention No. 138 | 1973 | Minimum Age |
| Convention No. 143 | 1975 | Migrant Workers (Supplementary Provisions) |
| Convention No. 156 | 1981 | Workers with Family Responsibilities |
| Convention No. 181 | 1997 | Private Employment Agencies |
| Convention No. 182 | 1999 | Worst Forms of Child Labour |

The Convention applies to all domestic workers, whether they work full- or part-time and whether they live in the household for which they work (“live-in workers”) or commute from home to work. Domestic workers may work for a single household or for several households in parallel. They may be employed to carry out the full range of household chores or for specific duties, such as caring for children or older persons or cooking.

Under the Convention, ratifying member States have an obligation to take measures in a number of areas in order to promote decent work for domestic workers and to better protect their rights at work.

**Box 3** Domestic Workers Convention, 2011 (No. 189): Key principles and rights

- establishment of a minimum age for employment, which should be no lower than for other occupations and be consistent with the provisions of the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 187);
- right of domestic workers to create and join organizations of their own choosing, whose members should be free of any kind of pressure and persecution;
- enjoyment of fair terms of employment and decent working and living conditions;
- right to receive information on the terms and conditions of employment in an appropriate, verifiable and easily understandable manner, preferably through a written contract. Migrant domestic workers should receive a written job offer or contract containing this information before crossing national borders;
- right of domestic workers to keep in their possession travel and identity documents and to leave the household outside working hours;


According to Convention No. 182, the worst forms of child labour include all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and all work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.
Recommendation No. 201 provides guidance useful for implementation of the principles and rights set out in the Convention. It suggests measures and tools for addressing the informality that is common in this sector, e.g. the development of model contracts and the use of working time records and pay slips or simplified procedures for payment of social security contributions. As mentioned below, these measures may be useful in ensuring compliance.

2.2. NATIONAL LEGISLATION ON DOMESTIC WORK (ILO, 2012D)

National approaches to regulating domestic work are diverse and depend to some extent on the prevailing labour law system. In a number of jurisdictions, domestic work is regulated by specific chapters, titles or selected provisions of labour or employment acts (Belgium and Viet Nam), while in others such work is regulated by separate legislative acts (Austria, Jordan, Portugal, Spain, South Africa). Collective bargaining agreements also form part of the national regulatory framework for domestic work in some countries (France, Germany, Italy, Mali, Sweden and Uruguay).

Historically, separate regulation of domestic work has, by implication, given domestic workers a different status and fewer rights and entitlements as compared to other workers, an issue that the new ILO standards on domestic workers seek to address. Since the adoption of Convention No. 189 in 2011, a growing number of countries, such as Argentina, Bahrain, Brazil, Chile, India, Paraguay, the Philippines, Spain, the United States (the State of New York) and Thailand, have initiated or completed legal reforms designed to improve recognition of their rights, but despite the positive trend towards the extension of labour law to include domestic workers on an equal footing with other workers, in many countries they continue to be deprived of their labour rights and their status does not afford them equal protection. In some countries, domestic work is still excluded entirely from the scope of labour legislation (Egypt and Indonesia), while in others the labour laws are silent on the issue of domestic work, giving rise to problems of interpretation (e.g. whether and to what extent domestic workers are covered). This is a challenge that remains to be addressed.
3.1. THE CHALLENGES

The particularities of the domestic work sector, namely the nature of the workplace (hidden from public scrutiny), the personal relationship of trust between employer and worker, the wide use and acceptance of informal arrangements and the information deficits of both parties to the employment relationship make it quite challenging for governments to promote compliance with the law. Balanced responses that include prevention, deterrence and punishment are difficult to achieve and call for clear and adequate legislation; employers’ knowledge of that legislation; social acceptance of the value of domestic work; effective recognition of domestic workers’ rights; measures to encourage compliance with legal requirements; and a functioning system for responding to complaints, settling disputes and ensuring respect for the rule of law.

The diversity of the parties (domestic workers and their employers) complicates the development of compliance policies, which requires a detailed knowledge of their characteristics that is often lacking. Legal or institutional approaches to direct employment by households, private enterprises that provide cleaning or care services to families, temporary agencies that supply on-call domestic help, and social agencies may justify different approaches. Measures that work in one case do not necessarily work in others.

Enforcement mechanisms and, in particular, labour inspections are heavily influenced by the specific characteristics of the sector and by constraints that are directly related to the invisibility of many labour
arrangements. As described below, the fact that the work is performed in private homes poses particular problems in gathering the information that is normally required for strategy development and operational action and, in particular, for working methods that are anchored by inspection visits.

Table 3: Challenges to enforcement

<table>
<thead>
<tr>
<th>Challenges for enforcement</th>
<th>Features of the sector</th>
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</thead>
<tbody>
<tr>
<td>Interconnected difficulties for inspection</td>
<td>Features of the sector</td>
</tr>
<tr>
<td>■ Invisibility of the workforce</td>
<td>■ Informal employment</td>
</tr>
<tr>
<td>■ Lack of registries and evidence of abuses</td>
<td>■ Lack of coverage of labour law or less protective status of domestic workers</td>
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<tr>
<td>■ Absence of complaints</td>
<td>■ Information deficits</td>
</tr>
<tr>
<td>■ Mistrust in public authorities from part of the workers and employers of domestic workers</td>
<td>■ Often outside the mandate of labour inspection or other supervisory mechanisms</td>
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<tr>
<td>■ Restrictions to the inspection visit</td>
<td>■ Low coverage by social partners</td>
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<tr>
<td>■ Lack of tailor-made approaches of labour inspection</td>
<td>■ Cultural challenges (e.g. migrant domestic workers)</td>
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As stated above, many legal systems still exclude domestic workers from their scope or grant them less-protected status. In such cases, labour inspectors are not empowered to provide appropriate protection to workers. This has been changing in some regions; in Latin America, for example, domestic workers' status is approaching that of other workers in a move away from the traditional view of domestic work as a family matter to be governed by family law (Vega Ruiz, 1994). In countries such as China, Indonesia, Laos and Thailand, however, domestic workers are still wholly or largely excluded from the application of labour law and are thus beyond the reach of labour inspectors and compliance mechanisms. Even in countries whose labour law applies to domestic workers, the sector may not fall within the scope of labour inspectors because their mandate is limited to industry and commerce, does not extend to the informal economy or applies only to employers of more than a certain number of employees. In some cases, there is no complaint mechanism available and systems for the mediation or conciliation of individual disputes either do not exist or do not offer a viable response. This often amounts to denial of justice as the only remaining option, access to the courts, may require legal assistance and the proceedings may be long and costly. The ILO observation that “it may be permissible to doubt whether domestic workers, who do not generally have a high standard of education, who do not generally enjoy the help of a trade union, and who are exceptionally dependent on the good will of employers, present and future, readily take cases to court” is still relevant (ILO, 1970).

The diversity of national systems of labour inspection may also influence the degree to which domestic workers’ rights are protected. In many countries, the labour inspectorate’s mandate is universal whereas in others it covers specific sectors (usually industry and commerce) or subjects (such as occupational safety and health). In some cases, the labour inspectorate’s mandate excludes employers with less than a minimum number of employees and in still others, regardless of whether the mandate is universal, the labour inspectorate lacks enforcement capacity and is, in practice, limited to giving advice.

Where labour inspection is not universal and other enforcement mechanisms are absent, the effectiveness of national legislation suffers. In response, some countries have been expanding the mandate of their labour inspectorates or creating new inspectorates to cover the existing gaps.

Although some countries are gradually bringing all working conditions and sectors within the mandate of their labour inspectorates, it is difficult to find regional trends related to the coverage of domestic work. In the European Union (EU), for example, most labour inspectorates cover the sector (Bulgaria, Cyprus, Finland, France, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and Sweden) but, as mentioned above, some working conditions may not be covered and labour inspectors only assess compliance with parts of labour legislation. In other EU countries, the labour inspectorate is not mandated to monitor compliance in the sector (Austria, Germany and the United Kingdom).
The absence of a pattern is visible in other regions as well. In Africa, the labour authorities are often required to inspect only industrial premises, not private homes; in Ghana, for example, the Department of Labour has no unit or officer to deal specifically with domestic work (ILO, 2009), although a Domestic Servant Service Policy is being introduced to monitor labour contracts and working conditions. In South Africa, on the other hand, labour inspectors are quite active in the sector and have adopted a series of combined methods (see below).

In Arab states, the mandate of Jordan’s labour inspectorate covers domestic work and a recently established Directorate for the Protection of Domestic Workers has inspected five homes to date with the consent of the owners. In 2005, Saudi Arabia formed a special group to protect the rights of domestic workers and impose sanctions against employers who abuse them. In Yemen, on the contrary, labour inspectors supervise the application of labour legislation and regulations, contracts and agreements but domestic workers are excluded because they are not covered by labour law.15

In some South American countries, all problems in the sector, such as wages and registration in the social security system, are handled by the labour inspectorate. One such country, Uruguay, has formed a specialized section to monitor compliance with domestic work legislation. Other countries, such as Brazil, focus particularly on practices related to slave and forced labour, while still others do not take any specific approach to domestic work.

As mentioned above, these differences can lead to variations in the level of protection afforded to domestic workers. Labour inspectorates’ absence from the sector may perpetuate assumptions that devalue domestic work as inspectors will not be informing and educating employers of domestic workers as to their rights and obligations. Inequalities in matters relating to compliance and lack of respect for domestic workers’ rights may also persist in the absence of a monitoring mechanism or an effective response to cases of abuse.

Institutional labour inspection arrangements vary throughout the world. The function may be assigned to the central government, usually through a single agency operating under the ministry of labour (Brazil, France, Haiti and Moldova), or to two or more agencies operating under the same or different ministries (Belgium, Ireland and Ukraine). A significant part of this function may be transferred to the regions, as in Spain (where the regions or comunidades autónomas are now responsible for matters relating to occupational health and safety) or, significantly, to the federated states (Germany). Problems of coordination may arise in such cases since a central authority empowered to set a labour inspection policy, decides on programmes and coordinate action at the national level may be weak or absent. In practice, domestic workers may receive different levels of protection nationwide, depending on the priorities set by each agency or region or even the interpretation of the applicable legislation.

According to the available information, there are, as yet, few specific labour inspection compliance policies or strategies for domestic work because the sector is not covered by the national legislation or is covered to a lesser extent than other sectors; because such work does not fall within the labour inspectorate’s mandate; or because the inspectorate does not receive complaints and lacks the information about the sector that would empower it to act ex officio.

In fact, in some regions requests for intervention from domestic workers or their employers are few. According to information from the governments of EU Member States, virtually no complaints were

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submitted in 2011, even where domestic workers had sought the advice of labour inspectors. For example, the labour inspectorates received only two complaints in Latvia, fewer than 20 in Portugal and none in Spain. In other regions, a similar lack of demand is reported. In Peru, from 2008 to 2011 only 16 complaints were filed and in India, they are rarely received. The reasons for this lack of trust have yet to be analysed but are probably related to the fear of dismissal and lack of awareness that the sources of complaints received by labour inspectors must not be revealed.

The multiplicity of issues dealt by labour inspectors in the sector call for good cooperation with other enforcement agencies, but this has not yet developed to a satisfactory level in most countries and, even where it exists, objectives and working methods often conflict (e.g. with those of immigration authorities). Cooperation with non-traditional partners, such as migrants’ associations and religious organizations, could be valuable in reaching out to domestic workers and learning more about the sector, but there has been little experience in this area.

The same is true of collaboration with social partners, which is not as well-developed as in other sectors. Collaboration at the workplace level is especially problematic; since trade union activists do not have access to households, they have little knowledge of the working conditions of individual domestic workers and can play virtually no role in the inspection visits.

Trade unions and employers’ organizations are nonetheless growing in importance in some regions and countries. The French Federation of Household Employers (FEPEM) is quite active in advocating for the employers of domestic workers in collaboration with the labour inspection services. In Uruguay, there is a tradition of social dialogue in the sector involving the Domestic Workers Trade Union of Uruguay (SUDPIT-CNT) and, on the employers’ side, the League of Housewives, Consumers and Users. A tripartite Wages Council (Grupo 21) met for the first time in 2008 and the date of that meeting was subsequently established as Domestic Worker’s Day (ILO, 2012c). In New York, Domestic Workers United began the process of organizing neighbourhood-based Domestic Work Justice Zones to negotiate area-specific agreements. In Kenya, the Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) has reached thousands of domestic workers through door-to-door visits in five cities. In the Netherlands, FNV Bondgen organized a strike to win a better collective agreement for the sector. There also examples of bilateral or multilateral international cooperation. The National Congress of Workers (NCW) in Sri Lanka has signed a protocol with the General Federation of Trade Unions of Jordan whereby the NCW informs migrant domestic workers of their rights before they leave Sri Lanka and the General Federation provides them with support when they arrive in Jordan. As a result of the International Trade Union Confederation (ITUC) 12 by 12 campaign, trade unions in over 70 countries have launched initiatives for domestic workers’ rights.

Most countries do not maintain official registries of domestic workers and the households in which they are employed. One reason is that domestic workers often enter the labour market through informal arrangements. In law and in practice, verbal contracts are the norm, especially when agreed directly with the household, and the entire employment relationship is based on informality where the worker is not declared to public registries or social security authorities.

Informality transforms domestic work into an invisible and apparently undetectable activity. A proactive approach to problems in the sector is hindered by the fact that, in planning inspections, labour inspectorates may be forced to rely on inaccurate information, increasing the likelihood of inefficiency and limiting outcomes. Because electronic databases, records and data-matching with other public organizations are rarely available and inspection visits subjected to strict conditions, inspectorates tend to focus on other areas in which they can show better results. Labour inspection strategies, techniques and practices are neither designed nor implemented and the myth of the impossibility of managing the domestic work sector is perpetuated. This is particularly serious as complaint-driven intervention models cannot adequately respond to the needs of the sector.

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17 Information provided by the Government of Peru.
18 Labour Inspection Convention, 1947 (No. 81), Art. 15 (c).
19 See the Federation’s website: http://www.fepem.fr.
The lack of information also hinders the monitoring of compliance in individual cases, particularly since, in many countries, domestic work contracts may be verbal in nature (Guatemala, Iran, Panama, Portugal and Viet Nam) and no records of working time, wages or other relevant matters are kept.

According to a 2011 ILO report, “most of the ILO audits on national inspection systems, as well as annual reports […] on Conventions Nos. 81 and 129, mention the lack of human resources as a common theme, in some cases reaching alarmingly low levels” (ILO, 2011d, paragraph 236). The Gambia, where, in 2012, the Department of Labour had only five inspectors to conduct all workplace inspections, is a paradigmatic example. But the same problem exists in many countries and, even where national institutions are better resourced, the pressure of the financial crisis has had a negative impact on the number of staff, their conditions of employment and the availability of assets such as vehicles and budgetary allocations for fuel. The domestic work sector may be particularly affected by this scarcity as inspectorates may tend to allocate their limited capacities to areas in which gains in efficiency are most easily achieved (e.g. targeting enterprises where the largest number of workers can be approached in a single intervention).

The problems of domestic workers are diverse, often interconnected and complex in terms of analysis. They therefore require comprehensive action, labour inspectors with specialized skills, and capacities that some institutions do not possess. Moreover, in some countries, the career of labour inspector is not sufficiently attractive to obtain or retain the most qualified people and human resource policies neither address the specific qualifications needed by labour inspectors and their managers nor provide training on a regular basis.

THE INSPECTION VISIT

Reliance on inspection visits as a means of ensuring compliance in the domestic work sector is made particularly challenging by the fact that the workplace is a private home. On the one hand, domestic workers are entitled to protection under the law and to application of the principle of the free access of labour inspectors to workplaces (Art. 12 of Convention No. 81, extended to non-industrial and commercial workplaces by the 1995 Protocol thereto). On the other hand, household members enjoy the right to privacy and to the inviolability of their home under most national constitutions. Hence, there is a conflict of rights that must be addressed.

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20 For two examples of model contracts, see Appendix V.
22 Although Convention No. 81 is among the most-ratified of the ILO instruments (144 countries as at 1 January 2014), many member States have yet to ratify the Protocol.
Article 12 (1) (a) and (b) of Convention No. 81 establish that:

Labour inspectors provided with proper credentials are empowered:

(a) to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;

(b) to enter by day any premises which they have reasonable cause to believe to be liable to inspection [...].

Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights\(^{23}\) establish the right to privacy. Member States have an obligation to protect individuals from arbitrary and unlawful interference with their privacy or homes. The Human Rights Committee (an expert body established under the Covenant to monitor its implementation) has stressed that legislation allowing interference in the privacy of the home must specify in detail the circumstances in which interference is permitted and that authorization for such interference must be issued only by the authority designated under the law on a case-by-case basis.\(^{24}\)

In the 2006 ILO General Survey on Labour Inspection, the ILO Committee on the Application of Standards notes that “in the case of a private home, the consent of the employer, the occupant or a judicial authority as the case may be, is generally required” (ILO, 2006). The Committee also observes that “in view of the broad definition of premises liable to inspection, labour inspectors must observe strict respect of privacy” but warns that “many national provisions authorising workplace visits leave excluded from labour protection by labour inspectors the many people who are carrying out domestic work” (ILO, 2006). In order to address this issue, Article 17 (3) of the Domestic Work Convention expressly states that member States must “specify the conditions under which access to the household premises may be granted, having due respect for privacy”.

Thus, access to the household is limited and, as a rule, labour inspectors must obtain the consent of the householder or the authorization of a judicial or other competent authority (e.g. a civil or specialized labour court, criminal court or public attorney).

A system of periodic visits to the workplace could build the trust of domestic workers, and particularly members of vulnerable groups such as migrants, by giving them a feeling of reassurance and keeping them informed about their rights. However, given the aforementioned limitations on inspection visits and the scarce resources of labour inspectorates, alternative methods tend to be used with visits reserved for cases where close observation of working (or living) conditions is required or for serious situations of criminal abuse (see below).

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\(^{23}\) Adopted by the General Assembly of the United Nations on 19 December 1966.

3.2. IMPROVING COMPLIANCE IN THE DOMESTIC WORK SECTOR

The following chapter describes ways in which governments can promote adherence to legislation and standards covering domestic work and can compel compliance through enforcement, using examples wherever possible.

3.2.1. CREATING A BASIS FOR COMPLIANCE

Convention No. 189 highlights the need to put in place means of ensuring effective implementation of laws and regulations for the protection of domestic workers’ rights, including the development and implementation of labour inspection measures (Art. 17).

The importance of the various compliance mechanisms depends on a number of factors, such as the specific features of the labour market, legal and administrative frameworks, and even cultural patterns. The decision to give priority to awareness-raising, enabling or strict enforcement measures should be based on the weight of the different reasons for non-compliance, although a combined balance of all of these measures is usually recommended.

Box 6 ■ Conditions for compliance

Reasons for non-compliance may be found at three different levels:

- the degree to which the target group knows of and comprehends the rules;
- the degree to which the target group is willing to comply – either because of economic incentives, positive attitudes arising from a sense of good citizenship, acceptance of the policy goals, or pressure from enforcement activities;
- the degree to which the target group is able to comply with the rules.

Source: OECD, Reducing the risk of policy failure, 2000, p. 12.

The characteristics of the domestic work sector, namely, the information deficits, the view that domestic work is non-productive, the weakness of collective representation, the high level of informality and the privacy of the workplace, call for specific approaches by governments.

Depending on national circumstances, the following options may also need to be considered:

- legislation, which should be clear and should adequately address the needs of domestic workers and their employers;
- legal presumptions and indicators, e.g. for recognition of the employment relationship;
- creation of incentives for compliance, e.g. formalization of the employment relationship;
- facilitation of compliance, e.g. by reducing bureaucracy;
- market control, e.g. authorization procedures for private employment agencies;
- mandatory reporting, e.g. on the admission to employment of child workers who are above the minimum age but may be exposed to particular hazards;
- prior authorization procedures, e.g. on the accommodation of live-in domestic workers;
- mandatory registration of working hours and documentation of wage payment;
- reduction of information deficits, e.g. awareness-raising campaigns, support services, for example, call centres providing information on legal rights and obligations;
- accessible mediation and dispute resolution mechanisms;
- access to justice and free legal assistance.
As seen above, many countries are amending their labour laws in order to grant domestic workers the same levels of protection as other workers. The completeness and clarity of legislation on the workers covered, the specific applicable provisions and the obligations created for the parties to the employment relationship is a first step in enhancing compliance.

Incentives are also important mechanisms to prevent the violation of domestic workers’ rights. Some countries have promoted the formalization of domestic work by providing household employers with fiscal incentives and encouraging the establishment of non-profit organizations and companies offering services to households (Eurofound, 2008).

**Box 7  Incentives for compliance in Europe**

In Belgium, the “titre service” programme allows domestic workers to have a work contract while the employer covers only a small portion of the cost of the legal benefits and receives tax incentives in return.

Since 2007, Swedish households that purchase cleaning services from companies have benefited from a tax deduction equivalent to 50 per cent of the costs, up to a certain threshold. This deduction applies to household services and home repair and maintenance, including activities such as cleaning, laundry, basic gardening, and babysitting. As of 1 July 2009, companies that perform domestic work charge the customer the cost of the materials and half of the labour costs, requesting the outstanding sum from the Swedish Tax Agency. As a result, the customers pay a reduced price and it is not economically advantageous for them to resort to informal arrangements. In 2010, about 1.1 million people purchased household services with this tax deduction.

In Finland, a similar option makes it possible to deduct a portion of the cost of household work through the tax system, whereby the householder pays a formal private sector company for services such as cleaning, or care of an elderly person or a child in the home. It is possible to deduct 30 per cent of the actual wage, including the social security contribution. In 2004, the estimated effect of the deduction scheme on employment amounted to about 12,100 jobs; in 2006, the tax credit scheme had some 243,000 users, with the total deduction amounting to €165 million; and in 2007, 8 to 9 per cent of households used the system. According to estimates, the undeclared proportion of household services has decreased from 60 per cent to 25 per cent.

In Denmark, the home service scheme is a wage cost subsidy for domestic work, including garden work, snow clearance, shopping for daily goods, cooking, cleaning, laundry and window cleaning. Between 1997 and 2000, taking animals for a walk and packing in connection with moving house were added to the list of eligible activities. Later, it became possible to receive a subsidy of 50 per cent of the price for bringing children to and from kindergarten and school. In 2004, the home service scheme was curtailed to cover only households in which at least one person is a pensioner or receiving early retirement benefits.

Similar initiatives exist in Austria, France, Germany (for mini-jobs) and Switzerland. Although the advantages of formalizing employment in the sector are recognized, critics point out that these measures require the allocation of considerable funds for State subventions.

In Spain, the Dependency Law (Law 39/2006 on Personal Autonomy and Dependent Care), which came into force on 1 January 2007, provides services to people in need of support owing to illness, disability or old age; it also promotes job creation and the formalization of undeclared work relationships. The new Law requires the beneficiaries to register and take part in evaluations to monitor the effectiveness of the services and costs. In addition, the law provides for workers to receive information and training, which helps to encourage formal employment.

In Brazil, Law No. 11,324 (2006) established incentives for the regularization of undeclared domestic workers whereby employers are eligible for tax benefits, provided that they prove that their workers are registered in the social security system. Payment procedures have also been simplified.

Source: Eurofound, 2008

The reduction of bureaucracy is known to improve compliance. This may entail facilitating social security registration or declaration for domestic workers: in Hungary, it is possible to declare a worker for
purposes of social security by sending a text message to the relevant institution and in Luxembourg, the employer pays the net wage to the domestic worker, fills in a single declaration form and sends it to social security, which calculates the gross salary and collects the contribution from the employer; every six months, a declaration showing the payments made is sent to the domestic worker and the employer (ILO, 2013f, pp. 36-37).

Other initiatives can provide incentives for compliance, or at least deter non-compliance. For example, in Norway, cleaning services companies have been subject to a compulsory labour inspectorate approval mechanism since 2011.

An obligation to report domestic workers’ admission may be useful in obtaining knowledge of their existence and monitoring their working conditions. Many countries have introduced this practice: in Mali, a copy of any labour contract that exceeds three months’ duration or is of indefinite period must be filed with the labour inspectorate and in the Philippines employers are required to register their domestic employees with the barangay (local district). Where the employment is facilitated by a private employment agency, the agency must keep a copy of all contracts of domestic workers, which must be available for inspection by the Department of Labour and Employment. Regularization campaigns are also conducted. In Spain, a 1 July 2012 deadline for the registration of domestic workers who were already employed was set, after which employers would face sanctions. By April 2012, the social security registration rate had risen to 47 per cent of the total estimated number of domestic workers in the country (ILO, 2013c, p. 15).

Conversely, a lack of information on the manner in which working hours and rest periods are organized and the absence of documents on paid wages create additional problems for workers and employers when disputes arise. Moreover, monitoring compliance is more complicated for labour inspectors where there is no physical evidence of the facts.

Box 8 ■ Keeping records of working conditions

Recommendation No. 201 suggests that hours of work, including overtime and periods of standby, should be accurately recorded and that these records should be accessible to domestic workers (para. 8).

Domestic workers should also receive, at the time of each payment, a written account of the total remuneration due to them and the specific amount and purpose of any deduction (para.15).

In some countries, such as Finland, employers of domestic workers must draw up a work schedule and keep a record of any emergency work or overtime, which must be made available to the occupational safety and health authority. On request, employers must also provide workers or their representatives with a written report on these records. The work schedule must indicate the beginning and end of working hours, the break and the daily rest period.

Other countries require employers to keep copies of all payments to domestic workers. In France, beneficiaries of the Universal Service Employment Voucher Scheme (CESU) must keep copies of the vouchers used to pay their workers. In the Philippines, Portugal, South Africa and Zimbabwe, employers must provide domestic workers with pay slips showing the wage rate, the total number of hours worked, any bonuses or allowances, the corresponding period, the value of benefits in kind, the net wage and any discounts to be made. In Jordan, the law requires the employer to keep evidence of all monthly payments. This provides labour inspectors with helpful tools with which to address individual cases of abuse.

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25 Decree No. 96-178/P-RM of 13 June 1996.
26 Act No. 10361 of 23 July 2012, art. IV, section 36.
27 Act No. 10361, section VI.
The effectiveness of legislation on domestic work may increase with the establishment of indicators and legal presumptions. Indicators may be established in the relevant legislation or based on jurisprudence, rules or guidance issued by public institutions. Indicators are commonly used for recognition of the employment relationship, usually by establishing criteria to assess the subordination or, in some cases, economic dependence of the worker on the basis of the evidence. The ILO Employment Relationship Recommendation, 2006 (No. 198) provides examples of different methods used by countries, including parameters upon which to decide as to the existence of a labour contract, and explicitly mentions that determination of the employment relationship should be guided by the facts relating to the performance of work, notwithstanding how the relationship is characterized in any contract.

Table 4: Employment contracts versus independent work

<table>
<thead>
<tr>
<th>Criteria for determining whether an individual is an employee</th>
<th>Workers</th>
<th>Independent service provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tools such as tests may be used to decide whether a given relationship should be recognized as governed by an employment contract or as self-employment. The following chart shows how this could be done for domestic work; the specific criteria will depend on national legislation or case law.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commands and instructions</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workers must comply with orders and instructions as to when, where and how to perform the work. Employers control the manner in which the work is performed. Disobedience may result in disciplinary action.</td>
<td>Contractors are obliged to present a result of their work and are usually free to decide how to achieve that result. Instructions may be given, but failure to obey them cannot result in any kind of disciplinary action.</td>
<td></td>
</tr>
<tr>
<td>Services rendered personally</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workers carry out their chores personally. They cannot decide that someone else will replace them on a given occasion without the employer's consent.</td>
<td>Self-employed providers can decide to render the service personally or through a third party, for example, someone working for or with them.</td>
<td></td>
</tr>
<tr>
<td>Continuing relationship</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The employer can require the worker to work for one household exclusively.</td>
<td>Service providers typically work on a contractual basis for more than one household.</td>
<td></td>
</tr>
<tr>
<td>Stability</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A domestic employee has a continuous relationship with the employer, even if the service is rendered on a part-time basis of for a short period of time, regardless of the number of hours worked.</td>
<td>A self-employed provider is contracted sporadically by the household. There is no obligation of continuity unless otherwise stipulated by the parties.</td>
<td></td>
</tr>
<tr>
<td>Hours of Work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The working hours and rest periods of domestic workers are established by their employer. Even if there are no specific chores to perform, they must remain available during the working period.</td>
<td>Service providers agree to deliver a result. The user of the service has no control over their working hours or rest periods, even though the service is usually to be rendered within a pre-determined period of time.</td>
<td></td>
</tr>
</tbody>
</table>
Domestic workers are paid on a regular basis by the hour, the day, week or month. Payment is due even if the tasks were not performed correctly. Payment of self-employed persons is primarily related to the work performed, even where the number of hours worked is taken into consideration.

The tools and materials used by workers are provided and the costs borne by the employer, even if it is the domestic worker who purchases them. Self-employed persons usually (though not necessarily) use their own tools and materials, which the users of their services do not need to provide.

Domestic workers may be subject to disciplinary action for failure to perform their duties properly. This may consist of a warning, a financial penalty or even dismissal. Self-employed persons are not subject to any form of disciplinary action from the users of their services, although they may be responsible for damage to the property and/or have certain liabilities for any offences committed as a result of their actions.

Regulation of access to the market by, for example, private employment agencies can effectively prevent non-compliance in the sector since their involvement has been reported as leading to forced labour or other serious abuses on several occasions. Governments can set their own authorization and licensing rules and have labour inspectors monitor the activities of such agencies periodically.

Box 9 ■ Preventing abuses by private employment agencies

In Egypt, the Labour Code requires job offers from private recruitment agencies to be reviewed by the Ministry of Labour and to suspend the operations of agencies that do not comply with the law.

In Ethiopia, Employment Exchange Services Proclamation No. 632/2009 provides for suspension and revocation of the licenses of private employment agencies under a number of circumstances, including where the agency has failed to protect the rights, safety and dignity of citizens for whom it has found employment abroad. The law prohibits fee-charging, withholding of travel documents without the worker’s consent, and provision of false information and holds the employment agency and the employer jointly and severally liable for any violation of the employment contract.

In the Philippines, new provisions of the Expanded Anti-Trafficking in Persons Act of 2012 require the Philippine Overseas Employment Administration to create a “blacklist” of recruitment agencies, illegal recruiters and individuals, including those that have been the subject of administrative, civil and criminal complaints of trafficking in the Philippines or abroad or have been involved in cases in which trafficked victims have been rescued, even in the absence of a formal complaint against the recruiter.

Reduction of the information gap affecting domestic workers and their employers helps both groups to better obey the rules, assists in the prevention of abuses, and empowers domestic workers to seek out complaint mechanisms where these rules are not respected.

29 For a discussion of the links between forced labour, trafficking and abusive intermediaries, see ILO, 2010b, paras 362–363. For further information on regulation of the private recruitment industry, see Part 4 below.


31 For more information on awareness-raising, see Appendix 1.
The same is true of knowledge of the specific terms and conditions of employment set out in the labour contract. In Austria, Belarus, France, the Republic of Moldova and South Africa (see ILO, 2012d), this information is contained in the written contract of employment. In Spain, if the duration of the labour relationship exceeds four weeks, the worker is entitled to information on the essential aspects of the contract. This information must include the payment of wages in kind, if this is part of the agreement; the length and distribution of the agreed working hours and the payment or compensation system for overtime; and the conditions applicable to overnight stay in the employer’s house, if applicable. As suggested by paragraph 6(3) of Recommendation No. 201, several countries offer model labour contracts.32

3.2.2. CONCILIATION, MEDIATION AND LEGAL REDRESS

Before resorting to enforcement, domestic workers should be given the option of settling individual disputes consensually with their employers through accessible systems of conciliation and mediation. This is the case in the Philippines, where an alternative, expeditious mechanism for settling individual labour disputes that is less expensive than the courts and helps the contending parties to reach agreement – the SEnA or Single Entry Approach – has been established.

In South Africa, less formal, free-of-charge procedures for the settlement of labour disputes, established by the Commission for Conciliation, Mediation and Arbitration (CCMA), have proved successful. During the conciliation process, both employers and domestic workers are assisted by the CCMA Commissioner, who encourages the parties to reach agreement within 30 days. If the dispute remains unresolved, the parties may request arbitration, at which time they may submit any form of evidence. The services of the CCMA are available to domestic workers, who accounted for 12.1 per cent of such referrals between 2003 and 2005 and 9 per cent between 2009 and 2010. Most of these cases involved unfair dismissal (Sjöberg, 2011).

32 See Appendix V.
As with other mechanisms, access to the courts should be an option for all domestic workers and their employers regardless of the workers’ status, including the regularity of their entry into and stay in the country. Legal advice should be available free of charge and procedures should be as simple as possible. In the state of New York, United States, for example, workers with a claim totalling USD 5,000 or less may file a case in small claims court and pro se attorneys at the civil court resource centres instruct workers in the procedure for filing a claim at no cost. In Argentina, the Buenos Aires Domestic Work Tribunal functions as a court of first instance for employers and domestic workers. Its procedures are clear and simple, favouring verbal accounts and conciliation. The Tribunal has a specific mandate to provide advice and raise awareness (ILO, 2011b).

3.2.3. COMPLIANCE THROUGH LABOUR INSPECTION

Labour inspections are of vital importance for the effective application of labour standards. Labour inspectors use various approaches in order to secure compliance, including information and persuasion with a view to the acceptance of legal values, prevention of abuses and enforcement. In most countries, labour inspection is the sole public function devoted specifically to the protection of workers’ rights, at the same time advising employers on compliance with the law.

The public functions of labour inspection are multifaceted. On the one hand, labour inspectors monitor compliance and enforce labour law and, on the other, they carry out advisory activities with a view to helping employers and workers to achieve decent working conditions, fairness at work and good governance in the workplace. In addition, labour inspectorates are expected to identify gaps and breaches in laws and regulations and bring them to the attention of the appropriate institution.

A functioning labour inspection system in line with international labour standards is a prerequisite for the effective rule of law. The governance conventions on labour inspection establish the principles that should govern the organization of the system, inter-agency action and the functions, prerogatives and ethical duties of labour inspectors. Respect for these principles is an enabling factor for compliance in the domestic work sector.

Box 11: Governance conventions on labour inspection

- Labour Inspection in Industry and Commerce Convention, 1947 (No. 81);

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34 The governance conventions play an essential role in maintaining and promoting decent working conditions. In addition to Conventions Nos. 81 (1947) and 129 (1969), they include the Employment Policy Convention, 1964 (No. 122) and the Tripartite Consultation Convention, 1976 (No. 144). See also the Labour Inspection Recommendation, 1947 (No. 81) on industry and commerce and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133).
35 The Protocol of 1995 to the Labour Inspection Convention, 1947 extended the scope of the Convention to include activities in the non-commercial services sector, defined as “all categories of workplaces that are not considered as industrial or commercial for the purposes of Convention No. 81”.
The following table summarizes the principles established in Convention No. 81 (and closely followed by Convention No. 129):

**Table 5: Principles of labour inspection**

<table>
<thead>
<tr>
<th><strong>Central authority</strong></th>
<th>Labour inspection should be placed under the supervision and control of a central authority.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cooperation and collaboration</strong></td>
<td>Labour inspectors should cooperate with other government services and public or private institutions engaged in similar activities and should collaborate with employers and workers or their organizations.</td>
</tr>
<tr>
<td><strong>Independence</strong></td>
<td>Labour inspectors are public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences.</td>
</tr>
<tr>
<td><strong>Quality of intervention</strong></td>
<td>Labour inspectors should be recruited with sole regard for the qualifications and experience required for the performance of their duties. They should be provided with adequate training.</td>
</tr>
<tr>
<td><strong>Gender balance</strong></td>
<td>Both men and women should be eligible for appointment to the inspection staff; where necessary, special duties may be assigned to men and women inspectors.</td>
</tr>
<tr>
<td><strong>Technical expertise</strong></td>
<td>Qualified technical experts and specialists should be associated in the work of inspection for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers while engaged in their work and of investigating the effects of processes, materials and methods of work on the health and safety of workers.</td>
</tr>
<tr>
<td><strong>Sufficiency of resources</strong></td>
<td>The number of labour inspectors should be sufficient for the duties that they have to perform, including the number, size and situation of the workplaces; the number and classes of the workers; and the number and complexity of the legal provisions to enforce. They should have sufficient material means placed at their disposal.</td>
</tr>
<tr>
<td><strong>Discretion</strong></td>
<td>Labour inspectors should have discretion to give warning and advice instead of instituting or recommending proceedings.</td>
</tr>
<tr>
<td><strong>Authority prerogatives</strong></td>
<td>Labour inspectors provided with proper credentials should be empowered to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection; carry out any examination, test or enquiry; consult, copy or make extracts of any register or book; enforce the posting of notices; remove samples of materials for analysis; order the alteration of working conditions to secure compliance with legal provisions on occupational safety and health; order immediate action in the event of imminent danger to the health or safety of the workers; and impose or initiate proceedings for application of sanctions.</td>
</tr>
<tr>
<td><strong>Ethics</strong></td>
<td>Labour inspectors should be prohibited from having any interest in the undertakings under their supervision and from revealing, even after leaving the service, any manufacturing or commercial secrets or working process which may come to their knowledge in the course of their duties, and should treat as confidential the source of complaints.</td>
</tr>
</tbody>
</table>
Prevention of abuse

Lack of awareness of the law and available compliance services limits workers’ ability to defend their rights and is a serious problem in some countries. A survey conducted in South Africa in 2009 revealed that only 19.7 per cent of non-unionized domestic workers were aware of the existence of labour laws protecting them (Sjöberg, 2011, p. 81).

Labour inspectorates are essential to the dissemination of information to domestic workers and their employers. In fact, the legislation of most countries – for example Angola, Bolivia (Plurinational State of), Brazil, Chile, Gabon, Mexico, Morocco, Mozambique, the Niger, Slovenia and Tunisia – assigns labour inspectors the task of supplying technical information and advice to employers, workers and their respective organizations. Information is provided upon request or during the inspection visit,36 by phone, by email or indirectly through the relevant websites. Many labour inspectorates also have experience in developing awareness-raising campaigns for the areas within their mandate.

Box 12 ■ Awareness-raising through labour inspections37

In Uruguay, immediately after the entry into force of Law No. 18,065, an awareness-raising campaign was initiated. The national labour inspectorate visited workplaces with the primary goal of providing information on the law and regularizing the status of informal domestic workers.

In Costa Rica, in 2013, during the Fair on promotion of labour rights of domestic workers, the inspection and labour relations services of the Ministry of Labour and Social Security advised hundreds of domestic workers on their entitlements, including a complete weekly day of rest, a daily maximum of eight working hours and 15 days of annual vacation. The Fair was one of the initiatives marking the National Day of Domestic Workers, held annually on the last Saturday in March.

The Philippines has also instituted a special day for domestic workers, when awareness-raising activities are organized.38 By law, the Department of Labour must also ensure facilities for one-stop registration of domestic workers during job fairs.

Information weeks or days are organized in many other countries, including France, India, Lithuania, Romania, Spain and Viet Nam. Special days for occupational safety and health or child labour are also held in, among others, Bulgaria, Cuba, Morocco, Portugal and Ukraine as opportunities to raise awareness. The media are often involved, as in China, Cuba, El Salvador, France, Mauritius, Portugal and Romania.39

Call centres are effective tools for providing information and have been set up in, for example, Austria, Ireland and Jordan. Countries such as Brazil have used soap operas to convey a variety of information about human rights in a casual, friendly style that could be adapted to domestic work. Virtual forms of communication are already being used by groups of domestic workers and could be adapted to labour inspections (e.g. brief announcements via Short Message Service (SMS) or Facebook pages).

Given the specifics of the domestic work sector, prevention should reach beyond the workplace. In Hong Kong, China, the Department of Labour distributes information in English, Indonesian, Tagalog and Thai at airports, consulates and information kiosks. Factors such as the level of illiteracy of employers and workers, language barriers, trust in public services, and access to the media are taken into account.40 An important way of preventing domestic child labour, for example, is to build family and community awareness that domestic work harms children over the long term by keeping them in poverty. Warning origin countries about the fraudulent schemes of gang leaders, who recruit workers to foreign countries, is among the most effective means of preventing human trafficking for purposes of forced labour.

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36 In Uruguay, for example, labour inspectors distribute explanatory leaflets and model payslips during their visits and spend as much time as necessary to fully explain to employers how to comply with the law.
37 For guidelines on awareness-raising, see Appendix I.
40 See Appendix I.
Widespread awareness-raising on the minimum wage for the sector also enables workers to better negotiate their terms of employment by making them better informed.

The provision of advice to domestic workers should include information on how to understand the working conditions and entitlements established in a labour contract. Labour inspectors could also suggest questions that job-seekers should ask their future employers with regard to their working conditions.

### Box 13 ■ Sample questions for employers

In the United States, Domestic Workers United (2010) has developed a sample interview for workers that could be adapted and used by labour inspectorates in advising such workers. It includes a list of questions for them to ask prospective employers before entering into an employment relationship:

- What will my responsibilities be? Am I expected to do babysitting and housekeeping, only babysitting, or only housekeeping?
- How many people are in the household?
- Do you have pets? If so, will I be expected to care for them?
- How many employees are in the home and what are their responsibilities?
- Am I expected to go with you when you travel? If not, will I be paid when you are away?
- Why did the last babysitter/housekeeper leave? How long did they work for you?
- Will I have regular days off?
- What time will my work day begin, and what time will it end?
- How will I take my meals? Can I bring my lunch?
- Do you pay overtime after an eight-hour day?
- How much advance notice do you give when overtime is required?
- Do you provide paid sick leave? If so, can I rest assured that my right to take sick leave won’t be unreasonably denied?
- How much vacation time will I have?
- When will I be eligible for a raise?
- Do you pay for workers’ compensation insurance?

And, for live-in workers:

- Where will I sleep? Is it heated? Am I expected to sleep in the same room as the child?
- How will I take my meals? Is there a meal allowance?
- Will my access to the phone and mail be limited in any way?
- How much notice to move out will you give me if you no longer need my services?

### Law enforcement

Enforcement of labour legislation is commonly placed within the mandate of labour inspectorates as an option for ensuring compliance. Monitoring and enforcement of legal provisions is fundamental to the effectiveness of the law. The prerogatives of labour inspectors, even in light of the limitations on inspection visits, are paramount in safeguarding domestic workers.

While, as a matter of principle, workplaces should be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions (Convention No. 81, Art. 16), this presents difficulties, particularly in the domestic work sector, as mentioned above. In addition to the
large number and geographic dispersion of workplaces (e.g. households employing a domestic worker), data on their location is often non-existent or unavailable to inspectors. As householders may deny labour inspectors access to the household premises, and as cooperation between labour inspectorates and the courts in seeking judicial authorization is often weak and complex (on the need to respect the right to privacy, see page 21), inspection visits may not be conducted or may be conducted too late to have a real impact on the worker, who may already have been dismissed or have suffered serious, irreparable abuse. This highlights the need to review and strengthen procedures and cooperation between inspectorates and the judiciary to ensure effective intervention in order to address serious violations. It also shows that, with regard to domestic work, labour inspectorates need to rely on a broader range of methods and measures beyond the inspection visit and to build special skills.

Some countries have developed and used intervention models that rely on household visits based on consent (see below); however, results have sometimes been mixed, particularly in the case of undeclared domestic workers. A commonly used operational method of inspection consists of document and registry analysis or interviews with employers, workers and third parties outside the workplace. Participatory observation, while useful in gathering indicators on the material conditions of work, is constrained as it depends on access to the place where the occupation is performed.

Supervision based on document-checking is helpful but has limitations where such documents do not exist or are unavailable to the authorities, particularly if the work is carried out informally. Moreover, observation of the actual working conditions may be required as with occupational safety and health visits, investigation of work accidents or whenever the presence of the worker and actual working conditions need to be observed by the inspector. At this purpose, in Finland, section 9 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (Act No. 44/2006) states that an inspection may be carried out within the sphere of domiciliary peace (privacy), under the adequate authorization procedures, if there is reasonable cause to suspect that the work performed on the premises or the working conditions pose a threat to an employee's life or health.

Methods used to monitor compliance are more effective where a good planning mechanism is available. Some countries have developed sophisticated IT systems providing vast information to labour inspectors on employers, workers and workplaces and, in the best cases, the systems automatically cross different indicators and suggest the appropriate action to the inspectorate.

The lack of complaints by domestic workers and the absence of solid information on their whereabouts have often prevented the development of proactive approaches to ensure compliance and enforcement and, more generally, have prevented domestic workers’ concerns from being mainstreamed into labour inspection activities.

Eurofound has concluded that the use of preventive labour inspection measures in the European Union is becoming increasingly common, although deterrence is still the predominant approach (Eurofound, 2008). Most of these experiments do not concern domestic work, but they could be adapted to that sector; for example, the media could deter would-be offenders by announcing the regions, sectors and items to be inspected and self-regulation initiatives could be used as a trigger to bring employers into compliance.

Operations that are not based on a proper selection of targets and resourced with a sufficient number of inspectors can lead to inefficiency and poor outcomes, and awareness-raising that is not complemented by enforcement can be of limited effect. An appropriate balance of both should be envisaged, taking potential reasons for non-compliance into account.

Like other public organizations, labour inspectorates operate on the basis of effectiveness and efficiency and the use of innovative or alternative approaches presents risks; the law may require the methods adopted to be published in an official gazette or transformed into guidelines before they can be used. With this in mind, and to ensure the adequacy of new approaches, labour inspectorates such as Ireland’s National Employment Rights Authority (NERA) have introduced new working methods as pilot projects before using them more broadly. In one such project, NERA sent letters to employers of domestic workers, requesting them to allow access to their houses. Those who refused were required to provide an alternative place for the inspection, which then consisted of interviews and document analysis. This method produced good results but, as NERA officials recognize, it is of limited use when workers are not
declared as there is no knowledge of their existence. During the pilot programme, the inspected workers were primarily migrants identified on the basis of the employment register or the employer registration for taxation or social welfare. In Kenya and South Africa, household inspection visits are used to complement other methods, such as random raids on neighbourhoods in a search for undeclared domestic workers. In Uruguay, labour inspectors have visited more than 900 households, informing both contractual parties of their legal obligations. All the houses in a neighbourhood are visited at the same time in order to avoid casting suspicion on individual workers.

In an unpublished report from 2009, the Department of Labour of Western Cape Town, South Africa, stated that a blitz campaign carried out from 2 to 12 March of that year had raised compliance by employers of domestic workers from 40 per cent at the time of the first visit to 94 per cent when the follow-up visit was conducted.

### Box 14  ■ Towards multi-pronged enforcement strategies for the domestic work sector

An enforcement strategy for labour inspection in the domestic work sector requires a combination of approaches, which may include:

- **Requiring formalization of the employment relationship and documenting evidence.** In this case, employers would be required to declare the admission of workers to the ministry of labour; to produce and keep documents such as labour contracts, working schedules, payslips, and risk assessment reports; or to transmit them periodically to the labour inspectorate;

- **Building trust with domestic workers and their employers since better-informed employers are more likely to cooperate with labour inspectors.** The information provided should include not only the standards applicable to the domestic work relationship, but also the sanctions for non-compliance and obstacles to the investigation of complaints. Awareness-raising campaigns on rights and obligations are useful tools in that regard. This information should be permanently available on websites or through hot lines or call centres. When contacting individual employers, labour inspectors should be able to present arguments that will persuade them to consent to the visit;

- **Summoning domestic workers and their employers for interviews at the labour inspectorate, if the visit is not agreed and/or there is no need to observe the actual working conditions.** In many cases, compliance with the law can be demonstrated through the submission of documents. Interviews with workers can then be conducted in order to compare their version of the facts with the documents provided by the employer;

- **Improving collaboration with social partners in order to seek opportunities for joint efforts, e.g. raising awareness and selecting priorities for action;**

- **Strengthening cooperation with other public institutions, such as social security services, tax offices and civil registries, with a view to the exchange of information; and expanded cooperation with other stakeholders, such as NGOs and community-based groups;**

- **Enhanced cooperation with the judiciary with regard to legal presumptions, indicators of abuse, authorization of inspection visits, and urgent judicial procedures for gaining access to the household.** Electronic shared platforms and other electronic means of communication used to expedite communication between labour inspectorates and the courts can enhance the efficiency of inspection visits while respecting the privacy of the household;

- **Ex officio action based on heavy-handed enforcement, such as the organization of blitz visits to selected neighbourhoods, can be useful in randomly identifying abuses, particularly in the case of undeclared domestic workers.** This option requires substantial resources and should be based on precise strategic objectives as it can lead to employers’ mistrust of labour inspectors;

- **Training labour inspectors in the specifics of the domestic work sector and in communication techniques used to gain the trust of domestic workers and their employers and to approach vulnerable groups, such as children and migrants.**
Some countries have introduced the practice of seeking agreement between the domestic worker and the employer whenever a grievance is submitted. In Jordan, for example, in the case of complaints or information regarding a violation of domestic workers’ rights or of the obligations of either party, the Ministry of Labour summons the householder and the worker to settle the complaint amicably. Only if the complaint concerns the conditions of the workplace (e.g. when the worker complains about the accommodation) will the household be visited, subject to the householder’s consent. Where the householder does not consent to the inspection visit, the Ministry may take whatever steps it deems appropriate. If any violation is evidenced, the householder is instructed to remedy the violation within one week as from the date of notification. Householders who fail to do so are subject to a fine.43

In terms of working methods, simple matters, such as whether to conduct the visit during office working hours, at night or on a weekend, must be considered before planning an intervention. For example, most employers will not be at home during regular working hours whereas live-out domestic workers will not be there at night.

Sanctions

Under Article 18 of Convention No. 81 and Article 17(2) of Convention No. 189, adequate penalties for violations of the legal provisions enforceable by labour inspectors should be provided for by national laws or regulations, with due regard for the features of the domestic work sector. In most countries, labour inspection sanctions include fines, terms of imprisonment or both. Labour inspectors may order work stoppages for cases of serious and imminent risk to the health or safety of workers and, in some countries, for hazardous or prohibited child labour or, as in Italy, for undeclared work; they may also issue improvement notices. In countries where the proportion of migrants in the workforce is high, such as Jordan and the United Arab Emirates, the labour inspectorate or ministry of labour can prevent employers from obtaining additional visas for migrant workers. In Singapore, employers who are found guilty of psychological or physical abuse, exploitation or ill-treatment of domestic workers are barred from hiring new ones and in Saudi Arabia, employers found guilty of violating domestic workers’ rights are prohibited from applying for migrant domestic workers for five years. “Naming and shaming” lists, whereby labour inspectorates publish lists of offenders on their websites, in newspapers or official gazettes, and even through cell phone applications, are also being used as effective deterrents in, among other countries, Portugal and the United States.

43 Regulation No. 90/2009 governing domestic workers, cooks, gardeners and workers in similar categories.
The severity of sanctions varies from one country to another. In the Philippines, the penalties for employing a child domestic worker below the age of 15 are high and the employer is prohibited from hiring additional child workers. Imprisonment is envisaged in South Africa, where, in 2007, two employers were arrested. Joint and several liability schemes are used to increase the deterrent effect of sanctions by holding private employment agencies or enterprises rendering domestic work to households liable for infractions. In South Africa, if domestic workers are provided by an employment agency that pays their wages, both the agency and the client are held jointly and severally liable if the employment service fails to comply with any provision of the Basic Conditions of Employment Act. In the Philippines, private employment agencies and employers are held jointly and severally liable for all wages and wage-related benefits due to workers.

Reinstatement of workers’ rights

In addition to the enforcement of sanctions, labour inspections are, in many countries, an important mechanism for retrieval of workers’ entitlements, such as wage arrears. For example, in South Africa, labour inspectors can issue a compliance order in respect of any amount payable to an employee for longer than 12 months before the date on which a complaint was made or the date on which a labour inspector first endeavoured to secure a written undertaking by the employer. Similarly, Portuguese labour inspectors can require employers of domestic workers to pay wages owed beyond a certain period as from the time when they were due; this in-debt certificate functions as an execution order for judicial purposes and is immediately executable by the public prosecutor if the employer fails to pay the imposed fine and the wage debt voluntarily within 15 days. The Plurinational State of Bolivia offers an interesting approach whereby the labour inspectorate is informed of the facts of cases under investigation by other agencies, such as the Brigade for the Protection of Women and the Family, the Police Force and the Public Prosecutor’s Office, in order to ensure that wages and social protection contributions are paid during investigations and prosecutions.

Other competencies of labour inspection

Labour inspectorates often have additional competencies in respect of domestic work. In Chile, if there is any doubt, it is for labour inspectors to determine whether a given employment relationship falls under the special chapter of the Labour Code on domestic work. In Argentina, the labour authority issues mandatory workbooks with an identification of the domestic worker, the text of the labour law and the agreed wages (Ramirez-Machado, 2003).

In Finland, the employers must seek authorization from the occupational safety and health authority before engaging a domestic worker for emergency work resulting from unforeseeable circumstances, such as an accident, sudden illness or other threat to life, health or property.

Inter-agency cooperation

The CEACR has stated that “in order to be effective, any labour inspection system should collaborate with other government agencies and public or private institutions that carry out similar activities” and that, if interventions by labour inspectors are to be effective, it is essential for employers and workers to be fully aware of their respective rights and obligations and to ensure that these are observed (ILO, 2011d, paras 213 and 221).

44 See art. VI, section 36, and art. III, section 16, of Act No. 10361 of 23 July 2012, respectively.
46 Article 70(d) of the Basic Conditions of Employment Act (Act No. 75) of 1997, as amended by the Basic Conditions of Employment Amendment Act (Act No. 11) of 2002.
47 Household Workers Act, 2013.
In fact, under Article 5(a) of Convention No. 81, regardless of their precise functions, labour inspectorates must cooperate with other government agencies in order to be effective. This may entail joint analysis of challenges in the sector and areas for action, development of consistent and complementary institutional responses, exchange of information, and joint intervention and follow-up. For example, abuses related to child domestic labour call for complementary responses by different ministries, such as labour and education, as well as by social services at different stages, e.g. identification of at-risk children and follow-up on child labourers rescued from work. In Cyprus, for example, a Labour Disputes Committee has been established to examine complaints by migrant workers, many of whom are domestic workers. The Committee comprises representatives of the Director of the Civil Registry and Migration Department, the Labour Relations Department and the Aliens and Immigration Department of the Police. In China, a conference mechanism has been established in order to coordinate the actions of eight ministries with a view to improving the relevant legislation and providing skills training and channels of legal protection to domestic workers.

Box 16  ■ Inter-agency cooperation in the Philippines

In the Philippines, the law provides that any abused or exploited domestic worker shall be immediately rescued by a municipal or city social welfare officer or social worker of the Department of Social Welfare and Development (DSWD) in coordination with the barangay (district) officials and the proper law enforcement personnel. Abuse means any act committed by an employer or any member of the household against a domestic worker which results or is likely to result in physical, sexual or psychological harm or economic abuse, including threats of such acts, assault and battery, coercion, harassment or arbitrary deprivation of liberty. Economic abuse also includes the withholding of wages or part thereof and any act which induces domestic workers to give up any part of their wage by force, stealth, intimidation, threat or any other unlawful means. Abuses can be reported by victims, their parents or guardians, relatives, social workers, police officers from the Women and Children Protection Desks, local officers, lawyers, counsellors, therapists or healthcare providers, or at least two concerned citizens of the city or municipality where the abuse occurred with a personal knowledge of the offence. No action or suit can be instituted against an officer for lawful acts performed or statements made during rescue operations or during an investigation of a case.

In coordination with concerned government units, the Local Social Welfare and Development Offices provide rescued workers with temporary shelters; counselling; free legal, medical and psychological services; skills training; and other services as necessary.

Private employment agencies are obliged to assist domestic workers in filing a complaint against their employers and to cooperate with government agencies in rescue operations involving abused or exploited domestic workers.

Cooperation can be fruitful for the analysis of complex questions. In Belgium, the national authorities have decided to address jointly the challenge of protecting domestic personnel of foreign embassies and consulates since access to their premises is regulated even more strictly than for private households; according to Article 22 of the Vienna Convention on Diplomatic Relations of 1961, agents of the receiving state may not enter them, except with the consent of the head of the mission. Under a protocol signed by the Ministries of Employment, Foreign Affairs, Foreign Trade, European Affairs, and Social Affairs and Public Health, a committee was formed under the coordination of the Director-General for Social Legislation with a mission to seek appropriate responses to complaints received. Domestic staff working for diplomatic and consular staff or for international civil servants of a certain rank may be especially vulnerable since their employers enjoy diplomatic immunity. To better protect these workers, some EU countries issue them identity cards during a meeting with the national authority, when they are also informed of the applicable entitlements and the procedure for reporting abuses.

Cooperation should provide for the exchange of information. Access to the databases and portals of different institutions can allow labour inspectorates to carry out workplace risk-mapping in order to

50 Article IV, section 36, of Act No. 10,361 of 23 July 2012.
better target inspection visits. This is particularly important in the domestic work sector because of the invisibility of many workers. Social security institutions, civil registries, municipal authorities and immigration offices often have information on domestic workers and their employers which is useful for labour inspection.

When access to a private household must be gained, good cooperation with the judiciary is of growing importance. In Spain, for example, the Act No. 36/2011 of 10 October 2011 (the Labour Courts Regulatory Act) provides that the General Inspectorate of Labour and Social Security may request judicial authorization to inspect home premises, even where the owner objects or is likely to object, provided that the inspection is related to potential administrative proceedings before the social courts or is intended to enable any other inspection or monitoring related to fundamental rights or freedoms. In Uruguay, Act No. 18,065 provides that domicile inspections may be conducted where there is a presumption of non-compliance with labour or social security law or under a warrant issued by a lower court. A report must be sent to the court within 48 hours of the inspection. In coordination with the judiciary, objective criteria for the justification of inspection visits have been developed. In practice, the labour inspectorate conducts most investigations without the need for access to the household. If the inspector observes the presence of a domestic worker, a factual report is drafted and both the worker and the employer are immediately summoned to the labour inspectorate to submit proof of compliance with all legal obligations. In Peru, the court must take a decision on a request for access to a household within 24 hours.51

Collaboration with social partners

Collaboration with social partners tends to be weaker than in other sectors, primarily because of the lack of collective representation in many countries. However some practices developed by trade unions or employers’ organizations may promote compliance and facilitate the work of labour inspectorates, for example, where social partners are involved in the dissemination of information on the sector. In Italy, a summary of the relevant sectoral collective agreement has been published in several languages (Albanian, Arabic, English, Eritrean, Filipino, French, Spanish, and Polish) and in Angola a campaign has been organized jointly with the National Union of Angolan Workers (UNTA) through its National Committee of Women Members of Trade Unions.52

In Tanzania, the Conservation, Hotels, Domestic and Allied Workers Union (CHODAWU) has mobilized with other unions to oversee the recruitment of domestic workers and has initiated cooperation with

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51 Article 67 of the Labour Procedure Law.
52 International workers’ movements are already active in the sector. For example, the International Trade Union Confederation’s 12x12 campaign is a good example of an alliance of workers’ organizations to promote Convention No. 189 (http://www.idwfed.org/en/resources/tanzania-how-to-count-working-time-of-domestic-workers).
recruitment agencies that agree to operate within the law. A placement service has been established and employers are asked to sign a contract with both the worker and the organization, authorizing CHODAWU to visit the house and monitor the working conditions. Also in Tanzania, the International Domestic Workers Network and Conservation, Hotels, Domestic, Social Services and Consultancy Workers Union, with support from the ILO, has developed a tool to count and record time worked and calculate remuneration, which can serve as evidence for labour inspectors. In Hong Kong, the domestic workers’ union has helped to broker agreements between employers and domestic workers by making initial assessments of the number of hours of work and the number of domestic workers that a particular job might require. In Bolivia, the National Federation of Domestic Workers (FENATRAHO), with support from the Government, has developed a campaign that uses radio spots in local languages to reach out to the various regions and organizes Sunday domestic work fairs.

The development of codes of conduct may be helpful in achieving compliance as they provide practical guidance on legal and business-related requirements. Many employers’ organizations have cooperated with workers’ organizations and governments in that regard. For example, in Indonesia, the Association of Domestic Workers Suppliers (APPSI) applies a non-recruitment policy for children under the age of 15, even though the greatest demand from clients is for children aged 13 to 16. In Zambia, the Zambian Federation of Employers, the Zambia Congress of Trade Unions, the Federation of Free Trade Unions, the Ministry of Labour and Social Security and the Ministry of Home Affairs have also prepared a code of conduct to promote decent work in the sector. The Employers’ Federation of the Philippines has developed a code of conduct for employers of domestic workers and has undertaken to uphold the rights of such workers in all their statements, resolutions, documents, procedures and practices. An interesting experiment is under way in that country: the Homeowners Association of Bel-Air, Makati appoints an ombudsperson from among the employers in the neighbourhood, who mediates with other employers and neighbours in of the event of a conflict. In addition, a group of women employers of domestic workers organizes weekly meetings and recreation sessions for the domestic workers of the neighbourhood, calling for the exposure of cases of abuse (ILO, 2008a).

**Cooperation with civil society organizations**

The specific characteristics of domestic work require labour inspectorates to work with civil society organizations such as migrant workers’ organizations, faith-based groups and domestic workers’ networks. In many countries domestic workers have organized, in parallel to trade union movements, by providing solidarity groups, especially for migrant domestic workers. In India, the National Domestic Workers’ Movement has expanded to include more than 2 million members across 21 member States as at 2006. Similar groups have been established by Filipinos in France (Association Mahaarlika) and Brazilians in Belgium (Associação Abraço). Such groups can be useful counterparts to labour inspectorates as they have a deep, pragmatic understanding of the problems faced by domestic workers and the places in which they work; they can also function as an entry point for labour inspectors. Synergies with NGOs such as community watch dogs, which monitor domestic child labour at the local level, and religious congregations can help labour inspectorates to partially overcome the lack of systematized official information on the whereabouts of domestic workers and on cases of abuse. These organizations can also be helpful allies in disseminating information on labour rights. NGOs such as the Domestic Workers Action Group of the Irish Migrant Rights Centre, the Spanish SEDOAC (Domestic Territory) or German organization, Respect, are already training women to defend their rights (European Union Agency for Fundamental Rights, 2011). In Costa Rica, an association of domestic workers (TRADOMES) distributes information leaflets in supermarkets, churches and parks. In the Philippines, Samahan at Ugnayan ng Manggagawang Pantahanan sa Pilipinas (SUMAPI), a broad-based organization of domestic workers, has a network of groups that operate in parks, schools, churches and other trafficking transit points to warn against the risks of human trafficking. They mobilize domestic workers for an annual celebration, held in public parks, and organize trips to social security registration booths, counselling centres and other government agencies (ILO, 2012e).

3.2.4. Approaches to specific areas of concern

The relevance of some rights at work and the vulnerability of certain groups of workers justify a particular approach to labour inspection. Some of these rights are fundamental for the promotion of decent work in any country and sector and have therefore been identified as priorities for action, though not necessarily in the area of domestic work.

Discrimination

Labour inspectorates and other enforcement authorities should be prepared to combat discrimination in employment and in the workplace, including in the domestic work sector. Discrimination can occur during the recruitment process; in respect of remuneration or other working conditions; in the form of harassment on grounds of sex, race, colour or religion; or through discriminatory termination. Cooperation between labour inspectorates and national equality and non-discrimination institutions may be useful in developing ways to address discrimination against domestic workers.

Monitoring potential discrimination during recruitment is challenging as most domestic workers contracted by households are selected informally, often on the basis of personal recommendations and references. Where the intention to hire is advertised in newspapers, on websites or through private employment agencies, labour inspectorates can monitor compliance with non-discrimination legislation more easily. Print and online media may be analysed through sampling or randomly. Awareness-raising measures are particularly important since employers often erroneously believe that considering criteria such as the worker’s sex, ethnic or social origin or religion is legitimate because domestic work takes place “in the private sphere”.

Effectiveness is increased where enforcement agencies target not just employers, but advertisers. In Ukraine, the State Inspectorate for Consumer Rights Protection is empowered to halt the distribution of advertisements that violate the law. Advertisers are also obliged to include in their advertisements disclaimers drawing attention to the obligation to accord equal treatment to all job applicants.56

Medical testing can also give rise to discrimination against domestic workers. Elaborating on the standards contained in other ILO instruments, Recommendation No. 201 specifically addresses this area, recommending that member States should:

- make sure that work-related medical testing respects the principle of confidentiality of personal data and the privacy of the worker;
- prevent any discrimination related to such testing;
- ensure that domestic workers are not required to undertake HIV or pregnancy testing or to disclose HIV or pregnancy status.

56 Presidential Decree No. 386/2011 of 6 April 2011.

Box 18 ■ Domestic workers: Organizing from the local to the international level

In the United States, Domestic Workers United (DWU),55 an “organization of Caribbean, Latina and African nannies, housekeepers and elderly caregivers in New York”, was founded in 2000 and, in 2007, became a founding member of the National Domestic Workers Alliance (NDWA). Among other actions, DWU advocated for the extension of basic labour rights to the sector. Those efforts were successful: the New York Domestic Workers Bill of Rights was signed into law on August 3, 2010. That same year, DWU represented NDWA as a founding member of the International Domestic Workers Network. DWU provides its members with training opportunities and free legal assistance through a Domestic Workers Legal Clinic, organized in partnership with the Urban Justice Center.
Owing to their weak individual and collective bargaining power, domestic workers in many countries find it difficult to negotiate wages above the legal minimum, even where a minimum wage for domestic workers exists. There is evidence that women and members of disadvantaged groups, such as ethnic minorities, indigenous peoples and migrant workers, are more likely than other workers to be underpaid. Labour inspectorates can help to address wage discrimination based on sex, race or national extraction by including minimum wage compliance in their strategies for the domestic work sector.

Another entry point for combating wage discrimination is promotion of the principle of equal remuneration for women and men for work of equal value; this is particularly relevant to domestic work, a sector affected by gender-based undervaluation (ILO, 2011b). Established in Convention No. 100 and in the national legislation of most countries, this principle specifies that working women and men are entitled to equal remuneration if they perform the same jobs, but also where their jobs are different but of equal value (ILO, 2013b, pp. 29 ff. and 94). In the case of domestic work, it is important to bear in mind that a high level of horizontal occupation segregation along gender lines and a tendency to pay higher wages for male-dominated occupations (such as driver, gardener or guard) than for female-dominated occupations (such as housekeeper or childcare provider) remains prevalent within the sector.

Labour inspectors can promote equal pay for work of equal value by incorporating information on the issue into their advisory and information activities and helping households to establish remuneration for different occupations based on objective criteria, such as qualifications, responsibility, effort and working conditions. Inspectors also can pay attention to such matters when inspecting households that employ both male and female domestic workers. Examples exist in other sectors, where labour inspectors work together with specialists from public employment services (Portugal) to determine the value of different occupations so that an objective wage can be established for work of equal value.

**Child labour**

Convention No. 189 requires ratifying member States to protect children from child labour in domestic work by setting a minimum age for domestic workers that is consistent with the provisions of the Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999.
(No. 182) and is not lower than that established by national laws and regulations for workers generally. Children below the age of completion of compulsory schooling and, in any event, below 15 years of age should not be employed. National legislation and regulation may allow children below the minimum age to carry out “light work”.57

Recommendation No. 201, paragraph 5(1), states that “Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should prohibit and eliminate such child labour”. A number of countries, including Brazil59 and Colombia,60 consider that domestic work or some forms thereof is hazardous for children and have therefore included it among the forms of work prohibited under Convention No. 182.61

In Panama, domestic work is recognized as a potentially hazardous activity, especially when it involves long working hours, limited rest, and care of persons or property.62 In Togo, children are prohibited from carrying out any form of domestic work in urban centres on the grounds that it is hazardous.63

Box 20  ■ A checklist for labour inspectors: Equality and non-discrimination at work in China

Labour inspectors can prepare to assess potential discrimination against domestic workers by asking questions such as:

- When new domestic workers are recruited, are job applicants assessed on their ability and capacity to do the job, or according to whether the applicant is a man or a woman, is single or married, or belongs to any ethnic group?
- Does the employer require tests for pregnancy or HIV?
- Do male and female domestic workers performing the same work or work of equal value receive equal remuneration?
- If there is different remuneration, has the employer justified these differences through objective criteria that are unrelated to race, colour, sex, religion, political opinion, national extraction or social origin, or any other prohibited ground of discrimination as defined in national legislation?
- Are any bonuses and incentives provided to all domestic workers in a non-discriminatory manner?
- Do employers of domestic workers provide men and women with the same employment conditions in terms of labour contract, protection against hazards, and conditions for termination of employment?
- Do employers of domestic workers offer maternity leave for women and paternity leave for new fathers as provided by law? Are female and male workers provided with opportunities to reconcile work and family life?
- Are female domestic workers treated less favourably on the grounds of marital status or pregnancy?

Source: adapted from ILO, 2011e

57 Article 2(4) of Convention No. 138 states that “a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years”.

58 “Light work” for persons 13 to 15 years of age is defined as work that is “not likely to be harmful to their health and development; and […] not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes […] or their capacity to benefit from the instruction received” (Convention No. 138, Art. 7(1)).

59 Decree No. 6.481, of 12 June 2008.

60 Resolution No. 1677 of 20 May 2008.

61 Article 3(d) of Convention No. 182 states that “the term ‘the worst forms of child labour’ comprises […] work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”. Recommendation No. 190 recommends that that definition should be considered to include “work under particularly difficult conditions, such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer”.


When regulating the working and living conditions of domestic workers, countries should pay particular attention to the needs of workers under the age of 18 and above the minimum age of employment as defined by national law and regulations and should take measures to protect them by:

- Strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
- Prohibiting night work;
- Placing restrictions on work that is excessively demanding, whether physically or psychologically;
- Establishing or strengthening mechanisms to monitor their working and living conditions.

Other international standards that focus on the protection of child workers include the Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78), which provides that children and young persons shall not be employed in non-industrial occupations without a thorough medical examination. In Portugal, the employment of workers under the age of 18 is permissible only if the employer has assessed the occupational risks of the workplace and has submitted the worker to a medical examination with the consent of the parents or legal representative prior to the beginning of the employment relationship or during the following 15 days.

Labour inspection is a core government service designed to monitor compliance with the law, prevent the unlawful recruitment of children, and protect legally employed young workers from abuses, as shown below. Action must take into account the multi-dimensional causes and dynamics of the problem and determine how to deal with the many stakeholders involved. Strategy-setting should be shared and knowledge-based and should reflect the options provided by national policies for preventing and combating child labour. To the extent possible, operational labour inspection planning and intervention should focus on community-based approaches.

In some countries (including Colombia, Costa Rica, Honduras, Mexico, Panama, South Africa, and Vietnam), the law provides useful tools for monitoring compliance, for example, by requiring employers of domestic child workers to keep a register showing the worker’s birth date, assigned tasks, number of hours worked, wages, and results of health checks. Other countries, such as Ecuador, require certification that the worker has completed compulsory schooling. In Finland, employers are required to keep records for domestic workers under the age of 18.

Other countries (including Finland, Portugal, and Venezuela) require employers to report to the appropriate authority the admission of a child worker (Ramirez-Machado, 2003). In Cambodia, the Ministry of Labour must be notified of the employment of domestic workers under 15 years of age. The employer and the parents are jointly and individually liable for such registration prior to employment. In Paraguay, employers must maintain and submit to the Advisory Council for the Rights of Children and Adolescents (CODENI) information on the names and addresses of employed adolescents and their parents, guardians or persons responsible for them; their place of residence; the date on which the workers entered service; the duties that they perform; their remuneration, work timetable and social security registration number; the educational establishment that they attend; and their class timetable (ILO, 2012d, pp. 91-93).

One particularity of inspection visits is that they must be organized in such a way as not to endanger the safety of the child. If there is sufficient evidence of involvement in any of the worst forms of child labour, the labour inspector should have the prerogative to put an immediate end to the situation and refer the case to institutions for the protection of children’s rights so that the victim can receive all required assistance. Adequate sanctions against the employer and mechanisms for the restoration of children’s rights should also exist, notwithstanding the role of the criminal authorities.

Measures other than labour inspection, such as maintaining or re-establishing contact between children and their close relatives and encouraging child domestic workers to return to or stay in school, should

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64 Convention No. 78, art. 2(1). See also the Medical Examination of Young Persons Recommendation 1946 (No. 79).
66 Labour inspectorates could, for example, “conduct a mapping exercise to identify persons or groups who are morally influential and who can have access to private household owners in order to sensitize them on the issue” and approach them as possible partners to influence compliance (See ILO, 2007b, p. 15).
also be in place in order to ensure the protection of child domestic workers (ILO, 2013e, p. 79). This requires referral to other functions of the system of labour administration and to ministries of education and social protection. The judiciary should be called upon to punish the worst cases of abuse.

Cooperation with community-based groups and NGOs is important for the protection of vulnerable workers, such as children, as these are key to changing the attitudes of workers and employers. Points of contact with workers outside the household might include, for example, parks, markets, shops, places of worship and schools. In Phnom Penh, Cambodia, the Vulnerable Children Assistance Organization (VCAO) reports to government institutions the child domestic workers at risk of abuse whom they encounter during their awareness-raising activities. In countries with a high incidence of child domestic labour, child protection committees or other community watchdogs may monitor the activities of recruiters through community vigilance. In Tanzania, Wote Sawa, a youth-led group, has rescued and counselled abused child domestic workers and worked with local officials to ensure their protection (ILO, 2013e, p. 72).

As with other vulnerable workers, labour inspectors need to make use of soft skills in approaching child domestic workers, especially where there are indicators that suggest trafficking or other kinds of violence in the household as the children will be suspicious and afraid to cooperate. It should be borne in mind that child workers may find themselves in unfamiliar surroundings and separated from their families and friends and may lack basic education (ILO, 2013e, pp. 28-29). Child workers must be treated with the same respect as adults; their privacy must be respected and their answers cannot be forced. Labour inspectors should explain who they are and why they are there. If possible, the interview should take place in a neutral, non-intimidating environment. Interaction with both employers and children should be non-confrontational.

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### Box 21: Interviewing children engaged in domestic work

The following points need to be considered when interviewing children engaged in work.

**How to set the climate:**

Create a conducive physical climate by:

- conducting the interview in a neutral setting, preferably a place where the child feels safe and comfortable;
- asking if the child prefers to talk in the presence of someone, such as a sibling or a friend;
- conducting the interview out of sight and earshot of the employer and members of the household, who may influence the way in which the child acts and responds to the questions;
- telling the child that there is no need to stop working during the interview;
- placing oneself at the same level as the child (if he/she is sitting on the floor, sit down beside him/her);
- if the child moves around while working, accompanying him/her;

Create a conducive psychological climate by:

- treating the child as a person with rights to be respected;
- starting the interview with small talk to make the child feel at ease and beginning with a conversation about music, movies, sports or pop stars so that the child feels relaxed and more willing to share other information;
- continuing with neutral topics, such as age, place of birth and chores before advancing to issues that may be emotional for the child;
- building trust by maintaining a warm, friendly and caring approach;
- listening for meaning behind the words and for what is expressed through facial expressions, gestures and attitude;
Migrant domestic workers

The Domestic Workers Convention provides for special protection of migrant domestic workers and calls for cooperation between origin and destination countries in ensuring respect for their rights.

Box 22  Mechanisms for the protection of migrant domestic workers (Recommendation No. 201)

Recommendation No. 201 shows how member States can put in place a system for the prevention of abuses against migrant workers and the protection of their rights. The following are the examples of how labour inspection or other compliance mechanisms can be involved:

- national hotlines for migrant workers in need of assistance. These hotlines should provide information and receive complaints and should be available in several languages, particularly the ones spoken by migrant communities in the country;
- establishment of public outreach services to inform domestic workers, in languages accessible to them, of their rights, relevant laws and regulations, available complaint mechanisms and other legal remedies, and protection against crimes such as violence, trafficking in persons and deprivation of liberty;
Under Article 8(1) and (2) of the Domestic Workers Convention, ratifying member States must “require that migrant domestic workers who are recruited in one country to work in another receive a written job offer or contract of employment that is enforceable in the country where the work is to be performed [...] prior to crossing national borders [unless they] enjoy freedom of movement under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas”. The Convention also calls on member States to cooperate in ensuring the application of its provisions.

The protection of migrant workers can benefit from the signing of cooperation agreements between sending and receiving countries. One such example is the agreement between the Philippines and Qatar of 10 May 1997, under which the employment contracts of Filipinos working in Qatar must contain terms and conditions of employment consistent with the Qatari Labour Act. Such contracts must also be certified by the Qatari Department of Labour and be verified and authenticated by the embassy or consulate of the Philippines in Qatar. Contracts concluded in the Philippines are subject to attestation by the Philippine Overseas Employment Administration and authentication by the embassy or consulate of Qatar in the Philippines. There is also good cooperation between Indonesia and the Republic of Korea, where a government agency in Indonesia explains to workers departing for the Republic of Korea the content of the draft contract sent by the Korean employer (ILO, 2012d).

Labour inspection is at the core of the protection of migrant workers’ rights in many countries, acting at various levels:

**Before departure:** The labour inspectorate provides information about the conditions of employment, applicable legislation and grievance mechanisms in the destination country. This can be done through the embassies or by establishing cooperation with the labour inspectorates of the destination country.

**While in the destination country:** Labour inspectorates provide the same level of protection to migrant and national workers through common prevention and enforcement measures and inform employers and workers of the applicable conditions of work.

**After return to the country of origin:** The labour inspectorate of the country where the work was performed establishes communication channels with its counterparts there with a view to retrieval of the domestic worker’s entitlements. This may be handled through bilateral protocols.

The following diagram illustrates how labour inspection can play a decisive role in the prevention of abuses and the protection of migrant domestic workers’ rights:
It is quite difficult for migrant workers to retrieve their entitlements once they have returned to their countries of origin, especially after expulsion. To avoid this problem, paragraph 22 of Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (hereinafter EU Directive 2009/52) extended the option to grant temporary stay during legal proceedings to include not only victims of human trafficking, but also victims of particularly exploitative working conditions.

Labour migration has long been a particular challenge for labour inspectors since the respective roles of labour inspectorates and police or immigration authorities are not always clear. In dealing with migrant domestic workers who have entered or stayed in the country unlawfully, labour inspectors are torn between their mission to protect workers while engaged in work and their capacity as civil servants, which obliges them to report such cases to the immigration authorities with the potential deportation of the worker.67 In fact, protection of the rights of migrant workers is challenging for labour inspectors in many ways. In some countries, employers are required to report “runaway” domestic workers to the labour inspectorate so that they can be returned to the household. Even where there is a clear distinction between the mandates of labour inspectors and immigration officers, labour inspectorates in some countries are unable to protect the rights of migrant workers if they are undocumented. Moreover, even when labour inspectors are able to redress the rights of migrant workers, they cannot, in fact, be recovered if the affected workers have been expelled from the country owing to a lack of operational administrative or judicial cooperation mechanisms between the origin and receiving countries (ILO, 2013f). The establishment of contact with migrant domestic workers is challenging for many other reasons as well: because they tend not to present complaints, cases of abuse remain hidden, and those who are undeclared are part of an invisible workforce; thus, labour inspectorates do not know who they are, where they work or what kind of working conditions they face.

67 In its 2008 observation on the application of Convention No. 81 in France, as well as in the 2006 General Survey on Labour Inspection (para. 150), the CEACR stresses that no workers should be excluded from protection on account of their irregular employment status and that the functions of labour inspectorates are intended to secure conditions of work that are in accordance with relevant legal requirements rather than concerning itself with the lawful nature of their employment. It also stresses that the mandate of labour inspectors should be distinguished from those of other bodies in order to maintain a climate of confidence between labour inspectors and workers, including undeclared ones. See: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2298193.
Communication can also be difficult owing to language and cultural barriers that must be understood and addressed. Many labour inspectorates are responding to these challenges by:

- Enhancing the language skills of labour inspectors; in countries with large foreign workforces, such as those of the Middle East, labour inspectors often speak at least some of the languages of the major migrant communities;
- hiring interpreters to accompany the inspectors on their visits;
- using call centres or online translation tools. In Ireland, for example, inspectors can use their cell phones to call a hotline that facilitates interviews with foreign workers.

Abuses can be prevented by empowering migrant workers with knowledge of their entitlements. This can be achieved through awareness-raising or, as with Ireland and Jordan, making hotlines and call centres available, preferably outside regular working hours.

Preventive practices also include establishing preliminary contact with employers. In Singapore, the Ministry of Manpower requires anyone who has employed four different foreign domestic workers in one year and applies for a fifth such permit to attend an orientation programme. For a sixth permit, the employer must be interviewed by a Ministry official (ILO, 2012d).

There are numerous examples of initiatives designed to give migrant workers access to compliance mechanisms. In the United States, they are entitled to file complaints for unpaid wages and violations of other labour rights under federal law, regardless of their employment status. Federal law also forbids employers from reporting workers to immigration authorities in retaliation for the exercise of their rights. Similarly, the Inter-American Court of Human Rights has ruled that all migrants are entitled to the protection of labour law, regardless of their status in the country of employment.68 In the EU, “Member States should ensure that claims are or may be lodged and that mechanisms are in place to ensure that recovered amounts of outstanding remuneration are able to be received by the third-country nationals to whom they are due” and should consider “…enabling a competent authority to bring proceedings against an employer for the purpose of recovering outstanding remuneration”69.

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68 Inter-American Court of Human Rights, Advisory Opinion OC-18/03 of September 17, 2003, requested by the United Mexican States: Juridical Condition and Rights of Undocumented Migrants, p. 44: “Basic labor rights are guaranteed to all workers, regardless of whether or not they are legally resident in the country”.

In some cases, the obligation to verify workers’ immigration status extends to the employer. In the EU, there are minimum requirements to prevent the employment of illegally-staying third-country nationals and employers must ensure that third-country nationals have a valid residence permit or other authorization for stay prior to recruitment. They are also expected to notify the authorities of the employment relationship.\(^70\)

In the region, sanctions for employers who recruit workers with irregular status from third countries have become stricter since the adoption of EU Directive 2009/52/EC. In most of these countries, the use of an irregular migrant workforce gives rise to criminal responsibility for both employers and undeclared migrant workers. Employers are responsible for paying any outstanding remuneration, as well as taxes and social contributions, for the entire period of employment of illegally employed migrant workers.

Measures have also been taken to promote the legalization of undeclared migrant workers. In Belgium, France, Italy and Portugal, several programmes have been implemented with the involvement of labour inspectorates; these include providing information to migrant workers and conducting visits to promote the formalization of contracts (ILO, 2013f). Regularization initiatives have been successful in Poland, where the Government offered amnesties for immigrants with irregular status in 2003, 2007–2008 and 2011. The Act on Legalization of Stay of Some Foreigners in the Territory of the Republic of Poland, which came into force on 1 January 2012, allows irregular migrants to apply for a residence permit with certain conditions, such as a continuous, uninterrupted stay since, at the latest, 20 December 2007. Foreigners awarded such permits are allowed to work. In Italy and Spain, some 500,000 irregular third-country nationals have been regularized since 2002 (European Union Agency for Fundamental Rights, 2011). In 2009 and 2012, Italy conducted regularization campaigns whereby migrant workers could obtain a residence permit if they had a regular employment contract and the employer paid a lump sum penalty (ILO, 2013c). In France, a temporary regularization scheme for domestic migrant workers ran from July 2010 to March 2011.

### Forced labour

The ILO has emphasised the importance of labour inspectorates and their mandate to monitor the implementation of labour law and identify violations linked to forced labour.\(^72\) It has requested governments to ensure that these services are allocated sufficient resources to carry out their functions and to travel rapidly, effectively and safely throughout the national territory, including remote areas where workers are more likely to be exploited (ILO, 2012f). This recommendation applies to domestic workers, many of whom are victims of forced labour.

Labour inspectorates are uniquely placed to combat forced labour as they can access workplaces and take immediate action, even though their access to private households is limited and less straightforward than in other sectors. By helping to address and correct abuses, they can prevent exploitative situations from degenerating further into coercive forced labour practices.

Law enforcement is essential in protecting the human rights of victims of forced labour, punishing the perpetrators and deterring would-be offenders. Article 25 of Convention No. 29 requires that the

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70 Ibid.


72 Article 2(1) of the Forced Labour Convention, 1930 (No. 29) defines “forced labour” as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”
prohibition of forced labour be made effective through the imposition of penalties that are both adequate and strictly enforced. In that regard, the CEACR has also noted that sanctions consisting of fines or very short prison sentences do not reflect the seriousness of the offence and are not dissuasive (ILO, 2012f). In addition, even if the supervisory role of labour inspectorates is somewhat restricted in the domestic work sector given the limits to the inspection visit, labour inspectors are still the enforcement officers with a mandate to protect and (depending on the country) redress the rights of victims of forced labour.

The complexity of forced labour cases and the need to involve different institutions dealing with prevention, prosecution and protection call for a complementary and appropriate approach by criminal justice and labour institutions in collaboration with employers’ and workers’ organizations, as highlighted by the International Labour Conference in its framework for action for the effective and universal respect, promotion and realization of fundamental principles and rights at work for the period 2012–2016. Cooperation with the judiciary is particularly important as many forms of forced labour are criminalized under national legislation. In Singapore, for example, according to section 73 of the Penal Code, an employer or member of the household who confines a domestic worker to the home is subject to a fine or to up to three years’ imprisonment, depending on the length of the confinement.

In many countries, the labour inspectorate already has a clear mandate to enforce the prohibition of forced labour and may even play a leading role in that effort. In Brazil, labour inspectors and prosecutors have been actively involved in investigating and prosecuting slave labour cases before the labour courts for many years. In Malaysia, under the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007, as amended in 2010, labour officers may exercise the same powers of enforcement as any police officer and, in fact, have investigated and assisted in the prosecution of criminal cases involving trafficking for labour exploitation. In India, the primary enforcement responsibility regarding bonded labour lies at the district level with the Vigilance Committee and the District Collector, who may authorize other officials involvement. Labour officers also provide rehabilitation assistance to bonded labourers after their release.

In other countries, the specific mandate of labour inspectors to combat undeclared work may also provide an important entry point for action against forced labour. In France, labour inspectors and prosecutors, assisted by the police, conduct joint visits to combat undeclared work and pinpoint forced labour cases with immediate detention of criminal offenders. Access to private households in such cases is facilitated as a magistrate is part of the inspection team.

Although there is a growing trend towards cooperation among labour inspectorates, immigration authorities and police forces in the detection of forced labour, greater attention should be paid to mechanisms for cooperation with other stakeholders, such as NGOs and migrant workers’ associations, which are well placed to identify cases of severe exploitation and forced labour that require enforcement intervention. The particular case of domestic work is paradigmatic as the closer to the field the organizations are, the greater the likelihood that they will hear of forced labour victims by word of mouth or through neighbourhood networking.

When cases of forced labour linked to human trafficking are detected, the role of labour inspectors in dealing with victims, within the limits imposed by the labour inspection mandate established in Convention No. 81, should be consistent with the recommended principles and guidelines on human rights and human trafficking of the Office of the United Nations High Commissioner for Human Rights (OCHCR),73 according to which victims should be:

- fully informed about possible options for cooperation with authorities;
- eligible to stay in the country, when migrant, at least while necessary for prosecution of the perpetrators;
- respected as to their privacy;
- informed about compensation for their entitlements, including to in-debt wages, and how to enforce their rights.

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For example, in the United States (Domestic Workers United, 2010) and Portugal, immigrant victims of trafficking are eligible for visas and employment authorizations, provided that they cooperate with enforcement agencies to assist in the investigation and prosecution of the criminal activities in question. Even when such matters do not fall within their functions, labour inspectors should be knowledgeable about the applicable legal provisions so that domestic workers who have been trafficked for purposes of forced labour can be informed of their rights once contact has been established.

Labour inspectors also need to be aware of the indicators of forced labour, which are applicable to the domestic work sector; however, limits on access to the household may make it more difficult to gather information. Some indicators call for direct observation of the workplace, while for others an interview with the worker will suffice. Indicators requiring an inspection visit may be reported to the courts as justification for an order granting access to the household. As most countries have criminalized forced labour, the police may be involved, in which case the labour inspectors’ role is to protect the workers’ rights, such as wage entitlements.

Soft skills are important for labour inspectors to collect evidence on the indicators of forced labour, especially when contacting the possible victim, the employer or any other person in contact with the victim. Labour inspectors should be trained on how to read verbal and non-verbal codes and to conduct effective interviews.

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Box 25 Checklist of indicators of forced labour (adapted from ILO, 2008b)

The following list of indicators can help labour inspectors to detect victims of forced labour:

**Physical violence**
- Does the worker show any sign of maltreatment, such as bruises?
- Does the worker show signs of anxiety or nervousness?
- Are there any other signs of mental confusion or traces of violence?
- Does the employer demonstrate violent behaviour?
- Does the employer or any member of the household adopt a hostile communication style in speaking with the worker?

**Restriction of freedom of movement**
- Is the worker locked up at the workplace?
- Is the worker forced to sleep at the workplace?
- Can the worker leave the workplace outside working hours?
- Must the worker request authorization to leave the household?
- Are there visible signs which indicate that the worker is not free to leave the workplace?
- Can the worker answer or make phone calls?
- Is the worker entitled to have and use a cell phone?
- Is the worker entitled to open the door?
- Is the worker entitled to talk to anybody who is not part of the household?

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Threats
- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Does the worker report any threat?
- Is there any sign that the worker is subject to racketeering or blackmailing (with or without the complicity of the employer)?
- Does the worker show anxious behaviour?
- Is the worker forced to work excessive (unpaid) overtime or to carry out tasks that he or she prefers not to do, and are there threats in case of refusal?
- Is the worker in an irregular situation (e.g. migrant workers) and threatened with denunciation to the authorities?

Debt servitude and other forms of bondage
- How was the worker recruited? Does the worker have to repay high recruitment or transportation fees? If so, are these deducted from the salary?
- Is the portion of remuneration in kind for accommodation or food excessive? Did the worker agree to receive part of the remuneration in kind?
- Has any loan or advance that makes it impossible to leave the employer been paid?
- Is the work permit bound to a specific employer? Has there been any complaint about the employer in the past?

Withholding of wages or non-payment of wages
- Does the worker have a regular employment contract? If not, how are wages being paid?
- Is there any illegal wage deduction?
- Has the worker received any wage at all?
- What is the amount of the wage by comparison with national statutory requirements?
- Does the worker have access to his or her earnings?
- Has the worker been deceived about the amount of the wages?
- Are wages paid on a regular basis?
- Is there any evidence of payment of wages?

Retention of identity documents
- Are the worker’s identity documents in his or her possession? If not, are they in the employer’s possession? Where? Why?
- If asked to show a passport or other identity document, can the worker do so?
- Does the worker have access to these documents at all times?

Occupational safety and health
Convention No. 189 establishes that all domestic workers are entitled to a safe and healthy working environment and that member States should take effective measures to ensure their occupational safety and health, with due regard for the special characteristics of domestic work. The Convention includes
provisions aimed at providing a healthier working environment; for example, it calls for normal hours of work and establishes minimum periods of weekly rest since fatigue can lead to accidents or be hazardous to workers’ health. To that end, it is particularly important to establish the maximum number of hours per week, month and year that a domestic worker may be required to be on standby or to work at night, the compensatory rest period if the normal period of rest is interrupted by standby, and suitable periods of rest during the working day for meals and breaks.

All countries should take steps to ensure that work-related hazards and risks are eliminated or minimized, so far as reasonably practicable, in private households employing domestic workers. The general prevention principles are applicable to domestic work as to any other sector. They are based on the identification of hazards in the workplace and the assessment of risks, taking into account the material conditions of work and the interaction between these conditions and the individual characteristics of workers, in order to take steps to prevent or control those risks. Employers must be given basic information on risk management in order to fulfil their responsibilities with regard to the prevention of occupational injuries and diseases and the provision of suitable workplaces. While the dissemination of such information is one of the primary tasks of labour inspectors, they cannot replace employers, who are responsible for preventing and monitoring such risks.

In many regions and countries, this obligation is clearly established by law. In the EU and New Zealand, employers have the primary responsibility for identifying hazards and assessing the risks to which workers are exposed. In Portugal, employers are required to take all necessary measures to ensure that the workplace, tools, products and work processes do not present unprotected hazards that pose an increased threat to the health or safety of domestic workers. In that connection, they are obliged to instruct workers in the safe operation of equipment; repair working tools on a regular basis; identify receptacles containing toxic substances and instruct workers in their proper use; provide them with personal protective equipment, such as uniforms, gloves and goggles; and purchase a private insurance policy to cover work injuries.

Illness

Like any employee, live-in workers may fall ill, whether or not the illness is work-related. In some countries (Belgium, and Sweden), live-in domestic workers suffering from a disease are required by law to be provided with normal accommodation for as long as necessary for their health. In others, if the employer does not wish them to remain in the household (Bolivia and Honduras) or if the worker so requests (Denmark), they must be transferred to a hospital. In still others (Argentina, Bolivia, Mexico and Viet Nam), employers are liable for the medical, surgical, pharmaceutical and hospital costs arising from work accidents (Ramirez-Machado, 2003).

Living conditions

The living conditions of live-in domestic workers should meet minimum standards for comfort and privacy. In many countries (Argentina, Mexico and the Philippines), the national legislation does not clearly establish these standards whereas other countries have developed more detailed rules. These generally concern the size and conditions of the worker’s room; safety measures, such as fire protection; privacy (number of workers per room, ability to lock the door from the inside); minimum furniture, bed linens and towels; and access to toilet and washing facilities (Austria, Denmark, France and South Africa). In Hong Kong, China, the Schedule of Accommodation and Domestic Duty attached to the Standard Employment Contract for domestic workers recruited abroad includes examples of unsuitable accommodation. In Denmark and the United Republic of Tanzania, the law grants labour inspectors competence to supervise accommodation standards (Ramirez-Machado, 2003).

75 In Cyprus, for example, the Department of Labour Inspection issued a leaflet entitled “safety and Health of Domestic Workers” to inform employers of domestic workers about their legal obligation to provide a written risk assessment.

76 See the Workers Housing Recommendation, 1961 (No. 115).

77 The Filipino Domestic Work Act (Act 10361) and its implementing rules merely mentions that the employer must provide humane sleeping arrangements with due respect for privacy. They do, however, stipulate that workers’ beliefs and cultural practices must be respected.
Box 26  ■ Minimum living standards for live-in domestic workers

Recommendation No. 201 suggests that, when provided, accommodation and food should include the following (taking into account national conditions):

- a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- access to suitable sanitary facilities;
- adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household;
- meals of good quality and sufficient quantity, adapted, to the extent reasonable, to the cultural and religious requirements, if any, of the worker.
The following is a summary of measures that could be taken at the national level in order to improve the working conditions of domestic workers and enact legislation protecting them.

**LEGAL COVERAGE**

- Member States should consider ratifying Convention No. 189 and bring their national legal frameworks and institutional practices into line with the principles laid down therein;
- Efforts should be made to ensure that the rights of domestic workers are equivalent to those of other workers, with due consideration for the characteristics of the sector. Legislation should clearly establish rights and obligations, be easily accessible by domestic workers and their employers, and provide deterrent sanctions for violations.
TACKLING INFORMATION DEFICITS

- Large-scale awareness-raising campaigns involving State institutions, social partners and all sectors of civil society should be conducted. Domestic workers and their employers should be approached through various channels, with a particular emphasis on the media and specific occasions where domestic workers gather together, such as national holidays or other festivities. Information on the rights and obligations of domestic workers and their employers should be clear, simple and available at all times in the languages of migrant workers through call centres, hotlines, and websites. Information on existing complaint mechanisms and access to them should also be available;

- Labour inspectorates and other enforcement services should provide model labour contracts, payslips, working time registries and other documents to help employers and domestic workers to better record the conditions of employment, organize the work and, above all, help workers to obtain evidence in the event of abuse.

INCENTIVES FOR COMPLIANCE

- Preventive measures, such as financial incentives for declaring domestic workers for purposes of social security, should be considered and administrative burdens on employers should be reduced as appropriate, including by making it easier for them to register and declare workers and to pay their social contributions through expedited and accessible procedures.

ACCESS TO COMPLAINT MECHANISMS

- Domestic workers should have free access to a complaint mechanism;

- A mechanism for the retrieval of domestic workers’ rights, and particularly their wage entitlements, should be established. Depending on the national system, this function could be assigned to the labour inspectorate, a dispute resolution mechanism and the courts. Legal counselling should be available for domestic workers who wish to file a claim;

- Mediation and conciliation services should be available to both domestic workers and their employers;

- Access to justice should be facilitated by providing free legal assistance and expedited procedures.

MANDATE OF LABOUR INSPECTORATES

- The mandate of labour inspectorates should include domestic work with no exceptions except those required by the specificities of the sector, namely, the limitations on the inspection visit imposed by the privacy of the household. Depending on national circumstances, all terms and conditions of employment should be gradually covered by labour inspections.

COORDINATION, COLLABORATION AND COOPERATION

- An integrated response to the problems faced by domestic workers should be envisaged through strong coordination and supervision under a central authority;

- An effective labour inspection policy with a high level of commitment from governments, translated into an enabling institutional and legislative framework, should be established;

- The impact of inspection visits should be enhanced through better planning. Implementation could entail the design and use of new tools for preparing, conducting and following up on inspections and the establishment of networks with all stakeholders who may have information on the conditions of work of domestic workers, such as trade unions, NGOs and religious and neighbourhood organizations;
Views on inter-agency cooperation should be consolidated and set out in agreements and joint strategies;

Special importance should be attached to tripartite consultation and collaboration with social partners;

Relations between labour inspectorates and the judiciary should be strengthened and accessible communication channels established, where possible with the use of information and communication technologies, in order to facilitate swift visits to the household where justified by the facts or by indicators of abuse or where the observation of working conditions is necessary in order to monitor compliance with the law.

STRATEGIES, METHODS AND TOOLS OF LABOUR INSPECTION

After analysing the features of the domestic work sector in the country, a labour inspection strategy should be established and methods identified, tested and used in order to better protect workers’ rights. These approaches should comprise a strong advocacy component, alternatives to inspection visits and mechanisms to facilitate access to the workplace where strictly necessary, including by improving relations with the judiciary and developing expedited channels for authorization of access;

A system of household visits to assess the living and working conditions of live-in workers may help to identify potential problems at the source and to advise employers prior to commencement of the employment relationship;

Depending on the national system, requiring that, upon a domestic worker’ admission, a declaration must be filed with the labour inspectorate, local government or other public bodies, as well as with the social security system, may help to keep track of the number of workers and the households in which they work and to facilitate monitoring of their working conditions. Requiring written contracts and registries of working hours and payments may also promote formalization of the sector and protect the rights of domestic workers by providing evidence to be used in the event of a dispute or an inspection;

Information technologies should be used more widely in the prevention, detection and publicizing of abuses. In particular, databases should be linked in order to identify infractions in the areas of social security, taxes, and labour law, including occupational safety and health. Information and communication technologies should be used to provide automated intelligence to inspectorates by crossing indicators and parameters, thus improving data quality and the capacity to map potential instances of non-compliance. Preferably, labour inspectors should have access to these information systems when out of the office by using portability options.

PREROGATIVES OF LABOUR INSPECTORS

The prerogatives of labour inspectors in the domestic work sector should be the same as for other sectors with the exception of free access to the workplace, where the household’s right to privacy must be respected. These prerogatives should include, at a minimum, the authority to order the immediate stoppage of work conducted under conditions that pose a serious threat to the life, physical safety or psychological integrity of the domestic worker;

Access to the workplace should be subject to the consent of the household or to judicial authorization. Depending on national legislation, expedited procedures should be envisaged for the most serious abuses involving forced labour, child labour and sexual harassment.

SANCTIONS

Ineffective sanctions are a major obstacle to law enforcement. Labour inspectorates should make better use of their role in informing the ministry of labour of ways to adopt and improve on international best practices. Procedures and liability mechanisms should be strengthened and labour inspectorates provided with deterrent enforcement capacity through a combination of administrative and penal sanctions appropriate to the national context.
SPECIALIZATION

- In light of the differing scope and complexity of labour inspectorates, the possibility of setting up specialized groups or units should be considered.

TRAINING

- Labour inspectors dealing with domestic work should receive adequate, regular training in, among other things, soft skills and the applicable legislation.

CHILD DOMESTIC LABOUR

- Labour inspectorates should develop specific approaches for child domestic workers by involving all relevant stakeholders in the system of labour administration, the education system, NGOs, parents’ associations and other relevant bodies;
- Preventive measures, such as mechanisms for school referrals to the labour inspectorate in cases of early school-leaving, should be established;
- The labour inspectorate’s role should include the prevention and detection of cases of children engaged in domestic work, as well as follow-up through cooperation with the appropriate institutions in addressing the underlying causes of child domestic work so that appropriate educational and social assistance responses can be developed;
- Labour inspectors should be empowered to order an immediate halt to the use of child domestic work where the provisions of national law concerning the minimum age for admission to employment or the worst forms of child labour have been violated. Severe sanctions should be established for such cases.

MIGRANT DOMESTIC WORKERS

- Migration procedures should be regulated and simplified and their costs decreased so that migrant domestic workers can enter through regular migration channels;
- Migrant workers should be informed about their terms and conditions of employment, their entitlements and the complaint mechanisms available in the destination country prior to departure;
- Migrant domestic workers should receive the same level of protection from labour exploitation as any other worker, regardless of their status in the country. Labour inspectors should take a human-rights-based approach to migrant domestic workers. All stages of migratory flows should be covered through the establishment of bilateral agreements between the labour inspectorates of receiving and sending countries. In the destination country, labour inspectors should be able to communicate with migrant workers in the latter’s language and communication channels should be established with embassies and consulates;
- Labour inspection policies should clarify that the role of labour inspectors is to protect the rights of workers, not to enforce immigration law.

FORCED LABOUR

Labour inspectors should be trained to recognize indicators of forced labour. Cooperation with the police and judiciary should be envisaged and severe sanctions should be applicable to all offenders. Migrant victims of forced labour should be given an opportunity to remain and work in the country, at least during the investigation of the case and prosecution of the offenders.
GOOD PRACTICES

- Specific challenges to law enforcement in the domestic work sector and potential barriers to the effectiveness of compliance mechanisms in each country should be identified. Opportunities to identify good labour inspection practices and measures designed to improve compliance and prevent abuses in the working conditions of domestic workers should be considered;

- International research and exchange of good practices between national labour inspection systems should be on-going in order to enhance the effectiveness of compliance mechanisms and gradually to improve the situation of domestic workers.


—. 2007b. Guidelines on the design of direct action strategies to combat child domestic labour (Geneva).


—; International Domestic Workers Network. 2012e. Decent work for domestic workers in Asia and the Pacific: Manual for trainers (Geneva).


—; Bureau for Workers’ Activities; International Training Centre (ACTRAV/ITC-ILO). 2013c. Decent work for domestic workers: The state of labour rights, social protection and trade union initiatives in Europe (Geneva).

—; International Programme on the Elimination of Child Labour. 2013e. Ending child labour in domestic work and protecting young workers from abusive working conditions (Geneva).

—; Labour Administration and Inspection Programme (LAB/ADMIN). 2013f. Labour inspection and undeclared work in the EU (Geneva).


**ILO DATABASES AND TOOLS**

International Labour Office (ILO) web page, Domestic workers: www.ilo.org/domesticworkers.


International Labour Office (ILO), Labour Administration and Labour Inspection website: www.ilo.org/labadmin.

**WEBSITES**

Domestic Workers United: www.domesticworkersunited.org/.


**ILO WORKSHOPS**


1. CONCEPT AND TYPOLOGY

A campaign is a process designed to have a specific impact on a target group by using a combination of measures over a fixed period of time in a given sequence. Labour inspection campaigns may take different forms and pursue a variety of goals: they may disseminate information, including on new legislation; increase awareness of legal obligations; maximize deterrence by launching broad operations that focus on key areas of labour regulation and concentrating on selected priorities; or include both awareness-raising and enforcement. When the campaign has both information and enforcement components, they are usually pursued in that order; however, other options are possible.

Some inspectorates adopt this approach as a regular working method, while others do so on an occasional basis. Such campaigns do not necessarily require significant resources; they can be conducted over a brief period of time with a specific narrow impact. On the other hand, they may seek to build a strong community of interest around a particular theme over a longer period and require the allocation of vast resources. Campaigns may be local, national or supranational and sectoral or cross-sectoral.
The more specific the campaign, the greater is the likelihood of success, particularly when addressing a single sector. A broad national campaign may be extremely useful, but it requires resources, the commitment of all stakeholders, and political support. If these resources are not available, labour inspectorates might undertake more modest initiatives, such as organizing meetings with locally-based organizations or providing information through the local media using free broadcasting time.

2. THE CAMPAIGN CYCLE

The following paragraphs outline the steps in developing, implementing and evaluating a labour inspection campaign:

Decision-making

The decision to launch a campaign should consider questions such as:

- **What issue do we want to address (theme)? Why? What do we want to achieve (outcomes)?**

  Campaigns may focus on domestic work in general or on a particular problem (e.g. informal employment in the sector, child labour, working time). They may be implemented at the country level or in a given region and may be conducted for multiple years or for a limited period of time. They may target all types of employers or a specific category (e.g. private households, private employment agencies). They may also address a specific issue (e.g. non-payment of minimum wage to domestic workers directly employed by the household; children engaged in urban domestic work; informal employment of migrant domestic workers). The decision to focus on any issue should be supported by evidence, such as statistics or other data sources, reports on infractions, inputs from social partners and other institutions. Academic research can also provide clues as to possible areas of work.

  Labour inspectorates’ resources are limited and should be used as efficiently as possible. Some campaigns require exceptional organization and implementation efforts. Decisions to allocate resources to a campaign should be justified, for example, by a low level of compliance with the law, reported problems with wages, forced labour or child labour. In any event, the decision to launch a campaign should be taken on the basis of its anticipated usefulness.
Who should be involved (partners)? When are they to be involved?
Because social partners should be involved in the identification of labour inspection strategies, potential initiatives, such as inspection campaigns, should be discussed with employers’ and workers’ organizations representing the sector. Other partners should also be identified in light of the objectives and methods of the campaign.

On whom will the campaign focus (target groups)? What is its reference universe (coverage)?
The target audience of the campaign should be established at the outset. Domestic workers and their employers need to be approached differently, for example, with regard to channels for the transmission of information. A campaign that seeks to empower workers by increasing their awareness of their rights will not make use of enforcement, whereas a campaign designed to reduce serious forced labour abuses may opt for a heavy-handed approach.

What else should be considered at this stage?
At a minimum, the following questions should be considered:
– How will we pursue our goals (outputs and activities)?
– Who will do what?
– When do we want to deliver (timelines)?
– What resources will we need?
– Do we have internal capacity and know-how or will external help be needed?

Planning

The campaign should set a general or strategic objective establishing the desired outcome(s), such as the reduction of informality in the sector or an increase in the number of domestic workers receiving the minimum wage.

This strategic objective should be broken down into specific, measurable, attainable, realistic and timely (SMART) objectives:
– **Specific**: a clear message of what should be accomplished (e.g. provide information on the minimum wage to domestic workers and their employers).
– **Measurable**: at least one indicator that measures progress towards the objective (e.g. percentage of domestic workers and their employers to receive information on the applicable minimum wage).
– **Attainable**: consistent with the mission of the organization and the features of the target audience (e.g. information encouraging compliance with the law provided through a variety of channels).
– **Realistic**: achievable given the organization’s capabilities and opportunities in the environment (e.g. a focus on domestic workers registered for social security, given the lack of knowledge of the whereabouts of workers in the informal economy).
– **Timely**: a specific time frame for accomplishing the objective (e.g. two years).

For each immediate objective, one or more indicators should be established.

The design of the campaign should consider the objective to be achieved and its feasibility and measurability. For example, the objective might be to reduce the number of work injuries in the domestic work sector by 10 per cent, but the campaign will be difficult to justify to external stakeholders in the absence of a data collection system or benchmark against which to measure progress.

In any event, the established outputs should be placed under the direct control of the inspectorate and implementation should be measurable through appropriate tools (e.g. databases and campaign logs).
Correct planning is contingent on the ability to identify the features of the main target groups. Different stakeholders require different approaches in terms of communication strategies, and even enforcement options. The campaign should reach the target audiences; thus, a solid understanding of their motivation is essential.

Employers and workers are usually the primary, but not the exclusive, target audiences of a labour inspection campaign. For many years, labour inspectorates have also focused on students when they are about to enter the labour market, and even at an earlier age. Simple but important messages on, for example, respect for the privacy of domestic workers or conditions of reasonable accommodation can be delivered to the children of a household. Building capacities of teachers and introducing labour issues into school curricula have proved effective. Wider audiences are also targeted for major social problems, such as undeclared work.

The relevance of the subject and the goals of the campaign must be clear to internal and external stakeholders in order to ensure proper understanding and commitment. Values should be shared, or at least perceptions should not be conflicting. The more fact-based a campaign is, the better accepted it will be. In the domestic work sector, convincing the public of the need to protect domestic workers from work accidents, for example, could entail the use of statistics, pictures of real injuries or victims’ narratives.

The effort and time required to plan and implement a campaign, even when external expertise is available, should not be underestimated. It is important to ensure the availability of the necessary resources before taking action. The labour inspectorate will need to consider the availability of staff and budgetary resources, as well as internal know-how. Overly-demanding expectations should be avoided. Other stakeholders, particularly social partners, may contribute to the project but external funding should be an option only if the independence and impartiality of labour inspectors is ensured.

A project leader, team or focal point should be appointed to provide follow-up, propose or introduce corrective measures, and monitor progress constantly. A steering committee or joint working group involving all relevant stakeholders helps to create a sense of shared ownership. For this to happen, a thorough identification of institutions and resource persons capable of providing support for the project must be conducted at an early stage to ensure that all interested parties are on board and that expertise is available at the proper moment.

Other State organizations also have an important role to play. Thus, if the campaign will focus on migrant domestic workers, immigration authorities or migrants’ associations could be involved in order to ensure better analysis of the subject and design and implementation of the campaign. Organizations working together will need a good mutual understanding so that their values, policies and priorities will not conflict. A cooperation agreement or joint policy statement covering all relevant issues will facilitate implementation of the campaign, especially when institutions without a history of collaboration are involved.

The campaign’s acceptance and results will be better if the appropriate stakeholders are involved. Experience shows that community-based organizations are useful in transmitting messages; academic

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<th>Shortlist of costs to consider</th>
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<tr>
<td><strong>S</strong>taff (salaries, overtime, travel expenses, and daily subsistence allowance (DSA) or other complementary allowances for inspectors;</td>
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<tr>
<td><strong>T</strong>ime;</td>
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<tr>
<td><strong>C</strong>onsultants’ or experts’ fees;</td>
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<tr>
<td><strong>E</strong>diting, printing and release of information and merchandising materials;</td>
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<tr>
<td><strong>B</strong>idding processes;</td>
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<td><strong>U</strong>se of mass media (advertisements);</td>
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<tr>
<td><strong>P</strong>remises and logistics for trainings, workshops and seminars;</td>
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<tr>
<td><strong>V</strong>ehicles and fuel for inspection visits;</td>
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institutions can use their reputation to gain support for the initiative by providing detailed information on the problem; and media personalities can use their charisma to promote the intended objective. External stakeholders can be involved in different stages; some may be involved only at the implementation stage, e.g. the police might provide support to labour inspectors on security matters where the campaign comprises inspection visits.

Where the national labour inspection system comprises more than one inspectorate, it is important to consider involving all of them since each will bring its particular vision and approach. Terms of employment and conditions of work are interdependent; for example, healthy work environments cannot exist where workers are the victims of harassment, their wages are not paid on a regular basis or their freedom of association is restricted. Coordination of efforts also gives external stakeholders a sense of collaboration and inclusiveness.

The exact definition of “modus operandi” is particularly important where the campaign includes enforcement. All concerned partners will need to agree on the inspection techniques, including the type of visit: without prior warning (the most common and recommended), announced (depending on the objectives), holistic (going beyond the focus of the campaign), topic (addressing exclusively a particular issue), blitz, raids, and so on.

Tax authorities, immigration officials and police forces are often involved in campaigns that focus on undeclared work, migrant work, child labour and forced labour, but this is less true in the case of domestic work. Notwithstanding the importance of joining forces, it is advisable to fully understand the mandates and working methods of all concerned agencies in order to avoid conflicts between their objectives and procedures: for immigration police, the primary objective may be to detect irregular migrant workers for expulsion purposes, whereas labour inspectors will focus on the protection of workers' rights. The options available to the campaign must be clear and transparent from the beginning. To avoid potential misunderstandings, proposals should be documented; a policy statement and written guidelines are a good way to ensure that all parties concerned are speaking with the same voice. Above all, the tasks of each agency must be specified and their working methods clearly understood.

In many cases, after the general guidelines have been established by the management, inspectors will organize pre-visit briefings to set goals and discuss who will do what, with whom and how. Labour inspectors deal with the protection of domestic workers' rights and are empowered to use opportunity criteria to determine the best way to bring employers into compliance with the law. This is not the case with most State supervisory bodies, which are governed by the strict principle of legality and rely on the imposition of sanctions for every verified infraction. Unless the competencies and working methods of the concerned enforcement agencies are clarified in advance, the various authorities involved in a workplace visit may disagree, undermining the outcome of the inspection.

The tools to be used by labour inspectors in gathering information and/or conducting visits, as well as the training required, should also be determined at this stage. Past experience may be helpful and avoid duplication of effort. A study of previous initiatives and campaigns conducted by other agencies may result in efficiency gains.

**Implementation** (see below under “Awareness-raising and enforcement”)

**Evaluation and follow-up**

Periodic monitoring and reporting is recommended. Specific results should be measured against expected outcomes. The cost-effectiveness of the campaign and the changes that it produced should be assessed and strengths, weaknesses and lessons learned should be identified. External evaluation, while uncommon, may also be used, particularly where the project was funded by external sources. Broad dissemination of achievements and use of the media to publicize achievements at strategic times may be beneficial.
The effectiveness of a campaign may be measured against several benchmarks, including, among other things:

- awareness of the issues targeted by the campaign. This can be measured through questionnaires, interviews or social science methodologies or on the basis of an increase or decrease in the use of call centres or information services or in the number of complaints filed with the labour inspectorate;
- changes in attitudes, also measurable through the use of social science methodologies;
- media resonance;
- quality of the campaign’s design and processes;
- feedback from stakeholders;
- cost-effectiveness;
- comparison of the anticipated and actual outputs, e.g. number of informational materials produced and disseminated, participants in events, visits to the campaign website, inspection visits conducted or infractions detected;
- effective changes in workplaces after an inspection visit.

Measurement of outcomes will provide a better idea of the effectiveness of the campaign than the mere counting of outputs produced. This may prove difficult, either because these outcomes are dependent on various factors or because the inspectorate lacks specific indicators against which to measure impact. However, good design at the outset can lay the foundation for future evaluation by developing measurement tools, such as questionnaires or databases. The design of the campaign should also provide information on when, how, by whom and to whom monitoring and reporting will take place. For longer campaigns, dissemination of intermediate results through the media may enhance achievements.

3. AWARENESS-RAISING AND ENFORCEMENT

3.1. AWARENESS-RAISING CAMPAIGNS

For any communication campaign to succeed, the message must be conveyed simply and effectively to the target audience based on a solid knowledge of the stakeholders. Campaigns targeting high-level decision-makers and qualified employers and workers should use concise, unemotional language supported by facts, while campaigns targeting low-skilled workers and uninformed employers, as is usually the case with domestic work, may opt for short messages with an emotional, informal or even amusing presentation using television and radio spots. Campaigns that transmit important information through cartoons (e.g. on forced labour or occupational safety and health) have also been successful.

The method for transmitting information varies. Informed employers understand that good working conditions motivate workers and improve the quality of their work. Personal contact during the inspection visit in order to alert such employers may be sufficient, without the need for additional resources. But if the inspectorate wants to reach less-well-informed employers, inspection visits should be preceded by the release of information explaining how to comply with the law. If legal information is to be provided by phone or email or in person at the labour inspectorate, it is fundamental to ensure that the information provided is consistent nationwide.

The Internet can be a key campaign tool with benefits that include close control over message and presentation, ease and speed of updating, and widespread acceptance across audiences. Costs are not significant if the labour inspectorate already maintains a website. Other stakeholders, such as social partners, may include information on their websites as well. An efficient approach is to list and answer frequently-asked questions on the website. As the Internet is, generally speaking, a passive media, it is essential to encourage the target audience to visit the website of the campaign. It is therefore useful to add the web page to search engines, to insert a link to the campaign website into the web pages of other organizations and even to use direct emailing.
It is also important to conduct a mapping of potential clients beforehand. If a significant portion of the target group of domestic workers and their employers do not have easy access to the Internet or do not understand the language used on the relevant websites, other channels must be considered.

The media have a huge potential to change behaviour as they can deliver information to the vast majority of the population. There are many ways to involve them in an effective communication strategy, either through TV or radio spots or by using popular television shows or soap operas to introduce information on workers’ rights.

When used tactically, advertising can prove effective, especially in reinforcing messages, by providing full control and wide coverage, but it can be a complex and expensive vehicle to use. A combination of radio, television, newspapers and billboards is likely to better disseminate the campaign message to the entire target audience. An effective campaign should reach the widest possible range of media outlets. Each outlet should be considered in light of its cost-effectiveness, taking into account budgetary resources, probable audience, consumption rates, and suitability to the campaign message. For example, television reaches the broadest audience, but it is also the most expensive. In any event, where the target audience is uneducated or is not fluent in the local language, as in the case of migrant workers, a good image is worth 1,000 words.

It is important to get people talking about the campaign. Some inspectorates have media units that build strong relationships with journalists. This is useful in spreading information at no cost, especially

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**Experience of the Department of Labour Inspection in Cyprus**

There are many successful examples of the use of mass media by the labour inspectorate in Cyprus. One such example is the organization, in October 2008, of a public event in Nicosia with live radio broadcasting. In 2005, an evaluation of the use of television and radio showed that about 73 per cent of the target groups had watched the inspectorate’s spots at least once and that each person had been exposed to the message an average of 4.6 times.

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**How to prepare press releases**

- Spell out the title in capital letters, centred at the top of the page.
- The title should be short and capture the attention of journalists (a journalist who is not impressed with the title will not read the rest of the text).
- Print the press release on the agency letterhead. If there is a logo, include it. The web page, address and phone number of the agency, as well as the name and contact details of a contact person, should be placed above the title or below the text.
- If the press release is not for immediate use, it should include the appropriate date of distribution of the information provided.
- The body of the press release should begin with the date and the country or city for which the information is designed.
- The text should follow the five basic points of communication: who, what, where, when and why.
- The first paragraph should state the subject of the press release; only then should details be added.
- If possible, a human interest element, such as a short personal account, should be included so that journalists will not find the information boring. Statistics may be effective.
- The last paragraph should add practical information, such as a specific event to be held within the framework of the campaign.
- A press release is generally sent alone, by email or fax. Many labour inspectorates have a good relationship with the media and work with specialized journalists. If this is the case, the press release can be part of a full press kit.
if the journalist has expertise in the area targeted. Domestic workers whose freedom of movement is not restricted may have easy access to free newspapers when they go out during their rest day or while shopping in supermarkets.

Press releases – statements distributed to the media – provide journalists with interesting information for dissemination to the public.

For information resources such as posters and leaflets, it is important to organize the content into major ideas, which should be placed under descriptive headings and subheadings for quick reading. In order not to overload viewers with information, it is important to keep the message short. In posters, for example, it is advisable not to use more than one or two different images. The use of too many visual signs will confuse people and distract them from the campaign message. Details such as font style are important; it is better to use a large, clear font than to be too creative; labour inspectorates are not selling merchandise.

In choosing colours, it is essential to consider whether the campaign is designed to alert people through warnings or negative messages, or to promote good practices. In each case, the colours to be used will differ (bright colours for positive messages and dark for negative messages).

Slogans and logos can help to create an identity for the campaign; a good slogan will convey its spirit succinctly and catch the viewer’s attention, thereby adding value to the ideas behind the campaign.

Here are some rules for effective slogans:

- keep it as simple as possible as the slogan will have to create an impact on the viewer in a matter of seconds;
- use clear language and avoid words that are difficult to understand;
- keep the message short and easy to say and remember;
- if possible, use figures of speech or alliteration for easier memorization, e.g. “a spill, a slip, a hospital trip”.

<table>
<thead>
<tr>
<th>Examples of simple and clear slogans</th>
<th>The same idea can be transmitted through positive or negative messages.</th>
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<tbody>
<tr>
<td><strong>USING POSITIVE MESSAGES</strong></td>
<td><strong>USING NEGATIVE MESSAGES</strong></td>
</tr>
<tr>
<td>Success is no accident</td>
<td>Don’t gamble with work safety</td>
</tr>
<tr>
<td>Healthy backs work better</td>
<td>Heavy loads will make you sick</td>
</tr>
<tr>
<td>Prevention is better than cure</td>
<td>Don’t kill your domestic workers!</td>
</tr>
<tr>
<td>Know your rights at work</td>
<td>Your rights were abused because you didn’t inform yourself.</td>
</tr>
<tr>
<td>Be proud on respecting domestic worker’s rights</td>
<td>Not respecting domestic workers’ rights is an offence</td>
</tr>
</tbody>
</table>

Where the campaign has a logo, the slogan and the colours of merchandising and information materials should be closely associated and used with it. The logo should be a simple, clear, original and easily recognizable image and should be displayed on all campaign products. In creating a logo or a slogan, it is useful to test it on a wide range of people to ensure that it does not conflict with any cultural values.
3.2. ENFORCEMENT CAMPAIGNS

Enforcement is generally handled through inspection visits. The type of visit depends on the aims of the campaign. If the objective is to combat child domestic labour, blitz visits may be appropriate. If the goal is to bring employers to comply with legislation establishing a new obligation, the visits should be informative in nature.

Employers who hear about the real risk of punishment through a campaign are likely to increase their compliance level before any inspection is conducted. For this reason, many inspectorates issue press releases announcing that an intervention is planned for the sector and that workplaces will be visited. Often, they also publish information on infractions found and sanctions imposed in the past before initiating inspection visits in a new region or for a new period. “Naming and shaming” policies are also effective, especially for longer programmes, by publicizing the names of convicted offenders (provided that the law allows it).

Enforcement campaigns may take a zero-tolerance approach if the issues targeted are widely known, do not call for additional awareness-raising and severely violate social values, as with sexual harassment, child domestic workers and forced labour. Blitz visits, often accompanied by the police, are used. If the problem is localized in a specific geographical area, the enforcement campaign is often based on raids comprising multiple blitz visits with a large number of inspectors and a very short period of implementation. This aggressive method may be successful for a limited set of issues, such as undeclared work, false independent work, forced labour and child labour, but a proper balance with preventive approaches should be considered. At the same time, the campaign will require advance preparation in order to ensure a timely judicial response if the inspectors need to enter a household to investigate reports or indicators of abuse.

Blitz inspection campaigns in Ontario, Canada

The proactive inspection blitzes focus on sector-specific hazards and are designed to raise awareness and increase compliance with health and safety legislation. The blitzes are announced in advance and results are reported after they are completed. During a blitz campaign, inspectors take a zero-tolerance approach, meaning that if a workplace is found to be non-compliant, prosecution will follow.
The following checklist provides an example of questions to be borne in mind by labour inspectors in preparing and conducting inspection visits in the domestic work sector. The list is not exhaustive and some of the questions may not be applicable in every country.

**TERMS OF EMPLOYMENT AND WORKING CONDITIONS**

- Is the contract formalized through direct recruitment by the household or through public or private employment services? Which legislation applies? Is the employer obliged to report the admission of domestic workers? To whom?
- If the domestic worker was recruited through a private employment agency, is the agency operating legally in the country? Does the agency charge a fee to domestic workers? Does it keep a record of workers who have been placed, and where? Does it provide information on the rights and obligations of domestic workers and employers?
In the case of migrant domestic workers, has the recruitment process been carried out in accordance with the existing legislation? Is there any protocol for cooperation with the country of origin? Do domestic workers keep their travel and identity documents in their possession?

Could any of the requirements used in the selection process (sex, age, nationality, religion…) be considered discriminatory? Are there other indicators of discrimination (see Box 19)?

Is it clear who the employer is and where the workplace is situated?

Is there a written contract? Were the workers provided with a copy?

Are all the essential elements of the contract well described and agreed (see Box 10)?

Were the workers informed of all the terms and conditions of employment?

Are the workers’ tasks clearly established? Do they correspond to the normal job description of a domestic worker?

Were the workers declared for social security? Are they covered by the compulsory insurance system (national social protection system or private insurance)? Are contributions to the compulsory insurance system paid regularly?

Is there a trial period? Does this period correspond to the maximum established by law or collective agreement?

Are the wages clearly established and, if there are payments in kind, is their value calculated and is it for the use and consumption of the workers? Does this value respect the maximum established by law for payments in kind?

Is minimum wage coverage guaranteed (even for part-time work)?

Are the workers provided with documentation of their wages (payslip)? Are all the amounts paid and deducted included in the payslip? Is the purpose and precise amount of each deduction indicated?

Will the workers live in the household? Do the living conditions afford appropriate privacy, adequate ventilation, and heating or air-conditioning in line with the characteristics of the household? Do the workers have suitable furniture?

Are the working hours defined? Are the normal hours of work agreed? What is their duration? Are they compensated accordingly? Are they documented?

Is there overtime? How many hours? How are they compensated? Are these hours documented?

Are the rest periods and holidays established?

How long is the period between the end of one working day and the beginning of the next? How long is the break for meals?

How long is the weekly rest period?

How long is the period of annual leave? Who decides when holidays will be taken? What wages are paid during holidays?

Is the duration of the contract defined? If not, is there a deadline for the employer to inform the worker of its expiration?

Are the terms and conditions relating to termination of employment established? Are live-in workers allowed to remain in the household for a reasonable period where termination is not prompted by a violation of the labour contract on their part?

Are there indicators of forced labour (see Box 23)?

Are children engaged in work? What is their age? Have they completed compulsory schooling? What kind of tasks are they performing? Are they exposed to a harmful physical or psychological environment?
**OCCUPATIONAL SAFETY AND HEALTH**

- Is the employer aware of the occupational hazards to which the workers are exposed?
- Were a hazard identification and risk assessment conducted?
- Were the workers informed of the hazards to which they would be exposed and of ways to prevent work injuries or occupational diseases?
- Were the workers trained in the risks of their work or workplace?
- Was it determined whether the workers have an illness that prevents them from performing certain tasks?
- Is there any system of health surveillance?
- Are the workers at risk of falling?
- Are the workers performing tasks with a potential musculoskeletal effect?
- Are there infectious diseases in the household?
- Are the workers exposed to potential asthma and dermatitis resulting from the use of cleaning products?
- Is the workers’ sleep disturbed?
- Are the workers exposed to psychological stress or physical or sexual abuse?
- Have the conditions of the workplace been adapted so that potential accidents or occupational diseases are prevented?
- Do the workers have access to personal protective equipment, such as gloves and masks, as needed?
- Is there a first aid kit in the household? Do the workers or other members of the household know how to apply first aid?
- Do the workers have access to the phone and do they know where to call in an emergency?
- Can the workers leave the premises easily in an emergency?
- Are the workers covered by medical, hospitalization or rehabilitation (in the event of a work accident) insurance?
Adopted at the 100th session
of the International Labour Conference (16 June 2011)

Preamble

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and
Considering that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities and who are particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this sixteenth day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

**Article 1**

For the purpose of this Convention:

(a) the term domestic work means work performed in or for a household or households;

(b) the term domestic worker means any person engaged in domestic work within an employment relationship;

(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

**Article 2**

1. The Convention applies to all domestic workers.

2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:

(a) categories of workers who are otherwise provided with at least equivalent protection;

(b) limited categories of workers in respect of which special problems of a substantial nature arise.
Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

**Article 3**

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:
   (a) freedom of association and the effective recognition of the right to collective bargaining;
   (b) the elimination of all forms of forced or compulsory labour;
   (c) the effective abolition of child labour; and
   (d) the elimination of discrimination in respect of employment and occupation.

3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

**Article 4**

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.

2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

**Article 5**

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence.

**Article 6**

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

**Article 7**

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner and preferably, where possible, through written contracts in accordance with national laws, regulations or collective agreements, in particular:
   (a) the name and address of the employer and of the worker;
   (b) the address of the usual workplace or workplaces;
   (c) the starting date and, where the contract is for a specified period of time, its duration;
   (d) the type of work to be performed;
(e) the remuneration, method of calculation and periodicity of payments;
(f) the normal hours of work;
(g) paid annual leave, and daily and weekly rest periods;
(h) the provision of food and accommodation, if applicable;
(i) the period of probation or trial period, if applicable;
(j) the terms of repatriation, if applicable; and
(k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

**Article 8**

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

**Article 9**

Each Member shall take measures to ensure that domestic workers:
(a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
(b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
(c) are entitled to keep in their possession their travel and identity documents.

**Article 10**

1. Each Member shall 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 in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall 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.

**Article 11**

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.
Article 12
1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 13
1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 14
1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15
1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:
   (a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;
   (b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;
   (c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;
   (d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and
   (e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.
2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

1. Each Member shall establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers.

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

Article 18

Each Member shall implement the provisions of this Convention, in consultation with the most representative employers and workers organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

Article 19

This Convention does not affect more favourable provisions applicable to domestic workers under other international labour Conventions.
DOMESTIC WORKERS RECOMMENDATION, 2011 (No. 201)

Preamble

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Having adopted the Domestic Workers Convention, 2011, and

Having decided upon the adoption of certain proposals with regard to decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Domestic Workers Convention, 2011;
adopts this sixteenth day of June of the year two thousand and eleven the following Recommendation, which may be cited as the Domestic Workers Recommendation, 2011.

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 (“the Convention”), and should be considered in conjunction with them.

2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:
   (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers’ organizations of their own choosing and to the right of organizations of domestic workers to join workers’ organizations, federations and confederations;
   (b) give consideration to taking or supporting measures to strengthen the capacity of workers’ and employers’ organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.

3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:
   (a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice “Protection of workers’ personal data” (1997), and other relevant international data protection standards;
   (b) prevent any discrimination related to such testing; and
   (c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:
   (a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;
   (b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and
   (c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.
   (2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:
      (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
      (b) prohibiting night work;
      (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
      (d) establishing or strengthening mechanisms to monitor their working and living conditions.

6. (1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.
Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

(a) a job description;
(b) sick leave and, if applicable, any other personal leave;
(c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
(d) any other payments to which the domestic worker is entitled;
(e) any payments in kind and their monetary value;
(f) details of any accommodation provided; and
(g) any authorized deductions from the worker’s remuneration.

Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

(a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
(b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
(c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8. (1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9. (1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

(a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
(b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
(c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11. (1) Weekly rest should be at least 24 consecutive hours.
The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:
   
   (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
   
   (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
   
   (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
   
   (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and
   
   (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

   (2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers’ claims in the event of the employer’s insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

   (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
   
   (b) access to suitable sanitary facilities, shared or private;
   
   (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
   
   (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:
(a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;

(b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;

(c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;

(d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and

(e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21. (1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

(a) establishing a national hotline with interpretation services for domestic workers who need assistance;

(b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;

(c) developing a network of emergency housing;

(d) raising employers’ awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;

(e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and

(f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in
the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:
   (a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;
   (b) address the work–life balance needs of domestic workers; and
   (c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policymaking regarding domestic work.

26. (1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:
   (a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and
   (b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.
APPENDIX V

MODEL CONTRACTS AND FORMS
Domestic Worker Registration Form

Date ....../.../ ...... NIS number ____________    Official Use Only

Name
...........................................................................................................

1. Address
...........................................................................................................
...........................................................................................................

Telephone (Household) ________________    (Cell) ________________

Email address ___________________________

Please Select One and Tick

2. Sex    Male    Female

3. Educational Attainment:    Primary    Secondary    Other

If Other, please specify    .................................................................
(Examples: Training in Arts & Craft, Certificate in Plumbing, etc.)

Please turn over
4. Age Group:  
- 15-24 years old
- 25-34 years old
- 35-44 years old
- 45-54 years old
- 54-64 years old
- 65 years and over

5. Marital / Union Status: 
- Single
- Married
- Common Law
- Divorced
- Widowed

b. Do you have any children?  
- Yes
- No

c. If Yes, state how many

6. Conditions of Employment: 

a. Are you presently employed?  
- Yes
- No

b. If yes, state present occupation

If no, state past occupation

c. What are/were your duties?

(Examples: Cooking, Baby-Sitting, Care-Giving for the Elderly, etc.)

7. Please fill out the appropriate information if applicable

a. Hours of Work
   i. (Example: 8am to 3pm)

b. Day(s) Worked per Week

c. Salary $…… per ……… (week/fortnight/month)
   a. (Example: $200 per week)

d. Sick Leave
   (days per year)

e. Vacation Leave
   (days per year)
CONTRACT OF EMPLOYMENT FOR
DOMESTIC WORKERS

1. Name of Employer: .................................................................

Particulars of Employer:
(a) Residential Address ............................................................
(b) Postal Address ....................................................................
(c) Marital status .....................................................................
(d) Number of children in household .........................................
(e) Hometown .........................................................................
(f) Name and address of next-of-kin ...........................................

2. Name of Employee: ................................................................

Particulars of Employee:
(a) Address: ..............................................................
(b) Date of birth ..............................................................
(c) Name of father: ............................................................
(d) Name of Mother: ...........................................................
(e) Marital status: ...............................................................
(f) Number of children ..........................................................
(g) Hometown: ......................................................................
(h) Name and address of next-of-Kin ........................................
(i) Social Security Number ....................................................

3. Date of first appointment ......................................................

4. The Employee is employed as (job title) ..............................

5. The Employee’s remuneration and mode of payment is as follows:
(a) Rate
(b) Method of payment
(c) Quantification of other benefits to be provided

<table>
<thead>
<tr>
<th>i.</th>
<th>ii.</th>
<th>iii.</th>
<th>iv.</th>
<th>v.</th>
<th>vi.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation:</td>
<td>Feeding:</td>
<td>Clothing:</td>
<td>Medicare:</td>
<td>Vocational training:</td>
<td>Tools:</td>
</tr>
</tbody>
</table>

Value in Cedis

6. The Employees hours of work are:

7. The Employees period of holidays are:

8. The conditions relating to incapacity to work due to sickness or injury and details of sick pay if any are:

9. Details of social security pension scheme:
   (a) 12.5% contribution by Employer:
   (b) 5% deduction from Employee:

10. Amount of notice to terminate employment to be given by:
    (a) The employer
    (b) The worker

11. The disciplinary rules applicable to the Employee are:

12. The procedure for dealing with any grievances or disputes is:

13. Overtime payment, if any:

14. The assignments the Employee will be required to undertake are ticked on the attached Schedule of work.

15. Name and address of one guarantor for Employee:
DATED THIS ….. DAY OF ………………… 2005

Signed by the above-named Employer  

In the presence of:

Witness:

Full name ………………………...

Address …………………………..

The above named  
…………………………… made his/her mark  
in my presence after the contents herein had  
been read over, explained and interpreted  
to him in the Twi language and he/she  
seemed to perfectly understand and approve  
same before signing and making his/her  
mark

In the presence of:

Witness:

Full name ………………………...

Address …………………………..

Signature of Guarantee for Employee

NOTES:
(i) These particulars of contract of employment are in accordance with the Labour Act, 2003  
(Act 651)
(ii) The Employee should attach one passport-sized picture

Source: ILO (2009)
Sample Standard Employment Contract

DOMESTIC WORKERS UNITED
Standard Employment Contract for Domestic Workers in New York

This contract is for full-time domestic workers. This contract was made between ___________________ (the employer) and ___________________ (the employee) on ____________ (date) and has the following terms of employment:

1. The employee shall be employed beginning on ____________ (date).
2. The employee shall work at employer’s residence at ___________________.
3. The employee is live-in/live-out (circle one).
4. State number of children to be cared for: ____________
   Description of children (age, gender, activities, etc.): ___________________.

5. Work Responsibilities:
   Job entails the following: ___________________.
   Job does not entail the following: ___________________.

6. The employee shall not be required to work for any person other than the employer.

7. Employer shall pay employee $ _______ per week, not including overtime. The normal rate of pay is $ _______ per hour. Overtime rate of pay is $ _______ per hour.

8. The work week shall be 40 (live-out work) or 44 (live-in work) hours.
   - In accordance with state and federal labor laws, employee shall be compensated one and a half times the normal rate of pay for every hour worked beyond 40 (live-out work) or 44 (live-in work) hours.
   - Sleepovers for live-out worker shall be compensated at an additional rate of $ _______ per day.
   - Employee cannot be required to work more than _______ hours per week.

9. Employer shall receive her/his weekly wages every ____________ day of the week at _______ a.m./p.m.

10. Employer shall pay a penalty of _______ % for every day that the employee’s wages are paid late.

11. Both employer and employee shall have a signed record of the payment of wages.

12. Employer shall provide a letter of reference at the end of the first year and at the end of each subsequent year of employment.

13. Domestic workers are particularly vulnerable to illness due to constant exposure to illness or toxic cleaning agents. The employer shall provide medical insurance for the employee. Alternatively, employer agrees to cover the cost of regular annual checkups and NYCHIA exams, as well as the cost of emergency medical treatment when the employee is ill or injured.

14. Employer who lives on the outskirts of New York City or in suburban areas such as Westchester County, New Jersey, and Long Island shall cover the cost of transportation to and from work.
   - Employer shall cover the cost of a taxi ride home when employee works past eight in the evening.
This publication corresponds to one of the core areas of the ILO strategy for action (2011–2015) as a follow-up to the resolution concerning efforts to make decent work a reality for domestic workers worldwide. It aims to contribute to a better understanding of the challenges for compliance in the domestic work sector. It also identifies how countries have defined policies and practices to provide better services to domestic workers and their employers in the domain of working conditions, with a specific focus on labour inspection. The guide provides information in a user-friendly manner, aiming to assist member States to identify practical measures to address non-compliance issues and to better shape the action of relevant institutions, in particular labour inspectorates, to bring the laws protecting domestic workers into practice.