

# LABOUR RELATIONS AND COLLECTIVE BARGAINING



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## IMPROVING WORKING CONDITIONS FOR DOMESTIC WORKERS: ORGANIZING, COORDINATED ACTION AND BARGAINING<sup>i</sup>

*The organization of domestic workers and their employers, and social dialogue, including collective bargaining, are key means of improving working conditions in a sector that is notoriously difficult to regulate.*

### Introduction

Domestic work is a sector with a high proportion of vulnerable workers, many of whom are informally employed. It is seldom recognized as an industry consisting of workers and employers in an employment relationship. This may go some way to explaining why about half of all domestic workers are not covered by labour protection, and often work extremely long hours<sup>ii</sup> for very low pay.<sup>iii</sup> Domestic workers are also at risk because their work is performed in private households, often escaping the inspection and oversight of the authorities.

In 2011, the ILO adopted a Convention concerning decent work for domestic workers. The Domestic Workers Convention, 2011 (No. 189) states:

Article 3.

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.<sup>iv</sup>

The organization of workers and subsequent advancement of their collective interests through mutual insurance, collective bargaining and law and policy reform have always played a key role in affording workers labour protection. In the domestic work sector, however, the relative isolation of the domestic workplace, the highly individualized employment relationship and, in some countries, the legal barriers have limited the ability of workers' and employers' organizations to represent collective interests.

<sup>i</sup> This issue brief was written by Claire Hobden. The author acknowledges the research support provided by Harmony Goldberg.

<sup>ii</sup> For more information on the working time of domestic workers, see ILO 2011b and ILO 2013b

<sup>iii</sup> For more information on remuneration in domestic work, see ILO 2011a

<sup>iv</sup> As of 12 October 2015, ILO Convention on decent work for domestic workers (No. 189), 2011 has been ratified by 22 countries.

Nonetheless, some workers and employers are becoming organized and engaging in collective action, social dialogue in tripartite settings and, in some cases, collective bargaining in order to improve working conditions and protect domestic workers from the risk of being engaged in unacceptable forms of work.

Workers' organizations have played a leading role in campaigning for domestic workers to be covered by labour protection. Workers' and employers' organizations, often in coalition with other organizations, have campaigned for clarity in respect of the employment relationship. They have created networks that have raised awareness of the associated rights and responsibilities, provided support to individual workers and employers involved in contract negotiations, and helped authorities to identify instances where workers may be subject to unacceptable forms of work.<sup>v</sup> Coordinated action, for example through the dissemination of model contracts, has proved an effective way of standardizing terms and conditions of employment.

## Organizing domestic workers

The organisation of domestic workers involves a number of challenges. Domestic workers may not be recognized as 'workers' and the home may not be recognized as a workplace in existing labour law, effectively denying them the right to organize and effective recognition of the right to collective bargaining. In order to establish a trade union, national laws may require a minimum number of members that is unattainable for domestic workers.

Even where domestic workers have organizational and collective bargaining rights, their isolated and dispersed workplaces and long working hours create practical obstacles to the effective exercise of these rights. Domestic workers may not organize because they do not see themselves as workers, are not aware of unions or fear losing their job. Live-in and migrant domestic workers with irregular status are in an even more vulnerable situation as their freedom of movement is limited both in fact and in law.

Despite these obstacles, there are a growing number of domestic workers' organizations around the world.

The existence of workers' and employers' organizations paves the way for collective bargaining, which can improve working conditions. Employers and workers are often at a loss when it comes to setting tasks, schedules, wages and hours. There is very limited scope for a single domestic worker to enter into a genuine negotiation about the terms of his or her employment contract. This may leave individual domestic workers vulnerable to accepting work in "conditions that deny fundamental principles and rights at work, put at risk the lives, health, freedom, human dignity and security of workers or keep households in conditions of poverty".<sup>vi</sup>

Collective bargaining helps to ensure that the standards set satisfy the interests of both employers and workers. Collective agreements that are inclusive of all domestic workers, including migrant domestic workers, are also an important means of extending labour protection to vulnerable categories of workers.

This Issue Brief examines innovative approaches to workers' and employers' organizations and collective bargaining that protect domestic workers from the risk of being engaged in unacceptable forms of work and afford them effective and inclusive labour protection.

In 2013, a group of 14 such organizations founded the International Domestic Workers' Federation (IDWF), which now has 58 affiliated organizations in 46 countries, and has itself become an affiliate of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations. National trade union confederations increasingly count domestic workers in their ranks through a domestic workers' union, for example in Bolivia, Brazil, South Africa, Uruguay and many others. In the absence of unions, trade union confederations have also worked in coalition with other types of membership-based domestic workers' organizations.

In a number of countries organization of domestic workers into unions has facilitated collective negotiations either on a minimum wage or a collective agreement: Argentina, Belgium, France, Italy and Uruguay, for example. In some cases, the domestic workers' union itself signed the agreement; in others it was signed by the national trade union confederation. National trade union confederations have supported the domestic workers' union through training and guidance

<sup>v</sup> For more on the role of organizations in ensuring compliance, see Fine 2006 and J. Fine and J. Gordon (2010). Strengthening Labor Standards Enforcement through Partnerships with Workers' Organizations, in *Politics & Society* December 2010 vol. 38 no. 4 552-585.

<sup>vi</sup> This reflects the ILO definition of unacceptable forms of work. See ILO: The Director-General's Programme and Budget proposals for 2014–15, Report II (Supplement), International Labour Conference, 102nd Session, Geneva, 2013, para. 49.

to represent the demands and negotiate collectively on behalf of domestic workers. The resulting agreements (whether tripartite agreements on minimum wages or bipartite collective agreements) have been widely disseminated by these unions and their networks, ensuring that workers are informed of the provisions they contain and that cases of non-compliance are identified.

In order to ensure the effective representation of domestic workers, unions have adapted their outreach strategies to reflect their specific situation of isolated and dispersed workplaces and time constraints. These strategies represent new paradigms of worker organization in dispersed and often informal workforces.<sup>vii</sup> Rather than building membership on the shop floor, domestic workers are organized through social networks, building on pre-existing relationships.<sup>viii</sup> Many unions reach out to domestic workers by distributing leaflets in places where domestic workers often congregate, such as playgrounds, toy shops, grocery stores and markets, and at public transport stops where domestic workers commute.<sup>ix</sup>

Using such methods, the Federación Nacional de Trabajadoras del Hogar Bolivia (FENATRAHOB) in Bolivia reached a membership of 9,600 workers, and the South Africa Domestic Service and Allied Workers Union (SADSAWU) 25,000 workers. The Kenya Union of Domestic, Hotels, Education Institutions, Hospitals and Allied Workers (KUDEIHA) organized some 10,000 workers by going door-to-door in neighbourhoods where domestic workers are employed. The Jamaica Household Workers Union (JHWU) put leaflets in

mailboxes. Many organizations have also made use of the mass media to reach domestic workers: in Bolivia, certain radio stations have dedicated time slots for domestic workers through which information on rights is shared. Using social networks can also facilitate the organization of migrant domestic workers, who form groups based on nationality, ethnicity or language for mutual support.<sup>x</sup>

Unions of domestic workers face a number of challenges in developing solidarity and in formulating demands, including the high mobility of domestic workers and the lack of a common employer. They have adopted a number of measures, such as setting a central place and regular time for meetings, to build unity and lay the groundwork for establishing collective demands based on collective experience. As members come together, they discuss their workplace concerns, share information about rights, tips for the job, and strategies for addressing conflict. Such discussions and mutual support form the basis of organizing and representation in this sector.

In order to enable domestic workers to negotiate, trade union confederations have also trained domestic worker leaders prior to a bargaining session. In Uruguay, the Plenario Intersindical de Trabajadores-Convención Nacional de Trabajadores (PIT-CNT) trade union confederation trained a representative of the Sindicato Unico de Trabajadoras Domesticas (SUTD). Training builds leaders' confidence to represent the organization and voice their opinions to the public and policy-makers, including in collective bargaining.

## Organizing employers

The organisation of employers also presents challenges: individual householders may not be considered employers in law; householders are sometimes excluded from the right to organize because they are non-commercial actors.<sup>xi</sup> While employers may informally discuss the setting of wages or how to handle employment disputes, they have rarely formed organizations.

Domestic workers' employers' organizations have emerged in a few countries to represent employers in collective negotiations. Usually, however, there is no formally recognized employers' organization representing householders. In these cases, existing

civil society organizations tend to advocate and negotiate on behalf of employers. Where agencies are the employer, these have tended either to join a household employers' association or to form associations of their own.

In Italy, employers began to organize in the 1960s, when the organization of domestic workers led members of the clergy and other human rights-oriented employers to form small associations. This led to the formation of Nuova Collaborazione, and in 1974 the National Federation of the Italian Clergy signed the first collective agreement covering domestic workers. Since then, the organization of

<sup>vii</sup> Fine 2006, Goldberg 2014, p. 90

<sup>viii</sup> For a good summary of this see Goldberg 2014

<sup>ix</sup> For a more detailed illustration of these examples, see ILO 2012.

<sup>x</sup> Das Gupta 2006; Fine 2005; Goldberg 2014; Hondagneu-Sotelo 2001; Boris and Nadasen 2008.

<sup>xi</sup> For example in Brazil, see: Consolidation of Labour Laws [CLL], Art. 2, Decree Law No. 5452 (1093), as last amended by Act No 12347 of December 2010. [Decreto-ley núm. 5452, de 1° de mayo de 1943, por el que se aprueba la Codificación de las Leyes del Trabajo texto compilado - Portuguese only]

employers has become much more widespread, eventually leading to the formation of two national federations of employers of domestic workers, the Federazione Italiana Datori di Lavoro Domestico (FIDALDO) and the Associazione Nazionale Famiglie Datori di Lavoro Domestico (DOMINA) (ILO, 2015b). In Argentina, employers formed Empleadores de Trabajadores Comprendidas en el Régimen Especial de Trabajo Para el Personal de Casa Particulares (EMTRACAP), which is party to a collective agreement.

In France, various organizations represent different actors in the employment relationship. The Fédération des Particuliers Employeurs de France (FEPEM) was formed in 1948 and now represents some two million domestic employers, most of whom are householders. There are also two employers' organizations representing non-profit companies, the Fédération Nationale des Associations de l'Aide Familiale Populaire-Confédération Nationale des Familles (FNAAP-CSF) and the Union Nationale de l'Aide,

des Soins et des Services aux Domiciles (UNA), and two employers' organizations that represent private companies, the Fédération Française des Services à la Personne (FEDESAP) and the Fédération du service aux particuliers (FESP). Each of these is signatory to collective agreements covering each arrangement. Similarly, in Switzerland, zu Hause Leben is an association of domestic work agencies formed to negotiate common standards.

More recently, pre-existing homemakers' associations have begun to take part in collective bargaining. Normally founded as interest groups, an increasing number have taken on the organization and representation of employers of domestic workers. Such is the case in Argentina (Sindicato de Amas de Casa de la República de Argentina, SACRA), Germany (HBD) and Uruguay (Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay, LACCU). They have all signed collective agreements for the sector.

## Negotiating collectively

The first challenge domestic workers' organizations face is the effective recognition of their right to collective bargaining. In order to achieve this, some have built coalitions with other organizations and campaigned for these rights.

In Italy, unions first campaigned with domestic workers' organizations such as the Associazioni cristiane lavoratori italiani- Collaboratrici e i collaboratori familiari (ACLI-COLF) to ensure the effective recognition of the right to collective bargaining for domestic workers in 1969, paving the way for the first collective agreement in 1974 (ILO, 2015b). In 2013, unions in the Philippines formed a technical working group of employers', government and civil society organizations to campaign for comprehensive rights for domestic workers. In many such cases, coalitions between domestic workers, employers, trade unions, women's organizations, faith-based organizations, and other civil society actors have been vitally important. As their power is limited (for example the power to withdraw their labour through strike action), domestic workers have found new sources of power, both through the influence they are able to exert in these alliances and – given the concern policy-makers have for their rights as women and as workers – through moral persuasion.

The second challenge that domestic workers' organizations face is identifying the employer (and relevant employers' organization) for the purposes of bargaining. When there is a direct employment relationship with the householder, the householder is the clear employer, but certain categories of domestic workers are placed in households by intermediaries, either public or private. In addition, the placement of domestic workers in households may be subsidized by the government as part of the social welfare provided to householders. These triangular employment relationships create complexities in terms of respective rights and responsibilities. In countries such as Belgium and France, they have resulted in a number of collective agreements with different employers' organizations representing either householders or intermediaries and agencies (public or private). Such organizations need to be formed and legally recognized before any collective bargaining can take place and agreements result from it.

Workers' organizations have also mobilized for clarification of ambiguities in the employment relationship and to have an employer recognized for the purposes of collective bargaining. In California,



home care workers organized by the Service Employees International Union (SEIU) are subsidized by the government and placed by intermediaries. While pay cheques are issued by intermediaries, day-to-day supervision is carried out by the householders who are the beneficiaries of government care. The wages that home care workers receive thus depend on the level of the public subsidy. The union campaigned for the enactment of state legislation to allow counties to establish public authorities as “employers of record”. These authorities are now responsible for bargaining with the union, providing job training and running registries to match workers and employers.

Recognizing that householders play a key role in determining day-to-day working conditions, county-level boards were established comprising of representatives of the union, the public authority, and the householders (seniors and people with disabilities), so all the actors involved in determining the conditions of care have a seat at the table and can address any challenges that arise. This is an innovative policy response to the complex triangular employment relationship in the sector (ILO, 2015c). In California, the union built a coalition with organizations representing the beneficiaries of government care (the householders), and the coalition then lobbied for government to increase funding for publicly-financed home caregivers, as a result of which the union was able to negotiate higher wages for domestic workers. Their efforts resulted in wage increases of 147 per cent (Sachs, 2007), along with wide-ranging social benefits and the adoption of grievance procedures (SEIU, 2013).

In other countries, national bargaining was made possible by approaching existing national associations of homemakers. In this way, collective bargaining agreements were negotiated in Argentina, Germany and Uruguay. In Germany, the Gewerkschaft Nahrung-Genuss-Gaststätten (NGG) union asked the DHB-Netzwerk Haushalt to act as an employers’ association (Basten, 2015).

In Uruguay, after the Chamber of Commerce declined an invitation to act as employer counterpart, the homemakers’ association Liga de Amas de Casa, Consumidores y Usuarios de la República Oriental del Uruguay was approached to join a Domestic Work Wage Council, Grupo 21, along with the Ministerio de Trabajo y Seguro Social (MTSS), and the Sindicato Unico de Trabajadoras Domesticas. While the Liga had formed independently, the Government’s recognition of it as potentially representative of employers

enabled negotiations to take place. Since 2008, three agreements have been reached through the council: on wages, working conditions and benefits (Goldsmith, 2013), each of which was universally applicable to the sector, including to migrant domestic workers. These agreements increased social security registrations by 48.7 per cent between 2006 and 2012, while wages rose from 55.5 per cent of the wages paid to other women in 2006 to 70.1 per cent in 2012 (ILO, 2015d). Labour inspections and a grievance mechanism have helped achieve these results. (Goldsmith, 2013). Capacity building of both the union and the homemakers’ association was a vital factor in the success of the negotiations.

In other countries, collective bargaining is more straightforward and unions and employers’ organizations are recognized for the purposes of collective bargaining. France has some of the world’s longest-standing collective bargaining practices in the domestic work industry. The sector is covered by three agreements. The first was signed in 1999 by the Fédération des Particuliers Employeurs de France and the Confédération française démocratique du travail (CFDT), Confédération Générale du Travail (CGT), Confédération française des travailleurs chrétiens (CFTC) and Force Ouvrière (FO) trade union confederations (ILO, 2015a). As the agreement covered only privately paid workers employed by individual households (68 per cent of the workforce), two further agreements were signed: a 2012 agreement, signed by six unions and two employers’ organizations, covers domestic workers placed in private homes by non-profit intermediaries,<sup>xii</sup> while an agreement signed in 2014 by three unions<sup>xiii</sup> and two employers’ organizations representing private companies<sup>xiv</sup> covers domestic workers who are employed by private enterprises.<sup>xv</sup>

Together, these agreements cover most of the domestic work sector. Each of them is universally applicable and also applies to migrant domestic workers. Application of and compliance with collective agreements is particularly effective in France, in part because of a ‘voucher system’ (Chèque Emploi Service Universel, CESU). Under this system, employers purchase a voucher for domestic services from a bank or a government agency which manages the payment of wages and social security contributions for domestic workers (Mather, 2015). To purchase the vouchers, householders must register a written contract that complies with the provisions of the relevant agreement. Employers receive significant tax reductions and credits. This system encourages compliance and the payment of a living wage even by vulnerable employers

<sup>xii</sup> Negotiated by six unions including CFDT, CFTC, CGT, CFE-CGC, FO, and UNSA-SNAPAD, and the employers’ organizations representing non-profit companies (FNAAP-CSF and UNA).

<sup>xiii</sup> CFDT, CFTC and CFE-CGC

<sup>xiv</sup> FEDESAP and FESP

<sup>xv</sup> The CGT objected to this contract, arguing that it misrepresented the employment relationship by treating employers as service-users. FO also decided not to sign the agreement because they believed it would lead to the disintegration of working conditions in the sector, partly because of the employment relationship model.

(Mather, 2015; ILO, 2013). It has also supported the organization and capacity building of workers by earmarking funds to support social dialogue and vocational training (ILO, 2013). Between 2002 and 2010, the percentage of employers using the system increased from 56 per cent to 78 per cent.

In Italy, the first collective agreement covering domestic workers was agreed in 1974 between three unions,<sup>xvi</sup> the National Federation of the Italian Clergy and Nuova Collaborazione. Over the following four decades, employers organized to form their own representative organizations, DOMINA, which became a signatory to the agreement in 1996, and FIDALDO, which became a signatory in 2001. This agreement covers wage rates, periods of rest, paid holidays, sick pay and severance pay. The agreement is not universally applicable: it is only compulsory for employers who are members of DOMINA or FIDALDO or who have entered into contracts that explicitly or implicitly refer to it. When workers

who are not formally covered by the agreement bring cases to court, judges use the provisions on wages and social security as the standards by which to adjudicate. This does not, however apply to the other aspects of the agreement (such as working hours, paid leave, etc.). The same conditions apply to migrant domestic workers. Despite these limitations, conditions in the domestic work industry have improved significantly over the last fifteen years, with many more workers having signed a contract of employment (ILO 2015b).

As these examples show, collective bargaining and other forms of social dialogue have been used to extend labour protection to domestic workers. As they involve highly individualized employment relations, most of the collective agreements have been reached at the national level for the domestic worker sector (see table 1). Other innovative examples involve agreements reached through tripartite social dialogue.

**Table 1: Collective and tripartite agreements**

Country	Parties to the agreement	Content of agreement(s)	Application
Belgium	<b>Employers</b> - Federgon - Fédération Wallonne des Entreprises d'Insertion (Atout EI) - Plateforme Agences locales pour l'emploi (ALE)	Minimum wages, remuneration, working time, stand-by time, daily and weekly rest, training, pension and social security.	Joint committee 322.01 regulates working conditions of domestic workers employed through the service voucher system.  It applies to all domestic workers with a domestic work contract.
	<b>Workers</b> - Fédération Générale du Travail de Belgique (FGTB) - CSC Food and Services Union, affiliated to the Confederation of Christian Trade Unions (ACV-CSC) - Centrale générale des syndicats libéraux de Belgique (CGSLB)		
	<b>Employers</b> CIB Belgique, UPI SNP		
	<b>Workers</b> CSC FGTB CGSLB		
	<b>Employers</b> - Familiehulp - Fédération wallonne de services d'aide à domicile (FEDOM) - Fédération d'Employeurs de Services d'Aide à Domicile (FESAD) - Fédération de l'Aide et des Soins à Domicile (FASD) - Fédération des services bruxellois d'aide à domicile (FSB)	Working time, remuneration, wage scales, training, pension, annual bonus, compensation for night work and weekends, transportation costs, professional uniforms, etc. <sup>xvii</sup>	Joint committees 318.01 and 318.02 cover home care providers. They do not cover domestic workers hired through the service voucher system.
<b>Workers</b> - CSC - FGTB - CGSLB			

<sup>xvi</sup> Filcams-CGIL, Fisascat-CISL, and Uidatca-UIL

<sup>xvii</sup> <http://www.emploi.belgique.be> [accessed 22 October 2015]

Country	Parties to the agreement	Content of agreement(s)	Application
France	<b>Employers</b> FEPEM <b>Workers</b> CFDT, CGT, CFTC and FO	Job classifications, wage rates, union activities, vocational training, working time, paid annual leave, public holidays, health insurance, lodging and food, maternity leave, and accommodation.	The <i>Convention collective nationale des salariés du particulier employeur</i> covers domestic workers directly employed by households. Universally applicable.
	<b>Employers</b> FEDESAP FESP <b>Workers</b> CFTC, CFE-CGC <sup>xviii</sup> , CFDT	Wage scales and remuneration, gender equality, working arrangements, occupational health and safety, training, job classifications, social protection.	The <i>Convention collective nationale des services à la personne</i> covers those domestic workers hired through an intermediary (private). Universally applicable.
	<b>Employers</b> USB Domicile Adessadomicile ADMR FNAAFP-CSF UNA <b>Workers</b> CFDT CFTC CGT CFE-CGC FO UNSA-SNAPAD	Wage scales and remuneration, gender equality, working time, stand-by time, night work, weekend work, working arrangements, occupational safety and health, training, job classifications, social protection.	The <i>Convention collective nationale de la branche de l'aide, de l'accompagnement, des soins et des services à domicile</i> covers domestic workers hired through an intermediary (private). Universally applicable.
Germany	<b>Employers</b> DHB Netzwerk Haushalt <b>Workers</b> NGG	Federal agreement lays out general working conditions (working time, rest, holidays).	Members of signatory parties. DHB encourages its use as a model contract for non-members. Agreement is used as a reference in court.
Italy	<b>Employers</b> FIDALDO DOMINA <b>Workers</b> FILCAMS FISASCAT UILTuCS Federcolf	Job classification, wage rates, working time, night work, periods of rest, paid holidays, sick pay, protection of working mothers, job sharing, notice and severance.	Members of signatory parties. Labour courts use agreement as a reference for the minimum wage and social security.
Sweden	<b>Employers</b> KFO Almega <b>Workers</b> Kommunal	Minimum wage, overtime, daily and weekly rest, holidays, provision for pension entitlements, sick leave and accident insurance, access to maternity leave and social security.	Applicable to workers employed by private agencies.
Switzerland	<b>Employers</b> zu Hause leben <b>Workers</b> UNIA	Remuneration, rest times, sick leave, accident insurance, maternity leave, social security, decent working and living conditions for live-in workers, protection against violent and abusive practices, notice period / protection against unfair dismissal, and recognition of qualifications and work experience as well as provisions for (further) training. (2014)	Applicable to non-medical care workers hired by agencies.
Argentina	<b>Employers</b> SACRA and EMTRACAP <b>Workers</b> Personal Auxiliar de Casas Particulares (UPACP) - Asociación de Trabajadores Auxiliares de Casas Particulares - Unión de Trabajadores Domésticos y Afines - Asociación de Trabajadores Auxiliares de Casas Particulares (ATACP) - Sindicato del Personal de Casas de Familia (SINPECAF) - Sindicato del Personal de Servicio Doméstico de Río Negro (SI.PE.SE.DO.) - Sindicato de Trabajadore	Minimum Wages (2015)	Tripartite agreement. Universally applicable.

<sup>xviii</sup> CFE-CGC (Confédération Française de l'Encadrement - Confédération Générale des Cadres)

## Coordinated action

Social partners have also engaged in other forms of collective or coordinated action to regulate and improve the working conditions of domestic workers, mitigating the risks attached to their employment. In Switzerland, following the advocacy efforts of the national trade union confederation UNIA, a federal tripartite commission asked the Federal Council to establish a standard employment contract as there was evidence of unacceptably low wages in the sector. The standard contract was negotiated by a tripartite expert group, and then presented to the social partners from sectors similar to domestic work, such as the cleaning, hotel, catering and health sectors. It includes a minimum wage and a wage scale based on experience, skills and certification.

There is also an emerging practice of using individual contract negotiations to set collective standards in the industry, an approach adopted by unions in Hong Kong China, Indonesia and Kerala (India), for example. In this model, workers came together to determine and coordinate baseline standards in the industry and promoted those standards at the point of hire. The standards were often either captured in a standard form contract or promoted by an intermediary organization managing hiring in the industry.

This approach often seems to be most effective when coupled with job training and formal certification. In Hong Kong China, the Domestic Workers General Union (DWGU), an affiliate of the Hong Kong Confederation of Trade Unions (HKCTU) that organizes local non-migrant domestic workers,<sup>xx</sup> received government funding for a job training programme for local domestic workers called the Confederation of Trade Unions Training Centre (CTUTC). The Training Centre and the Confederation are separate entities, ensuring the Training Centre's ability to promote high professional standards and the Confederation's independence in social dialogue (HKCTU, 2015). The Training Centre provides over one hundred hours of skills training for women entering the market, including cleaning, laundry, care of infants and the elderly, negotiation, and labour rights. Once certified, students have access

to the centre's job referral programme through which women gained access to 19,287 quality jobs between 2002 and 2014. Meanwhile, the members of the Domestic Workers General Union came together to agree on appropriate wages and fees in the industry<sup>xx</sup> and the Confederation uses this as a benchmark when negotiating contracts (HKCTU, 2015). These contracts have significantly raised standards for workers who are placed through the Confederation. The standard hourly wage of a trained domestic worker is two to three times higher than the statutory minimum wage, and post-natal caregivers placed through the Confederation earn 100 per cent more than those placed by the government referral agency (HKCTU, 2015). Furthermore, the Confederation has the highest job placement rate of any government-supported domestic workers job-referral programme, even though wages are higher.<sup>xxi</sup>

In Zambia, domestic workers' organizations negotiated a code of conduct now used by intermediary agencies as a standard for setting contractual terms. Though domestic workers are unionized, they are excluded from collective bargaining by a threshold provision that only allows bargaining with employers with 25 or more employees (ILO, 2015f). Moreover, the Zambian Federation of Employers (ZFE) could not legally represent employers of domestic workers so the Zambian Congress of Trade Unions (ZCTU), the Federation of Free Trade Unions of Zambia (FFTUZ), the Ministry of Labour and Social Security and the Ministry of Home Affairs, negotiated the Code of Conduct, which covers minimum wages, working time, sick leave, maternity leave, severance pay and more, and is based on the 2011 statutory protection for domestic workers (ILO, 2011). Intermediary agencies distribute the Code of Conduct to employers, refer to it when setting contractual terms at the point of hire, and have agreed to negotiate salaries above the minimum wage and to enforce the contracts. The agencies report salaries 19 to 130 per cent above the statutory minimum wage, and a high degree of compliance, despite a lack of systematic enforcement (ILO, 2015e).

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<sup>xx</sup> In Hong Kong, domestic workers, including migrant domestic workers, have the right to freedom of association and have formed unions since the 1990s, usually according to nationality. The HKCTU, which organizes domestic workers of several nationalities, comes under the FADWU, the Federation of Asian Domestic Workers Unions, to which the DGWU is affiliated. However, there is no statutory provision establishing collective bargaining rights for any workers (Hong, 2010). National domestic workers are covered by the Labour Code and have the freedom to work on an hourly basis, whereas migrant domestic workers must live in the homes of their employers and are protected by a government-mandated standard contract that includes a minimum allowable wage.

<sup>xx</sup> Interview with Fish Ip, Regional Coordinator (Asia) of the International Domestic Workers Federation, 2015

<sup>xxi</sup> Fish Ip, interview, 2015



## Conclusion

Workers' and employers' organizations, collective bargaining and other forms of social dialogue are effective means of expanding labour protection to domestic workers. The organization of domestic workers and their collective representation can protect them from the risk of unacceptable forms of work. Where domestic workers and their employers enjoy freedom of association and the right to collective bargaining, innovative organizing strategies have resulted in the formation of representative domestic workers' and employers' organizations. These organizations have engaged in collective negotiations to improve the terms and conditions of employment and engaged in coordinated action to promote decent work by providing model employment contracts. In some instances, they have lobbied to increase the public funding available for the beneficiaries of homecare (the elderly and people with disabilities) and negotiated increases in wages for workers delivering these services. Successful strategies have included building coalitions between domestic workers' organizations, employers and their organizations and other civil society actors, and efforts to clarify the rights and responsibilities of those involved in triangular employment relationships.

The innovative examples illustrated in this Issue Brief show how organizing domestic workers and their employers, and collective negotiations can reduce the vulnerability of domestic workers that results from a highly individualized employment relationship, and help to improve working conditions. Key factors of success include:

- Legal recognition of domestic workers as workers, of householders as employers, and of homes as workplaces;
- Effective recognition of the right to collective bargaining;
- Clarification of the employment relationship and recognition of an employer or employers' organization for bargaining purposes;
- Government promotion of tripartite social dialogue with workers' and employers' organizations;
- Building the capacity of domestic workers and employers to bargain collectively.

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**Inclusive Labour Markets, Labour Relations and  
Working Conditions Branch (INWORK)**

International Labour Office  
4, route des Morillons  
CH-1211 Geneva 22, Switzerland

Tel: + 41 22 799 67 54

Fax: + 41 22 799 84 51

[inwork@ilo.org](mailto:inwork@ilo.org)

[www.ilo.org/collectivebargaining](http://www.ilo.org/collectivebargaining)

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