

A stylized world map composed of a grid of dots in various shades of gray, with several dots highlighted in red. The map is centered behind the title and subtitle.

From »Good Spirit« to Employee?

Strengthening Domestic Workers' Employment Rights in Latin America

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- In the past ten years, laws have been passed in a number of Latin American states aimed at reinforcing the employment rights of domestic workers. In most cases, these laws would not have materialised without national and regional campaigns by domestic workers' trade union organisations.
- A key factor in the success of the trade union representation of domestic workers is the support provided by strong trade union federations and alliances with other political actors. Also decisive has been the support of allies in governments and parliaments who took up demands for the reinforcement of the employment rights of domestic workers. A comparison of the Latin American countries in which the furthest-reaching reforms have been enacted indicates this.
- These improvements in the law are overshadowed by the fact that very few Latin American women working in private households in fact benefit from statutory minimum standards. The example of Uruguay, however, shows that it is possible – at least up to a point – to overcome social acceptance of the informal employment of domestic staff. This transformation is the result of a government policy which tied the reinforcement of the rights of domestic workers to the introduction of collective agreements for the domestic work sector and to public campaigns.



Domestic workers are one of the most vulnerable groups of workers worldwide. »Female, poor, informally employed« – according to studies by the International Labour Organization (ILO) these words summarise the overwhelming majority of the estimated tens of millions of domestic workers. The power imbalance between employer and employee is perhaps more pronounced in relation to this group than to almost any other: the traditional low regard for the economic value of domestic work and its lack of social recognition as a form of employment encourages pay levels below average. As members of an ethnic minority, immigrants or due to lacking formal qualifications many domestic workers have few alternatives in the labour market. Government efforts to implement minimum labour standards generally do not make it over the threshold of private households. To some extent, domestic workers are even subject to explicit exemptions or discrimination in labour legislation. The classic weapons of collective disputes appear to be ineffective in the face of the extreme dependence of domestic workers on their employers and the fact that their activities take place behind closed doors, which are not accessible to trade unions. As a result, paid household work is characterised by the violation of employment rights, child labour, exploitation, underpayment and a lack of social protection to a greater extent than other sectors. This is all the more alarming because in developing countries domestic work makes up a considerable proportion of female employment.

In terms of its *Decent Work* agenda, it makes sense, therefore, that the ILO declared »domestic work« a central topic on the agenda of 2010's International Labour Conference. Given the daily reality of domestic labour, however, the question inevitably arises: what are the chances of real improvements in their social situation and employment rights? Are declarations concerning the rights of domestic workers in relation to their employers or on independent interest representation, given the difficulties of their implementation, not worth the paper they are written on?

To find answers to these questions it is useful to take a look at Latin America. Domestic work is a widespread phenomenon in Latin American societies, with deep historical roots. In this, the most socially unequal region of the world, it is usual, even in lower middle class households, to have at least one domestic employee. An estimated 11 million Latin American women work in private households. This corresponds to around 15 per cent of

female employment. In Argentina, Brazil, Costa Rica, Paraguay and Uruguay, indeed, almost 20 per cent of working women are domestic staff. In particular, in the poorer social strata paid household employment represents one of the most important sources of income for Latin American women.

Experiences with the Trade Union Organisation of Domestic Workers in Latin America

Given the prevalence of domestic work it is not surprising that there is a tradition of trade union organisation among domestic workers in Latin America. One of the oldest organisations of domestic workers is the *Unión Personal Auxiliar de Casas Particulares* (UPACP), founded in 1901 in Argentina. Most of the current organisations of domestic workers, which exist in almost all Latin American countries, have their origins in initially local self-help initiatives, which frequently emerged for a specific reason.¹ One example is the trade union of (female) cooks founded in Bolivia in 1935, which emerged as a result of protests against a ban on carrying baskets in trams.² After the protests had attained some success the organisation increasingly articulated trade union demands in the name of domestic workers and became affiliated to the trade union federation *Federación Obrera Local* (FOL). Within the FOL, from 1936, it formed the *Federación Obrera Femenina* together with the organisations of other characteristically female occupational groups and combined classic trade union activities with self-help initiatives.

In other Latin American countries, too, domestic workers' organisations from the beginning supplemented trade union activities by offering advice on a range of practical issues, as well as educational opportunities. Interestingly, this combination was also chosen by associations which did not consider themselves to be trade unions. The more closely tailored to the reality and needs of domestic workers a trade union's activities are, the more successful it tends to be. Analysing the development of domestic workers' trade union organisations in Latin America it is striking that many associations, despite taking this ap-

1. In particular, from the mid-1960s numerous organisations emerged whose foundation was supported by the Young Catholic Worker movement and later by the Liberation Theology movement.

2. For cooks this regulation amounted to a »prohibition of use«, since they had to carry the groceries they had purchased in the market to the households in which they worked.



proach, remained local or disbanded after a short time. A decisive factor in the success and continuity of domestic workers' trade union organisations seems to their ability to form alliances at the national level with other trade union organisations and/or the women's movement. The strength of these alliances, however, depends on the willingness of the trade union and women's movements to fight for the interests of domestic workers.

There are successful examples of such alliances in a number of countries in the region. In some cases, such as Bolivia and Costa Rica, joint campaigns engendered sufficient political pressure to set the ball rolling with draft legislation aimed at strengthening the employment rights of domestic workers. The existence of domestic workers' organisations in almost every country in the region shows that the general prejudice that domestic workers cannot be organised into trade unions is not tenable. The structural weakness of trade union representation of domestic workers in Latin America is also evident, however. Even in those countries in the region in which these organisations are actively supported by the national trade union and women's movements, or form part of these movements, in no case has it been possible to organise a substantial portion of domestic workers in trade unions.

Domestic Workers of the World Unite? The Role of Domestic Workers' Regional Organisations in Latin America

In order to do something about this structural weakness, representatives of domestic workers' organisations from Brazil, Chile, Columbia and Peru met as early as the 1980s for a regional exchange. This led in 1988 to the founding of the world's first regional organisation for domestic workers, the *Confederación Latinoamericana y del Caribe de Trabajadoras del Hogar* (CONLACTRAHO). CONLACTRAHO today brings together 30 organisations from 13 Latin American countries, as well as Canada. Besides national trade unions, members include umbrella organisations of domestic workers' trade unions and local self-help associations. Despite the different organisational models all member organisations are autonomous domestic workers' associations. Fundamental to CONLACTRAHO is the conviction that domestic workers will obtain their rights only if they pursue them themselves. Consequently, almost all members of the organisation's executive committees are women who work or have

worked as domestic staff. The goal of the regional organisation is the mutual reinforcement of their member associations. To this end they encourage the exchange of views on successful strategies in the organising of domestic workers and coordinate joint campaigns, regional training seminars and studies on paid domestic work. The congresses, which take place every four years, offer member associations an important platform for articulating their demands. One weakness of the organisation is the difficulty of maintaining regular and prompt communication between member associations, due to their different structures. Furthermore, the organisation, like most of its members, is dependent on the financial support of international donors. Despite these problems, CONLACTRAHO can point to a number of successes. One of its greatest contributions is that it has given domestic workers voice and visibility at both regional level and in international bodies. In addition, the organisation gets involved in international campaigns and civil society networks and seeks exchanges with the domestic workers' associations of other continents. At present, CONLACTRAHO is coordinating the campaign launched by the International Domestic Workers' Network (IDWN) in Latin America for the adoption of an ILO Convention on domestic workers' rights.

A Question of Political Will: The Role of the State

In the past ten years, laws have been passed in ten out of 18 Latin American countries aimed at strengthening the employment rights of domestic workers. Without the many trade union campaigns at national and regional level on the situation of domestic workers, in many cases the bills would probably never have got off the ground. In any case, trade union campaigns are ineffective if their demands lack parliamentary and government support. In this respect, the political climate in Latin America has changed significantly in the past ten years. Over the past decade left-progressive parties have triumphed in elections in many countries in the region. These governments, particularly in the southern part of the continent, have sought to implement their political promises to combat social inequality among other things by strengthening employment rights.

While the first, albeit very partial legal improvements for domestic workers came in the 1990s, in the past ten



years, through the combination of societal pressure and parliamentary majorities more fundamental legal reforms have been initiated. It is true that equality has still not been achieved for domestic workers in national labour legislation in most countries in the region. Nonetheless, legal reforms have led to a substantial improvement of domestic workers' legal situation. Consequently, their organisations now face a new challenge: the overcoming of the discrepancies between improved laws and legal reality. Such discrepancies are particularly striking in the case of paid domestic work. For example, although there is a statutory minimum wage for domestic work in almost every Latin American country, in practice the provisions are barely complied with. Polls of domestic workers' associations in Brazil, Costa Rica, Guatemala and the Dominican Republic show that the pay of over half the domestic workers in the country is beneath the statutory minimum wage. Even the social security provided in some countries in the region frequently exists only on paper. However, the case of Uruguay shows that laws strengthening the rights of domestic workers can have more substance.

The Case of Uruguay: How Law Becomes Legal Reality

In Uruguay, a law was passed as early as 1942 regulating social security for domestic workers. Nonetheless, the proportion of domestic workers covered never exceeded 30 per cent. This changed only in 2005, when the first left-wing government coalition came to power.

This political change was also the result of the severe economic crisis which the country experienced in 2001–2002 and in the wake of which poverty increased substantially in broad segments of the population. The new government declared that the reinforcement of social security and the extension of social insurance coverage to the informal sector were key components of its reform agenda, aimed at combating poverty and reducing social inequality.

The Uruguayan Way 1. Incentives to Formalise Employment

In the course of the social policy reforms implemented since 2005 those on low incomes were given incentives to formalise their employment and register with the social security authorities. For example, they can now

benefit from the co-insurance of children within the framework of statutory health insurance, a reform which particularly benefits the poor. Given that in Uruguay the bulk of domestic workers come from this segment of the population and that a disproportionate number of them are single parents, these reforms represent a significant improvement from their point of view.

In order that benefits could be maintained or even increased, despite the expansion of social security, parallel measures were taken to improve the revenue side. In addition to contributions from both employees and employers social security in Uruguay was funded by state allocations. Fiscal scope has been extended by, among other things, the introduction of income tax in July 2007. One year previously, a law had been passed enabling employers to register informal employees with the social security authorities, backdated to April 1996. There was an incentive to do this because, in the case of voluntary registration, penalties were waived on unpaid contributions and payments could be made in instalments. In parallel with this, the activities of the labour inspectorate were intensified and a rule stemming from the 1990s applied under which white-collar workers who reported instances of informal employment would receive a portion of the penalties which the employer had to pay to the social security authorities. In particular, if an employer dismissed an employee there was a significant risk that the former would have to pay backdated contributions and be subject to substantial fines, which in turn serves as an incentive to register employees.

At this political conjuncture the domestic workers' trade union *Sindicato Unico de Trabajadoras Domesticas* (SUTD), which had disbanded in 1990, was re-established. The SUTD took the view that, although the government's reform measures were a step in the right direction, they were insufficient, given the extent of the power gap between domestic workers and their employers. As a result, the SUTD – with the support of the national trade union confederation – worked with the government for a separate law to improve the social situation and employment rights of domestic workers.

2. Specific Legal Regulations which Take Account of the Reality of Domestic Workers

This law was passed in November 2006. On its coming

into force in June 2007, domestic workers' demands for health and pension insurance coverage, dating back to 1942, were reinforced and their employment rights substantially extended.

The law includes, first, an **improvement in the social insurance coverage** of domestic workers, since they now received a right to unemployment insurance. Domestic workers' actual working conditions were taken into consideration to the extent that unemployment insurance also takes effect in cases in which the insured person has several employers and is dismissed by only one of them or their hours reduced. The employer is obliged to pay both the employee's and the employer's social insurance contributions to the *Banco de Previsión Social* (BPS). Every household that has registered a domestic worker with the BPS receives a monthly payment demand. It arrives just like an electricity or telephone bill and can be paid in a similar, uncomplicated fashion. The basis for calculating contributions is the gross wage registered by the employer, which the BPS ensures is in compliance with the minimum wage. Employers are obliged to provide domestic workers with a wage slip, which also details the social security contributions.

Secondly, the law provides for a number of **improvements in employment rights**. The maximum working hours for domestic workers was limited to eight hours a day or 44 hours a week. There was also a provision on holidays and rest breaks. There were also specific regulations on live-in domestic workers. The law provides domestic workers with the right to holiday pay and a thirteenth-month wage. Notice periods and additional rights in the event of pregnancy are also guaranteed. In order to prevent child labour, domestic workers must be at least 18 years of age.

Thirdly, the law strengthens domestic workers' **trade union rights** by ordering that their wage and working conditions be laid down within the framework of collective bargaining. One advantage of collective bargaining is that it makes it possible to monitor whether the law is being complied with. Apart from that, collective bargaining makes it possible to provide for improvements in wages and working conditions beyond what is laid down in the law.

3. Introduction of Collective Bargaining for the Domestic Work Sector

Collective bargaining in Uruguay is conducted within the framework of so-called »wage councils«. These are tripartite bodies in which wages and working conditions are negotiated for individual branches and occupational groups. On the wage council responsible for domestic work the employers' side is represented by the Uruguayan League of Housekeepers and Consumers, whose aim is to represent the interests of private households. Even before the commencement of collective bargaining the minimum wage for domestic workers was being gradually increased. Within the framework of collective bargaining a wage agreement was reached in November 2008, valid until June 2010. On top of the statutory minimum standards the wage agreement lays down, among other things, percentage wage increases and goes into detail concerning the obligation to pay overtime. The wage council declared 19 August National Domestic Workers' Day. Domestic workers have the right to an additional paid holiday on this day.

One consequence of collective bargaining whose significance is not to be underestimated is that it has enhanced the attractiveness of trade union organisation. A concrete illustration of this is the rising membership of the SUTD. This trade union, founded in 1986, was disbanded in 1990 after failing to organise more than 1 per cent of domestic workers at any time. In 2005, the trade union was re-established, although to begin with it was still unable to register a substantial membership increase. This changed in 2008 when the SUTD represented domestic workers in the wage council for the first time. In that year, the level of unionisation of Uruguayan domestic workers increased to around 10 per cent.

The results of collective bargaining are published by the Labour Ministry. They are also automatically passed on to every household with a registered domestic worker in the BPS's monthly payment demands. The BPS calculates social contributions on the basis of declared gross wages in accordance with the relevant wage agreement. This guarantees that the employer complies with the legal regulations and wage agreements at least with regard to social insurance. It is much more difficult, however, to monitor whether the wage calculated by the BPS is



paid to the domestic worker in full and whether agreed working hours and the payment of overtime are kept to. Given the limited possibilities for inspection the Labour Ministry and the BPS rely primarily on information campaigns.

4. Changing Attitudes as a Result of Public Information Campaigns

The BPS has funded extensive and innovative awareness-raising and information campaigns from its public relations budget, utilising various communication channels (TV, radio, internet and print media). The TV and radio spots and leaflets were produced by professional advertising firms. On public bus routes which connect the poorer quarters on the outskirts of town with middle and upper class areas theatre groups presented scenes in the style of the Latin American telenovela or soap opera, which dealt with the rights of domestic workers and emphasised the benefits of employment with social insurance, even for those on low incomes. The purpose of this was to counter the widespread prejudice among the low paid that social insurance contributions amount to money down the drain. Overall, these public information campaigns were aimed at changing attitudes on both sides: ultimately, many informal employment relationships rest on a kind of silent agreement between domestic workers and the families employing them, based on the assumption that informality is good for both.

How Consciousness Changes Being: The Transformation of Social Attitudes as a Key Factor

The public information campaigns were effective: while in 2004 the proportion of domestic workers with social insurance was 30 per cent, today the figure is over 50 per cent. In Uruguay's capital, Montevideo, home to almost half the population, the proportion is even higher, while in rural areas it is sometimes lower. The fact that around half of all Uruguayan domestic workers are still employed on an informal basis, despite the joint efforts of various public authorities and the trade unions, shows how difficult it is to overcome social acceptance of the informal employment of domestic workers which has prevailed for centuries. Such a change in attitudes would, in many respects, be tantamount to a minor cultural revolution in the private sphere. That this has already occurred in some Uruguayan households, however, is illustrated by the following anecdote. One of the BPS information leaflets which were distributed in middle and upper class residential areas took the form of a »Please do not disturb« sign, of the kind found in hotels. A few months later, some houses were displaying these signs for all to see, but with the side which read »The domestic worker in this house is registered with the BPS« facing outwards. The strategy implemented in Uruguay has succeeded to the extent that today, at least in some neighbourhoods, people take a dim view of those who continue to refuse to treat their »good spirit« as employees and afford them their rights.



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