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Why Are The Rights Of Domestic Workers So Often Ignored?

BY: CINDY CHO

SOMETIMES the idea of 'the law' seems far removed from daily life. Especially within the home, legal obligations feel abstract and are difficult to understand.

But they cannot be ignored, especially when over 38 000 Namibians call someone else's home their workplace – meaning that at least 38 000 more Namibians are employers of these domestic workers. Labour and social security laws apply to all employers and employees, regardless of whether the workplace is an office or a home.

A recent survey found that only 8 per cent of domestic workers are regularly paid for overtime work; only 20 per cent are allowed to take annual leave – with the majority taking such leave without any pay; and only 30 per cent of domestic workers are registered for social security – with the majority having never received a paid sick leave day or paid annual leave day. (These statistics come from the Labour Resource and Research Institute's 2008 report, 'The Plight of Namibia's Domestic Workers'.)

This means that the majority of employers of domestic workers are breaking the law on a daily, hourly basis.

Many employers of domestic workers do not set out deliberately to break the law; the problem is a lack of information and clarity on the laws that govern the domestic work relationship. Recognising this, the LAC has put together a one-page fact sheet on the rights of domestic workers. The fact sheet details the 2007 Labour Act's requirements for overtime, night work, Sunday work and meal times. It explains the process of registering for social security benefits and lays out the annual leave and sick leave requirements in a simple chart.

An employer can use the chart to calculate leave days based on the days worked per week. Even though the chart begins with one day per week, it provides the basis for calculating leave time for workers with shorter periods of employment, such as just half a day once a week. For example, suppose a domestic worker is employed for two days a month to clean the house. The employer must calculate how many days per week are equivalent to 2 days a month: it is 0.5 days per week. Then the employer can consult the chart and see that one day worked per week entitles a domestic worker to six sick-leave days per 36 months and four annual leave days per 12 months. Since this domestic worker works 0.5 day per week, she is entitled to three sick-leave days per 36 months and two annual leave days per 12 months.

Although these calculations and regulations may seem overwhelming, they are the laws. More generally, abiding by these laws – especially the laws that allow employees to take paid leave – benefits both employees and employers. Adhering to the laws designed to protect the health and wellbeing of Namibia's workers is a step towards raising the standard of living for some of the most vulnerable women in Namibia.

The issue of domestic workers' rights raises larger questions about priorities and the focus of laws. Firstly, why is domestic work – a female-dominated sector – consistently ignored and passed over in discussions on minimum wage when minimum wages have been agreed upon for the male-dominated sectors of construction, farm work and security? True, the minimum wages in these sectors were negotiated by means of collective agreements with unions, but the Labour Act provides for a Wages Commission that can act in the absence of such agreements – and domestic workers, who usually work in isolation are a notoriously difficult to unionise effectively.

Secondly, given the recent international focus on human trafficking and forced labour, can a commitment to practical, everyday laws like those on social security and labour legitimise domestic work and thereby help eliminate some of these egregious human rights violations? Trafficking and forced labour are often thought of in connection with sexual exploitation, but in fact trafficking and forced labour in connection with domestic work appears to be more common in Namibia.

And finally, why are domestic workers so seldom afforded the same degree of respect as other workers? Seemingly mundane matters like paid overtime, annual leave, sick leave and

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domestic workers are as deserving as any other workers of conditions that enable them to work with fairness and dignity.

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These are questions to think about around the kitchen table.

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