



Getting the house in order: Foreign migrant workers in the domestic work sector in South Africa

Monica Kiwanuka, Zaheera Jinnah and Becca Hartman-Pickerill
African Centre for Migration & Society (ACMS),
University of the Witwatersrand

MiWORC Policy Brief 4

A summary for policy makers,
NGOs and media practitioners

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Report N°10 is part of the **Migrating for Work Research Consortium (MiWORC) Work Package 3** which explores the impact of low and high skilled migration in key sectors of the economy: construction and mining, commercial agriculture, hospitality, domestic work, and public health.

Introduction

This study's findings reveal that domestic work in South Africa is mixed in terms of the type of work done (child care, cleaning, washing, gardening) and the profile of workers (male and female, foreign-born and domestic, young and old). Domestic work in South Africa is **largely informal**, and **negotiated outside of labour laws and regulation**:

- recruitment is done mainly through word of mouth and agreed to verbally between employer and employee;
- job requirements are vague; and
- termination of employment is often carried out without notice.

Many of the workers and employers interviewed had only a **vague notion of the standards applicable to the domestic work sector**. The **conditions of work amongst domestic workers are generally poor**, marked by low wages, long hours, no contracts and few benefits. No significant difference between foreign-born and local workers was found with respect to these conditions.

In South Africa there has been a series of policy reforms and developments at national and international levels to improve regulation of the sector. However, poor conditions in the sector persist. The **lack of implementation** can be traced to a number of reasons: poor capacity in the Department of Labour's (DoL's) Inspectorate Division, little or no sanction for non-compliance amongst employers, poor mobilisation by trade unions, and low levels of awareness amongst workers. Given the high levels of poverty, unemployment and inequality in the country, and region, **most employers**

The methodology of the study

The findings in *MiWORC Report N°10* are based on two years of qualitative research spanning 2013 and 2014. The study was conducted in eMalahleni (Witbank) and Middelburg in Mpumalanga. Mpumalanga was randomly selected from a list of provinces that have international borders, and eMalahleni (Witbank) and Middelburg were identified as case studies as they represented urban centres attracting internal and international migrants.

The research team interviewed 43 respondents, including 15 foreign-born and 12 South African domestic workers, 6 employers and 10 key informants.

The sample of foreign domestic workers consisted of individuals from Zimbabwe, Mozambique, Malawi and Swaziland. All seven of the Zimbabwean domestic workers originated from Bulawayo and shared a common language (Ndebele) with many local people in Mpumalanga. Amongst the five Mozambican participants, three men worked in gardening services and two women worked in domestic households, doing cleaning or child care. Swaziland and Malawi each had a representation of one female participant in the sample.

simply replace workers should they demand better conditions.

The informality of the sector coupled with its broader historical, and gendered dynamics produce **underlying issues of vulnerability that worsen conditions of work in the sector**. For migrants this is **further exaggerated by the current migration regime in the country**, which provides low skilled regional migrants with few avenues for entry or work.

Overview of the domestic work sector internationally and in South Africa

With an estimate of 53 million workers worldwide, domestic work employs between 4 and 10 per cent of the total workforce in developing countries and between 1 and 2,5 per cent in developed countries. **In 2015, approximately 1.2 million people were employed in domestic work in South Africa.**

Migration has consistently been one of the underlying features of the domestic work sector in South Africa, either as **internal migration from rural areas to cities during most of the twentieth century or more recently as cross border migration**. Among the South African domestic workers the majority were rural-urban internal migrants. In contrast, the majority of the foreign-born participants came from bigger cities in their countries of origin, including Maputo, Lilongwe, Harare and Bulawayo.

Although migrating to work as a domestic worker poses a number of challenges (*see page 3 below about conditions of work*), migrating also presents **more opportunities for work either as an internal migrant or across national borders**.

Migration also presents opportunities for domestic workers to send some money or household necessities back home to support either children or parents they have left behind, or to assist with paying for education of their children or siblings. Hence, the findings in this study show that **migration is one way that participants try to move away from the poverty** at their place of origin, and through internal or cross border migration, find comfort in a new place.

Key findings on migrating to find work

Reasons for moving

Amongst all respondents the reason for moving within the province, the country, or across national borders, was to **improve livelihoods**, in particular **to find work**. The absence of secure livelihoods in rural areas in South Africa

Profile of domestic workers in this study

Demographics

Across the sample, most participants were not married and reported to be either single, divorced or widowed. There were more single parents in the foreign-born group. Most foreign-born participants who had dependants (spouse and children) had left these dependants in their home country given the expense associated with supporting them; in contrast, the South African group largely lived with their families.

On average, the South African participants (largely between 40 to 49 years old) were older than the foreign-born participants (typically 22 to 29). The age difference could imply that it is younger migrants who tend to move across borders to find work in the domestic work sector although the sample is too small to make generalisations.

Education and skills

The findings revealed generally low levels of education for both foreign-born and South African participants with seven respondents having not completed primary education, 13 with a primary school education but having not completed high school, four who had matriculated and only two who had any tertiary education whereas one respondent did not answer. The study revealed a difference in reasons for respondents not completing education, with more international migrants citing affordability issues. The majority of South Africans cited the main reasons for not completing their education to be: pregnancy while in school, taking care of sick parents, denial of education because they were girls and having failed exams.

and the poor regional economy were push factors that help explain the motivation for people to move. For South African respondents, personal and immediate family circumstances were critical determinants of migration, whereas for foreign-born migrants broader national and structural (economic or political) reasons drove movement.

Choice of destination

In terms of the factors that determine destination, there was a diversity of views. The **lower costs of living in eMalahleni (Witbank) and Middelburg**, in comparison to larger urban metros such as Durban and Johannesburg, were cited as a common determining factor, though others also emerged. The **presence of social networks** in those places that facilitated employment was a motivating factor for Mozambicans and Zimbabweans. Other issues included the **lack of job opportunities elsewhere in South Africa** and, for Mozambicans, the **proximity to borders for renewal of visas**.

Facilitating internal and cross-border migration

Family and friends played a strong role in helping to sponsor or support the travel of foreign-born migrants to South Africa.

Recruitment as domestic workers

In some instances, work and travel was arranged in advance through **payment of a fee** to contacts in South Africa. In other instances, foreign-born employers reported visiting a particular village or town in their home country (e.g. Mozambique) to recruit new workers.

Replacing relatives and friends in domestic work was another way some respondents (both South African and foreign-born) were recruited into the sector. South African respondents also mentioned the **history of one's family working in a particular sector** as a factor, as many of the respondents' mothers had (or still) worked in the sector and facilitated their skills learning and/or employment in the sector.

Key findings of conditions of work

The general conditions of work for domestic workers, whether foreign-born or local, were poor.

Contracts

Only four respondents in this study (three South African, one foreign-born) had a written contract of employment; the remainder had either **no contract at all, or referred to a verbal agreement between themselves and their employers**. This was the case even for those who worked on a permanent basis for the same employer. **Many of the respondents did not know what a**

The law about hours of work

South African law says that domestic workers should work:

- not more than 45 hours per week
- not more than nine hours a day if working for five days a week
- not more than eight hours per day if working for more than five days a week
- not more than 15 hours of overtime per week and not more than three hours overtime per day

contract was, why it was necessary, or how to ask for one.

Hours of work

The study's findings revealed **widespread transgression by employers of legislation relating to hours of work**. Sixteen of the 27 respondents were working more than the stipulated eight or nine hours a day, with no overtime pay.

No of hours worked per day	South African	Foreign-born
5 - 6	1	1
7 - 8	4	4
9 - 11	5	4
12 - 14	1	3
15 and above	0	3

Pay

The salaries of domestic workers ranged from R500 to slightly more than R3000 per month.

In general, wages were not tied to any standards, for instance where all workers would get paid a set amount for each day actually worked. Paid leave did not apply in most cases.

Job satisfaction amongst respondents was largely based on the amount they earned. Some were willing to work longer hours if it meant more pay.

Lack of social benefits

Social benefits (such as pension schemes, workers compensation (for disability and injuries at work), unemployment insurance, medical aid schemes, maternity and sick leave) **were almost non-existent. The majority of domestic workers interviewed were not registered for the Unemployment Insurance Fund (UIF).** Two were registered with the UIF but had no other benefits. Foreign-born workers are not entitled to unemployment benefits unless they have permanent resident status or refugee status.

Work dynamics

A key issue of workplace dynamics was the relationship between employer and employee. This largely determined working conditions and had a major

Domestic workers' rights

The main rights given by the ILO's **Convention concerning Decent Work for Domestic Workers** are:

- daily and weekly rest hours,
- entitlement to a minimum wage,
- entitlement to choose the place where they live and spend their leave, and
- clear (preferably written) communication of employment conditions.

The main rights given by SA's **Sectoral Determination 7 of the Basic Conditions of Employment Act** are:

- a minimum wage for domestic workers,
- maximum hours of work,
- overtime pay,
- salary increases,
- deductions that can be allowed,
- annual and sick leave,
- maternity leave,
- notice periods for dismissal,
- severance pay, and
- a requirement that employers register domestic workers with the Unemployment Insurance Fund as long as they work more than 24 hours a month.

Documentation profile

In terms of documentation, none of the foreign-born migrant workers in the study had South African citizenship. Although they all had travel documentation from their home country, only three had work permits, although these were issued for jobs other than domestic work. The rest of the foreign-born sample was undocumented. All of the South African workers had ID documents. Only one foreign-born worker was employed with an employment contract.

impact on overall job satisfaction.

Whereas some of the participants (especially those who had stayed in the same job for longer than five years), reported good relations with their employers, **the majority of both South African and foreign-born domestic workers reported high levels of discrimination and exploitation by their employers.** In general, workers refrained from engaging in a dialogue with their employers for fear of losing their jobs.

Abuse

Respondents reported instances of **physical and verbal abuse, as well as sexual exploitation and general and discriminatory maltreatment.** None of these instances were reported to the police; instead workers left these jobs when conditions became unbearable. These findings point to an underlying issue of power imbalance between the worker and employer in the sector.

Current policy frameworks

In South Africa there have been a series of policy reforms and developments at national and international levels to improve regulation of the sector. However, poor conditions in the sector persist.

Policies regarding domestic work

The International Labour Organisation's **Convention concerning Decent Work for Domestic Workers** - which came into force in 2013 - is the ILO's first ever convention covering domestic workers and recognising their economic role. South Africa and Mauritius are the only SADC countries to have ratified the convention.

In South Africa, in 2002 the Department of Labour made a **Sectoral Determination 7 (for the domestic worker sector) of the Basic Conditions of Employment Act** which covers the employment rights of domestic workers.

Immigration policy

Current South African immigration legislation and regulations do not make it easy for workers with "low level skills" to get work permits to work in South Africa. There are provisions for corporate permit schemes whereby employers can recruit *en masse* but this is hardly applicable to individual workers employed individually in private households. Otherwise, an employee needs to show that the employer advertised the position and that a contract has been signed before they can apply for a work permit to work in South Africa as a domestic worker.

Fear of detention and deportaton

A 'detain and deport' strategy has been adopted by the post apartheid regime for undocumented migrants. Immigrants who do not comply with the Immigration Act and the Refugee Act risk deportation. In 1999, 180 000 undocumented migrants were deported and by 2007 there were over 1,5 million deportees . With approximately 2,5 million deportations between 1988 and 2010, South Africa's deportation policy is systemic.

Fear of detention and consequent deportation have contributed to increasing the invisibility and precariousness of undocumented immigrants, especially those without job security and work related benefits whose potentially unscrupulous employers continue to decide the terms of employment.

An exception to this situation is provided for Zimbabweans via the Department of Home Affairs' Zimbabwean Special Permit scheme which is currently scheduled to run to the end of 2017. It allows Zimbabweans who obtain the special permits to work in low skilled sectors provided they have an employer's letter of confirmation. **Under the Refugees Act, refugees and asylum seekers are also entitled to work.**

The consequence of the obstacles to foreign-born workers obtaining work permits for low skilled work is that **many domestic workers either work illegally while in the country on visitor's visas** (which they renew every month - or every three months - by crossing a border and then crossing back into South Africa); **or they are undocumented migrants with no permission to be in South Africa.** Immigrants who do not comply with the Immigration Act and Refugee Act risk detention and deportation.

In sum, for low skilled migrant workers, **the lack of a clear, consistent, and implementable migrant labour policy has resulted in increasing precariousness amongst this group reflected in low wages, poor working conditions and hazardous work.**

The status quo: poor conditions for domestic workers persist

While the 2013 ILO Convention and many other international and regional conventions lay out several norms and standards to protect domestic workers, **the stumbling block in terms of realising better work conditions for domestic workers is in implementation of those norms and standards.**

Lack of implementation can be traced to a number of reasons: **poor capacity in the DoL's Inspectorate Division, little or no sanction for non-compliance amongst employers, poor mobilisation of domestic workers by trade unions, and low levels of awareness amongst workers.**

Given the high levels of poverty, unemployment and inequality in the country, and region, most employers simply replace workers if they demand better conditions.

Recommendations to Government and the Department of Labour

- **Introduce stronger sanctions for non-compliance** amongst employers. Penalties in the form of fines could be investigated as a means to encourage more compliance.

- **Reform institutions:** The poor implementation of the minimum wage for domestic workers points to the need for institutions such as the police, courts, the Commission for Conciliation, Mediation and Arbitration (CCMA), trade unions and the DoL to be more present, active and responsive at local levels and for junior and front office staff to be aware of and understand national and international obligations.
- **Introduce a coherent regional migration regime:** The experience of many Asian countries suggests that a more formalised circular migration regime between sending and receiving countries can create a minimum floor of standards for foreign-born domestic workers and reduce the risks associated with migration, migration agents and exploitation by employers.
- **Extend social benefits for domestic workers:** The DoL and DSD need to investigate better social benefits options for domestic workers including provisions for employer contributions.
- **Ensure equality of benefits:** Policy needs to be reformed to ensure that foreign-born domestic workers enjoy the same benefits as South African domestic workers in the sector, especially in relation to unemployment and insurance.
- **Extend training and development:** The DoL in conjunction with other departments needs to increase and strengthen skills development and education programmes in order to broaden labour market options for women, youth and rural populations.

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Immigration and the South African labour market

African Centre for Migration & Society,
Wits University
Private Bag X3, Wits 2050, South Africa

T: +27 11 717 4674

miworc@migration.org.za

Writers:

Wendy Landau & Kuda Vanyoro

Coordination of production:

Thea de Gruchy

Printing & dissemination:

Wendy Landau & Thea de Gruchy

The Migrating for Work Research Consortium

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The research consortium was a partnership from 2012 to 2015 led by the African Centre for Migration & Society (ACMS) at Wits University between a range of academic and international partners.

MiWORC was based on a matching fund principle. The European Union, in the framework of the EU-South Africa Dialogue Facility, funded 50 per cent of the consortium. Beyond an ambitious scholarly agenda, one of MiWORC's objectives was to avail empirically-based evidence to the EU-SA Dialogue Facility, as well as to a range of key stakeholders in government, organised labour, business, and the NGO sector.