

# Challenges Faced by Domestic Workers in South Africa Post 1994

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**Abstract:** Since the advent of democracy in 1994, domestic work in South Africa has remained a vital yet undervalued sector, predominantly occupied by Black African women and profoundly influenced by the persistent legacies of apartheid, race-based labour practices, and gender inequality. Despite significant legal advancements, including the enactment of Sectoral Determination 7 in 2002, South Africa's ratification of the ILO Convention 189 in 2013, the equalization of the National Minimum Wage for domestic workers in 2022, and the landmark *Mahlangu v Minister of Labour* decision in 2020, which extended coverage under the Compensation for Occupational Injuries and Diseases Act (COIDA), domestic workers continue to confront substantial structural and socio-economic challenges. These challenges encompass persistently low wages, informal and precarious employment conditions, limited access to social protection, and inadequate enforcement of labour legislation within private households.

Migrant domestic workers remain particularly vulnerable to exploitation due to their precarious legal status and lack of representation. These challenges are further exacerbated by gendered power dynamics, which contribute to the invisibility and undervaluation of care work. Drawing upon recent labour force statistics, legislative developments, judicial decisions, and research conducted by civil society organizations, this paper critically examines the disparity between policy and practice within the domestic work sector. It highlights the resilience and agency of domestic workers, including their efforts to organize and advocate for improved working conditions, while identifying key areas for policy intervention. Accordingly, the study advocates for a more inclusive, integrated, and rights-based approach to domestic work that prioritizes dignity, equity, and social justice in post-apartheid South Africa.

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## I. INTRODUCTION

Since the democratic transition in 1994, domestic work in South Africa has persisted as a vital yet undervalued segment of the labour market. Predominantly carried out by Black African women, this sector continues to embody the racial and gender inequalities deeply rooted in the apartheid era. Although the post-1994 government implemented a range of progressive legal reforms intended to enhance the status and working conditions of domestic workers, the sector remains characterized by informality, low wages, and restricted access to social protection (Budlender, 2021; Mpedi, 2022).

The principal legislative milestones encompass the enactment of Sectoral Determination 7 in 2002, which established minimum employment standards for domestic workers, and the ratification of the International Labour Organization (ILO) Convention 189 in 2013, thereby affirming the rights of domestic workers to decent work. More recently, the equalization of the National Minimum Wage in 2022 and

the *Mahlangu v Minister of Labour* judgment in 2020, which extended coverage under the Compensation for Occupational Injuries and Diseases Act (COIDA), represent significant legal advancements (James, Mullagee, & Osiki, 2023). Nonetheless, enforcement remains inadequate, particularly within private households where regulatory oversight is limited and employment relationships are frequently informal (Dawood & Seedat-Khan, 2022).

Despite the aforementioned reforms, domestic workers continue to encounter structural challenges, including job insecurity, lack of union representation, and susceptibility to exploitation. Migrant domestic workers and live-in workers are particularly vulnerable, frequently excluded from formal protections and subjected to extended working hours, inadequate living conditions, and emotional distress (Bezuidenhout, 2023; SweepSouth Research Team, 2022). This paper critically examines the trajectory of domestic work in South Africa since 1994, evaluating the disparity between legislative intentions and the lived realities of workers.

Furthermore, it seeks to underscore the resilience of domestic workers and propose policy interventions aimed at fostering dignity, equity, and justice within the sector.

## II. SCALE AND PROFILE OF THE SECTOR

Domestic work remains one of the largest low-wage occupations within South Africa's labour market, constituting a vital component of the informal and service economy. Since 1994, this sector has consistently employed hundreds of thousands of workers each quarter, with employment levels fluctuating in response to broader economic cycles, policy changes, and social conditions. According to Statistics South Africa (Stats SA), approximately 869,000 domestic workers were employed in the first quarter of 2024, underscoring both the magnitude of the sector and its vulnerability to macroeconomic pressures (Stats SA, 2024). Although this figure is seasonally adjusted and subject to survey error, it nonetheless indicates the persistent demand for domestic labour within private households.

The domestic sector is predominantly feminized, with women, particularly Black African women, constituting the majority of domestic workers (Dawood & Seedat-Khan, 2022; Lund, 2021). Many of these women serve as primary breadwinners, supporting extended families despite earning wages that frequently fall below the poverty line. Domestic work encompasses a variety of tasks, including cleaning, cooking, childcare, eldercare, and gardening; however, it remains undervalued and largely invisible within formal labour discourse (Kenny, 2020). A significant proportion of domestic workers are employed informally, lacking written contracts, social protection, and access to mechanisms for dispute resolution (Mpodi, 2022).

The sector also encompasses an increasing number of migrant workers, particularly from neighbouring countries, who encounter heightened vulnerabilities owing to their legal status and exclusion from specific protections (Bezuidenhout, 2023). Despite its magnitude and significance, domestic work remains marginalized in both policy implementation and public acknowledgment. A comprehensive understanding of the sector's scale and characteristics is crucial for developing targeted interventions that advance decent work, gender equity, and social justice in post-apartheid South Africa.

## III. LEGAL AND POLICY ACHIEVEMENTS POST 1994

The post-apartheid period introduced a range of legislative and policy reforms designed to enhance the working conditions of domestic workers in South Africa. Although these reforms signify important advancements, their implementation has been inconsistent, and numerous domestic workers remain subject to structural vulnerabilities. This section delineates five

principal achievements that have influenced the sector since 1994.

### ➤ *Basic Conditions of Employment Act (BCEA) and Sectoral Determination 7 (SD7)*

The Basic Conditions of Employment Act (BCEA), enacted in 1997, established the foundational minimum labour standards applicable across all sectors, encompassing provisions related to working hours, leave entitlements, and termination procedures. Significantly, the Act empowered the Minister of Labour to issue sectoral determinations aimed at protecting vulnerable groups. Sectoral Determination 7 (SD7), which came into effect on 1 September 2002, represented the first comprehensive legal framework specifically designed for domestic workers. This determination set forth minimum wage requirements, regulated working hours, overtime, night work, rest periods, and compensation for work performed on Sundays and public holidays. Additionally, it mandated that employers maintain written contracts and wage records (Budlender, 2021). SD7 constituted a pivotal development in the formal recognition of domestic work as legitimate labour warranting statutory protections.

### ➤ *Unemployment Insurance*

Amendments to the Unemployment Insurance Act in the early 2000s expanded coverage to include domestic workers, encompassing those with multiple employers and those whose employment terminates due to the death of the employer, a frequent occurrence given the personalized nature of domestic work. These amendments were pivotal in recognizing the distinctive employment relationships within this sector. Subsequent revisions enhanced benefit calculations and administrative procedures; however, a significant number of workers remain excluded due to informal employment arrangements and lack of registration (Mpodi, 2022).

### ➤ *International Labour Organization Convention No. 189*

South Africa ratified the International Labour Organisation's Convention 189 concerning decent work for domestic workers. This Convention, which came into force globally in September 2013, mandates that signatory states guarantee fair employment conditions, access to social protection, and effective enforcement mechanisms for domestic workers. South Africa's ratification represented both a symbolic and legal commitment to upholding international labour standards. Nevertheless, the implementation of these provisions has been insufficient, characterized by limited public awareness and weak enforcement within private households (Fish, 2020; Dawood & Seedat-Khan, 2022).

### ➤ *National Minimum Wage (NMW)*

The National Minimum Wage Act, enacted in 2019, initially established the wage floor for domestic workers at 75% of the general minimum wage. This partial inclusion reflected ongoing debates concerning affordability and enforcement. However, as of 1 March 2022, domestic workers became

entitled to the full national minimum wage of R23.19 per hour in 2022, with subsequent annual adjustments (Bhorat & Kanbur, 2021). This equalization was both materially and symbolically significant, affirming the value of domestic labour. Nonetheless, enforcement remains inconsistent, particularly in informal settings where workers often lack contracts or bargaining power (SweepSouth Research Team, 2022).

➤ *Compensation for Occupational Injuries and Diseases Act (COIDA)*

In the landmark Constitutional Court decision of *Mahlangu and Another v Minister of Labour* (19 November 2020), the exclusion of domestic workers from the definition of “employee” under the Compensation for Occupational Injuries and Diseases Act (COIDA) was declared unconstitutional. This ruling extended statutory coverage to domestic workers and their dependants, thereby entitling them to compensation for work-related injuries, diseases, or death. The judgment addressed a longstanding rights gap and affirmed the dignity of domestic workers as equal participants within the labour market (James, Mullagee, & Osiki, 2023). Nonetheless, the decision also imposed new administrative and compliance obligations on employers, many of whom remain unaware of these responsibilities.

#### IV. KEY CHALLENGES IN THE DEMOCRATIC ERA

Despite significant legal and policy reforms implemented since 1994, domestic workers in South Africa continue to encounter deeply rooted structural challenges that compromise their rights and livelihoods. These challenges are influenced by the inherent characteristics of domestic work, including its setting within private households, its gendered and racial dimensions, and its informal employment conditions. This section delineates seven principal areas of concern that remain prevalent in the post-apartheid democratic period.

➤ *Low and Volatile Income Levels*

The equalisation of the National Minimum Wage (NMW) in 2022 represented a significant policy advancement; however, a substantial number of domestic workers continue to receive wages below the legally mandated threshold. Annual reports by SweepSouth consistently indicate that wages are concentrated at or beneath the statutory minimum and remain considerably lower than a living wage, particularly in urban areas where costs associated with transportation, food, and housing are elevated (SweepSouth Research Team, 2022). Factors such as limited bargaining power, part-time employment schedules, and informal work arrangements contribute to this underpayment. Additionally, many workers do not have guaranteed minimum working hours, leading to income unpredictability and financial insecurity (Bhorat & Kanbur, 2021). The ongoing prevalence of low wages underscores broader systemic issues related to the undervaluation and marginalization of this labour sector.

➤ *Enforcement within Private Homes*

The domestic work sector poses distinct enforcement challenges attributable to its operation within private households. Labour inspectors encounter both legal and logistical obstacles when attempting to conduct inspections, while workers frequently hesitate to report violations due to fears of dismissal, concerns related to immigration status, and the personalized nature of employer-employee relationships (Dawood & Seedat-Khan, 2022). Although Sectoral Determination 7 mandates the provision of written particulars and maintenance of wage records, adherence to these requirements remains inconsistent. To effectively realize labour rights, it is necessary to implement innovative enforcement strategies, including anonymous hotlines, targeted audits of placement agencies, digital payslip systems, and community-based social dialogue platforms (Budlender, 2021).

➤ *Precariousness and Fragmented Employment*

Domestic workers often engage in employment with multiple part-time employers, resulting in fragmented employment relationships that hinder access to social protection. The loss of a single employer can lead to a significant reduction in income and may threaten eligibility for Unemployment Insurance Fund (UIF) benefits if contributions are irregular or incomplete (Mpedi, 2022). Although amendments to the UIF Act have recognised the realities of multi-employer arrangements, administrative burdens persist for both workers and households. Furthermore, the absence of standardized contracts and centralised registration systems exacerbates precarity and restricts workers’ capacity to claim their entitlements.

➤ *Gaps in Occupational Safety and Social Protection*

The Constitutional Court’s decision in *Mahlangu and Another v Minister of Labour* (2020) addressed the historical exclusion of domestic workers from the Compensation for Occupational Injuries and Diseases Act (COIDA). Although this legal precedent extended coverage to domestic workers and their dependants, uptake remains limited due to low levels of employer registration and insufficient worker awareness (James et al., 2023). Domestic workers are exposed to various occupational hazards, including slips, chemical exposure, musculoskeletal strain, and risks associated with live-in arrangements, such as night-time duties and sleep deprivation. Implementation challenges persist, notably in educating both employers and workers about COIDA procedures and in streamlining the claims process for household-based employment.

➤ *Gendered Power Relations and Risks of Gender-Based Violence*

Domestic work is predominantly performed by women and frequently occurs in private settings, which exposes workers to risks such as harassment, gender-based violence (GBV), and coercive control. The intimate and isolated nature of this work environment complicates the reporting of abuse,

resulting in widespread under-reporting (Ally, 2021; Anciano, 2020). Organizations representing domestic workers and women's rights advocates have called for survivor-centred complaint mechanisms and portable support services that do not depend on the cooperation of a single employer. Such services include mobile legal clinics, trauma counselling, and access to shelters for workers escaping abusive situations.

#### ➤ *Vulnerabilities of Migrant and Cross-Border Populations*

Migrant domestic workers, particularly those originating from neighbouring countries within the Southern African Development Community (SADC), experience increased vulnerabilities attributable to xenophobia, challenges related to documentation, and exclusion from formal legal protections. A significant proportion of these workers are employed informally, which limits their access to legal remedies in instances of wage theft or abuse (Bezuidenhout, 2023). The nature of household-level employment arrangements further complicates the monitoring of compliance and the enforcement of workers' rights. Regional and continental organizing initiatives, such as those spearheaded by the Federation of African Domestic Workers (FAWN) and the International Domestic Workers Federation (IDWF), have been instrumental in highlighting the transnational aspects of these vulnerabilities and in advancing strategies aimed at safeguarding migrant domestic workers.

#### ➤ *COVID-19 and Economic Shocks*

The COVID-19 pandemic profoundly affected domestic workers, a significant number of whom experienced income loss without severance pay or access to relief programs. Due to incomplete UIF registrations and informal employment arrangements, thousands were excluded from emergency support measures (SweepSouth Research Team, 2022). Lockdown measures disrupted household budgets, resulting in reduced working hours and job losses. The recovery process has been uneven, with employment levels and working hours remaining vulnerable to economic shocks and increasing living costs. This pandemic highlighted the sector's fragility and emphasized the urgent necessity for inclusive social protection systems.

### V. WHAT IMPROVEMENTS HAVE BEEN MADE?

Since 1994, South Africa has made significant advancements in recognising and formalising domestic work as a legitimate and protected form of labour. The enactment of Sectoral Determination 7 (SD7) under the Basic Conditions of Employment Act (BCEA) established the first comprehensive framework addressing minimum wages, working hours, leave entitlements, and employment record-keeping specific to domestic workers (Budlender, 2021). These protections were further reinforced by the equalisation of the National Minimum Wage (NMW) in 2022, which ensured that domestic workers receive the same hourly rate as workers in other sectors. This

development represents a crucial step in affirming the value of care and household labour (Bhorat & Kanbur, 2021).

Access to social protection has also been enhanced. Amendments to the Unemployment Insurance Act expanded coverage to include domestic workers, encompassing those with multiple employers, and acknowledged the distinctive characteristics of household-based employment (Mpodi, 2022). The landmark 2020 *Mahlangu v Minister of Labour* judgment rectified a longstanding exclusion by extending benefits under the Compensation for Occupational Injuries and Diseases Act (COIDA) to domestic workers, thereby affirming their entitlement to workplace safety and compensation (James et al., 2023).

South Africa's ratification of ILO Convention 189 in 2013 further harmonized domestic labour standards with international norms, thereby enhancing advocacy initiatives and imposing international obligations on the state to ensure decent working conditions for domestic workers (Fish, 2020). Worker organization has gained significant momentum, with unions and networks such as the South African Domestic Service and Allied Workers Union (SADSAWU), the African Domestic Workers Network (AfDWN), and the International Domestic Workers Federation (IDWF) playing a pivotal role in increasing visibility, promoting formal contracts, and advocating for effective complaint mechanisms. These collective efforts have contributed to a shift in public discourse and policy engagement, establishing a foundation for more inclusive labour protections in the democratic era.

### VI. CONTINUOUS AND EMERGING CHALLENGES

Despite significant legal reforms and increasing advocacy efforts, domestic workers in South Africa persistently encounter a variety of ongoing and emerging challenges that hinder the attainment of decent work. These challenges are fundamentally embedded in the structural characteristics of household employment and intersect with wider socio-economic inequalities. Compliance and enforcement deficiencies continue to pose significant challenges. The private-home environment in which domestic work occurs complicates inspection processes and reduces the visibility of violations. Furthermore, many employers lack awareness of their legal responsibilities under the National Minimum Wage (NMW), Unemployment Insurance Fund (UIF), and Compensation for Occupational Injuries and Diseases Act (COIDA), leading to pervasive non-compliance (Budlender, 2021; James et al., 2023).

Income adequacy remains a significant concern. Although the statutory minimum wage has been standardized, it continues to fall below a living wage in major metropolitan areas where transportation, food, and housing expenses are elevated. Additionally, fragmented employment and part-time work



schedules further reduce monthly earnings and limit access to benefits (SweepSouth Research Team, 2022).

Documentation and administrative obligations, including multi-employer UIF contributions, written employment particulars, payslips, and COIDA registration, impose practical challenges for both employers and employees. Frequently, these requirements remain unfulfilled, resulting in workers lacking proof of employment and access to their entitled benefits (Mpedi, 2022). The culture of occupational health and safety within private residences remains insufficiently developed. Although coverage under the Compensation for Occupational Injuries and Diseases Act (COIDA) exists, there is a notable lack of focus on preventive measures, training, and risk assessment, thereby exposing workers to both physical and psychological hazards (James et al., 2023).

Gender-based risks and power imbalances continue to prevail, with the under-reporting of harassment and abuse constituting a significant obstacle to achieving justice. The intimate context of domestic work, coupled with the absence of effective complaint mechanisms, further exacerbates workers' vulnerability (Ally, 2021). Ultimately, vulnerabilities faced by migrants, including irregular status and fear of xenophobia, persist in hindering organizing efforts and the assertion of rights, particularly among cross-border workers (Bezuidenhout, 2023).

## VII. RECOMMENDATIONS

Enhancing the conditions of domestic workers in South Africa necessitates both legislative innovation and the implementation of practical support systems. The following recommendations are informed by sector-specific insights and are grounded in recent research and advocacy efforts.

### ➤ Policy and Legislation

- *Targeted enforcement models* should be piloted to address compliance gaps in household workplaces. Programs that integrate digital self-audits with randomized inspections, particularly within gated communities and through placement agencies, have the potential to enhance oversight (Budlender, 2021; Dawood & Seedat-Khan, 2022).
- *Portable benefits and pro-rata rights* should be facilitated through application-based systems that consolidate hours worked and Unemployment Insurance Fund (UIF) contributions across multiple employers. Such an approach would acknowledge the fragmented nature of domestic work and alleviate administrative burdens (Mpedi, 2022).
- *Living-wage pathways* ought to be institutionalized through annual reviews of the National Minimum Wage, which evaluate the adequacy of wages for domestic workers by considering metropolitan cost-of-living and transportation expenses (Bhorat & Kanbur, 2021).

- *COIDA support is crucial.* Enhancing the process by simplifying household registration, standardizing incident reporting templates, and providing funding for community paralegals would likely increase uptake and promote equitable compensation (James et al., 2023).
- *Gender-based violence (GBV)-sensitive labour procedures* should be established, incorporating confidential complaint mechanisms, access to shelters, and connections to the Commission for Conciliation, Mediation and Arbitration (CCMA) and the South African Police Service (SAPS). These procedures must prioritize the needs of survivors and operate independently of employer involvement (Ally, 2021; Anciano, 2020).

### ➤ Practices and Programmes

- *Model contracts and digital payslips* should be implemented in clear, multilingual formats. Connecting contract verification to tax deductions or service benefits may encourage compliance (Fish, 2020).
- *Training and certification programs* in childcare, eldercare, and chemical safety should be implemented to professionalize the sector and support justified wage progression (SweepSouth Research Team, 2022).
- *Worker organisations and peer networks* should be supported through funding for SADS AWU, AfDWN, and IDWF chapters, legal clinics, and WhatsApp-based rights awareness campaigns (Bezuidenhout, 2023; Tanzer, 2020).

## VIII. CONCLUSION

Since 1994, South Africa has made significant progress in recognising domestic workers as legitimate and rights-bearing participants within the labour market. Legal reforms, including the equalisation of the National Minimum Wage and the extension of coverage under the Compensation for Occupational Injuries and Diseases Act (COIDA) to domestic workers, represent hard-won advancements in the pursuit of labour justice. These developments embody a broader commitment to dismantling the race-based and gendered legacies of apartheid and affirm the constitutional principles of dignity, equality, and social protection. Nonetheless, the full realisation of these rights remains constrained by the inherent characteristics of domestic work. The private-home workplace, informal employment arrangements, and persistent socio-economic inequalities continue to impede effective enforcement and accountability. Many domestic workers experience low and unstable incomes, limited access to benefits, and heightened vulnerability to abuse and exploitation. Migrant domestic workers, in particular, remain marginalised in terms of protection and visibility. Addressing these challenges necessitates a transition from symbolic recognition to practical implementation. Enhanced enforcement models tailored to household settings, portable benefit systems that accommodate multi-employer contexts, and gender-sensitive

complaint mechanisms are essential components of this effort. Equally important is sustained support for worker organisation, peer networks, and rights education, which empower domestic workers to assert and defend their entitlements. Domestic workers constitute the backbone of numerous households and communities; their labour enables others to work, provide care, and flourish. By aligning everyday practice with constitutional commitments, South Africa can honour the contributions of these workers, whose efforts “make all other work possible” and advance towards a truly inclusive and equitable labour system.

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