

Legislating for Domestic Workers

WIEGO Law Pilot Project
Consultation

Bengaluru, 23rd August, 2008

Domestic Workers' Law: Issues

- Types of DW – live-in, part-time with single/multiple employers
- Vulnerability of DW particularly migrants, child labour
- Women's work seen as low-paying, overlap with sexual division of labour within the household, occupational segregation and its impact on wage levels
- Violence at the work place
- Working hours
- Lack of working benefits
- Resistance to legislating for DW – social, political, patriarchal, public/private divide

Conditions of Work – Good Practices (1)

- Recruitment – role of agencies, regulation
- Employment relationship - written contract
- Trial period of employment
- If live-in rest, food, privacy
- Leave periods – annual, sick and maternity leave
- Sexual harassment/violence – complaint mechanism

Conditions of Work – Good Practices (2)

- Wages fixation live-in/ full time
 - time rated – hourly, weekly minimum, overtime
 - Payment in kind
 - Permissible deduction
 - Fixation under MWA – skilled, semi- or unskilled
 - Method of calculation for boarding, lodging and other necessities
- Work of equal value or ‘same or similar work’ test
- Part-time work for one employer
 - Piece rate – person, house size
 - Time rate
 - Time rated piece rate as in MWA

Conditions of Work – Good Practices (3)

- Hours of work
 - total hours for full time and part-time across multiple employers
 - spread over
 - night time work
 - ‘on call’ periods
 - Rest periods

Modes of Regulation

- Boards – choice of function
 - Registration
 - Delivery of benefits
 - *And* Regulation of employment

(Bilateral employment relationship with board only for registration and delivery of benefits?)

(Comparison with Mathadi & Hamal Act and TN Manual Workers Act)

- Registration of placement agencies
- Regulation of agencies in inter-state migration, emigration –
- Applicability of IDA for disputes or alternate mechanism?
- Modes of inspection, enforcement

Other Issues

- Social security – collection of employers' contribution – mechanism
- Multiple employers and distribution of liability
- Trade union registration – effect of court judgements that exclude domestic work
- State level or central law
- Role for soft law option such as Maharashtra Code of Conduct?

DW - Emigrants

- Responsibility of the state and central governments as sending countries
- Portability of remittances
- Control over passports
- Role of Indian embassies
- Link with trafficking

Role in ILO standard-setting

- ILO resolution, 1965
- Current initiative for standard –
Convention or Recommendation in 2010
- Role of govt and unions in double
discussion procedure
- Possibilities for intervening in the
discussion process