

Migrant Domestic Workers in The Southern African & Indian Ocean Region

Labour Rights and Workplace Conditions
Policy Brief



International
Labour
Organization



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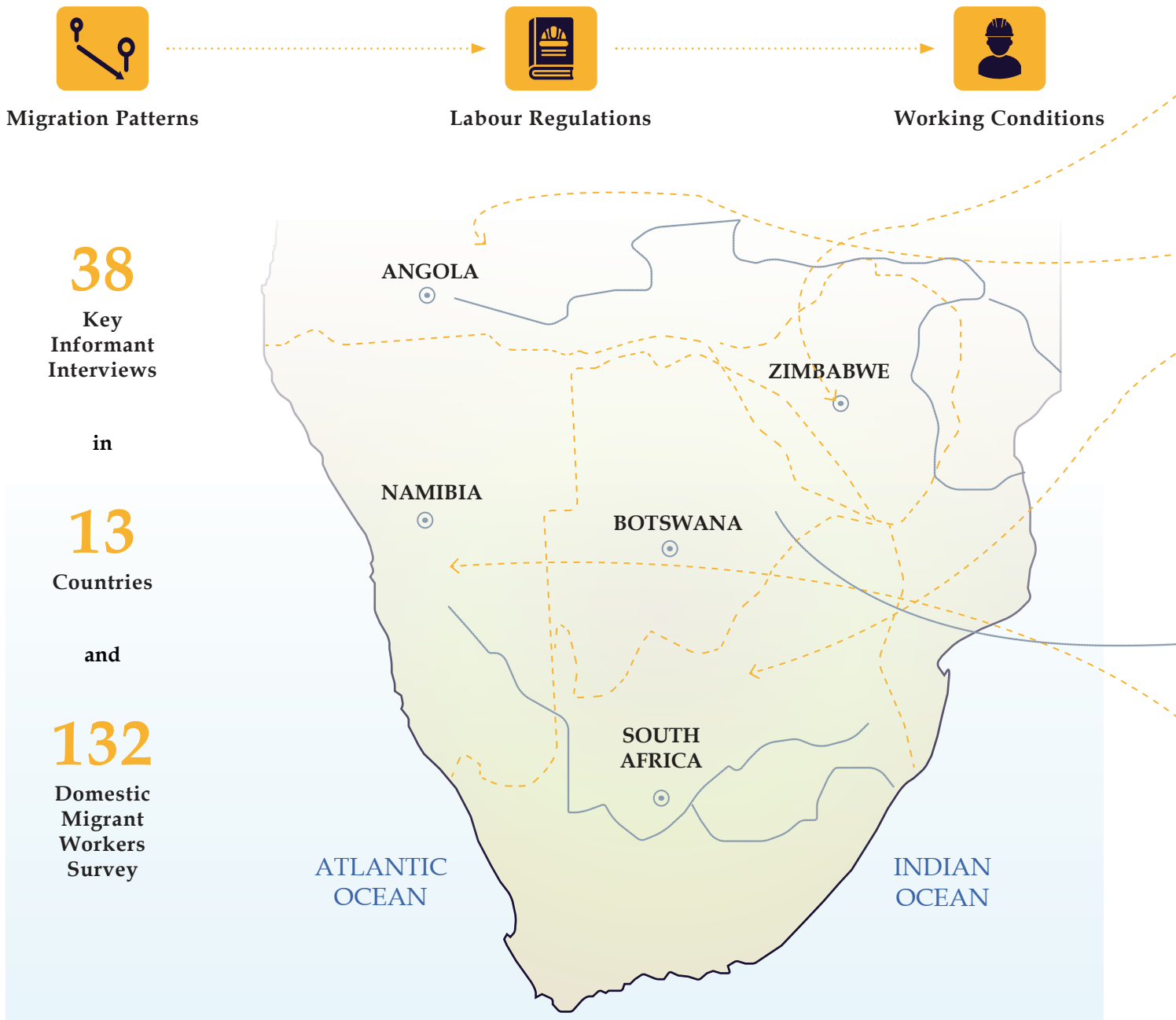


Introduction

This policy brief is extracted from a broader report on Migrant Domestic Workers in the Southern African Development Community Region (ILO 2022) which summarises the migration and labour policy environment in the 16 Southern African Development Community (SADC) member States and provides estimates of the number of migrant domestic workers by country.¹ The report was commissioned by the ILO under the Southern African Migration Management (SAMM) Project.

This brief provides an overview of the migration patterns, labour regulations, and working conditions of migrant domestic workers in the SADC region. Insights were collected through reviews of relevant literature, regional and country specific studies, policy documentation, in-depth interviews with 38 key informants in 13 countries, and a survey of 132 migrant domestic workers in the primary destination countries of South Africa, Botswana and Namibia. These workers were originally from Zimbabwe, Angola, Malawi, and Lesotho.

Brief Overview:



¹ Countries included in this study include Angola, Botswana, Comoros, the Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.

Where in the region are domestic workers migrating?

The majority of migrant domestic workers in the region are working in South Africa, followed by Botswana and Namibia.

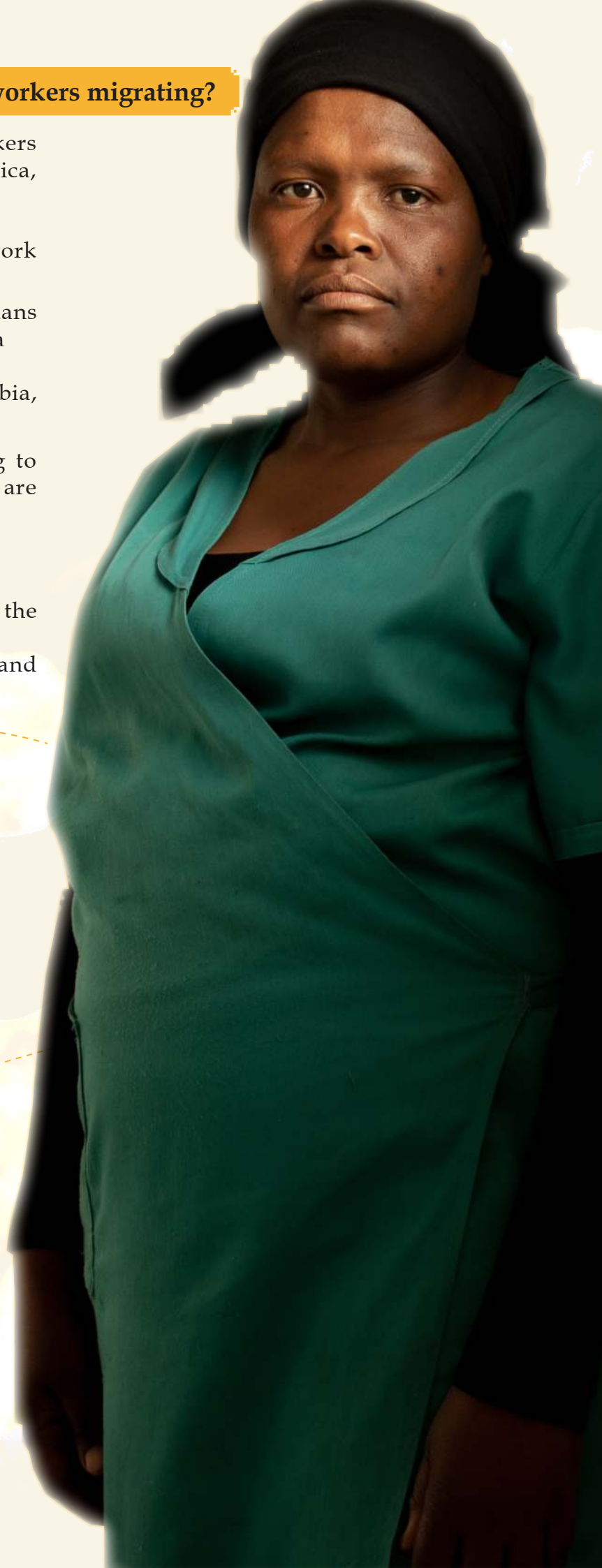
The primary flows of migrant domestic work within the region include:

- Zimbabweans, Mozambicans, Malawians Basotho, and Liswati into South Africa
- Zimbabweans into Botswana
- Angolans and Zimbabweans into Namibia,
- Malawians into Tanzania.

Numbers of domestic workers migrating to and from countries outside the region are much smaller, but still important.

They include:

- Malagasy, Tanzanians and others to the Middle East
- Filipinas, Sri Lankans, Kenyans, and Malagasy into the Seychelles



Do migrant domestic workers have labour rights?

In all sixteen countries in the SADC region, domestic workers' labour rights are protected under the law.

This is an important foundation for realising decent work. Four countries in the region have ratified the Domestic Worker Convention, 2011 (No. 189) and nine countries have passed sector-specific legislation detailing domestic workers' rights and obligations. Eleven countries in the region include domestic workers in at least one social protection scheme.

However, only five countries namely:

1. Mauritius
2. Namibia
3. South Africa
4. Tanzania
5. Zambia

Include non-citizens in workplace social protection schemes.

Ratified Convention No. 189	Covered by general labour law & by specific domestic worker legislation		Covered by general labour law only	
Mauritius (2012)	Angola	Seychelles	Comoros	Madagascar
South Africa (2013)	Botswana	South Africa	DRC	Tanzania
Madagascar (2019)	Mauritius	Zambia	Eswatini	
Namibia (2020)	Mozambique	Zimbabwe	Lesotho	
	Namibia		Malawi	

All countries but one provide domestic workers with a minimum wage, although in two countries it is lower than for other workers. Maximum weekly working hours range from 40 to 60 hrs per week and mandated weekly rest ranges from 24 to 48 hrs per week.

In all countries, domestic workers have a legal right to maternity leave and benefits.

There remain substantive gaps in protection. In some cases, labour legislation outright excludes domestic workers from certain areas of regulation, such as public holidays, recruitment laws, or fair termination processes. Critical issues such as housing standards, privacy, and family rights are often not addressed, severely impacting workers' dignity and quality of life.

Migrant workers in all countries are officially covered under labour law protections. However, many migrant domestic workers in the region are without documentation, and in most cases, they cannot report mistreatment without risk of arrest and deportation.

South Africa has proved an important exception in enforcing the labour rights of all workers, regardless of documentation status.



Do they enjoy decent working conditions?

The ILO Policy Brief, *Measuring the economic and social value of domestic work*, notes that domestic work is “undervalued, underpaid, unprotected and poorly regulated”, and this is in part because women’s work in the home throughout history has been undervalued and unpaid, not considered ‘real work’.² Care work and household chores, which fall predominately on the shoulders of women and girls, bring astronomical opportunity costs for human beings, the economy and society at large.

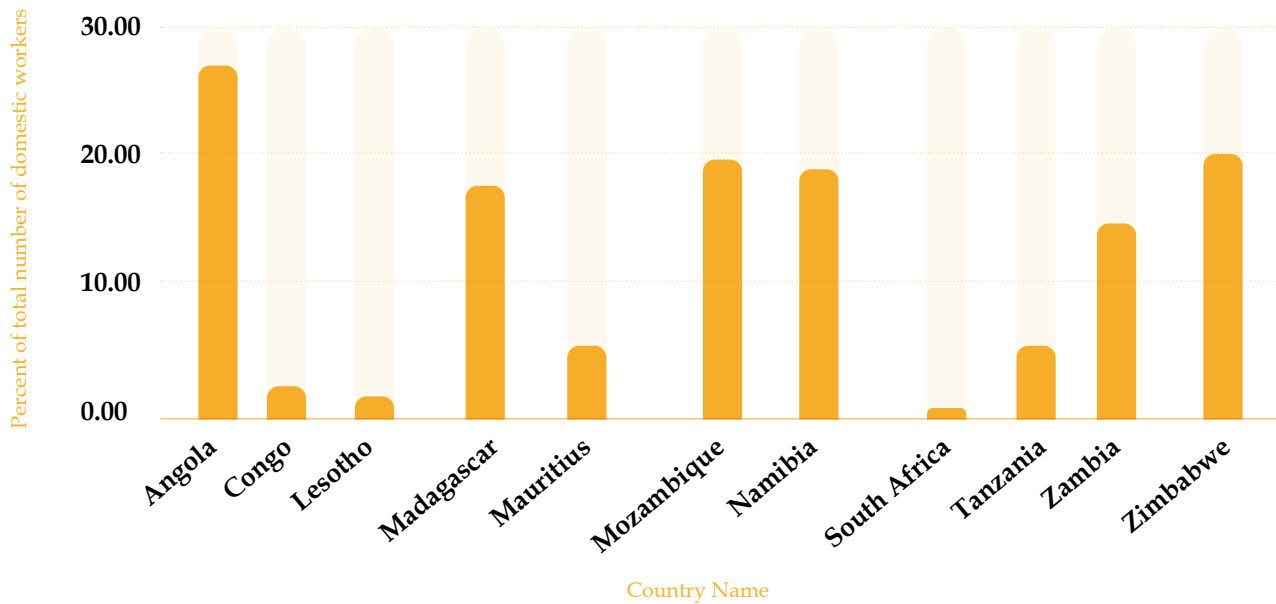
Despite labour law requirements, most domestic workers in these countries are working in informal arrangements, without written contracts or payslips, working long hours without fair treatment or overtime pay. Domestic work is generally considered a lowly profession and workers are not empowered to speak up for themselves. Many employers and workers do not know that the profession is regulated by law, and there is not sufficient willpower or resources in state institutions to hold employers accountable.

For example, over half of the countries requiring employers to register their domestic workers for unemployment insurance or social security funds have registration levels of less than 5%, and all have rates of less than 30%.

² ILO, *Measuring the economic and social value of domestic work*, Domestic Work Policy Brief 3

https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_156071.pdf

Percentage of Domestic Workers Registered in Social Protection Schemes



For some migrants, domestic work is a positive and productive livelihood.



I am able to feed a family of 20 back home. They pay my sons' school fees back home without subtracting from my pay. I eat what they eat and we respect each other.

However, for most domestic workers in the region, whether local or migrant, decent working conditions depend solely on the goodwill of the employer, and enforcement of labour rights remains out of reach.

Primary workplace complaints from migrant domestic workers are relatively consistent across countries, and include:



- Salary deductions for breakages and accused theft
- Verbal abuse by employers and their children
- Lack of salary payment for extended periods
- Low wages, often below minimum wage
- Late and incomplete salary payments
- Inadequate housing for live-in workers
- Denial of sick leave and annual leave
- Frequent accusations of theft
- Lack of access to decent food
- Sexual harassment and abuse
- Lack of overtime pay
- Long working hours
- Physical abuse

I'm not allowed to go to the clinic. When I'm sick I'll be given pain killers and not allowed to take sick leave.



I'm working too much hours but getting less payment. They are giving me expired food. In my room I don't have electricity [so I can't cook]. Sometimes you've been treated well, but when it comes to receive your salary there is always conflict.

They blame you that you don't clean properly. You take what you are given cause you fear you will end up fired.

Migrant domestic workers face additional frustration in navigating daily life. Fear of deportation impacts their ability to move freely and limits their livelihood options. In Botswana, undocumented migrant workers cannot access government services such as healthcare and schooling for their children and must resort to expensive private options. In South Africa, migrant workers face and xenophobic violence.



It is difficult if you come into the country and your own family treats you like a dog. My employer calls me names and says I'm useless. I was verbally abused. I was told I'm not educated, I'm a foreigner (kwere kwere) and will scrub floors for life.

Are recruitment channels fair and safe?

The predominant route to job placement for domestic workers in the region is through word of mouth, personal networks and social media. A small number of registered private employment agencies are also active in providing formal training and job placement for some domestic workers. An emerging and important trend in South Africa is the provision of domestic work through online platforms, where workers are digitally matched with jobs, and contracted by the online platform rather than traditional employers, bringing domestic workers into the global gig economy.

Undocumented migrant workers are excluded from job placement agencies and are particularly vulnerable to deception and exploitation by informal and "underground" recruiters. False agents take fees for promised job placement, then disappear or lure workers to dangerous places. Trafficking corridors exist from Lesotho to South Africa, from Zimbabwe to Botswana, from Zimbabwe and Angola into Namibia, from Burundi to Tanzania, and from numerous countries in the region to the Middle East.



Job searching agents promise us work, take our money, then block us without getting the job. Robbery is very high here.

Sometimes our own siblings bring us [to work in Namibia]; when we come over they don't want to treat us as workers and start abusing us.





Migration to the Middle East

Although most African migrants to the Middle East are from East and West Africa, Southern Africans are also performing domestic work in the region. There are established corridors of workers from Madagascar and Tanzania heading to countries such as Lebanon, Kuwait, Saudi Arabia, Oman, and UAE. Recruitment of workers to the Middle East has also been reported in Malawi, Mozambique, Zambia and Zimbabwe.

While some women may benefit from this economic opportunity, reports of abuse and exploitation of these workers are severe. The Khafala system gives the employer an inordinate amount of control over workers, restricting their ability to quit the job or leave the country. Workers are prevented from contacting their families or moving freely, working hours are long, and salaries are withheld without process or reason.

In response to such abuse, both Madagascar and Tanzania put in place measures to prohibit labour migration to these countries. While such bans may reduce official migration, they also drive migrants to travel on informal, undocumented, and often dangerous routes. Without statistics, it is difficult for countries of origin and civil society organisations to know the scope of the problem and provide support.



Child Labour

The Worst Forms of Child Labour Convention, 1999 (No. 182) designates the “worst forms of child labour” to include forced labour,

trafficking, and exploitative, illicit or hazardous work.

C182 has been ratified by every country in the region. Yet in many countries, domestic work is still performed by children below the relevant minimum age, in a hazardous environment, doing dangerous tasks and working extended hours with unreasonable confinement to the employer’s premises. In many cases, these children have been sent across borders to find work in neighbouring countries. Without documentation or support, they are highly vulnerable to trafficking and exploitation.

Child domestic work has been documented in Comoros, DRC, Madagascar, Mozambique, Tanzania and Zambia. Most of the countries in the region have a minimum working age of 15-18 years. However, the minimum age in Malawi and Tanzania is 14 years, and in Mozambique, children as young as 12 can be legally employed as domestic workers if they have parental approval.



Covid-19

Migrants employed in the domestic work sector have been essential workers in the COVID-19 response. Despite their role in supporting the functioning of households and the economy at large, they have been one of the groups most affected by the crisis.

The Covid-19 Pandemic created a host of challenges for migrant domestic workers. 25% of domestic workers in South Africa, many of whom are migrants, lost their jobs in the second quarter of 2020. Some migrant workers in Botswana were forced to turn to sex work to survive. Throughout the region, those who remained at work were often forced to take reduced salaries as employers cited inability to pay. Live-in workers consistently reported round-the-clock working hours, and no weekly rest periods as they were not able

to leave the property. Some migrant domestic workers faced virtual imprisonment as their employers refused to let them leave the property, well after governments had lifted restrictions

Are domestic workers in the region organising for justice?

Given the widespread lack of labour law compliance in the sector, it is critically important to educate workers on their rights, assist them to access justice, and advocate for needed policy change. Most countries in the region have one or more unions, non-profit associations, and/or migrant networks which provide rights support for domestic workers. Yet these incorporate only a very small percentage of workers, due to the isolation and vulnerability inherent in domestic work, as well as the difficulties in recruiting across scattered workplaces. Migrant domestic workers can be especially challenging to mobilise, as they are often undocumented and prefer not to draw attention to themselves. They may also frequently change jobs and cities as they look for better opportunities, making membership difficult to track. For this reason, more fluid membership and non-contributory members organisations may better suit some migrant workers.

Despite these challenges, domestic worker unions and associations have made critical progress in advancing decent work for domestic workers. Organisations in South Africa collaborated to fight for the inclusion of domestic workers in the workers' compensation fund, and to challenge the exclusion of domestic workers from the full minimum wage, both of which were successful. A migrant worker network in Lesotho is finding and reporting illegal recruiters to eliminate trafficking of Basotho women to South Africa. Domestic worker unions in Zimbabwe and Zambia have partnered with government to develop a guide for migrant domestic workers in South Africa, and a code of conduct for employers of domestic workers, respectively.



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I was working while my Employers were tested positive on Covid-19 and I was negative.

My kids and my husband were not allowed to visit.



Key Areas for Advocacy

1. Convention No.189 must be ratified by all countries in the region, as well as the SADC protocols on free movement of persons and on employment & labour. A regional labour migration policy should be developed based on the current Policy Framework (2014) and Action Plan (2020- 2025).
2. The African Union and SADC should develop a regional labour migration policy, and regional standards on domestic work labour regulation.
3. Governments must ensure that all domestic workers, including migrant domestic workers, have rights equal to other workers, and in line with the standards of C189. Where legal gaps exist, governments should take measures to extend legal protection, or improve the level of protection,
4. Organisations of domestic workers and of employers of domestic workers must be consulted and engaged in dialogue on the adoption and amendment of relevant legislation, as well as on the most effective structures and procedures for labour law enforcement.
5. Governments, especially those which have ratified C189, must take responsibility for the enforcement of labour laws in domestic workplaces, putting in place proactive measures to hold employers accountable for compliance. Registration of domestic workers for social protection should be facilitated and enforced by the relevant national bodies. Migrant domestic workers should be included in contributory social protection schemes.
6. National policies should be adapted to include undocumented migrant workers in labour laws and enforcement procedures.
7. Collaboration amongst different structures of migrant workers support organisations should be supported, to encourage partnerships across labour unions, membership associations, grassroots networks, and other civil society actors.

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