

SOCIAL DIALOGUE FOR DECENT WORK AND INCLUSIVE GROWTH: THE FIRST TRIPARTITE AGREEMENT FOR DOMESTIC WORKERS IN ARGENTINA¹

Decent Work for Domestic Workers

As elsewhere in the region, in Argentina domestic work bears a significant weight in the occupational structure, employing around 6 per cent of workers in the country, 12 per cent of employed women and 16 per cent of wage workers.

Because of a series of characteristics intrinsic to the domestic work employment relationship, workers in this sector may find themselves in a vulnerable situation. The domestic work sector is predominantly female and often informal, with the rate of social security registration only between 20-30 per cent. The high rates of informality are due in part to the lack of recognition of domestic work as ‘work’, and the persistent social belief that domestic workers are ‘part of the family’, masking the employment relationship.

“Some deputies, to whom I listen with respect, argued that, given that the person who employs is another worker, then that category is diminished or attenuated. But that is not at all the way it is (...). There is someone who performs a task and another person who pays for it. It is a relationship between employer and employee, and the law that we are discussing must not have any interpretation which undermines such relationship.”

Deputy of the Chamber of Deputies, Buenos Aires

The work is performed in households and its isolated nature makes it difficult for domestic workers to interact with others, organize and defend their rights. It also makes it difficult for public authorities to monitor and enforce compliance with regulations.

¹ Based on: F. Pereyra: *When the extension of rights is possible: The experience of tripartite social dialogue for domestic workers in Argentina* (2018), unpublished note.

The capacity of domestic workers to create or join a trade union is hindered by a lack of time due to the long hours of work and the inability to afford trade union dues given the low wages and high degree of economic uncertainty these workers face. Trade unions find it difficult to organize these workers due to the dispersed and isolated nature of the workforce.

The ratification of the Domestic Workers Convention No.189 was an important step and provided the impetus for action, which ultimately resulted in the signing of a tripartite agreement regulating wages for female domestic workers in the country. The agreement represents one of the first of its kind in the domestic work sector and provides an opportunity to examine how social dialogue can facilitate the formalization of the informal economy. It marks an important milestone which can potentially pave the way for the development of genuine mechanisms of voluntary collective bargaining in the domestic work sector.



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Extension of labour protection to domestic workers

In 2013, the new Law 26.844 was approved, replacing previous legislation regulating domestic work. While maintaining the domestic work sector under a special regulatory framework, the new law granted maternity leave to domestic workers, provided protection against dismissal both before and after

maternity leave, and awarded employment benefits of equal duration and amount as those in private wage occupations, including the obligation of employers to take out compulsory occupational risk insurance.

An institution for tripartite social dialogue

The new law also made provision for the creation of a **National Commission for Work in the Private Homes (CNTCP)**², a tripartite body that would be responsible for the setting of wages and working conditions of domestic workers. While the creation of the Commission was not contemplated in the original draft law submitted to the Parliament, it was raised as a proposal during the discussion of the draft in the Chamber of Deputies. Its adoption proved to be foundational in the achievement of the tripartite agreement.

According to the provision contained in the new law regulating domestic work, the Commission is to be composed of workers' and employers' representatives as well as of Government representatives from the Ministry of Labour, Employment and Social Security, the Ministry of Economy and Public Finance, and the Ministry of Social Development.

Workers' organizations

About a dozen domestic workers' trade unions exist in the country. Of those, six were able to have a seat at the negotiating table for the signing of the tripartite agreement. This inclusive approach differed from the system where only the trade union with the largest number of members in a given branch of activity is recognised to represent workers in collective negotiations. Given the challenges organizing and representing the workers in this sector, the special legal regime regulating domestic work made it possible for workers' organizations not yet recognized as trade unions to have a seat at the negotiating table.

The workers' organizations which have been involved in the tripartite negotiation for the setting of wages for domestic workers are the Union of Auxiliary Personnel in Private Homes (UPACP), the Association of Auxiliary Workers in Private Homes (ATACP), the Union of Personnel in Private Homes (SINPECAF), and the Union of Domestic Service Personnel of Río Negro (SIPSEDO), although the latter has not yet obtained legal personality as a trade union and is therefore not yet authorized to collect trade union dues.

Employers' organizations

Initially, it was a challenge to find the appropriate representative for employers. Drawing inspiration from an innovative agreement in Uruguay in the domestic workers' sector, an organization of housewives was invited to represent the voice of those who employed domestic workers.

² *Comisión Nacional de Trabajo en Casas Particulares (CNTCP)*



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Employers' organizations participating to the tripartite negotiation for the setting of wages for domestic workers are the Union of Housewives of the Republic of Argentina (SACRA) and the Employers of Workers covered by the Special Contract of Employment Regime for Personnel in Private Homes (EMTRACAP), which was created in an *ad hoc* manner in 2014 with the specific aim of representing employers' interests in tripartite negotiations.

The first tripartite agreement for domestic workers in Argentina

The National Commission for Work in the Private Homes (CNTCP) was created in 2015 and the first tripartite agreement on wages was reached that same year. Two additional agreements were signed in 2016 and 2017 respectively. The negotiations on the wage levels were of a particularly sensitive nature. Historically the evolution of wages in this sector closely followed the minimum living and mobile wage (SMVM) applicable to all private wage workers, but has often been below the benchmark level of the SMVM. The legal reform of 2013 which amended the regulatory framework of domestic workers in the country resulted in the minimum wage of these workers rising progressively until it is now almost identical to the SMVM. The minimum wage agreed upon in the tripartite agreement functioned as a guarantee to maintain this parity achieved over time. The minimum wage that was established in the last three agreements is substantially identical to the yearly SMVM which follows the inflationary trends in the country.

The setting of a minimum wage so close to the SMVM raised concerns that this wage floor – ideally operating as a guarantee – would somehow represented a ceiling for female domestic workers. Concerns have also been expressed about the impact of the minimum wage on employment. On the contrary, the wage setting process has proven to be adaptable. In the case of domestic workers in Patagonia represented by SIPSEDO, an additional 33 per cent rise was agreed in 2015 due to the higher cost of living. In 2016, the increase was lowered to 15 per cent and in 2017 it was raised again to 20 per cent.

Lessons for social dialogue

Tripartite social dialogue has concentrated on the setting of a minimum wage for domestic workers.

- ✓ *The convening role of Government:* Government representatives played an important role in the first rounds of negotiation: since the bargaining agents had no prior experience in negotiation, the process was led by representatives of the Executive. Nevertheless, as social partners become more experienced and aware of the dynamics of bargaining, Government could progressively step back allowing the scope of the negotiations to potentially expand to other working conditions.
- ✓ *A stepping stone for bipartite collective bargaining:* A gradual maturing of negotiations will allow for collective bargaining on other conditions of employment. Indeed, the following set of additional claims have been agreed by workers' organizations: 1) a wage bonus for good attendance; 2) recognition of long service, including through a wage supplement according to the number of years in the job; 3) separate payment of travel expenses to and from the workplace; 4) stipulation of basic health and safety standards in the employer's home.

“The fact that we do not have any precedent on collective or occupational representation of employers does not mean that we cannot (...). The possibility of collective bargaining must be left open (...) because every worker has the right to organize. The truth is that to think about the right to organize without the possibility of collective bargaining is something merely declamatory (...) and seems to me that to we need to follow the logic of equalization, inclusion and extension of the right to organize and one of its natural consequences, the possibility of collective bargaining.”

Senator, Tierra del Fuego
