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Remembering the Forgotten: The Need for Proper Regulation of Working Conditions of Live-in Domestic Workers in Ethiopia

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Abstract. Working conditions of live-in domestic workers in Ethiopia are often characterized by violations of the labour and other human rights of workers. This is chiefly owing to the lack of a comprehensive labour law on the matter and the scantiness of the existing legislative protection afforded to domestic workers, contrary to the government's obligations provided under the Ethiopian Constitution and international and regional human rights instruments ratified by Ethiopia. Hence, a detailed labour law should be enacted by the government so as to respect and enforce the rights of live-in domestic workers and to improve their working conditions.

Keywords. *Domestic work, Live-in Domestic Workers, Working Conditions, Working conditions, Ethiopian live-in Domestic Workers, Civil Code.*

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1. Introduction

Domestic work around the world shares common physiognomies that may act to define it. For the purpose of labour regulation, the definition incorporated in the Decent Work for Domestic Workers Convention captures the characteristics of domestic work by defining it as “work performed in or for a household or households”¹. Article 1 (b) of the Convention defines a domestic worker as “any person engaged in domestic work within an employment relationship”. From these descriptions, it may be deduced that a live-in domestic worker is an individual who undertakes chores and lives in her/his employer’s house.

Despite its ubiquitous nature and indispensability to the economy outside the household², live-in domestic work has been greatly undervalued, gendered and generally invisible³. Furthermore, mainly owing to its private nature, domestic work is unregulated by the general labour laws of many countries; as a result, domestic workers are vulnerable to appalling work conditions and other human rights abuses⁴.

Following the widespread approach, the existing principal Ethiopian labour law also excludes live-in domestic workers from its scope of application. Nevertheless, the House of Peoples’ Representatives (the

¹ Decent Work for Domestic Workers Convention No. 189, International Labour Office, Geneva, June 2011, Article 1 (a).

² L. Heimeshoff and H. Schwenken, “*Domestic Work: A Significant Sector*”, in Helen Schwenken and Lisa-Marie Heimeshoff (eds.), *Domestic Workers Count: Global Data on an Often Invisible Sector*, Kassel University Press, Kassel, 2011, p. 5.

³ International Labour Office, *Decent work for domestic workers*, International Labour Conference, 99th Session, Report IV(1), Geneva, 2010, p.1. http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_104700.pdf. (Accessed on January 16, 2016). See also, E. Albin and V. Mantouvalou, *The ILO Convention on Domestic Workers: From the Shadows to the Light*, UCL Labour Rights Institute On-Line Working Papers – LRI WP 1/2011, 2011, pp. 2-3. <http://www.ucl.ac.uk/laws/lri/papers/EinatAlbin-VirginiaMantouvalou.pdf>. (Accessed on May 11, 2015).

⁴ International Labour Office, *ILO Resources on Domestic Work- Catalogue*, Geneva, 2016, p. 3.

http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_248947.pdf. (Accessed on February 26, 2016). See also, African Union, *Social Protection for Inclusive Development*, First Session of the Specialised Technical Committee on Social Development, Labour and Employment (STC-SDLE-1), Special Initiative on Domestic Workers, Addis Ababa, 20-24 April, 2015, p. 2. <http://sa.au.int/en/sites/default/files/Special%20Initiative%20on%20Domestic%20Workers-%201st%20SDLE-2015-%20Rev.1-%20TC-English.pdf>. (Accessed on February 26, 2016).

Federal Parliament) did not intend to leave them without legal coverage. Hence, it delegated its legislative power to the Council of Ministers (the Federal Executive) and it to enact a labour law to regulate the employment relations of live-in domestic workers and their employers. Be this as it may, the Council has not yet passed a labour law for this purpose. In other words, Ethiopian live-in domestic workers have been forgotten by the Council and are still unprotected. Though the 1960 Civil Code (hereinafter “Civil Code” or “Code”)⁵, which long predates the Council, does contain provisions dealing with the working conditions of live-in domestic workers, they are insufficient.

This article is designed to show the inadequacy of the present special labour law in safeguarding domestic workers from multifaceted human rights violations by their employers and to serve as a reminder to the Government of Ethiopia to take, among other things, legislative measures so as to properly govern the work conditions of live-in domestic workers.

2. The Scanty Legislative Protection of Domestic Workers in Ethiopia

As alluded to above, domestic workers, who are employed under “contracts of personal service for non-profit making purposes”, are among groups of workers left out of the sphere of application of the Labour Proclamation No. 377/2003 and its amendments⁶. The Council of Ministers, which was tasked to offset the legislative precariousness of live-in domestic workers by enacting a labour law for them⁷, has not carried out its duty. Hence, the only extant law which regulates the employment relationships between employers and live-in domestic workers is the Civil Code. Even though, as will be explained in the next section, Ethiopian live-in domestic workers do not usually sign written contracts with their employers, employment contracts can also be extra layers of protecting their interests.

⁵ Civil Code of the Empire of Ethiopia, Proclamation No. 165/1960, Negarit Gazeta, Gazette Extraordinary, 19th Year, No. 2, 5 May, 1960.

⁶ Labour Proclamation No. 377/2003, Federal Negarit Gazeta, 10th Year, No. 12, 26 February, 2004, Article 3 (2) (d). This Labour Proclamation has been amended by the Labour (Amendment) Proclamation No. 466/2005, Federal Negarit Gazeta, 11th Year, No. 56, 30 June, 2005; and the Labour (Amendment) Proclamation No. 494/2006, Federal Negarit Gazeta, 12th Year, No. 30, 29 June, 2006.

⁷ *Ibid*, Article 3 (3) (c).

The part of the Civil Code that deals with employment conditions of live-in domestic workers is found in Book V (Special Contracts), Title XVI (Contracts for the Performance of Services) of the Code. Under Chapter 2 (Contracts of particular kinds of work), Section 3 (Contracts of domestic servants living in) of this Title, there are only four articles (namely, Articles 2601 - 2604) included to govern the employment relationship between an employer and a live-in domestic worker⁸.

With regard to living quarters, food, times of work and rest, Article 2601 of the Civil Code obliges an employer of a live-in domestic worker to “take all reasonable steps to safeguard the health and moral well-being of the employee.” This provision of the Code simply left the judgment on “reasonableness”, regarding accommodation, food, hours of work and rest of a live-in domestic worker, to the stronger party in the relationship (employer) and, hence, is to the prejudice of the weaker party (live-in domestic worker).

An employer of a live-in domestic worker is, besides, per Article 2602 (1) of the Civil Code, duty-bound to “provide any care which the illness of the employee requires, either by way of medical attendance at his[/her] house or by sending the servant to hospital” in the event of the worker’s illness. This duty of an employer is “limited to one month where the illness occurs after at least one year from the beginning of the contract, and to two weeks, where it occurs after at least three months from the beginning of the contract”⁹. Pursuant to Article 2602 (3) of the Code, an employer is entitled to offset any expenses he/she has incurred for the worker’s medication and/or care against the worker’s wages that become due during the period of illness. An employer may, however, be relieved of his/her obligation to care for his/her domestic worker, if the latter has intentionally contracted the illness or is covered by a compulsory health insurance scheme¹⁰. Nonetheless, an employer may not free

⁸ At this juncture, it has to be noted that a separate section (Book V, Title XVI, Chapter 1, Articles 2512 - 2593) is earmarked in the Civil Code to deal with the employment relations of other workers and their employers, which indicates the intention of the then-Parliament to exclude live-in domestic workers from the general labour law.

⁹ The Civil Code, *op. cit.*, Article 2602 (2).

¹⁰ *Ibid*, Article 2603 (1) and (2). In Ethiopia, although there are legal (mainly, the Social Health Insurance Proclamation No. 690/2010) and institutional (the Ethiopian Health Insurance Agency) frameworks that are set up for the implementation of a compulsory social health insurance scheme for employees and pensioners, their enforcement has been postponed by the government for an indeterminate period. See, Social Health Insurance Proclamation No. 690/2010, Federal Negarit Gazeta, 16th Year, No. 50, 19 August, 2010 and the Ethiopian Health Insurance Agency Establishment Council of

himself/herself of this duty by terminating a domestic worker's employment on the ground of illness¹¹.

The first shortcoming of Articles 2602 and 2603 of the Code is their failure to distinguish between occupational and non-occupational injuries/illnesses. Sweepingly, they also ultimately make a live-in domestic worker bear all the expense of her/his medication and/or care, which may seriously reduce her/his meagre monthly wage.

Finally, the Civil Code, under Article 2604 (1), provides that a live-in domestic worker's wage should be paid every three months, unless otherwise agreed in an employment contract. Yet, if the employment relationship between an employer and a live-in worker is terminated, wages will be automatically due¹². When seen in the light of the Ethiopian practice of not using written employment contracts for live-in domestic workers and the difficulties of proving the terms of oral employment contracts, making salaries payable every three months inhibits live-in domestic workers from utilizing their salaries for routine purchases and other expenses.

In addition to the aforementioned defects of each of the four articles, the Civil Code left a host of other important rights of live-in domestic workers unregulated. Among others, these include maximum daily and weekly working hours, paid leave (maternity, sick, paternity, annual and other special leave), occupational safety and injuries, formation of unions, grounds of termination of employment and associated rights (certificate for services provided, due compensation and severance payments etc.). The Code also failed to incorporate a system of governmental supervision on working conditions of live-in domestic workers, which could have served as a tool for regulation.

At this juncture, it must be borne in mind that the government's failure to enact a law that comprehensively governs the working conditions of

Ministers Regulation No. 191/2010, Federal Negarit Gazeta, 17th Year, No. 4, 2 December, 2010. See also, *In Policy Making, Clarity, Communication, Consultations are Key*, *Ethiopian Business Review*, 4th Year, No. 37, Champion Communications, Addis Ababa, March 16, 2016 - April 15, 2016. The inapplicability of the Social Health Insurance Proclamation on live-in domestic workers is, however, expected. This is because the Proclamation, under its Article 5, obligates only private persons who employ at least ten workers, public offices, public enterprises and the Social Security Agency to get their workers/pensioners registered for the insurance. As typical Ethiopian households do not employ ten workers, live-in domestic workers employed in households will not be covered by the compulsory health insurance scheme.

¹¹ The Civil Code, *op. cit.*, Article 2603 (3).

¹² *Ibid*, Article 2604 (2).

Ethiopian live-in domestic workers is incompatible with its obligations under the international instruments that Ethiopia ratified¹³ and the Constitution, which entitle workers to equal and effective legal protection and to favourable working conditions¹⁴. In particular, according to Article 25 of the Constitution, all persons are equal before the law and are entitled without discrimination (of any type) to the equal and effective protection of the law. More specifically, the Constitution declares that “workers have the right to reasonable limitation of working hours, to rest, to leisure, to periodic leaves with pay, to remuneration for public holidays as well as healthy and safe work environment”¹⁵. Furthermore, the Constitution guarantees live-in domestic workers their freedom of association and collective bargaining¹⁶.

3. Working Conditions of Live-in Domestic Workers in Ethiopia

As in other African countries, domestic workers in Ethiopia are mostly internal migrants, who travel from rural to urban parts of the country due to of poverty, lack of education and harmful traditional practices¹⁷. Since

¹³ Ethiopia has, so far, ratified almost all major international and regional human rights instruments. It is also a party to the fundamental ILO Conventions. Article 9 (4) of the Constitution stipulates that “all international agreements ratified by Ethiopia are an integral part of the law of the land.” Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995, Federal Negarit Gazeta, Extraordinary Issue, 1st Year, No. 1, 21 August, 1995.

¹⁴ See, for example, Articles 7, 8, 23 and 24 of the Universal Declaration of Human Rights, UN General Assembly, Paris, December 1948; Articles 6, 7 and 8 of the International Covenant on Economic, Social and Cultural Rights, UN General Assembly, New York, December 1966; Article 15 of the African Charter on Human and Peoples’ Rights, Assembly of Heads of State of the Organization of African Unity, Nairobi, June 1981; and Articles 1 and 2 of the Minimum Age Convention No. 138, International Labour Office, Geneva, June 1973.

¹⁵ The Constitution, *op. cit.*, Article 42 (2). Additionally, Article 35 (5) of the Constitution entitles women workers to maternity leave, both prenatal and postnatal, with full pay.

¹⁶ *Ibid*, Articles 31 and 42 (1).

¹⁷ S. Tesfaye, *Denial of Rights, Human Rights Abuses and Violence Against Domestic Workers in Some Selected Areas of Addis Ababa*, Addis Ababa University, Institute of Gender Studies, MA Thesis, Addis Ababa, July 2007, p. 37. <http://etd.aau.edu.et/bitstream/123456789/5989/1/21.%20SELAMAWIT%20TESFA%20YE.pdf>, (Accessed on March 03, 2016). See also, International Labour Office, *Rural-urban migrants employed in domestic work: Issues and challenges*, Making Decent Work a Reality for Domestic Worker in Africa: a regional knowledge sharing forum, (Briefing Note No. 5), Dar es Salaam, 28-30 May, 2013, p. 2.

the skills domestic work demands are low when compared to other types of work, it is mainly unschooled and less educated women who are employed as domestic workers in Ethiopia. As explained above, these circumstances together with the insufficiency of the Civil Code to protect their rights make Ethiopian live-in domestic workers prone to excessively one-sided employment relations and vulnerable to human rights infringements.

Research¹⁸ reveals that the working conditions of live-in domestic workers in Ethiopia are often characterized by violations of the labour rights of workers. The first problem, in this regard, is the use of unwritten employment contracts and job descriptions¹⁹. These circumstances expose live-in domestic workers to unrestrained responsibilities and long hours of work²⁰. In other words, they are frequently required to carry out almost all types of household duties with little rest per day and week.

Furthermore, live-in domestic workers in Ethiopia do not usually take leave. They typically do not take annual leave, which is one of the most important rights of workers. Even when they are granted, their “annual leave” will customarily be once a month, usually on the Sunday²¹, that should have been their weekly day of rest. As such, most of the times, there is no clear distinction between weekly rest days and annual leave. There are also no statutory and, typically, contractual bases that allow live-

http://www.ilo.org/wcmsp5/groups/public/@africa/documents/meetingdocument/wcms_214732.pdf, (Accessed on January 10, 2016).

¹⁸ Researches hitherto conducted in Ethiopia on these matters are limited to and focus on live-in domestic workers of a specific city in the country, mainly Addis Ababa. But, it is believed that working conditions of live-in domestic workers in other parts of Ethiopia do not differ greatly from those who work in Addis Ababa.

¹⁹ E. Biadegilegn, *Working conditions for Adult Female Live-in Paid Domestic Workers in Addis Ababa, Ethiopia*, Research and Perspectives on Development Practice, Kimmage Development Studies Centre, Dublin, 2011, pp. 12 and 7. <http://kimmagedsc.ie/wp-content/uploads/2013/10/Elsa-Biadegilegn.pdf>, (Accessed on May 11, 2015). See also, K. Mulugeta Gebre, *Vulnerability, Legal Protection and Work Conditions of Domestic Workers in Addis Ababa*, International Institute of Social Studies, MA Thesis, The Hague, December 2012, p. 19. https://thesis.eur.nl/pub/13194/Kidist%20Mulugeta%20Gebre_Kidist%20RP_1503.pdf, (Accessed on January 10, 2016). However, it has to be noted that, per Article 1719 (1) of the Civil Code, contracts are not required to be made in special forms, unless otherwise provided in law. Accordingly, since there is no law that requires an employment contract of a live-in domestic worker and an employer to be in written or other special forms, it is valid when the parties orally agree to create an employment relationship *inter se*.

²⁰ Mulugeta Gebre, *op. cit.*, p. 20.

²¹ Biadegilegn, *op. cit.*, p.9.

in domestic workers to take paid sick leave. They are, in addition, frequently not granted maternity leave. Before getting to the issue of maternity leave, women live-in domestic workers are discouraged, sometimes even prohibited, by their employers from engaging in romantic relationships, thereby facing unwarranted invasions of their privacies²². Ethiopian live-in domestic workers also usually find themselves in deplorable working and living conditions with regard to their wages, food, accommodation and other rights. As there is no legally-prescribed minimum wage²³, numerous live-in domestic workers receive salaries that are disproportionately lower than the chores they perform²⁴. Additionally, some employers of domestic workers deduct from their workers' salaries for faults alleged against the workers²⁵. With regard to food, some "discriminatory and dehumanizing practices", such as serving them with leftover foods, are observed²⁶. Similarly, providing decent accommodation to live-in domestic workers is very uncommon²⁷. Moreover, due to the sector's highly feminized nature, many women domestic workers are subjected to sexual harassment and violence²⁸. During termination of their contracts of employment, Ethiopian live-in domestic workers also do not have legal and contractual bases for some types of claims, such as severance pay. To the contrary, many even have the payment of their salaries denied when their employment relations are terminated²⁹. Another problem observed in the domestic work sector in Ethiopia is employing children as domestic workers³⁰. Many child domestic workers, in addition to the above-mentioned problems, are exposed to arduous and perilous tasks, marginalization and other multiple forms of exploitative activities³¹. As a result, their health and education are negatively affected.

²² *Ibid*, p. 10.

²³ Nor is there a minimum wage for other workers in the private sector in Ethiopia.

²⁴ Mulugeta Gebre, *op. cit.*, p. 21.

²⁵ Biadegilegn, *op. cit.*, p.9.

²⁶ Mulugeta Gebre, *op. cit.*, p. 21.

²⁷ *Ibid*, pp. 22-23.

²⁸ Biadegilegn, *op. cit.*, p. 10.

²⁹ Mulugeta Gebre, *op. cit.*, p. 21.

³⁰ A. Kifle, *Child Domestic Workers in Addis Ababa: A Rapid Assessment*, Investigating the Worst Forms of Child Labour No. 38-Ethiopia, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization, Geneva, July 2002, p. ix. <http://www.ilo.org/ipecinfor/product/download.do?type=document&id=689>. (Accessed on March 04, 2016).

³¹ *Ibid*, pp. ix-xii and 57. These acts violate the Ethiopian Constitution which stipulates "every child has the right not to be subject to exploitative practices, neither to be

5. Conclusion and Recommendations

It has been briefly shown above that the work conditions of many live-in domestic workers in Ethiopia are appalling. The author is of the opinion that the absence of a detailed and adequate law is the principal, albeit not the only, reason for these phenomena.

It is, therefore, recommended that the government, without delay, ratify the Domestic Workers Convention. Moreover, the Council of Ministers, pursuant to Article 3 (3) (c) of the Labour Proclamation, must discharge its duty by passing a law (regulation) to govern the employment relations of live-in domestic workers and their employers and to effectively protect the workers from multidimensional human rights violations. In this regard, the role of the Ministry of Labour and Social Affairs is of paramount importance, as it is obliged to, “in cooperation with concerned bodies, establish a labour administration system around their labour relation that enables the proper transition of the informal economy to the formal economy”³². The Ministry, which has experts on labour regulation, may assist the Council by drafting a labour law and providing technical reports and explanations on the conditions of work of Ethiopian live-in domestic workers. In any case, a labour law that should be enacted to deal with the working conditions of live-in domestic workers must clearly incorporate, among others, a minimum age for employment, maximum daily and weekly working hours, minimum wage, paid leave, grounds for termination of employment and associated rights, procedures for the formation of unions and collective bargaining, rules on occupational safety and injury, inspection and complaint handling systems and a specific regulatory government body.

The enactment of a law, it is proposed, should also be followed by its enforcement, the resolution of problems leading to domestic work (such as poverty and lack of education) and the creation of awareness about the importance of domestic work to the formal economy and the need to respect the human rights of workers.

required nor permitted to perform work which may be hazardous or harmful to his or her education, health or well-being.” The Constitution, *op. cit.*, Article 36 (1) (d).

³² Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation No. 916/2015, Federal Negarit Gazeta, 22nd Year, No. 12, 9th December, 2015, Article 34 (7).

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