



Women in Informal Employment:
Globalizing and Organizing

Decent Work for Domestic Workers: Analyzing the Implementation of C189 in Latin America and the Caribbean



By Mariana Prandini Assis

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Key Points

- There has been extensive ratification of C189 in Latin America and the Caribbean – of the 17 countries surveyed, only three (El Salvador, Guatemala and Honduras) have not yet ratified the convention. However, ratification has not meant that countries have subsequently reformed their laws.
 - Latin America and the Caribbean is a region with very high rates of legal coverage for domestic workers. In most of the countries surveyed, domestic work is regulated in the labour codes – general labour law – but this does not mean that domestic workers always enjoy the same rights as other categories of workers. Often, they are placed within a special section of the law.
 - In most of the countries surveyed, domestic workers enjoy the same minimum salary and weekly rest periods as other workers, but only in half of the countries do they have similar working hours.
 - In most of the countries, domestic workers have the same access to the national social security regime as other workers, and the same general measures to ensure workplace safety and health.
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Introduction

The association between high income inequality, strong social hierarchies and high rates of paid domestic work is well documented (Blofield and Jokela 2018). It is then no surprise that Latin America and the Caribbean, a region marked by a long history of slavery, violent colonial subjugation of its indigenous peoples, and some of the highest income inequalities worldwide, also exhibits the greatest prevalence of paid domestic labour. In 2019, 14.8 million people were engaged in domestic work in the region (OIT 2021), representing 19.6 per cent of the world's domestic workers (ILO 2021). They are overwhelmingly women (91.1%) and tend to come from racial and ethnic minorities, and more than one-third are migrants (OIT 2021). In terms of women's overall employment in the region, domestic work represents 14.3 per cent (UN WOMEN 2020). And, while in almost all countries there is a legally established minimum wage, domestic workers' income is equal to or less than 50 per cent of the average of all employed persons (ILO 2016); a sign of their lack of effective protection and social recognition.

In June 2011, the International Labour Conference of the International Labour Organization adopted Convention No. 189 (C189) concerning decent work for domestic workers, and its accompanying Recommendation No. 201 (R201). In the consultation prior to the adoption of the Convention, Latin American countries overwhelmingly favoured such an instrument – 17 out of the 72 countries that answered positively to the question were Latin American. Of note are the comments that Panama submitted then, which summarize the hardship, invisibility and exploitation of domestic workers, and thus the need for regulation and protection:

As the primary goal of the ILO is to promote opportunities for women and men to secure decent and productive employment in conditions of freedom and dignity, economic security and equal opportunity, it is fundamental to implement all instruments that may be necessary to guarantee decent work for domestic workers. These workers have traditionally been invisible, undervalued and victims of labour rights violations. It is highly recommended that the proposed instruments adopt a gender equality perspective in order to meet the needs of women domestic workers. Domestic workers, especially women, are victims of sexual, economic, psychological and physical abuses. This is aggravated by the irregular and migrant status of many of them. One of the main problems faced by these workers is isolation and vulnerability. Working and, sometimes, living in private households, they are highly dependent on the goodwill of their employers and may be exposed to violence and sexual exploitation. In the rare cases when they have a labour contract, its terms are determined by the employer. Finally, in many countries, domestic workers are not covered by labour legislation, which, obviously, undermines their status and rights, including freedom of association and the right to collective bargaining (ILO 2010, p. 6).

The two instruments, C189 and R201, constitute an international standard that ensures a minimum safeguard for both live-in and live-out domestic workers. This includes measures aimed at realizing “the fundamental principles and rights at work”, particularly “freedom of association” and “the right to collective bargaining”, the abolition of child and all forms of compulsory or forced labour, “the elimination of discrimination” (Article

3), protections for migrant workers (Article 8), safeguards “against all forms of abuse, harassment and violence” (Article 5) and social security (Article 14).

The Convention has been ratified only by 31 countries, of which 18 are in Latin America and the Caribbean.¹ Such remarkable adherence to the Convention can be explained by national governments’ willingness to regulate such a relevant labour sector in the region, but also, and perhaps most importantly, by domestic worker organizations’ long history of activism (Poblete 2018). Indeed, these organizations have played a central role not only in framing the language and rights enshrined in the Convention, but also in promoting its adoption, ratification and implementation across the region (Blofield 2012).

This Resource Document examines the measures that 17 Latin American and Caribbean countries have taken towards implementing C189: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay. Of these countries, only three – El Salvador, Guatemala and Honduras – have not ratified C189.

This research is important because it tracks the adoption of laws and regulations across the region that directly and indirectly implement, on the national level, the minimum protection accorded to domestic workers by international labour standards. Such legal coverage is a first step to guarantee that they have access to decent work.

To conduct this analysis, WIEGO’s Law Programme collected relevant laws that the above countries have passed since the adoption of C189 in 2011. These include laws specifically regulating domestic work, laws extending existing labour rights to domestic workers, new labour laws that include domestic workers, and bilateral or multilateral agreements regulating migrant domestic work. Laws and regulations prior to 2011 were examined when relevant for understanding adaptation to C189, when no new laws or regulations had been adopted since ratification, and where the country had not ratified C189. All data was collected from official government websites and legislative databases. Secondary sources, including research articles and reports, were also consulted.

The laws and regulations of each of the 17 countries were analyzed according to the eight minimum standards set out by C189, namely basic rights, employment contract, basic working conditions, workplace safety and health, social security, complaints against employers, migrant domestic workers, and regulation of employment agencies.

According to C189, the basic rights of domestic workers include, at the minimum, the following:

- (i) fair treatment and provision of decent working conditions by employers (Article 6);
- (ii) freedom of association and collective bargaining (Articles 3(2)(a) and 3(3));
- (iii) protection of children from working in the domestic sector before they complete school (Articles 3(2)(c) and 4);

¹ These countries are Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Grenada, Guyana, Jamaica, Mexico, Nicaragua, Panamá, Paraguay, Peru, and Uruguay. For the entire list, see: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:2551460.

- (iv) protection from being forced into domestic work (Article 3(2)(b));
- (v) protection from being discriminated against at work (Article 3(2)(d));
- (vi) protection against abuse, harassment and violence (Article 5);
- (vii) right to retain one's identity documents (Article 9(c));
- (viii) right to choose to live in the employer's house or elsewhere (Article 9(a)); and
- (ix) for live-in domestic workers, protection of privacy, stand-by hours, and the right to leave the household when they are off duty (Articles 6, 9(b) and 10(3)).

Regarding employment contract, Article 7 of C189 determines that member states ensure that domestic workers are informed of the terms and conditions of their employment, preferably through a written contract. In examining compliance with this requirement, we looked for laws and regulations that mandated a domestic employment contract. We also inquired if laws and regulations require employers to explain the details of the domestic workers' contracts and provide written contracts where possible. Finally, we examined what information the contract should include, such as starting date, type of work to be done, wages, working hours, rest periods and leave, and contract termination.

Several articles of C189 define measures that ensure domestic workers' basic working conditions, which include,

- (i) treating domestic workers as other workers in relation to working hours, overtime pay, rest periods and paid leave (Article 10(1));
- (ii) extending the national minimum wage (if any) to domestic workers (Article 11);
- (iii) guaranteeing workers at least 24 hours' weekly rest (Article 10(2));
- (iv) ensuring that workers are paid at least once a month, in cash or (if they agree) with a cheque or bank deposit (Article 12(1)); and
- (v) protecting workers who receive part of their wages in kind (Article 12(2)).

Domestic workers are entitled to a safe and healthy working environment, according to Article 13 of C189. This is a critical protection for domestic workers because both the characteristics of the occupation and the particularity of the workplace – private homes – contribute to their further vulnerability to labour risks. Member states thus have the obligation of instituting in laws and regulations effective measures to ensure the safety and the health of domestic workers.

Member states must also ensure that domestic workers are included in social security schemes, such as pensions, maternity and disability benefits, in conditions that are no less favourable than those applicable to workers generally (Article 14). By imposing such obligation, the Convention acknowledges the interconnection between social security and decent work, while also reinforcing the idea of social security as a human right that has value not only in and of itself, but also because it contributes to combatting poverty and inequality and promoting inclusion, social justice and human dignity. The specific attention to maternity acknowledges the gendered nature of domestic work and the need to ensure the economic security of childbearing people. At the same time, it signals a commitment to “increasing the income of women at the bottom of the labour market”²

² ILO. 2021. *Making decent work a reality for domestic workers: Progress and prospects ten years after the adoption of the Domestic Workers Convention, 2011 (No. 189)*. Geneva: ILO. p. 119.

To ensure that domestic workers see their rights enforced, C189 establishes that they have the right to make complaints against employers (Article 16). In addition, complaint mechanisms and access to courts must be easy and effective, and labour inspectors should check private households to ensure that employers comply with the laws (Article 17).

Migrant domestic workers are a particularly relevant group in the domestic work sector. According to the ILO, nearly one in every five domestic workers is an international migrant.³ Acknowledging the distinct needs of this group, C189 establishes for its members an obligation to protect migrant domestic workers by ensuring that they have a contract of employment that fulfils the terms and conditions of employment referred to in Article 7 before leaving home (Article 8(1)). Moreover, countries should cooperate with one another to guarantee the enforcement of those protections (Article 8(4)).

Finally, C189 recognizes that domestic workers have the right to be protected against abusive practices of private employment agencies. Therefore, it determines that governments must make rules for employment agencies to follow (Article 15(a)), investigate complaints against employment agencies (Article 15(b)), protect workers against mistreatment by agencies, work with other countries to regulate agencies where necessary (Article 15(d)) and prohibit agencies from deducting fees from domestic workers' wages (Article 15(e)).

In what follows, the laws and regulations applicable to domestic workers in each of the 17 countries surveyed are analyzed against the above standards. The picture from this study confirms the finding that countries that have not ratified the Convention have greater gaps between the rights recognized to domestic workers and to other groups of workers.⁴ At the same time, our research also substantiates the claim that Latin America and the Caribbean is a region with very high rates of legal coverage for domestic workers.⁵ Such legal coverage appears in three modalities: domestic workers are included in general labour law, domestic workers are protected under special legislation, or a combination of the two. Protection under the law is an important step towards ensuring decent work. For this reason, where countries have not yet ratified C189 or complied with its standards, domestic workers' organizations continue to mobilize towards this end.

Argentina

Argentina ratified C189 in 2014. The Constitution protects the right to work and establishes that the laws will realize dignified and equitable conditions of labour, equal pay for equal work, limited working hours, paid rest and vacation, fair wages, social security, and free and democratic unionization (Article 14 Bis). A law from a year before the government ratified C189 – *Ley 26.844* – already regulated the Special Regime of

³ Available at <https://www.ilo.org/global/topics/labour-migration/policy-areas/migrant-domestic-workers/lang--en/index.htm>.

⁴ OIT. 2021. El trabajo doméstico remunerado en América Latina y el Caribe, a 10 años del Convenio núm. 189. Lima: OIT, Oficina Regional para América Latina y el Caribe.

⁵ OIT. 2021. El trabajo doméstico remunerado en América Latina y el Caribe, a 10 años del Convenio núm. 189. Lima: OIT, Oficina Regional para América Latina y el Caribe.

Labour Contract for Domestic Workers, recognizing **basic rights of domestic workers**, such as (i) maximum of 8 hours of work per day and 48 per week; (ii) weekly rest of 35 hours, beginning at 1pm on Saturdays; (iii) clothing and equipment for work to be provided by the employer; (iv) meals during the working hours provided by the employer; and (v) live-out domestic workers must enjoy a break of at least 12 hours between shifts.

Ley 26.844 also establishes protections to the **right to unionize and to collective bargaining** as well as instituting a National Commission of Domestic Work that has the mandate to oversee and regulate all matters related to domestic workers (Article 62). The Commission is formed by representatives of the Ministry of Labour, Employment and Social Security, the Ministry of Social Development, the Ministry of Economy and Public Finances, employers, and domestic workers, appointed by their most representative national entities (Article 64).

The **employment of people under the age of 16** is prohibited in all cases (*Ley 26.844*). Adolescents between 16 and 18 years old can only work if they have finished school, or if the employer ensures that they attend school. There are also other specific protections for underage domestic workers – their working hours cannot exceed 6 hours per day and 36 hours per week and they cannot be hired as live-in workers (Articles 11, 12 and 13).

There is no law or regulation **protecting people from being forced into domestic work**, but there is **protection against discrimination**. The Law on Labour Contract (*Ley 20.744/1976*), which applies to domestic workers (Article 2(b)), protects workers from discrimination based on sex, race, nationality, religion, politics, union association or age (Article 17). There is no specific **protection against abuse, harassment and violence**, but *Ley 26.844* contains a protection that establishes that receipt of payment cannot contain any kind of waivers.

There is no specific protection of a worker's **right to choose whether she wants to live in the employer's house or elsewhere**. However, *Ley 26.844* protects live-in domestic workers in specific ways. They must enjoy at least 9 hours of night rest, which can only be interrupted in urgent or serious circumstances, and a daily rest of 3 hours between morning and afternoon tasks; and they must be provided with a furnished and clean room (Article 15).

There is no protection of **workers' right to retain their identity document**. And while *Ley 26.844* ensures that **workers have an employment contract**, it allows for the agreement to take any form – therefore, it does not require the provision of a written contract, nor does it specify the information and terms it should contain.

Ley 26.844 does include **domestic workers' basic working conditions**. In addition to those mentioned before, it establishes that (i) a **national minimum salary** specific for the category must be periodically determined by the National Commission on Domestic Work or the Ministry of Labour, Employment and Social Security (Article 18); (ii) **domestic workers must be paid at least once a month** if contracted monthly or after the end of the workday, if contracted daily or hourly (Article 19), **always in cash**, or by check or bank deposit only in case cash is legally prohibited (Article 21). There is nonetheless no **protection for workers who receive part of their wages in kind**.

Domestic workers have been incorporated under the regimen of risks at work (*Ley 24557* and *Ley 26773*). Thus, employers have the **obligation to contract an insurance for workers** but are free to choose the insurance company (Article 14.1 of *Ley 26.844* and *Decreto 467/2014*).

Ley 26.844 contains several **social security measures**, such as sick or accident leave of up to 3 or 6 months per year (Article 34), maternity leave of 45 days before and after birth and employment stability during the pregnancy (Article 39) and paternity leave of 2 days (Article 38), and reparations in case of dismissal due to pregnancy or marriage (Article 41). Finally, there is a mandatory special social security regime for domestic workers (*Ley 25239*), which guarantees access to health care for themselves (and their families upon an additional contribution), and illness and retirement benefits.

Domestic workers in Argentina have the **right to make complaints against employers** in a specific court – *Tribunal del Trabajo para el Personal de Casas Particulares* (*Decreto 7979/1956*). While the law requires that the procedure be made simple and accessible, domestic workers need to be represented by a lawyer (Article 54, *Ley 26.844*). There are no specific legal provisions determining that labour inspectors check private households.

There are no specific protections for **migrant domestic workers**. The law on migration (*Ley 25871/2003*) establishes general provisions to ensure that every migrant in the country enjoys the rights and protections enshrined in the Constitution, laws, treaties and conventions without discrimination (Article 3(f)). It also ensures access to education and health (Articles 6 and 7) and establishes that employers must observe workers' rights regardless of migrant status (Article 56). Since 2005, a multilateral social security agreement between Argentina, Brazil, Paraguay and Uruguay (*Acuerdo Multilateral de Seguridad Social del MERCOSUR/2005*) guarantees the portability of social security rights to anyone who works or has worked in those countries. In 2017, the Council of the Common Market recommended that countries take measures to comply with C189 as well as ensure that domestic workers also enjoy the rights in the Convention (*MERCOSUR/CMC/REC. N° 06/17*).

Upon the adoption of ILO Convention 96 (*Ley 24.648*), *Decreto 489/2001* regulated **employment agencies**, which are differentiated in three categories – those that provide the service for free, those that charge for profit, and those that charge but are not-for-profit. The Ministry of Labour, Employment and Social Security is responsible for registering these agencies and overseeing their work. However, there are no specific provisions regarding **investigation of workers' complaints, protection against mistreatment by agencies or collaboration with other countries to regulate agencies where necessary**. Finally, for-profit agencies are authorized to charge 10 per cent of workers' first monthly salary for their services.

Bolivia

Bolivia ratified C189 in 2013 (*Ley 309*). However, since 2003, domestic workers have had some of their **basic rights** recognized in law (*Ley 2450*) and their relevance to the country's economy was reaffirmed in the 2009 Constitution. Article 8 of *Ley 2450* establishes that domestic workers are entitled to salaries, compensation for years of work, advance notice in case of unjustified dismissal, annual bonus, vacation, unionization,

and affiliation to the national social security system for short-term issues, such as illness, maternity, and occupational hazards (*Caja Nacional de Salud*). The Constitution, in turn, recognizes the economic value of domestic labour as a source of wealth, which must be quantified in the public budget (Article 338).

In addition to the reference to **unionization** as a domestic worker's right mentioned above, the *Ley General del Trabajo* (1942) recognizes the right of all workers to associate in unions (Article 99). Nonetheless, there are no specific protections for domestic workers following from the recognition of this right.

Also, there are no specific provisions **protecting children from working in the domestic sector** before they complete school. The national code on children's and adolescents' rights (*Ley 548/2014*) establishes 14 years old as the minimum age to work (Article 129 (I)) and employers' obligation not only to ensure that work does not impair adolescents' right to education but also to provide two paid hours per day for study (Article 132 (IV)).

There is no specific **protection against being forced into domestic labour**, but domestic workers are **protected from discrimination in the workplace**, as well as **protected against abuse, harassment and violence**. Article 21 of *Ley 2450* determines employers' duties to respect domestic workers, including their cultural identity, to treat them with dignity and to never mistreat them physically or with words. There is no **protection of a worker's right to choose to live in the employer's house or elsewhere**, but there are **protections of workers' right to retain their identity document**. Indeed, article 16 of *Ley 2450* prohibits the employer from retaining any of the domestic worker's personal belongings.

While employers have specific obligations towards **live-in domestic workers**, there is no specific **provision on privacy, stand-by hours, or the right to leave the household in their free time**. Employers are obliged to provide workers with a suitable and clean room, access to a bathroom, and the same meals enjoyed by the employer. Also, employers are required to adopt measures to protect workers' life and health and to allow and facilitate their education (Article 21, *Ley 2450*).

Bolivian law ensures that **workers have an employment contract**. The law on domestic work allows it to be verbal or written, mandating the written form when the length of contract exceeds one year (Article 3, *Ley 2450*). However, a more recent regulation by the Ministry of Labour, Employment and Social Protection (*Resolución 218/2014*), explicitly aiming to adapt the individual work contract to C189, requires it to be registered with the Ministry, thus instituting the written form as a rule and a right for all domestic workers. The Ministry provides a template of the contract, which includes the following information: names and addresses of contracting parties, if the worker studies or not, the type of work to be performed, the normal hours of work, the monthly salary as well as the worker's and employer's respective rights and obligations.

The **basic working conditions** for a domestic worker in Bolivia are not the same as those of other workers. They are regulated both in *Ley 2450* and in *Ley General del Trabajo* and include 10 working hours for live-in workers and 8 working hours for live-out workers; daily rest periods of at least 8 hours and one full day of rest weekly; overtime and holidays are paid with an overcharge of 100 per cent of a working day; night-shifts

are paid an extra of 25-50 per cent of the day-shift rate and work on Sundays is paid at triple the daily rate (Article 55, *Ley General del Trabajo*). Domestic workers are granted the right to the **national minimum wage** (*Ley 2450*, Article 14), which must be paid proportionally to part-time workers. While **monthly payment** is guaranteed by law (*Ley 2450*, Article 14) and **payment in kind** is prohibited, there is no provision on the form of payment (cash or deposit).

Regarding **measures to protect domestic workers' health and safety at work**, in addition to those already mentioned, employers are obliged to provide first aid and transportation to a health centre at their cost in cases of illness, accident or pregnancy. And if the worker is not insured under the national security system (*Caja Nacional de Salud*), the employer must bear all the costs for the health treatment (*Article 21, Ley 2450*).

Domestic workers in Bolivia are **included in social security schemes**, particularly the national system *Caja Nacional de Salud*, to which they must be affiliated upon three months of work (*Ley 2450*, Article 9). In addition, since 2014, they must be registered with the Ministry of Labour, Employment and Social Security to guarantee the payment of their salaries as well as their access to social protection (*Resolución Ministerial 218*).

Domestic workers have the **right to make complaints against employers**. *Ley 2450* specifically addresses complaints of abuse, physical aggression and sexual harassment against employers, their children and other family members, which can be directed to the special police for women and family protection, public prosecutors, or other authorities. For all other conflicts between employers and domestic workers, the code of labour procedure (*Código Procesal del Trabajo, 1979*) applies (*Article 3, Ley 2450*), which establishes a special jurisdiction for labour and social security issues. The labour procedure is guided by principles that aim to facilitate workers' access to justice, such as gratuity, protectionism and shift of the burden of proof in favour of workers. However, workers must be represented by a lawyer. There is no specific provision mandating that **labour inspectors check private households to ensure that employers comply with the laws**.

Resolución Ministerial 218/2014, which regulates domestic work contracts in accordance with C189, establishes that in the case of **migrant domestic workers**, the provisions of *Ley 370* (the national law on migration) must be observed. This law recognizes migrants' rights to work, social security and basic social services (Article 12). Particularly for migrant workers, the law establishes protection of rights including to freely choose their work, to unionize, not to be subjected to servitude, slavery, exploitation or forced labour, and not to be discriminated against based on gender (Article 49). However, there are no specific provisions regarding migrant domestic workers, particularly that they **must have a contract of employment before leaving home** or that the **government must work with other countries to protect them**.

Finally, Bolivian labour law prohibits **employment agencies** altogether: only the state, through its agencies, can provide such service, free of charge (Article 31, *Ley General del Trabajo*). In addition, it is considered a violation of social laws to recruit, for or not for profit, workforce for third parties (Article 2, *Decreto Supremo 521/2010*).

Brazil

Like other countries in the region, Brazilian laws and regulations on domestic work date from before the ratification of the C189, which took place in 2018. Measures that **protect domestic workers' basic rights** are found in special legislation (*Lei Complementar 150, 2015*) and in the Federal Constitution (introduced through a constitutional amendment in 2013). These include protection against arbitrary termination of contract, unemployment benefits, limitation on working hours, weekly paid rest and yearly paid vacation, maternity and paternity leave, social support for children until 5 years old, retirement and protection against discrimination based on sex, age, race, civil status or disability. The **right to freedom of association and collective bargaining** is recognized and protected by the Constitution (Article 7, XXVI). **Children and adolescents are protected from working in the domestic sector** – there is a general prohibition on hiring anyone under 18 for domestic work (*Lei Complementar 150*). There is not, however, any specific **protection from being forced into domestic work**.

Domestic workers are **protected from being discriminated against at work** by a provision in the labour code (Article 461, *Consolidação das Leis do Trabalho* that protects workers in general against discrimination based on sex, ethnicity, nationality or age. Workers are also **protected against abuse, harassment and violence** – in these cases, the contract can be terminated with the employer at fault (Artigo 27, *Lei Complementar 150*). However, there is no specific **protection of a worker's right to choose to live in the employer's house or elsewhere** or, **for live-in domestic workers, to privacy, stand-by hours and the right to leave the household when they are off duty. Workers' right to retain their identity documents** is protected by the general prohibition on retaining someone's personal identification (Article 1, *Lei 5553/1968*) as well as by the maximum period that an employer can take to sign a worker's labour card (Article 29, *Consolidação das Leis do Trabalho*).

Brazilian law requires that the employer annotates the worker's labour card in a maximum of 48 hours, stating the date employment starts and the wage (Article 9, *Lei Complementar 150*). However, there is no provision mandating a **written contract, covering agreements such as type of work to be done, working hours, rest periods or leave**.

Domestic workers' **basic working conditions** include a maximum of 8 working hours per day and 44 per week, overtime pay with a 50 per cent increase in the hourly rate, a daily rest or meal break, and paid yearly vacation of 30 days (Articles 2 and 13, *Lei Complementar 150*). In addition, other protections granted to all workers have been extended to domestic workers, such as a 13th salary, **one day of weekly rest**, 30-day notice for dismissal, and the national **minimum wage** (Article 7, single paragraph, *Constituição Federal*). Regarding **payment of salaries**, the employer must pay workers by the 7th day of the month and **payment in kind is prohibited**. The employer cannot deduct from the worker's salary any amount for provision of food, clothing, hygiene items or housing (Article 18, *Lei Complementar 150*).

As for **measures to protect workers' safety and health at work**, the employer must insure against labour accidents in favour of the worker and must pay damages if found responsible for the accident (Article 7, XXVIII, *Constituição Federal*). In cases where workers are endangered, physically or morally assaulted, subjected to any form of

violence, demeaning or rigorous treatment, the worker can terminate the contract due to employer's fault (Article 27, *Lei Complementar 150*).

Domestic workers in Brazil are included in the general **social security scheme** (Article 20, *Lei Complementar 150*) and have guaranteed paid maternity leave of 120 days (as well as job security during the pregnancy and the leave), unemployment benefits for 3 months (in case of dismissal without just cause) and disability benefits (Article 25, *Lei Complementar 150*; Article 18, *Decreto 3.048*).

As do all other workers, domestic workers have the **right to make complaints against employers**, following the general procedure established in the labour code. Any claims they have against their employer can be sought within two years of contract termination (Article 43, *Lei Complementar 150*). The labour code allows workers to represent themselves without a lawyer (Article 791, *Consolidação das Leis do Trabalho*) and to present their complaints either in verbal or written form (Article 840, *Consolidação das Leis do Trabalho*). Where they can prove lack of funds, workers can access justice without paying the fees (Article 790-A, *Consolidação das Leis do Trabalho*).

Labour inspectors check private households to ensure that employers comply with the laws. They are required to schedule the inspection (Article 11-A, *Lei 10.593*).

There are no specific **provisions protecting migrant domestic workers**. But there is general protection of equal and free access to social services, programmes and benefits, public goods, education, legal aid, work, housing, bank services and social security for all migrants (Article 3, XI, *Lei 13.455*). Finally, there are no regulations on **employment agencies** in Brazil.

Chile

Chile ratified C189 in 2015 and it was internalized by *Decreto 34/2016*. However, domestic work had already been regulated in a special section of the labour code, which was reformed a few times in the following years. As a result, there are several **measures in place to protect domestic workers' basic rights**, some of which are specific to the sector and others that apply to all workers. Article 2 of the Labour Code establishes that, in all labour relations, workers must be treated with dignity, which means they can never be subjected to sexual or labour harassment, or be mistreated or humiliated in any way. Article 184 of the same statute establishes that the employer must take all measures necessary to effectively protect the life and health of workers and maintain conditions of hygiene and security. These are measures that **require employers to treat domestic workers fairly and provide them with decent working conditions**.

The **right to form or join an organization and to collective bargaining**, in addition to its constitutional protection (Article 16, *Constitución*), is protected for all workers in the labour code, which recognizes workers' right to constitute unions in both the private and public sector (Article 212, *Código de Trabajo*). In addition, there are chapters in the labour code to protect both the right to unionization and to collective bargaining.

Children are not explicitly **protected from working in the domestic sector before they complete school**. A general provision in the Labour Code (Article 13) establishes 18

years old as the minimum age to work. However, the law allows adolescents between 15 and 18 years old to hold contracts to perform light jobs if these do not harm their health and development, and they are enrolled in school or have completed high school. For those at school, work may not affect their school attendance and their working hours cannot exceed 8 per day, and 30 per week in school terms.

There is no specific provision **protecting people from being forced into domestic work**, but there is a general protection both in the Constitution (Article 16) and in the labour code to freedom to perform the work of choice and the corresponding state obligation to ensure that everyone enjoys that right (Article 2). Similarly, there is a general **protection from being discriminated against at work** in the Constitution (Article 16). Article 2 of the labour code establishes that any form of discrimination is against the principles guiding labour relations. In addition, specific to domestic workers, is the protection that employers cannot condition their hiring or contract renewal on the use of uniform or any other clothing item in public places that distinctively identifies employees as domestic workers. Also, there is no specific **protection of domestic workers against abuse, harassment and violence**. However, in addition to the general protection from sexual and labour harassment, mistreatment and humiliation mentioned above, the labour code establishes that employers' powers are limited by workers' constitutional protections. These include protection of their private life and honour (Article 5).

There are no enshrined protections to a **worker's right to choose to live in the employer's house or elsewhere**, to **live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty** or to **workers' right to retain their identity documents**.

The law ensures that workers have a **written employment contract**, which must contain the type of work and the place where the services will be performed, as well as, if it applies, the people to whom the worker will be providing special assistance or care (Article 146, *Código del Trabajo*). In addition, the contract must be registered within 15 days in the appropriate office of labour inspection.

Domestic workers' **basic working conditions** are like that of other workers and include a maximum 45 hours of work per week, which can be extended to 60 on agreement between employer and worker and upon payment of the extra hours with a 50 per cent increase (Articles 149 and 32, *Código del Trabajo*), distributed over a maximum of 6 days a week (Article 149, *Código del Trabajo*). The work day cannot exceed 12 hours and must include a rest time of at least 30 minutes (Article 149 and 34, *Código del Trabajo*). **Live-in domestic workers**, however, have a different regime: they are not subject to working times, but are guaranteed at least 12 hours per day of absolute rest and at least a consecutive 9 hours of rest between shifts.

Domestic workers in Chile are entitled to the **national minimum wage** (Article 98, *Código del Trabajo*) and their meals and housing cannot be deducted from their wages. These costs are always borne by the employer (Article 151, *Código del Trabajo*) and thus there is no **payment in kind**. Live-out workers have a guaranteed **weekly rest** on Sundays and on holidays (Articles 150 and 35, *Código del Trabajo*), while live-in workers have weekly rest on Saturdays, Sundays and holidays (Article 150, *Código del Trabajo*). Workers must

be paid at least once a month (Article 55, *Código del Trabajo*), in cash or with a cheque or bank deposit if required (Article 54, *Código del Trabajo*).

There is a general obligation in the labour code for employers to take all necessary **measures to effectively protect the health and life** of their workers (Article 184, *Código del Trabajo* and *Dictamen 733/023*). Specific to domestic workers, in cases of illness, employers must notify the social security institution and comply with the right to wages for 8 days if the employee had been employed for 6 months, 15 days for employment between 6 months and 1 year, and up to 30 days for workers employed for more than 1 year (Article 152, *Código del Trabajo*).

Several measures include domestic workers in **social security schemes**. All workers are entitled to maternity leave of 6 weeks before childbirth and 12 weeks after (Article 195, *Código del Trabajo*). In addition, domestic workers are entitled to the general social security regime applicable to all other workers, which includes rights to medical and dental assistance, as well as medication, and pensions for illness and retirement (*Ley 20.255*). Since 2020, domestic workers are also entitled to unemployment benefits (*Ley 21.269*).

Domestic workers have the **right to make complaints against employers**, following the procedure established in the labour code. There is a special labour court, where procedures must be oral, public and free of charge (Article 425). The principles of orality and gratuity make it **easy for domestic workers to make complaints or go to court to settle a dispute**. However, there is a requirement to be assisted by a lawyer, with access to free legal aid for those able to prove poverty (Article 431).

Labour inspectors check private households to ensure that employers comply with the laws (Article 146, *Código del Trabajo*). When approached for the inspection, the employer may allow inspectors' entry at that time or demand that another day and time is scheduled. It is to facilitate inspection that employers are required to register contracts with the appropriate labour inspection office (Article 146, *Código del Trabajo*).

In 2021, a new law on migration was promulgated in Chile (*Ley 21325*). While there is no specific **protection for migrant domestic workers**, the law establishes that the state will protect and respect the human rights of all foreigners in Chile, regardless of their migration status (Article 3). In addition, the law guarantees that migrant workers enjoy the same labour rights as Chilean workers (Article 14). There is no requirement that **migrant workers have a contract before leaving home** or that the **government works with other countries to protect migrant domestic workers**. However, there is a special provision that allows the extension of official residence to domestic workers providing services to foreigners in an official country mission in Chile (Article 61, 3).

Employment agencies are regulated in the labour code for all workers (through a reform introduced in 2006 by *Ley 20.123*). The agencies must observe several rules, such as signing a written contract both with the user of the service (contractor) and the worker (Article 183-N), ensuring that the measures for protecting the health and life of workers are adopted (Article 183-E) and being responsible both with the contractor for the labour and for the social security obligations towards the worker (Article 183-B). The agencies must be registered with the *Dirección del Trabajo*, a decentralized

service under the Ministry of Labour and Social Security (Article 183-K). They can lose this registration if they repeatedly do not comply with the labour laws (Article 183-M). As non-compliance is measured by both judicial and administrative sanctions due to violations of workers' rights, it is implied that officials must investigate complaints against employment agencies. Workers can file a labour complaint against both the agency and the contractor (Article 183-B). Finally, **agencies are prohibited from deducting fees from workers' wages** (Article 183-S). Together, these measures are a **protection of workers against agencies that treat them badly**. There are no provisions requiring that **the government work with other countries to regulate agencies**.

Colombia

While C189 was ratified in 2014, the Colombian National Congress approved the text in 2012 with *Ley 1595*, which was regulated by *Decreto 721* and *Decreto 2616* in 2013. A few years later, *Ley 1778* (2016) was adopted, ensuring the **protection of domestic workers' basic rights**. In addition to the legislative measures and general provisions in the Constitution, several Constitutional Court decisions have guaranteed the enforcement of these rights. A decision from 2014 (*Sentencia T-782*) established that all protections and fundamental principles of work apply to all workers regardless of the labour performed. According to the Court, domestic workers are entitled to the labour rights enshrined in the Constitution (Article 53), which include "equality of opportunities to workers; minimum wage, proportional to the quantity and quality of work; inalienability of the minimum benefits established in labour norms; prevalence of the most favourable conditions to the worker in case of doubt and in the interpretation of the formal sources of law; primacy of reality over formality in labour relations; guarantee to social security, training and rest; special protection to women".

Domestic workers are also protected under the labour code. While there is no specific provision on the requirement to **treat domestic workers fairly and provide them with decent working conditions**, employers have several obligations that ensure this is accomplished. These include the obligation to ensure their protection and safety (Article 56, *Código Sustantivo del Trabajo*), to provide them with the necessary supplies for work, to provide them with an adequate workplace and equipment to protect against accident and illness, and to respect their dignity, beliefs and sentiments (Article 57, *Código Sustantivo del Trabajo*). Domestic workers' **rights to join or form an organization and collective bargaining** are also protected under the labour code (Articles 12 and 353, *Código Sustantivo del Trabajo*), including the right to strike.

There is no **protection for children from working in the domestic sector before they complete school**. The minimum age to work in Colombia is 15 years old. For those from 15 to 17 years old, an authorization to work from the labour inspectors is required and they are entitled to receive training during their working hours that enables them to freely find any profession or occupation (Article 35, *Ley 1098/2006*).

While there is no specific **protection from being forced to be a domestic worker**, the labour code protects all workers' right to freely choose their profession or occupation (Article 11, *Código Sustantivo del Trabajo*). Similarly, there is no specific **protection for domestic workers from being discriminated against at work**. However, a general provision in the labour code ensure that all workers are equal under the law, enjoying

the same protection and entitlements. Any form of discrimination is prohibited (Article 10, *Código Sustantivo del Trabajo*). In addition, the Constitutional Court recently struck the word “servant” off the Civil Code and determined its replacement with “worker” or “employee” (*Sentencia C-001/18*).

Regarding **protection against abuse, harassment and violence**, the labour code contains a general provision that establishes as just cause for the termination of an employment contract “any act of violence, mistreatment or serious threats by the employer against the worker or her family members, within or outside of work, or by the employers’ relatives, representatives or dependents, with the employer’s consent or tolerance” (Article 62, B, 2, *Código Sustantivo del Trabajo*) as well as “any damage maliciously caused by the employer to the worker within the labour relationship” (Article 62, B, 5, *Código Sustantivo del Trabajo*).

There is no protection of **a worker’s right to choose to live in the employer’s house or live somewhere else**, for **live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty** or of **workers’ right to retain their identity documents**.

The law ensures that **workers have an employment contract** in oral or written form (Article 37, *Código Sustantivo del Trabajo*). For oral contracts, the law requires that the parties agree on the type of work and the place it is to be performed, the form and amount of wage and periods of payment, and the duration of the contract (Article 38, *Código Sustantivo del Trabajo*). For written contracts, requirements include the nature of the work, the estimation of the wage value, in case food and housing is part of it, and the duration of the contract (Article 39, *Código Sustantivo del Trabajo*).

The **law includes some basic working conditions for domestic workers**. They have the **right to overtime pay and extra pay for night work** (Article 168, *Código Sustantivo del Trabajo*) as well as **paid leave** on official holidays (Article 177, *Código Sustantivo del Trabajo*) and 15 days per year of paid vacation (Article 186, *Código Sustantivo del Trabajo*). Regarding **working hours**, domestic workers are an exception to the general rule of 8 hours per day and 48 hours per week. The labour code explicitly excluded them from the maximum legal working hours (Article 162, *Código Sustantivo del Trabajo*), but in 1998 the Constitutional Court regulated the exception by determining that an excessive working day violates the principle of human dignity. For this reason, live-in domestic workers could have a working day that exceeds the legal maximum, but never more than 10 hours of work per day (*Sentencia C-372/98*). Domestic workers are entitled to the **national minimum wage** (Article 148, *Código Sustantivo del Trabajo*) and to a **weekly paid rest** on Sundays (Article 172, *Código Sustantivo del Trabajo*). While there is no provision regulating the form of wage payment, the labour code requires that **workers are paid at least once a month** (Article 134, *Código Sustantivo del Trabajo*).

For **workers who receive part of their wages in kind**, there are some legal protections. First, the in-kind wage must be quantified expressly in the work contract. Where it is not, it cannot be worth more than 50 per cent of the total wage. For workers receiving the minimum wage, in-kind payment cannot be more than 30 per cent of the total wage (Article 129, *Código Sustantivo del Trabajo*).

There are no **measures to protect domestic workers' safety and health at work**. The chapter in the labour code regulating work accident and illness contains an express exclusion of domestic workers from the protection, establishing for employers only the obligation of providing first aid and administering urgent care and medicines (Article 223, 2, *Código Sustantivo del Trabajo*).

Domestic workers, including those working part-time, are included in **social security schemes** (*Decreto 2616/2013*). Employers have the obligation to affiliate them to the universal social security system (Article 153, *Ley 100/1993*; Article 161, *Código Sustantivo del Trabajo* and *Sentencia C-1004/05*) and to the family subsidy system (*Decreto 0721/2013*). In addition, they have paid maternity leave of 14 weeks (Article 236, *Código Sustantivo del Trabajo*) and in cases of disability, in addition to the general protection provided by the social security system, employers must pay their wages, medicines and medical assistance for a maximum period of one month (Article 229, *Código Sustantivo del Trabajo*).

Domestic workers have the **right to make complaints against employers**, using the same mechanisms as any other worker. A specific law regulates labour procedures, which are guided by the principles of gratuity and freedom of forms, orality and publicity, and require the participation of a judge (Articles 39 to 42, 49 and 52, *Código Procesal del Trabajo*). A lawyer is required in most cases, but parties can represent themselves in cases of single instance and in conciliation hearings (Article 33, *Código Procesal del Trabajo*).

Regarding **labour inspection**, there are no specific provisions requiring checks on private households to ensure that employers comply with the laws. There are, however, general provisions in the labour code defining the Ministry of Labour's duties in overseeing the enforcement of labour laws (Articles 485 and 486, *Código Sustantivo del Trabajo*). In relation to the family subsidy, there is a special body to ensure that employers comply with their obligations towards domestic workers (Article 11, *Decreto 721/2013*).

There are no specific protections for **migrant domestic workers**. However, the Constitutional Court, interpreting the *Ley 146/1994*, which approved the Convention on the Protection of the Rights of All Migrant Workers and their Families, established that migrant workers are entitled to the same rights and protections as nationals. Moreover, given their special situation and the principle of substantive equality, the Colombian state, in some cases, has the special obligation of protecting migrant workers when they face vulnerability through being migrants (*Sentencia C-106/95*). No specific provision requires migrant workers to have a contract before leaving home, but to be issued a temporary visa, the law requires a labour contract with a person or a company in Colombia (Article 32, *Decreto 1000/1986*). There is no obligation for the government to work with other countries to protect domestic workers, but the Ministry of Work is responsible for authorizing transnational employment agencies that provide services for migrant workers (*Ley 1636*).

There are comprehensive regulations on **private employment agencies** (*Ley 1636/2013*, *Decreto 2852/2013* and *Decreto 1072/205*). All public and private agencies are described as providing a public employment service. Their work is overseen by the Ministry of Work, which must also investigate complaints against agencies and impose

finances or other sanctions in cases of mistreatment of workers. Employment agencies are prohibited from charging fees from workers, but they can charge employers. There are no provisions requiring that government work with other countries to regulate agencies.

Costa Rica

Before Costa Rica ratified C189 in 2014 (*Decreto Legislativo 9169/2013*), a 2009 law (*Ley 8726*) had modified the chapter of the labour code that regulated domestic work. Therefore, there are several **measures in place to protect domestic workers' basic rights**. All the protections in the labour code (Article 107, *Código de Trabajo*) and supplementing laws are extended to domestic workers, unless otherwise stipulated.

Several provisions **require employers to treat domestic workers fairly and provide decent working conditions**. Among these are: employers are prohibited from taking any action that restricts workers' rights, accepting or requiring any form of gratification from workers for giving them a job or for concessions made, carrying guns in the workplace, directing the work under the influence of alcohol or other substances, and requiring HIV/AIDS tests (Article 70, *Código de Trabajo*).

There are provisions that **protect domestic workers when they form or join an organization and/or bargain with their employer**. Article 12 of the labour code prohibits employers from dismissing workers or taking any actions against them with the purpose of stopping them seeking help from labour law enforcement. Employers are also prohibited from demanding that workers leave their unions or associations (Article 70, c, *Código de Trabajo*). Creating unions is considered to be in the public interest as unions contribute to the development of democracy (Article 332, *Código de Trabajo*) and therefore no one can be banned from joining a union (Article 341, *Código de Trabajo*).

There is no specific **protection of children from working in the domestic sector before they complete school**. However, hiring anyone under the age of 15 to perform paid domestic work is prohibited. From the age of 15 to 17, adolescents doing domestic work cannot work more than 36 hours per week and their rights, including to training and fair wages, must be observed (Article 108, *Código de Trabajo*). Finally, the labour code explicitly refers to ILO Conventions 138, 182 and Recommendation 146 as norms to be observed in the case of work by young people.

While there is no specific provision **protecting people from being forced to be a domestic worker**, a general provision in the labour code protects people's liberty to pursue the profession or occupation of their choice (Article 8, *Código de Trabajo*). Similarly, general provisions **protect domestic workers from being discriminated against at work** on any basis, including on age, ethnicity, sex, religion, race, sexual orientation and political opinion (Article 404, *Código de Trabajo*), dismissal based on such discrimination is prohibited (Article 406, *Código de Trabajo*). Where it can be proven that discrimination was the cause for dismissal, the worker must be reinstated (Article 410, *Código de Trabajo*).

Domestic workers are **protected**, as with any other worker, **against abuse, harassment and violence**. Employers are required to treat workers with respect, abstaining from verbal or physical abuse (Article 69, c, *Código de Trabajo*). In addition, among the just

causes for termination of the labour contract are mistreatment, insult, slander, verbal or physical violence committed by employers or their family members (Article 83, b, c, e, *Código de Trabajo*).

There are no specific protections of a **worker's right to choose to live in the employer's house or somewhere else** or of **live-in domestic workers' privacy, stand-by hours and the right to leave the household when they are off duty**. The law, however, **protects workers' right to retain their identity documents** through a general prohibition on employers retaining anything belonging to workers (Article 70, *Código de Trabajo*).

The law ensures that **domestic workers have a written employment contract**, establishing the place and conditions of work, the type of work to be done, all personal information of the contracting parties, the period of the contract (or express mention that it is undetermined), wages and working hours (Articles 101 and 24, *Código de Trabajo*). The law also includes **domestic workers' basic working conditions**, by treating domestic workers the same as other workers unless it is explicitly stated otherwise (Article 107, *Código de Trabajo*). Regarding working hours, domestic workers cannot work more than 8 hours per day shift and 6 hours per night shift, with a total of 48 hours and 36 hours per week, respectively. A minimum of one hour of daily rest is mandated. A work day of 10 hours during the day or 8 hours of day and night mixed can be agreed on, but in these cases working hours cannot exceed 48 per week (Article 105, *Código de Trabajo*). All overtime work must be paid with a 50% increase (Article 139, *Código de Trabajo*) and domestic workers are entitled to paid yearly vacation of 15 days.

In Costa Rica, the National Wage Council has established a **minimum wage** for domestic workers, but it is not the same as the national minimum wage (Article 105, *Código de Trabajo*). The ILO⁶ has noted a large wage gap between domestic work and unskilled work, and the National Wage Council aims to resolve this through annual additional adjustments over 15 years (**CNS-RG-2-2019**). Domestic workers have a **day of weekly paid rest**, which must be observed on Sundays at least twice a month (Article 105, *Código de Trabajo*). The law also ensures that they are **paid at least once a month** (Article 168, *Código de Trabajo*) and **in cash** (Article 105, a, *Código de Trabajo*). The food and housing they receive, which must be adequate, are considered **wage in kind** if this is explicitly noted in the labour contract. However, this cannot count towards the minimum wage – that is, at least the minimum wage must be paid in cash. If not expressly stipulated in the contract, the wage in kind will be considered as 50 per cent of the total wage.

The measures to **protect domestic workers' safety and health at work** include a mandatory public insurance that employers must contract for their workers against risks of accidents and illnesses in the workplace (Articles 193 and 194, *Código de Trabajo*). Where there is an accident or illness, the employer must provide the worker with first aid and arrange for urgent medical assistance, in addition to notifying the National Insurance Institute (Articles 220 and 221, *Código de Trabajo*). Also, any danger to the health or safety of the worker or her family is considered just cause for termination of the employment contract (Article 83, *Código de Trabajo*).

⁶ See: ILO. 2021. Observation (CEACR) - adopted 2019, published 109th ILC session (2021). Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:4012679.

There are **measures to include domestic workers in social security schemes**. Employers have eight days after work begins (Article 104, *Código de Trabajo*) to enrol the employee in the national social security system (*Caja Costarricense de Seguro Social*). Disability benefits are guaranteed through domestic workers' protection through the national insurance system, to which they also must be enrolled (Article 104, *Código de Trabajo*). And they also have the right to paid maternity leave, of one month before and three months after childbirth (Article 95, *Código de Trabajo*).

As do all workers in Costa Rica, domestic workers have the **right to make complaints against employers** in labour courts. The procedures are, as a rule, verbal, although written reasons are also accepted (Article 443, *Código de Trabajo*) and they are guided by principles including informality and gratuity (Article 10, *Código de Trabajo*). The complaint can be presented by the worker with no requirement of legal representation (Article 447, *Código de Trabajo*). In addition, domestic workers have special protection in cases of sexual and labour harassment, which limits employers' right to dismiss them (Ley 7476/1995).

There is no specific provision determining that **labour inspectors check private households to ensure that employers comply with the laws**. However, the National Directorate of Labour Inspection has the mandate of overseeing compliance with labour laws (Article 88, *Ley Orgánica del Ministerio de Trabajo y Seguridad Social*).

While no specific provisions protect **migrant domestic workers**, the law on migration ensures that migrants have the same social and individual rights and protections as nationals (Article 31, *Ley General de Migración y Extranjería*) and the Ministry of Work and Social Protection must ensure that migrant workers' rights are respected. There is no requirement that migrant workers have a contract of employment before leaving home or that the government work with other countries to protect domestic workers.

A recent law created the National Employment System which, among other things, provides employment services for people through **employment agencies** that can be public, private or public-private (Decreto Ejecutivo 41776/2019). These agencies are under the control, regulation and surveillance of the National Employment Agency, which investigates complaints and ensures that workers are not mistreated. There is no specific mention of domestic workers or the charging of fees.

Dominican Republic

In 2015, the Dominican Republic ratified C189, which the Executive had promulgated two years earlier (*Resolución No. 104-13*). While the Constitution recognizes domestic work as an economic activity that produces wealth and social welfare (Article 55, 11, *Constitución Política de la República Dominicana*), the labour code explicitly excludes domestic workers from rights granted to other workers. Therefore, while there are some **measures to protect domestic workers' basic rights**, domestic workers do not enjoy the ordinary work regimen that applies to all other workers.

The right to work recognized in the Constitution (Article 62) and all its related protections apply to domestic workers, requiring that **employers treat them fairly and provide them with decent working conditions**. More specifically, the Constitution establishes that:

- (i) no one can be prevented from work or **be forced into work without their consent**;
- (ii) all workers have the right to **freedom of union**, social security, **collective bargaining**, strike, professional training, and **respect for their physical and intellectual capacity, their intimacy and personal dignity**;
- (iii) all forms of discrimination in accessing work or at work are prohibited, unless they have the purpose of protecting the worker;
- (iv) it is an obligation of employers to guarantee their workers conditions of safety, hygiene and an adequate workplace;
- (v) every worker has the right to a fair wage that allows her to live with dignity and provide for her family's basic material, social and intellectual needs.

Title IV of the *Código de Trabajo* (labour code) regulates domestic work. Article 259 of the code establishes that the provisions of that title exclusively govern domestic workers' labour contracts. Besides the constitutional protections above, there are no other provisions that **require employers to treat domestic workers fairly and provide them with decent working conditions** or that **protect domestic workers when they form or join an organization and/or bargain with their employer**.

Also, there is no provision **protecting children from working in the domestic sector before they complete school**. There is a general prohibition of work for anyone under the age of 14 (Article 40, *Ley 136-03*) and an express guarantee that adolescents working in the domestic sector are entitled to the same rights and protections as other adolescent workers (Article 41, *Ley 136-03*). These include protection from labour exploitation and the right to receive adequate training (Articles 34 and 38, *Ley 136-03*).

While there is no specific provision **protecting people from being forced into domestic work**, there is a general constitutional protection against forced labour (Article 62, 2, *Constitución Política de la República Dominicana*). In addition, a general provision (Principle VII) in the labour code **protects domestic workers from being discriminated against at work**.

There are no specific **protections for domestic workers against abuse, harassment or violence**, other than the constitutional provision mentioned earlier. There is no **protection for a worker's right to choose to live in the employer's house or somewhere else** or **to retain their identity documents**. While there is no specific **protection for live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty**, domestic workers have the right to attend school, and visit the doctor or a health-care facility in case of illness, as agreed with their employers (Article 264, *Código de Trabajo*).

The law does not **ensure that workers have an employment contract** and, while it covers **domestic workers' basic working conditions**, domestic workers are not treated the same as other workers in relation to working hours, overtime pay, rest periods and paid leave. Domestic workers are regulated differently and entitled to fewer rights. There is no **regulation of working hours** and they have only a minimum rest period of nine hours between shifts (Article 261, *Código de Trabajo*). Domestic workers have not been **extended the national minimum wage**, but they have the same **weekly rest period** as other workers (Articles 262 and 163, *Código de Trabajo*). No provision regulates their **payment**. They have the right to a two-week annual paid vacation and an annual

bonus (Article 263, *Código de Trabajo*). Regarding **wages in kind**, the law establishes a general presumption that food and housing count towards the wage if not contracted otherwise, although it limits this to 50 per cent of the total wage.

The only **measure to protect domestic workers' safety and health at work** is a provision establishing that where the worker contracts an illness from her employer's family, she must be paid in full until she is completely recovered (Article 265, *Código de Trabajo*).

There are no **measures to include domestic workers in social security schemes**. *Ley 87-01*, which created the Dominican System of Social Security, establishes that all citizens and legal residents have the right to be enrolled, thus having access to health insurance, pension, maternity and disability benefits. However, there is no provision mandating employers to register domestic workers with the system.

Regarding the **right to make complaints against employers**, there are no specific provisions for domestic workers. However, the labour code regulates access to labour courts, which must hear any person aiming to have a labour right protected or recognized (Article 501, *Código de Trabajo*). While representation by a lawyer is not required (Article 502, *Código de Trabajo*), there are costs associated with the process (Article 504, *Código de Trabajo*).

While there is no specific provision **on labour inspection of private households to ensure that employers comply with the laws**, general provisions in the labour code entrust the labour inspection service to oversee compliance with laws and regulations (Article 433, *Código de Trabajo*). Inspectors are authorized to enter, without prior notice, any place where a violation of rights might be taking place, conduct an investigation and collect evidence (Article 434, *Código de Trabajo*).

There are no specific protections regarding **migrant domestic workers**. And the general law on migration (*Ley 285/2004*) contains provisions specifically on temporary workers, but not on migrant workers in general. Therefore, there is no requirement that **migrant workers have a contract of employment before leaving home** and no laws establishing that the **government work with other countries to protect domestic workers**.

The **law regulates private employment agencies**, but there are no specific provisions on domestic work. *Resolución No. 41-2004* establishes that agencies can only charge workers and employers for the costs they incur for the services provided; they must observe the principle of equality in access to employment; they must be authorized by the General Employment Directorate; they cannot subcontract to third parties the services they are authorized to provide, and they cannot intermediate jobs for national workers in foreign countries. There are no requirements that the government investigate complaints against agencies and no protection for workers against agencies that mistreat them. Similarly, there are no obligations for the governments to work with other countries to regulate agencies and no specific prohibition of the deduction of fees from wages by agencies.

Ecuador

Ecuador ratified C189 in 2013 (*Decreto Ejecutivo 119*). Several **measures protect domestic workers' basic rights**, such as the Constitution (2008), a section of the labour code,⁷ the law for the defence of labour rights (2012) and the law for the economic transformation of Ecuador. While there is no specific provision requiring **employers to treat domestic workers fairly and provide them with decent working conditions**, the Constitution (Article 33) establishes that the state will guarantee workers respect for their dignity, a decent life, fair wages and access to work that is healthy and safe and freely consented to or chosen. In addition, the constitutional principles on the right to work include workers' right to an adequate workplace, which ensures their wellbeing (Article 326, 5). Also, the Constitution prohibits any arrangement that contributes to precarious working conditions, establishes that wages must be fair and cover at least the basic needs of the worker and her family, and ensures equal pay for equal work.

General provisions in the Constitution and in the labour code **protect domestic workers when they form or join an organization and/or bargain with their employer**. Specifically, the Constitution guarantees freedom of association to all workers, which includes unions, associations or any other form of political organization, as well as the right to strike (Article 326, 7 and 14). Similar protection for the right of association is found in the labour code (Article 440).

A constitutional provision on child work can be read as a **protection of children from working in the domestic sector before they complete school**. The Constitution protects children and adolescents, in general, from economic exploitation, prohibits the work of anyone under the age of 15 and establishes that policies to eradicate child labour will be implemented. Adolescents' work cannot curtail their right to education, or take place in conditions that are dangerous or harmful to their health and personal development (Article 46, 2, 2). The labour code contains a similar general prohibition on work for those under the age of 15, with express mention of domestic work, and imposes several penalties for violating the rule. Also, a specific provision protects adolescent domestic workers' right to education, leisure and rest (Article 268, *Código del Trabajo*). In addition, the code on childhood and adolescence establishes a specific obligation for employers of adolescent domestic workers to protect their physical, psychological and moral integrity and guarantee their rights to food, education, health, rest and leisure (Article 91, *Código de la Niñez y Adolescencia*).

While there is no specific **protection of people from being forced into domestic work**, the Constitution protects the right to freedom of work (Article 66).

There is no specific **protection for domestic workers from being discriminated against at work**. However, a general provision in the Constitution prohibits all forms of discrimination, harassment or violence, direct or indirect, against women at work (Article 331) as well as the dismissal of a worker based on her pregnant or motherhood status, or any discrimination based on her reproductive roles (Article 332). The labour code guarantees equal pay for equal work and prohibits discrimination based on age,

⁷ *Ley Orgánica para la Justicia Laboral y Reconocimiento del Trabajo en el Hogar*, which sought to improve domestic workers' labour conditions, modified the section in 2015.

sex, ethnicity and any other factor (Article 79). It also protects workers from dismissal that is in any way discriminatory (Article 195.3).

The general **protections** for all workers also protect domestic workers **against abuse, harassment and violence**. The labour code obliges employers to treat their workers with due consideration, never mistreating them with words or deeds (Article 42). The code defines as harassment any behaviour that threatens someone's dignity in the workplace and that results in their mistreatment, humiliation or harms their work situation. It can be perpetrated by any party in the labour relationship – worker or employer – as well as among workers. Any form of discrimination is also considered workplace harassment (Article 46.j, *Código del Trabajo*). Finally, the law to eradicate violence against women allows for several protective administrative or judicial measures to be adopted in favour of victims of violence in the workplace (Article 12, *Ley Orgánica Integral para Prevenir y Erradicar la Violencia contra las Mujeres*).

There are no protections for **workers' right to choose to live in the employer's house or elsewhere**, or to **retain their identity documents**. Also, there is no **protection for live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty**.

The law ensures that **all workers have an employment contract** (Article 11, *Código del Trabajo*). In some cases, which includes domestic work, the written form is required (Article 19, *Código de Trabajo*). There is also a requirement that employers register their workers with the Ministry of Work within 30 days of hire (Article 42.7, *Código del Trabajo* and Acuerdo Ministerial No. MDT-2017-0135). The registration must contain wage, working hours, workplace address, type of work and all personal information; therefore, it serves as a contract and workers have the right to access a copy. The contract must also contain this information when written (Article 21, *Código del Trabajo*). A tacit contract produces the same effects (Article 22, *Código del Trabajo*).

The law includes **domestic workers' basic working conditions** by explicitly determining that they are guaranteed the same benefits as any other worker – their **working hours** must be of 5 days or 40 hours per week, and Saturdays and Sundays must be a paid **rest period** (Articles 50, 53 and 268, *Código del Trabajo*), in addition to some national holidays (Article 65, *Código del Trabajo*). They are entitled to so-called 13th and 14th salaries (Articles 111 and 113, *Código del Trabajo*); overtime pay (Article 55, *Código del Trabajo*) and 15 days of annual **paid vacation** (Article 69, *Código del Trabajo*).

Domestic workers are also entitled to the **national minimum wage** (Articles 81, 117 and 131, *Código del Trabajo*), to 48 hours of **weekly rest** (Articles 51 and 268, *Código del Trabajo*) and to be **paid at least once a month and in cash** (Articles 83 and 87, *Código del Trabajo*). **Wages in kind** are not allowed (Articles 81 and 87, *Código del Trabajo*) and the employer is obliged, unless otherwise contracted, to provide workers with food and housing, which are not part of the wage (Article 268, *Código del Trabajo*).

Several measures **protect domestic workers' safety and health at work**. Employers must observe measures of safety and hygiene at work, pay damages to workers for work-related accidents and illnesses, and allow for easy access of labour inspection (Article 42, *Código del Trabajo*).

Domestic workers are **included in social security schemes**. First, they must be enrolled in the national social security system (*Instituto Ecuatoriano de Seguridad Social*) within 30 days of hire (Articles 369, *Constitución de Ecuador* and 42.31, *Código del Trabajo*), subject to a criminal penalty (Article 241, 242 and 244, *Código Penal*). Also, domestic workers have paid maternity leave of 2 weeks before and 10 weeks after childbirth (Article 152, *Código del Trabajo*) as well as job security during pregnancy and maternity leave (Article 153, *Código del Trabajo*).

There are no specific provisions on **domestic workers' right to make complaints against employers**, but the general provisions on complaints and access to justice apply. Workers are exonerated from paying fees to access labour courts (Article 620, *Código del Trabajo*) and procedures are guided by the principles of orality, transparency and publicity (Articles 4 and 8, *Código Orgánico General de Procesos*). Representation by a lawyer is required and those who cannot afford this have access to public defenders (Article 36, *Código Orgánico General de Procesos*).

There is no specific provision about **labour inspection of private households to ensure that employers comply with the laws**. However, there is a general obligation for employers to facilitate inspection and oversight by labour authorities (Article 42.17, *Código del Trabajo*) and labour inspectors must ensure that employers are compliant, including by visiting workplaces (Article 545, *Código del Trabajo*).

The country **protects migrant workers** in general. The Constitution establishes that migrants have the same rights as nationals and prohibits discrimination based on migrant status (Articles 9 and 11). In addition, the law on human mobility entitles foreigners with the right to be affiliated with the national social security system (Article 51, *Ley Orgánica de Movilidad Humana*). The employer must register the migrant worker's contract with the Ministry of Work within 30 days of hiring, and in cases where the worker is not affiliated to the social security system or not paid the minimum wage, the employer is fined (Article 170, *Ley Orgánica de Movilidad Humana*). There is no provision requiring that **migrant workers have a contract of employment before leaving home** or establishing that **government must work with other countries to protect domestic workers**.

There is **regulation of employment agencies that place domestic workers**, both public and private. The former are coordinated by the Ministry of Work through a nationwide network that also provides workers with free training (*Red Socioempleo*). However, there are no provisions for investigating complaints against agencies or protections against ill-treatment. Also, there are no provisions on government's duty to work with other countries to regulate agencies. Private agencies must be registered with the Ministry of Work (*Decreto Ejecutivo No. 1232/1998*).

El Salvador

El Salvador is one of the few countries in Latin America that has not ratified C189. However, some **measures protect domestic workers' basic rights**. First, the Constitution protects domestic workers' rights regarding wages, working hours, rest periods, damages for dismissal and, in general, social protection (Article 45). The law must regulate these rights and there is a chapter in the labour code dedicated to domestic work. For all that is not regulated in this chapter, the general principles and

norms of the labour code must be observed (Article 118, *Código de Trabajo*). Therefore, the general provisions require **employers to treat workers fairly and provide them with decent working conditions**. These include their obligation to adopt measures of security and hygiene in the workplace, to protect the life, health and physical integrity of workers (Article 314, *Código de Trabajo*), to provide workers with instruments to work, to respect workers and pay them as contracted (Article 29, *Código de Trabajo*).

Domestic workers are **protected when they form or join an organization and/or bargain with their employer**. A constitutional provision (Article 47) protects workers' rights to professional association and unionization. Also, a chapter in the labour code includes the right to join or leave a union and the prohibition of harassing or punishing a worker due to their unionization status (Article 205, *Código de Trabajo*).

The Constitution has a general **protection for children under the age of 14, or above that age who have not completed mandatory school, from working in any sector** (Article 38.10). From the age of 16, domestic work is allowed, with entitlements to the rights recognized in the Constitution as well as the law on the protection of childhood and adolescence (Article 64, *Ley de Protección Integral de la Niñez y Adolescencia*). Their working hours cannot exceed 6 hours per day and 34 per week (Article 60, *Ley de Protección Integral de la Niñez y Adolescencia*). They are entitled to a rest and meal period during their workday as well as to attend the closest school (Article 64, *Ley de Protección Integral de la Niñez y Adolescencia*). Their wages cannot be less than those of an adult domestic worker and their employers must enrol them in the national social security system within 8 days of hiring (Article 63, *Ley de Protección Integral de la Niñez y Adolescencia*).

While there is no specific **protection from being forced to be a domestic worker**, the labour code establishes a general protection against any form of mandatory work (Article 13). Similarly, there are no specific **protections for domestic workers from being discriminated against at work**, but there are some general protections against all forms of discrimination in the labour code (Article 30.12 and Article 30.15, *Código de Trabajo*). Also, they cannot require workers to take pregnancy tests or HIV/AIDS tests before hiring them (Article 30.13, *Código de Trabajo*) or during their employment (Article 30.14, *Código de Trabajo*).

There are no specific provisions **protecting domestic workers against abuse, harassment and violence**. A general provision in the labour code obliges employers to abstain from mistreating workers with words or deeds (Article 29.5). In addition, a law on women's right to a life free of violence defines labour violence as any act or omission that amounts to physical or psychological aggression towards the integrity and dignity of women in the workplace (Article 10, a, *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*). Anyone who harasses, degrades or alienates a woman in the workplace is subjected to a fine and community service (Article 55, *Ley Especial Integral para una Vida Libre de Violencia para las Mujeres*). The law on prevention of hazards in the workplace includes as one of its principles the respect of workers' dignity and the right to a workplace free of all forms of violence (Article 2, *Ley General de Prevención de Riesgos en los Lugares de Trabajo*).

There is no protection of a **worker's right to choose to live in the employer's house or elsewhere**, or to the **right to retain one's identity documents**. For live-in domestic

workers, there are no protections regarding their privacy, stand-by hours and their right to leave the household when they are off duty. On the contrary, there is a provision establishing their obligation to work on holidays if their employer requires this, for which they must be compensated with 100 per cent increase for that day of work (Article 81, *Código de Trabajo*).

While the law ensures that **domestic workers have an employment contract**, it allows for the contract to be verbal (Article 76, *Código de Trabajo*). In this case, the employer must provide every 30 days, at the request of the worker, a written statement with information including the wage paid in the previous month.

Despite that the law includes **workers' basic working conditions**, domestic workers are not treated the same as other workers as a rule. Domestic work is regulated as work subjected to a special regime, and general rules only apply when there is no specific rule to follow (Article 118, *Código de Trabajo*). However, this situation has gradually changed in recent years through rulings of the Constitutional Court. In 2021, the court interpreted Article 80 of the labour code to establish that domestic workers' working hours are also subject to a **maximum of 8 per day and 44 per week**, and to recognize the same **right to overtime pay, including nighttime, as other workers** (*Inconstitucionalidad 91-2016/101-2017/157-2017 AC*). Domestic workers are entitled to a minimum rest period of 12 hours, of which 10 must be at night, with the other two for meals (Article 80, *Código de Trabajo*). They are entitled to one day of **paid rest** weekly but, if required, must work on holidays (Article 81, *Código de Trabajo*). As with other workers, they have a right to 15 days of vacation after a year of work, with a 30 per cent bonus on the usual wage (Article 177, *Código de Trabajo*).

By law, domestic workers are not entitled to the **national minimum salary** – Article 78, *Código de Trabajo* establishes that the salary can be agreed upon by the parties. However, in March 2020, the Constitutional Court declared the situation unconstitutional and ordered the National Council on Minimum Salary to establish a minimum wage for domestic workers, in accordance with Article 38 of the Constitution (*Inconstitucionalidad 143-2015*). This measure has not yet been fulfilled.

Domestic workers are guaranteed one day of paid **weekly rest** (Article 80, *Código de Trabajo*). Unless otherwise contracted, they must be **paid at least once a month** (Article 130, *Código de Trabajo*). Payment in cash is guaranteed and **wages in kind**, in general, are not permitted (Article 120, *Código de Trabajo*). However, for domestic workers, food and housing are considered part of the wage if not otherwise contracted (Article 78, *Código de Trabajo*) and there is no protection for workers regarding this.

Measures to protect domestic workers' safety and health at work are the same as for any other workers. Employers must adopt measures to ensure the safety and hygiene of the workplace (Article 314, *Código de Trabajo*). Similarly, there are **measures to include domestic workers in social security schemes**, albeit restricted. The Constitution recognizes domestic workers' right to social security (Article 45). While the social security regimen (*Instituto Salvadoreño de Seguro Social*) is mandatory for all workers in a labour relationship with an employer (Article 3, *Ley del Seguro Social*), domestic workers have not had proper access to it. In addition, the law that reformed the social security system and created a new pension system (*Decreto 927/2004*), expressly established

that the incorporation of domestic workers required specific regulation (Article 9). Thus, in 2010, a special regime of health and maternity protection for domestic workers was created (*Decreto No. 74*). However, affiliation to the system is not mandatory and must be agreed with the employer (Article 2).

As with any other worker, domestic workers have the **right to make complaints against employers**. A special labour justice is responsible for settling conflicts between workers and employers. Access to the court does not require representation by a lawyer (Article 374, *Código de Trabajo*) and the complaint can be submitted in oral or written form (Article 379, *Código de Trabajo*). Access to justice is free of charge (Article 181, *Constitución*), however, the labour code establishes fees for the execution of sentences (Article 601, *Código de Trabajo*).

There are no specific provisions on **inspection of private households to ensure that employers comply with the laws**. However, the Constitution establishes that technical inspection is necessary for overseeing compliance with labour and social security laws (Article 44). This service must be performed by the Ministry of Labour and Social Protection (*Ley de Organización y Funciones del Sector Trabajo y Previsión Social*) and is reinforced by a special law on the prevention of risks in the workplace (*Ley General de Prevención de Riesgos en los Lugares de Trabajo*).

No specific provisions protect **migrant domestic workers**. The labour code establishes that foreigners enjoy the same freedom of work as nationals (Article 11). The law on migration requires that migrants be treated according to principles including human dignity, due process, family unity and non-sanction of irregular refugees and stateless people (Article 5, *Decreto 286/2019*). There is no provision determining that migrant domestic workers have an employment contract before leaving home, nor that government must work with other countries to protect domestic workers.

There is some general regulation on employment agencies that would apply to those **that place domestic workers**. Private employment agencies are allowed (Article 4, *Código de Trabajo*) and are subjected to the control of the Ministry of Work and Social Protection (Article 67, *Ley de Organización y Funciones del Sector Trabajo y Previsión Social*). If they are found to be deceiving workers, they will be closed and fined. There are no other provisions for investigating complaints, protecting workers or prohibiting the deduction of fees from domestic workers' wages. In addition, the Ministry must provide employment services to workers free of charge through its National Employment Department (Article 67, *Ley de Organización y Funciones del Sector Trabajo y Previsión Social*).

Guatemala

Even though Guatemala has not ratified C189, there are **measures to protect domestic workers' basic rights**. In addition to the constitutional provision that establishes the basic social rights of all workers (Article 102), there is a special chapter on domestic work in the labour code and, unless otherwise specified, the general principles and rules of the code also apply to domestic workers. Among these are measures requiring that **employers treat domestic workers fairly and provide them with decent working conditions**. Specifically, employers must treat workers respectfully, and abstain from

mistreating with words or deeds (Article 61, *Código de Trabajo*). They are prohibited from interfering in workers' political decisions or religious beliefs (Article 62, *Código de Trabajo*) and must adopt all necessary measures to protect the life, safety and health of workers (Article 197, *Código de Trabajo*).

Domestic workers' right to form or join an organization and/or collective bargaining is protected by the Constitution (Article 102.r), which prohibits the dismissal of workers based on participation in unions. In addition, the labour code prohibits employers from attempting to prevent workers from joining unions or associations or to make them participate (Article 62.c, *Código de Trabajo*).

No specific provisions **protect children from working in the domestic sector before they complete school**. The Constitution prohibits any form of work under the age of 14, unless otherwise specified in the law (Article 102.l). The law on the protection of childhood and adolescence protects children and adolescents from economic exploitation and any labour that may harm their physical and mental health or impair their access to education (Articles 51 and 63, *Ley de Protección Integral de la Niñez y Adolescencia*).

While there is no specific **protection for people from being forced into domestic work**, the Constitution guarantees the right to free choice of work (Article 102.a). Domestic workers are also protected from being **discriminated against at work** through constitutional guarantees on the right to equal pay for equal work and the prohibition of discrimination against women at work, particularly between married and single women (Article 102.c and k). Also, the labour code prohibits discrimination based on race, religion, political beliefs and economic condition (Article 14). Nonetheless, employers can require from domestic workers a certificate of good health (Article 163, *Código de Trabajo*).

Employers are required to abstain from mistreating workers with words or deeds (Article 61.c, *Código de Trabajo*) and are prohibited from any action that restricts workers' rights (Article 62.h, *Código de Trabajo*). Domestic workers are also protected **against abuse, harassment, and violence** in the workplace through the law on femicide and other violence against women. The crime of violence against women is defined as any physical, sexual or psychological violence perpetrated against a woman, in public or private, including within the labour relationship (Article 7.b, *Decreto 22-2008*).

There is no protection of a **worker's right to choose to live in the employer's house or elsewhere**, nor for **live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty**. While there is no specific **protection for workers' right to retain their identity documents**, employers are prohibited from retaining workers' objects (Article 62, *Código de Trabajo*).

Guatemalan law ensures that domestic workers have an **employment contract**, but a verbal contract is allowed (Article 27.d, *Código de Trabajo*). With this, employers must provide workers, upon hire, with a statement containing the date of start of employment and the wage. Also, they must provide workers, along with every payment, a statement of the days or shifts worked and the duties performed (Article 27.d, *Código de Trabajo*).

The law includes some **basic working conditions for domestic workers**, but they are not treated the same as other workers in relation to all conditions. While the Constitution limits **working hours** to 8 per day and 40 per week, domestic workers are expressly excluded from this protection and have no working hours limitation (Article 102.g, *Constitución* and article 164, *Código de Trabajo*). They have the right to a minimum daily rest period of 10 hours, of which eight must be at night and continuous, and two are for meals. They do not have at least **24 hours' weekly rest**; instead they have only six hours of paid leave on Sundays and holidays (Article 164, *Código de Trabajo*). Also, they do not have the **national minimum wage** extended to them. While the National Commission on Wages establishes minimum salaries for several categories of workers (Article 105, *Código de Trabajo*), there is no similar regulation for domestic work.

The law ensures that domestic workers are **paid at least once a month** (Article 92, *Código de Trabajo*) and **paid in cash** (Article 102.d, *Constitución*). However, the labour code establishes that, unless otherwise agreed, domestic workers' wages include the provision of housing and living expenses (Article 162). The only protection to **workers who receive part of their wages in kind** is that, if not stipulated, this represents 30 per cent of the salary (Article 90, *Código de Trabajo*).

There are measures to **protect domestic workers' safety and health at work**. *Acuerdo 1235*, which establishes a special programme for the protection of domestic workers, contains measures to safeguard workers against risks associated with pregnancy, maternity leave and labour accidents. In addition, the labour code grants domestic workers just cause to terminate the contract if the employer or family has a contagious disease (Article 165.a, *Código de Trabajo*). In cases where the domestic worker is ill for one week or less, the employer must provide her with medical assistance and medicine (Article 165.b, *Código de Trabajo*), but if she is sick for longer, the employer can dismiss her (Article 165.c, *Código de Trabajo*). Only if the worker contracts a disease from the employer and is ill for more than one week does she have the right to medical assistance and to be fully paid until recovery (Article 165.d, *Código de Trabajo*). In any situation that the worker needs hospitalization, the employer must secure their transportation as well as the emergency attention (Article 156.e).

There are measures to **include domestic workers in social security schemes**. *Acuerdo 1235/2009* includes medical assistance during pregnancy, childbirth and post-partum, maternity paid leave for 30 days before and 45 days after childbirth, medical assistance for the child until the age of 5, medical assistance in labour accidents and subsidies for temporary labour-related disability.

Domestic workers have the **right to make complaints against employers**, as do all workers. All labour conflicts are dealt with by labour and social protection courts (Article 283, *Código de Trabajo*). The procedures are oral, representation by a lawyer is not required (Article 321, *Código de Trabajo*) and no fees are charged (Article 11, *Código de Trabajo*).

There is no specific provision **on labour inspection of private households to ensure that employers comply with the laws**. However, employers in general are obliged to allow inspectors to enter the workplace and verify compliance with labour and social protection laws and regulations (Article 61.f, *Código de Trabajo*).

There are general protections for **migrant domestic workers**, such as the interpretation of labour laws in ways that are most favourable to them (Article 22, *Código de Migración*), and the protection of some basic social rights – freedom of work, equal pay for equal work, rights recognized in the labour code, protection for pregnant migrant workers, and access to the national social security system (*Instituto Guatemalteco de Seguridad Social*) (Article 23, *Código de Migración*). In addition, the Guatemalan Institute of Migration must ensure the protection of migrant workers' labour rights (Article 122, *Código de Migración*). There are no provisions establishing that **migrant workers have a contract of employment before leaving home**, nor that the **government must work with other countries to protect domestic workers**.

The labour code defines an intermediary as anyone who hires a worker for another employer (Article 5), but there is no further regulation of **employment agencies**.

Honduras

Honduras has not ratified C189, but there are some measures to protect **domestic workers' basic rights**. The Constitution expressly refers to domestic workers, ensuring access to social protection and establishing that those providing services of “domestic character” in companies and industries will be considered manual labourers and have the same rights (Article 131). Also, there is a chapter regulating domestic work in the labour code.

While there are no specific provisions requiring **employers to treat domestic workers fairly and provide them with decent working conditions**, some general provisions apply. The Constitution recognizes that everyone has the right to work in equitable and decent conditions (Article 127) and to paid maternity leave (Article 128.11). It also requires employers to maintain safety and hygiene in the workplace and ensure workers' physical and mental integrity (Article 128.6). However, all the other basic constitutional rights – rest periods, working hours, paid vacation – can be regulated otherwise by the law according to categories of work. The labour code, in turn, requires employers to pay workers regularly, provide them with the necessary supplies for the job and treat them with respect (Article 95). Specific to domestic workers, employers must allow them to attend night school if they wish to do so (Article 155, *Código de Trabajo*).

Domestic workers' **right to unionization, association and collective bargaining** is protected through general provisions in the Constitution (Article 128.14) and the labour code (Article 473). In addition, employers are prohibited from dismissing or harming a worker in any way because of her association to a union (Article 96.c, *Código de Trabajo*).

The Constitution prohibits all work by those under the age of 16 and those who are older and still enrolled in mandatory school (Article 128.7). Thus, although not specifically, there is a **protection for children from working in the domestic sector**, or any sector, **before they complete school**. In exceptional cases, when needed for their subsistence or that of their families, labour authorities can allow those under the age of 16 to work if it does not impair their education.

While there is no specific **protection from being forced into domestic work**, the Constitution protects workers' freedom to choose their occupation (Article 127). A

general provision in the labour code **prohibits discrimination** based on race, religion, political beliefs and economic condition (Article 12), and ensures equal pay for equal work (Article 12), in accordance with the Constitution (Article 128.3). Nonetheless, employers can require domestic workers to present a certificate of good health to be hired (Article 157, *Código de Trabajo*).

Domestic workers are protected against **abuse, harassment and violence**. First, employers are prohibited from engaging in or authorizing any actions that directly or indirectly harm or restrict workers' rights or dignity (Article 96, *Código de Trabajo*). Second, domestic workers have the right to terminate the contract in cases of mistreatment by the employer or family members, or when employers induce the worker to commit a criminal or immoral act (Article 16, *Código de Trabajo*). Finally, the penal code has been recently reformed to include the crimes of vertical labour harassment (Article 294) and labour discrimination (Article 295).

There is no protection to a **worker's right to choose to live in the employer's house or somewhere else, to live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty** or to **workers' right to retain their identity documents**.

The law requires that domestic workers have an **employment contract**, but it need not be written (Article 39.a, *Código de Trabajo*). A verbal agreement must at least cover the type and place of work, the wage and period of payment and the contract's duration (Article 40, *Código de Trabajo*). When written, the contract must also include the working conditions, the wage and any additional benefits, the names of the worker's dependants and any other clauses that the parties deem necessary (Article 37, *Código de Trabajo*).

The law includes **domestic workers' basic working conditions**, but domestic workers are not treated the same as other workers. They are ensured only a **rest period** of 10 hours per day, of which eight must be at night and two are for meals. During national holidays, they have a six-hour rest period. As for **weekly paid rest**, they have one day for every six days of work (Articles 154 and 338, *Código de Trabajo*). Also, domestic workers' working hours are not regulated (Article 325, *Código de Trabajo*) and the minimum wage has not been extended to them (Article 48, *Decreto 103/1971*). However, they are entitled to paid vacation, as with any other worker (Articles 156 and 346, *Código de Trabajo*).

Domestic workers must be **paid at least once a month** (Article 368, *Código de Trabajo*) and in cash (Article 128.3, *Constitución*). However, there are no protections for workers who receive part of their wages in kind. The labour code contains only a provision establishing that, unless otherwise contracted, domestic workers' wage includes, in addition to the amount paid in cash, food and housing (Article 153).

In addition to the general obligation that employers maintain safety and hygiene in the workplace and ensure workers' physical and mental integrity (Article 128.6, *Código de Trabajo*), a few other measures protect **domestic workers' safety and health at work**. In case of illness that requires hospitalization, the employer must ensure the worker is taken to a health facility and support the costs of transportation and emergency care. However, employers are expressly exempted from any responsibility for occupational

hazards; their only obligation is to pay wages and medical and pharmaceutical assistance for up to one month in case of illness, and in case of death, to pay the burial costs.

Domestic workers have some degree of **social protection**, albeit not the same as other workers. The country's social security system (*Instituto Hondureño de Seguridad Social*) explicitly excludes domestic workers from the mandatory regime, placing them in a special and progressive regime (Article 4.b, *Ley del Seguro Social*). However, it is voluntary for employers to enrol domestic workers in this special scheme (*Acuerdo 0006-JD/2008*). The Constitution guarantees domestic workers paid maternity leave (Article 128.11), which consists of four weeks before and six weeks after childbirth (Article 135, *Código de Trabajo*).

As with any other worker, domestic workers have the **right to make complaints against employers** in the labour courts (Article 665, *Código de Trabajo*). The complaint must be written (Article 703, *Código de Trabajo*) and representation by a lawyer is in general required (Article 711, *Código de Trabajo*). No fees are charged (Article 717, *Código de Trabajo*).

Labour inspectors must check private households to ensure that employers comply with the laws, but they need to obtain the prior consent of employers (Article 32, *Ley de Inspección de Trabajo*).

There are no specific protections for **migrant domestic workers**. Foreign nationals are, in general, entitled to the same rights as citizens, but these can be restricted for security or other issues (Article 31, *Constitución* and Article 11, *Ley de Migración y Extranjería*). There is no **requirement that migrant workers have a contract of employment before leaving home** or that **government works with other countries to protect domestic workers**.

The law regulates **employment agencies that place domestic workers**. The General Directorate of Employment is responsible for regulating and overseeing their provision of services, ensuring that workers' rights are respected (Article 7, *Código de Trabajo*). A comprehensive regulation on private employment agencies was adopted (*Acuerdo STSS No. 141-2015* and *Acuerdo STSS No. 155-2017*), which ensures that state authorities investigate complaints against employment agencies (Article 48) and imposes sanctions on agencies that treat workers badly (Article 21). Agencies can charge fees for their services, but not more than 50 per cent of the first salary. There is no provision on government's obligation to work with other countries to regulate agencies.

Mexico

Mexico only ratified C189 in 2020. However, **measures to protect domestic workers' basic rights** date from before ratification and there are general and specific provisions that **require employers to treat domestic workers fairly and provide them with decent working conditions**. The Constitution establishes that every person has the right to dignified work and specifically refers to domestic workers in establishing Congress's obligation to legislate to ensure their basic rights (Article 123). Among the rights guaranteed in the Constitution are a maximum of eight working hours per day, at least one day of rest per every six days of work, paid maternity leave of six weeks

before and after childbirth, equal pay for equal work, overtime pay with 100 per cent increase, and damages for labour-related illnesses or accidents (Article 123). In addition, any labour contract that imposes excessive working hours, does not establish a fair salary, or alienates workers of any legal rights and protection is null (Article 123, XXVII, *Constitución Política*). Domestic workers' working conditions are also protected under the federal labour law, with Article 2 ensuring decent and dignified work for all (*Ley Federal del Trabajo*).

As with any other worker, the **right to form or join an organization and to collective bargaining** is protected for domestic workers. These rights are protected in the Constitution (Article 123) and in the federal labour law (Article 356), which expressly prohibits employers from forcing workers to leave a union or association to which they are affiliated, from engaging in any action to exercise control over a worker's union or to intervene in any way in union activities (Article 133).

Children are protected from working in the domestic sector before they complete school. The Constitution prohibits any work under the age of 15 (Article 123.III). The federal labour law, in the chapter where domestic work is regulated, expressly prohibits work of those under 15 and, for those who are older, establishes that their hire should be avoided if they have not yet concluded secondary school, unless the employer ensures they attend school (Article 331 Bis, III). Their working hours cannot exceed six per day and 36 per week and they must have a health check by a doctor at least twice a year (Article 331 Bis, I and II).

While there is no specific **protection from being forced into domestic work**, the federal labour law establishes that work is a right and social duty, and therefore requires respect for the freedoms and dignity of those who perform it (Article 3).

Several measures **protect domestic workers from being discriminated against at work**. First, the provisions on decent work in the federal labour law specifically prohibit any form of discrimination (Article 3). The law also protects substantive equality, which requires the elimination of all forms of discrimination against women that limits the recognition of their rights and freedoms in the sphere of work (Article 2, *Ley Federal del Trabajo*). Finally, there are specific protections in the chapter on domestic work. It is prohibited to require a pregnancy test before hiring and a pregnant worker cannot be dismissed. Any other form of discrimination or treatment that violates domestic workers' dignity is also prohibited (Article 331, *Ley Federal del Trabajo*).

Domestic workers are **protected against abuse, harassment and violence**. Employers must treat workers respectfully, abstaining from any mistreatment by words or deeds (Article 337, *Ley Federal del Trabajo*). In addition, the worker has the right to receive reparations for unjustified dismissal (Article 341, *Ley Federal del Trabajo*).

There is no **protection for a worker's right to choose to live in the employer's house or somewhere else**. However, **live-in domestic workers are protected in specific ways**. Employers must provide workers with comfortable and clean rooms (Article 136, *Ley Federal del Trabajo*), in addition to food (Article 334, *Ley Federal del Trabajo*). Workers are entitled to a minimum of nine hours uninterrupted night rest and a daily rest of three hours, and their working hours cannot exceed eight per day (Article 333, *Ley Federal del*

Trabajo). Also, the hours that they are at the disposal of their employer are considered extra working hours and they are entitled to overtime pay (Article 333, *Ley Federal del Trabajo*).

There is no provision **protecting workers' right to retain their identity documents**.

The law ensures that **domestic workers have a written employment contract**, which must contain information including the type and place of work, the working hours, the wage, and the method of calculation and the periodicity of payments (Article 331, *Ley Federal del Trabajo*).

The Constitution regulates **domestic workers' basic working conditions** as noted above (Article 123, *Constitución Política*). These conditions are further regulated in the federal labour law (Articles 333, 334 and 336), which extends their **weekly rest** to a day and a half, preferably on Saturdays and Sundays.

Domestic workers are entitled to a **national minimum wage** established for the sector by the National Commission on Minimum Salaries (Article 123, *Constitución* and Article 335, *Ley Federal del Trabajo*). Most recently, their wage has been set at the same rate as the general minimum salary for the Free Frontier Zone and at 75 per cent of the minimum for the rest of the country (*Resolución/2020*). The law ensures that **domestic workers are paid** at least every 15 days (Article 88, *Ley Federal del Trabajo*) in cash, or (if they agree) in any other form (Article 334, *Ley Federal del Trabajo*).

While the federal labour law prohibits, in general, the payment of wages with merchandise, vouchers or any other means to substitute money (Article 123.X), it allows for food and housing to be considered workers' **wage in kind**, if not contracted otherwise. As a form of protection, the law establishes that food and housing are limited to 50 per cent of the wage paid in cash (Article 334, *Ley Federal del Trabajo*).

To **protect domestic workers' safety and health at work**, employers must ensure hygiene and safety in the workplace (Article 123.XV, *Constitución*). Also, they must provide workers with nutritious food (Article 331, *Ley Federal del Trabajo*) and conditions of work conducive to a healthy life (Article 337.II, *Ley Federal del Trabajo*).

There are measures to include **domestic workers in social security schemes**. Specifically, the law ensures their access to the national social security system (Article 334, *Ley Federal del Trabajo*), making it an obligation for employers to enrol them in the system (Article 337, *Ley Federal del Trabajo*). The social security mandatory regime provides insurance against labour hazards as well as benefits including on retirement (Article 11, *Ley del Seguro Social*).

As with any other worker, domestic workers have the **right to make complaints against employers** in the labour courts. The procedure is guided by principles including procedural simplicity, conciliation and gratuity (Article 685, *Ley Federal del Trabajo*). While representation by a lawyer is required, workers have the right to a public defender (Article 685 Bis, *Ley Federal del Trabajo*).

Labour inspectors check private households to ensure that employers comply with the laws, and the law specifically requires that the inspection be done with special

attention in cases of domestic workers, underage workers and other vulnerable groups (Article 542, *Ley Federal del Trabajo*).

There are specific **protections for migrant domestic workers**. First, the law establishes that no distinction should be made contractually where domestic workers are migrants (Article 331, *Ley Federal del Trabajo*). Moreover, for migrant domestic workers, the written contract must contain additional clauses, such as that employers bear repatriation costs, workers' access to health care, information on how workers can make complaints and the conditions of housing offered (Article 337 Bis and 28, *Ley Federal del Trabajo*). For Mexican workers leaving the country to work abroad in a labour relationship regulated by Mexican law, a **contract of employment is required before leaving home** (Article 28, *Ley Federal del Trabajo*). There is no provision establishing that the government must work with other countries to protect domestic workers.

Employment agencies that place domestic workers are regulated by the federal labour law and a special regulation (*Reglamento/2006*). For-profit agencies must obtain authorization and register with the Secretary of Labour and Social Security, while non-profit agencies have only to inform the Secretary of their constitution for registration and control (Article 4, *Reglamento*). The Secretary is responsible for investigating complaints against agencies (Article 9, *Reglamento*) and protecting workers against ill-treatment and discrimination (Article 6, *Reglamento*). There is no provision that the government must work with other countries to regulate agencies. Agencies are prohibited from charging workers any fees for the provision of services (Article 123.XXV, *Constitución*, Article 539-D, *Ley Federal del Trabajo* and Article 5 and 10, *Reglamento*).

Nicaragua

Nicaragua ratified C189 in 2013 (*Decreto A. N. 7001*), but the **measures to protect domestic workers' basic rights** precede ratification and no legislative reform has yet taken place.

There are no specific **provisions requiring employers to treat domestic workers fairly and provide them with decent working conditions**. However, unless otherwise noted, the constitutional labour rights and general principles and rules of the labour code apply to domestic workers. Therefore, they are entitled to equal pay for equal work without discrimination and to conditions of work that ensure their physical integrity and health (Article 82, *Constitución Política*). In addition, employers must treat domestic workers with respect and comply with all the obligations contained in laws, collective agreements and conventions ratified by the country (Article 17, *Código del Trabajo*).

As do other workers, domestic workers have the **right to form or join an organization or union and to collective bargaining**, which are guaranteed by the Constitution (Articles 49, 87 and 88) and the labour code (Articles 203 and 208). Employers must respect their right to unionize and not interfere in the constitution or functioning of workers' unions (Article 17.i, *Código del Trabajo*).

There is no protection of **children from working in the domestic sector before they complete school**. Domestic work is allowed as early as the age of 14 (Article 145, *Código del Trabajo*), in which case employers must facilitate school attendance (Article

147, *Código del Trabajo*). Other protections for adolescent domestic workers are the prohibition of live-in arrangements (with some exceptions) and working hours limited to six per day and 30 per week.

While there is no provision specifically **protecting people from being forced to be a domestic worker**, the Constitution protects everyone's right to choose freely their profession or occupation as well as where to work (Article 86) and the labour code requires employers to respect this right (Article 17.b). Domestic workers are **protected from discrimination at work** and **against abuse, harassment and violence** both through general and specific provisions. Employers are required to treat their workers respectfully, abstaining from mistreating them with words, deeds or omission, or any other action that might affect their dignity (Article 17.c, *Código del Trabajo*). In addition, any humiliating treatment, discrimination, or physical, psychological or sexual violence perpetrated against the domestic worker by the employer, her family or visitors, must be duly sanctioned by the labour inspector (Article 146, *Código del Trabajo*). It is an employer's obligation to ensure that the worker is not violated in her rights, or subjected to labour or sexual harassment (Article 17.p, *Código del Trabajo*).

Even though there is no general **protection of a worker's right to choose to live in the employer's house or elsewhere**, the labour code ensures that domestic workers do not have to follow the employer to another house. Where the employer moves to a house different to that in the contract, the domestic worker has the right to terminate the contract and receive all due payments (Article 153).

There is no **protection for live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty**. And while the law does not specifically protect workers' right to retain their identity documents, it prohibits employers from retaining objects that belong to the worker (Article 17, *Código del Trabajo*).

While the law ensures that workers have an **employment contract**, it can be verbal (Article 24.b, *Código del Trabajo*). Where it is verbal, the employer must provide the worker, within three days of hire, a statement indicating the starting day, the work to be done and the wage. Where the contract is written, it must include the working hours, the wage and mode of payment (Article 20, *Código del Trabajo*).

Domestic workers' basic working conditions are stipulated in the law but are not all the same as other workers. Domestic workers' **working hours** are not expressly regulated – in general, they are limited to eight hours per day and 48 per week (Article 51, *Código del Trabajo*). Also not regulated is their **overtime pay** – in general, it is at 100 per cent increase (Article 62, *Código del Trabajo*) and limited to three hours per day and nine per week (Article 58, *Código del Trabajo*). They have the right to a **rest period** of 12 hours daily, eight of which are at night and continuous, and **one day of rest** for every six days of work (Article 147, *Código del Trabajo*). Their right to vacation – in general 15 days for every six months of work – is not expressly recognized.

Domestic workers have the **right to a minimum wage**, which is established by the National Commission on Minimum Salary (Article 85, *Código del Trabajo*) which places domestic workers in the category of workers in commerce and social, communal and

personal services (Article 2.c, *Ley del Salario Mínimo*). The law ensures that they are paid at least once a month and in cash – payment in kind is expressly prohibited (Article 149, *Código del Trabajo*). However, for live-in workers, food and housing is counted as part of the wage, estimated at 50 per cent of salary (Article 146, *Código del Trabajo*).

There are measures in place to **protect domestic workers' safety and health at work**. Employers are required to provide conditions of work that ensure workers' physical integrity and health and reduce occupational hazards (Article 82.4, *Constitución*) as well as to adopt all preventive measures to protect life and health (Article 100, *Código del Trabajo*). In cases of occupational illness or accidents, employers must pay damages to workers if they are not enrolled in the national social security system (Article 113.c). However, the judge or labour inspector can establish a compensation for domestic workers that is inferior to that determined by law (Article 126, *Código de Trabajo*).

Regarding measures to include **domestic workers in social security schemes**, employers must enrol domestic workers in the national social security regime (Article 150, *Código de Trabajo*), which ensures them social security benefits and access to a health programme (Article 5.b, *Ley de Seguridad Social*). Domestic workers are entitled to paid maternity leave four weeks before and eight weeks after childbirth (Article 141, *Código de Trabajo*).

As with any other worker, **domestic workers have the right to make complaints against employers**. Labour procedures are oriented by the principles of gratuity, orality, celerity and conciliation (Article 266, *Código de Trabajo*). Representation by a lawyer is not required (Article 284, *Código de Trabajo*).

Labour inspectors check private households to ensure that employers comply with the laws (Article 2, *Ley General de Inspección del Trabajo* and Article 5, Acuerdo Ministerial No. JCHG-0005-05-07) and to oversee the conditions of work and protect the rights of adolescent workers (Article 2, Acuerdo Ministerial No. JCHG-008-05-07).

No specific provisions protect **migrant domestic workers**. The law on migration establishes that it is an employer's obligation to comply with all labour laws and regulations when contracting a migrant worker (Article 151, *Ley de Migración y Extranjería*). However, there are no provisions requiring workers have a contract of employment before leaving home or government to work with other countries to protect domestic workers.

As for **employment agencies**, the labour code establishes that the Ministry of Work will have a free placement service and is also responsible for regulating and authorizing private agencies (Article 16). Such regulation was implemented by the Ministry of Labour (*Acuerdo Ministerial JCHG-004-04-07*) and it establishes several requirements that private agencies must follow. The ministry is responsible for investigating complaints against agencies, which can lead to the cancellation of their registration (Article 18). There are specific protections for workers, particularly against discrimination and regarding their personal data (Articles 8 and 13). Agencies are prohibited from charging fees from workers and only employers can be charged for the services provided (Article 7).

Panama

While Panama ratified C189 in 2015 (*Ley 29*), most **measures to protect domestic workers' basic rights** were already in place, including constitutional provisions and a special chapter in the labour code. General provisions in the labour code require employers to **treat domestic workers fairly and provide them with decent working conditions**. Among these, employers must provide workers with adequate equipment to perform their job (Article 128.3) and a safe space to keep their belongings (Article 128.4), treat workers respectfully, abstaining from any mistreatment that violates their dignity (Article 128.6), adopt all necessary safety and hygiene measures in the workplace (Article 128.7), provide workers food of good quality and clean accommodation where provision of housing and food are part of the contract (Article 128.12), and provide protection to the worker and her belongings (Article 128.23). Also, employers cannot engage in any action that restricts workers' rights (Article 138.10) or require the execution of tasks that place workers' health and life in danger (Article 138.13).

There are **measures that protect domestic workers' right to form or join an organization and to bargain collectively**. The Constitution recognizes workers' right to form unions (Article 68) and provisions in the labour code regulate and protect workers' freedom of association (Article 331) and right to collective bargaining (Article 398). Employers must respect workers' social organizations (Article 128.18), facilitate their activities in the workplace (Article 128.23) and are prohibited from interfering, by action or omission, in workers' decisions to join or leave an organization (Article 138.4 and .5, *Código de Trabajo*).

Children are protected from working in the domestic sector in any circumstance. While the Constitution expressly prohibits domestic work under the age of 14 (Article 70), this was extended by an executive decree (*Decreto Ejecutivo 19/2006*), which declared domestic work hazardous for children and thus prohibited it until the age of 18 (Article 11, *Código de Trabajo*). Also, the Penal Code protects children and adolescents from being forced into work or servitude (Article 207), but there are no specific protections for people from being **forced into domestic work**.

Domestic workers are covered by the general protection for workers from **being discriminated against at work**. The Constitution protects equal pay for equal work, prohibiting any discrimination based on sex, nationality, age, race, social class, or political or religious ideas (Article 67). Such protection is reaffirmed by the labour code (Article 10). However, employers can request a certificate of good health from domestic workers (Article 231.5, *Código de Trabajo*).

Similarly, there are general provisions that **protect domestic workers against abuse, harassment and violence**. Employers must treat workers with respect, abstaining from mistreating them with words or deeds, or acting in any way that harms their dignity (Article 128.6, *Código de Trabajo*). Employers are expressly prohibited from sexually harassing their workers (Article 138), with this infraction sanctioned with a fine. Also, it is considered just cause for the worker to terminate the contract and receive reparation in cases of slander, physical violence or mistreatment by the employer against the worker or a family member, or where any of these actions are performed by a family member of the employer or by anyone with the employer's authorization, either tacit or express (Article 139.5 and .6, *Código de Trabajo*). Finally, the law on violence against

women expressly defines sexual harassment as any non-desired sexual conduct that affects a woman in her work (Article 4.3, *Ley 82/2013*), which is punished in the penal code with five to eight years in prison (Article 138).

There are no **protections for a worker's right to choose to live in the employer's house or elsewhere** or for **live-in domestic workers regarding privacy, stand-by hours and the right to leave the household when they are off duty**.

There is no specific protection of **workers' right to retain their identity documents**, however, the labour code prohibits employers from retaining workers' personal objects (Article 138).

The law ensures that **workers have an employment contract** but does not require it to be written. The verbal form is expressly authorized in the case of domestic work (Article 67, *Código de Trabajo*). In this case, the facts sustained by the worker are presumed to be true, unless otherwise proven (Article 69, *Código de Trabajo*). If the contract is written, it requires information including the type and place of work, duration of the contract or statement that it is indefinite, working hours, wage and its form (Article 68, *Código de Trabajo*).

While domestic workers have their **basic working conditions** established in the law, they are not treated the same as other workers in all matters. The labour code is silent regarding domestic workers' working hours and establishes only that they must have a period of absolute rest between 9pm and 6am, in addition to a weekly rest and paid vacation (Article 231). In a case where the constitutionality of this provision was debated, given that the Constitution established working hours of eight per day and 48 per week (Article 66), the Supreme Court did not find it unconstitutional. The court argued that because the worker is at the disposal of the employer between 6:01am and 9pm, it does not mean that she is working all the 15 hours. These hours include her time to rest, eat, engage in personal activities and even attend school, therefore, must be read as a norm protective of the worker (*Sala Constitucional 1994*).

Domestic workers have a **minimum wage**, which is much lower than the minimum wage for other occupations (Article 174, *Código de Trabajo* and *Decreto Ejecutivo 424/2019*). The labour code establishes that domestic workers have a weekly rest (Article 231(2)) and, in the absence of any special norm, this must be interpreted as that ensured to any other worker, which is **24 hours' weekly rest**, preferably on Sundays (Article 41, *Código de Trabajo*).

Because there is no specific provision about **payment** in the section on domestic work, the general rules of the labour code apply. There is no rule ensuring that workers are paid at least once a month, while there is a norm mandating that payment is made in cash, unless otherwise agreed (Article 151, *Código de Trabajo*). The law establishes that, unless otherwise agreed, the wages of domestic workers include food (which must be nutritious and healthy) and housing (which must be comfortable and clean) (Article 231, *Código de Trabajo*). The **wage in kind** is limited to a maximum of 20 per cent of the total wage, which is presumed if not otherwise contracted (Article 144, *Código de Trabajo*).

There are general provisions that require employers to take all necessary measures to protect the **life and health of workers**, as well as to guarantee their **safety** (Article

282, *Código de Trabajo*). There are a few protective provisions specific to domestic workers. First, any contagious disease of the employer or anyone else in the house gives the worker just cause to terminate the contract. Where the worker is infected by the employer or family, she has right to be on leave until she has recovered and to be paid for the first three months of illness. Any illness that incapacitates the worker for more than four weeks allows the employer to terminate the contract without any obligation other than compensating the worker with one salary per year of work, up to a maximum of three (Article 231(6) and (7), *Código de Trabajo*).

There are **measures to include domestic workers in social security schemes**. First, paid maternity leave of six weeks before and eight weeks after childbirth is granted to all workers (Article 72, *Constitución* and Article 107, *Código de Trabajo*). In addition, the law on the national social security regime (*Caja de Seguro Social*) establishes that all workers, including domestic workers, must be enrolled, which guarantees access to maternity leave and disability benefits, pension and health care.

Domestic workers have the **right to make complaints against employers**, as do any other workers. The labour justice allows workers to represent themselves in cases of single jurisdiction, otherwise they will have a public defender assigned (Article 579, *Código de Trabajo*). Access to justice is free of charge (Articles 9 and 536, *Código de Trabajo*). Recently, the Ministry of Work and Labour Development created a digital platform to receive complaints on labour rights violations (*Decreto Ejecutivo 86*).

The Constitution expressly allows **labour inspection in private households to ensure compliance with labour laws**, requiring only that the inspectors identify themselves in advance (Article 26).

There are no **specific protections for migrant domestic workers**, but there are general protections for migrant workers. Among these, employers who retain migrant workers' documents or who do not comply with labour, health and social security laws are sanctioned with a fine and any other applicable criminal penalty (Article 89, *Decreto-Ley 3/2008*). There is no requirement that migrant workers have a contract of employment before leaving home or that government works with other countries to protect domestic workers.

The law regulates **employment agencies**. Private agencies, both for profit and not for profit, must be authorized by the Ministry of Labour and Labour Development (Article 22, *Código de Trabajo*). There are rules in place that agencies must follow (*Código de Trabajo* and *Decreto 32/2016*) and the General Directorate of Employment is responsible for investigating complaints against the agencies as well as overseeing their work (Article 9, *Decreto 32/2016*). There are no specific protections for workers against agencies treating them badly, but violations of the regulations can be punished with fines or cancellation of the authorization to operate. Agencies are prohibited from charging any fees, directly or indirectly, from workers (Article 5, *Decreto 32/2016*). There are no provisions about government's obligation to work with other countries to regulate agencies.

Paraguay

Paraguay ratified C189 in 2013 and, in 2015, adopted comprehensive legislation that protects **domestic workers' basic rights** (*Ley 5407*). In addition, constitutional provisions and provisions in the labour code further protect domestic workers.

There are measures that require **employers to treat domestic workers fairly and provide them with decent working conditions**. The Constitution recognizes work as a right that must be realized in fair and dignified conditions (Article 86). In addition, the labour code establishes that the labour relationship requires respect for the freedoms and dignity of those who perform the work, and fair conditions that ensure the health and sustenance of a family provider (Articles 9 and 15). Moreover, the employer must provide workers with the necessary instruments to perform the job, treat workers respectfully and comply with the labour laws (Article 62, *Código de Trabajo*).

In addition to the constitutional protection to the **right to form unions** (Article 96) and to bargain collectively (Article 97), the law on domestic work specifically protects domestic workers' freedom of association and/or unionization (Article 24, *Ley 5407/2015*).

Child or adolescent domestic work is prohibited by law, with 18 established as the minimum age to enter into a contract (Article 5, *Ley 5407/2015*). And although there is no specific protection from being **forced into domestic work**, the Constitution ensures that any work must be freely chosen (Article 86) and the labour code denies validity to any work contract or agreement that is founded upon lack of personal freedom (Article 10).

While there are no specific provisions, general rules **protect domestic workers from being discriminated against at work**. The labour code establishes that no worker can be discriminated against based on race, colour, sex, religion, political opinion or social condition (Article 9). Again, only general provisions apply to domestic workers regarding **protection against abuse, harassment and violence**. Employers are required to treat workers with kindness, respecting their human dignity and abstaining from mistreatment by words or deeds (Article 62, *Código de Trabajo*). In addition, the law on women's protection from all forms of violence defines labour violence as any mistreatment or discrimination against a woman in the workplace and establishes several protective measures for the victim (Article 5.g, *Ley 5777/2016*).

There is no explicit protection for **domestic workers' right to choose to live in the employer's house or somewhere else**. However, **live-in domestic workers enjoy some protections**, which include their right to leave the household when they are off duty (Article 8, *Ley 5407/2015*) and their privacy, ensured by a private, furnished and clean room (Article 12, *Ley 5407/2015*). There is no protection of their stand-by hours.

Regarding **domestic workers' right to retain their identity documents**, a provision in the special law considers void any condition that forces the worker to deposit their personal documents with the employer (Article 8, *Ley 5407/2015*). The same law also ensures that **domestic workers have a written contract**, containing the type and place of work, wage and form of payment, working hours, provision of housing, food and uniform, trial period and the conditions upon which the contract can be terminated (Article 7, *Ley 5407/2015*).

Domestic workers' basic working conditions are protected by law the same as other workers in relation to most aspects of the labour contract. Working hours are a maximum of eight hours per day and 48 per week for day jobs, and seven hours per day and 42 per week for night work (Article 13, *Ley 5407/2015*). Live-out domestic workers have one hour rest period during their shift and live-in workers have two hours (Article 14, *Ley 5407/2015*). As are all workers, domestic workers are entitled to paid vacation (Articles 154.b and 218, *Código de Trabajo*) of 12 days for those with a five-year contract, 18 days with a contract of up to 10 years, and 30 days with a longer contract.

Domestic workers are entitled to a **minimum wage** established for the sector (Article 10, *Ley 5407/2015*), which in 2019 was made equal to the minimum wage for all other workers (*Ley 6338/2019*). Domestic workers also have the right to a day of **weekly rest**, preferably on Sundays (Article 213, *Código de Trabajo*), which is reaffirmed for live-in domestic workers in the special law (Article 15, *Ley 5407/2015*).

The special law ensures that domestic workers are **paid at least once a month**, and after the shift or a week of work when the contract is for shifts or hours (Articles 6 and 11, *Ley 5407/2015*). The labour code establishes that the **payment must be made in cash** (Article 231). In the case of domestic workers, the law presumes that, unless contracted otherwise, their wage includes food, and food and housing for live-in workers. The protection for workers who receive part of their **wage in kind** is that it cannot exceed 30 per cent of the total wage (Article 231, *Código de Trabajo*).

No specific provisions protect **domestic workers' safety and health at work**. However, articles 272 to 282 of the *Código de Trabajo* regulate safety and hygiene at work. Employers have several obligations towards workers, detailed in a Guide on Safety and Health for Domestic Workers released by the Ministry of Labour, Employment and Social Security in 2017. Employers are obliged to report accidents and illness to labour authorities, to establish conditions and methods of work that pose the least risk to workers, and to provide workers with information about health and safety as well as proper work equipment (Article 275, *Código de Trabajo*, and *Decreto 14.390/92*)

There are measures to include domestic workers in **social security schemes**. Domestic workers must be enrolled in the national social security regime (*Instituto de Previsión Social*), which provides access to disability benefits and pensions (Article 18, *Ley 5407/2015* and *Decreto-ley 1860/1950*). Maternity leave is provided for (Article 2, *Ley 5508/2015*) and in 2019 part-time domestic workers were also granted access to social security (*Resolución MTESS 2660/2019*).

Domestic workers have the **right to make complaints against their employers** and there is a centre to support domestic workers, receiving their complaints and mediating in conflicts with employers (*Resolución 124/2010*). In addition, as with any other workers, domestic workers can use the labour court to settle a dispute. Access to justice is free for workers who cannot afford the costs (Article 230, *Código de Trabajo*) and they are not required to be represented by a lawyer in cases of single jurisdiction or in mediation (Article 65).

There are general provisions in the labour code on **labour inspection** (Article 408), but nothing that ensures private households are checked. Similarly, only general provisions

protect **migrant workers**. The labour code expressly recognizes migrant workers as entitled to the same rights as nationals (Article 3). The General Directorate on Migration must inspect migrant workers' workplaces and households (Article 120, *Ley 978/1996*) and the law allows the government to work with other countries to protect Paraguayan workers overseas (Article 140, *Ley 978/1996*). There is no requirement that migrant workers have a contract of employment before leaving home.

The law determines the regulation of **employment agencies that place domestic workers**, both within and outside the country, to protect workers from fraud and abuse (Article 23, *Ley 5407/2015*). The administrative labour authority is entrusted with this duty, including protecting workers against those who treat them badly and investigating complaints. The labour code establishes a gratuity for the use of both public and private employment services (Article 67).

Peru

Peru ratified C189 in 2018 and in 2020 approved a law that specifically regulates domestic work. *Ley 31047* expressly defines its purpose as to ensure **domestic workers' basic rights** and recognize their important contribution to the social and economic development of the country (Article 2). It establishes several obligations for employers that amount to **treating workers fairly and providing them with decent working conditions**, echoing the constitutional protection that no labour relationship can violate workers' dignity or limit their fundamental rights (Article 23, *Constitución*).

Domestic workers' right to **form or join an organization and/or bargain with their employer** is protected by a general provision in the Constitution (Article 28) and a specific clause in the law on domestic work (Article 15, *Ley 31047/2020*). The same provisions that regulate all workers' rights to unionization, to collective bargaining and to strike apply to domestic workers (*Decreto Supremo 010-2003-TR*).

Domestic work under the age of 18 is prohibited (Article 7, *Ley 31047/2020*), thus children are protected from working in the domestic sector before they complete school. Moreover, in relation to the right to education, the employer must facilitate domestic workers' school attendance or training (Article 12, *Ley 31047/2020*).

A general provision in the Constitution prohibits any form of **forced labour** (Article 23). Specific to domestic work, the labour authorities must take all measures to prevent and combat forced child domestic labour (Article 22, *Ley 31047/2020*).

Several provisions **protect domestic workers from being discriminated against at work**. Article 26.1 of the Constitution ensures all workers equal opportunities without discrimination and Article 2 of *Ley 31047/2020* establishes the elimination of all forms of discrimination at work as one of the law's goals. Moreover, the law prohibits specific actions that are discriminatory against workers or that violate their dignity, such as requiring the wearing of a uniform in the public space (*Decreto Supremo 004-2009-TR*) or making a condition of work that she performs acts that violate her cultural, religious or social values (Article 16, *Ley 31047/2020*).

Similarly, there are provisions that **protect domestic workers against abuse, harassment and violence**. Article 18 of *Ley 31047/2020* establishes that domestic workers have the right to physical, psychological and sexual integrity and any action that violates this right is punishable in terms of the laws on sexual abuse (*Ley 27942*) and on violence against women (*Ley 30364*).

While a **worker's right to choose to live in the employer's house or somewhere else** has no specific protection, the law on domestic work establishes that the decision on whether or not to live in the employer's residence must be agreed between the parties (Article 4). There are no specific protections for **live-in workers** regarding privacy or the right to leave the household when they are off duty. However, their stand-by hours are considered working hours (Article 11, *Ley 31047/2020*).

There is no specific protection for **workers' right to retain their identity documents**.

The law ensures that domestic workers have a written **employment contract**, which must include the type and place of work, the wage, form and date of payment, the working hours, the day of weekly rest and the social benefits included (Article 5, *Ley 31047/2020*). The contract must be registered with the Ministry of Work and Employment Promotion within three days of hire.

The law also includes **domestic workers' basic working conditions**, which are the same as for other workers. These include a maximum of eight working hours per day and 48 per week (Article 10, *Ley 31047/2020*), overtime pay (with 25 per cent increase – Article 267, *Ley General del Trabajo*), and a minimum of **24 consecutive hours of weekly rest**, preferably on Sundays (Article 11, *Ley 31047/2020* and Article 273, *Ley General del Trabajo*). Domestic workers are also entitled to the **national minimum wage** (Article 6, *Ley 31047/2020*) and to 30 days of paid vacation after a year of work (Article 11, *Ley 31047/2020*).

The law ensures that workers are **paid at least once a month**, in cash or (if they agree) with a bank deposit (Article 8, *Ley 31047/2020* and Article 198, *Ley General del Trabajo*). **Workers who receive part of their wages in kind** are protected by a provision in the general labour law establishing that this cannot exceed 20 per cent of the total wage (Article 198).

There are measures to protect **domestic workers' safety and health at work**. The law on domestic work establishes their right to an adequate workplace that preserves their health and safety (Article 20, *Ley 31047/2020*). The law on safety and health at work (*Ley 29783*) applies to domestic workers as well as all other workers.

Employers are obliged to register domestic workers with the national **social security system** and to make the necessary payments (Article 19, *Ley 31047/2020*). Domestic workers also have the right to paid maternity leave (Article 17, *Ley 31047/2020*) for 45 days before and after childbirth (Article 303, *Ley General del Trabajo*).

As with any other worker, **domestic workers have the right to make complaints against employers**. Access to justice is free of charge for workers (Article III, *Ley Procesal del Trabajo*) and domestic workers enjoy the presumption of truth of their allegations where material proof is impossible (Article 25, *Ley 31047/2020*). Also, a special system is in

place in the Ministry of Justice to receive complaints from domestic workers (*Decreto Supremo 004-2009-TR*).

Labour inspectors check private households to ensure that employers comply with the laws, but such inspection requires the consent of the employer or a court order (Article 23, *Ley 31047/2020*). In case of risk to the physical or psychological integrity, health or safety of the domestic worker, the authorities must guarantee protection of their rights regardless of a court order (Article 24, *Ley 31047/2020*).

The law protects **migrant workers**. Specifically, the law on domestic work establishes that migrant domestic workers have the right to be protected against exploitation or labour trafficking, and government must work with other countries to protect domestic workers (Article 21, *Ley 31047/2020*). There is, however, no requirement that migrant workers have a contract of employment before leaving home.

The law regulates **employment agencies that place domestic workers**. The Ministry of Labour and Employment Promotion controls agencies (Article 14, *Ley 31047/2020*) and is responsible for investigating complaints against them and for sanctioning those who violate workers' rights (*Ley 28806*). Agencies are prohibited from charging domestic workers any fee for their services (Article 14, *Ley 31047/2020*), but there are no provisions mandating government to work with other countries to regulate agencies.

Uruguay

Uruguay was the first country in the world to ratify C189, in 2012. However, most of its laws and regulations on domestic work date from before the ratification. In addition to the constitutional provisions that protect the right to work, a special law regulates domestic work (*Ley 18.065/2006*) and establishes that all other labour and social protection norms apply to domestic workers. Therefore, there are **several measures to protect domestic workers' basic rights**. The Constitution ensures to all workers the right to moral autonomy, fair wage, limits on working hours, weekly rest and health and safety (Article 54).

Domestic workers are **protected when they form or join an organization and/or bargain with their employer**, both by a constitutional provision (Article 57) and by general laws that regulate freedom of association (*Ley 17940*) and collective bargaining (*Ley 18566*).

The minimum age to work as a domestic worker is 18 (Article 11, *Ley 18065/2006*), therefore, **children are protected from working in the domestic sector before completing school**. There are no provisions **protecting people from being forced into domestic work** though.

Interestingly, the express **protection of domestic workers from being discriminated against at work** was achieved through a collective agreement between organizations representing workers and employers (*Decreto 670/008*). The parties agreed on the principle of equality of opportunities and treatment at work, without distinction or exclusion based on sex, race, colour, sexual orientation or belief. The express **protection of workers against abuse, harassment and violence** is in the same agreement,

which establishes that workers are entitled to dignified conditions of work, free from sexual and moral harassment, and with full respect for their intimacy and protection of their psychosocial integrity (*Decreto 670/008*). More recently, the law on gender-based violence defines labour violence as that which happens in the context of work, and establishes several protections for the victim, including a support system (*Ley 19580/2017*).

There is no specific provision protecting a **worker's right to choose to live in the employer's house or elsewhere**. However, live-in domestic workers have the right to an uninterrupted nine hours of night rest as well as to nutritious food and a private and clean room (Article 5, *Ley 18065/2006*). There are no specific provisions on stand-by hours and the right to leave the household when they are off duty.

While the law ensures that workers have an **employment contract**, it does not require it to be written. Domestic workers' **basic working conditions** are included in the law and are the same as for other workers. Their working hours are limited to eight per day and 44 per week (Article 2, *Ley 18065/2006*). Live-out workers have a rest period of half an hour during their shift and live-in, of two hours (Article 3, *Ley 18065/2006*). Domestic workers are entitled to overtime pay (*Decreto 670/008*), which is 100 per cent on weekdays and 150 per cent on holidays or weekends (*Decreto 244/007*). They are guaranteed a weekly rest of 36 hours, which must include Sunday (*Ley 18065/2006* and Article 9, *Decreto 244/007*).

Domestic workers have a **minimum salary**, which is established for the sector by the national wage system (*Ley 18065/2006*). The law ensures that they are **paid at least once a month, in cash**, prohibits any kind of barter (Article 2, *Ley 10449*) and the employer must provide the worker with a receipt (Article 10, *Ley 16.244/1992*). However, the Wages Council can set deductions that the employer can make for housing and food (Article 18, *Ley 10449*). An agreement between workers' and employers' organizations has determined that this deduction cannot exceed 20 per cent of the salary for food and housing, and 10 per cent for only food (*Decreto 244/07*).

A few specific measures protect **domestic workers' safety and health at work**, such as their inclusion in the health insurance system (Article 10, *Ley 18065/2006* and *Ley 18.211/2007*). Also, the general labour laws apply to domestic workers and therefore there are several legal obligations ensuring that the employer maintains a clean workplace and the wellbeing of workers (*Decreto 186/004*)

There are measures to include domestic workers in **social security schemes**. They are entitled to the same benefits as all other workers, such as unemployment, pension and disability benefits (*Ley 18065/2006* and *Decreto 244/007*) and special paid leave (paternity, adoption, wedding, mourning and study – *Ley 18345/2008*) as well as maternity leave.

As with all other workers, domestic workers can make complaints against employers. Labour procedures are free of charge (Article 28, *Ley 18572/2009*) and guided by the principles of orality and substantive protection. However, the worker must be represented by a lawyer (Articles 1 and 24, *Ley 18572/2009*).

Labour inspectors check private households to ensure that employers comply with the laws. However, a court authorization is required for this (Article 13, *Ley 18065/2006*).

There are no specific protections for **migrant domestic workers**. However, the law on migration and its regulation establish the principle of equality of treatment in labour and social security measures for migrants, and typify the crime of human trafficking (*Ley 18250/2008 y Decreto 394/009*). Migrant workers brought to the country by private employment agencies are specifically protected against abuse, which can lead to agency closure (Article 18, *Decreto 137/016*). There is no requirement that workers have a contract of employment before leaving home, nor that government work with other countries to protect domestic workers.

Finally, the law regulates **employment agencies**, which need to be licensed by the National Employment Directive in the Ministry of Labour and Social Security (*Decreto 137/016*). The General Labour Inspection is responsible for investigating complaints against the agencies and sanctioning those that mistreat workers (Article 14 and 21, *Decreto 137/016*). Agencies are prohibited from charging workers any fees (Article 13, *Decreto 137/016*). There is no provision mandating government to work with other countries to regulate agencies.

Conclusion

Our research shows that there was extensive ratification of C189 in Latin America and the Caribbean – of the 17 countries surveyed, only El Salvador, Guatemala and Honduras have not yet ratified the convention on decent work for domestic workers. This means that 82 per cent of our sample has adopted the convention, as shown in Table 1.

Table 1 - Ratification of C189

Country	Date of ratification
Argentina	March 24, 2014
Bolivia	April 15, 2013
Brazil	January 31, 2018
Chile	July 10, 2015
Colombia	May 9, 2014
Costa Rica	January 20, 2014
Ecuador	December 18, 2013
Mexico	July 3, 2020
Nicaragua	January 10, 2013
Panama	June 15, 2015
Paraguay	May 7, 2013
Peru	November 26, 2018
Dominican Republic	May 15, 2015
Uruguay	June 14, 2012

However, ratification has not meant that countries have subsequently reformed their laws. While several countries had already adopted more protective laws for domestic workers before ratifying C189, such as Argentina, Brazil and Mexico, only Chile, Ecuador, Paraguay and Peru adopted new legislation after ratifying the convention (see Table 2). While ratification is an important step towards effective access to decent work, this finding shows that it is not a guarantee that countries will reform their laws to accomplish this goal. Other factors such as local pressure from workers' organizations and other stakeholders as well as external pressure by other countries and international organizations also play a role.

Table 2 - Countries that adopted new legislation after the ratification of C189

Chile	Ley 21269 (2020) extends unemployment benefits for domestic workers.
Ecuador	Ley orgánica para la Justicia Laboral y Reconocimiento del Trabajo en el Hogar (2015) establishes a shorter trial period for domestic workers (15 days) in comparison to other sectors (90 days).
Paraguay	Ley N° 5407 (2015) y Ley N° 6338 (2019): Law No. 5407 recognizes basic rights for domestic workers, such as the eight-hour working day, weekly rest, full inclusion in compulsory social security, a written contract, and union promotion and protection. Law No. 6338 establishes that "domestic workers shall benefit from the legal minimum wage regime for unspecified miscellaneous activities" (Article 10).
Peru	Ley 31047 (2020) establishes a mandatory written contract and its registration, recognizes the right to a minimum salary and to two yearly bonuses equivalent to a minimum salary, prohibits domestic work by people under the age of 18 and creates the Working Table for the Enforcement of Domestic Workers' Rights.

In the introduction, we said that our research substantiates the claim that Latin America and the Caribbean is a region with very high rates of legal coverage for domestic workers. Table 3 provides an overview of the modalities of coverage adopted by the countries covered in this study: domestic workers are protected under special legislation, domestic workers are included in general labour law, or a combination of the two. In most of the countries, domestic work is regulated in the labour codes – general labour law – but this does not mean that they always enjoy the same rights as other categories of workers because they are often placed within a special section.

Table 3 - Types of legal coverage

Regulation under special law	General labour law	Combination of the two
Argentina, Bolivia, Brazil,* Peru and Uruguay	Chile, Colombia,** Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua and Panama	El Salvador** and Paraguay

* In Brazil, domestic work is also regulated in the Constitution.

** Several domestic workers' rights have been recognized in Colombia and El Salvador through adjudication by the Constitutional Court.

The analysis of some of the measures that ensure domestic workers' basic working conditions shows when and where they are treated the same as other categories of workers. In relation to working hours (see Table 4), eight countries treat domestic workers similarly to other workers, three have equal treatment for live-out domestic workers, but not for live-in, and six countries do not establish in the law domestic workers' working hours. Three of the countries that do not regulate this basic working

condition are the same that have not yet ratified C189 – El Salvador, Guatemala and Honduras, which shows a relationship between ratification and protection.

Another basic working condition is the extension of the national minimum wage to domestic workers (C189, Article 11). Table 5 shows that most of the countries ensure, at least on paper, that domestic workers are paid at least the same minimum salary as established for other categories. In Honduras, a country that has not ratified the convention, there is no minimum salary guaranteed for domestic workers, while in two other countries (Costa Rica and Panama) they are legally discriminated against by being paid less than other workers. Another important protection for domestic workers has to do with banning the payment of part of their salaries in kind. This is still allowed by almost half of the countries analyzed (Colombia, Guatemala, Mexico, Nicaragua, Panama, Paraguay and Uruguay).

Regarding weekly rest, another basic working condition according to C189 (Article 10(2)), the vast majority of countries ensure that domestic workers enjoy the same period as other workers. The exceptions are Guatemala, which has not ratified the Convention, where domestic workers have a shorter weekly rest than other workers, and Chile, where live-out domestic workers are entitled to longer rest periods.

Table 4 - Regulation of working hours

Type of working hours	Countries
Similar to other workers	Argentina, Brazil, Costa Rica, Ecuador, Mexico, Paraguay,* Peru and Uruguay
Not established by law	Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and Panama
Similar for live-out, but longer for live-in domestic workers	Bolivia, Chile and Colombia

* Ley 5407/2015 establishes 8 hours per day and 48 per week working hours for live-out domestic workers, but does not mention the situation of live-in domestic workers.

Table 5 - Regulation of minimum salary

Minimum salary	Countries
Same or higher than established for other categories	Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador,* Guatemala, Mexico, Nicaragua, Paraguay, Peru and Uruguay
Inferior to established for other categories	Costa Rica and Panama
No minimum salary for domestic workers	Dominican Republic and Honduras

* The Constitutional Court of El Salvador ordered in Sentence 143-2015, in 2020, that a minimum salary must be established for domestic workers. However, the order has not yet been fulfilled by National Minimum Salary Commission.

Table 6 - Regulation of weekly rest

Weekly rest	Countries
Similar to other workers	Argentina, Bolivia, Brazil, Chile (live-out), Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay
Shorter than other workers	Guatemala
Longer than other workers	Chile (live-out)

Article 7 of C189 places particular importance on the work contract. In addition to ensuring that domestic workers are informed of the terms and conditions of their employment, the convention also signals that the written form is always preferable. Table 6 shows that only one country, the Dominican Republic, does not fulfill the contract requirement. All the other countries require an employment contract, although eight allow it in any form.

Table 7 - Requirement of employment contract

Employment contract	Countries
Not required	Dominican Republic
Written form	Bolivia, Brazil, Chile, Costa Rica, Ecuador, Mexico, Paraguay and Peru
Any form	Argentina, Colombia, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Uruguay

Another important dimension of domestic workers' protection is to ensure that they work in a safe and healthy environment (Article 13 of C189). Among the countries analyzed, three (Argentina, Brazil and Costa Rica) require employers to have insurance. Colombia and the Dominican Republic, in contrast, have no regulation of workplace safety and health, while most of the countries apply to domestic workers the same general measures to ensure workplace safety and health applicable to other sectors.

Except for the Dominican Republic, all countries have some kind of social security coverage for domestic workers. As Table 8 shows, in the majority of the countries they enjoy the same national regime as other categories of workers, while in Argentina, El Salvador, Guatemala and Honduras, domestic workers have a special social regime. Of these countries, in Argentina and Guatemala their affiliation by employers is mandatory, while in El Salvador and Honduras it is not.

Table 8 - Regulation of social security

Social security regime	Countries
Special regime	Argentina,* El Salvador,** Guatemala* and Honduras**
National regime	Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Nicaragua, Panama, Paraguay, Peru and Uruguay***
No coverage	Dominican Republic

* Mandatory

** Not mandatory

*** Same benefits as other workers, but there is no unified national regime

Migrant domestic workers receive special attention in C189 because of their particular vulnerabilities. Paid domestic work is an important source of employment for women migrant workers worldwide, and this is no different in Latin America and the Caribbean. In this region, migrant domestic workers account for 35.3 per cent of all migrant women workers (ILO 2021). Yet very few of the countries surveyed have any type of special protection for them. Bolivia, Mexico and Peru specifically regulate migrant domestic work, as Table 9 shows, but only Mexico requires that migrant workers have a written contract before leaving home in some specific cases.

Table 9 - Protection for migrant domestic workers

Countries with specific protection for migrant domestic workers	Type of protection/rights
Bolivia	<i>Resolución Ministerial 218/2014</i> establishes that <i>Ley 370</i> (the national law on migration) applies to migrant domestic workers. This law recognizes migrants' rights to work, social security and basic social services (Article 12), and to freely choose their work, to unionize, not to be subjected to servitude, slavery, exploitation or forced labour, and not to be discriminated against based on gender (Article 49).
Mexico	The law establishes that no distinction should be made contractually where domestic workers are migrants (Article 331, <i>Ley Federal del Trabajo</i>). Moreover, for migrant domestic workers, the written contract must contain additional clauses, such as that employers bear repatriation costs, workers' access to health care, information on how workers can make complaints and the conditions of housing offered (Article 337 Bis and 28, <i>Ley Federal del Trabajo</i>). There is a requirement that migrant workers have a contract of employment before leaving home only for Mexican workers leaving the country to work abroad in a labour relationship regulated by Mexican law (Article 28, <i>Ley Federal del Trabajo</i>).
Peru	The law on domestic work establishes that migrant domestic workers have the right to be protected against exploitation or labour trafficking, and government must work with other countries to protect domestic workers (Article 21, <i>Ley 31047/2020</i>).

Finally, the majority of the countries have some form of regulation of employment agencies, except for Brazil and Guatemala where they are not regulated, and Bolivia where they are prohibited.

Overall, this research shows that domestic workers in Latin America and the Caribbean have come a long way to ensure some form of coverage and protection in the laws. There is a positive relationship between ratification of C189 and greater protection for domestic workers. However, legal coverage is only the first step in a long series of measures to ensure that domestic workers have effective access to decent work.

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