

Domestic work in Vietnam – A legislative perspective

Findings

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Domestic work in Viet Nam – a legislative perspective

These findings aim to summarize the current status of domestic workers in Vietnam at present state (1) and will give an overview of the legislative policies, concerning domestic workers in Vietnam (2). After this analysis of the state of employment relations, it should be possible to identify the biggest shortcomings in the field of domestic work, so recommendations on activities to improve the situation of domestic workers in Vietnam can be given (3).

A domestic worker in this study will be defined in accordance to the the Labour Code 2012, Article 179 as follows: “Employee working as domestic worker is the employee which regularly performs work in a household or many households. The domestic work includes housework, housekeeping, child care, patient care, elderly care, driving, gardening and other works which are not related to commercial activities.”

The paper is based on a Data collection of the Research Centre on Gender – Family and Community Development, who conducted a research on “Domestic work in Vietnam” in Hanoi and Ho Chi Minh July till October 2012, as well as the new Labour Code, passed by the National Assembly 18th of June 2012, coming into effect on 13th of May 2013. The research was supported by Rosa-Luxemburg-Stiftung.

1. Current status of domestic workers in Viet Nam

1.1 Labour contracts

Research has shown, that one major problem is the issue of only oral labor contracts: A majority of 91,5% asked employees have no written contract but only an oral agreement.

Even more concerning is the attitude towards written contracts, as a majority of 41,5% of employees sees an employment contract as unnecessary.

The benefits of signing written contracts don't seem to be recognized by neither employer nor employee.

1.2 Working hours

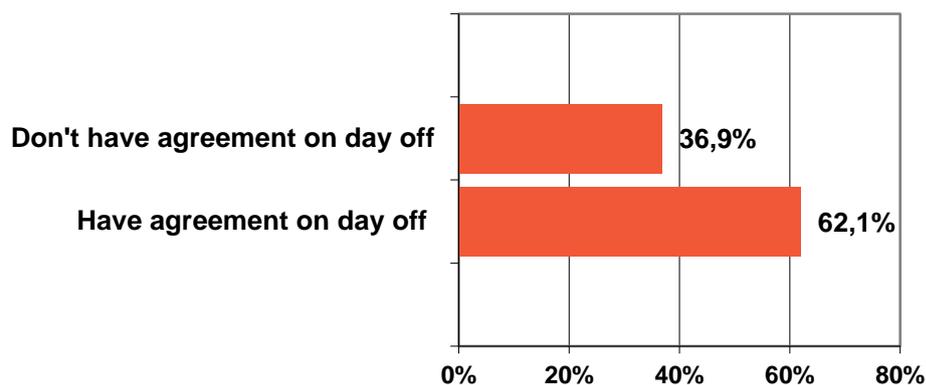
No fixed working hours are another problem due to the special situation of domestic workers: The survey indicates that only 30,8% of workers have an agreement with their employer on the quantity of working hours.

61,1% work more than the allowed 8 hours per day.

Most domestic workers live in the same household as their employer, which makes it difficult to clearly separate working hours from leisure time. Moreover, domestic work is not continuous, making it hard to identify the quantity of working hours. Due to those typical characteristics of domestic work, it is difficult to agree on the number of working hours in accordance with the Labour Code. Therefore, a detailed guideline of implementation is needed, which could be regulated by special Decrees or Circulars.

Concerning Days off, study results have shown, that only 36,9% of domestic workers reported having an agreement on annual leave, and even if they do, days off are mostly based on the negotiation of both sides, as the

Labour Code does not regulate annual leave for domestic workers like for other kinds of work. Hence, this benefit is easily violated.



Percentage of domestic workers having agreement on days off (Source: The GFCD study, 2012)

1.3. Salary

The average monthly salary of domestic workers in Hanoi and Ho Chi Minh is around 2 800 000 VND and is increasing continuously in recent years. Those numbers reflect the high demand for domestic workers in large cities as Hanoi and Ho Chi Minh and also the potential of improving the working conditions in favor of employers, as their basis for negotiation improves with this increasing demand.

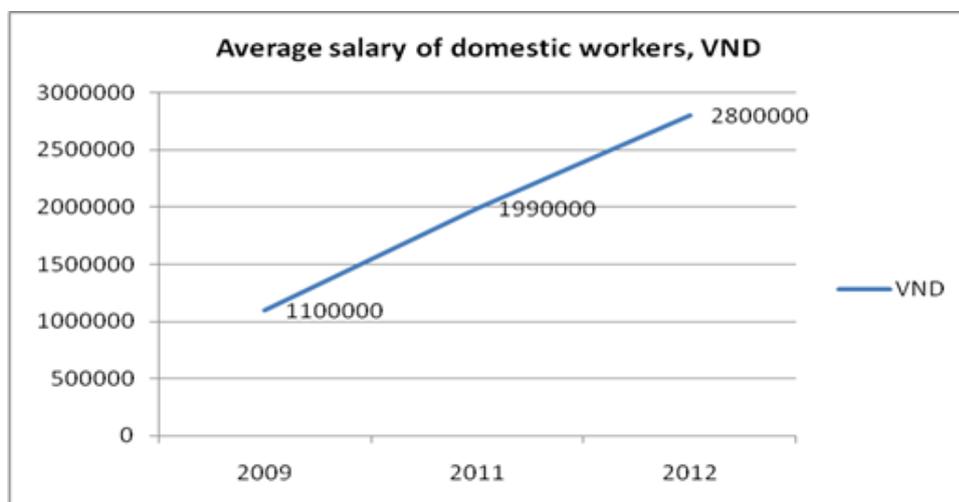


Figure 1: Trend of salary of domestic workers since 2009. (Source: The GFCD study, 2012 and Ngo Thi Ngoc Anh, 2009)

1.6 health care and social insurance

The majority of domestic workers in Hanoi and Ho Chi Minh have no social insurance or health insurance, numbers vary from 85% to 90%.

This would especially be a legislative issue, if domestic work was recognized as a job. Then, the worker's benefits would clearly be violated in SI and HI, according to the Labour Code.

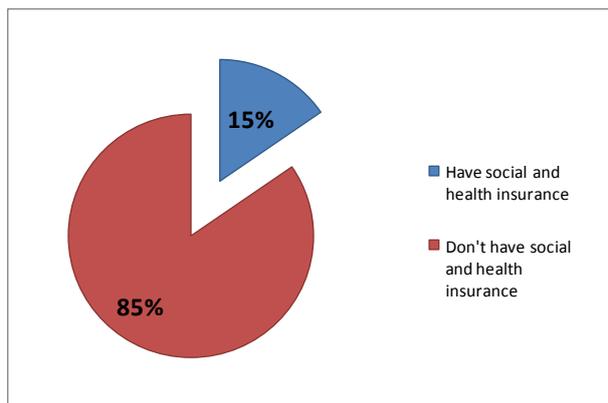


Figure 2: Percentage of domestic workers having social and health insurance as reported by domestic workers
(Source: *The GFCD study, 2012*)

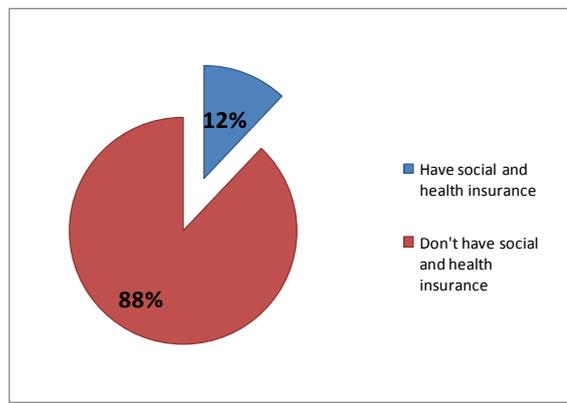


Figure 3: Percentage of domestic workers having social and health insurance as reported by employers
(Source: *The GFCD study, 2012*)

2. Overview of legislative policies

2.1 Domestic work is no formal job

As already mentioned, domestic work is not recognized as a formal job in the government list. This fact makes it difficult for domestic workers, to insist on their rights as workers and makes it hard to find a fair basis for negotiation between domestic worker and employer.

Study results point out: Both employees and employers agree that house work should be recognized as a job, 90% and 74% relatively. This fact also suggests a supportive social environment for implementation of new legislative policies.

2.2 New measures in Labour Code 2012

The 6th section of the new Labour Code from February 2012 contains 5 new articles on "Domestic Helpers" and provides guidelines on the relation between domestic worker and employer.

Article 185 says that every employer shall negotiate a written labor contract with the employee, which should include duration of labor, payment form, salary, daily working hours and accommodation. But, the article does not include guidelines on maximum working hours, days off and minimum salary, which would be necessary. So, detailed policies on those issues are still needed.

Article 186 declares Health and Social Insurance a requirement, if employing longer than 3 months.

3. Recommendations

3.1 Need for further legislative development

The next step in the legislative development process should be to develop Decrees and Circulars to lay out the rights of domestic workers and their employers in detail, aiming to get Domestic work recognized as a formal job of the General Office of Vocational Training in the future and to have laws, that clearly apply on this kind of work, including all its special characteristics.

3.2 Need for implementation of legislative policies

Even if the legislative policies were all changed in favor of domestic workers rights, there still would be the challenge of the implementation of those laws.

Society change is necessary, so the people believe in the necessity of the new laws and implement them in their everyday life. So, it is recommended as a step in the legislative development process as well to guide the implementation of new articles related to domestic workers and make people understand their benefits. Promoting the development of detailed legal guidelines to manage domestic work is the crucial factor.

3.3. Need for more research

Moreover, in order to ensure sound policy development, supporting evidence is needed, too, which can help to locate the actual needs and opinions of domestic workers and their employers, as well as other groups responsible for policy implementation, including local authorities and job training centers.

3.4. Need for organization

The role of organizations and associations should be enhanced, so that domestic workers can participate in meetings of women's union of wards or communes to strengthen their voice as a legitimate part of the working class. Developing the pilot model of club for domestic workers in the commune / ward level with participation of local women union and local authority is crucial, aiming to further set up a network of domestic workers.

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