Local Translations of ILO’s Labor Standards Domestic Worker Regulation in the South

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The specific local law-making process—involving international regulation—may/can be understood as a **process of translation**

- **TRANSLATION**
  - encoded message
  - language
  - translator
  - context of translation

  - a socio-political context
  - structure of labor market
  - labor culture
  - institutional structure
International Labor Standards & Local Regulations

The law-making process as translation

message

CODIFICATION

- framework
- Decent Work
- Technical-Legal Codification
- Convention 189
- Recommendation 201

DIFFUSION

- Institutional channels
- Technical-bureaucratic
- Promotional Campaigns

TRANSLATION

structure

Regulatory model for domestic work
International Labor Standards & Local Regulations
The law-making process as translation

message
REGULATORY MODEL FOR DOMESTIC WORK

CODIFICATION
framework
Decent Work

Technical-Legal Codification

Convention 189
Recommandation 201

DIFFUSION
Institutional channels

Technical-bureaucratic
Promotional Campaign

TRANSLATION

ARGENTINA
BRAZIL

Language
Context of Translation
- a socio-political context
- structure of labor market
- labor culture
- institutional structure
International Labor Standards & Local Regulations

The local language

**BRAZIL**
- 1972 Lei dos Empregados Domésticos, 5.859
- 1988 Federal Constitution (art.7)
- 2013 Constitution amendment
- 2015 Projeto de Lei do Emprego Doméstico (no.224/13)

**ARGENTINA**
- 1956 Decreto-Ley Estatuto del Empleo Doméstico
- 2013 Ley de Contrato de Trabajo del Personal de Casas Particulares

Constitutional Approach

Special Regime Approach
### International Labor Standards & Local Regulations

#### The local context of translation

<table>
<thead>
<tr>
<th><strong>BRAZIL</strong></th>
<th><strong>ARGENTINA</strong></th>
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</thead>
<tbody>
<tr>
<td><strong>a socio-political context</strong></td>
<td><strong>structure of labor market</strong></td>
</tr>
<tr>
<td>• governments whose bases of legitimacy are workers</td>
<td>• 95% of domestic workers are women</td>
</tr>
<tr>
<td>• the gender question into the political agenda</td>
<td>• 85% informal workers</td>
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<td></td>
<td>• decline in the number of live-in domestic workers</td>
</tr>
<tr>
<td></td>
<td>• increase in the number of <em>diaristas</em> (by hours)</td>
</tr>
<tr>
<td><strong>3.2%</strong></td>
<td><strong>1.8%</strong></td>
</tr>
<tr>
<td><strong>14% - 21%</strong></td>
<td><strong>20% - 30%</strong></td>
</tr>
<tr>
<td><strong>labor culture</strong></td>
<td><strong>similarities in the conception of domestic work</strong></td>
</tr>
<tr>
<td><strong>institutional structure</strong>: welfare state &amp; law enforcement mechanisms</td>
<td></td>
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</table>
The concept of domestic work

CONVENTION 189  2011

• the term *domestic work* means *work performed in/for a household*

• the term *domestic worker* means any person engaged in domestic work within an *employment relationship*

• a person who performs domestic work only *occasionally or sporadically* and *not on an occupational basis* is not a domestic worker

• the Convention applies to *all domestic workers*
### The concept of domestic work

<table>
<thead>
<tr>
<th>BRAZIL</th>
<th>2015</th>
<th>ARGENTINA</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ao empregado doméstico, assim considerado aquele que presta serviços de forma contínua, subordinada, onerosa o pessoal e de finalidade não lucrativa à pessoa ou à família, no âmbito residencial destas <strong>por mais de dois dias por semana</strong>, aplica-se o disposto nesta Lei.</td>
<td><strong>definition in the Law</strong></td>
<td>• <strong>las relaciones laborales que se entablen con los empleados y empleadas por el trabajo que prestan en las casas particulares o en el ámbito de la vida familiar y que no importe para el empleador lucro o beneficio económico directo, cualquiera fuere</strong> la cantidad de horas diarias o de jornadas semanales en que sean ocupados para tales labores.</td>
<td></td>
</tr>
</tbody>
</table>

### Types

- Full-time contract
- Part-time contract
- Limited-time contract
- Live-in
- Single-employer
- Multi-employer
International Labor Standards & Local Regulations

The concept of domestic work

**BRAZIL** 2015

• Ao empregado doméstico, assim considerado aquele que presta serviços de forma contínua, onerosa ou pessoal e de finalidade não lucrativa à pessoa ou à família, no âmbito residencial destas por mais de dois dias por semana, aplica-se o disposto nesta Lei.

**Argentina** 2013

employment relationship

work performed in/for a household

non profit for individuals or families

work performed in/for a household

regardless the number of working hours

**Types**

- full-time contract
- part-time contract
- limited-time contract
- live-in

**Working Time**

- contract duration
- working time

**Number of Employers**

- single-employer
- multi-employer
[es necesario] considerar esta relación de empleo como de carácter especial. No es una relación de empresa-trabajador o trabajadora sino que es una relación muy particular que se da en el ámbito de hogares de sectores medio, o constituidos por mujeres que salen a trabajar y necesitan contratar a este tipo de personal.

“o projeto visa elaborar uma proposta harmônica que garanta, de um lado, o direito dos trabalhadores, mas que de outro lado também, garanta o direito de as famílias terem esses trabalhadores domésticos.”

International Labor Standards & Local Regulations

Which rights? ➔ Whose rights?

BRAZIL 2015

translator

2013 ARGENTINA

domestic workers’ rights

employers’ rights

same rights than wage-employees

- need help for domestic taks
- are working women
- are middle classes

right to domestic work
International Labor Standards & Local Regulations

The concept of domestic work

**CONVENTION 189**

- **domestic worker on an occupational basis**
- **not a domestic worker only occasionally or sporadically**

**BRAZIL**  
*de jure*  
exclusion of domestic workers working less than **two weekly days**

**ARGENTINA**  
*de facto*  
exclusion of domestic workers working less than **16 weekly hours for the same employer**
Trapped in the model of standard employment, these new regulations—restrictive and at the same time discriminatory—result in a limited translation of the idea of “decent work”.
THANKS