AN EVALUATION OF THE CONDITIONS OF EMPLOYMENT FOR DOMESTIC WORKERS IN THULAMELA LOCAL MUNICIPALITY

BY

MASIDWALI BUSISIWE MUREMBIWA

STUDENT NUMBER: 11584733

A Mini-dissertation submitted in partial fulfilment of the requirement for the degree of

MASTER OF PUBLIC MANAGEMENT

OR TAMBO INSTITUTE OF GOVERANCE AND POLICY STUDIES

SCHOOL OF MANAGEMENT SCIENCES

UNIVERSITY OF VENDA

UNIVERSITY OF VENDA
LIBRARY

Supervisor: Prof. M.P Khwashaba

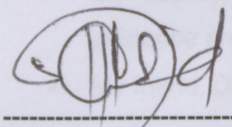
Co–Supervisor: Mr. E Mahole

2016

© University of Venda

DECLARATION

I, **Busisiwe Murembiwa Masidwali**, hereby declare that the Mini – Dissertation to the University of Venda for the degree Masters of Public Management has never been submitted for a degree at this university or any other university, and that this is my own work in design and execution. All reference materials contained therein have been duly acknowledged.



01/08/2016

MASIDWALI BUSISIWE MUREMBIWA **DATE**

STUDENT NUMBER: 11584733

© University of Venda

University of Venda
Creating Future Leaders

ACKNOWLEDGEMENTS

I would like to thank God the Almighty who gave me strength and power to hold on even during hard times. I hereby wish to express my gratitude to the following individuals who enabled this document to be successfully and timeously completed.

- My Supervisor, Prof. M.P Khwashaba and Co-Supervisor Mr. E Mahole, for their valuable guidance and support during the course of my studies.
- My friend, Dr. Kone L.R, who contributed in a unique way and his encouragements.

© University of Venda

DEDICATION

I dedicate this work to the following people with love and appreciation:

- My late father, Robert Medupe Malaka, who had been my inspiration all my life, my dearest grandmother Phophi Nwa – Fungeni Malaka and not forgetting my loving mother Masala Matamela Malaka and my brothers and sisters.
- My dear children, Zwanga, Konanani and Nyadzawela Denga for their patience when they had to be alone at night, their love, interest and support.

ABSTRACT

© University of Venda

University of Venda
Creating Future Leaders

The study focused on the evaluation of the conditions of employment for domestic workers. The objectives of the study are to evaluate the working conditions of domestic workers, to assess how employers treat them, to describe the role of the Department of Labour in enforcing law to combat ill – treatment and abuse of domestic workers and to describe the acts governing domestic workers.

The researcher used both quantitative and qualitative research paradigm to collect data. Purposive sampling method was used to select the respondents of this study. For this study two data collection instruments were used, namely questionnaire and interview. Data collected through questionnaires was analysed using statistical package for social science. Information was presented in a tabular form, frequencies and percentages. Data collected through interview was also analysed using thematic analysis and information was presented in a narrative form. Ethical considerations were followed throughout the study.

The Major Findings of the Study are:

The researcher found that employers of the domestic workers do not comply with the conditions of employment of domestic workers in the Thulamela Local Municipality, Limpopo Province. The findings revealed that majority of the respondents earn below the required wage as stated in the Sectoral Determination 7. It was also discovered that employers of domestic workers do not comply with the conditions of employment of domestic workers.

The recommendations of the study are:

The researcher recommends that total compliance on the side of the employers should be maintained at all times. Minimum wage should exist in national law which also covers domestic workers. Domestic workers should enjoy protection under Basic Conditions of Employment. Department of Labour must employ and deploy inspectors to monitor compliance in domestic service. Both domestic workers and their employers should have a copy of the basic conditions of employment as per "The Basic Conditions of Employment Act No. 75 of 1997" in their households.

TABLE OF CONTENTS

© University of Venda

University of Venda
Creating Future Leaders

No.	Contents	Page
	Declaration	i
	Acknowledgements	ii
	Dedication	iii
	Abstract	iv
	Table of Contents	v
	Abbreviations	viii
	List of tables	ix
	CHAPTER 1 INTRODUCTION AND BACKGROUND OF THE STUDY	
1.1	Introduction	1
1.2	Background of the study	1
1.3	Problem statement	2
1.4	Aim of the study	2
1.5	Specific objectives	2
1.6	Hypothesis	2
1.7	Research questions	3
1.8	Significance of the study	3
1.9	Limitations of the study	3
1.10	Delimitations of the study	3
1.11	Definitions of operational concepts	7
	CHAPTER 2 LITERATURE REVIEW	
2.1	Introduction	8
2.2	Domestic workers and the law	8
2.3	Legislative framework on the domestic workers	9
2.3.1	The Constitution of South Africa	9
2.3.2	Basic conditions or employment Act	9
2.3.3	The Labour Relations Act	9
2.3.4	The Unemployment Insurance Act	10
2.3.5	The employment Equity Act	10
2.3.6	The Occupational Health Act	11
2.3.7	The Skills development Act	11
2.3.8	The Compensation for Occupational Injuries and Diseases Act	11
2.4	Domestic workers rights	12
2.5	Sectoral determination	13
2.6	Particulars of employment	14
2.7	Remuneration in domestic work	14
2.8	Working hours	15
2.9	Maximum hours	15
2.10	Overtime	16
2.11	Night work	16
2.12	Meal and rest breaks	17
2.13	Leaves	17
2.13.1	Annual leave	17
2.13.2	Sick leave	18
2.13.3	Maternity leave	19
2.13.4	Family responsibility leave	22
2.13.5	Work on Sundays and Public holidays	20
2.14	Rights on termination of employment	21

© University of Venda

University of Venda
Creating Future Leaders

2.15	Low pay in domestic work: A Global phenomenon	22
2.16	Domestic worker and education	22
2.17	A role for social partners and collective bargaining	22
2.18	Uniform	23
2.19	Domestic worker and the domestic madam	23
2.20	Unfair discrimination	24
2.21	Domestic worker abuse and forced labour	24
2.22	How to bring about compliance	24
2.23	Monitoring and enforcing	25
2.24	Approaches to monitoring and enforcing labour laws in the domestic work sector	26
2.25	Conclusion	27
	CHAPTER 3 RESEARCH DESIGN AND METHODOLOGY	
3.1	Introduction	28
3.2	Research design	28
3.3	Research methodology	28
3.4	Study area	29
3.5	Study population	30
3.6	Sampling	30
3.7	Sample size	30
3.8	Sample method	31
3.9	Data collection method	31
3.10	Data analysis	32
3.11	Ethical consideration	33
3.11.1	Permission to conduct a research	34
3.11.2	Informed consent	34
3.11.3	Anonymity and confidentiality	34
3.11.4	Voluntary participation	35
3.12	Conclusion	35
	CHAPTER 4 DATA PRESENTATION, INTERPRETATIONS AND DATA ANALYSIS	
4.1	Introduction	36
4.2	Analysis of data collected through questionnaire	36
4.2.1	Section A: Bibliographical details of respondence	36
4.2.2	Section B: Working conditions	42
4.3	Analysis of data collected through interview	50
4.3.1	Question 1: Do the community leaders involve themselves in seeing to it that domestic workers are fairly treated?	50
4.3.2	Question 2: Are there municipal by – laws governing domestic workers?	51
4.3.3	Question 3: Is there a budget for domestic workers development from the municipality? If yes does the municipality have personnel to advice domestic workers?	51
4.3.4	Question 4: Are there information and strategic plan on the empowerment and fair treatment of domestic work? If yes, are the information documents on domestic workers tasks and their training.	52
4.3.5	Question 5: Is the information about exploitation or abuse of domestic workers by their employers reported to the department of labour? Are there cases of dismissal of domestic workers due to fighting for their rights?	53
4.4	Conclusion	53

© University of Venda

University of Venda
Creating Future Leaders

	CHAPTER 5 FINDINGS, RECOMMENDATIONS AND CONCLUSION	
5.1	Introduction	54
5.2	Major findings of the study	54
5.2.1	Working conditions of domestic workers	54
5.2.2	The rights of domestic workers	54
5.2.3	Laws and acts governing domestic workers	55
5.2.4	The role of the department of labour	55
5.3	Recommendation of the study	55
5.4	Recommendation for future study	56
5.5	Conclusion	56
	Bibliography	58
	Annexure : A	62
	Annexure: B	63
	Annexure: C	64
	Annexure: D	65
	Annexure: E	74
	Annexure: F	76
	Annexure: G	77
	Annexure: H	78

ABBREVIATIONS

© University of Venda

BCEA	: Basic Conditions of Employment Act
BMET	: Bureau of Manpower, Employment and Training
CCMA	: The Commission for Conciliation, Mediation and Arbitration
CEE	: Commission for Employment Equity
CPI	: Consumer Price Index
DWN	: Domestic Workers United
EAP's	: Employee Assistance Programmes
ILO	: International Labour Organisation
LRA	: Labour Relations Act
MOU	: Memorandum of Understanding
NEDLAC	: National Economic Development and Labour Council
OHSA	: Occupational Health and Safety Act
PES	: Public Employment Services
RDP	: Reconstruction and Development Programme
UIF	: Unemployment Insurance Fund

LIST OF TABLES

© University of Venda

University of Venda
Creating Future Leaders

Contents **Page**

Table 1.1: 31

Table 4.1: Gender..... 36

Table 4.2: Marital status..... 37

Table 4.3: Age group..... 37

Table 4.4: Working experience..... 38

Table 4.5: Level of education..... 38

Table 4.6: Disability..... 39

Table 4.7: Distance..... 39

Table 4.8: Work description..... 40

Table 4.9: Training 40

Table 4.10: No. of employers..... 40

Table 4.11: Registration..... 41

Table 4.12: Contribution towards UIF..... 41

Table 4.13: Stays - in domestic workers..... 42

Table 4.14: Bring own food..... 42

Table 4.15: Contract..... 42

Table 4.16: Rights..... 43

Table 4.17: Conditions of employment..... 43

Table 4.18: Uniform..... 44

Table 4.19: Minimum wage..... 44

Table 4.20: Wages..... 45

Table 4.21: Monthly..... 45

Table 4.22: Bonus..... 45

© University of Venda

Table 4.23: Fair treatment..... 46

Table 4.24: Rest time..... 46

Table 4.25: Days per week..... 47

Table 4.26: Overtime..... 47

Table 4.27: Day off..... 48

Table 4.28: Sick leave..... 48

Table 4.29: Maternity leave..... 48

Table 4.30: Paid leave..... 49

Table 4.31: Family responsibility..... 49

Table 4.32: Paid monthly responsibility leave..... 5 0

© University of Venda

UNIVERSITY OF VENDA

University of Venda
Creating Future Leaders

CHAPTER 1

INTRODUCTION AND BACKGROUND OF THE STUDY

1.1 INTRODUCTION

The study focuses on an evaluation of the conditions of employment for domestic workers in Thulamela Local Municipality. Thulamela Municipality falls under the jurisdiction of Vhembe District Municipality. Thulamela has the following residential small towns: Thohoyandou, Makwarela, Shayandima, Muledane, Sibasa and Malamulele. These small towns have poor infrastructure and some of them have scarcity of water and electricity, water does not run for 24 hours due to poor management and security. Poor management by municipality leads to domestic challenges that affect dwellers of houses and domestic workers.

A domestic worker means any worker or independent person contracted who performs domestic work in a private household and who receives, or is entitled to receive a pay and includes- a gardener, driver of the motor vehicle, a person who takes children to school or who cares for them, the aged, the sick, the frail and the disabled (The Sectoral Determination 7: Domestic Workers, 2003). For the purpose of this study focus will be on the domestic workers and the evaluation of their basic conditions of employment.

This chapter will outline the introduction and background of the study, problem statement, aim of the study, objective of the study, research questions, significance of the study, delimitation of the study, limitation of the study and definitions of operational concepts.

1.2 BACKGROUND OF THE STUDY

The picture of domestic work that emerges is one of people – mainly women – entering the domestic service not by choice, but rather as a means to alleviate poverty. Domestic workers as members of a community service sector tend to exhibit similar characteristics globally: isolation, invisibility and low organisation. Black woman mainly perform domestic work in South Africa. The majority of workers have a primary education or less. Their average age is forty-one years. The majority of workers are based in rural area (Marais and Van Wyk, 2015:4). The main concern, which forms the main thrust of this interpretative study, is with regard to conditions of employment for domestic workers, challenges that they face on a daily basis, their safety at work and the intervention by the Department of Labour and local municipalities,(http://www.labour.gov.za/DOL/find-more-info/all-about-domestic-workers/2015/09/17).

© University of Venda

1.3 PROBLEM STATEMENT

Chapter 2 of the Constitution of the Republic of South Africa Act 1996 guarantees the fundamental rights to all workers including domestic workers. The Department of Labour has also made a law which regulates employment of domestic workers which is called the Sectoral Determination 7: Domestic Workers, 2015. The employment of domestic workers; which includes housekeepers, gardeners, nannies, domestic drivers; is governed by the Sectoral Determination 7: Domestic Workers, 2015. The Sectoral Determination 7: Domestic Workers, 2015 sets the minimum wages; working hours; number of leave days; and termination rules. The Sectoral Determination 7: Domestic Workers, 2015 applies to all domestic workers (including independent contractors and those employed by agencies), except domestic workers who work on farms; or are covered by another sectoral determination, or a bargaining council agreement. The Basic Conditions of Employment Act applies in respect of any matter not covered by this sectoral determination.Despite the provision of the policy above, there are some challenges such as minimum wage, hours of work, leave and certain conditions of employment that must be adhered to by their employers, workers being paid lower than prescribed by the law, workers working long hours than allowed and abuses like sexual abuse.

1.4 AIM OF THE STUDY

The aim of the study is to evaluate the conditions of employment for domestic workers in the Thulamela Municipality.

1.5 SPECIFIC OBJECTIVES

The following are the main objectives of the study:

- To evaluate the working conditions of domestic workers within Thulamela Municipality.
- To assess the rights of domestic workers.
- To describe the laws and acts governing domestic workers.

1.6 RESEARCH QUESTIONS

The following are the main objectives of the study:

- What are the conditions of employment for domestic workers?
- What are the rights of domestic workers?
- Which are the laws and acts that regulate domestic workers?

© University of Venda

University of Venda
Creating Future Leaders

1.7 SIGNIFICANCE OF THE STUDY

The study is needed because it will benefit domestic workers in knowing their conditions of employment in the domestic service, what their rights are and what is expected of them. The employers of domestic workers will also benefit by knowing how to treat their domestic workers and not to find themselves on the wrong side of the law by not complying. The recommendations of the researcher will help the Department of Labour to minimise disputes between domestic workers and their employers. The study findings will assist policy makers when developing specific policies which are related to conditions of domestic workers.

1.8 LIMITATION OF THE STUDY

This study might be limited by travelling expenses to the participants' places of work to do interviews where funds for travelling and for buying tapes to record participants. Some participants might give false information pretending as if everything is fine while it is not; some do it deliberately hiding information, some are just ignorant or over – enthusiastic. It might happen that the researcher gets skewed information by some members and the important information might be withheld or some domestic workers just don't respond to any question in fear of being expelled by the employer from employment.

1.9 DELIMITATION OF THE STUDY

This study focuses on rural small town areas (Thohoyandou, Makwarela, Shayandima, Muledane, Sibasa and Malamulele) in the Thulamela Municipality a predominantly rural area in the Limpopo Province in South Africa. The area has been chosen because of the geographic convenience to the researcher.

1.10 DEFINITIONS OF OPERATIONAL CONCEPTS

For the purpose of this research study, concepts have the meaning affixed thereto.

- **Agreement**

An agreement is a document in which the results of bargaining between employers and employees is contained; a written certificate in which the requirements and conditions of employment, resolution of disputes and any assumptions flowing from collective bargaining is contained (Fox and Meyer, 1995:6).

© University of Venda

- **Arbitration**

Arbitration is a system of settling disputes by reference to an independent judge, following an agreement by the parties. Arbitration is a way of dealing with issues, most commonly in commercial matters, without recourse to law: it is considered to be cheaper and quicker than a formal law case. It may also enable a matter to be settled with less acrimony, which is valuable if the parties are to deal with each other in the future, under the same contract or under another (http://lawexplores.com/arbitration-tribunal-adjudication-and-alternative-dispute-resolution/).

- **Basic Conditions of Employment**

Basic Conditions of Employment Act, 1997 discusses issues of minimum wage, hours of work, annual leave, sick leave, maternity leave, family responsibility, overtime, termination of employment, prohibition of child and forced labour. It is a provision of the Act or Sectoral determination that stipulates a minimum term or condition of employment (Du Plessis,and Foche, 2003:37).

- **Domestic worker**

Domestic worker means any domestic worker or independent contractor who performs domestic work in a private household and who receives, or entitled to receive a pay and includes- a gardener, driver of the motor vehicle, a person who takes children, the aged, the sick, the frail or the disabled, domestic workers employed or supplied by employment services (Du Plessis and Fouche, 2003:37).

- **Employee**

An employee is any person, excluding contractor, who works for another person or for the State and who receives or entitled to receive any remuneration; and any other person who in any manner assists in carrying on or conducting the business of an employer (Ernst and Young, 1990:5).

- **Employer**

An employer defines anybody having legal status and providing payment for service delivered (Standard for employees EAP's South Africa, 1999:6). For the purpose of this study employers refer to the employers of domestic workers.

© University of Venda

- **Employment service**

Employment service refers to means any person who recruits or a person who procures or provides domestic workers for clients in return for employment, regardless of which party pays the domestic worker. Employment is retention of an individual by a person or institution to provide labour in return for wages or other payment (Du Plessis and Fouche, 2003: 69).

- **Full pay**

Full pay refers to wages, overtime pay, allowances and any other payment in money that the domestic worker is entitled to in consequence of their employment (The Sectoral Determination 7: Domestic Workers, 2015).

- **Incapacity**

According to the Sectoral Determination 7: Domestic Workers, 2015 incapacity means the inability to work owing to sickness or injury.

- **Night work**

Night works refers to work performed after 18:00 and before 06:00 the next day. The employer must pay to the employee and allowance, which may a shift allowance or which may take the form of reducing working hours (Du Plessis and Fouche, 2003:41).

- **Ordinary hours of work**

Ordinary hours of work refer to the hours of work permitted in terms of clause 10 (Du Plessis and Fouche, 2003:4).

- **Overtime**

Overtime refers to the time that the domestic worker works during a day or in a week in excess of ordinary hours of work (Du Plessis and Fouche, 2003:41).

- **Paid leave**

Paid leave refers to any annual leave, paid sick leave or family responsibility leave that a domestic worker is entitled to in terms of Part E of The Sectoral Determination guide (The Sectoral Determination 7: Domestic Workers, 2015).

© University of Venda

- **Public holiday**

Public holiday refers to when a Monday is declared a public holiday because the actual date of the holiday falls on a Sunday, employees who cordially work on a Sunday are not entiled to two paid days off (Classen, 1997:137).

- **Sectoral Determination**

The Sectoral Determination 7: Domestic Workers, 2015is the law that lays down conditions of employment specifically for domestic worker.

- **Unemployment**

Unemployment is an enforced idleness of members of the workforce who are able and willing to work but cannot find jobs. In societies in which most people can earn a living only by working for others, being unable to find a job is a serious problem. Because of its human costs in deprivation and a feeling of rejection and personal failure, the extent of unemployment is widely used as a measure of workers' welfare. The proportion of workers unemployed also shows how well a nation's human resources are used and serves as an index of economic activity (Du Plessis and Fouche, 2003:67**).**

- **Wage**

Wage refers to the amount of money paid or payable to a domestic worker in respect of ordinary hours of work or, the hours a domestic worker normally works in a day or week (The Sectoral Determination 7: Domestic Workers, 2015).

- **Week**

In relation to a domestic worker, a week means the period of seven days within which the working week of the domestic worker normally falls (The Sectoral Determination 7: Domestic Workers, 2015).

- **Workplace**

Workplace means any place where a labourer or a worker works including domestic workers (The Sectoral Determination 7: Domestic Workers, 2015).

© University of Venda

University of Venda
Creating Future Leaders

1.11 ORGANISATION OF THE STUDY

This study is organised into 5 chapters. This section serves to indicated what the researcher intended to discuss in each chapter.

Chapter one: Introduction and background of the study

This chapter focuses on the statement of the problem, the aim of the study, specific objectives, the hypothesis, research questions, significance of the study, definitions of concepts, limitations of the study, delimitations of the study, ethical considerations and the organisation of the study.

Chapter two: Literature review

This chapter reviewed and evaluated the literature which was relevant to the conditions of employment for domestic workers. Legislative frameworks on domestic workers were discussed. The challenges which are faced by domestic workers, conditions, governmental intervention and monitoring and enforcement compliance by the employers of domestic workers were discussed in this chapter.

Chapter three: Research Design and Methodology

This chapter focuses on the design and methodology that was used in this study. It indicated the methods and important aspects that which were involved in the study. This involved issues like study area, study population, sampling, data collection method, data analysis and ethical considerations.

Chapter four: Data presentation, interpretation and analysis

In this chapter, collected data is analysed and interpreted. This is where the statistical package for social sciences as well as thematic methods are used. The overview of the study were summarised to provide the reader with what had transpired in the proceeding chapter.

Chapter five: Findings, recommendations and conclusions

In this chapter the researcher gave emphasis on the finding comparison of the research project. The researcher concludes her investigation by providing the necessary recommendations and possible implementations of the study.

© University of Venda

University of Venda
Creating Future Leaders

CHAPTER 2

LITERATURE REVIEW

2.1 INTRODUCTION

The literature presented in this section provided a framework from which the questions under examination in this research study were analyzed. In this section the researcher reviewed the literature of other researchers. The study evaluated the conditions of employment for the domestic workers. Issues about the study were discussed citing authors, acts, guides and legislations that have mentioned the conditions of employment.

2.2 DOMESTIC WORKERS AND THE LAW

With the promulgation of The Sectoral Determination 7: Domestic Workers, 2002, establishing the conditions of employment and minimum wages for domestic workers, the spotlight has been focused on this sector of employment. This article examines the content of the Sectoral Determination and the extent to which domestic workers are covered in all South African labour laws. The domestic worker sector accounts for about 18% of all people employed in South Africa (The Sectoral Determination 7: Domestic Workers, 2002). In the executive summary of the report produced by the Department of Labour in July 2001, following an investigation into the minimum wages and conditions of employment of domestic workers, the profile of the domestic worker is detailed as follows:

- The picture of domestic work that emerges is one of people – mainly women – entering the domestic service not by choice, but rather as a means to alleviate poverty.
- A domestic workers as members of a community service sector tend to exhibit similar characteristics globally: isolation, invisibility and low organisation.
- Black women mainly perform domestic work in South Africa. The majority of workers have a primary education or less. Their average age is forty – one years. The majority of workers are based in rural areas.
- Domestic workers find themselves in a highly individualised employment relationship, subjected to unequal power relations, which contribute towards their vulnerability.
- The challenge is to find a balance between decent employment standards, flexibility to meet the needs of the employers within the sector, and maintenance of increasing levels of employment (The Sectoral Determination 7: Domestic Workers, 2002).

UNIVERSITY OF VENDA
LIBRARY

© University of Venda

The Minister of Labour, acting in terms of section 51(1) of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), made The Sectoral Determination 7: Domestic Workers, 2002 establishing conditions of employment and minimum wages for employees in the domestic workers sector. The date of implementation was 1 September 2002.

2.3 LEGISLATIVE FRAMEWORK ON DOMESTIC WORKERS

Legislations pertaining to domestic workers and labour laws currently applicable to domestic workers in South Africa are as follows:

2.3.1 The Constitution of Republic of South Africa

The Constitution of the Republic of South Africa protects all domestic workers in South Africa who work under unbearable conditions and through Basic Conditions of Employment Act 75 of 1997 (BCEA) and Sectoral Determination, government is attempting to improve the labour conditions of domestic workers.

2.3.2 Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997)

The Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) applies to all employers and workers and regulates leave, working hours, employment contracts, deductions, pay slips and termination. Most of the provisions of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) that were applicable to domestic workers have been replaced by the Sectoral Determination 7: Domestic Workers, 2002. However, Section 1(4) of the Sectoral Determination 7: Domestic Workers, 2002 states that the provisions of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) apply to all domestic worker covered by this determination and their employers in respect of any matter not regulated by this Sectoral Determination.

2.3.3 The Labour Relations Act, 1995 (Act No. 66 of 1995)

The Labour Relations Act, 1995 (Act No. 66 of 1995) applies to all workers and employers and aims to advance economic development, social justice, labour peace and the democracy of the workplace. In terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), individual domestic workers have the right to join trade unions and take part in the lawful activities of trade unions. The only specific restrictions on rights in the domestic sector are contained in Section 17 and state that "office bearer or official of a representative trade union does not have the right to enter a home of the employer in the domestic sector unless the employer agrees". Furthermore, trade unions in the domestic sector do not have the right to disclosure of information as conferred by section 16 of this Act.

© University of Venda

The Labour Relations Act, 1995 (Act No. 66 of 1995) also provides for protection against unfair dismissal and unfair labour practices. Domestic workers who feel they have been unfairly dismissed or that an unfair labour practice has been committed have the right to refer such disputes to the CCMA or Labour Court. The Labour Relations Act, 1995 (Act No. 66 of 1995) also regulates the right to strike and contains no exclusions for domestic workers, save to say that an individual cannot go on strike. This is, however a sector in which there are low levels of organisation which have an impact on domestic worker' ability to bargain collectively for their rights.

2.3.4 The Unemployment Insurance Act, 2001 (Act No. 63 of 2001)

Unemployment Insurance Act, 2001 (Act No. No. 63 of 2001) prescribes how employers should contribute to the UIF Contribution Fund and also provides security to workers when they become unemployed. Domestic workers were included under the Unemployment Insurance Act from April 2003. They now have a claim under the Unemployment Insurance Act, 2001 (Act No. No. 63 of 2001) in the same way as other employees do. This means that they can claim benefits in the event of illness, unemployment or maternity leave and dependants can claim on the death of a contributor. They contribute 1% to the fund together with an equal contribution from their employer.

2.3.5 The Employment Equity Act, 1998 (Act No. 55 of 1998)

The Employment Equity Act, 1998 (Act No. 55 of 1998) applies to all employers and workers and protects workers and job seekers from unfair discrimination, and also provides a framework for implementing affirmative action. Domestic workers are included under the Employment Equity Act. This means they can claim for acts of unfair discrimination by their employers, whether during employment or at the time of application for employment. Unfair discrimination (as defined) is prohibited in any employment policy or practice (as defined). The exceptions to an allegation of unfair discrimination are affirmative action measures and the inherent requirements of the job.

The provisions of the Employment Equity Act, 1998 (Act No. 55 of 1998) regarding medical testing and testing for HIV/Aids also apply to domestic workers. Medical testing is prohibited unless legislation permits or requires the testing or it is justifiable in the light of medical facts, employment conditions, social policy, and the fair distribution of employee benefits or the inherent requirements of a job. Testing an employee to determine that employee's HIV status is prohibited unless testing is determining to be justifiable by the Labour Court.

© University of Venda

2.3.6 The Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)

The Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) aims to provide and regulate health and safety at the workplace for all workers The application of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) to the domestic worker sector is limited in practice. The appointment of Health and Safety representatives, although required by legislation, is likely to take place in the household environment and where only one domestic worker is employed. The likelihood of inspectors making visits to individual households is also slight, since such visits would be impractical (Armstrong, 1996: 805). There are areas of domestic work, particularly for gardeners, such as tree felling, that contain risks and the general duties stipulated in the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) would be pertinent in this regard. One of these duties is to take steps to eliminate or mitigate any hazard or potential hazard to the safety or health of employees. Further, a duty is not permit any employee to do any work or carry out any process or operate any plant or machinery unless the necessary precautionary measures have been taken.

2.3.7 The Skills Development Act, (Act No. 97 of 1998)

The Skills Development Act, 1998 (Act No. 97 of 1998) aims to develop and improve the skills of the South African workforce. Domestic workers are covered by the Skills Development Act. A home for the training of the domestic workers has been found under the Cleaning Chamber of the Services SETA. A massive training project, the Domestic Workers Skill Development Project, was launched. Financed by the Department OF Labour's Skill Fund to the tune of R120 million, the project aims to train 27 000 domestic workers around the country over the next three years. Trainees will receive formal recognition for their skills. The training is being overseen by the Service Sector Education and Training Authority (SETA), which has set up discrete chamber for domestic services, based in Port Elizabeth in the Eastern Cape.

2.3.8 The Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993)

The Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993) applies to workers who are affected by occupational injuries and diseases are entitled to compensation. Domestic workers are presently no covered by the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993). This leaves them unprotected when injuries occur on duty and any claims have to be pursued privately at their

© University of Venda

own expense. Two particular kinds of injuries identified by COSATU at the investigation in July 2001 were dog bites and injuries related to the use of electrical equipment. There are proposal to include domestic workers within the ambit of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993). Employers at the hearings were concerned about the administration and collection of monies in this respect.

2.4 DOMESTIC WORKERS RIGHTS

According to the Constitution which is the supreme law of this country Section 2 Subsection 23, domestic workers are protected by this law. Every employee has the right to make a complaint to a trade union representative, a trade union official or a labour inspector concerning any alleged failure or refused by an employer to comply with the Constitution. Discuss his or her conditions of employment with his or her fellow employees, his or her employer or any other person. Refuse to comply with an instruction that is contrary to this Act or any Sectoral Determination 7: Domestic Workers, 2015. Refuse to agree to any term or condition of employment that is contrary to the Constitution or any Sectoral Determination 7: Domestic Workers, 2015. Inspect any record kept in terms of this Act that relates to the employment of that employee. Participate in proceedings in terms of Sectoral Determination 7: Domestic Workers, 2015. Request a trade union representative or a labour inspector to inspect any record kept in terms of this Act and that relates to the employment of that employee.

Every trade union representative has the right, at the request of an employee, to inspect any record kept in terms of this Act that relates to the employment of that employee (Marais and Van Wyk, 2015:67). All employers must give workers, in writing, clear details regarding their employment and this contract must be kept for three years after termination. The provisions for employment contracts, however, do not apply to domestic workers working less than 24 hours a month for an employer. So if you employ a domestic worker for more than 24 hours a month make sure you both have signed copies of a document containing the following written particulars:

- Employer and Worker Details: employer's full name and address
- Employment Details: place/s of work, date of employment and working hours and days of work.
- Payment Details: salary or wage, or the rate and method of calculating wages; rate for overtime; any other cash payments; any payments in kind and their value; frequency of payment; any deductions and value and payment for any food or accommodation.

© University of Venda

- Leave Details: any leave to which the worker is entitled.
- Notice / Contract Period: period of notice required and period of contract

Make sure that the document is updated every time any one of these details change and remember that an employer must keep a copy of this document while the worker is employed, and for 3 years thereafter. If a worker is unable to understand the contract, the employer is to explain the information in a way that the farm worker understands.

On the September 2002, the Sectoral Determination 7: Domestic Worker Sector in South Africa became effective. The Sectoral Determination applies to the employment of all domestic workers in the Republic of South Africa and established conditions of employment and minimum wages for employees in the Domestic Worker Sector. .Every employer on whom the Sectoral Determination is binding must keep a copy of the Sectoral Determination or an official summary available in the workplace where the domestic worker has access. The Sectoral Determination is binding on domestic workers who work more than 24 hours per month for an employer. However, minimum wages and annual wage increases still apply to domestic workers who work less than 24 hours per month for an employer, even though the Sectoral Determination does not apply to them.

2.5 SECTORAL DETERMINATIONS

Sectoral Determinations are designed to enable the Minister to provide for the specific needs of particular employment sectors or areas by determining basic conditions for them. Ministering determinations are normally made in sectors where employees are not represented by unions. A Sectoral Determination may be promulgated only after the Director General of Labour has investigated conditions of employment in the sector and area concerned, and after the public has been invited to make representations (Grogan, 2010:87). The DG's report must be referred to the Employment Conditions Commission , which must consider, among other things, the ability of employers in the sector or area to carry on their business successfully; the needs of small, medium or micro-enterprises, and new enterprises; the cost of living wage differentials and inequality; the likely impact of any proposed condition of employment on current employment or the creation of employment and on the health, safety or welfare of employees (Finnemore, 2002:49).

Sectoral Determinations also set minimum terms and conditions employment, but may go further than the BCEA in that they may lay down minimum wages. Apart from wages, a sectoral determination may also regulate the manner, timing and other conditions of payment of remuneration; prohibit or regulate payment in kind; require employers to keep

© University of Venda

employment records and to provide them to their employees; set minimum standards for housing and sanitation for employees who reside on their employers' premises; regulate payment of travelling and other work-related allowances; specify minimum conditions of employment for trainees and persons other than employees; and regulate training and pension, provident, medical aid, sick pay, holiday and unemployment schemes or funds. A Sectoral determination may not be made for employees excluded from the provisions regulating working time (see above) or permit the employment of children under the age of 15, except for the performance of advertising, sports, artistic or cultural activities. Nor may the minister issue sectoral agreements in sectors governed by bargaining or statutory council agreements (Du Plessis and Fouche, 2003:96).

2.6 PARTICULARS OF EMPLOYMENT

Under the common law, a contract of employment needed to be reduced to writing. The BCEA prescribes that every employer must supply every employee, except those who work for 24 or fewer hours per months, with written particulars. According to Grogan (2010:75) these must record the employer's full name and address; the employee's name and the occupation of the employee, or a brief description of the work for which the employee is employed; the place of work, or an indication that the employee is required or permitted to work at various places; the date on which the employment commenced; the employee's ordinary hours and days of work; the wage or the rate and method of calculating wages; the rate for overtime work, if applicable; any other cash payments or payments in kind to which the employee is entitled; when remuneration will be paid; any deductions to be made from the employee's remuneration; the leave to which the employee is entitled; the period of notice of termination, or if employment is for a specified period, the date when employment is to terminate; description of any council or sectoral determination which covers the employer's business; any period of employment with a previous employer that counts towards the employee's period of employment; and a list of any other documents that that form that of the contract of employment, and where the employee may obtain a copy (Finnemore, 2002:68).

2.7 REMUNERATION IN DOMESTIC WORK

As long as employees tender service, they are entitled to be paid their earnings and other benefits as and when they are due under the applicable contract, determination or collective agreements. "Remuneration" is defined as any payments in money or in kind, or both in money and in mind, made or owing to any person in return for that person working for another person, including the State. Payment of remuneration may be paid in money or kind.

© University of Venda

If in money, employers must be paid in South African currency, daily, weekly, fortnightly or monthly and in cash, by cheque or by direct deposit into a bank account designated by the employee. Cash or cheques must be handed to employee at the workplace, unless otherwise agreed, during working hours or within 15 minutes of their commencement or conclusion, and in a sealed envelope together with information relating to the period for which payment is made. Earning an income to secure a livelihood for themselves and their families is the central concern and motivation of workers when offering their labour. This also holds true for domestic workers who represent considerable portions of the labour force and are predominantly women. What distinguish domestic workers from many other workers, however, is that they work in private households, their remuneration tends to be among the lowest in the labour market, and they tend to be informally engaged (Grogan, 2010:75).

2.8 WORKING HOURS

The common law gives parties complete freedom to regulate working hours. If the contract does not set maximum hours of work, the time during which the employee is obliged to render service is regulated by practice and custom. When maximum hours of work are stipulated in the contract or collective agreement, the employer may require the employee to work additional hours when circumstances so require. Although employees do not, strictly speaking, breach the contract if they refuse to reform non-contractual overtime, it has been held that employers may dismiss workers who persistently and unreasonably refuse to work overtime. Subject to the exceptions mentioned above, all employees may work only the maximum hours prescribed by the BCEA, except to the extent to which it is permissibly varied (Grogan, 2010:77).

2.9 MAXIMUM HOURS

In terms of the BCEA, and subject to certain exceptions mentioned below, no employer may require or permit an employee to work longer than 45 hours a week, or nine hours a day if the employee works five days or fewer per week and eight hours per day if the employee works more than five days a week. All work beyond that is overtime, which can be worked only with the employee's consent, which must be given annually. Overtime may not exceed 12 hours per day. Employees who serve customers may be required by agreement to work an extra 15 minutes per day at normal rates, but not more than 60 minutes in a week to complete their work. Work that must be done without delay due to circumstances which the employer 'could not reasonably have been expected to make provision' is not regarded as overtime. In addition to the duty to observe prescribed hours, employers are also required to regulate working hours in accordance with the provisions of any Act governing occupational

© University of Venda

health and safety, with due regard to the health, safety and family responsibilities of its employees, and any relevant code of good practice issued by the minister under the BCEA (Grogan, 2010:78).

2.10 OVERTIME

The rate for overtime is one and a half times the normal wage (i.e. money payable to employee, not the whole package), unless the employee is subsequently granted 30 minutes off on full pay for each hour of overtime works at normal rats, or 90 minutes off if the overtime was not paid at all. Time off in lieu of pay for overtime writing to a longer period of up to 12 months. Although overtime is voluntary, the BCEA does not affect the employer's right to require employees to work overtime in terms of the contract of employment or collective agreement. Refusal by an employee to perform contractual overtime may constitute a disciplinary offence or a strike. If contracts, collective agreements or wage determinations limit overtime to a certain number of hours, this does not mean that employers may compel their employees to work the overtime provided for; the employee's consent is still required before any overtime is worked. Employees are generally obliged to work overtime during emergencies, provided that the emergency is genuine. An operational requirement giving rise to a need to work overtime is not an emergency if it is foreseeable; even if employees have habitually worked overtime in given situations, that practice does not trump the BCEA (Grogan, 2010:79).

2.11 NIGHT WORK

According to Grogan (2010:80), special provision is made for night – i.e. those who work after 18h00 and before 06h00 the next day. Work may be performed during these hours only with the employees' consent. Night workers must be compensated with an 'allowance', the amount of which is no specified. Employees are not permitted to perform night work unless transport is available between their places of residence and the workplace at the commencement and conclusion of the shift. If employees work at night on a regular basis (i.e. at least 50 times a year), their employer must inform them of health and safety hazards associated with the work they are required to perform , and of their right to undergo a medical examination on request at the employer's expense. If the employee suffers a health problem associated with the performance of night work and it is 'reasonably practicable' to do so, the employer must transfer the employee to suitable day work within a reasonable time. Employees must, however, prove that night work is adversely affecting their health, or at least give the employer an opportunity to have them examined. They cannot simply refuse

© University of Venda

to perform night work. If it is not possible to move the employee to a daytime shift, the employer may then treat him or her as incapacitated.

2.12 MEAL AND REST BREAKS

According to Grogan (2010: 80), employees are entitled to a meal interval of one continuous hour after five hours' work, for which they must be paid if they required to work or be available for work; otherwise, meal intervals of an hour or more are not treated as paid working time. If, however, the break exceeds 75 minutes, the employees must be paid unless they live on the premises. Meal intervals may be reduced by agreement between employers and employees to no less than 30 minutes, or they may be dispensed with altogether if the employee works less than six hours in a day. If meal breaks are reduced to less than an hour, the breaks are still unpaid if the employees are paid hourly. Every employee is entitled to a daily rest period of at least 12 consecutive hours between the end of a day's work and the start of the next, and to a weekly rest period of at least 36 consecutive hours, which must include a Sunday, unless otherwise agreed. Daily rest periods may be reduced by written agreement to 10 hours if the employee lives on the premises and ha a meal interval of longer than three hours. Weekly rest periods may be altered by agreement to 60 hours per fortnight, or be reduced by up to eight hours in any week if the period in the following one is extended proportionately.

2.13 LEAVE

In the Regulations under Ord. 10 of 1912 (G) means a holiday or vacation resulting from an employee`s release from work by permission of his/her employer at a time when the terms of his/her engagement require him to be available for work (Classen, 1997: L17).

2.13.1 Annual Leave

With the exception only of those who work for fewer than 24 hours, all employees, irrespective of status or remuneration, are entitled to annual leave of at least 21 consecutive days per annual leave cycle of 12 months, commencing on employment or at the end of the previous leave cycle. Annual leave must be on full normal pay, and may in the absence of agreement to the contrary be granted at a time specified by the employer, except that leave must be taken within six months of the completion of the previous leave cycle. Employees must be paid before they take their leave, and employees may not be paid in lieu of taking leave. If a public holiday falls in a period of a leave, the employee's must be extended by a

© University of Venda

day. Employees are entitled on written request to take paid annual leave during a period of unpaid leave (Grogan, 2010:81).

The method of calculating leave due may be changed by agreement to one day's leave for every 17 days worked, or one hour's leave for every 17 hours worked. If an employee takes occasional leave, the period of continuous annual leave may be reduced proportionately. Leave may not be taken during a period of sick leave or while the employee is on notice of termination of service, and an employer may not permit the employee to work during a period of leave, or pay the employee in lieu of leave, except on termination of employment. Employees must be paid for their leave before it commences or, by agreement, on normal pay days. On termination of service, an employee is entitled to be paid for any leave due but not taken, and to leave accrued during an incomplete annual leave cycle at the rate of one day's pay for each 17 days worked. It appears that employees who do not take the full 21 days leave during a particular work cycle may accumulate days not taken and claim leave for those days in subsequent cycles. However, employees may not under the BCEA claim payment for leave taken during leave cycles prior to the current cycle at the time of the termination of their employment (whether by dismissal or resignation). Leave accrued during earlier leave cycles may be claimed under the contract of employment in respect of days in excess of those provided for in the BCEA, provided the contract does not contain a forfeiture clause (Grogan, 2010: 82).

2.13.2 Sick Leave

Employees are entitled to one day's paid sick leave for every 26 days worked during the first four months of employment, and thereafter to the number of days they normally work in six weeks during each 36-month cycle. Pay during sick leave may be reduced by agreement below the normal rate received by the employee if the number of days' paid sick leave is increased at least commensurately with any reduction in the daily amount of sick pay, provided that the rate is not reduced to below three-quarters of normal wage and the number of days granted is at least the equivalent of what the employee normally works in six weeks (Grogan, 2010:82).

The right to sick leave accrues only when the employee cannot work because of incapacity, which means inability to work owing to sickness or injury. The requirement set by the 1983 BCEA that the incapacity must not have been caused by the employee's conduct no longer applies – the only circumstance in which sick leave cannot be claimed by an employee who is unable to work because of illness or injury is when the incapacity was caused by an illness or accident defined in the Compensation for Occupational Injuries and Diseases Act 130 of

© University of Venda

1993 or the Occupational Diseases in Mines and Works Act, 1973 (Act No. 78 of 1973), and during the time for which compensation can be claimed under these Acts. According to Marais and Van Wyk, 2015: 107, employees are entitled to paid sick leave if they are absent for more than two days, or for more than one day if more than two absences occurred in a space of eight weeks, but only if they produce a medical certificate issued by a medical practitioner or a person certified to diagnose and treat patients and who is registered with some statutory body. No medical certificate is required for an isolated day's sick leave. If the employee lives on the employer's premises, the employer must provide 'reasonable assistance' if necessary to enable the employee to obtain a medical certificate.

2.13.3 Maternity Leave

The 1983 BCEA merely prohibited the employment of pregnant women for 12 weeks – four weeks prior to confinement and eight weeks thereafter – but it did not expressly protect women against dismissal if they fell pregnant. The LRA confirms the unease expressed by the erstwhile industrial court over situation by defining the refusal to allow an employee to resume work after she took maternity leave as a dismissal, and declaring of an employee on the grounds of pregnancy or 'intended pregnancy' or 'any reason related to her pregnancy' automatically unfair (Grogan, 2010:83).

The current BCEA adopts a different approach and terminology. It confers a right to four consecutive months' unpaid maternity leave, which may commence at any time from four weeks before the expected date of birth or from a date from which a medical practitioner or midwife certifies that leave is necessary for the health of the mother or child. No employee may work for six weeks after the birth (whether or not the child is born alive or miscarries) unless a medical practitioner or midwife certifies that it is safe for her to do so. The only obligation resting on the employee is that she must notify the employer in writing, if she can write, of the date on which she intends to start maternity leave within four weeks of that date or when reasonably practicable. According to Grogan, (2010:83), pregnant or nursing mothers who choose to return to work are also protected. Employers may not employ them in work that is hazardous to the health of mother or child, and if the mother is required to do night work, the employer must offer her suitable alternative employment if there is a threat to her health and if reasonably practicable. The wages of new and expectant mothers on maternity leave are carried in part by the state in terms of section 24 of the Unemployment Insurance Act, 2001 (Act No. 63 of 2001).

© University of Venda

2.13.4 Family Responsibility Leave

Any employee who has been in employment for longer than four months and who works four days or more for the employer is also entitled to three days paid leave during each 12 months leave cycle to discharge 'family responsibilities 'in certain circumstances – i.e. when the employee's child is born or falls ill, or in the event of the death of a spouse or 'life partner', parent, adoptive parent, grandparent, child, adopted child, grandchild or sibling. 'Reasonable proof' of such events may be demanded by the employer and any unused amount of family responsibility leave lapses at the end of the cycle. The employer may demand proof that the leave was taken for an authorised purpose. This entitlement may be varied only by collective agreement (Grogan, 2010:83).

2.13.5 Work on Sunday and public holidays

Sundays and public holidays remain rest days for employees, and expensive ones if the employer requires works to forego them. Sunday work must be remunerated at double the normal rate for each hour worked by the employee, or at time and a half if the employee ordinarily works on a Sunday or at the ordinary daily wage if it exceeds the amount earned at Sunday rates. If the greater part of a shift falls on a Sunday, the whole of that shift is deemed Sunday work. The only way employers can avoid paying the higher Sunday rates is to conclude an agreement with the employees or their unions in terms of which the employees are given paid time off equivalent to the difference in value of the received by the employee on a Sunday and the prescribed Sunday rates. So if employees are paid normal rates on Sunday, they must be given a day off on normal pay. The day off in lieu of Sunday work must be given within a month of the Sunday in question, unless the employee agrees to take it after a longer period.

Except when employees agree to the contrary, employers may not require employees to work on proclaimed public holidays. Employees not required to work on public holidays falling on ordinary working days must be paid their normal wage for those days. If employees work on public holidays that fall on ordinary working days, they must be paid at double their ordinary rate. If the public holiday falls on a day when the employees do not normally work, they must be paid their ordinary wage plus the amount earned by the employees for work done on that day, whether calculated by reference to time or by any other method. Like those spanning an ordinary day and a Sunday, shifts overlapping public holidays are deemed to occur wholly within them if the major part falls on the holiday (Grogan, 2010: 84). When a public holiday falls on a Sunday, both Sunday and the following Monday are separate public holidays. Workers who normally work on Sundays are therefore entitled to

© University of Venda

both days off on full pay. The same applies in the unlikely event of two public holidays falling on the same calendar date (Grogan, 2010:84).

2.14 RIGHTS ON TERMINATION OF EMPLOYMENT

The BCEA does not regulate when and under which circumstances employees may be dismissed, but merely specifies the manner in which dismissals must be effected, and the rights to which employees are entitled on termination of service, whether at their own instance or at the instance of the employer (Grogan, 2010:84). All employees working for 24 hours per month or more for a particular employer are entitled to notice if the employer terminates the contract, or must give notice if they resign. The statutory notice periods are one week for employees who have worked for six months or less for the particular employer, two weeks, if the employee has been employed for more than six months but less than a year, and four weeks after that (Grogan, 2010:84). The parties may agree to longer periods of notice, but not to shorter, provided that the notice periods agreed to do not require the employer t give longer notice than the employee. The notice may be given on any day of the week, unless the contract requires a calendar month, in which case the notice takes effect from the beginning of the month, and expires at the end of that month. Notice of termination must be in writing, even to illiterate employees, to whom the notice must be explained in a language they understand. However, illiterate employees need not give notice in writing. Notice must not be given during any period of leave to which the employee is entitled, or, with the exception of sick leave, may not run concurrently with such leave. A dismissal in contravention of this provision is a nullity. However, the employer may tender pay in lieu of compliance with this provision (Grogan, 2010:85).

The BCEA specifically states that the mere fact that an employer complies with its notice provisions does not detract from the right to dispute the lawfulness or fairness of the dismissal under the LRA or any other law. 'Any cause recognised in law' means a breach of contract by the guilty party sufficiently serious to allow the innocent party to accept to accept the repudiation. This would normally take the form of 'misconduct' or a wilful failure by the party to fulfil hi contractual obligations. According to Grogan (2010:85), where notice is due, the employer may release the employee immediately, provided the employee is paid the amount due had he or she worked during the notice period. The same applies where the employee gives notice, unless the parties agree otherwise.

Unlike its predecessor, the current BCEA does not give employers an automatic right to deduct from the pay of an employee who does not give the required notice an amount equal to the notice the employee would have earned had he worked out the notice period.

© University of Venda

However, the employer may sue for damages, if these can be proved. Where the employees reside in accommodation provided by the employer, whether on or off the workplace, the employee is entitled to remain in the accommodation until the notice period expires, or if the employee is paid in lieu of notice, for one month from the date on which notice is given, or if the notice period is longer than one month, until the contract would have terminated (Grogan, 2010: 85).

2.15 LOW PAY IN DOMESTIC WORK: A GLOBAL PHENOMENON

Statistical data on domestic workers' remuneration indicates that domestic work is among the lowest paid occupations in any labour market. In fact, domestic workers typically earn less than half of average wages and sometimes no more than about 20 per cent of average wages. When it comes to explaining low levels of remuneration among domestic workers a range of factors can be considered, which tend to be interlinked. One major factor is the generally low level of education of domestic ((International Labour Organisation, 2010:41 and 54). Other factors are the phenomenon of undervaluation of domestic work, pay discrimination and low bargaining power of domestic workers.

2.16 DOMESTIC WORKER AND EDUCATION

Most domestic workers work in the informal and unregulated sectors. Most of them are unskilled workers (Finnemore, 2002:18). He then defined the informal sector as the unorganised and unregulated sector with mostly legal but unregulated economic activities. The wages and employment conditions of domestic workers have raised worldwide concern for many decades. As far back as1965, the International Labour Conference adopted resolution on the conditions of employment of domestic workers. The resolution recognised the urgent need to establish minimum living standards that are compatible with the self-respect and human dignity which are essential to social justice for domestic workers in developed as well as developing countries.

2.17 A ROLE FOR SOCIAL PARTNERS AND COLLECTIVE BARGAINING

Giving the force of law to the provisions of collective agreements is also a means to set minimum wages. In practice, this method is unsurprisingly less common with respect to domestic work, given the current low level of collective organisation of workers and employers in this sector. Where organizations of domestic workers and employers exist, they may not be recognized as bargaining agents under the prevailing industrial relations system; however, in some countries, mainstream unions have taken on to negotiate on behalf of

© University of Venda

domestic workers e.g. Italy. While collective agreements on domestic workers' wages remain an exception globally, it is clear that workers' and employers' organisations can play an important role in the preparation and /or making of minimum wage decisions in favour of domestic workers, particularly in systems where tripartite bodies for this purpose have been put in place. Social partner involvement is a basic principle embraced by ILO standards on minimum wage setting (International Labour Organisation, 2002:117).

2.18 UNIFORM

Employers may require their domestic workers to wear a uniform, livery of other domestic worker when in their employers `residence. The uniform is usually simple, and was even in the 19th century and 20th centuries (Du Toit, 2000:202). Female servants wore long, plain, dark – coloured dresses or black skirts with white belts and white blouses, and black shoes, and male servants and butlers wear something from a simple suit, or a white dress shirt, often with tie and knickers. In traditional portrayals, the attire of domestic workers especially was typically more formal and conservative than that of those whom they serve. For example, in films of the early 20th century, a butler might appear in a tailcoat, while male family members and guests appeared in lounge suits or sports jackets and trousers depending on the occasion. It later portrayals, the employer and guests might wear casual slacks or even jeans, while a male domestic worker wore a jacket and a tie or a white dress shirt with black pants, necktie or bowtie, maybe even waistcoat, or a female domestic worker either a blouse and skirt (or trousers) or a dress.

2.19 DOMESTIC WORKER AND THE DOMESTIC MADAM

A huge chunk of the South African workforce – an estimated one million people – is made up of domestic workers. In many cities, almost every home has "domestic quarters" in the yard or garden. Maids or domestics are an integral feature of the South African landscape, as is the "maids and madams" relationship so successfully satirised in the world – famous cartoon, Madam and Eve. In the cartoon, the traditional power balance in the maid / madam relationship is turned upside down: Eve, the domestic worker, has her "madam" firmly under her thumb (Du Toit, 2000: 191). In reality, the situation is usually very different. For years, domestic workers have been among the most exploited of all workers – labouring long hours for meagre pay, often on the receiving end of abuse by their employers (http//www.southafrica.info). In recent years, significant steps have been taken to improve their situation: minimum wage has been set, specific working conditions have been laid down, and other measures have been put in place to regulate a previously unregulated

© University of Venda

industry. Steps are also being taken to train domestic workers and give them formal recognition for their skills.

2.20 UNFAIR DISCRIMINATION

The Employment Equity Act (EEA) begins by placing a positive obligation on all employers to 'promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice'. This obligation is reinforced by a prohibition on unfair discrimination, which reads: no person may unfairly discriminate, either directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth. The EEA also expressly includes harassment of an employee on any of the listed ground. Section 6 prohibits unfair discrimination against employees by any person. This could possibly extend the ambit of the prohibition to parties to work relationships other than employers of the employee concerned, such as temporary employment services. However, the person discriminated against must be an employee, which in this instance includes applicants for employment, who are expressly protected against unfair discrimination (Grogan, 2010:171).

2.21 DOMESTIC WORKER ABUSE AND FORCED LABOUR

Abuse include but are not excluded to food deprivation, long working hours with adequate rest, unpaid wages, forced prolonged solitary confinement in a employer' s home, verbal, physical and sexual abuse. A number of domestic workers are abused by the agents themselves, whose abuses include the confiscation of personal belongings such as passports, illegal or dangerous job assignments, the refusal to remove domestic works from abusive employers and the exorbitant recruitment fees. According to the domestic worker interview by the Human Rights Watch (http://domesticworkerabuse.pbworks.com/2015/5/17). Section 13 Bill of Rights in the South Africa Constitution says no one may be subjected to slavery, servitude or forced labour (Finnemore, 2002:38). All forced labour is abolished.

2.22 HOW TO BRING ABOUT COMPLIANCE

Extending legal protection against wages paid leave below the legal minimum, non-payment of wages and other abusive practices to domestic workers is crucial. Domestic workers should enjoy protection of labour law in these areas, as other workers do. The prospect of being subject to legal enforcement measures and adequate sanctions is an important factor

© University of Venda

in ensuring compliance with standards protecting domestic workers` remuneration, as is broad dissemination of information on applicable laws do domestic workers and their employers. When it comes to designing and establishing appropriate mechanisms and procedures for the supervision and enforcement of applicable laws with respect on domestic work, there is no one-size approach. However, systems combining various approaches are more likely to take the specific characteristics of the domestic work employment relationship into account and hence are more likely to offer satisfactory responses in dealing with situations of dispute and non-compliance. Particular attention needs to be given to the fact that domestic workers and their employers may not be familiar with applicable laws and may lack the ability of engaging with complex procedures (http://www.ilo.org/global/domestic/workers/2002/109/2015/07/15)). Pursuing litigation may not be desired by or feasible for, the parties in most cases.

2.23 MONITORING AND ENFORCEMENT OF BASIC CONDITIONS

Basic conditions are monitored and enforced by labour inspectors appointed by the Minister of Labour. Their main functions are to advices employees and employers of their rights and obligations under employment laws, to conduct inspections in workplaces, to investigate complaints and to endeavour to secure compliance employment laws by, first, securing undertakings or, failing that, issuing compliance orders (Grogan, 2010: 89). Undertakings may be sought or compliance orders issued only if a labour inspector has reasonable grounds to believe that an employer is not complying with a basic condition, a regulation or a sectoral agreement, and if one of the express limitations set out in the Basic Conditions of Employment Act do not apply. The Act provides that compliance orders may not be issued in four sets of circumstances:

- If the employee is covered by a collective agreement which provides for the referral of dispute relating to amounts owing under the BCEA for arbitration;
- Where the employee concerned are senior managerial employees; with regard to working time; and
- Where proceedings for the recovery of the amounts concerned are spending; in respect of claims more than one year old.

Employers may object to the director-general against compliance orders, and, if the objection is rejected, may appeal to the Labour Court. If an employer fails to comply without resorting to objection and appeal, or after an appeal fails, the compliance order may on application by the director-general be made an order of the Labour Court (Grogan, 2010: 90). Individual employees may also enforce their rights under the BCEA in the Labour Court

© University of Venda

or the civil courts. If the claim is to compel the employer to comply with a basic condition of employment, however, individual employees must probably first exhaust the processes available to them via the Department of Labour. This was the approach taken in Chemical Energy Paper Printing Wood & Applied Workers Union & another v Les-Sel Research (Pty) Ltd, in which the court declined to enforce payment of the monetary component of an arbitration award, which the employee argued had revived her contract and entitled her to be paid from the date of her dismissal the date of the order reinstating her. However, employees may press claims for breach of contract in either the Labour Court or the civil courts, even if a basic condition of employment constitutes a term of the contract (Grogan, 2010: 90).

2.24 APPROACHES TO MONITORING AND ENFORCING LABOUR LAW IN THE DOMESTIC WORK SECTOR.

These approaches may include the following:

- **Conciliation and mediation:** uncertainty about the respective rights and obligations of the parties to the employment relationship are frequent in the context of domestic work. Mechanisms providing information, advice and recommendations on how to address disagreements, which can be approached by workers and employers in a non- formal manner an opportunity to settle disputes in a consensual manner while preserving the employment relationship (Du Plessis and Fouche, 2003:149)

- **On-going supervision:** specific public authority, such as the labour inspection service, is designated as responsible for supervising and monitoring applicable laws and regulations. Registration of domestic work contracts with the labour administrations or the social security, including through internet-based facilities, allows for on-going supervision of working conditions, including remuneration. Routine supervision can be based on records kept by households, as may be required under the law. Where visits by labour inspectors in private homes are envisaged, an appropriate legal framework should be in place to ensure respect for privacy rights (Summers, 2001:29)

- **COMPLAINTS-BASED APPROACHES:** judicial and administrative complaints mechanisms, as a matter of last resort, to ensure the right to access to justice and to obtain enforceable decisions (Feldman, 2004: 30)

© University of Venda

2.25 CONCLUSION

In this chapter, the researcher dealt with the literature review referring to the similar problems that the domestic workers as workers are encountering and the treatment given to them by their employers. The role of the Department of Labour to ensure that all the workers are protected from unfair discrimination and abuse making sure those domestic workers know their rights and obligations together with their employers. The law enforcers ensure that there is compliance on the side of the employers and workers are given what is due to them. The domestic workforce is governed by the stipulated laws and legislations form different authors around the globe. There can be no doubt that Sectoral Determination 7: Domestic Workers, 2002 and 2015 will have far-reaching consequences for the employers of domestic workers. Whether the employers of domestic workers will acquaint themselves sufficiently with the content of the Sectoral Determination 7: Domestic Workers, 2015 will depend to a large extent on the education that accompanies the new changes and the enforcement by the inspectors of the provisions of Sectoral Determination 7: Domestic Workers, 2015.

© University of Venda

University of Venda
Creating Future Leaders

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION

This Chapter discusses the research design and methodology to be followed when conducting this study. This Chapter will also present the study area, population of the study, sampling, data collection, data analysis and ethical considerations.

3.2 RESEARCH DESIGN

Research design is a set of logical steps taken by a researcher to answer the research questions (Brink, 2006:92). Mouton (2001:55) describes a research design as a plan or blue print (a structural framework) of how the researcher intends to conduct the research in order to solve the research problem. The researcher used field of study as a research design. The reason for using fields study is because it enables the researcher to evaluate the conditions of employment for domestic workers. McMillan & Schumacher (2001:166) regard research design as a "plan for selection of subjects, research sites and data collection procedure to answer the research questions". The design shows which individuals will be interviewed, where and when, and under which circumstances they will be studied. Most literature distinguishes between two broad categories of research design, qualitative and quantitative. The aim of this chapter was to unpack methodologies that were used to achieve the objectives of the research.

3.3 RESEARCH METHODOLOGY

Research methodology refers to a design according to which the researcher selects data and analyse procedure to investigate a specific problem (McMillan and Schumacher, 2001:9). Ghauri and Gronhaug (2005:108) describe research methodology as a systematic, focused and orderly collection of data for the purpose of obtaining information the respondents, to solve or answer a particular research problem or question. Both quantitative and qualitative research paradigms will be used. This is meant to select suitable paradigms for this research. The use of more than one paradigm (triangulation) is further meant to combine appropriate research perspective and methods that are suitable for taking into account as many aspects of a problem as possible.

Qualitative research is a term that denotes the types of inquiry in which qualities, characteristics or properties of a phenomenon are examined for better understand and explanation (Hening, Van Rensburg & Smit 2005:5). The researcher finds out what happens,

© University of Venda

how it happens and why it happens the way it does. The researcher is not only interested in the actions of the domestic workers but also try to find out how they represent their feelings and thoughts in their actions as they navigate their way through this path. According to Hening et al (2005:3) through qualitative study, the researcher will be able to capture the freedom and natural development of the domestic workers' actions and presentations. The researcher wants to develop and explain in argument by using evidence from data and from literature, how the basic conditions of employment affect domestic workers and whether their employers do comply with minimum wage and other basic conditions of employment. In quantitative study participants have more open-ended way of giving their views and demonstrating their actions (Hening et al 2005:5).In qualitative study, the researcher becomes the main instrument of research and makes meaning from the engagement in the project (Hening et al 2005:7). According to McMillan & Schumacher, (2001:396) qualitative research is first concerned with understanding the social phenomenon from the participants' perspective (point of view), which Brink (1996:12) regards as the emic perspective. The researcher studied participants' perspective with interactive strategies to obtain valid data e.g. interview, observation and document analysis.

Quantitative research design refers to a process where the researcher applies various statistical and mathematical methods or techniques that focus on separate or specific variables in the data set (Mouton 2009:161). Quantitative research designs are defined as the techniques associated with the gathering, analysing, interpretation and presentation of numerical information (Teddie and Tashakkori, 2009:5). The researcher used this method because it is less consuming and the researcher can easily access the respondents easily. The objective of quantitative research is to develop and employ mathematical models, theories and/or hypotheses pertaining to phenomena. The process of measurement is central to quantitative research because it provides the fundamental connection between empirical observation and mathematical expression of quantitative relationships. Quantitative data is any data that is in numerical form such as statistics, percentages, etc. In layman's terms, this means that the quantitative researcher asks a specific, narrow question and collects a sample of numerical data from participants to answer the question. The researcher analyzes the data with the help of statistics.

© University of Venda

University of Venda
Creating Future Leaders

3.4 STUDY AREA

The study consisted of residential units. At each unit both the employer and the employee were interviewed. This was purposely done in order to avoid biasness in the responses and to hear both sides of the story. The employer sometimes represents a multiple household, defined as consisting of one or more households, or a group or more people, dependent on the same collective source and living in one home (Bureau of Market Research, 1986: 2). The research study focused on the domestic workers in small towns within Thulamela Local Municipality. Thulamela Local Municipality is situated under the jurisdiction of Vhembe Municipality. The researcher has chosen domestic workers from Thulamela Local Municipality because of its geographical convenience. It will be easy for the researcher to locate domestic workers at these small towns from Thulamela Municipality.

3.5 STUDY POPULATION

According to Asika (2000:39), population of a research as all conceivable elements, subjects or observations relating to a particular phenomenon of interest to the researcher. Ghaurri and Gronhaug (2005:147) relate population to the total universe of units from the sample to be selected. The population of this study is a group of people the researcher wanted to draw conclusions. This means that a researcher cannot study an entire population but a few. According to Terre Blanche, Durkeim and Painter (2006:133), the population is the pool from which sampling elements are drawn, and to which the research would want to generalise the findings. For the purpose of this research the population will be 1500 citizens which consisted of domestic workers, departmental officials from the Department of Labour, employers of the domestic workers of Thulamela Municipality.

3.6 SAMPLING

Sampling involves decisions about which people, settings, events, behaviours or social processes to observe. The main concern in sampling is representativeness. The main aim of sampling is to select a sample that will be representative of the population about which the researcher aims to draw conclusions (Terre Blanche and Dunheim, 2002:44). Sampling is the process of selecting a number of individuals for a study in such a way that the individuals represent the larger group from which they were selected (Gay, 1996:111).Sampling means taking any portion of a population as representative of that population (Strydom and De Vos, 1998, 190). For this study, sampling will be based on purposive sampling.

© University of Venda

3.7 SAMPLE SIZE

The study is going to involve households which are purposefully selected from Thulamela Municipality in the Limpopo Province. The sample size consists of 35 participants who consist of 5 officials from department of labour, 10 employers and 60 domestic workers. See table 1.1.

Table 1.1 Sample Size

Respondents	Population	Sampled
Domestic workers	160	20
Employers	100	10
Departmental officials	10	05
Total	270	35

3.8 SAMPLING METHOD

The researcher used non – probability and its sub type purposive sampling method to select the respondents of the study. Purposive sampling is a non – random sample in which the researcher uses a wide range of methods to allocate all possible cases of a highly specific and difficult to reach the population (Lawrence and Neuman 2014:273). Purposive sampling techniques are defined as selecting units based on specific purposes associated with answering a research study questions (Teddie and Tashakkori 2009:170). In this study method the researcher chose respondents which are domestic workers, employers were chosen because they are directly affected by the conditions of employment and the officials from the department of labour who are the law enforcers. Purposeful sampling is selecting information – rich for study in-depth (McMillan and Schumacher 2001:400). It is when wants to understand something about the cases without needing or desiring to generalise to all such cases (Patton 1990:169) cited in McMillan and Schumacher. Purposeful sampling is done to increase utility of information obtained from small samples. The researcher searches for information –rich key informants, because they are likely to be knowledgeable and informative about the phenomena the researcher is searching, ((McMillan and Schumacher 2001:401). This method uses the judgement of a researcher in selecting cases with a specific purpose in mind.

© University of Venda

3.9 DATA COLLECTION METHOD

Data collection methods are methods used by the researcher to collect information from the respondents using instruments (Kumar 2011:159). Data collection method is the gathering of information needed by a researcher to address a research problem (Polit and Hungler 1995:639). For this study two data collection instruments were use, namely questionnaire and interview. A questionnaire refers to a set of questions on a form which is completed by the respondent in respect of a research project, and a questionnaire is the only practical approach which is simpler compared to other instruments (Goddard and Melville 2001:46, 49). A questionnaire is a written list of questions, the answers to which are recorded by respondents (Kumar 2011:45). The researcher will distribute questionnaires to respondents. On the second day, the researcher will go and collect all questionnaires from respondents. As part of this research, a questionnaire becomes a very common technique for collecting data. This method will be used because it is economical, contains standard questions and uses uniform procedures and it is easy to score because it has the same questions for all subjects and can ensure anonymity.

Interview is a verbal interchange, often face to face, though the telephone may be used, in which an interviewer tries to elicit information, beliefs or opinion from the other person (Kumar, 2011:144). Interview is a method of data collection in which on person (an interviewer) asks questions of another person (respondents) (Polit and Hungler, 1995:188) For this study, the researcher used an open-ended interview, in order to gain a detailed picture of participants' beliefs and perception of their experience, of how domestic workers perceive their conditions of employment (De Vos, Strydom, Fouche & Delport 2005:296). The researcher will ask questions to obtain meaningful information, and to find out what is on the participants' mind, since this cannot be directly observed or measured. According to Merriam (1998) (cited in Varley 2004:40) interviews bring new discoveries, broaden experiences and confirm previous knowledge.

3.10 DATA ANALYSIS

Data analysis refers to organizing, analysing and interpretation of data, (McMillan & Schumacher 2001:466). It is the process of bringing order, structure and meaning to the mass of data (De Vos, 2002:339). According to Mouton, (2009:161) data analysis is the breaking down of data into single units of categories in order to ascertain meaning to the conclusive whole. This is important because it is limited – time project. Data collected using questionnaire was analysed using Statistical Package for the Social Sciences (SPSS).. Data was analysed by statistical analyses to make sense of the data. The advantages of using

© University of Venda

SPSS includes: They can handle large data sets, are fast to accomplish tasks, summarises and displays data in table and the results are presented in easy-to-read table format (Leedy et al, 2005: 275). Data collected through interview was analysed using thematic analysis and the information will be presented in a narrative form. The steps are outlined below:

- **Step 1: Planning for recording data:** The researcher should plan to record data in a more systematic manner before collecting data.
- **Step 2: Data collection and Preliminary Analysis**: Data analysis is qualitative inquiry necessitates a twofold approach. The second one involves data analysis at the research site.
- **Step 3: Managing (organising) Data**: This is the early stage in analysis, which involves the researcher organising his / her data into file folders, index cards or computer files.
- **Step 4: Reading and Writing Memos:** After the researcher has organised the data, the researcher immerses himself in the details to try and get a sense of the interview as a whole before breaking it into parts.
- **Step 5: Generating Categories, Themes and patterns**: This steps involves noting regularities in the settings or people chosen for the study. As the cateries emerge, the researcher searches for those that have internal convergence and external divergence.
- **Step 6: Coding the Data:** The researcher has to apply some coding scheme to those categories and themes, by diligently and thoroughly marking passages in the data. Codes may take several forms, for example abbreviation of key words, colours dots and numbers. The choice is up to the researcher.
- **Step 7: Testing Emergent Understanding**: The researcher begins the process of evaluating the possibility of her / his understanding and explores them through the data.
- **Step 8: Searching for Alternative Explanations:** In this step as the researcher discovers the patterns in the data, he or she should engage in critically challenging the patterns that seem to be apparent. The researcher should search for other possible explanations for those data and the linkage among them.
- **Step 9: Writing the report**: This is the final step in which the researcher writes a report and explains the data in detail. The researcher engages in an interpretative act and gives meaning to raw data.

© University of Venda

3.11 ETHICAL CONSIDERATION

Ethics is defined as the branch of philosophy dealing with values that relate to human conduct, with respect to the rightness or wrongness of specific actions, and to the goodness or badness of the motive and ends of such actions (Mafunisa, 2000:79).according to Chapman (1993:16) argues that ethics is concerned not only with distinguishing right from wrong and good from bad, but also with the commitment to do what is right or acceptable. The ethics which will be followed in this study are discussed below. A study based on domestic workers is sensitive and degrading in nature taking into account the confidentiality clause, fear of being dismissed; this will mean that ensuring ethical treatment of subjects is of high priority. The study will conform to accepted codes of practice and care will be taken to ensure that the welfare of all research participants are protected. In this study participants will not be harmed emotionally and financially. The ethics which will be followed in the study are discussed below:

3.11.1 Permission to conduct a research

Permission to conduct a research was requested from the Regional Manager of Vhembe in the Department of Labour found at Thulamela Municipality. The purpose was to ensure that research participants were aware of the value of participating in the research project. In order for the researcher to collect data research there must be a letter which will allow the researcher to go and collect data.

3.11.2 Informed consent

Participants will be informed of the purpose of the study, and regarded their right to informed consent. Fontana and Frey (1994: 372) indicate that it is important for researchers to receive consent from the subject after he or she has been carefully and truthfully informed about the research. And also, subjects must be protected from harm. The participants will also be informed about the methods of data collection and the right not to answer any particular questions and to ask that the tape recorder be turned off at any time. Furthermore, the researcher will promise that all data and tape recordings would be kept confidential and that their identity would not be disclosed in the final report. Their right to withdraw and to not participate at any time without penalty will be highlighted.

3.11.3 Anonymity and confidentiality

Anonymity is the ethical protection that participants remain nameless, their identity is protected from disclosure and remains unknown (Lawrence and Neuman,

© University of Venda

2014:154).anonymity is one important ethical consideration which encourages participants to give information freely will be assured. Domestic workers and respondents are knowledgeable informants and must not be identified unless they have explicitly given their permission. The anonymity should be transparent i.e. it should be apparent to the respondent that views and statements cannot be traced back. The focus social symptoms helped to lower the anxiety among the respondents and focus attention on factors that could be observed and tracked at the particular domestic worker. The researcher ensured that the privacy of the respondents was respected at all times. The research report should not be presented in such a way that participants become aware of how a particular has responded (Leedy et al, 2005:102).

3.11.4 Voluntary participation

Voluntary participation is an ethical principle that people should never participate and research unless the explicitly and freely agree to participate (Lawrence and Neuman, 2014:151). The researcher ensured that the respondents participated on voluntary basics. Care must be taken to avoid any forced responses, and those that did not want to take part were not forced. The respondents were also informed that there will not be any payment for participating in the research study.

3.12 CONCLUSION

The chapter paid much attention to research methodology. The researcher focused on the study are, population, sampling method, sample size, how data was collected and analysed. Ethical considerations were also considered to ensure that research participants are not in any way prejudiced during the process of research. The next chapter will focus on data presentation, data analysis and interpretation.

© University of Venda

University of Venda
Creating Future Leaders

CHAPTER 4

DATA PRESENTATION, INTERPRETATIONS AND DATA ANALYSIS

4.1 INTRODUCTION

In the previous chapter, the researcher discussed the research design and methodologies that were used in this study. This chapter will present, analyse and interpret data collected through questionnaire and interview. The following sections on reporting the empirical by providing answers to the perceptions and understanding of the conditions of employment for the domestic workers in Thulamela Local Municipality under Vhembe District, Limpopo Province.

4.2 ANALYSIS OF DATA COLLECTED THROUGH QUESTIONNAIRE

Responses gathered through questionnaire will be presented in a tabular format, frequencies and percentages. Two sections which consist of biographical details of respondents and the conditions of employment for the domestic workers will be presented.

4.2.1 Section A: Biographical details of respondents

In this sub - section the researcher presents the biographical information of the respondents in this study and interprets data concerning the personal information of the respondents in the study. The information is presented in tabular format, frequencies and percentages and followed by a synthesis of the findings.

Table 4.1: Gender

Gender	Frequency	Percentage
Male	00	0%
Female	60	100
Total	60	100%

Table 4.1 above presents the biographical information of the respondents in terms of gender. The researcher managed to reach all respondents of a total of 60 (100%) who were all females. and 0 male which is 0%. The entire questionnaires distributed to the respondents were returned to the researcher. The respondents in this study all live in Thulamela Local Municipality under Vhembe District in Limpopo Province. This means that the domestic work is a female dominant industry more as especially in the Thulamela municipality.

© University of Venda

UNIVERSITY OF VENDA
LIBRARY

Table 4.2: Marital status

Marital status	Frequency	Percentage
Single	21	35
Married	7	11,7
Divorced	22	36,7
Widow	10	16,6
Total	60	100%

Table 4.2 above revealed that 21 respondents which constituted 35% of the total sample were single or not married and 22 respondents which constituted 36.7% of the total respondents were divorced. 7 respondents which constituted 12% of the sample size were divorced yet 10 respondents were widows. This means that most of the respondents who work as domestic workers are single and divorced as they constitute 35% and 36.7% consecutively.

Table 4.3: Age group

Age	Frequency	Percentages
21 - 30	7	11,7
31 - 40	23	38,3
41 - 50	26	43,3
51 - 60	4	6,7
Total	60	100%

Table 4.3 above revealed that 26 respondents which constituted 43,3% of the total sample were in the age group between 41 to 50 years, while seven respondent which constituted 11, 7% of the total sample were 21 to 30. 4 respondents which constituted 6,7% were in the age group between 51 to 65 while 23 respondents which constituted 38,3% were in the age of 31 to 40. This suggests that a slight minority of respondents were relatively young. This means that most of the respondents who work as domestic workers are in the age group of 41 – 50 and 31 – 40 which constitute 43,3% and 38,3% consecutively.

© University of Venda

Table 4.4: Working experience

Years of experience	Frequency	Percentage
10+	30	50
7	5	8,3
5	10	16,7
3	15	25
Total	60	100%

Table 4.4 above revealed that 30 respondents which constituted 50% of the total sample had 10 years and above working as domestic workers while five respondents which constituted 8,3% had seven years' experience. 10 respondents which constituted 16, 7% of the total sample had 5 years' experience working as domestic workers yet 15 respondents which constituted 25% of the total sample had 3 years of experience. This means that a large number of respondents had more than 10 years of experience working as domestic workers.

Table 4.5: Level of education of domestic workers

Qualification	Frequency	Percentage
Degree/Diploma	0	0
Grade 11/12	3	5
Grade 8 – 10	20	33,3
Primary level	25	41,7
Never schooled	12	20
Total	60	100%

Table 4.5 above revealed that three respondents which constitute 5% of the total sample went to school as far as grade 11 to 12 while no respondent had a degree or a diploma.20 respondents which constitute 33, 3% of the total sample had an education from grade 8 to 10.25 respondents which constitute 41,7 of the total sample went as far as primary level while 12 of the respondent which constitute 20% of the total sample never went to school at all. This means that majority of the respondents had a primary school level of education followed by those respondents who went to school from grade 8 to 10.

© University of Venda

Table 4.6: Domestic workers with disabilities

Disability	Frequency	Percentage
Eye	0	0
Ear	0	0
Limbs	0	0
Total	60	100%

Table 4.6 above revealed that there was no one amongst the respondents who was physically disabled. This constituted 0% disability; no physically handicapped people would like to work as a domestic worker. According to the South African Constitution Act No 108 of 1996, when it comes to employment everyone has the right to be employed if looking for the job anywhere, no discrimination what so ever.

Table 4.7: Distance travelled by domestic workers to work

Distance in km	Frequency	Percentage
10	36	60
7	15	25
5	6	10
2	3	5
Total	60	100%

Table 4.7 above revealed that 36 respondents which constituted 60% of the total sample travelled long distance of 10 kilometres to work every day while only 15 of the respondents which constituted 25% of the total sample travel 7km to and from work. 6 respondents which constitute 10% travel 6km while 3 respondents which constitute 5% to and from work. This means that majority of the respondents, which is 60% of the respondents travel long distance to and from when.

© University of Venda

Table 4.8: Work description

Work description	Frequency	Percentage
Nanny	0	0
Cooking	0	0
Washing	5	8,3
Ironing	5	8,3
Cleaning	10	16.7
All of the above	40	66,7
Total	60	100%

Table 4.8 above revealed that no respondent work as a nanny and for cooking only but 5 respondents do washing only and another 5 respondent's do ironing only they constitute 8.3% each. 10 respondents which constitute 16.7% do the cleaning only while 40 respondents of the total sample constitute 66.7% are employed to work as a nanny, cooking, washing and cleaning. This means that the majority of the respondents are employed to work as domestic workers doing nearly everything in the household.

Table 4.9: Training undergone by the domestic workers

Training	Frequency	Percentage
Yes	0	0
No	60	100
Total	60	100%

Table 4.9 above revealed that no respondent has gone through any training concerning their work. All 60 sample respondents did not went for training, they only do what they are told by their employers.

Table 4.10 No. of employers domestic workers are working for

Employers	Frequency	Percentage
4	1	1,7
3	6	10
2	15	25
1	38	63.3
Total	60	100%

© University of Venda

Table 4.10 above revealed that 1 respondent which constitute 1,7% work for 4 employers while 6 respondent which constitute 10% of the total sample work for 3 employers. 15 respondents which constitute 25% work for 2 employers while 38 respondents which constitute 63, 3% of the total sample work for only one employer. This means that majority of the respondents work for one employer only.

Table 4.11: Registration of domestic workers by their employers

Registration	Frequency	Percentage
Yes	10	16.7
No	50	83,3
Total	60	100%

Table 4.11 above revealed that 10 respondents which constitute 16,7% of the total sample were registered with the department of labour yet 50 respondents which constitute 83,3% of the total sample were registered with the department of labour. This means that the employers of the domestic workers are not complying with the sectoral determination 7 which determines the conditions of employment of the domestic workers.

Table 4.12: Contribution towards UIF

Contribution towards UIF	Frequency	Percentage
Yes	10	16.7
No	50	83,3
Total	60	100%

Table 4.12 above revealed that only 10 respondents which constitute 16,7% of the total sample were contributing towards UIF yet 50 respondents which constitute 83,3% of the total sample were contributing towards the UIF. This means that since only 10 respondents were the ones who were registered with the department of labour, their employers should contribute towards UIF so that when their contracts are terminated they are able to get compensation from UIF while looking for another job.

© University of Venda

UNIVERSITY OF VENDA
LIBRARY

SECTION B: CONDITIONS OF EMPLOYMENT

This section presents the conditions of employment of domestic workers.

Table 4.13: Stay in domestic worker

Stay in	Frequency	Percentage
Yes	10	16,7
No	50	83,3
Total	60	100%

Table 4.13 above revealed that 10 respondents which constitute 16,7% of the total sample are stay in domestic workers while 50 respondents which constitute 83,3% of the total sample travel every day to work. This means that only a small number of the respondents stay at their work place while majority of these workers stay at their homes and only travel everyday to their work.

Table 4.14: Domestic workers bringing their own food

Own food	Frequency	Percentage
Yes	5	8,3
No	55	91,7
Total	60	100%

Table 4.14 above revealed that 5 respondents of the total sample which constitute 8,3% bring their own food to work while 55 respondents of the total sample which constitute 91, 7% do not take their own when going to work as domestic workers. This means that these domestic workers do the entire job in the houses including cooking; they are even allowed to eat and not bring their own food.

Table 4.15: Contract of domestic workers

	Frequency	Percentage
Yes	3	5
No	57	95
Total	60	100%

© University of Venda

Table 4.15 above revealed that 3 respondents of the total sample which constitute 5% have signed a contract while 57 respondents of the total sample did not sign any contract what so ever. This means that the employers of the domestic workers have not drawn a contract to be signed by their domestic workers. This is a sign that employers of domestic workers are not bound by anything to comply with the requirement laid down by the department of labour and what is written down in the SECTORAL DETERMINATION 7.

Table 4.16: Rights of domestic workers

Rights	Frequency	Percentages
Yes	3	5
No	57	95
Total	60	100%

Table 4.16 above revealed that only 3 respondents of the total sample do know about their rights as domestic workers while 57 respondents of the total sample do not know their rights as domestic workers. This means that their employers do not tell their maid about their rights since there is no contract drawn for them.

Table 4.17: Conditions of employment

Conditions	Frequency	Percentage
Yes	3	5
No	57	95
Total	60	100%

Table 4.17 above revealed that 3 respondents which constitute 5% of the total sample know about the conditions of employment of domestic workers while 57 respondents which constitute 95% of the total sample do not about the conditions of employment of the domestic workers. This means that a large number of domestic workers do not know about the conditions of employment that govern their industry at all. If there was a contract drawn for them, they would know the conditions with which they should work under.

© University of Venda

Table 4.18: Uniform of domestic workers

Uniform	Frequency	Percentage
Yes	25	41,7
No	35	58,3
Total	60	100%

Table 4.18 above revealed that 25 respondents which constitute 41, 7% of the total sample wears uniform when going to work while 35 respondents which constitute 58, 3% of the total sample does not wear uniform when they are going to wear. This means that a larger percentage of the sample is expected to wear uniform when they perform their duties in their employers' households while other employers do not prefer their maids to wear uniform in the work place.

Table 4.19: Minimum wage of domestic workers

Minimum wage	Frequency	Percentage
Yes	15	25
No	45	75
Total	60	100%

Table 4.19 above revealed that 15 respondents which constitute 25% of the total sample are given minimum wage by their employers yet 45 respondents which constitute 75% of the total sample are not given minimum wages by their employers. This means that employers of domestic workers do not comply with minimum requirement as stipulated in the sectoral determination. Majority of the domestic workers are not paid the expected minimum wage, they are getting little or less than they should be getting. Due to poverty and unemployment rate which is so high in our country, domestic workers are forced to work and settle for what they are given in order to survival with their families since many of them are single and divorced.

© University of Venda

Table 4.20: Wages of domestic workers

Wage time	Frequency	Percentage
Monthly	55	91,7
After two weeks	5	8,7
Weekly	00	00
Daily	00	00
Total	60	100%

Table 4.20 above revealed that 55 respondents which constitute 91, 7% of the total sample get their wages at the end of the monthly while 5 respondents which constitute 8,7% of the total sample get their wages after 2 weeks or fortnightly. This means that majority of the domestic workers get paid at the end of the month and only a small percentage gets their wages after 2 weeks. No domestic worker gets paid weekly and daily.

Table 4.21: Monthly payment of domestic workers

Same date	Frequency	Percentage
Yes	50	83,3
No	10	16,7
Total	60	100%

Table 4.21 above revealed that 50 respondents which constitute 83, 3% of the total sample get paid on the same date of the month by their employers while 10 respondents which constitute 16, 7% of the total sample do not get paid on the same date at the end of the month. This means that majority of the domestic workers get their pay exactly at the end of the month while a smaller percentage of the domestic workers get paid after the month has ended as long as they get paid whether are so many days or a week before they get their wages that is not an issue with other employers and this is not acceptable by law.

Table 4.22: Bonus of domestic workers

Bonus given	Frequency	Percentage
Yes	5	8,3
No	55	91,7
Total	60	100%

© University of Venda

Table 4.22 above revealed that 5 respondents which constitute 8, 3% of the total sample get their bonuses at a certain point mostly at the end of the year yet 55 respondents which constitute 91, 7% of the total sample do not get their bonuses as an appreciation of their good work the whole year. This means that employers f the domestic workers are not complying with the requirements in the sectoral determination as stipulated by the department of labour.

Table 4.23: Fair treatment of domestic workers

Fair treatment	Frequency	Percentage
Yes	30	50
No	30	50
Total	60	100%

Table 4.23 above revealed that 30 respondents which constitute 50% of the total sample are fairly treated by their employers yet 50 respondents of the total sample which constitute 50% of the total sample are not fairly treated by their employers. This means that an equal percentage of the total sample of domestic workers is fairly treated and some are not treated fairly by their employers in their different work stations.

Table 4.24: Rest time of domestic workers

Rest time	Frequency	Percentage
Yes	60	100
No	00	00
Total	60	100%

Table 4.24 above revealed that 60 respondents which constitute 100% of the total sample do get time to rest while they are at work. They rest during their lunch time where they are expected to be eating or drinking tea. This happens to all domestic workers either they brought their own food or to those who consume food allowed by their employer. This means that rest time is important in any type of work because a worker cannot work continuously without taking a break one will be unproductive, if so a worker will be working as a slave.

UNIVERSITY OF VENDA
LIBRARY

© University of Venda

Table 4.25: working days per week of domestic workers

Days per week	Frequency	Percentage
7 days	10	16,7
6 days	30	50
5 days	10	16,7
4 days	7	11,6
3 days	3	5
2 days	00	00
1 days	00	00
Total	60	100%

Table 4.25 above revealed that 10 respondents which constitute 16, 7% of the total sample work for 7 days per week while 30 respondents which constitute 50% of the sample work for 6 days per week. 10 respondents which constitute 16, 7% of the total sample work for 5 days of the week while 7 respondents which constitute 11, 7% work for 4 days in a week and 3 respondents which constitute 5% of the total sample work for 3days in a week. This means that majority of the respondents work for 6 days in a week this means that they work as far as Saturday while only 16, 7% of the respondents work as far as Sunday especially those who are stay in domestic workers because they are always available. Some domestic workers work for only 5 days in a week which is during the week only, 7 and 3 respondents which constitute 11, 7% and 5% respectively work for 4 days and 3days only. This means that employers of domestic workers are avoiding paying the domestic workers minimum wage so they opt to employ them for some few days and will not be bound to pay full pay and to them is cheaper.

Table 4.26: Overtime of domestic workers

Overtime	Frequency	Percentage
Yes	40	67,7
No	20	33,3
Total	60	100%

Table 4.26 above revealed that 40 respondents which constitute 67, 7% of the total sample works overtime while 20 respondents which constitute 33, 3% of the total sample does not work overtime. This means that majority of the domestic workers work for long hours which they are not paid for by their employers. Every worker is expected to work for 8 hours only

© University of Venda

exceeding those hours the workers must be paid for the extra hours worked for and at the rate higher price than the normal hours.

Table 4.27: Day off

Day off	Frequency	Percentage
Yes	5	8,3
No	55	91,7
Total	60	100%

Table 4.27 above revealed that 5 respondents which constitute 8, 3% of the total sample are given day off by their employers yet 55 respondents which constitute 91, 7% are not given day off by their employers. This means that employers of domestic workers are not complying with the law. Domestic workers are also entitled to 26 days off paid leave per annum like any other employee in the public sector.

Table 4.28: Sick leave

Sick leave	Frequency	Percentage
Yes	20	33,3
No	40	66,7
Total	60	100%

Table 4.28 above revealed that 20 respondents which constitute 33, 3% are given sick leave while 40 respondents which constitute 66, 7% are not given sick leave by their employers. This means that domestic workers are also entitled to 12 days paid leave per cycle, which is three year cycle. When a domestic worker absents herself from work due to illness for more than three days, she must bring a medical certificate from the medical doctor. If all the days are exhausted, then it will be leave without payment. The employer must be informed about her absence.

Table 4.29: Maternity leave

Maternity leave	Frequency	Percentage
Yes	2	3,3
No	58	96,7
Total	60	100%

© University of Venda

Table 4.29 above revealed that 2 respondents which constitute 3,3% of the total sample are given maternity leave by their employers yet 58 respondents which constitute 96, 7% of the total sample do not get maternity leave. This means that majority of domestic workers do not get leave when they go on maternity. Since they cannot work immediately after delivering their babies, someone is employed in their space and she is the one who get paid for the work she is doing and not the former. The former domestic worker does not get paid while sitting at home.

Table 4.30: Paid leave

Months paid	Frequency	Percentage
4 months	00	0
3 months	00	0
2 months	00	0
1 months	00	0
Not paid	60	100
Total	60	100%

Table 4.30 above revealed that all 60 respondents do not get paid when they are on maternity leave what so ever instead domestic workers must get paid when they are on maternity. It is their right to give birth to children. This means that domestic workers are like any other employees who get maternity leave with full pay, it is like they get a punishment yet is their right.

Table 4.31: Family responsibility leave

Family responsibility leave	Frequency	Percentage
Yes	45	75
No	15	25
Total	60	100%

Table 4.31 above revealed that 45 respondents which constitute 75% of the total sample get family responsibility leave while 15 respondents which constitute 25% of the total sample are given family responsibility. This means that majority of the domestic workers are given family responsibility to attend on matters concerning their families like when they are attending funerals of their immediate relatives or when someone close to them is sick. Every employee is entitled to 5days paid family responsibility so should the domestic workers.

© University of Venda

Table 4.32: Paid family responsibility leave

Paid leave	Frequency	Percentage
Yes	45	75
No	15	25
Total	60	100%

Table 4.32 above revealed that 45 respondents which constitute 75% of the total sample get paid for the family responsibility leave by their employers yet 15 respondents which constitute 25% do not get paid for the family responsibility leave they take. This means that if the contract was drawn and the domestic worker had signed it, and had been made aware of her right according to the constitution of the country, the employer would be exploiting her like this. Domestic workers are afraid of been dismissed from their work, so they just do as the employer tell them to do to secure their job. Poverty and unemployment is the main contributing factor to this matter.

4.3 ANALYSIS OF DATA COLLECTED THROUGH INTERVIEW

Presentation and analysis of the results on the conditions of employment for the domestic workers is done in this chapter. Data collected using this interview was analysed using thematic analysis and the information was presented in a narrative form.

4.3.1 Question 1: Do the community leaders involve themselves in seeing to it that domestic workers are fairly treated?

Respondent 1:

With regard to this question, the respondent replied that community leaders are not involved and don't take notice of how domestic workers are treated.

Respondent 2:

From this question the respondent replied that domestic work is regarded as an inferior job and community leaders take no notice.

Respondent 3:

The respondent in this question replied that the community leaders take domestic job as an agreement between two people on mutual understanding.

© University of Venda

Respondent 4:

With regard to this question, the respondent replied that community leaders are busy people to take cognisance of this type of job and its logistics.

Respondent 5:

From this question the respondent replied that community leaders are not directly involved.

4.3.2 Question 2: Are the municipal by-laws governing domestic workers?

Respondent 1:

From the above mentioned question, the respondent replied that there are by laws

Respondent 2:

The reply of the respondent in this question is that there are laws that govern every worker including domestic workers.

Respondent 3:

The respondent in this question replied that even if these by laws are there, they are not followed or adhered to by domestic workers employers.

Respondent 4:

With regard to this question, the respondent replied that she is not aware of them, if so domestic workers would be protected

Respondent 5:

In this question, the respondent replied that by laws are meant for educated and people in government

4.3.3 Question 3: Is there a budget for domestic workers developments from the municipality? If yes does the municipality have personnel to advise domestic workers?

Respondent 1:

From this question the respondent stated that she has no idea of such thing

© University of Venda

Respondent 2:

From the above question, the researcher replied that she does not know of the budget if so it would be read in public.

Respondent 3:

The respondent replied that she has never had of seen anyone advising domestic workers.

Respondent 4:

The reply of the respondent in this question is that she does not know anything about a budget for domestic workers but a budget is made for government employees.

Respondent 5:

With regard to this question, the respondent replied that the municipality does not consider them and their job as important like any other jobs.

4.3.4 Question 4: Are there information and strategic plans on the empowerment and fair treatment of domestic workers? If yes, are there information documents on domestic workers, their tasks and their training?

Respondent 1:

From this question, the respondent replied that she does not of such plans concerning domestic workers empowerment.

Respondent 2:

From the above question the respondent stated that she knows of some booklets from the department of labour but knows nothing about the plans to empower domestic workers.

Respondent 3:

The respondent in this question replied that the department of labour is there for them if there are any complains

Respondent 4:

With regard to this question, the respondent replied that there is no training of domestic workers.

© University of Venda

Respondent 5:

In this question the respondent replied that there is no training and tasks of the domestic workers depend on the wishes of their individual employer

4.3.5 Question 5: Is there any information about exploitation or abuse of domestic workers by their employers reported the department of labour? Are there cases of unfair dismissal of domestic workers by their employers due to fighting for their rights?

Respondent 1:

With regard to this question, the respondent replied that domestic workers don't report the exploitation by their employers they rather quit the job.

Respondent 2:

From this question the respondent replied that there are cases of non - payment of domestic workers by their employers reported.

Respondent 3:

With regard to this question, the respondent replied that some of them have no knowledge of reporting such treatment.

Respondent 4:

The respondent in this question replied that few cases on the payment are reported.

Respondent 5:

From this question, the researcher replied that they rather keep quiet and continue than to report any abuse for they are afraid of loosing their jobs.

4.4 CONCLUSION

The study established that there were several challenges which led to the non-compliance by the employers of domestic workers in relation to the conditions of employment. The employers of domestic workers and the Department of Labour must be able to answer those challenges faced by the domestic workers. Domestic workers have the rights that are similar to other workers so they too deserve the same treatment in as far as the conditions of employment is concerned and be treated fairly with respect and dignity.

© University of Venda

CHAPTER 5

FINDINGS, RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

In the previous chapter, the researcher presented analyses and interpreted data collected through questionnaire and interview. Data was collected through questionnaire was presented in tabular format, frequencies and percentages and followed by a synthesis of the findings. Data collected through interviews was analysed using thematic analysis and the information was presented in a narrative form. In this chapter, the results are discussed. Conclusion and recommendation are also provided in this chapter.

5.2 MAJOR FINDINGS OF THE STUDY

The major findings of the study will arose from the objectives of the study were: to evaluate the conditions of employments of the domestic workers; to assess how employers treat domestic workers; to describe the Acts governing domestic workers and to describe the role of the Department of Labour in enforcing law to combat ill treatment and abuse of domestic workers.

5.2.1 Working conditions of domestic workers

The first objective of the study wanted to evaluate the conditions of employment for domestic workers but the study found out that majority of domestic workers are working under harsh conditions and nowhere to complain. Domestic work is regarded as an inferior job. Their employers do not care about adhering to these conditions. The information which was received through interview was that domestic workers are being treated unfairly by their employers. In this study it was also found out that domestic workers lack knowledge of how their wages are determined and some of the domestic workers are not paid timeously.

5.2.2 The rights of domestic workers

The second objective of the study was to assess how employers of domestic workers treat their employees but the study found out that domestic workers treated badly, not given benefits like other workers. Domestic workers are often looked down upon yet they are doing a very significant job while their employers are away. The study also found that employers of domestic workers don't care about the welfare of their employees, all the employers wants is to find everything done accordingly when they come back from work.

© University of Venda

5.2.3 Laws and acts governing domestic workers

The third objective of the study was to describe the laws and acts governing domestic workers and the findings of the study there are laws and legislations governing domestic fraternity. The study also found that these laws are followed to the latter by the employers of domestic workers. The study also found that domestic work is not admired by many but only the financially disadvantaged consider this job as their source of income to support their families and taking their children to school.

5.3.4 The role of the Department of labour

The fourth objective of the study was to describe the role of the Department of Labour in enforcing the laws to combat ill-treatment domestic workers by their employers. These acts and laws protect both the employer and the employee from any abuse of some kind including not getting paid on time, working long hours with no overtime compensation.

5.3 THE RECOMMENDATION OF THE STUDY

In order to improve the conditions of employment foe domestic workers, the researcher offers the following recommendations:

- The introduction of minimum wage should be based on the need for it by domestic workers and not on the need as perceived by politicians and labour unions.
- The introduction for all domestic workers of clear standards that; impose limits on payments in kind; ensure that where minimum wage exists in national law, it also covers domestic workers; guarantee rest and sick leave; and create safe and healthy working conditions, as provided for by the ILO Convention adopted in June 2011.
- All employers of domestic workers should register their workers with UIF.
- A national minimum wage might not be desirable as current wage levels for domestic workers differ widely form one geographical are to the next, especially between urban and rural locations in South Africa. It is therefore recommended that careful consideration be given to a geographically different minimum wage in these sectors.
- It was indicated in the study that casual employment has increased vis-à-vis full-time live-in employment. It is expected to increase further. It is therefore recommended that a minimum wage should be calculated on an hourly basis instead of having a set

© University of Venda

UNIVERSITY OF VENDA
LIBRARY

monthly minimum wage. Should this not be the case, it would create opportunities for employers to employ casual domestic service to escape their legal obligation.

- It is recommended that all employers of domestic workers should draw contracts to bind both the employee and the employer.
- The Department of Labour should ensure that all employers of domestic workers comply with the legal requirements as per Sectoral Determination 7 which states clearly all the conditions of employment of domestic workers.

5.4 RECOMMENDATIONS FOR FURTHER RESEARCH

The researcher recommends that for future studies another research of this nature focusing on the same topic be conducted in other municipalities especially those which are located in predominantly urban areas. Conducting the same research at regions in urban areas may hopefully yield better generalisation of the findings. The researcher further recommends that non compliance to the sectoral determination be eliminated by the full involvement of the department of labour as the law enforcers and workshops to both domestic workers and their employers about the conditions of employment for the domestic workers.

5.5 CONCLUSION

In conclusion the study focused on the evaluation of the conditions of employment of domestic workers, to analyse the conditions of employment, to assess how employers treat domestic workers, to describe the role of the Department of Labour in enforcing them to combat and abuse of domestic workers and to describe the acts governing domestic workers. The researcher used both quantitative and qualitative methods. Questionnaires and interviews were used to collect data from the respondents.

Literature review included the legislative framework governing domestic workers, the conditions of employment for domestic workers were also analysed. The ethical considerations were observed by the researcher throughout the study.

The findings of the study revealed the following conclusion on the conditions of employment for domestic workers: no contract is drawn before the domestic worker resume work, working long hours with no extra compensation, no compliance on the side of the employers, many cases are not reported to the department of labour because domestic workers do not want to lose their jobs as many of them are bread winners, only woman dominate this domestic work industry. Domestic workers must be work shopped and told of their rights and

© University of Venda

their obligations and be able to report any case of unfair treatment and abuse. Therefore the government and the employers of domestic workers should improve their roles in this domestic industry.

© University of Venda

University of Venda
Creating Future Leaders

BIBLIOGRAPHY

.Brink, J.J. and Wood, M.J. 1994. Fourth edition. Jones and Bartlett. Boston*). Basic steps in Planning Nursing Research*

Brynard, P. A. and Hannekom, S. X. 1997. *Introduction to Research in Public Administration: and Related Academic Discipline*: First edition. J. L. Van Schaik Publisher, South Africa.

Chapman, R.A. 1993. *Ethics in Public Service*. Edinburg University Press.

Classen, R.D., 1997. *Dictionary of Legal Words and Phrases.*2nd Edition volume 3. LexisNexis. Durban.

De Bryn, P.P, Erasmus, M, Janson, C.A, Mentz, P, J., Steyn, S.C, Theron, A.M.C. 2002. *Schools as Organisations*. 2nd edition. Pretoria. Van Schaik Publishers.

Du Plessis, J. V. and Fouche, M. A. 2003 *South Africa Journal of Labour Relations Centre for Applied Legal Studies* Vol. 19 No. 24 LexiNexis Butterworths Durban

De Vos, A.S, Strydom, H., Fouche, C.B., Delport, C. S. L. 2005. *Research at grass roots for the social sciences and human service professions*. 3rd edition Van Schaiks.

Du Toit, D, Woolfrey, D, Murphy, J, Godfrey, S, Bosch, D And Christie, S. 2000. *Labour Relations Law – A Comprehensive Guide*, 3rd edition. Butterworth Publishers (Pty) Ltd: Cape Town.

Feldman, D. C. 2004. The devil is in the details: Converting good research into publishable articles. *Journal of Management*, 30(1): 1 – 6

Finch, J, 1986. *Research and policy: The use of qualitative methods in social and education research*. London: the Falmer Press.

Finnemore, M. 2002. *Introduction to Labour Relations in South Africa*. 8th Edition. LexisNexis Butterworths.

Fontana, A and Frey, J.H. 2000. *The interview: from structured questions to negotiated text.* In N.K. Denzin and Y.S. Lincoln (ed). *Handbook of Qualitative Research* (2nd) edition, London: Sage Publication.

Fox, W and Meyer, I.M., 1995. *Public Administration Dictionary*. Juta and Co. Ltd.

Gay, L.R. & Airisian, P. 2000: *Educational research, Competencies for analysis and application* 6th edition. New Jersey: Prentice – Hall.

© University of Venda

Ghauri, P and Gronhaug, K. 2000. *Research Methods in Business Studies* Second Edition. Pearson Education Limited. England: Prentice Hall.

Grogan, J. 2010. *Employment Rights.* Juta & Co, Ltd.

Hening, E., Van Rensberg, W., & Smit B. 2004. *Finding your way in qualitative research.* Pretoria: Van Schaik Publishers.

http://www.domesticworkersabuse.pbworkers.com/2015/05/17

http://www.ilo.org/global/domestic/workers/2002/109/2015/07/15

(http://lawexplores.com/arbitration-tribunal-adjudication-and-alternative-dispute-resolution/2015/05/06).

ILO (2002): International Labour Standards: A global approach (Geneva).

International Labour Organisation, 2010 Brazil Constitution, 1993

Kumar, R. 2011. *Research Methodology* – A step to guide for beginners. Third Edition. Sage Publication. Los Angeles.

Lawrence. W. and Neuman, A 2014. *Social Research Method: Qualitative and Quantitative approaches.* Seventh edition. Pearson education, Boston.

Leedy, P.D. & Ormrod, J.E. 2010. *Practical Research Planning and Design*. New Jersey: Pearson Prentice Hall.

Leedy, P.D. 1997. *Practical Research Planning and Design*. Sixth Edition. Upper Saddle River. Merrill.

Mafunisa, M.J. 2000. *Public Service Ethics*: Juta. Co. Ltd.

Marais, C and Van Wyk, C. 2015. *Future Defectiveness within the South African Domestic Workers' Work-Life Cycle: Considering Exit Strategies*. Indo-Pac. j. phenomenol. (Online) Vol.15 n.1 Grahamstown May. 2015. http://dx.doi.org/10.1080/20797222.2015.1049896.

May, T. 1993. *Social research issues, methods and processes.* Philadelphia: Open University Press.

McMillan, J. & Schumacher, S.H. 2001. *Research in Education: A conceptual introduction.* 4th edition. New York Longman.

Morgan, D. 1997. *Focus groups as qualitative research*, Second edition. London : Sage.

© University of Venda

Mouton, J. & Marais, H.C. 1992. *Basic concepts in the methodology of the social sciences.* Pretoria: Human Sciences Research Council.

Mouton, J. 2001. *How to succeed in your master` and doctoral studies: a South African guide and resources book.* Pretoria: Van Schaik Publishers.

Mouton, J. 2009. *Understanding Social Research.* Pretoria. Van Schaik Publishers.

Republic of South Africa: 1993. *The Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993).* Government Printers. Pretoria.

Republic of South Africa: 1993. *The Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).* Government Printers. Pretoria.

Republic of South Africa: 1995. *Labour Relations Act, 1995 (Act No. 66 of 1995).* Government Printers. Pretoria.

Republic of South Africa: 1997. *The Basic Conditions of Employment Act, 1997 (Act No. 75 0f 1997).* Government Printers. Pretoria.

Republic of South Africa: 1998. *The Empowerment Equity Act, 1998 (Act No. 55 of 1998).* Government Printers. Pretoria.

Republic of South Africa: 1998. *The Skills Development Act, 1998 (Act No. 97 of 1998).* Government Printers. Pretoria.

Republic of South Africa: 2001. *The Unemployment Insurance Act, 2001 (Act No. 63 of 2001).* Government Printers. Pretoria.

Republic of South Africa: 2002. *Sectoral Determination 7: Domestic Worker Sector, 2002.* Government Printers. Pretoria.

Republic of South Africa: 2011. *Statutes of South Africa 2011.* 21th Edition Volume 4. Government Printers. Pretoria.

Republic of South Africa: 2015. *Sectoral Determination 7: Domestic Worker Sector, 2015.* Government Printers. Pretoria.

Republic of South Africa: *The Constitution of the Republic of South Africa* Act, 1996 (Act No. 108 of 1996). South Africa. Government Printers. Pretoria.

© University of Venda

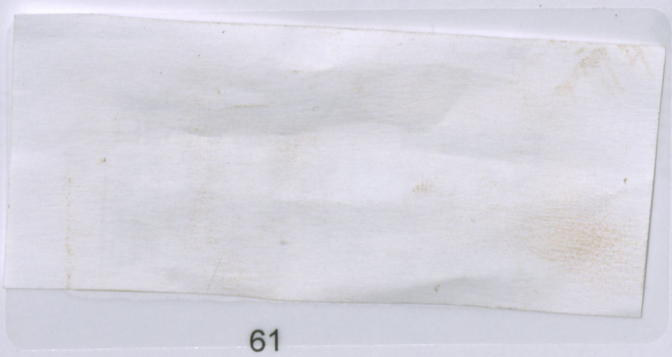
Schumacher, S. and McMillan, J.H., 2001. *Research in education: A conceptual framework.* New York: Longman.

Summers, J. O. 2001. Guidelines for conducting research and publishing in Marketing: from conceptualization through the review process. *Journal for the Academy of Marketing Science.* Proquest

Teddie, C. and Tashakkori, A. 2009. *Foundations of mixed methods research: Integrating qualitative and quantitative approaches in the social and behaviour*

Terre Blanche, M. and Dunheim, K. 2002. *Histories of the present: Social Science Research in Context.* In M. Terre Blanche, and Dunheim (eds) *Research in practice.* Cape Town: UCT.

Terre Blanche, M., Dunheim, K., Painter, D. 2006. *Research in Practice – Applied Methods for The Social Sciences.* 2nd ed Cape Town.



© University of Venda

APPENDIX A

PERMISSION TO COLLECT DATA

24 October 2012

TO WHOM IT MAY CONCERN

This letter serves to confirm that **Ms B.M.Masidwali (11584733)** is a registered Masters of Public Management student at the University of Venda. Ms B.M. Masidwali is presently doing her research as a requirement for the completion of this degree. Her research topic is "**An evaluation of the conditions of the domestic worker: A case of Thulamela Municipality.**

As an institution of higher learning, we request your department to give her permission to do this research. We also believe that the findings in this research will assist you in the administration of issues pertaining to domestic workers.

Yours faithfully

Prof. Khwashaba M.P
Vice Dean: School of Management Sciences.

UNIVERSITY OF VENDA
PRIVATE BAG X5050, THOHOYANDOU, 0950 • LIMPOPO PROVINCE • SOUTH AFRICA
TELEPHONE 015 962 8000 / 015 962 8440 • FAX 015 962 8493 / 4749

© University of Venda

APPENDIX B

LETTER TO RESPONDENTS

P. O. BOX 1030

THOHOYANDOU

0950

10 NOVEMBER 2015

Dear Respondent

I, Masidwali Busisiwe Murembiwa, am a student at the Univerdity of Venda, registered for Master of Public Management (MPM). I am conducting a study on "**An evaluation of the conditions of employment for domestic workers in Thulamela Local Municipality**".

All information you provide will be kept confidential. You are however requested to provide honest information.

Your cooperation will be highly appreciated.

Yours truly

.....

Masidwali B. M.

072 203 0974

© University of Venda

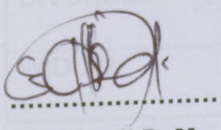
APPENDIX C

CONSENT FORM (DOMESTIC WORKERS)

You are invited to participate in the research proposal on the evaluation of the conditions of employment for domestic workers conducted by Mrs. Masidwali Busisiwe Murembiwa, a Masters student at the OR Tambo Institute of Governance and Policy Studies, School of Management Sciences, University of Venda, Thohoyandou. I am conducting a study on "**An evaluation of the conditions of employment for domestic workers in Thulamela Local Municipality**".

If you agree to participate, you will be requested to complete a questionnaire, be interviewed once for one or two hours. The interview will be tape – recorded and you have the right not to answer any particular questions and to ask that the tape recorder be turned off at any time. All written documents that you share will be returned to you. One focus group interview will be conducted and tape – recorded.

Your identity will be protected to the best of the investigator s ability. All data and tape recordings will be confidential and your identity will not be disclosed in the final report. Your participation in this proposal is completely voluntary and the information recorded during this study will be kept in a locked file. You may choose to withdraw and not participate at any time without penalty. For more information about the research process, feel free to contact Professor Khwashaba M.P.



Masidwali B. M.

072 203 0974

© University of Venda

APPENDIX D

QUESTIONNAIRE

AN EVALUATION OF THE CONDITIONS OF EMPLOYMENT FOR DOMESTIC WORKERS IN THULAMELA LOCAL MUNICIPALITY

SECTION A: DEMOGRAPHIC INFORMATION

Please put a cross (X) where applicable

1.1. Gender

MALE	
FEMALE	

1.2. Marital Status

SINGLE	
MARRIED	
DIVORCED	
WIDOW	

1.3. Age Group

21 – 30	
31 – 40	
41 – 50	
51 – 65	

UNIVERSITY OF VENDA
LIBRARY

© University of Venda

1.4. Working experience as a domestic worker

10+	
7	
5	
3	

1.5. Level of education

DEGREE/DIPLOMA	
GRADE 11 & 12	
GRADE 8 – 10	
PRIMARY LEVEL	
NEVER SCHOOLED	

1.6. Are you physically handicapped

YES	
NO	

If yes, state the nature of disability:.....

1.7. How long do you travel to work every day?

10KM	
7KM	
5KM	
2KM-	

© University of Venda

1.8. Do you work as a

NANNY	
COOKING	
WASHING	
IRONING	
CLEANING	
ALL OF THE ABOVE	

1.9. Did you get any training to do the job?

YES	
NO	

1.10. For how many employers do you work?

4	
3	
2	
1	

1.11. Are you registered with the department of labour?

YES	
NO	

© University of Venda

1.12. Do your employer contribute money towards UIF?

YES	
NO	

SECTION B: WORKING CONDITIONS

This section presents the physical environment and job characteristics are viewed as comprising an individual's working conditions.

2.1. Are you a stay – in domestic worker?

YES	
NO	

2.2. Do you bring your food?

YES	
NO	

2.3. Did you sign a contract with your employer?

YES	
NO	

2.4. Did your employer tell you your rights as a domestic worker?

YES	
NO	

© University of Venda

2.5. Do you know the conditions of employment of a domestic worker?

YES	
NO	

2.6. Do you wear uniform when working?

YES	
NO	

If yes, describe it: .....

2.7. Are you given a minimum wage as stipulated by the sectoral determination?

YES	
NO	

If no, where do you report the matter: .....

2.8. When do you get your wages?

MONTHLY	
AFTER TWO WEEKS	
WEEKLY	
DAILY	

2.9. Do you get your wages at the same date of every month?

YES	
NO	

© University of Venda

2.10. Are you given a bonus?

YES	
NO	

2.11. Are you fairly treated by your employer?

YES	
NO	

2.12. Do you get time to rest?

YES	
NO	

If yes, how many minutes?

1 HOUR	
45 MINUTES	
30 MINUTES	
20 MINUTES	

© University of Venda

2.13. How many days of the week do you work?

7 DAYS	
6 DAYS	
5 DAYS	
4 DAYS	
3 DAYS	
2 DAYS	
1 DAY	

2.14. Do you work overtime?

YES	
NO	

If yes, do you get paid for it?

YES	
NO	

2.15. Do you get day off?

YES	
NO	

© University of Venda

2.16. Do you get sick leave

YES	
NO	

If yes, do you get paid for it?

YES	
NO	

2.17. Are you given a paid maternity leave?

YES	
NO	

If yes, for how many months do you get paid?

4 MONTHS	
3 MONTHS	
2 MONTHS	
1 MONTHS	

2.18. Do you get paid for it?

YES	
NO	

© University of Venda

2.19. Do you get a family responsibility leave?

YES	
NO	

2.20. Do you get paid for it?

YES	
NO	

THANK YOU FOR YOUR PARTICIPATION

UNIVERSITY OF VENDA

© University of Venda

APPENDIX E

INTERVIEW SCHEDULE

AN EVALUATION OF THE CONDITIONS OF EMPLOYMENT FOR DOMESTIC WORKERS IN THULAMELA LOCAL MUNICIPALITY

1. Do the community leaders involve themselves in seeing to it that domestic workers are fairly treated?

2. Are the municipal by-laws governing domestic workers?

3. Is there a budget for domestic workers developments from the municipality? If yes does the municipality have personnel to advise domestic workers?

© University of Venda

4. Are there information and strategic plans on the empowerment and fair treatment of domestic workers? If yes, are there information documents on domestic workers, their tasks and their training?

5. Is there any information about exploitation or abuse of domestic workers by their employers reported the department of labour? Are there cases of unfair dismissal of domestic workers by their employers due to fighting for their rights?

THANK YOU FOR YOUR PARTICIPATION

© University of Venda

University of Venda
Creating Future Leaders

APPENDIX F

AREA B
Metropolitan and the local councils of Phalaborwa, Bela Bela, Bergriver, Boesmanlands, Camperdown TLC, Cederberg, Dolphin Coast/Blito TLC, Frasuwil, Hibbercene TLC, Highlands, illembe regional council, Kamiesberg, Kareeberg, kokstad TLC, KwaDukuza/Stanger TLC, Laingsburg, Langeberg, Letsemeng, Litchenburg, Louwsburg TLC, Matzikama. Mkhondo, Modimille, Musina, Nkomazi, Nkwanazi, KwaziZinkwazi Beach TLC, Pennington TLC, Phumelela, Polokwane, Prince Albert, Richtesveld, Rustenburg, Sakhisizwe. Scottburgh/Umzitho North North TLC, Seme Sundays river valley, Swartland, Swellendam, Theewaterskloof, Tokologo, Tswelopele ugu Regional Council, Umhlathuze , Umjindi, Ventersdorp, Vryheid, TLC, Winzenberg and Zululand Regional Council.

Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date and thereafter.	
Hourly rate (R)	2,56	Hourly rate (R)	2,73	Hourly rate (R)	2.92
Daily rate (R)	23,04	Daily rate (R)	24,65	Daily rate (R)	26,37
Weekly rate (R)	115,38	Weekly rate (R)	123,45	Weekly rate (R)	132,09
Monthly rate (R)	500,00	Monthly rate (R)	535,00	Monthly rate (R)	572,45

© University of Venda

APPENDIX G

AREA C					
Areas in the rest of South Africa not mentioned in area A and B					
Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date and thereafter.	
Hourly rate (R)	2,05	Hourly rate (R)	2,19	Hourly rate (R)	2.34
Daily rate (R)	18,45	Daily rate (R)	19,74	Daily rate (R)	21,12
Weekly rate (R)	92,31	Weekly rate (R)	98,77	Weekly rate (R)	105,68
Monthly rate (R)	400,00	Monthly rate (R)	428,00	Monthly rate (R)	457,96

© University of Venda

APPENDIX H

AREA A					
Metropolitan and the local councils of Ashburton TLC, Baviaans, Beaufort West, Blue Crane Route, BreedeRriver/Winelands Breede Valley, Buffalo city, Camdeboo, Cape Agulhas, Cedarville TLC, Christiana/Bloemhof, City of Cape town, City of Johannesburg, Dan-Lime, delmas,Dihlabeng, Dipaleseng, Drankenstein, Dundee TLC, Durban Metropolitan Unicity, Emalahleni, Emfuleni, Emnmbithi, Gammagara, Gariep.GAROP. George, Glencoe TLC, Greater East Rand Metro, Hantam Highveld East, Hilton TLC, Ikwezi, Indlovu regional Council, Inkwanca, Inxuba Yethembamo, Kimberley, Klerksdorp, Knysa, Kopanong, Kouga, Lekwa. Lesedi, Lukanji, Mafube, Maguassi Hills, Makana, Malethswai, Mangaung, Mantsopa, Masilonyana, Matatiela TLC, Matjhabeng, Metsimaholo, Middleburg, Midvall, Miler, Mogale City, Mohokane, Moqhaka, Mossel Bay, Msukaligwa, Mzinyathi regional Council, Nala, Naledi, Ndlambe, Nelson Mandela, Newcastle, Ngwathe, Nketoana, Nokeng tsa Taemane, Nxuba, Oranga-Karoo, Oudsthoorn, Overstrand, Piettenberg Bay, PMB/Msuduzi TLC, Potchefstroom, Priemanday. Randfontein, Re A Ipela, Renosterberg, Saldanha Bay, Schwweizer-Reneke, Stellenbosch.Thusang, Towerberg, Tswane Metropolitan, Umtshezi, Warrenton, and Westonaria.					
Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date.		Applicable rates for this first twelve months after the promulgation date and thereafter.	
Hourly rate (R)	3,07	Hourly rate (R)	3,28	Hourly rate (R)	3,50
Daily rate Weekly rate	138,46	Daily rate Weekly rate	143.15	Daily rate Weekly rate	158,52
Monthly rate (R)	600,00	Monthly rate (R)	642,00	Monthly rate (R)	686,94

© University of Venda