



▶ Social Protection in Action: Building Social Protection Floors for All

2022

Brazil: Guaranteeing social protection for domestic workers

Summary

Brazil is progressing towards providing full social protection rights to domestic workers. The country has taken two major steps towards strengthening social protection of domestic workers; recognition of domestic work as an occupation in the Constitution of 1988 and equalization of social protection rights between domestic workers and other worker categories in the constitutional amendment of 2013.

The domestic work sector employed over 6 million people (that is over 6 per cent of the labour force) in 2019. Among them, over 80 per cent were black, 95 per cent women and over 50 per cent of the households headed by female domestic workers were poor. By guaranteeing social protection rights to domestic workers, the country is also reducing their vulnerability, promoting women's empowerment and racial justice.

The number of children and adolescents in situation of domestic child labour in Brazil had a decrease of 61,6 per cent between 2004 and 2019, going from 406 thousand to 108 thousand. While legal coverage of domestic workers is 100 per cent with the new law, the share of those who hold

a registered employment contract was only 28 per cent (or 1.7 million people) in 2019. Despite this gap, effective coverage for domestic workers in Brazil is one of the highest in Latin America.

Main Lessons Learned

- ▶ The existence of provisions in the Constitution to promote equality between individuals and social rights can serve as a basis for the implementation of the right to social protection for excluded populations such as domestic workers. In Brazil the Constitutional amendment No. 72 of 2013, which equalizes the social protection rights between domestic and the other categories of workers, has contributed to speed up the process of social protection extension.
- ▶ The extension of social protection to domestic workers makes it possible to cover a large part of the population that was previously excluded, as many vulnerable households in Brazil are headed by domestic workers.

Social Protection Floors Recommendation, 2012 (No. 202)

SDG 1.3 aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030, achieve substantial coverage of the poor and the vulnerable.

Social protection floors (SPFs) guarantee access to essential health care and basic income security for children, persons of working age and older persons.

187 countries have adopted the Social Protection Floors Recommendation, 2012 (No. 202), to achieve universal social protection.

The experiences of Brazil are in line with the principles set out in the Social Protection Floors Recommendation, 2012 (No. 202), ensuring that benefit entitlements are prescribed by national law, that a diverse range of methods and approaches is considered, and that systems work towards social inclusion, including of persons in the informal economy.

- The significant progresses in extending social protection for domestic workers have been achieved by combining contributory and non-contributory schemes and pave the way towards extending coverage for other vulnerable groups. Mandatory affiliation of domestic workers was however determinant to extend social security effectively.
- Innovations in terms of financing and administration (e.g., through the *Simples doméstico*) are critical for extending coverage to a difficult-to-reach groups such as domestic workers.

What does the system look like?

Domestic workers have progressively, over the past 47 years, been included in the social security system for formal sector workers. Their social protection coverage became progressively more comprehensive, and since the adoption of the Constitutional Amendment No. 72 of 2013, popularly known as the Domestic Workers Law, they enjoy the same social security rights as other workers. This Law came into full effect only in June 2015 with the Complementary Law No. 150 of 2015. However, this law still lacks full enforcement which means that domestic workers that are not registered under the social insurance schemes can benefit from the social assistance programme.

Brazil's system of social security currently available for the domestic workers is organised under contributory and non-contributory schemes (see table 1).

► **Table 1. Social protection available for domestic workers in Brazil**

Components	Benefits	Institution
Social insurance (contributory)	Old-age, disability, and survivors' pensions; 120 days of paid maternity leave; paid paternity leave; occupational injury insurance; the Employee's Severance Guarantee Fund; fund for dismissal without due cause; unemployment insurance; nursery allowance for children under the age of 5 years old; and family- allowance to support low- income families with under 14 years old children	National Institute of Social Security (INSS), Ministry of Social Security
Health Care (universal and non-contributory)	Universal Health Care	Ministry of Health
Conditional Cash Transfer (CCT) <i>Auxílio Brasil</i> (Non-Contributory)	Cash payments to families with per capita income below the poverty line conditioned to school attendance of children and health check- ups of pregnant women and children	Ministry of Citizenship

► Source: Authors' elaboration.

Benefit packages: Domestic workers covered by the INSS are entitled to social protection benefits calculated as a percentage of their monthly salary. According to Law No. 8.213 of 1991, the benefits are not inferior to the minimum wage. This right is applicable even if the employee was unable to comply with the required time of contribution established by the INSS. The benefits include: (i) old-age pensions; (ii) six months of maternity leave; (iii) three months of unemployment insurance;(iv) monthly family allowances of 45 reais (US\$9) per child under 14 years old for those with income up to 878 reais (US\$171) and 31 reais (US\$6) per child for those with monthly income between 878 reais (US\$171) and 1,319 reais (US\$257).

Financing: The employers pay a contribution of 8 per cent of the domestic workers' monthly salary to the INSS. Comparatively, this contribution is smaller than the 12 per cent paid by employers for other categories of workers. The employers also pay: (i) a contribution of 8 per cent for the Employee's Severance Guarantee Fund (FGTS, *Fundo de Garantia por Tempo de Serviço*); (ii) 0.8 per cent for the employment injury insurance; (iii) 3.2 per cent for a fund for dismissal without due cause. On the other side, the employees' contribution to the INSS lies between 8 and 11 per cent to the INSS, depending on their salary level.

In case of dismissal with due cause, the domestic worker has no rights to receive any income compensation coming from the fund for dismissal without due cause; the employer gets back the monetary contributions paid to this fund. The Complementary Law No. 150 of 2015 established as due causes for dismissal: (i) submission to mistreatment of the elderly, the sick, the disabled or children under the direct or indirect care of the employee; (ii) the practice of an act of impropriety; (iii) improper conduct or lack of self-restraint; (iv) criminal conviction of a final and unappealable employee, if there has been no suspension of the execution of the penalty; (v) negligence in the performance of the respective functions; (vi) habitual drunkenness or in service, (vii) an act of indiscipline or insubordination; (viii) abandonment of employment, thus considered the unjustified absence from service for at least 30 consecutive days; (ix) an act harmful to the honour or good reputation or physical offenses committed in service against any person, except in case of self-defence or self-defence of another; (x) an act harmful to the honour or good reputation or physical offenses practiced against the domestic employer or his family, except in case of self-defence or self-defence of others; xi) the constant practice of games of chance. Domestic workers have the right to appeal against due cause dismissal before the national justice system.

Legal aspects: The historical lack of social protection rights of the domestic workers have recently been addressed by the Constitutional Amendment No. 72 of 2013, which equalizes the social protection rights between domestic and the other categories of workers (see table 2). By legal

definition, a domestic worker is a person aged 18 or older who provides non-occasional domestic services for a particular household for more than two days per week. The employers can be either an individual or an entire family/household. Under the 2015 legislation the domestic workers are covered by the general regime of social security and their registration is mandatory.

Institutional arrangements for delivery: The social insurance scheme that covers domestic workers is administrated by the INSS. After the signature of a formal job contract, the employer must register the domestic worker at the INSS via internet. The monthly payment of both the employers and the domestic workers' contributions is made by the employer through a unified system – the *Simples doméstico*. This new payment system has been developed to facilitate the management of the payment of different contributions and responsibilities. Through this system, after filling the online form, the single payment of all monthly contributions can be made at any bank, at lottery agencies or via direct debt from the employer's bank account. On the other side, when applicable, the domestic worker is supposed to claim the social security benefits personally at any INSS local agency.

A final noteworthy development was the inclusion of domestic workers in the Emergency Program for the Maintenance of Employment and Income (provisional measure 1.045) which was established in 2021 in response to the socio-economic impact of the COVID-19 pandemic. Through this programme, eligible workers were provided with compensation in case of layoffs or reduced working hours.

► **Table 2. Advances in the legislation to protect domestic workers in Brazil**

Law	Major Achievements	Social Protection Rights Guaranteed
Law No. 5.859 of 1972	Recognition of paid domestic work as a <i>formal function</i>	Inclusion into the contributory national social security system for pensions' coverage
Constitution of 1988	Recognition of paid domestic work as a <i>formal occupation</i>	Paid maternity leave; paid paternity leave; old-age, disability, and survivors' pensions
Constitutional Amendment No. 72 of 2013 and Complementary Law No. 150 of 2015 (Domestic Workers Law)	<i>Equalization</i> of the social protection rights between domestic workers and the other categories of urban and rural salaried workers	Employment injury insurance; Employee's Severance Guarantee Fund; Fund for dismissal without due cause; Unemployment insurance; Nursery allowance for children under the age of 5 years old; and Family-allowance to support low-income families with under 14 years old children

► Source: Authors' elaboration.

How was this major breakthrough achieved?

Due to the Domestic Workers Law that came into force in June 2015, domestic workers have the same social security rights today as other workers. The Law follows the overall aim of the ILO Domestic Workers Convention, 2011 (No. 189), which is the equalization of treatment and conditions between domestic and other categories of salaried workers. Convention No. 189 was ratified by the Brazilian Government on January 31, 2018, becoming the 14th Member State of the Americas region to ratify it. This ratification represents an important step which supports a series of measures taken by the Brazilian Government to provide basic protections to domestic workers and recognizing their contribution to the modern economy. Since most of domestic workers are women, the Government hopes that the implementation of Convention No. 189 also contributes to strengthening gender equality in the world of work.

What is the impact on people's lives?

Outcomes: The new law has contributed to extending social protection coverage and formalizing work in the domestic work sector, where only 42 per cent or 2.7 million individuals have a formal contract and are covered by the contributory social security scheme. Moreover, the law helps to alleviate poverty, inequality and discrimination by levelling up the social protection rights of domestic workers to the same level of any other salaried worker in Brazil.

Impact on people's lives: The law helps promoting racial justice, as over 80 per cent of domestic workers are black. Women's empowerment is also stimulated, since over 17 per cent of the employed women in the country work in the domestic sector – compared to only 1 per cent of employed men. Moreover, the law is an important tool for reducing the poor's socioeconomic vulnerability, particularly those households headed by women. Evidence shows that in 2013 over 50 per cent of the households headed by female domestic workers in Brazil were below the poverty line. In that sense, increased comprehensiveness and adequacy of social protection

benefits for domestic workers, and promoting the extension of coverage through the *Simples Doméstico*, helps these vulnerable households to move out from poverty. In particular new guarantees such as the family allowance for those with children under 14 years old, the unemployment insurance and the old-age pension have a direct impact on preventing and reducing poverty.

Impact on the economy: The Domestic Workers Law and its implementation through the *Simples Doméstico* have contributed to formalizing this category of workers, which had positive impacts on the economy. According to a study conducted by the International Policy Centre for Inclusive Growth, between 2006 and 2011, 0.58 per cent of Brazilian Gross Domestic Product (GDP) growth, or approximately US\$4.6 billion, can be attributed to the rising income of domestic workers. Consequently, the real consumption level of the low-income families, where lies the highest concentration of families headed by domestic workers, increased by 1.90 per cent. In addition, the effect on the aggregate employment was estimated to be as high 0.77 per cent, or the creation of 630,000 aggregate employment positions.

What's next?

- The enforcement of the Domestic Workers Law should be improved in order to guarantee the effective application of the mandatory social protection rights of domestic workers.
- The extension of social protection to occasional domestic workers will require the design and implementation of specific mechanisms. Learning from other countries experience may be useful, such as Türkiye.
- Support to organizations representing domestic workers is key to ensuring that the voices of the workers are heard.
- Further efforts are needed – such as through the simplification of administrative processes, tax incentives, control and inspections, and awareness raising – to further promote the formalization of the domestic workers while fighting discrimination against domestic workers.

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