**Case Study: Design & Implementation of a Special Scheme on Health and Maternity of Domestic Workers of the Salvadoran Institute of Social Security.**

## INTRODUCTION

The Special Scheme on Health and Maternity of Domestic Workers of the Salvadoran Institute of Social Security (ISSS) was created in 2010 by Executive Decree No. 74. This Decree was implementing a commitment found in (article 45) of the El Salvador Constitution, which establishes that domestic workers have the right to Social Security. The scheme began operating as a pilot in August 2010.

The International Labor Office (ILO), through its sub-regional Office in San José, Costa Rica, received in 2013, a request for technical assistance from both, the Salvadoran Institute of Social Security (ISSS) and the Technical Secretariat of the Presidency. The objective of this request was to carry out an analysis of this Special Scheme on Health and Maternity of Domestic Workers. Based on such analysis, the ILO was requested to provide the principles and related labor standards that guide the operations of Social Security Institutions. The ILO was further requested to formulate general recommendations to guide the decision making process of management and board, as well as to make to formulate appropriate adjustments to improve the effectiveness and efficiency of this program.

## Profile of the El Salvador (DOMESTIC WORK) labour sector

According to the 2011 household survey (EHPM 2011 DIGESTYC) there are approximately 102,308 domestic workers in El Salvador, which represent 3.9% of the economically active population (EAP) in the same year.

The domestic work sector is dominated by highly vulnerable workers, characterized by working conditions (salary, working hours, working environment, etc.) much lower than those guaranteed by the Labor Code for workers in the General Scheme, low levels of education / qualifications, predominance of women (92%), and no minimum wage protection.

The average age of domestic workers, according to the same survey, is 38 years (37 for women and 44 for men). Of the total number of women, 82% are of childbearing age (15 to 49 years).

According to data from the survey, about 16% of the domestic work force has no formal education, whilst 51% have between 1 and 6 years of schooling. 21% of the domestic work force reported to have attended school for between 7 and 9 years. Only 12% completed high school, whilst only 0.3% had more than 12 years of education.

The overall average salary of domestic workers is $ 131.54 ($ 186.46 for men, and $ 126.85 for women). 50% of domestic work force receive an average salary of less than $ 100.00.

The geographical distribution of the domestic work force records the San Salvador city as having the largest number of domestic workers with 23% of the total. San Salvador together with the largest cities (Santa Ana, Sonsonate and La Libertad), account for 63% of the domestic workers.

**The Labor Code and Domestic Workers**

The Labor Code sets out in a **special chapter**, entitled DOMESTIC LABOR (Articles 76-83), the rights and obligations of domestic workers and their employers.

Unlike sections related to ordinary salaried workers, this set of articles does little to promote the rights of domestic workers, nor offer them much in terms of work place protection. Below is a summary of the aspects that differentiates the special domestic work chapter from other sections in the Labour Code:

1. A minimum wage is not **established**, nor **defined**.
2. It is not mandatory to enter into a written contract, in which the terms and conditions of the employment relationship are clearly stipulated and agreed upon.

As a consequence:

* 1. Domestic workers tend to perform activities other than those for which they were hired.
  2. Domestic work is not subject to defined working hours, despite the fact that the maximum daily working day is 12 hours.
  3. The rest days of domestic workers are not strictly observed, with the specific work schedule determined largely by each employer.
  4. Despite these precarious work conditions, domestic workers hardly benefit from any overtime pay, outside of their regular salary.

1. In the event of termination of the contract by the employer, the domestic worker finds themselves in a situation of total helplessness and disadvantage with no mechanisms to seek redress regarding the reasons for termination and or to claim terminal benefits.
2. The articles do not specify any minimum health and safety conditions that should be provided to the worker in both their work and rest / accommodation areas (in case the worker resides in the house employer).
3. The right to be registered with social security institution is not established.

**Current status of the Regime**

The **effective coverage** target, established at scheme inception, was for the program to have reached 25,000 workers and affiliated workers by 2014. To achieve this target the scheme had to register 5, 000 new workers every year. By 2013, with just over two years since the scheme began, the scheme had managed to register only 2,163 domestic workers (representing 18% of the January 2013 target of 12,083). In addition, the ISSS also reported contribution deficits of almost $ 200,000 in respect of the scheme as at January 2013.

The scheme stipulates a minimum wage of contribution for domestic workers of $224.21. This rate is equivalent to the minimum wage as defined for the Commerce and Services Sector. However, the average earnings average earnings of the domestic work sector is $131.54 far below the minimum contribution wage. As a consequence, there is a general misconception that people earning lower salaries than the minimum contributions cannot participate.

To allow domestic workers the eligibility and flexibility to participate in their special scheme unique rules, different from the General Regime, have been developed to address the following aspects:

1. Unlike the General Regime, which is mandatory, the Scheme for domestic workers is voluntary.
2. The domestic work scheme provides coverage for Health and Maternity contingencies only. Excluded benefits are pensions (disability, old age and survival) and employment injury benefits (occupational accidents and diseases).
3. Given that the domestic workers scheme was created to protect a group of workers who do not have a minimum wage defined in the Labor Code of El Salvador and, who earn much lower wages than those received by the workers of the General Scheme, there is a requirement to establish a special financing mechanism.
4. Despite domestic workers being subjected to the same minimum contribution thresholds, they enjoy fewer benefits than their General Scheme counterparts.
   1. Domestic workers are not entitled to sick or professional sick pay,
   2. They cannot affiliate / register their spouses.
   3. They have a waiting period of 6 months to be eligible for coverage of serious or chronic illness.
   4. The maximum enrollment age is 60.

Other important findings that the ILO found in its review of the evolution of this scheme over 2011 and 2012 were as follows:

1. In this period the index of usage of medical services for domestic workers was 40% higher than that of workers of the General Regime.
2. The general average age of domestic workers (according to the EHPM of 2011) is 38 years, whilst the average age of domestic workers enrolled in the Scheme is 41 years.
3. The procedure for inscription, payment of contributions and access to the medical services and maternity benefits by domestic workers of this scheme is not clear.
4. There is insufficient information, and a lack of training / awareness of the ISSS staff about the special administrative procedures of the domestic workers scheme.
5. No family members of the employer are allowed to be registered as domestic workers.
6. The average income of households with domestic service in the Department of San Salvador (in which 75% of registered domestic workers are) is about $1400.00

**GROUP WORK**

Assume you are the social protection team from the ILO subregional office. Therefore please respond to the technical request from the Salvadoran Institute of Social Security and the Technical Secretariat of the Presidency, by:

Assessing the policy and design issues of the El Salvador domestic worker scheme, outlining challenges / risks as well as reforms / risk mitigation measures thereto?

In formulating your response please consider some or all of the following social security principles:

* + - Tripartite dialogue
    - New scheme design
    - Valuation & costing
    - Funding & sustainability considerations
    - Benefit type, adequacy, reform
    - Governance
    - MIS / Data
    - Coverage
    - Communication
    - Contribution collection
    - Coordination of the social security system

What is the role of the employers’ association (if any) should be, towards the improvement of this Regime?

Summarize your recommendations in a 10 minute power point presentation.