

# ConCourt victory for domestic workers

Yesterday, judgment was handed down in the Constitutional Court of the Republic of South Africa which declared section 1(xix)(v) of the Compensation for Occupational Injuries and Diseases Act, 1993 unconstitutional to the extent that it excludes domestic workers employed in private households from the definition of "employee", thereby preventing them from accessing workers' compensation.



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This means that, for the first time, persons employed in private households will be able to apply for compensation when injured or when they contract a disease in the course of their employment. The dependants of domestic employees will also qualify to claim should their breadwinner sustain a fatal accident at work. This order will apply retrospectively, with the result that those who suffered claims prior to this order will also qualify to apply for compensation.

The judgment found that the exclusion was discriminatory and infringed on domestic employees' rights to dignity, equality and social security. It entrenches the "very system of racialised and gendered poverty that the Constitution seeks to undo."

Norton Rose Fulbright, together with advocates Emma Webber and Lerato Phasha, represented the Commission for Gender Equality which intervened in the matter as *amicus curiae* in order to, inter alia, highlight to the Court the devastating impact that the exclusion has on black women in South Africa. The majority judgment noted the CGE's tireless efforts in advancing the rights of women.

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