

KNOW YOUR RIGHTS

UNDER THE NEW
ILO CONVENTION
ON DOMESTIC
WORKERS

CLAIM YOUR RIGHTS



APWLD

A Historic Victory for Domestic Workers - On the 16th of June, 2011 at the **United Nations International Labour Conference**, an overwhelming majority of governments, workers' representatives and employers' representatives voted for the adoption of a new Convention and Recommendation on Domestic Workers.¹

WHAT DOES THIS MEAN FOR DOMESTIC WORKERS?

1 Finally, the international community has officially recognised that domestic work is work!

2 Adoption of the Convention signifies an international commitment to improving the conditions of domestic workers and puts pressure on governments who do not protect domestic workers under their labour laws. Therefore, even without ratification, the new instruments are valuable tools.

3 If a government does ratify the Convention they then agree to a binding commitment to the new standards.



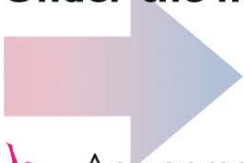
¹ Member states that did not vote (abstained): Czech Republic; El Salvador; Malaysia; Panama; Singapore; Sudan; Thailand; United Kingdom. Member states who voted against the Convention: Swaziland.

History is being made...We are moving the standards system of the ILO into the informal economy for the first time, and this is a breakthrough of great significance.





Juan Somavia, ILO Director-General

It is time to **KNOW OUR RIGHTS** and **CLAIM OUR RIGHTS** under the new **UN Convention on Domestic Workers**.

Under the new Convention and Recommendation,



A DOMESTIC WORKER IS:

-  Any person who works in or for a household or households within an employment relationship
-  Those who only do domestic work occasionally and not on an occupational basis are not domestic workers, i.e. someone who babysits children every once in a while is not a domestic worker.
-  However, governments can exclude certain categories of workers where including them would cause "specific problems of a substantial nature to arise".
-  Governments must set a minimum age for domestic workers, which is not lower than for workers generally, and for those under 18, the work should not interfere with their educational opportunities.



The Convention outlines,

THE RIGHTS OF DOMESTIC WORKERS AND THE OBLIGATIONS OF MEMBER STATES:

Legal recognition: governments should include domestic workers under existing labour laws and policies or develop new laws to cover them, and it should not affect already existing laws and policies that are more favourable.


Equal protection:  domestic workers should have the same minimum labour rights and protections as all other workers, including fair terms of employment and decent working conditions.

Equal treatment: of domestic workers and workers generally under minimum work standards such as hours of work, overtime, periods of rest, days off and annual leave.

Protection: against abuse, harassment, violence, discrimination, and forced labour. Also domestic

workers have a right to social security and maternity protections, where they exist in national law.

Health and safety: domestic workers have a right to a safe and healthy work environment

Rest:  domestic workers have the right to a weekly rest day, they do not have to live in the household or remain there during their breaks or days off.

Wages: Domestic workers have the right to be paid at least once a month, and to fair and reasonable payments in kind. Where it exists in national law, domestic workers have the right to minimum wages.

Documentation: domestic workers have the right to keep their documentation.

According to the Recommendations:

Medical Privacy: governments should ensure the privacy of medical tests and personal information, prevent discrimination, make health information available and should not require pregnancy or HIV testing.

Under age protection: special attention should be given to the needs of domestic workers under 18 in terms of protecting them from harmful work, conditions and hours.

Hours: should be recorded, standby or on-call periods should be regulated with maximum hours and compensation.

Rest: the fixed weekly rest day should be agreed upon with the employer, it can be accumulated but not over more than 14 days; accompanying the household on holiday is not part of annual leave.

Wages: wage payments should be recorded, Payment in kind should be appropriate and be regulated and limited, with no deduction for live in accommodation or items required for the work i.e. uniform or cleaning products.

Live in arrangements: should include a private, lockable, furnished and ventilated room, good quality and quantity food should be provided acceptable to cultural and religious requirements.

The Convention outlines,

THE NECESSARY DETAILS OF EMPLOYMENT CONTRACTS FOR DOMESTIC WORKERS:

Domestic workers should be informed of the terms and conditions of employment, preferably with a written contract.

The terms and conditions should include;

- name and address of the employer and of the worker;
- address of the usual workplace or workplaces;
- starting date and, where the contract is for a specified period of time, its duration;
- type of work to be performed;
- remuneration, method of calculation and how often its paid;
- normal hours of work;
- paid annual leave, and daily and weekly rest periods;
- provision of food and accommodation, if applicable;
- period of probation or trial period, if applicable;
- terms of repatriation, if applicable; and
- terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Under the Recommendations:

There should be a freely available model contract and the terms and conditions should also include;

- a job description;
- sick leave and, if applicable, any other personal leave;
- rate of pay or compensation for overtime and standby
- any other payments to which the domestic worker is entitled;
- any payments in kind and their monetary value;
- details of any accommodation provided; and
- any authorised deductions from the worker's remuneration.

As part of the International Labour Organisations fundamental principles and the new standards of the Convention,

DOMESTIC WORKERS HAVE THE RIGHT TO ORGANISE:



Domestic Workers have the right to freedom of association and collective bargaining.

Governments should protect domestic workers rights to establish and join organisations as well as federations and confederations of workers.

Governments should implement the provisions of the Convention in consultation with workers organisations, particularly in terms of excluding particular workers, measures to ensure freedom of association, health and safety, social security, and maternity protections.

Under the recommendations

Removing any legislation or policies that restrict organising and strengthening the abilities of organisations.



The Convention also includes,

THE RIGHTS OF MIGRANT AND AGENCY RECRUITED DOMESTIC WORKERS:

Migrant domestic workers have the right to a written job offer or contract before they depart, with the above terms and conditions enforceable in the country of destination.

Governments should determine the conditions under which employment agencies operate, ensure that there are protections against and procedures for investigation of complaints, abuses and fraudulent practices.

Governments should also specify the conditions under which domestic workers are entitled to repatriation and ensure that fees charged by agencies are not deducted from domestic workers' wages.

Governments should have bilateral, regional or multiregional agreements to prevent employment agency abuse and fraud.

Under the recommendations,

Governments should promote good practice of employment agencies.



Under the Convention,

MEMBER STATES HAVE OBLIGATIONS TO PROTECT DOMESTIC WORKERS, INCLUDING:



Domestic workers should have access to courts, tribunals and other dispute resolution mechanisms.

Governments should set up complaint mechanisms, labour inspections, enforcement and penalties for the protection of domestic workers, specifying conditions under which access will be granted to households for inspection, with respect for privacy.

Under the recommendations,

Governments should establish protective mechanisms for reporting abuse, harassment and violence; cases should be investigated and domestic workers should receive rehabilitation, accommodation and health care.

Governments should secure access of domestic workers to complaint procedures and remedies during and after employment and repatriation.

Under the Recommendations,

MEMBER STATES ARE ADVISED TO FURTHER THEIR PROTECTION OF DOMESTIC WORKERS BEYOND THE MINIMUM STANDARDS:

Governments should also establish a hotline, emergency housing, provide a system of pre-placement visits and publish information.

The government should establish programs to encourage development of domestic workers abilities and employment opportunities, address work - life balance, and collect data necessary for further policy making.

Governments should work with each other and cooperate at bilateral, regional and international levels, particularly in terms of trafficking, forced labour, social security, monitoring employment agencies, disseminating good practices and collection of statistics.

Governments should adopt code of conduct for diplomatic personnel and cooperate to prevent abusive practices.

Beyond the Convention and Recommendation,

APWLD CALLS FOR FURTHER MEASURES TO BE INCLUDED IN NATIONAL LEGISLATION FOR DOMESTIC WORKERS:

The right of workers to change their employers and in the case of migrant workers, to change the employment agency and or intermediaries they are employed through.

The ability of migrant domestic workers to be hired directly by an employer in the country of destination without any intermediary, especially migrant domestic workers.

The right to residency should be no less favourable in terms of domestic workers than that of other migrant workers.

Domestic workers should be able to remain in the country of destination and to be employed during legal proceedings against their employers, employment agency, or other intermediaries.

Migrant workers should also be exempted from immigration fees to extend their stay in destination country pending the solution of any such legal proceedings.

Employment fees and costs should not be charged to the workers as under Art. 7(1) Private Employment Agencies Convention, 1997 (No. 181).



NOW WHAT? THE ROAD TO RATIFICATION:

Now that the Convention is adopted, member states are required under the ILO Constitution to submit the Convention to their authority (normally the parliament) for consideration:

The process of consideration usually begins with a study of existing laws, circulation of a proposal for ratification to ministries and departments, and a decision whether to ratify the Convention.

If the national laws already include the minimum standards of the Convention, then the government may sign and ratify the Convention, otherwise the government may have to amend current laws as well as pass new laws, which may take some time. **It is not necessary that all national laws** are consistent with the Convention before ratification; upon ratification a government may indicate the

subsequent steps that will be taken to adhere to the Convention.

In 2012-3 member states should submit a report to the International Labour Organisation detailing the actions they have done so far towards ratification.

If both countries of origin and countries of destination ratify the convention, then they agree to implement the Convention and be legally accountable to its standards, meaning that domestic workers will be recognised and protected by the law, whether they work in their own country or overseas.

Start by making sure you are informed about what is required for ratification by your country; make sure you understand what national legislation needs to be amended as it excludes domestic workers or is inconsistent with the Convention, whether there is any current draft legislation on domestic work or if completely new legislation needs to be drafted.

If significant law reform is needed, then focus on pushing your government to sign the Convention while the amendments and drafts are being prepared, paving the way for later ratification.

Remember, the right to organise is now a right of domestic workers. There is strength in numbers and there are tens of millions of domestic workers worldwide. Contact APWLD to find out more about campaigning for ratification and how our network of women fighting for domestic worker rights can assist.



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APWLD also co-facilitates the United for Foreign Domestic Worker Rights Coalition (UFDWR)

www.ufdwrs.blogspot.com