

The Right to Unite: A Handbook on Domestic Worker Rights across Asia

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ISBN: 978-616-90030-3-8

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With funding support from:





Swedish International Development Cooperations Agency (SIDA)

Published by:

Asia Pacific Forum on Women, Law and Development (APWLD) 189/3 Changklan Road, A. Muang Chiangmai 50100 Ph: (66) 53 284527 Fax (66) 53 280847 www.apwld.org



APWLD

Empowering women to use law as an instrument of change and promoting women's human rights in the Asia Pacific region.

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FOREWORD

We are workers, we are not slaves.

Seven simple words, yet they encompass a powerful movement that is building in the Asia Pacific region. This mantra, adopted by domestic workers from Hong Kong to Sri Lanka encapsulates the struggle for the recognition of domestic worker's rights, including the right to organise.

This handbook captures the contexts of ten countries in the region in relation to domestic worker rights. It has been made possible by our collaborative efforts and the coordinating body of United for Foreign Domestic Worker's Rights (UFDWR). Time and time again, we have proven that when amplified by our collectivity, our voices can foster change. It is our hope for this publication and it is the driving force behind our struggle for domestic worker rights to organise. The right to organise is the one right that can unlock all the others; given the right to band together, we can create change; we can demand rights for all workers regardless of sector, gender or nationality.

We are workers, we are not slaves.

Seven simple words, yet they aptly describe how domestic workers are treated. This hand-book clearly demonstrates the disadvantages and discrimination that domestic workers including foreign domestic workers face. The following pages represent the lives of millions of workers, most of them women, denied of their labour rights and denied of even the recognition as 'workers'. In the millions we cannot forget that each number marks a women whose bondage has not slackened over time but instead has tightened.

Be it in countries that are essentially exporters of labour such as the Philippines and Indonesia, or in countries that are hosts to foreign domestic workers like Malaysia and Taiwan, the comprehensive rights of domestic workers are not recognised. While in some cases, national policies may exist that appear to promote the standards set by instruments of the United Nations or the International Labor Organisation, they repeatedly fall short of international standards or their implementation is flawed.

We are workers, we are not slaves.

Seven simple words, yet they describe me. I am a domestic worker. Like many of my sisters and brothers, I was forced to leave my country and my family to engage in work that is widely considered as a "3D" job – dirty, dangerous and difficult. I have also been through the harrowing experience of getting victimized by overcharging, underpayment and denial of rest days. I have experienced the vulnerability brought about by being a live-in domestic worker; the insecurity perpetrated by policies that make domestic workers powerless and voiceless; the lack of services of governments to those in distress; and the deficient mechanisms that are supposed to protect the human, labour and gender rights of domestic workers.

In addition to being a women and a worker, I am also an activist and a member of several groups that are taking isolated voices in households across the region and giving them power through a community of workers and activists.

We are workers, we are not slaves.

I am proud to be a part of publishing this handbook. The case studies featured illustrate that while domestic workers face particular concerns in particular countries, the commonality of our condition cannot be denied. This publication can further enhance other efforts to expose the unrecognized labour and hidden travails of domestic workers.

Now, on the verge of an ILO international convention with recommendations on domestic work, it is crucial that discourse surrounding domestic workers be promoted among grass-roots advocates in order to continue to sharpen our position and bring about policy changes. This handbook will enhance our lobbying efforts to ensure that the approaching finalized instrument will truly reflect the realities of domestic workers.

We are workers, we are not slaves.

Seven simple words, yet they are words that encompass both the core of the movement of domestic workers in particular and of migrant workers in general.

At the national level, migrant workers come together in various forms of organisations, groups and alliances to respond to a range of needs; from the need for camaraderie or to be surrounded with the familiar in a sea of foreign surroundings, people and culture, to the realization of the importance of coming together to uphold migrant's rights and welfare. In support of one another, domestic workers have been coming together and empowering each other in our efforts to assert our rights and defend our dignity. Migrant domestic workers are determined to take on the cudgels of the struggle for our rights. We will not be silenced and we will not be cowed. Our national movements have led us onto international movements. UFDWR emerged from a regional Summit held in 2002 to increase protection and promotion of foreign domestic workers.

The exploration of this publication concerning the rights of domestic workers to organise and the right to collective representation is a very timely theme. It illustrates the historical truth that without organised and collective actions, meaningful changes that will address the situation of domestic workers cannot be advanced.

While grassroots domestic workers assert these rights on the ground, advocates such as those who form the UFDWR play an important role in pushing for their realisation on the international stage. With this publication, education on these concerns and public awareness that supports the struggles of domestic workers can be fostered.

We are workers, we are not slaves.

Seven simple words but behind them is a movement – a powerful movement – that is determined to make them a reality.

Eni Lestari,

Domestic Worker and Domestic Worker Rights Activist

President of the Association of Indonesian Migrant Workers Association in Hong Kong (ATKI-HK)

Indonesian spokesperson of the Asian Migrants Coordinating Body (AMCB)

GAATW Board Member

Co-ordinator of United Indonesians in HK Against Overcharging (PILAR)

Chair of the International Migrants Alliance (IMA)

Organising Committee Member of the Labour and Migration Programme at APWLD

UFDWR - Who we are:

United for Foreign Domestic Workers' Rights (UFDWRs), a coalition working towards the increased protection and promotion of foreign domestic workers' rights. The overarching message of our campaign:

"Recognise domestic work as work".

The UFDWR core committee comprises five regional and international civil society organisations that work directly with domestic workers and domestic worker organisations in the Asia Pacific region. Each organisation has its own focus, from organising and migrant action to research and policy analysis, creating a strong platform for advocacy. We are the:

- Asia Pacific Forum on Women, Law and Development (APWLD)
- Asia Pacific Mission for Migrants (APMM)
- Coordination of Action Research on AIDS and Mobility in Asia (CARAM Asia)
- Mekong Migration Network (MMN)
- Global Alliance Against Trafficking in Women (GAATW)

Presently the coalition is co-hosted by APWLD and CARAM Asia.

Asia Pacific Forum on Women, Law and Development

APWLD is Asia Pacific's leading feminist, membership driven network. We hold consultative status with the Economic and Social Council of the United Nations. Our 180 members represent groups of diverse women from 25 countries in the region. For nearly 25 years APWLD has been empowering women to use law as an instrument of change for equality, justice, peace and development. We use research, training, advocacy and activism to claim and strengthen women's human rights.

Coordination of Action Research on AIDS and Mobility in Asia

CARAM Asia is a regional network working on migration and health issues. Formed in 1997, it has developed into a network of members spread across South East Asia, North East Asia, the Gulf and Middle East. CARAM Asia advocates for better access to health care, sexual and reproductive health and rights, and the mental and physical well-being at all stages of migration. CARAM –Asia believes that all people have the right to stay or move and live and work in dignity with equal rights in a society, where their quality of life is ensured.











Global Alliance Against Traffic in Women

UFDWR Joint Statement and Recommendations

Advance Domestic Worker Rights

The rights to organise, to collectively bargain, to form and join unions and to select representatives of one's own choosing are fundamental human rights, claimed by workers as long ago as 1948. These 'freedom of association' rights allow workers to realise other rights including; decent work, health and safety, fair wages, fair working hours, fair conditions and freedom from abuse and intimidation. The International Labour Conference (ILC) must result in an instrument(s) that protects and promotes the right of domestic workers to collectively organise. Without that right, all others are unachievable.

APWLD, on behalf of the United for Foreign Domestic Worker Rights (UFDWR) coalition, conducted the following review of laws in ten countries of origin and of destination in Asia. This review finds that, in summary, labour laws of most countries do not recognise domestic workers as workers, resulting in the denial of their basic labour and human rights.

Domestic workers routinely work 16-18 hours a day every day of the week, are denied holidays, are underpaid or not paid at all for long periods, are abused, harassed, confined in the house, restricted from contact with families members and friends, and are terminated without notice. Migrant domestic workers are particularly vulnerable to exploitation and abuse, with threats of deportation, discriminatory labour laws, language barriers, withholding of documents by employers, and predatory recruitment agencies.

The deficiency of legislative protections for domestic workers allows recruitment agencies and employers to act with impunity as they exploit the most vulnerable sector of workers. Only half of the countries studied in the paper protect domestic workers' freedom of association and right to organise. Only three of the ten countries include domestic workers in their labour laws and only one provides full labour protection to domestic workers, including migrant domestic workers. Laws that prevent migrants from forming unions and from holding union positions discriminate against migrant domestic workers and violate Article 2 of the ICCPR, which protects the rights of all individuals within the state territory, without discrimination. Furthermore, without the right to a weekly day off and with employers restricting the movements, and ability of domestic workers to leave the house, collective organising is impossible for almost all domestic workers in the region.

With concerted and immediate action, the ILO, countries of origin and countries of destination, unions, associations and the international community can, and must, enable domestic workers to claim and advance their human rights.

Recommendations to the International Labour Organisation (ILO)

While the instrument(s) on domestic workers is finalised, the ILO needs to ensure that:

- Domestic workers, particularly migrant domestic workers, regardless whether they are organized as trade union or association, are given a voice during the ILC and throughout the process of developing the instrument(s) and implementation;
- Domestic workers' representatives are included in their country delegations for the discussions on setting a domestic worker instrument(s);

- The rights of domestic workers to freely associate and to organise are protected by any such instrument, including protecting weekly time off and leave with pay, and prohibiting termination on grounds of being a member of, or participating in, trade union and other social activities:
- Undocumented migrant domestic workers are recognised as workers in the instrument to protect all domestic workers irrespective of their migratory status; and
- The current lack of national legislation should not be used as grounds for rejecting a binding convention.

To Governments of All Countries

To protect domestic workers all governments should:

- Ratify all international conventions and instruments on the freedom of association, right to organise and on migrant workers;
- Amend the labour law to include all domestic workers as workers in the law, including the provision of at least one paid day off per week and afford them all protections provided to other workers in a standard labour contract;
- Ensure labour laws promote and protect freedom of association, the right to organise and to form and join trade unions rights for domestic workers and allow multiple workplaces to be included in collective bargaining;
- Ensure labour laws are non-discriminatory and allow all domestic workers to form unions and associations, and hold union offices;
- Establish complaints mechanisms and provide information on domestic workers' labour rights in the workers' own language;
- Conduct mass public information campaigns to educate domestic workers, recruitment agencies, and employers about domestic workers' rights and complaint mechanisms; and
- Establish and revise memorandum of understandings (MoUs), multilateral or bilateral agreements with other countries to protect migrant domestic workers' rights.

To Governments of Destination Countries

To protect migrant domestic workers the governments of destination countries should also:

- Afford the same labour and human rights to migrant workers as to that of citizens to remove discrimination towards migrant workers;
- Prohibit the holding of documents by recruitment agencies or household employers and create reporting mechanisms;
- Recognise the rights of migrant workers contained in standard contracts, remove all laws or policies that are prohibitive to, or discriminate towards, the ability of migrant workers to seek and receive justice;
- Regulate recruitment agencies as intermediaries, rather than as employers, and limit their fees;
- Allow for the changing of recruitment agencies and of the employers by domestic workers, and for direct hiring opportunities; and
- Encourage tolerance and respect between migrant domestic workers, employers and society, in order to combat and eliminate all forms of discrimination, xenophobia and tension.

To Trade Unions and Domestic Worker Organisations

To promote the rights of domestic workers, trade unions and other organisations should:

- Include domestic workers and representatives of domestic worker organisations in Trade Union delegations to the ILC and support the proposed instrument(s) to protect the rights of domestic workers;
- Lobby governments to ratify any proposed instrument(s) on domestic workers and to amended the law to protect the rights of domestic workers;
- Encourage participation, member recruitment and support domestic workers' organisations in registering as formal trade unions;
- In countries where domestic workers are not able to join or form registered trade unions, lobby the government to change the laws and continue to advocate for domestic workers where possible:
- Support informal groups and associations of domestic workers to build their capacity and to join with other workers' groups:
- Assist migrant domestic workers and their organisations in their access to justice and to support mechanisms; and
- Conduct mass media campaigns and other initiatives to inform domestic workers of their rights, complaints mechanisms and the benefits of collective organising.

For a list of organisational endorsements please refer to Annex A



Women and Domestic Work in Asia: An Introduction

Did you know:



"Domestic work" in Asia, as with the rest of the world, is an industry dominated by women.



In fact, up to 90% of domestic workers are female¹ and domestic work is now the most common occupation for women in the region: "employment in private households accounts for about one-third of all female employment in Asia".²



Domestic work is also one of the largest drivers of female labour migration in the world.³ Women from Indonesia, Philippines, Thailand, Sri Lanka, India and Bangladesh are commonly employed in the wealthier Asian countries of Malaysia, Hong Kong, Japan and Taiwan.

Recent surveys have revealed that more than 90 percent of the 240,000 domestic workers in Malaysia are Indonesians.⁴



Similar trends have been identified in other wealthier countries in Asia. In East and Southeast Asia female migrant workers have surpassed the number of males.⁵



The classic profile of a migrant worker has shifted from the male breadwinner to a single or a married woman leaving the home to support her family and community.

In 2005, over 65 per cent of the nearly 3,000 Filipinos that left the country every day for work or residence abroad were women. From Sri Lanka in 2002, there were two women for every male emigrant. Between 2000 and 2003, an average of 79 per cent of all migrants leaving Indonesia to work abroad were women.⁶

What is a Domestic Worker?

There is no standard definition of a domestic worker. Definitions that occur in national legislation include the following:

- → "the workplace is a private home;
- →the work performed has to do with servicing the household;
- →the work is carried out on behalf of the direct employer, the householder;
- →the domestic worker is directly under his/her authority;
- →the work performed must be done on a regular basis and in a continuous manner:
- →the employer shall not derive any pe cuniary gain from the activity done by the domestic worker; and
- →the work is performed in return for remuneration, either in cash and/or in kind."

Ramirez-Machado & José Maria, 'Domestic work, conditions of work and employment: A legal perspective', International Labour Organization (ILO), Conditions of Work and Employment Series No. 7, 2003.

¹ National Domestic Workers Movement, 'About Domestic Workers' 2010, available from http://www.ndwm.org/ viewed 24th March 2010. ² Ip Pui Yu, Asian Domestic Workers' Network, 'Asian Domestic Workers' Network' 2010, available from http://en.domesticworkerrights.org/?a=node/3 viewed 24th March 2010.

³ United Nations Population Fund, "The State of world population 2006: A Passage to Hope: Women and International Migration," (2006), 25. ⁴ Human Rights Watch, "Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia," Vol. 16, no. No. 9 (B) (July 2004): 4.

[§] International Labour Organisation, "Women's Employment: Global Trends and ILO Reponses: 49th Session of the Commission on the Status of Women," (Geneva: International Labour Office, 2005), 21.

⁶ Glenda Labadie-Jackson, "Reflections on Domestic Work and the Feminization of Migration," Campbell Law Review 31 (Fall, 2008): 4. United Nations Population Fund, "The State of world population 2006: A Passage to Hope: Women and International Migration." Box 4

Globalisation

Has led to increasing human displacement and rising migration pressures. The neo-liberal model of economic development necessitates less industry and labour regulation and relies on the provision of cheap, flexible and transitory labour. A gendered notion of work that links women with the "private" sphere of nurturing, dependency and service, and men with the "public" sphere of paid work and enterprise, means that domestic work is amongst the lowest paid, least valued and least organised work in the region. However, foreign remittances generated from women domestic workers are increasingly relied upon by governments as a source of foreign exchange:

Of the more than US\$1 billion in remittances sent back to Sri Lanka in 1999, women contributed over 62 per cent of the total. Of the roughly US\$6 billion remitted annually to the Philippines in the late 1990s, migrant women transferred one third. Because they typically receive less pay... the total women remit may be less in comparison to men. Available data, however, shows that women send a higher proportion of their earnings—regularly and consistently.⁷

In the wealthier Asian countries like Singapore, Hong Kong and Taiwan, the aging workforce demands cheap labour from developing countries to off set their own labour shortage and to care for an aging population.

A study conducted by the Domestic Workers Union in India revealed that 70% of domestic workers are hired because their employers need time to earn extra money. "In other words, they are a crucial cog in the economic wheel, allowing many homes to earn an additional income. Yet, they remain poorly paid and face multiple discriminations."

Despite the growing economic significance of domestic work for destination countries, countries of origin and the women workers themselves, as will be detailed in the second section, the labour laws of Asian countries fail to protect domestic workers as workers.

The Hidden Violations of Domestic Workers' Rights

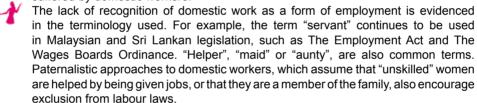
Domestic workers face on a regular basis:

Numerous incidents of

- > Harassment/Exploitation
- Physical torture and even sexual abuse by household employers.9
- There are little or no formal protection systems for domestic workers against this abuse.
- Migrant domestic workers are even more vulnerable to exploitation, which directly relates to their subordinate status as women and as foreigners.
- They face discrimination on the basis of gender, race, class, caste as well as nationality.

Why are they vulnerable?

Domestic work is particularly isolated in nature as it is carried out in the home of the employer, within the household dynamic domestic workers are often seen as equivalent to slaves or servants, rather than as employees. The master-servant relationship archetype lends acceptance to the physical abuse and long hours suffered by domestic workers.



The isolation is compounded by the fact that many domestic workers live-in their employers household and this is even enforced by legislation in some countries such as Hong Kong.

When the domestic worker lives-in, then employers have the power to control the workers autonomy, mobility and communications with the outside world. The employer in most destination countries routinely holds immigration documents and passports to give them further control. Workers may be restricted from using the telephone to call loved ones back home, sending letters, leaving the house to visit friends or relatives in the area.

Live-in domestic workers are on call 24 hours a day; they may not have a private bedroom or bathroom and are often forced to share with the children or elderly person they care for.

⁷ Ibid., 29

Rochelle Jones, 'Migrant Domestic Workers in Singapore' AWID Women's Rights, 15th August 2008, available from http://www.awid.org/eng/Issues-and-Analysis/Library/Migrant-Domestic-Workers-in-Singapore viewed 28th April 2010.
In reports, publications and news articles, see for example Human Rights Watch, "Swept Under the Rug: Abuses against Domestic Workers Around the World," Volume 18, Number 7 (C) (July 2006).

My family sent me their phone number, but my employer kept it and did not give it to me. I cried inside. My father sent the addresses of my family in Malaysia, but my employer kept it and only gave it to me when I returned to Indonesia. I never visited my relatives in Malaysia. My family thought I had died.

Human Rights Watch, "Swept Under the Rug: Abuses against Domestic Workers Around the World." 74.

The review of the labour laws of ten countries in the second section documents that domestic work is not recognised as work under most national labour laws. This leaves the domestic worker subject to the employers' demands and leaves them legal vulnerable when violations occur. Domestic workers and migrant domestic workers in particular, cannot avail the labour protection and benefits afforded to workers from formal sectors. Most countries receiving migrant domestic workers in the region do have any terms of reference for domestic workers therefore the default assumption of the employers are that women domestic workers are outside of the law

Child domestic workers:

Many domestic workers are children under the age of 18, some as young as five years old. The ILO estimates "that more girls under sixteen work in domestic service than in any other category of child labour." Child domestic workers, especially the girls, are particularly vulnerable to sexual harassment and abuse in the household. Furthermore, since they are often denied an education, they are limited from the availably of other work as they become adults, and the abuse continues

Trafficking in Human Beings

Trafficking in human beings is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of force or the threat of force. It may also involve abduction, fraud, deception, and abuse of power or the giving and receiving of payments for the purposes of sexual exploitation, forced labour, slavery-like practices, servitude or the removal of organs.

United Nations www.undcp.org

Smuggling implies an illegal transport arrangement that the migrant has consented to, while trafficking involves some form of deceit or coercion

¹⁰ Human Rights Watch, "Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East," 1-56432-625-X (April 2010): 9, 14.

¹¹ Ibid 2-3

Women and young girls are driven into domestic work by poverty. However the cycle of poverty continues when burdened with the debt of migration and agents fees. Restrictive immigration policies lead many migrant women to rely on an unauthorised agency or smugglers in order to reach a destination country.

It is estimated that around 6000,000 - 800,000 people are trafficked across transnational borders worldwide, and of those, more than eighty percent are women and airls.12

Smuggling and trafficking places women migrants in considerable debt and danger. Once they have arrived they may be forced to pay higher transport fees than previously arranged, they may be forced into prostitution to pay off their debts.

When their rights are violated by a smuggler or unauthorised agency there is usually little a migrant can do, if they are undocumented then they risk detention and

Even if a domestic worker migrates through a registered and official recruitment agency, the fees leave a worker in debt before she even leaves the country and are usually taken from her pay for the first three to ten months of working. 13

Consequences of abuse:

There are few options available to domestic workers who suffer exploitation and abuse. If they leave the job they are unlikely to be paid wages owing and migrants may be deported with debt owing to recruitment agencies. 14 The violation by the household employer is usually unpunished and unreported. Government policy may also discourage the reporting of violations. In Malaysia for example, migrant workers must pay 100 Ringgit a month while waiting for the outcome of any civil and criminal complaints, at the same time they are prohibited from seeking new employment. 15 The ability of women to protect themselves and to respond to rights violations is a concern that needs to be addressed, especially when the laws and governments of countries do not protect them. Without these rights and the capacity to organise, these violations will continue with impunity.



¹² In 2003. Visayan Forum, 'Human Trafficking in the Philippines' 2008, available from

http://www.visayanforum.org/portal/index.php?option=cms&mode=view&id=822 viewed 28th April 2010.

¹³ Human Rights Watch, "Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East," 9. Asia Pacific Forum on Women Law and Development, The Hidden Pillars: A Study on the Contribution of Indonesian Domestic Workers to the Quality of Life of Hong Kong and Malaysian Employers (Thailand: Asia Pacific Forum on Women, Law and Development 2008), 46.

¹⁴ Human Rights Watch, "Swept Under the Rug: Abuses against Domestic Workers Around the World," 68.

¹⁵ Ibid, 78.

Gendered Work

Women and the household:

1

The refusal to count domestic work as work under national labour laws stems from the notion that domestic work is inherently unskilled and an essential part of women's existence.



It is a form of labour that was traditionally performed by the wife and mother without pay and was considered to be exogenous to the productive economy.



In many parts of Asia domestic work was associated with the lower class or caste in society.



Worldwide feminised labour - labour that is associated with the private sphere, with nurturing, with children - has been chronically undervalued.



With the intensification of work, the rise in female participation and the decline in state provided social services; more households are relying on employing outside labour to perform household and caring responsibilities.



The omission of domestic work from labour laws is the ultimate extension of the historical, systematic marginalisation of women's work.



As the ILO stated, "since domestic work is often regarded as an extension of women's traditional unpaid household and family responsibilities, it is still mostly invisible, undervalued and unprotected". ¹⁶

The traditional model of work that has underpinned the development of labour laws, wages and conditions is that of a male breadwinner with dependants – wife and children. It has assumed that his income must be sufficient to support himself and his dependants, which may include domestic workers, while the work of women is seen as supplementary. This model permeated development theories applied through colonisation in Asia Pacific.¹⁷ To do justice to women workers we need to re-define how economic and labour value is ascribed.

Efforts to promote equal pay for work of equal value are yet to properly focus on domestic work. ¹⁸ The ILO Equal Remuneration Convention 1951 (Convention No. 100), should be applied to domestic work and a comparator established as a directive for Asian countries. Domestic work needs to be re-evaluated as a legitimate form of employment.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and General Recommendation No. 26 on Women Migrant Workers

"To formulate a gender-sensitive, rights based policy on the basis of equality and non-discrimination to regulate and administer all aspects and stages of migration, to facilitate access of women migrant workers to work opportunities abroad, promoting safe migration and ensuring the protection of the rights of women migrant workers."

Specific recommendations concerning women workers are given for the governments of countries of origin, transit and destination.

¹⁶ International Labour Organisation, "Gender equality at the heart of decent work: International Labour Conference Sixth item on the agenda," (Geneva: International Labour Office 99th Session 2009), 36.

¹⁷ Ester Boserup, Woman's Role in Economic Development (London: George Allen & Unwin, 1970).

¹⁸ There have been equal pay cases lodged by domestic workers in the public sphere. In the UK Armstrong and Others v Newcastle Upon Tyne NHS Hospital [2006] compared domestic workers to porters. Some domestic workers employed by local councils have also been successful with male council workers as comparators.

CEDAW	Ratification, Accession(a), Succession(d)	Reservations ¹⁹
Bangladesh	6 Nov 1984 a	The Government does not consider as binding upon itself the provisions of articles 2, 13 (a) and 16 (1) (c) and (f) as they conflict with Sharia law based on Holy Quran and Sunna. On 23 July 1997, the Government of Bangladesh notified the Secretary-General that it had decided to withdraw the reservation relating to articles 13 (a) and 16 (1) (f) made upon accession.
(Hong Kong - SAR) China	4 Nov 1980	On 10 June 1997, the Secretary-General received communications concerning the status of Hong Kong from the Governments of China and the United Kingdom. Upon resuming sovereignty over Hong Kong, China notified the Secretary-General that the Convention with the reservation made by China will also apply to the Hong Kong special Administrative Region.
India	9 Jul 1993	
Indonesia	13 Sep 1984	
Japan	25 Jun 1985	
Malaysia	5 Jul 1995 a	On 6 February 1998, the Government of Malaysia withdrew its reservation in respect of article 2(f), 9(1), 16(b), 16(d), 16(e) and 16(h). The same date, the Government notified the Secretary-General that it had decided to modify its reservation made upon accession as follows: article 5 (a), article 7 (b) and article 16.1 (a) and paragraph 2, is subject to the Syariah law, article 9, paragraph 2 will be reviewed if the Government amends the relevant law.
Philippines	5 Aug 1981	
Sri Lanka	5 Oct 1981	
Taiwan		Ratified the stipulations of CEDAW into domestic policy, but is still awaiting CEDAW's approval of its ratification
Thailand	9 Aug 1985 a	Upon accession, the Government made the following reservations: Articles 7, article 9, paragraph 2, and 10, limited by national laws regulations and practices. Government declared it is not bound by the provisions of article 16 and article 29, paragraph 1. 25 January 1991, withdrawal of reservations to article 11, paragraph 1 (b), and article 15, paragraph 3. 26 October 1992, withdrawal of one of the reservations to article 9 (2). 1 August 1996, reservation to articles 7 and 10 withdrawn

¹⁹ For more details see United Nations Treaty Collection, available from http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#13 viewed on 17th August 2010.

Protection through Collective Representation

Collective representation:

Collective representation is essential for the promotion and protection of workers' rights – both to protect individual violations and to collectively promote standards. Unions also provide an important voice in policy and legislative debates and in international fora. They may be the primary, or even sole, vehicle for political participation. To deny workers the right to collective action is to deny them the opportunity to claim and advance their human rights. The restrictions on organising and on registering domestic worker unions in each country is outlined in the next section, there are also some cases of what domestic workers have achieved when they are able to organise.

International Law:

In response to the 2009 questionnaire concerning the proposed ILO instrument(s) on domestic work ²⁰			
Should the Convention provide that each Member should take measures to ensure the enjoyment by domestic workers of the fundamental principles and rights at work, namely: (a) freedom of association and the effective recognition of the right to collective bargaining?	81% of governments agreed	100% of workers organisations agreed	33% of employers' organisations agreed
Should the Recommendation provide that the competent authority should take or support measures to promote capacity building for representative organisations of employers and domestic workers, including collective bargaining?	78% of governments agreed	98% of workers' organisations agreed	53% of employers' organisations agreed

The Convention and Recommendation on domestic work has not yet been adopted by the ILO,²¹ but the right to collective representation is currently embodied in international law, along with the right to freedom of association and to organise.



The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and General Recommendation No. 26 on women migrant workers calls on states parties to seek the active involvement of women migrant workers in policy formulation, implementation, monitoring and evaluation, this should and can most easily be done through forms of collective representation.



The Universal Declaration of Human Rights;



The International Covenant on Civil and Political Rights;



And the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, guarantee the right to freedom of association.



This right is also one of the four principles of work in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work 1998;



And further developed in several ILO Conventions, most notably the Freedom of Association and Protection of the Right to Organise Convention (Convention No. 87);

²⁰ Of those that responded to the questionnaire. Ibid, 214-6.

²¹ The proposed convention and recommendation will need a two thirds majority to be adopted at the International Labour Conference in June 2011



And the Right to Organise and Collective Bargaining Convention (Convention No. 98).

However, many of these important conventions have not been ratified by the ten Asian countries that are the focus of this study.

	Freedom of Association and Protection of the Right to Organise Con- vention (Convention No. 87)	Right to Organise and Collective Bargaining Convention (Convention No. 98)	UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
Bangladesh	*	✓	×
Hong Kong (SAR)			×
India	×	×	×
Indonesia	*	*	×
Japan	*	*	×
Malaysia	×	*	×
Philippines	*	*	*
Sri Lanka	*	*	*
Taiwan	×	×	×
Thailand	×	×	X

There are three basic levels of collective representation:

- 1) The most basis level is an informal group, network or workers' cooperative. These grassroots self-organised associations are the most common way for information sharing, education and for domestic workers to be linked to others in the area. Women tend to feel more confident in joining these grassroots groups, which tend to be social or cultural based. They tend to meet irregularly and are based at a particular location such as at a park, playground, city landmark or outside of a school. Their effectiveness and level of advocacy tends to depend on how well connected the associations are with more formal groups and support networks.
- 2) The second level is the informal unions and more structured organisations. These are common where domestic workers are restricted from forming or joining registered trade unions by national laws. These organisations tend to be more organised and connected to other services, NGOs and similar worker based organisations and will have offices with volunteers and maybe even some professional staff.



3) The most structured level is the legally registered trade union. There are unfortunately quite few formed by domestic workers, but there are some that are formed by migrant workers or more "formal" forms of work that allow membership by domestic workers. However, membership levels are still low because of the isolated nature of domestic work and the traditionally male-orientated nature of unions.

Even in cases where a women domestic worker is informed, eager and able to join an association or trade union and even though the right is encased in international law, there are still barriers in place due to the lack of recognition of the rights of domestic workers by national laws or by the collective organisations themselves.



National Laws and Trade Union Barriers to Collective Representation

In this section, the exclusion of domestic workers from national labour laws and to the right of collective representation in ten Asian countries is detailed. To advance the rights of domestic workers, campaigners and representatives need to know where domestic workers are excluded in the law and what prejudicial national legislation and policies needs to be changed. Some countries have made attempts to protect their domestic workers, such as Hong Kong and the Philippines, and these measures can serve as examples to other Asian countries. However, in most countries, simply recognising that domestic workers are workers will be the most first step in protecting their rights.

	Included under national labour legislation	Basic rights protect- ed under national labour legislation	Migrant domestic workers have labour rights*	Right to form registered unions under national legislation
Bangladesh	X	X	X	X
Hong Kong (SAR)	*	*	*	*
India	×	×	X	X
Indonesia	X	X	X	*
Japan	X	X	X	
Malaysia	*	X	*	×
Philippines	*	some	*	
Sri Lanka	some	X	*	*
Taiwan	some	X	X	X
Thailand	some	some	×	×

^{*}For the destination countries listed this refers to whether migrant workers have equal labour rights under the national law, and for countries of origin, if they have labour rights protections for their migrant workers while overseas. India and Thailand do not have labour rights or protections for migrant domestic workers as a country of origin or destination.





Bangladesh and Abroad

Ignored at Home, Isolated Overseas



Background:	
Main migrant countries of destination:	Saudi Arabia, UAE, Malaysia
Number of migrant domestic workers:	No official statistics and estimates vary
Ratified Right to Organise convention:	Yes
Ratified Freedom of Association Convention:	Yes
Ratified the UN Migrant workers Convention:	Signed not ratified
Domestic worker legislation:	NA
Included under labour legislation:	Explicitly excluded



National Laws Concerning Domestic Workers:

The situation for domestic workers in Bangladesh is summed up well by Nazma Yesmin, the Programme Officer of Bangladesh Institute of Labour Studies (BILS), who stated that:

Domestic workers are not included in the Labour Law 2006... They have no fixed amount for salary or working hours. There are no rules or regulations, which can be followed by the employer or the domestic worker.²²



Domestic workers are explicitly excluded under section 1(4) of the Labour Act, (XLII of 2006) from standards governing working conditions and from the Employment of Labour (Standing Orders) Act, 1965 (Act No. 8 of 1965).



They have no minimum wage, limitation on hours or protections of their rights in national legislation although some states have enacted minimum wages. This lack of legal protection means that domestic workers in Bangladesh go unprotected:

A study conducted by the Bangladesh Institute of Labour Studies (BILS) of several hundred domestic workers revealed that at least 17 per cent were sexually abused, 47 per cent were physically assaulted, 63 per cent were forced to work beyond their physical capacity and 83 per cent were scolded mercilessly. In 2006, 35 domestic workers were reported to have died, 31 were injured and 13 were raped.²³

However:



The exclusion of domestic workers in the law may be beginning to change. Domestic workers were recently included in The Unorganised Workers' Social Security Rules 2008 and the Government has set up a policy framework taskforce to look at extending other work benefits to domestic workers, which met early in 2010.

Child domestic workers: The current concern is the popularity of employing children as domestic workers in Bangladesh.

The Bangladesh Bureau of Statistics estimated that the number of child domestic workers in Bangladesh was 155,883; however, other studies have argued that there are 300,000 child domestic workers in Dhaka alone.²⁴ The majority are between 12-17, but an estimated "38 percent were 11 to 13 years old and nearly 24 percent were 5 to 10 years old."²⁵

There is no general law against the employment of children, although some laws prohibit child labour in certain sectors, domestic work is not one of them. To "protect" Bangladeshi women and children, it was not until 2005 that women over 35 were legally allowed to migrate to be employed as domestic workers.²⁶ Women domestic workers were still migrating through illegal channels by smugglers or traffickers, and as such, abuses were common

Women Magazine of Bangladesh, 'Making it More Endurable' 7 May 2009, available from http://www.women.com.bd/2009/05/making-it-more-endurable/ viewed on 9th April 2010

²³ Statistics from 2006. Soma Islam, 'Workers' Rights', Ain O Salish Kendra (ASK) 2008 http://www.askbd.org/web/?page_id=511 viewed 24th March 2010.

²⁴ Bangladesh Bureau of Statistics numbers from 2003, other studies from 1999 and 2001. Oli Md. Abdullah Chowdhury, 'The Daily Star Issue No: 73 Law and our Rights Plight of a child domestic worker' 21 June 2008, available from http://thedailystar.net/law/2008/06/03/monitor.htm viewed on 9th April 2010, and Mohammad Zulfiquer Hossain, 'Child labour: trends and features', Bangladesh Human Rights Network, 2001, available from http://www.banglarights.net/HTML/Childlabour-2.htm#120 viewed on 10th April 2010.

²⁵ Mohammad Zulfiquer Hossain, 'Child labour: trends and features', Bangladesh Human Rights Network, 2001, available from http://www.banglarights.net/HTML/Childlabour-2.htm#120 viewed on 10th April 2010.

²⁶ United Nations Population Fund, "The State of world population 2006: A Passage to Hope: Women and International Migration," 33.

and unreported.²⁷ In 2001, the government set up the Ministry of Expatriates' Welfare and Overseas Employment whose main objective is to increase overseas employment and remittances, but also to ensure migrants' welfare. However, after the opening up of migration, conditions for women domestic workers are much the same.

When analysing the unsafe conditions that Bangladeshi women face when migrating to work overseas, we found that the absence of laws and regulations in the recruitment process for migrant domestic workers and the poor working conditions they face once on site render women very vulnerable.

Shakirul Islam, 'Arab States Bangladeshi women migrants face abuse and health hardships abroad' United Nations Development Programme Newsroom, 24 November 2009, available from http://content.undp.org/go/newsroom/2009/november/bangladeshi-women-migrants-face-abuse-and-health-hardships-abroad.en;jsessionid=akR7ecbOPf55?cate goryID=349432 viewed 10th April 2010.

Migrant workers: Bangladesh has so far signed Memorandums of Understanding (MoUs) with Iraq, Libya, Qatar and one with Malaysia, which stipulates the number of workers allowed to migrate and their basic rights at work. The latest negotiations with Malaysia include the positive step of higher wages (although not as high as Filipino workers), but also new restrictive conditions that include a ban on changing of employment and on marrying locals. The labour rights and conditions for the few migrant domestic workers that are in Bangladesh are also not covered by national laws; the Emigration Ordinance, 1982 (No. 29 of 1982) only covers documentation.



Domestic Workers' Right to Collective Representation:

Bangladesh has signed but not yet ratified the UN Convention on the Rights of Migrant Workers, but unlike India, it has ratified the Freedom of Association Convention, and the Right to Organise Convention. Bangladesh's Constitution reflects this in Article 38, which guarantees the right to freedom of association and to form trade unions.



Under the Bangladesh Labour Act of 2006 section, 211(8) strikes are prohibited for the first three years for new factories, factories owned by foreigners, or for joint ventures with foreign investors.



The government can also ban strikes for periods of three months at a time. Trade unions can be formed by employers as well as workers and by a cluster of institutions involved with activities - such as private transport, tailors etc - if 30 per cent of the total workers of the cluster agree to form a trade union and if the government approves the registration.



The Labour Act does not, however, cover Export Processing Zones (EPZs) or workers in the informal sector such as domestic workers; whose informal unions and association are not protected under the act.



Trade Union activities were banned under the recent two-year state of emergency; as a result activists were arrested in 2008 after holding demonstrations concerning withholding of pay, wages below the minimum and other violations of labour rights. Since the lifting of the state of emergency conditions have not improved; workers rights continue to be violated and protests by workers are being met with intimidation and even violence from police with hundreds of workers - mainly in the garment industry - injured and arrested.

²⁷ Rukhsana Gazi et al., "Trafficking of Women and Children in Bangladesh: An Overview," (Dhaka Bangladesh: ICDDR, B: Centre for Health and Population Research, 2001).

²⁸ Human Rights Watch 'Events of 2008 – Bangladesh', available from http://www.hrw.org/en/node/79296 viewed 24th March 2010. Also see International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Bangladesh' available from http://survey09. ituc-csi.org/survey.php?IDContinent=3&IDCountry=BGD&Lang=EN viewed on 7th April 2010.

This occurred in January [2009] at Kimberly Fashion Ltd factory (25 workers injured), the MBM garment factory in Dhaka Export Processing Zone (DEPZ) (50 workers injured), Metro Garments factory in Narayanganj, Jaya Group of Industries at Kanchpur under Rupganj upazila in Narayanganj, Shine Fashion Ltd factory in DEPZ (20 workers injured – three seriously), in a garment factory located in Kalurghat Industrial area in Chittagong, in the garment factory Gazipur, near Dhaka (40 workers injured), Honor Way Textile and Apparels Ltd in DEPZ (one hundred workers injured out of 700 hundred demonstrating - 18 of them critically) and Abani Knitwear Textile Mills of Babylon Group at Rishipara in Savar. Police launched an attack against about 20,000 garment workers from more than a dozen garment factories in Fatullah on 12 April, in Narayanganj. At least 50 workers were injured including three by shotgun pellets.²⁹

There are a few unions and associations working towards the recognition of the rights of domestic workers in Bangladesh such as:

- The Karmojibi Nari Working Women Organisation, National Home & Domestic Women Workers Union.
- Shakham Sessashebee Shangstha (Adult Domestic Worker's Association)
- The NGO Ain O Salish Kendra (ASK).

There is also an organisation aimed at assisting those that have returned to Bangladesh called the Welfare Association of Repatriated Bangladeshi Employees (WARBE), who uses education and training to encourage safer migration pre-departure and help migrants use their savings effectively when they return. However, without protection under labour laws the capacity and effectiveness of these organisations is limited.

RECOMMENDATION:

Include all domestic workers under the Labour Act and Employment of Labour Act to protect basic labour rights of domestic workers, including a weekly day off and the rights required for collective representation. Set up effective protections for Bangladeshi women domestic workers heading overseas.

²⁹ International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Bangladesh' available from http://survey09. ituc-csi.org/survey.php?IDContinent=3&IDCountry=BGD&Lang=EN viewed on 7th April 2010.

Hong Kong (SAR)

More than Others, Less than Equal

Background:	
Main migrant Countries of Origin:	Indonesia, Philippines
Number of domestic workers:	273,609
Ratified Right to Organise convention:	Yes
Ratified Freedom of Association Convention:	Yes
Ratified the UN Migrant workers Convention:	No
Domestic worker legislation:	No
Included under labour legislation:	Yes



National Laws Concerning Domestic Workers

Hong Kong provides a model of protection for those commonly referred to as "foreign domestic helpers" that few other countries in the region have emulated. As a major destination for domestic workers from Philippines and Indonesia, there were approximately 273,609 migrant domestic workers in Hong Kong in March 2010, and the number is still slowly growing.³⁰

Employment Ordinance of Hong Kong:

Protections for domestic workers start with the Employment Ordinance of Hong Kong, upon which the standard contract for hiring of migrant domestic workers is based.



The ordinance applies to all employees, including migrant domestic workers, and covers a comprehensive range of employment protection and benefits for employees.



Domestic workers, whether local or migrant, are therefore entitled under the law to similar rights and protection as those of other local employees.

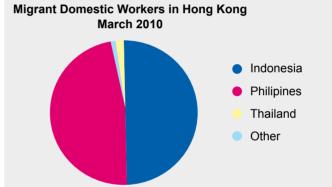
Includes:

- a weekly rest day,
- · paid sick days,
- maternity leave,
- twelve statutory holidays per year,
- annual leave.
- and payment cannot be offered in lieu.

There are also regulations outlining termination and severance pay, as well as conditions for the employment of children over the age of 13, and the commission of recruitment agencies should not exceed 10% of the employees first month's wages.

Standard Employment Contract (ID 407):

The contract details that the employer must provide the domestic worker with at least the prevailing minimum wage, free accommodation, meals or a food allowance, free travel to and from the place of origin at the start and end of the contract (including the ticket, food and travelling allowance), and free medical treatment.



Communication and Public Affairs, Hong Kong Migration Department

Concerns: However, not all of the protections for migrant domestic workers are adequately enforced. For example, agencies have been charging higher fees than legally allowed and a 2005 survey by Asosiasi Tenaga Kerja Indonesia Hong Kong (ATKI-HK) found that 53 percent of Indonesian domestic workers in Hong Kong were underpaid.³¹ This has a maximum penalty of a fine of HK\$350,000 and imprisonment for 3 years, which was imposed in the 2009 high court appeal case of HKSAR v. LAM LEONOR CHAN (HCMA000125/2009), but it is unclear how often the cases go to court.

 $^{^{\}rm 30}$ Communication and Public Affairs, 'Foreign Domestic Helpers (FDHs) Population in Hong Kong' Hong Kong Migration Department, March 2010

³¹ Asosiasi Tenaga Kerja Indonesia Hong Kong (ATKI-HK) 'Survey of Indonesian migrant workers in Hong Kong' 2005

Under the Employment Ordinance, it is mandatory for migrant domestic workers to enter into a maximum two-year standard employment contract (ID 407) directly with the employers, not with the recruitment agency. The contract stipulates that the domestic worker is not permitted to work for any other person nor do any other form of labour, for example, the migrant domestic worker cannot be made to work in the employers' shop or restaurant. However, where such illegal work occurs they are deemed offences committed by the domestic worker rather than the employee.

Despite the inclusion under national legislation and the enforcement of a standard contract, there are, however, some restrictions on the labour rights of migrant domestic workers, which leave them vulnerable to abuse. Under clause three of the standard employment contract migrant domestic workers are required to live-in; this subjects them to increased danger of rights violations.

A survey conducted in Hong Kong (1994) showed that 70.4 per cent of the domestic workers did not have their own room and were forced to share a room with the employer's children or to sleep in the corridor, the living room, dining room, store room, kitchen, laundry, ironing area or any other available space.³²

The national laws and standard contract for migrant workers also does not include a minimum wage for domestic workers or a limitation of working hours; meaning that domestic workers are effectively on call 24 hours a day.

Two week rule: The Immigration departmental policy known as the "two week rule" requires that migrant domestic workers leave Hong Kong within two weeks of premature termination and then they must apply for a new contract in their place of origin before returning. This forces many domestic workers to accept illegal conditions such as underpayment, no day-off and no holidays because if they resist, their working contract can be terminated by the employer and the two-week rule will apply. It can also force those who are terminated to overstay or work illegally in order to be able to pay back the recruiting debts they owe. Furthermore, maximum contract length is two years, after that period the worker must exit the country to apply for a new contract or to renew a contract. The policy restricts domestic workers from seven years of continuous residency and therefore from becoming permanent residents, these conditions do not apply to any other migrant workers.



³² José Maria Ramirez-Machado, "Domestic work, conditions of work and employment: A legal perspective," in *Conditions of Work and Employment Series No.* 7 (Geneva: International Labour Office, 2003), 2.

³³ Asia Pacific Forum on Women Law and Development, The Hidden Pillars: A Study on the Contribution of Indonesian Domestic Workers to the Quality of Life of Hong Kong and Malaysian Employers, 19.



Domestic Workers' Right to Collective Representation:

Hong Kong, as subsumed under China, has ratified the Right to Organise and the Freedom of Association Convention, but not the UN Migrant Workers Convention.

However:

In Hong Kong all domestic workers, whether local, under 18 or migrant, have the right to organise under the Employment Ordinance.

The right to strike is also included in the law, however, employees are often not protected from termination when they do strike, and collective bargaining is not recognised or encouraged by the government.

The Immigration ordinance protects the right to organise and the right to collective representation for migrant domestic workers, and under the standard employment contract they cannot be terminated for trade union membership and activities.

Due to this there are many associations and trade unions in Hong Kong that include domestic workers, most focusing on migrant workers from a particular region such as

- The Filipino Migrant Workers' Union (FMWU),
- Association of Indonesian Migrant Workers (ATKI-HK).
- Friends of Thais (FOT),

Case Example

The Asian Migrants' Coordinating Body (AMCB) is based in Hong Kong SAR. It is a founding member of the International Migrants Alliance (IMA) and has members from Indonesia, Nepal, the Philippines, Sri Lanka and Thailand. The AMCB was established in 1996 as the first coalition of grassroots migrant organizations of different nationalities. Member organizations now include the Far East Overseas Nepalese Association (Feona), Association of Sri Lankans in Hong Kong (ASL), Association of Indonesian Migrant Workers in Hong Kong (ATKI), Thai Regional Alliance (TRA), Friends of Thai (FOT), and United Filipinos in Hong Kong (Unifil-Migrante-HK), and Filipino Migrant Workers Union (FMWU), AMCB's work includes advocacy and organizing, networking and cooperation and educational activities, especially on International Labour Day. Women's Day, and International Human Rights Day, It also works in partnership with regional and local institutions, advocating for the rights and welfare of migrants, and has established working relationships with major trade unions and women's and community-based organizations. AMCB's ability to mobilize significant mass mobilizations has led the Hong Kong government to recognize it as a legitimate representative of migrant workers and has resulted in changes in the government's migrant-related policies.

Before, I could not imagine a movement. But now I know we are part of the migrant movement.... When I was working underpaid, I thought that I could only be like that, even I didn't like it... But deep in [my] heart, I felt I deserve fair treatment... From this experience, I have learnt that change should come from the migrant workers themselves.... The major impact of the AMCB on me is politicising, realising that the only way to protect ourselves is to fight. (chairperson of ATKI)

AMCB still faces difficulties in coordination, such as language barriers, limited time and resources, varying levels of politicisation and organising experience among members, and the fact that members do not automatically share a sense of "community" or solidarity across national lines.

Hsia, Hsiao-Chuan. "The Making of a Transnational Grassroots Migrant Movement." Critical Asian Studies 41, no. 1 (2009): 113-41.

- Association of Sri Lankans in Hong Kong (ASL-HK)
- The Far East Overseas Nepalese Association (FEONA).

There is also the alliance of Filipino organisations such as

- The United Filipinos in Hong Kong (UNIFIL).
- Abra-Tinguian Ilocano Society Hong Kong (ATIS-HK),
- United Pangasinan Hong Kong (UPHK)

The alliance of Thai grassroots organisations under Cordillera Alliance (CORALL); and an alliance of 23 Indonesian migrant's organisations, United Indonesians Against Overcharging (PILAR).

The right to one day off a week "is crucial for organising work, because MDWs [migrant domestic workers] can then congregate on Sundays and avail themselves of opportunities to become... organised",³⁴ and protecting this right has in turn had some positive effects on policy. In 2008 there was an intensive campaign by ATKI-HK, Indonesian Migrant Muslim Alliance (GAMMI) and PILAR who held continuous picketing actions, of up to 5,000 protesters at its height, over six weeks outside the Consulate in Hong Kong.³⁵ These actions lead to the withdrawal of the policy that prohibited Indonesian Domestic Workers in Hong Kong to change employment agencies within the first two years of employment in Hong Kong (SE2258/2007). However, despite numerous protests the discriminatory "two week rule" remains:

On 17 August 1993, the Hong Kong foreign domestic workers organisation appealed the two-week rule and other discriminatory policies to the ILO. Additionally, the United Nations Convention on the Elimination on All Forms of Racial Discrimination (UNCERD) Committee and the United Nations Committee on the Convention for Economic and Social Rights issued reports warning the Hong Kong government to revise the two-week rule. In spite of this the two-week rule is still in place.³⁶

RECOMMENDATION:

claim victory over SE2258' 23 February 2008

Allow migrant domestic workers to live outside of the employers' household, limit working hours in the standard contract, revise the "two week rule" and the two-year exit policy.

Hsiao-Chuan Hsia, "The Making of a Transnational Grassroots Migrant Movement," Critical Asian Studies 41, no. 1 (2009): 128.
 United Indonesians Against Overcharging (PILAR) and Indonesian Migrant Muslim Alliance (GAMMI), 'Press release: Indonesian migrant

³⁶ Asia Pacific Forum on Women Law and Development, *The Hidden Pillars: A Study on the Contribution of Indonesian Domestic Workers to the Quality of Life of Hong Kong and Malaysian Employers*, 20-1.



India

Networks Forming, Networks Fighting



Background:

Domestic worker legislation:

Included under labour legislation:

Main migrant Countries of Origin: Mepal, Sri Lanka, Bangladesh Main migrant Countries of Destination: Number of domestic workers: Estimated 90 million in India, no statistics for overseas Ratified Right to Organise convention: No Ratified Freedom of Association Convention: No Ratified the UN Migrant workers Convention: No

Pending

Implicitly excluded



National Laws Concerning Domestic Workers

India is both a country of origin, transit and a destination for domestic workers. India receives domestic workers from the neighbouring countries of Nepal, Bangladesh and Sri Lanka, and there is estimated to be 90 million current local and migrant domestic workers in the country.³⁷ India also sends domestic workers to the wealthier countries in the Middle East and in Asia. This migration in, out and to urban areas of India means that like Thailand, there is a problem of trafficking young women and girls, and of using India as a transit point to the Middle East. Inside of India, underage domestic workers are an increasing problem, there are an estimated 12.6 million underage domestic workers, 86% of them are girls and 25% of them are below 14 years of age.³⁸

Domestic work by children was successfully banned in the law when The Child Labour (Prohibition and Regulation) Act, 1986 was amended in 2006, but the practice remains widespread, especially in the middle or lower income households.

Adult domestic workers are not protected by national labour laws, they are implicitly excluded from The Factories Act 1948 (No. 63 of 1948) [as amended], the National Minimum Wages Act, No. 11 of 1948 and all other labour law except for the Unorganised Workers' Social Security Act of 2008.

'There is no legislative framework at all in India. The whole outlook on domestic workers is so feudal here. There are 90 million domestic workers in India, and it's sad there are no rules for them,' says Geetha Menon of the Domestic Workers' Rights Union.

The Times of India, 'Your domestic help could get paid leave too' 8 March 2010, available at http://findarticles.com/p/news-articles/times-of-india-the/mi_8012/is_20100308/domestic-paid-leave-india/ai_n52388672/ viewed 6th April 2010

However, states may extend its application to domestic workers in their territory through state legislation, such as The Karnataka Minimum Wages Act for Domestic Workers, Notification No. KAE 15 LMW 04, 12 March 2004.

Several attempts have been made to include domestic workers in the national law since 1959.



Two private members' bills on the wages and working hours of domestic workers where introduced only to be later withdrawn.



The only legislation remaining from these bills is the requirement of the registration of all domestic workers or "servants".



More recent attempts to include domestic workers in legislation came in the form of the House Workers (Domestic Workers) (Conditions of Service) Draft Bill, 1990, and the Domestic Workers (Registration Social Security and Welfare) Bill, 2008 drafted by the National Commission for Women and pending at the national level.



If passed, it also requires the registration of domestic workers and prohibits child labour, as well as establishing a welfare fund and setting out basic conditions of a ten-hour daily rest period, 15 days paid annual leave for live-in domestic workers and a minimum wage.³⁹

³⁷ The Times of India, 'Your domestic help could get paid leave too' 8 March 2010, available at http://findarticles.com/p/news-articles/times-of-india-the/mi 8012/is 20100308/domestic-paid-leave-india/ai n52388672/ viewed 6th April 2010

³⁸ YouthKiAwaaz, 'Status of Domestic Helpers in India' 6 January 2010 available from http://www.youthkiawaaz.com/2010/01/status-of-domestic-helpers-in-india/ viewed on 7th April 2010

³⁸ Domestic Workers (Registration Social Security and Welfare) Draft Bill, 2008, available from http://www.wiego.org/informal_economy_law/india/content/dm_workers_registration_2008.pdf viewed on 6th April 2010

Migrant workers: The migrant domestic workers that are in India are implicitly included under the Foreigners Act 1946, which control entry and departure, but are otherwise just as excluded by the law as the local domestic workers. For those Indian domestic workers who migrate overseas the process is predominantly unregulated by the government and there is no pre-departure program for education or training. India's Emigration Act of 1983, which includes those migrating for domestic "service", requires all recruiting agents to be registered, and very broadly requires the Protector of Emigrants to "protect and aid with his advice all intending emigrants and emigrants, inquire into the treatment received by emigrants and aid and advise" returnees. The protector is also required to check contracts prior to departure, but it is unclear if any or how much of the requirements outlined in the Emigration Act are carried out.

India has signed MoUs with Qatar, Lebanon and last year with Malaysia, but it only covers the process of recruitment of migrant workers and not working conditions. It is clear that for all its domestic workers, local, migrant or those overseas, India fails to protect or include them as workers in its legislation.



Domestic Workers' Right to Collective Representation

India has not ratified the Freedom of Association Convention, the Right to Organise Convention, or the UN Convention on the Rights of Migrant Workers. Furthermore,



Under the Trade Union Act of 2001, unions must be a minimum of 100 people or 10% of the workforce.



The right to strike is limited by government discretion, especially in Sikkim, Tamil Nadu and Kerala State, and employers have no obligation to engage in collective bargaining.



In industries of organised or formal labour where unions do exist, there is harassment and discrimination by employers and the court process is slow and expensive.⁴¹

There have therefore been attempts by domestic worker organisations and informal unions to join with other registered organisations, such as the Nirmala Niketan co-operative:

Since domestic work was not considered an acceptable vocation for registration as a cooperative society, it became part of Apna Nirman Mazdoor Cooperative Society Ltd, a registered cooperative of construction workers, and an active partner of the National Campaign Committee for Unorganised Sector Workers (NCC–USW).⁴²

The Delhi Domestic Workers Union formed a federation with the Construction Workers Union & Car Cleaners Union in order to have a larger force for rallies and government lobbing.⁴³ There is also an India wide organisation for domestic workers, the National Domestic Workers' Movement (NDWM).

Lack of protection:

Both migrant and local domestic workers are able to and do join and form associations and informal unions without prior authorisation, but this right is not protected under the Industrial Disputes Act 1947 or the Trade Union Act since domestic workers were deemed not to be "workmen". In 1977 the Supreme Court ruled that "isolated workers cannot constitute 'organised labour'" in Bangalore Water Supply & Sewage Board v. Rajappa (1978) 2 SCC 213.

⁴⁰ International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – India' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=IND&Lang=EN viewed on 7th April 2010.

⁴² International Labour Organisation, "Decent work for domestic workers: International Labour Conference Fourth item on the agenda IV (1)," (Geneva: International Labour Office, 99th Session 2010), 86.

⁴³ Radical Notes Journal, 'Delhi Domestic Workers Union' 27 August 2008, available from http://radicalnotes.com/journal/2008/08/27/delhi-domestic-workers-union/ viewed on 23 Feb 2010

which began in 1985 and now covers 23 states and over 2 million domestic workers.⁴⁴ These domestic worker organisations and informal unions have been able to have some impact with state legislation and the protection of domestic workers' rights with the passing of the Unorganised Workers' Social Security Act of 2008 and of laws on minimum wages for domestic workers in several states. Participation is difficult when domestic workers do not have a legislated day off or right to organise, however, there has been large rallies in several states involving thousands of domestic workers.⁴⁵

RECOMMENDATION:

Protect basic labour rights of domestic workers by passing the Domestic Workers' (Registration Social Security and Welfare) Bill, include the right to form unions and extend these rights to migrant workers in India. Bring in a program to inform, train and protect Indian domestic workers going overseas.

44 National Domestic Workers Network, 'About us', available from http://www.ndwm.org/aboutus/default.asp viewed on 7th April 2010.

⁴⁵ For example, the 3,000 domestic workers involved in the International Domestic Workers Day rally. See Indian Express, 'Domestic helps take out rally demanding basic rights' 9 Jan 2008, available from http://www.ndwm.org/resource-centre/default.asp viewed 7th April 2010.

ndonesi

Indonesia and Abroad

Abused Overseas, Overlooked at Home



Background:

Main migrant Countries of Destination:	Malaysia and Saudi Arabia
Number of domestic workers:	Estimated 5 million overseas and 2.6 million in
	Indonesia
Ratified Right to Organise convention:	Yes
Ratified Freedom of Association Convention:	Yes
Ratified the UN Migrant workers Convention:	Signed not ratified
Domestic worker legislation:	Pending
Included under labour legislation:	Implicitly excluded



There are six million Indonesian migrant workers and approximately 82 percent of them are women, mostly working as domestic workers, in countries all over Asia, Middle East and beyond.⁴⁶ However, Indonesian domestic workers also find employment within their own country; in 2003, the number was an estimated 2.6 million, including 700,000 children.⁴⁷

Recent cases in Indonesia have shown severe abuse of domestic workers, such as the 13-year-old girl bullied, beaten and burnt for seven months before fleeing, and even murder, when an employee tortured to death his domestic worker.⁴⁸

A study conducted by an NGO [Rumpun Gema Perempuan] among 173 domestic workers in Java found that 93% had experienced some forms of physical violence, 68% had experienced mental abuse and 42% had suffered from sexual harassment or abuse.⁴⁹

Domestic Abuse:

As domestic workers are not currently protected by labour laws in Indonesia, cases of abuse are currently dealt with under the Law Regarding the Elimination of Violence in the Household (Law 23/2004). Domestic workers are specifically included by defining the family to include residential domestic staff and therefore protecting them against acts of violence. However, this does not cover domestic workers who do not live-in and are therefore not part of the "family". In addition, despite being passed in 2004, it is not yet well implemented.

Amnesty International USA, 'Indonesia Exploitation and abuse: the plight of women domestic workers' Feb 2007, available from http://www.amnestyusa.org/document.php?lang=e&id=ENGASA210032007 viewed 26th March 2010

Under the national laws, domestic workers are not recognised as employees and are not covered under the protections of the Manpower Act No. 13 of 2003, which only includes the employees of entrepreneurs. Since domestic workers are engaged in private households, they are implicitly excluded from labour laws and are therefore part of the informal sector.

- In 2005, the Ministry of Manpower began drafting a law for domestic workers, however, the process stalled.
- The law was revived and placed on the Indonesian parliament's agenda for 2010.
- In June it was dropped from the list of priority legislation to the outrage of advocates; "this lack of legislation will always be a stumbling block in Indonesia's demands for better protection of our workers". 50

⁴⁸ Both cases occurred in 2006. Amnesty International USA, 'Indonesia Exploitation and abuse: the plight of women domestic workers' Feb 2007, available from http://www.amnestyusa.org/document.php?lang=e&id=ENGASA210032007 viewed 26th March 2010

⁴⁶ Asia Pacific Mission for Migrants (APMM), "Triple Whammy: A Study on the Contemporary Situation and Problems of Indonesian Migrant Workers in Taiwan" (March 2009), 9.

⁴⁷ Human Rights Walch, 'Indonesia: Guarantee Domestic Workers' Rights in 2010' 13 February 2010, available from http://www.hrw.org/en/news/2010/02/12/indonesia-guarantee-domestic-workers-rights-2010 viewed on 26th March 2010.

Study conducted by Rumpun Gema Perempuan in Kemuning Pasar Minggu, Pamulang, Parung, Depok, and Rangkapan Jaya, April - May 2005. International Labour Organisation, 'Decent Work Agenda for Domestic Workers Fact sheet: Domestic Workers in Indonesia' 4 Jan 2010, available from http://www2.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcm_041844.pdf viewed 24th March 2010

⁵⁰ Anis Hidayah, Director of Migrant Care, Jakarta Globe, 'Advocates Angry After Domestic Worker Bill Made Low Priority' June 2010, available from http://www.thejakartaglobe.com/home/advocates-angry-after-domestic-worker-bill-made-low-priority/380542 viewed 15th June 2010.

Migrant workers: Indonesian domestic workers overseas have even less protection despite the large remittances that they send home every year. According to the ILO, "migrant workers are the second largest contributor to Indonesia's foreign exchange incomes, amounting to about USD 2.4 billion annually". ⁵¹ In terms of labour laws, they are included under the Placement and Protection of Indonesian Workers Overseas (Law No. 39/2004), which focuses on recruitment and placement only and does not offer any protections. There is no standard contract for migrant domestic workers who often sign one in Indonesia with the recruitment agency and another in their arrival at the destination country. Recruitment agencies have full authority as direct hiring is not allowed, therefore fees are high. Unlike other industries, domestic workers have their first four to six months salary withheld or deducted instead of paying an initial recruitment and processing fee, ⁵² but considering that most contracts are only for two or three years, this is a substantial amount.

Due to abuse of domestic workers, Indonesia suspended migration to Malaysia in June of 2009. The suspension will not be lifted until the new Memorandum of Understanding (MoU) is agreed upon by the two countries. Reports said that the agreement was set to be signed in July 2010⁵³ - over a year since the suspension - and would include not just recruitment processes, but also provisions on the right to a day off per week, to keep documentation and for a minimum wage.⁵⁴ This would give Indonesian domestic workers in Malaysia more rights then they have in their own country. However, as of September, the parties are still negotiating the terms.

In September of 2009, migration to Kuwait was also suspended in response to reports of abuse, with-holding of pay, high suicide rates and the 500 workers who sought help in the Indonesian embassy. A MoU between Indonesia and Kuwait is also currently under discussion.



BNP2TKI, National Authority for the Placement and Protection of Indonesian Overseas workers

We cannot demand other countries to give reasonable wages and working hours as well as fair legal protection while we can't even protect them [domestic workers] in our own country, can we?

Lita Anggraini, the coordinator for the National Network for Domestic Worker Advocacy (Jala PRT), Centre for Asia Women (CAW), 'Don't forget Inem, domestic workers' 16th Feb 2010, available from http://www.cawinfo.org/2010/02/don%E2%80%99t-forget-inem-domestic-workers/ viewed 29th March 2010

⁵¹ International Labour Organisation 'Press release: International Migrants Day: Finding solutions to the problems of Indonesian migrant workers' International Labour Office, Indonesia, 17 December 2009, available from http://www.oit.org/jakarta/info/public/pr/lang--en/WCMS 120725/index.htm viewed on 26th March 2010

⁵² Human Rights Watch, "Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia," 23.

⁵³ Bernama.com, 'MoU On Indonesian Maids Expected To Be Signed In 6 Weeks - Dr Subramaniam' 27th May 2010, available from http://www.bernama.com/bernama/v5/newsindex.php?id=501619 viewed on 28th March 2010.

⁵⁴ Human Rights Watch, 'Indonesia: Guarantee Domestic Workers' Rights in 2010' 13 February 2010, available from http://www.hrw.org/en/news/2010/02/12/indonesia-guarantee-domestic-workers-rights-2010 viewed on 26th March 2010.

⁵⁵ Kuwait Times, 'Indonesian maid ban an 'insult' to Kuwait' 31 October 2009, available from http://www.kuwaittimes.net/read_news.php?newsid=MTIyNTYwOTQ2Mg== viewed on 29th March 2010.



Domestic Workers' Right to Collective Representation

As shown in the table on ratification of international instruments concerning the right to collective representation, Indonesia has ratified both the Freedom of Association Convention and the Right to Organise Convention, and has signed but not ratified the UN Convention on the Rights of Migrant Workers. Nationally, collective representation is covered under the Manpower Act, and under the Trade Union/Labour Union Act No. 21 /2000, that allows some scope in the formation of and members of unions. The requirement of detailed notices, drawn out mediation, many layers of bureaucracy frustrate a union's legal ability to strike. Collective bargaining is included under the act; however, reports state that employers often ignore any agreements due to inadequate enforcement by the government.⁵⁶

Article 1 (6) of the Trade Union Act defines a worker as a person who works for salary or wages or remunerations in other forms, therefore it implicitly includes domestic workers. However, there is little publicity of this right to unionise, and the lack of a weekly day off restricts the ability of domestic workers to participate or organise effectively.



The first and only domestic workers' union, Tunas Mulia was officially recognised in 2004 and works closely with NGOs and other agencies to inform and advocate on behalf of domestic workers.



Although small community based associations are strong with informal workers in Indonesia, the number involving domestic workers are low due to the isolated nature of their work.



Most organising and advocacy in Indonesia is done through the large numbers of NGOs in the country. For example, the most vocal organisations mobilising domestic workers, Solidaritas Perempuan and RUMPUN, are NGOs rather than unions.

RECOMMENDATION:

Extend basic labour law protections to all domestic workers, set up protections for domestic workers going abroad and inform workers of their right to collective representation.

International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Indonesia' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=MYS&Lang=EN viewed 25th March 2010

Japan

Increasing Demand, Increasing Concerns

Main migrant Countries of Origin: Number of domestic workers: Ratified Right to Organise convention: Ratified Freedom of Association Convention: Yes Ratified the UN Migrant workers Convention: Domestic worker legislation: Included under labour legislation: Explicitly excluded



As a destination country, the number of documented migrant domestic workers in Japan is smaller than that of other wealthy countries in Asia, at only around 3,000,⁵⁷ mainly working for expatriates and foreign government officials. The number has been increasing since 1980 but still only constitutes 1.7% of the total population.⁵⁸ This is because the numbers of migrant workers and areas of work open them are limited. These limits are placed by The Immigration Control and Refugee Recognition Act (Cabinet Order 319 of 1951), enacted after World War II, which severely restricts the residing of migrants in Japan. Once a migrant enters the country, they are required to submit to fingerprints and facial photos for immigration control and there are tight restrictions as to their stay.

Irregular migrants:



Despite these controls and because of the official restrictions on migration for unskilled labour, many overstay their visa and become undocumented or irregular migrants.



The number of irregular migrants is unknown, but in 1995 there were approximately 80,000 from Thailand alone.⁵⁹



The demand for migrant domestic workers is increasing due to the aging population and shrinking labour force, the numbers of migrant nurses and domestic workers in particular are set to increase.

Ministry of Health, Labour and Welfare (MHLW) research projects that the Japanese population over 65 will grow to 32 million in six years, or over 26% of the population, and the Ministry says about half a million additional caregivers will be needed to take care of them.⁶⁰

Whether the domestic workers are migrants or local Japanese, they have no labour rights such as days off, minimum wage and health and safety provisions. Under the Labour Standard Law, Law No. 49. 1947 (as amended up to 1995), domestic workers employed directly by households are explicitly excluded under section 116(2) and implicitly under section 9 as they do not work for a business or enterprise. Japan also excludes domestic workers from its application of the Minimum Age Convention, 1973 (No. 138) allowing for child domestic workers.⁶¹

⁵⁷ In 2002. HURIGHTS OSAKA, 'Protecting Foreigners in Japan: Some Proposals National Network in Solidarity with Migrant Workers' 2002, available from http://www.hurights.or.jp/asia-pacific/no 29/03mnetjapan.htm viewed 24th April 2010

⁵⁸ Coco Masters, 'Japan to Immigrants: Thanks, But You Can Go Home Now' Time

²⁰th April 2009, available from http://www.time.com/time/world/article/0,8599,1892469,00.html viewed 24th April 2010 59 Human Rights Watch, 'Owed Justice Thai Women Trafficked into Debt Bondage in Japan' 2000, available from http://www.hrw.org/reports/2000/japan/ Viewed 13th April 2010, 21.

⁶⁰ Yuki Oda, ¹Japan's Burdened Care Sector Looks Outwards for Help' Time, 19th November 2008, available from http://www.time.com/time/world/article/0,8599,1860499,00.html?xid=Loomia&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+time%2Fworld+%28TIME%3A+Top+World+Stories%29&loomia_si=t0%3Aa16%3Ag2%3Ar3%3Ac0.10908%3Ab23988840 viewed 14th April 2010. ⁶¹ International Labour Organisation, "Decent work for domestic workers: International Labour Conference Fourth item on the agenda IV (1)," 23.



Domestic Workers' Right to Collective Representation

Japan has ratified the Right to Organise Convention and the Freedom of Association Convention, but unsurprisingly given its policy on migrants, it has not ratified the UN Convention on the Rights of Migrant Workers. The ratification of the first two conventions reflects the Japanese Constitution, Article 28, which recognises workers' right to join unions, organise, bargain and act collectively. The Labour Union Act (Act No. 174 of June 1, 1949) guarantees the right to organise and bargain collectively for all workers, including foreign workers. However, what are known as "atypical workers, who include part-timers, indirectly employed workers recruited for temporary work by agencies or for contract work by sub-contracting companies, as well as individuals working on a contract basis" are not covered by the national labour law and remain mainly unorganised. 62

As a reflection of this general freedom, there are several women's unions for those working in informal and care services, such as

- The Nippon Care Service Craft Union (Nihon Kaigo Kurafuto Yunion)
- And there are also Unions and associations for migrant workers including the Kalipnan ng mga Filipinong Nagkakaisa network for Filipino migrants.
- There is also the National Network in Solidarity with Migrant Workers, which runs education and language classes, supports other migrant or ganisations and NGOs, and lobbies and negotiates with the government.⁶³

RECOMMENDATION:

Include domestic workers who are employed directly by households under national labour legislation and ensure all domestic workers are given basic labour rights. Open up official immigration channels and inform domestic workers of their right to collective representation.

⁶² International Trade Union Congress, '2010 Annual Survey of Violations of Trade Union Rights – Japan' available from http://survey.ituc-csi. org/+-Japan-+.html viewed 15th June 2010

⁶³ Solidarity Network with Migrants Japan, 'Home Page' 2009, available from http://www.jca.apc.org/migrant-net/English/English.html viewed 16th April 2010



Malaysia

Labelled "Servants", Lacking Protection in Law

Background: Main migrant Countries of Origin: Indonesia, Thailand, Philippines Number of domestic workers: Estimated 300,000 Ratified Right to Organise convention: Yes Ratified Freedom of Association Convention: No Ratified the UN Migrant workers Convention: No Domestic worker legislation: No

Yes

Included under labour legislation:

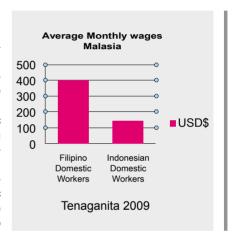


As one of the largest destination countries in Asia, Malaysia is estimated to have approximately 300,000 documented migrant domestic workers and 90% of them are Indonesian. In 2009, the public outcry over the case of a domestic worker who was badly scarred from years of violence and was owed 17,000 Ringgits (US\$5,000) in back wages; lead to Indonesia temporarily blocking its domestic workers from going to Malaysia. As mentioned above, the two countries are continuing to negotiate over the recruitment of domestic workers, but in the meanwhile, the violation of domestic workers in Malaysia continues. One labour supplier admitted to Human Rights Watch that of the fifty or so domestic workers they bring into Malaysia each month; there is usually one or two that end up with abusive employers.

Unlike many of the other countries in the region, Malaysia recognises its large numbers of migrant workers in its labour law.

The Employment Act, Act No. 265 of 1955:

- Included both local and foreign domestic "servants"
- However; domestic workers are specially excluded under Parts IX, XII and XIIA of schedule 1 of the Act, which provides rights to workers.
- This means that they are not entitled to basic labour rights such as maternity or termination benefits, annual or sick leave, days off or holidays.
- However, some amendments to the Employment Act are being proposed for domestic workers, including making it mandatory for the wages of domestic workers to be credited into banks or other financial institutions.⁶⁷
- The other recently proposed amendment is for domestic workers to have one day off a week.⁶⁸
- Human Resources Minister S. Subramaniam - who had been announcing the proposed Employment Act amendments - stated that the amendments would be part of a standard contract that would be signed by the migrant domestic worker, their employees and the recruitment agency.⁶⁹



⁶⁴ Human Rights Watch, "Swept Under the Rug: Abuses against Domestic Workers Around the World," 4. Also see CARAM - Asia 'Human Rights for Migrant Domestic Workers' 10th Dec 2009, available from http://www.caramasia.org/index.php?option=com_content&task=view&id=847&Itemid=346 viewed 20th March 2010

⁶⁵ Human Rights Watch, 'Events of 2009 – Malaysia' available from http://www.hrw.org/en/world-report-2010/malaysia. viewed 24th March 2010

⁶⁶ Human Rights Watch, "Help Wanted: Abuses against Female Migrant Domestic Workers in Indonesia and Malaysia," 38.

⁶⁷ BERNAMA.com, 'Compulsory For Employers To Bank In Maid's Salary Soon' April 2009, available from http://www.bernama.com/bernama/v5/newsindex.php?id=406168 viewed 24th March 2010. BERNAMA.com, 'Bosses may have to bank in maids' wages' April 2009, available from http://www.thesundaily.com/article.cfm?id=32670 viewed 24th March 2010

Bangkok Post, 'Foreign maids in Malaysia to get day off: minister' 17th June 2009 http://www.bangkokpost.com/news/asia/146243/foreign-maids-in-malaysia-to-get-day-off-minister viewed 24th March 2010 bid.

The current Policy on Recruitment of Foreign Workers adopted in 1991 sets out that the wages, benefits, terms and conditions of employment will be similar to those provided to local workers, and requires that all migrant workers must have a written contract. There is also a specific section in the Employment Act 1955 that demands equal treatment between local workers and migrant workers, but this section and the policy are not enforced, and different wage structures are allowed for migrant domestic workers from different source countries. The other main concern for migrant workers in Malaysia is the Immigration Department policy of requiring a security deposit for every domestic worker employed; therefore, if the worker fails to leave the country at the end of their contract then the employer loses the deposit.⁷⁰ This policy encourages the holding of documentation and the confinement of workers inside the house to limit "runaways".



Domestic Workers' Right to Collective Representation

Malaysia has a mixed ratification record for international laws that include the right to collective representation. Malaysia has ratified the Right to Organise Convention, but not the Freedom of Association Convention or the UN Migrant Workers Convention. The Trade Unions Act of 1959 and the Industrial Relations Act of 1967 place restrictions on freedom of association for workers, frustrated further by government policies, bureaucratic practices and other restrictive legislation, such the Penal Code that requires police permission for public gatherings of more than five people. The right to strike is also not specifically recognised in legislation and holding a legal strike is a complicated procedure.⁷¹

The national laws also impede the right of migrant workers to any form of collective representation or freedom of association.



The first limit is that Article 28(a) of the Trade Union Act requires that any union leader must be a citizen of Malaysia.



Furthermore, under the Trade Union Act of 1959, Employment Act of 1955 and Industrial Relations Act of 1967, migrant workers can join an existing labour union; however, these rights are not protected in practice.



The Ministry of Home Affairs (MHA), who is responsible for work permits, includes a restriction on migrant workers joining associations:

Employers have interpreted this provision to mean that migrant workers are forbidden to join unions, and the MHA has declined repeated appeals by the MTUC [Malaysian Trade Union Congress] to make a judgment on the employers' interpretation of this MHA policy. The employers [and recruitment agencies] have taken the next step to write the restrictions on association into migrant worker contracts, which contradict these legal guarantees of freedom of association, and the MHA has taken no steps to prevent this... This is a clear violation of Article 8 of Employment Act of 1955, which states that no provision of a service contract may restrict the employee's right to join and participate in the activities of a union or associate with others for the purpose of organizing a trade union.⁷²

⁷⁰ Asia Pacific Forum on Women Law and Development, "The Hidden Pillars: A Study on the Contribution of Indonesian Domestic Workers to the Quality of Life of Hong Kong and Malaysian Employers", 25.

⁷¹ For more details see International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Malaysia' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=MYS&Lang=EN viewed 25th March 2010.

⁷² Philip S. Robertson Jr., "Migrant Workers in Malaysia- Issues, Concerns and Points for Action," Fair Labour Association (October 2008): 8.



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Migrant workers who are brought into the country through recruitment agencies are also not treated as employees of the households in which they work.

This means that migrant workers are effectively unable to join trade unions, which may only organise employees within similar industries or at the enterprise level. Any collective bargaining agreements also do not apply to migrant workers employed by a labour recruitment agency.

Migrant workers are prohibited from applying to register their own trade union and an association for migrant workers, set up by the MTUC, is being refused registration by the Director General of Trade Unions; who has wide-ranging powers of discretion. The restrictions on the migrants' rights lead to the MTUC making a complaint against the Government of Malaysia to the ILO Labour Standards Department Committee in 2008. In the committee concluded strongly in support of the MTUCs complaints:

The Committee expects that the Government will take the necessary measures, including legislative if necessary, to ensure in law and in practice that domestic workers, including contract workers, whether foreign or local, may all effectively enjoy the right to establish and join organisations of their own choosing. It further requests the Government to take the necessary steps to ensure the immediate registration of the association of migrant domestic workers so that they may fully exercise their freedom of association rights.⁷⁴

Regardless of the restrictions on domestic workers joining or participating in trade unions, the MTUC currently has two full time staff members trying to help domestic workers. It is also working with the Indonesian and Sri Lankan Trade Unions to inform and further advance the rights of migrant domestic workers in Malaysia. There are very few NGOs set up to assist migrant workers in Malaysia, the two most active, Tenaganita (Woman's force) and CARAM – Asia (Coordination of Action Research on AIDS and Mobility) are currently campaigning for the right to a weekly paid day off. Being exempted from this important right restricts the ability of domestic workers to collective organise in Malaysia, and without protections of the right to associate, any participation could result in dismissal and deportation.

RECOMMENDATION:

Change the term "servants" to workers under the Employment Act and extend basic labour law protections to all domestic workers, including a weekly day off. Ensure that policies are not in conflict with national laws and protect the right of all domestic workers to organise.

⁷³ International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Malaysia' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=MYS&Lang=EN viewed 25th March 2010.

⁷⁴ International Labour Organisation, 'Complaint against the Government of Malaysia presented by the Malaysian Trades Union Congress (MTUC)' Report No. 353, Case(s) No(s). 2637 2008, available from http://www.ilo.org/ilolex/cgi-lex/pdconv.pl?host=status01&textbase=iloen g&document=4896&chapter=3&query=Malaysia%40ref&highlight=&querytype=bool&context=0 viewed on 2nd Feb 2010

Philippines and Abroad

Driving the economy, Driving the Movement



Background:

Main migrant Countries of Destination:	Hong Kong, Kuwait , UAE
Number of domestic workers:	Estimated 54,000 go overseas per year,
	600,000 - 2.5 million in Philippines
Ratified Right to Organise convention:	Yes
Ratified Freedom of Association Convention:	Yes
Ratified the UN Migrant workers Convention:	Yes
Domestic worker legislation:	Pending
Included under labour legislation:	Yes



Domestic work is a vital part of the economy in the Philippines; it is estimated that the number of domestic workers in private households is anywhere from 600,000 to as high as 2.5 million.

Furthermore, in 2008, almost 54,000 Filipino domestic workers went overseas for their new jobs, joining the thousands of other women working as labourers and unskilled workers who sent home 13 billion Philippine Pesos in 2007.⁷⁶

Due to the importance of domestic workers to the Philippine economy, they are more respected than in other countries in the region, but there are still areas for improvement and the abuse of those overseas continues.

Approximately 1.7 million Filipinos work abroad, including hundreds of thousands of women who work in other parts of Asia and the Middle East as domestic workers. While the Philippine government has made some efforts to support and protect domestic workers, many women continue to experience abuses including unpaid wages, food deprivation, forced confinement in the workplace, and physical and sexual abuse.⁷⁷

Domestic workers in the Philippines are explicitly included in Labour Code, Presidential Decree No. 442 (as amended up to 1998), and in the Omnibus Rules Implementing the Labour Code, Book Three, Rule XIII. However, the Labour Code Article 141 uses the term "domestic or household service", rather than domestic work, and defines it as "service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer's household, including services of family drivers." Despite including some conditions such as a minimum wage (which due to inflation is now outdated) and health care, the Labour code excludes domestic workers from the conditions covering hours of work and holidays with pay. This is due to the prevailing idea that it is not a 9-5 job, especially since most domestic workers also look after the employers' children; the employer often wants the worker at their disposal.

Child workers: The most common concern is the large numbers of child domestic workers in the Philippines, according to Visayan Forum Foundation (a Philippines NGO focused on women and child migrants) there are estimated to be "nearly 600,000 child labourers... in the service industry" and that number only includes those from 5-14 years old, not the thousands of older child labourers from 15-18 years of age.⁷⁸

In 2007, some progress was made towards better protection for domestic workers' rights when the Philippine Senate adopted a Magna Carta for Domestic Workers (Batas Kasamahay). The Magna Carta prohibits bonded labour, sets out a standard employment contract, includes all the minimum work conditions such as wages, benefits, and hours of work and even addresses the rights of child domestic workers. This is a significant step; however, the process stalled in the House of Congress. The legislation was put on hold in order to focus on passing an employment act, to help workers during the financial crisis, and it is yet to be rescheduled.⁷⁹

Visayan Forum, 'Basic Facts on Filipino Domestic Workers' 2008, available from http://www.visayanforum.org/portal/index.php?option=cms&mode=view&id=890 viewed on 2nd April 2010.

⁷⁷ Human Rights Watch, 'Events of 2009 – Philippines', available from http://www.hrw.org/en/node/79344 Viewed 2nd April 2010

⁷⁸ Visayan Forum, 'Basic Facts on Filipino Domestic Workers' 2008, available from http://www.visayanforum.org/portal/index.php?option=cms&mode=view&id=890 viewed on 2nd April 2010.
79 Visayan Forum, 'Philippine Campaign on Decent Work for Domestic Workers Narrative Report' May - August 2009, available from

To Visayan Forum, 'Philippine Campaign on Decent Work for Domestic Workers Narrative Report' May - August 2009, available from http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_120013.pdf viewed 5th April 2010 viewed on 3rd April 2010

Migrant workers: For domestic workers heading overseas, the government has the Migrant Workers and Overseas Filipinos Act 1995 (Republic Act No. 8042), which protects the welfare of migrant Filipinos and authorises the Philippine Overseas Employment Administration (POEA). The POEA is a tripartite body (government officials, trade unions representatives and private recruitment agencies) which protects and ensures the labour rights of all documented Filipinos working abroad. The POEA has standard contracts for migrant Filipinos so that the workers do not end up in the common situation of signing one contract in their home country and then being made to sign another in the destination country. The contract covers not just fees and recruitment, but also conditions such as minimum wages.

As G. Rajasekaran from the MTUC states, "Filipino domestic workers [in Malaysia] have a clear contract stipulating their working hours, living conditions, days leave and the minimum wage, etc. In their case, the minimum wage is currently 1,200 ringgits (250 euros) whilst Indonesians only receive 450 to 500 ringgits (94 to 105 euros). It would seem that the Philippine government has a serious interest in protecting its migrants, unlike the Indonesian government."

International Trade Union Confederation, 'Spotlight interview with G. Rajasekaran (Malaysia - MTUC)' 11 June 2009, available from http://www.ituc-csi.org/spotlight-interview-with-g.html viewed on 25th March 2010

The standard contract also includes the right to a weekly day of rest, which is a right not protected by law for the domestic workers working in their own country.

The 2007 Household Services Workers Reform Package, amongst other reforms, raised both the minimum wage and the age of migrant domestic workers, who now need to be at least 23 years old before departure. Furthermore, the Philippine government signed MoUs with both Taiwan and South Korea, which allows the direct hiring of Filipino domestic workers through the POEA. This avoids the exorbitant recruitment agency fees and enables the POEA to set further standards. Rather than allowing the laws in destination countries to decide the working conditions of domestic workers, the Philippines' government is ensuring that it sets the standards and protects the rights of Filipinos abroad.



Domestic Workers' Right to Collective Representation

The Philippine Government is one of the few countries in Asia that has ratified the UN Migrant Workers Convention, the Freedom of Association Convention and the Right to Organise Convention. The rights are also included in the constitution; this alone is a good indication of the seriousness of the Philippine government to protect its workers.

- Independent unions and collective bargaining are permitted, so are strikes, but only under very limited circumstances.
- Local domestic workers are free to form unions and join existing unions, but the government needs to include maximum hours of work and a weekly day off for domestic workers into the Labour code, to protect this right.
- Furthermore, the trade unions and their membership have suffered since 2008 with the assignation of four trade union officials, the numerous dismissals of union leaders and continuing harassment by the military and police.⁸⁰

⁸⁰ International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Philippines' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=PHL&Lang=EN viewed 5th April 2010

Case Study

Visayan Forum (VF) is an NGO in the Philippines working on the issue of marginalised internal migrants. From 1995, VF started to reach out to domestic workers in parks, schools, churches, and night schools. Services for abused domestic workers were made available by VF, including medical and legal assistance, educational support, counselling and other centre-based services. Both VF organisers and active members of the core group decided to reach out to more domestic workers, intensify campaigns and education work, strengthen the group's support systems, particularly by means of a hotline, and finally, formalise the organisation into the Samahan at Ugnayan ng mga Mangagawang Pantahanan sa Pilipinas (SUMAPI). SUMAPI co-organized the first (2005) and second (2009) National Domestic Workers Summit where hundreds of SUMAPI members were proactively participating in the discussion among key players, especially with trade unions. Presently SUMAPI has 8,000 members nationwide.

I never even imagined that domestic workers could form associations and have programs for fellow domestic workers! Through the trainings and activities given by SUMAPI, I was enlightened about the rights and privileges of a domestic worker. Before that, I didn't have the faintest idea that I, too, have rights. Since then, I have been very happy to be part of this group. SUMAPI serves as my second family. My fellow domestic workers understand me and help me through dark times... With my motivation and dream to help fellow domestic workers, I decided to leave my employer and devote my time in working with SUMAPI.

SUMAPI currently faces the problem that domestic workers do not have the right to a day off in the Philippines, those who do are considered to be "lucky". There are also no standard contracts, workers tend to transfer regularly, and each time have to renegotiate with their new employers about their affiliation with SUMAPI.

Lilibeth Masamloc, Secretary General

For migrant Filipinos there are many unions, associations and NGOs set up in the Philippines to help migrant workers before they leave, while overseas and on their return, such as the 250,000 member strong Kilusang Mayo Uno, which "conducts educational activities among member-unions and independent unions on rights of workers... and advocacy for inclusion of migrant workers' issues on the agenda of unions in destination countries." Some associations have even helped to establish domestic worker organisations in the destination countries such as the Filipino Domestic Helpers General Union in Hong Kong, but the ability to set up overseas associations for domestic workers is dependant on the laws of the destination country.

RECOMMENDATION:

Ensure basic labour law protections for those working in the Philippines by passing the Magna Carta for domestic workers (Batas Kasamahay). Give local domestic workers a weekly paid day off and standard contracts so that domestic workers' rights are protected at home and overseas.

⁸¹ International Labour Organisation, "Domestic Workers in Southeast Asia: A Decent Work Priority," (Jakarta: International Labour Office, 2006), 18.

Sri Lanka and Abroad

Far from Home, Far from Fair

Background:

, and UAE



As one of the main countries of origin for domestic workers - behind Indonesia and the Philippines - the majority of Sri Lankan's current migrant workers are women, at approximately 70%. ⁸² In 2009, 113,777 female migrant workers from Sri Lanka were working as domestic workers and nearly 90 percent of those were in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates. ⁸³ As for the large number of domestic workers who remain working in Sri Lanka, statistics are not available.

Unlike most other countries in Asia, domestic workers are included in some of the national laws of Sri Lanka.



The Wages Boards Ordinances Nos. 28 of 1871 and 18 of 1936, provide for the registration of domestic "servants", however no wage board has been set up for the industry, therefore the minimum wage and hours of work have not yet been set.

Although not covered under other legislation concerning work conditions, domestic



Although not covered under other legislation concerning work conditions, domestic workers are entitled to maternity leave.



The 1999 amendment to the Employment of Women, Young Persons and Children Act (No. 47), 1956 prohibits the employment of children under 14, but as with other countries in South Asia a concerning number of children continued to be employed.⁸⁴

Migrant Workers: The Fee-Charging Employment Agencies Act, Immigrants and Emigrants Act and the Sri Lanka Bureau of Foreign Employment Act cover domestic workers leaving Sri Lanka for employment overseas. The Bureau of Foreign Employment Act established the Sri Lanka Bureau of Foreign Employment (SLBFE) to regulate and protect workers from trafficking, exploitation by recruitment agencies and to facilitate the remittances upon which Sri Lanka relies. In 2009, there were 3,330 million US dollars in foreign remittances - which are more than tea exports - and female domestic workers contributed a large percentage of that money to care for their children and wider families.⁸⁵

SLBFE licenses recruitment agencies, runs training, requires pre-departure medical testing, has an insurance scheme, welfare program, and registration.

The work agreement or standard contract is required for all domestic workers migrating to Singapore, Hong Kong, China, Kuwait and other Middle Eastern countries. Despite the protections set up by the Sri Lankan government, rivalled in Asia only by the Philippines, abuse continues to occur with an estimated fifty domestic workers returning "in distress" every day. Embassies in some Middle Eastern countries have been forced to set up shelters to assist domestic workers who have left their employment and are trapped in the destination countries.⁸⁶

To register as a migrant domestic worker requires:

A certificate of completion of the training or six months' experience in the Middle East, original passport valid for two years, a bank receipt for SLBFE charges, a valid visa, and an embassy-approved work agreement.

Human Rights Watch, "Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates," Volume 19, No. 16(C) (November 2007): 20.

⁸² Although this proportion will likely decrease as in 2009 only 51.7% of those newly departing Sri Lanka for foreign employment were female. Central Bank of Sri Lanka '2009 Annual Report', available from http://www.cbsl.gov.lk/pics_n_docs/10_pub/_docs/efr/annual_report/ar2009e/ar09_content_2009_e.htm viewed 24th April 2010, 92.

⁸⁴ Solidarity Center, "Justice For All: The Struggle for Workers Rights in Sri Lanka," (Washington: American Center for International Labor Solidarity, 2003), 32.

st International Trade Union Confederation, "Sri Lanka: Trade unions hard at work," Union View #11 October 2008, 11.

⁸⁶ Ibid.: 2.

There are more and more innocent women going abroad, and planning to go. It is up to the women to care of themselves. The [Sri Lankan] government gets a good profit from us; they must take care of us. They must do more to protect us.

Quote from Kumari Indunil, age 23, a former domestic worker in Kuwait. Human Rights Watch, "Exported and Exposed: Abuses against Sri Lankan Domestic Workers in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates," Volume 19, No. 16(C) (November 2007): 1.



Domestic Workers' Right to Collective Representation

Sri Lanka has ratified the UN Convention on the Rights of Migrant Workers, the Freedom of Association Convention, and the Right to Organise Convention. The ratifications are reflected in the constitution and the national law.



The Trade Union Ordinance 14 of 1935 allows workers over 16 years of age to form and join unions, to bargain collectively and to strike, including domestic workers and documented migrant workers.



These rights are enforced further by the Industrial Disputes Act, which prohibits discrimination and termination based on union membership, but the law is not well implemented.



Harassment and union restrictions have occurred however in the export processing zones (EPZs), and during occasions of political strife when emergency decrees were issued.⁸⁷

In the ILO questionnaire on the proposed instruments on domestic workers, one of the main problems for domestic workers was highlighted by the National Trade Union Federation's response:

According to Sri Lankan law, a trade union should have 40 per cent of the workforce of a particular establishment to be recognised for the purpose of collective bargaining. Domestic workers serve in scattered individual residences for a large number of employers. These aspects need to be considered when drafting the instruments.⁸⁸

Despite the harassment and restrictions, unions such as the National Workers Congress are campaigning for domestic workers' rights and organising them with the help of a network of associations throughout the country. The Red Flag Women's Movement Trade Union, which supports women workers in Kandy, is engaged in campaigning for domestic workers to be recognised in the law and is affiliated with the Ceylon Federation of Trade Unions.

⁸⁷ Solidarity Center, "Justice For All: The Struggle for Workers Rights in Sri Lanka," 8-11, 20.

⁸⁸ International Labour Organisation, "Decent work for domestic workers: International Labour Conference Fourth item on the agenda IV (2)," 73.

Trade unions are also involved beyond the national level in assisting the thousands of migrant workers. For example, the National Workers Congress is cooperating with unions in destination countries, such as the Jordanian General Federation of Trade Unions, in the hope of having the unions in destination countries support domestic workers when their rights are violated in those countries.⁸⁹ Action Network for Migrant Workers (ACTFORM) is a coalition of 35 unions and organisations formed in 2000 specifically to help protect and advocate for the rights of Sri Lankan migrant workers. The unions and associations also supplement the governments pre-departure training by informing domestic workers of their rights, the risks and the culture in destination countries, and by giving them basic health education.⁹⁰

RECOMMENDATION:

Protect basic labour rights of domestic workers by recognising them as workers under all national labour legislation and set up a wage board to set the minimum wages and working hours. Stronger protections systems need to be set up for domestic workers overseas especially in the Middle East.

⁸⁹ Ibid., 81. International Trade Union Confederation, "Sri Lanka: Trade unions hard at work," 10.

⁹⁰ International Trade Union Confederation, "Sri Lanka: Trade unions hard at work," 10.

Taiwan (POC)

Hidden and Unprotected

Background:

Main migrant Countries of Origin:	Philippines, Indonesia
Number of domestic workers:	Estimated 169,000 migrant domestic workers
Ratified Right to Organise convention:	No
Ratified Freedom of Association Convention:	No
Ratified the UN Migrant workers Convention:	No
Domestic worker legislation:	No
Included under labour legislation:	Some



As a destination country, according to the statistics of the Bureau of Employment and Vocation Training, Taiwan has a total number of 353,805 migrant workers as of January 2010, with Indonesians as the largest in number followed by Vietnamese, Filipinos and Thai. "169,000 foreign workers - approximately half of Taiwan's foreign work force" are employed as domestic workers. Taiwan has a quota system for migrant workers and differentiates between domestic helpers and domestic caregivers, however often one person will do both roles as a domestic worker. Abuse of domestic workers in Taiwan is not as well documented as in the Middle East or even Malaysia, and the demand for domestic workers in the country is increasing.



Domestic workers were included under the Labour Standards Law briefly in April 1998, but the government dropped the inclusion due to the difficulty of determining working hours and remuneration for overtime.²



The Labour Standards Act (2009.04.22 Modified) does not cover domestic workers.



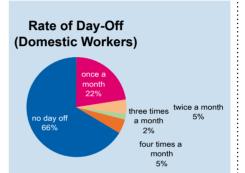
They are covered by the Employment Services Act 2009.05.13 (Amended), but it does not protect rights to a minimum wage, set work hours, days off, holidays or leave.



The monthly minimum wage of a migrant domestic worker in Taiwan is one of the higher rates at NT\$15,840 (approximately US\$507), this is lower than the minimum wage for other forms of employment which was raised to NT\$17,280 in July 2007.³



The Immigration Act 2003 only includes provisions on the entry, stay and exit of migrant workers.



Asia Pacific Mission for Migrants (APMM), 'Triple Whammy: A Study on the Contemporary Situation and Problems of Indonesian Migrant Workers in Taiwan' March 2009, 48.

Therefore, the labour rights of domestic workers are not protected in Taiwan, whether they are migrants or locals. A Household Service Act, drafted in 2003 by migrant NGOs, became a bill before the Taiwan Parliament in 2008, but has since stalled. It comprehensively includes provisions on residency, health, legal termination, work hours, leave, days-off and labour contracts.

Taiwan's Bureau of Employment and Vocational Training, under the Council of Labor Affairs (CLA), has recently been mandated to mediate in disputes and has developed new protective measures for migrant workers including:

¹ American Institute in Taiwan, "Trafficking in Persons Report - Taiwan " (TIER 2) OT-0911E (16th June 2009).

² Human Rights Watch 'Indonesia: Guarantee Domestic Workers' Rights in 2010' 10th February 2010, available from http://www.hrw.org/en/news/2010/02/12/indonesia-guarantee-domestic-workers-rights-2010 viewed 12th March 2010.

³ Asia Pacific Mission for Migrants (APMM), "Triple Whammy: A Study on the Contemporary Situation and Problems of Indonesian Migrant Workers in Taiwan". Exchange rates checked on 29th Sept 2010.



Meeting first time migrant workers at the airport to brief them on their rights in their language



24 hours a day, seven days a week migrant worker hotline

And 240 inspectors to regularly check on the situation of migrant workers in their work sites (although it is unclear if this measure includes domestic workers).⁴

Taiwan is unusual in that it has a broker system to manage the migrant workers, who then have to pay brokers monthly service fees on top of the recruiting agencies placement fees they already have to pay. These amounts are deducted from their minimum wages of NT\$15,840 a month.⁵ A memorandum of understanding (MOU) between the government of Taiwan and the Philippines was signed in 2008, enabling employers in Taiwan to directly hire overseas Filipino workers under the Special Hiring Program that means Filipinos, including domestic workers, do not have to engage the services of brokers and recruitment agencies.⁶



Domestic Workers' Right to Collective Representation

Taiwan has not signed any of the three main conventions; however, prior to 1971 before it came under the People's Republic of China, it had ratified the Right to Organise Convention. Under the Immigration Act, as amended on August 2008, documented migrants have the rights to assemble and to rally.



Before the amendment, migrants were not entitled to those rights because the immigration act stated, "Aliens who are visiting or residing in the State may not engage in activities or employment that is different from the purposes of their visits or residence."



The Immigration Act was amended after years of protest by the Alliance for Human Rights Legislation for Immigrants and Migrants (AHRLIM).



However, local and migrant domestic workers are still not permitted to form trade unions and migrant workers cannot be leaders of trade unions.



Furthermore, under Article 50 of the Employment Services Law, those who change employment can face deportation; therefore, employees and the police use this law to suppress protesting of migrant workers.⁷



In general, there are few collective bargaining agreements and a long and complicated set of procedures severely limits the right to strike.8

Trade unions in Taiwan tend not to be supportive of migrant workers joining or participating, and with the financial crisis in 2008, they went as far as to mobilise against the importing and employment of migrant workers.⁹

⁴ Joy Gotera, 'Taiwan moves to protect rights of OFWs, other migrant workers' Manila Bulletin, 19th November 2009, available from http://www.mb.com.ph/articles/230267/taiwan-moves-protect-rights-ofws-other-migrant-workers, Viewed on 14th April 2010.
⁵ Asia Pacific Mission for Migrants (APMM), "Triple Whammy: A Study on the Contemporary Situation and Problems of Indonesian Migrant

Sasia Pacific Mission for Migrants (APMM), "Triple Whammy: A Study on the Contemporary Situation and Problems of Indonesian Migrar Workers in Taiwan ".
Joy Gotera, 'Taiwan moves to protect rights of OFWs, other migrant workers' Manila Bulletin, 19th November 2009, available from

http://www.mb.com.ph/articless/230267/taiwan-moves-protect-rights-ofws-other-migrant-workers, Viewed on 14th April 2010.

7 Robert Tierney, "Inter-ethnic and labour-community coalitions in class struggle in Taiwan since the advent of temporary immigration," Journal of Organizational Change Management 21, no. 4 (2008): 486.

International Trade Union Congress '2009 Annual Survey of Violations of Trade Union Rights – Taiwan' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=TWN&Lang=EN viewed on 15th April 2010.

⁹ Alliance for Human Rights Legislation for Immigrants and Migrants (AHRLIM) 'Press Statement: Economic Crisis Worsening the Conditions of Migrants Local and Migrant Workers both Victimized All Workers Be United, Not Divided.' December 20, 2008 http://tw.myblog.yahoo.com/migrants2006/article?mid=639&next=638&I=f&fid=7 viewed 13th April 2010.

In Taiwan, temporary migrants are politically isolated, which partly flows from legislation preventing them from setting up labour unions and from seeking union office. The labour unions contribute significantly to the migrants' experiences of neglect and marginalisation because they have done little to support struggles for better wages and conditions and for opposing racist violence.¹⁰



There are a few registered associations for Indonesian and Filipino migrant workers such as the Taiwan Indonesian Workers' Association (TIMWA) and KaSaPi (united we stand) for Filipino migrant workers.



Most of the organising for domestic workers is supported by Taiwan International Workers' Association (TIWA) a self funded NGO who also organises the Promotion Alliance for the Household Services Act (PAHSA), an alliance of 13 groups aimed at getting a law passed for migrant domestic workers.



There is also the New Immigrant Labor Rights Association (NILRA), and the Alliance for Human Rights Legislation for Immigrants and Migrants (AHRLIM) mentioned above.



The other main advocates for domestic and other migrant workers are faith based groups. In December of 2009, a public rally was organised by Migrants' Empowerment Network in Taiwan (MENT) and Church-based organisations to draw attention to the situation of domestic workers. ¹¹ The groups provide shelter and legal services for all migrant workers, but they do not have much coordination with advocates outside of Taiwan¹² and the groups need to include more domestic workers as members.

RECOMMENDATION:

Protect domestic workers and especially migrant domestic workers by passing the Household Service Act, reviewing the broker system, and protect and encourage the organising of migrant workers.

¹⁰ Tierney, "Inter-ethnic and labour-community coalitions in class struggle in Taiwan since the advent of temporary immigration," 483.

¹¹ The International Catholic Migration Commission, 'Taiwan: Church calls attention to plight of migrant domestic workers' 13th December 2009, available from

http://www.icmc.net/article/taiwan-church-calls-attention-plight-migrant-domestic-workers Viewed on 13th April 2010.

¹² Ying-Hsiu Tsai and H. H. Michael Hsiao, "The Non-Governmental Organizations (NGOs) for Foreign Workers and Foreign Spouses in Taiwan: A Portrayal" Asia-Pacific Forum, 33 (2006): 1-31

Thailanc

Thailand and Abroad

Leaving without Protection, Receiving without Protection

Background:	
Main migrant Countries of Origin :	Burma (Myanmar) Laos, Cambodia
Main migrant Countries of Destination:	Israel, Japan, Taiwan and Malaysia
Number of domestic workers:	Estimated 1,773,349 in Thailand, no
	estimates for overseas
Ratified Right to Organise convention:	No
Ratified Freedom of Association Convention:	No
Ratified the UN Migrant workers Convention:	No
Domestic worker legislation:	No
Included under labour legislation:	Some



Thailand receives migrant workers from its neighbours Burma (Myanmar), Cambodia, and the People's Democratic Republic of Lao, but Thailand also sends labour migrants to Israel, Japan, Taiwan and Malaysia.

Domestic work is the main source of income for the female migrants in and out of Thailand, but there are also many local women who migrate from rural to urban areas to be employed in domestic work. The numbers are unclear, especially as many migrants are undocumented, but the estimate is 1,773,349 in 2005 with 26% registered, constituting 5% of the labour force (although this number is much higher around the border areas). Like India, Thailand is a transit hub for smugglers and trafficking, especially of women and girls, for various forms of labour such as domestic work.

The girls left Savannakhet [Laos] in 1996, crossing the Mekong River in a small boat accompanied by Mr. Xang. They stayed overnight in Mukdahan, a well known border town where trafficking victims are often transferred. The following day Mr. Xang handed the girls over to another man who put them to work in his house where there were many other girls working. They worked for 18 days but were not paid. Then the girls were delivered to Paichit, a wealthy businessman in Bangkok. Upon arriving at Paichit's house, the girls were told to hand over their clothes from home and given something else to wear. In addition to their clothes, all their money and telephone numbers from home were taken away. The girls' suspicions turned to fear that they had been sold.

Extract from the story of Manivone and her friend. UNICEF, "Broken Promises, Shattered Dreams", 2004 available from www.unicef.org/media/files/BrokenPromisesFULLREPORT.pdf, 32.

The recent 2008 Anti-Trafficking in Persons Act B.E. 2551 is not yet being adequately enforced and is failing to protect these irregular migrants, who once caught are subsequently deported.

The Labour Protection Act requires equal treatment of all employees, including migrant workers, irrespective of their legal status but this right is largely ignored and not enforced. With the assistance of the ILO, MoUs have been signed with the Governments of Burma, Lao People's Democratic Republic and Cambodia, "under which migrant workers will receive wages and benefits at the same rate as national workers in accordance with the principles of non-discrimination and equality with respect to gender, ethnicity and religious identity". The MoUs are also to the large part ignored and unimplemented. However, information leaflets in Thai, Burmese, Cambodian, Laotian and English on migrant workers' rights and responsibilities were distributed to employment offices as part of a Greater Mekong sub-region project.

The current concern of migrants involves the Nationality Verification Process for Burmese, Cambodian and Laotian workers in Thailand. 102

⁹⁹ Philip Martin 'Fact sheet: The Contribution of Migrant Workers to Thailand: Towards Policy Development', University of California (Davis), International Labour Organisation, Bangkok, 2007, available from http://www.ilo.org/public/english/region/asro/bangkok/download/yr2007/fact_migrant07.pdf viewed on 12th April 2010.

¹⁰⁰ Vachararutai (Jan) Boontinand, "Domestic workers in Thailand: their situation, challenges and the way forward: A situational review,," (Bangkok: International Labour Organisation Subregional Office for East Asia, January 2010), 26.

¹⁰¹ International Labour Organisation, "Towards a fair deal for migrant workers in the global economy: International Labour Conference Sixth item on the agenda," (Geneva: International Labour Office 92nd Session 2004), 107.

¹⁰² International Labour Organisation, "Decent work for domestic workers: International Labour Conference Fourth item on the agenda IV (1)," 89.



Migrants had to verify their nationality with officials from their own government by the deadline earlier this year, which would then qualify them for a two year Thailand issued work permit.



However, due to fear of the government, costs of travel back to Burma, and as the Burmese authorities are unable to process all the applications, hundreds of thousands of Burmese migrants now have undocumented status and are even more vulnerable:

On February 25th 2010, in Pak Nam sub-district, Ranong province, soldiers from the 25th Infantry Division fired on a pickup truck carrying 13 undocumented migrant workers from Burma, resulting in the deaths of three migrant children. Those killed were a three or four year old, six or seven year old girl, and a 16-year-old boy. Five others were also injured during the shooting... in the event that migrants are arrested, detained or deported, we called for the procedures to be carried out in a humane, safe and transparent manner and only by authorised, trained authorities.¹⁰³

The local Thai domestic workers are also not being protected. Ministerial Regulations B.E. 2541 issued in 1998, declared that various parts of The Labour Protection Act 1998 (amended 2007) do not apply to domestic workers. This excludes domestic workers from a legal right to

- · basic services.
- · medical care,
- limited number of work hours and days; including rest time and national holidays,
- and a minimum wage.

Domestic workers are covered under the requirements of advance termination notice, protection against sexual harassment, and salary payment requirements. There is a standard contract for some employees in Thailand, but it is not enforced for domestic workers.

In August 2010, it was announced that a ministerial regulation on the protection of domestic work was being drafted to be considered at the cabinet this year. ¹⁰⁴ The regulation will apparently include basic labour rights for domestic workers such as a minimum wage, day leave, access to medical care and the other rights they are currently excluded from under the Labour Act.



Domestic Workers' Right to Collective Representation

Thailand has not ratified the UN Convention on the Rights of Migrant Workers, the Freedom of Association Convention, or the Right to Organise Convention. The Constitution of 2007 guarantees freedom of association and collective bargaining, but the government has severe restrictions on the right to strike. There is continuing harassment and firing of those who participate or lead unions and the courts are ineffective to deal with the problems.¹⁰⁵

¹⁰³ MAP Foundation, 'Press Release: Deaths of Migrants Must be Investigated', 24th March 2010, available from http://www.mapfoundationcm.org/map_en/index.php?option=com_content&view=article&id=46:press-release-deaths-of-migrants-must-be-investigated-press-release-&catid=58:general-news viewed 24th March 2010.

¹⁰⁴ Bangkok Post, 'Maid-to-order bill helps domestic workers' 23rd August 2010, available from

http://www.bangkokpost.com/news/local/192403/maid-to-order-bill-helps-domestic-workers?awesm=fbshare.me ARajU

¹⁰⁵ International Trade Union Congress, '2009 Annual Survey of Violations of Trade Union Rights – Thailand' available from http://survey09.ituc-csi.org/survey.php?IDContinent=3&IDCountry=THA&Lang=EN viewed on 15th April 2010.

The Labour Relations Act of 1975 denies the right to organise to domestic workers, as they are not recognised as employees under the Act. Section 88 and 100 requires that workers be of Thai nationality to form or to lead a union. Most formal trade unions are unwilling to become involved in the issues of migrant workers; this may be a reflection of recent policies on migrant labour and the huge numbers of undocumented workers. Migrant and local domestic workers' themselves are reluctant to participate or join associations due to threat of being fired by their employees and the fear of local officials and police. Migrant workers are not permitted to own motorcycles or vehicles and in some provinces, such as the border area of Ranong, gatherings of more than five migrants needs prior approval on grounds of national security. ¹⁰⁶

It is so hard to do any sort of group activity like that [a religious event organised by a Burmese migrant worker association] because the police are always looking out. I know that our association will have a problem with the police in the future.... They have asked many questions about the association because they worry we are going to organise the migrants...They always look at these issues from the security view.

"A Burmese migrant worker reported the severe reaction of local police from the Muang district station in Surat Thani province when a local Burmese migrant worker association organized a religious merit-making event at a Buddhist temple on June 19, 2008, to honour the 63rd birthday of detained Burmese democracy leader Aung San Suu Kyi." Human Rights Watch, "From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand," 1-56432-602-0 (February 2010): 30-1.

Domestic workers have the added disadvantage of not having a legal right to a weekly day off or limited working hours in order to organise themselves. The work of protecting domestic workers' rights then falls to the many networks and NGOs in Thailand, for example, Migrant Assistance Programme (MAP) and Mekong Migration Network (MMN). The Thai Domestic Workers Network, organised by HomeNet, currently has only 80 members but is expanding.

RECOMMENDATION:

Protect all domestic workers migrating within and into Thailand for employment by including them under national labour legislation and all parts of The Labour Protection Act 1998. Set up training, education programmes and protections for Thai domestic workers heading overseas. Review the national verification procedure, policies on migrant labour and protect all domestic workers' right to organise.

¹⁰⁸ Human Rights Watch, "From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand," 1-56432-602-0 (February 2010): 30.

CONCLUSION

From the ten countries outlined, it is clear that there are several main concerns in regards to domestic workers in Asia.



Most domestic workers are not recognised in their national labour laws as workers and therefore their rights are not protected.



The recruitment agencies and employers exploit this lack of protection and are given impunity to treat the domestic workers as they see fit.



Domestic workers in most countries do not have the legal right to a weekly day off, public holidays or leave with pay, even when the rights are included in the law; employers do not often respect them.



This is not only dangerous to their health and general well-being, it also means that domestic workers are further isolated and affectively unable to join or participate in associations or unions.



In most Asian countries, domestic workers' right to freedom of association and right to organise are not included or protected in the law, leaving them unable to have collective representation to protect their own rights and to call for justice when their rights are violated.

For local domestic workers, it is clear that there are two steps to ensuring that their rights are protected:

Firstly, the governments need to respect and recognise domestic workers as workers and include them in all national labour laws, this may require a change in the definition of worker or employer in existing legislation, such as the law in Indonesia, which only includes the employees of entrepreneurs. It also may be simpler to pass separate legislation (such as the Domestic Workers (Registration Social Security and Welfare) Bill in India, or the Philippine Magna Carta for Domestic Workers), to bring domestic workers under health and safety, paid leave, a weekly day off, minimum wage, right to organise and unionise, and other labour laws. Once the rights of domestic workers are protected by the law, domestic workers are able to join and form associations and unions, and these rights are publicised by governments, then the **second step** is that these rights must be upheld and supported. Standard contract are important to ensure that employers are aware of what rights their workers have. Their must be complaints mechanisms in place for domestic workers to report violations and the justice system should prosecute the offenders to set a precedent.

To support these functions, and to educate and assist other domestic workers in reporting violations it is important for domestic workers to form groups, though social or cultural ties or in local meeting points such as parks. These informal groups and associations of domestic workers need to be supported by NGOs and existing unions in other industries, such as in India where domestic workers are working together with the construction workers unions. This is important in the initial organising stage until domestic workers are aware and confident in their ability to organise themselves, especially in countries where organisation is currently limited. Once the confidence is achieved then domestic workers organisations can begin to network and successfully lobby the government to improve legislation and policies on domestic work.

For migrant domestic workers, protection of their rights is more complicated: Destination Countries

Similar to the steps outlined above, governments of destination countries **first** need to follow the example of Hong Kong and open up their legislation to cover migrant domestic workers. In some countries where there are no labour laws for any of the migrant workers, such as in Taiwan, this may require the drafting of new legislation. **The second step**, as outlined above, is even more important. Policies must be put in place to protect migrant domestic workers, for example they must not be required to live-in, they must be able to change employers and agencies, they should keep their own documentation and wages should be paid regularly, preferably into the domestic workers' bank accounts. Complaints mechanisms must be set up that can communicate with and inform workers in their own language. Domestic workers must be able to stay in the country and work while their case is being processed in the courts. Education campaigns, in local and migrant languages, should be carried out by the governments to inform citizens of the rights of domestic workers and to change negative public perception on this form of employment.

Associations and unions will be crucial in educating and organising migrant domestic workers who, before entering the country, may not be aware of the legislations which protect them. Existing unions need to support this process, such as the Malaysian Trade Union Congress, who has been working towards registering an association of migrant workers. The Immigration Ordinance and standard contract which allows migrants to collectively organise in Hong Kong without fear of termination, has enabled domestic workers to protect themselves and to have an impact on policy in that country.

For migrant domestic workers, protection of their rights is more complicated: Countries of Origin

It is not only the country of destination which has obligations to protect migrant workers. There are two steps that governments of countries of origin need to follow to begin to protect the rights of domestic workers who travel overseas to work. The first step is to set up a tripartite body (which consists of government officials, trade unions representatives and private recruitment agencies) and to regulate recruitment agencies. Governments need to closely control the fees, form of recruitment, training and departure procedures, to stop the exploitation of domestic workers. Standard contracts should be used and the training should be carried out in consultation or in cooperation with associations and unions to ensure that domestic workers are educated not just on the skills they will need, but also on their rights, the laws and complaints mechanisms in the country of destination. If recruitment is properly regulated then less women domestic workers will be forced to resort to smuggling or trafficking to find employment, as is often the case in Bangladesh. Associations and unions can play a role in setting up networks with organisations in the destination countries to track and protect domestic workers while overseas and to assist in the repatriation of returnees.

International Labour Organisation:

The standard setting of the ILO is also an important part of the process of protecting domestic workers' rights. It is unclear at this stage what the final form of the instrument will be and if it will be adopted, but the desired outcome of both domestic workers, associations, unions and NGOs working on the issue, is for the ILO to adopt a strong standard setting instrument, which clearly outlines the rights and protections required for domestic workers and upon which countries can draft their own legislation to recognise domestic workers as workers.

The second step that governments can take is to again follow the example of the Philippines and ensure that the standard contracts, and the rights and minimum wages contains within, are enforced in the destination country. Memorandums of Agreement (MoUs), bilateral and multilateral agreements are essential here in foraging links and reaching an understanding as to the treatment of domestic workers in destination countries. Filipinos in Malaysia and Hong Kong are paid more than that of other migrants simply because of this strategy. Where agreements fail to protect domestic workers and standard contracts are not respected, such as the case with Sri Lanka, then governments must take action. The suspension by Indonesia of sending domestic workers to Malaysia may have left many without the opportunity to work, but hopefully the new MoU between Malaysia and Indonesia will better protect domestic workers in the future.



The proposed ILC Convention and Recommendation on Domestic Work

PROPOSED CONVENTION CONCERNING DECENT WORK FOR DOMESTIC WORKERS

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on ... June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for men and women workers with family responsibilities, and

Considering that domestic work continues to be undervalued and invisible and is mostly carried out by women and girls, many of whom are migrants or members of historically disadvantaged communities and therefore particularly vulnerable to discrimination in respect of conditions of employment and of work, and to other abuses of human rights, and

Considering also that, in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized, and

Recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided, and

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949, the Migrant Workers (Supplementary Provisions) Convention, 1975, the Workers with Family Responsibilities Convention, 1981, the Private Employment Agencies Convention, 1997, the Employment Relationship Recommendation, 2006, and of the ILO Multilateral Framework on Labour Migration, and Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers, to enable them to enjoy their rights fully, taking into account the right to privacy that each domestic worker and each household enjoys, and

Recalling other relevant international instruments, such as the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

Having decided upon the adoption of certain proposals concerning decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, adopts this ... day of June of the year two thousand and eleven the following Convention, which may be cited as the Domestic Workers Convention, 2011.

Article 1

For the purpose of this Convention:

- (a) the term "domestic work" means work performed in or for a household or households;
- (b) the term "domestic worker" means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Article 2

- 1. The Convention applies to all domestic workers, provided that a Member which has ratified it may, after consulting representative employers' and workers' organizations, and, in particular, organizations representing domestic workers and those of employers of domestic workers, where they exist, exclude wholly or partly from its scope:
 - (a) categories of workers who are otherwise provided with at least equivalent protection;
 - (b) limited categories of workers in respect of which special problems of a substantial nature arise.
- 2. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

Article 3

- 1. Each Member shall take measures to ensure effective protection of the human rights of all domestic workers.
- 2. Each Member shall take, in relation to domestic workers, measures to respect, promote and realize, in good faith and in accordance with the ILO Constitution, the fundamental principles and rights at work, namely:
 - (a) freedom of association and the effective recognition of the right to collective bargaining;
 - (b) the elimination of all forms of forced or compulsory labour;
 - (c) the effective abolition of child labour; and
 - (d) the elimination of discrimination in respect of employment and occupation.

Article 4

- 1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and not lower than that established by national laws and regulations for workers generally.
- 2. Each Member shall ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of, or interfere with, their education or vocational training.



Article 5

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, where applicable, decent living conditions which respect their privacy.

Article 6

Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment, in an appropriate, verifiable and easily understandable manner, preferably, where possible, through written contracts in accordance with national laws and regulations, in particular:

- (a) the name and address of the employer;
- (b) the type of work to be performed;
- (c) the remuneration, method of calculation and periodicity of payments;
- (d) the normal hours of work;
- (e) the duration of the contract;
- (f) the provision of food and accommodation, if applicable;
- (g) the period of probation or trial period, if applicable;
- (h) the terms of repatriation, if applicable; and
- (i) terms and conditions concerning termination of employment.

Article 7

- 1. National laws and regulations shall require that migrant domestic workers receive a written job offer or contract of employment addressing the terms and conditions of employment referred to in Article 6 prior to crossing national borders for the purpose of taking up domestic work to which the offer or contract applies, without prejudice to equivalent or more favourable measures under regional, bilateral or multilateral agreements, or under rules pertaining to the operation of a regional economic integration area.
- 2. Members shall cooperate with each other to ensure the effective protection of migrant domestic workers under this Convention.

Article 8

Each Member shall take measures to ensure that domestic workers enjoy effective protection against all forms of abuse and harassment.

Article 9

- Fach Member shall take measures to ensure that domestic workers:
 - (a) are free to negotiate with their employer whether to reside in the household;
 - (b) are not bound to remain in or with the household during the periods of daily and weekly rest or annual leave; and
 - (c) are entitled to keep in their possession their travel and identity documents.
- 2. In taking these measures, due respect shall be given to the right to privacy of both the domestic worker and the household.

Article 10

- 1. Each Member shall take measures to ensure that the normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave of domestic workers are not less favourable than those provided for workers generally in accordance with national laws and regulations.
- 2. Weekly rest shall be at least 24 consecutive hours per each seven-day period.
- 3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws or regulations, collective agreements or any other means consistent with national practice.

Article 11

Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

Article 12

- 1. Domestic workers shall be paid directly in legal tender at regular intervals but not less often than once a month. As appropriate under national law and practice and with the consent of the worker concerned, payment may be made by bank transfer, bank cheque, postal cheque or money order.
- 2. National laws or regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of allowances in kind, in conditions not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such allowances are agreed to by the worker, are appropriate for the personal use and benefit of the worker, and that the cash value attributed to them is fair and reasonable.

Article 13

- 1. Each Member shall take appropriate measures, with due regard to the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of:
 - (a) occupational safety and health; and
 - (b) social security protection, including with respect to maternity.
- 2. The measures referred to in the preceding paragraph may be applied progressively.

Article 14

Each Member shall take measures to ensure that all domestic workers, either by themselves or through a representative, have easy access to courts, tribunals or other dispute resolution procedures under conditions that are not less favourable than those available to workers generally.

Article 15

Each Member shall establish effective means of ensuring compliance with national laws and regulations for the protection of domestic workers.



Article 16

- 1. Each Member shall take measures to ensure that domestic workers recruited or placed by an employment agency, including migrant domestic workers, are effectively protected against abusive practices, including by establishing the respective legal liability of the household and the agency.
- 2. Each Member shall take measures to:
 - (a) establish criteria for the registration and qualifications of employment agencies, including disclosure of information on any relevant past violations:
 - (b) carry out regular inspections of employment agencies to ensure compliance with rel evant laws and regulations, and provide for significant penalties for violations:
 - (c) provide accessible complaint mechanisms for domestic workers to notify authorities of abusive practices; and
 - (d) ensure that fees charged by employment agencies are not deducted from the remuneration of domestic workers.

Article 17

Each Member shall implement the provisions of this Convention, in consultation with representative employers' and workers' organizations, through laws and regulations, as well as through collective agreements or additional measures as consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.

Article 18

This Convention shall not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

PROPOSED RECOMMENDATION CONCERNING DECENT WORK FOR DOMESTIC WORKERS

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on ... June 2011, and

Having adopted the Domestic Workers Convention, 2011, and

Having decided upon the adoption of certain proposals with regard to decent work for domestic workers, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Domestic Workers Convention, 2011,

adopts this ... day of June of the year two thousand and eleven the following Recommendation, which may be cited as the Domestic Workers Recommendation, 2011.

- 1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 ("the Convention"), and should be considered in conjunction with them.
- 2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:
 - (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers' organizations of their choice and to the right of organizations of domestic workers to join workers' organizations, federations and confederations;
 - (b) protect the right of employers of domestic workers to establish and join organizations, federations and confederations of employers of their choosing; and
 - (c) take or support measures to strengthen the capacity of organizations of domestic work ers to protect effectively the interests of their members.
- 3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should make sure, among other things, that work-related medical testing is consistent with international labour standards and respects the principle of the confidentiality of personal data and the privacy of domestic workers; Members should prevent any discrimination related to such testing.
- 4. When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, including in respect of working time and restrictions on undertaking certain types of domestic work.
- 5. (1) In communicating the terms and conditions of employment to the domestic workers, appropriate assistance should be provided, when necessary, to ensure that the domestic worker concerned has understood those terms and conditions.
- (2) Further to Article 6 of the Convention, the terms and conditions of employment should include the following particulars:
 - (a) the starting date of the employment;
 - (b) a job description;
 - (c) paid annual leave;
 - (d) daily and weekly rest;
 - (e) sick leave and any other personal leave;
 - (f) the rate of pay for overtime work;
 - (g) any other cash payments to which the domestic worker is entitled;
 - (h) any allowances in kind and their cash value;
 - (i) details of any accommodation provided;
 - (j) any authorized deductions from the worker's wages; and
 - (k) the period of notice required for termination by either the domestic worker or the em ployer.

- (3) Members should consider establishing a model contract for domestic work, in consultation with representative employers' and workers' organizations and, in particular, organizations representing domestic workers and those of employers of domestic workers, where they exist.
- 6. (1) Hours of work and overtime should be accurately calculated and recorded, and this information should be freely accessible to the domestic worker.
- (2) Members should consider developing practical guidance in this respect, in consultation with representative employers' and workers' organizations and, in particular, organizations representing domestic workers and those of employers of domestic workers, where they exist.
- 7. With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (commonly known as standby or on-call periods), national laws and regulations or collective agreements should regulate:
 - (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
 - (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is disturbed by standby; and
 - (c) the rate at which standby hours should be remunerated.
- 8. Members should consider specific measures, including appropriate financial compensation, for domestic workers whose normal duties are performed at night, taking into account the constraints and consequences of night work.
- 9. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.
- 10. The day of weekly rest should be a fixed day in every period of seven days to be determined by agreement of the parties, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.
- 11. National laws and regulations, or collective agreements, should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.
- 12. Time spent by domestic workers accompanying the household on holiday should not be counted as part of their annual leave.
- 13. When provision is made for the payment of a limited proportion of the remuneration in the form of allowances in kind, Members should consider:
 - (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the cash remuneration necessary for the maintenance of domestic workers and their families:
 - (b) calculating the cash value of allowances in kind by reference to objective criteria such as the market value, cost price or prices fixed by public authorities, as appropriate;
 - (c) limiting allowances in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation; and
 - (d) prohibiting allowances in kind that are directly related to the performance of work duties, such as uniforms, tools or protective equipment.
- 14. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the payments due to them, the amounts paid and the specific amount and purpose of any deductions which may have been made.
- (2) Upon termination of employment, any outstanding payments should be made promptly.
- 15. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

- 16. When provided, accommodation and food should, taking into account national conditions, include:
 - (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
 - (b) access to suitable sanitary facilities, shared or private;
 - (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with pre vailing conditions within the household; and
 - (d) meals of good quality and sufficient quantity, adapted to the cultural and religious re quirements, if any, of the domestic worker concerned.
- 17. In the event of termination of employment, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.
- 18. Members should take measures to:
 - (a) identify, mitigate and prevent occupational hazards specific to domestic work;
 - (b) establish procedures for collecting and publishing statistics on occupational safety and health related to domestic work;
 - (c) advise on occupational safety and health, including on ergonomic aspects and protec tive equipment; and
 - (d) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.
- 19. Members should consider means to facilitate the payment of social security contributions by employers, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.
- 20. (1) Members should consider additional measures to ensure the effective protection of migrant domestic workers' rights, such as:
 - (a) providing for a system of visits to households in which migrant domestic workers will be employed:
 - (b) developing a network of emergency housing;
 - (c) establishing a national hotline with interpretation services for domestic workers who need assistance:
 - (d) raising employers' awareness of their obligations and of sanctions in case of violation;
 - (e) securing access of domestic workers to complaint mechanisms and their ability to pur sue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and
 - (f) providing for a public outreach service to inform domestic workers, in languages under stood by them, of their rights, relevant laws and regulations, available complaint mecha nisms and legal remedies, and to provide other pertinent information.
- (2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and any other appropriate measures.
- 21. Members should consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.
- 22. (1) Members should establish policies and programmes, in consultation with representative employers' and workers' organizations and, in particular, organizations representing domestic workers and those of employers of domestic workers, where they exist, so as to:
 - (a) encourage the continuing development of the competencies and qualifications of do mestic workers, including literacy training as appropriate, so as to enhance their career and employment opportunities;



- (b) address the work-life balance needs of domestic workers; and
- (c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.
- (2) Members should develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices and to effectively collect comprehensive data on domestic workers.
- 23. (1) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning social security, the monitoring of private employment agencies, the prevention of forced labour and human trafficking, the dissemination of good practices and the collection of statistics on domestic work.
- (2) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.



ANALYSIS OF THE INTERNATIONAL LABOUR ORGANISATION PROPOSED CONVENTION AND RECOMMENDATION ON DOMESTIC WORK

Background Comments:

In 2008, after a number of years of advocacy by civil society groups, the International Labour Organisation (ILO) Governing Body put the issue of decent work for domestic workers on the agenda for the 2010 session of the ILO conference.¹ The aim was to set an international standard to protect a group of workers who are commonly excluded from national labour laws. The drafting of an instrument had wide support at the conference, with the committee meeting on domestic workers having such a large number of trade unions, employers' organisations, NGOs and governments present that the meeting room needed to be changed. The support for a Convention and Recommendation came mainly from the workers' organisations, the United States of America, Kenya and Uruguay, with quiet support also coming from China, the Maldives, Sri Lanka and Thailand. Those in opposition, who called for a Recommendation, included Bangladesh, India and employers' organisations. The result of the vote was for a Convention and Recommendation, the proposed draft was released in August 2010 to be discussed further and to be put up for adoption at the ILC in 2011.

Vote: 108	Convention and recommendation	Recommendation only	No vote / abstained
Bangladesh		\checkmark	
(Hong Kong - SAR) China			
India			
Indonesia		\checkmark	
Japan			\checkmark
Malaysia		\checkmark	
Philippines	\checkmark		
Sri Lanka			
Taiwan			
Thailand	\checkmark		

The Convention is comprehensive and its articles on the whole reflect strong arguments at the ILC towards a comprehensive protective standard for domestic workers. The following comments reflect concerns identified by civil society groups with a particular focus on the promotion and protection of migrant domestic worker rights. We call on delegates to the 2011 ILC to strengthen the proposed instruments by making the following changes:

¹ International Labour Office, 'Decent Work For Domestic Workers Report IV(1)' International Labour Organisation (10 August 2010) ILC.100/ IV/1, p1.

The Proposed Domestic Workers Convention 2011:

Preamble

The preamble should include recognition of the abuse of domestic workers and the historical lack of recognition of domestic work as work.

Article 1

For the purpose of this Convention:

- (a) the term "domestic work" means work performed in or for a household or households;
- (b) the term "domestic worker" means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.²

In reflection of the commitment of the committee to make the definition as wide as possible, article one encompasses all forms of work done within the household without limitations, from cleaning to caring for children and the elderly, as well as work performed outside of, or for the household, such as gardening or chauffeur work. The use of the word 'households' in the definition is to include those who work for several household employers, but needs to be further defined. The use of the term 'employment relationship' is wide enough to cover those employed by the household, as well as those employed directly by employment agencies and other intermediaries.³ The terms employer, employment agency or intermediary are not defined in the proposed Convention. Part (c) is worded so as not to exclude part time or temporary workers, but to exclude, for example, the occasional or irregular babysitter.⁴ There is still debate about the wording 'not on an occupational basis', which has not been used before in any other ILO instruments, the International Labour Office has instead suggested the words 'not as a means of earning a living' and is asking for comments.⁵

Recommendation: To ensure all domestic worker rights are protect by the instruments the definition should be expansive and the expression 'not on an occupational basis' should be removed. The expression may be utilised by employers where a culture of viewing domestic workers as 'helpers' who receive only lodgings and board exists.

Article 2

- 1. The Convention applies to all domestic workers, provided that a Member which has ratified it may, after consulting representative employers' and workers' organizations, and, in particular, organizations representing domestic workers and those of employers of domestic workers, where they exist, exclude wholly or partly from its scope:
 - (a) categories of workers who are otherwise provided with at least equivalent protection;
 - (b) limited categories of workers in respect of which special problems of a substantial nature arise.

² Ibid, p12

International Labour Office 'Committee on Domestic Workers Draft Report' International Labour Conference 99th Session, Geneva, (June 2010) C.T.D./D.227. "Responding to the question raised by the Government member of Japan, the representative of the Secretary-General explained that work performed within an employment relationship included both domestic workers directly recruited by the household and also domestic workers recruited by a third party to provide services to a household." p47, 55. Also see the Employment Relationship Recommendation, 2006 (No. 198).

⁴ Committee on Domestic Workers Draft Report, p50.

Decent Work For Domestic Workers Report IV(1), p5.

2. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.⁶

There is concern that part (b) allows for the exclusion of various types of domestic workers, while the main reasons for having an instrument addressing the specific situation of domestic workers is precisely because many of them are excluded from the scope of international labour standards and national labour legislation. The category of workers most likely to be excluded by members under the article is that of undocumented and irregular migrant workers. The article was formulated by a working group, but the representative of Bangladesh expressed concerns as to the language of 'special problems of a substantial nature' and it may be discussed further at the ILC in 2011.⁷

Recommendation: Article 2 (b) should be removed. The subsection may enable exploitation of the most vulnerable who are already considered 'special problems' i.e. domestic workers with disabilities, domestic workers who have been in servitude to a family all their lives, irregular workers, domestic workers of diplomats, etc.



Article 4 on the minimum age, should specifically mention the setting of a minimum age for migrant domestic workers, in that the minimum age should be, at least, no lower than that which applies to nationals, following the Migration for Employment Convention (Revised), 1949 (No. 97)⁸



Article 5 is central to the Convention and refers to the provision of decent work and living conditions for domestic workers. To strengthen this part of the text reference should be made to the specific situation of migrant domestic workers, live-in and young domestic workers as needing particular protection.



The terms and conditions of employment in Article 6 should require specification of the address of the household(s) to prevent domestic workers from being forced to work in households not in the contract.



Article 6 states that 'Each Member shall take measures to ensure that domestic workers are informed of their terms and conditions of employment, in an appropriate, verifiable and easily understandable manner, preferably, where possible, through written contracts in accordance with national laws and regulations', and Article 7 'National laws and regulations shall require that migrant domestic workers receive a written job offer or contract of employment addressing the terms and conditions of employment referred to in Article 6 prior to crossing national borders for the purpose of taking up domestic work to which the offer or contract applies',9 however the articles should also state that the contract is to be written in language understood by both the worker and their employer.



Under Article 6 (g) one of the terms and conditions referred to is that of 'the period of probation or trial period, if applicable'10, there is no further information or reference in the Convention or Recommendation on the terms and conditions or maximum length of a trial or probationary period. To remedy this omission, the trial or probationary period should be specified to be for no longer than three month, however, it would be preferred if probationary or trial periods were prohibited.

⁶ Ihid n12

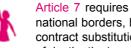
Onmittee on Domestic Workers Draft Report, p78.

⁸ Some members suggested a higher minimum age for migrant workers for example Malaysia asked for minimum age of migrant workers to be 21. International Labour Office, 'Decent Work For Domestic Workers Report IV(2)' International Labour Organisation (03 March 2010) ILC 99 IV(2), p51.

⁹ Decent Work For Domestic Workers Report IV(1), p13.

¹⁰ Ibid, p13.





Article 7 requires that a written job offer or contract be received prior to crossing national borders, but the article should also clearly prohibit the common practice of contract substitution (when a different contract is given to the worker in the country of destination).



Article 7 should also express that the Convention and Recommendation set the minimum standards by which existing and future regional, bilateral and multilateral labour agreements must be measured.



Article 8 should be amended to reflect the wording proposed by workers representatives; 'Member States should adopt measures under national laws or regulations for the effective detection of the abusive use of domestic work, which includes all forms of child labour, forced labour, harassment and other abusive situations. Such measures should include appropriate remedies as well as the sanctioning of such abuses'.11



Under Article 9 (a), the mandatory live-in arrangement for domestic workers must be prohibited so that domestic workers are free to negotiate where they reside. Under 9 (c) domestic workers 'are entitled to keep in their possession their travel and identity documents', 12 this should include their contracts, other personal documentation and possessions.



Article 11 states that remuneration should be 'established without discrimination based on sex', nationality, race, religion, marital status, parental status, sexual orientation, social origin or other irrelevant characteristics should also be included. Domestic workers should also be entitled to the same minimum wage, annual wage increases and non-wage benefits as other workers under national laws and labour regulations.



Under Article 13 concerning health, safety and social security, Article 13 (2) 'The measures referred to in the preceding paragraph may be applied progressively' should be deleted. The article should state that domestic workers are entitled to all protections detailed in the related ILO Convention No. 155.



Article 15 states that 'Each Member shall establish effective means of ensuring compliance with national laws and regulations for the protection of domestic workers'.13 however there are no further details or suggestions as to monitoring and evaluation, which should be included in the Recommendations. A requirement that members enact national laws and regulations that comply with the standards of the convention should be included.



Although Article 16 refers to protection against employment agencies, it does not mention intermediaries, private recruiters paid by the recruitment agencies, brokers, or training and holding facilities (which house migrant domestic workers before they depart or are deployed to a household), which may or may not be run by the employment agencies. Article 16 should also be strengthened with reference to ILO Convention No. 181 on Private Employment Agencies with a view to regulate and monitor recruitment agencies in order to prevent abuses.



Under Article 16 (2) should be amended to ensure that each member should also take measures against the practice of charging high placement, legal, bureaucratic processing and other employment related fees, the fees should be set, regulated and paid by the employers.

¹¹ Committee on Domestic Workers Draft Report, p103-4.

¹² Decent Work For Domestic Workers Report IV(1), p14.

¹³ Ibid, p15.

The Proposed Domestic Workers Recommendation 2011



Article 2 (a) 'identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers' organizations of their choice and to the right of organizations of domestic workers to join workers' organizations, federations and confederations' 14 should also clearly include the elimination of any restrictions or limitations on migrants holding union office or membership, including any visa or work permit restrictions. This important clause should be moved to the convention.



Under Article 3 concerning medical testing, specific reference should be made to HIV/Aids and pregnancy testing, it should be clearly expressed that these should not be made mandatory and rights to privacy of medical information should be maintained. The knowledge of any such medical conditions should not be used as grounds upon which to terminate employment contracts.



The terms and conditions of employment in Article 5 (2) should also include provisions with regards to medical assistance and insurance, and also provide details such as the number of family members, the number of children and/or elderly occupants and the number of rooms in the house. In Article 5 (3) a standard contract rather than model contract should be established.



Under Article 17 on termination, reference should be made to Migrant Workers (Supplementary Provisions) Convention, 1975 (No 143) according to which migrant workers having resided legally in a country for the purpose of employment should not have their authorisation of residence or work permit automatically withdrawn in case of termination of employment.

In Addition, the Draft Instruments failed to properly address the following issues that should be included:



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, must be specifically protected.



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



The issue of the migrant domestic workers' family is not included, further reference should be made to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families



A more comprehensive approach to maternity and pregnancy protection for domestic workers should be considered with a separate article in the Convention to address the issues.



The right to residency being no less favourable than that of other migrant workers is not included.



The ability of migrant workers to remain in the country of destination and to be employed during legal proceedings against their employers, employment agency, or other intermediaries, is not included. Migrant workers should also be exempted from immigration fees to extend their stay in destination country pending the solution of any such legal proceedings.



For the purposes of clarity, the Convention and Recommendation should explicitly state that all domestic workers are covered regardless of their migration status.

¹⁴ Decent Work For Domestic Workers Report IV(1), p16.

Annex A

UFDWR Joint Statement and Recommendation Endorsements

Asia Pacific Forum on Women, Law and Development (APWLD)

Coordination of Action Research on AIDS and Mobility

(CARAM Asia)

Global Alliance Against Traffic in Women (GAATW)

Asia Pacific Mission for Migrants (APMM)

Mekong Migration Network (MMN)

Asian Migrants' Coordinating Body (AMCB)

Committee for Asian Women

Solidaritas Perempuan (Women's Solidarity for Human Rights)

Transient Workers Count Too

Worker Hub For Change (WH4C)

Malaysian Trade Union Congress (MTUC)

TransAsia Sisters Association

Hong Kong Confederation of Trade Unions

Action Net Work for Migrant Workers (ACTFORM)

National Workers Congress (NWC)

Tenaganita

International Migrant Alliance Research Foundation (IMA)

Domestic workers rights union/ Stree Jagruti Samiti

Samahan at Ugnayan ng mga Mangagawang Pantahanan

sa Pilipinas (SUMAPI)

United Filipinos in Hong Kong (UNIFIL-MIGRANTE-HK)

Red Flag Women's Movement

Karmoiibi Nari

National Network for Domestic Worker Advocacy

(JALA PRT)

Filipino Migrant Center (FMC)

Taiwan International Workers' Association

Ain o Salish Kendra (ASK)

Migrante International

Women in Law and Development in Africa (WiLDAF)

Union Migrant (UNIMIG)

Maquila Solidarity Network

Asia Pacific Research Network

Community Development Services (CDS)
Center for Trade Union and Human Rights (CTUHR)

Shirkat Gah-Women's Resource Centre

Arunodhaya Migrant Initiatives (AMI)

Development Alternatives for Wider Network (DAWN)

Rights Jessore

Human Trafficking Prevention Network

Migrante -DK

Partners for law in development

Shirkat Gah- Women's Resource Centre

South Asian Women's Community Centre

Intellectual Islamic Forum

Migrant Heritage Commission

Fundacion Justicia y Genero

Latin American and Caribbean Committee for the defense of Women

Rights (CLADEM)

Women Workers Help Line

PDHRE, People's Movement for Human Rights Learning

PINA'

Burma Campaign Malaysia

Bangladeshi Ovibashi Mohila Sramik Association (BOMSA)

Nepali Sangati Penang

Advocates and Solicitors

Asia Pacific Workers Solidarity Links (APWSL)

Osan Migrat Workers Center

Labornet in South Korea

Positive Change for Cambodia

National Union of Employees in Companies Manufacturing

Rubber Products

Dabindu Collective

Yaung Chi Oo Workers Association (YCOWA)

Dan Church Aid (DCA/CA)

Thailand - Regional

Malaysia - Regional

Thailand - International

Regional

Thailand - Regional

Hong Kong SAR Regional

Indonesia

Singapore - National

International Malaysia

Taiwan

Hong Kong SAR

Sri Lanka

Regional

Malaysia

Bangladesh Regional

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Philippines Hong Kong SAR

Regional

Bangladesh

Ü

Indonesia Japan

Taiwan

Bangladesh - National

Taiwan Ghana

Indonesia

International

Regional Sri Lanka

Philippines - National

Pakistan

Chennai, India

India

Bangladesh - National

Bangladesh Denmark

India

Pakistan

Canada

Syria - Regional

United States

Regional

Peru - Regional Pakistan

USA - International

Canada - Regional

Malaysia Bangladesh

Penang, Malaysia

Regional Korea

Korea

Korea Cambodia

ambodia

Regional Sri Lanka

Burma

Cambodia

Migrante International

Humanitarian Organisation for Migration Economics

Gabriela Australia

MIGRANTE-Europe

Filipino Migrant Workers Union, Chater Rd Chapter

Samitra Abhaya-Kelompok Perempuan Pro Demokrasi

(SA-KPPD)

Gabriela, Hong Kong Chapter

Association of concerned Filipinos in Hong Kong

Women Working Worldwide

Cordillera Alliance Hong Kong (CORALL HK)

Pinatud A Saleng Ti Umili (PSU HK)

Center for Human Rights Law Studies, Faculty of Law,

Airlangga University

University of Colombo

Society for Rural Education and Development (SRED)

KontraS Surabaya GAYa NUSANTÁRA

National Fisheries Solidarity Movement

Yayasan Anisa Swasti (YASANTI)

MIGRANTE -Nagoya

Kalipunan ng mga Filipinong Nagkakaisa (KAFIN)

Migrant Center

KAFIN-Migrante (Saitama)

Niiera Kori

Philippine Society in Japan (PSJ)

Jajnaseni, Anti-trafficking network Orissa.

Filipina Circle for Advancement and Progress (FICAP)

Bahrain Center for Human Rights

Center for Japanese Filipino Families (CJFF)

Anakbayan Japan

Konföderation of Workers from Türkey in Europa (ATIK)

Centre for Women's Development and Research

Tenaganita

Sisters of GABRIELA, Awaken! (SiGAw)

Mitra ImaDei

Tim Pembela Buruh Migran Indonesia-TPBMI

K.U.L.U.-Women and Development (Kvindernes U-landsudvalg)

Lebanese American University

Khmer Kampuchea Krom Human Rights Association

(KKKHRA)

Migrante-Middle East

Asia Pacific Students and Youth Association

Migrante-Perth

Anisur Rahman Khan

The Ecumenical Institute for Labour Education and Research

(EILER, Inc.)

NWC/ Migrant Services Centre

Filipino Migrant Workers' Union (FMWU)

Association of the People of Bicol- Taiwan (Bugkos)

Community Centre سن'نعهہ َ نایسا حتَّمه PINAY Filipino Women's Organization

Migrante Ilonggo in Taiwan

May 1st Coalition for Worker & Immigrant Rights

Laging Handa Scouts 0592

Aliran - Malaysia independent news

Filipino Migrant Center

Jagori ('Awaken, Women')

LAWA -Ghana Alumnae Incorporated

Persatuan Masyarakat Selangor dan Wilayah Persekutuan (PERMAS)

Pusat Komunikasi Masyarakat (KOMAS)

Bethune House

ARRAK (Indonesian NGOs Alliance for International Migrants

Convention)

Hong Kong Domestic Workers General Union

Filipino Community Support - Silicon Valley

MONFEMNET

Penn Thozhilalargal Sangam

International Domestic Workers Network (IDWN)

Association of Indonesian Migrant Workers in Hong Kong.

United Indonesians in Hong Kong against Overcharging (PILAR) Indonesian Migrant Muslim Alliance in Hong Kong (GAMMI)

Philippines Singapore Australia Regional Hong Kong SAR

Indonesia Hong Kong SAR Hong Kong SAR United Kingdom Hong Kong SAR Hong Kong SAR

Indonesia - Regional Sri Lanka India

Indonesia

Indonesia - Regional

Sri Lanka Regional Japan

Japan Japan

Bangladesh - National

Japan India Japan Bahrain Japan Japan Europe

India - Regional Malaysia

USA - Regional Indonesia Indonesia

Denmark - National International

Cambodia Middle East Region Regional International Bangladesh

Philippines Sri Lanka Hong Kong SAR Taiwan Canada Regional Taiwan Taiwan USA

Canada - International

Malaysia USA - National

India International

Malaysia- Regional Malavsia - Regional Hong Kong SAR

Indonesia Hong Kong USA Mongolia India International Regional - Macau and Indonesia

Hong Kong SAR

Hong Kong SAR

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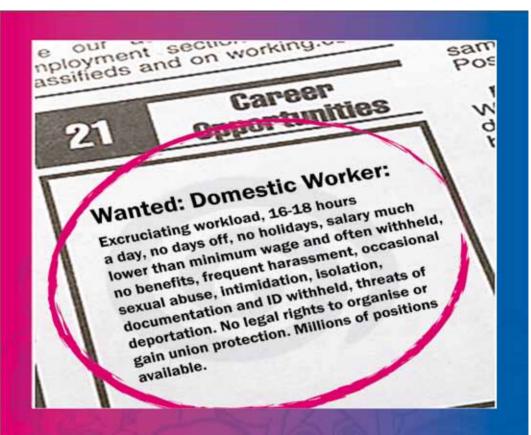


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Other UFDWR Core Committee Members:

Asia Pacific Mission for Migrants (APMM) Mekong Migration Network (MMN) Global Alliance Against Trafficking in Women (GAATW)





PROTECT THE MOST VULNERABLE WORKERS: RECOGNISE DOMESTIC WORKER RIGHTS TO ORGANISE

To Support the Campaign to Demand an International **Convention for Domestic Worker Rights visit:**











