



International
Labour
Office

Moving towards Decent work for Domestic workers:

An Overview of the ILO's work

Asha D'Souza



Bureau for
Gender
Equality

Moving towards Decent work
for Domestic workers:
An Overview of the ILO's work

ILO Bureau for Gender Equality

..... By Asha D'Souza

..... ILO Bureau for Gender Equality

..... Moving towards Decent work
..... for Domestic workers:
..... An Overview of the ILO's work

By Asha D'Souza

Copyright © International Labour Organization 2010

First published 2010

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org.

The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with reproduction rights organizations may make copies in accordance with the licences issued to them for this purpose. Visit www.ifrro.org to find the reproduction rights organization in your country.

Moving toward Decent work for Domestic workers: An Overview of the ILO's work

ISBN 978-92-2-122050-3 (print)

ISBN 978-92-2-122051-0 (web pdf)

decent work/domestic work/domestic worker/workers rights/role of ILO

13.01.1

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and electronic products can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org

Visit our web site: www.ilo.org/publns

Graphic design and layout

Printed in France

ALI

ICA

The growth of domestic work as a service sector is being continually fuelled by supply and demand factors. Demographic changes such as aging populations, decline in welfare provision, increasing labour force participation of women, and the challenges of balancing working life and family life in urban areas and developed countries contribute to greater demand for domestic workers. On the supply side rural poverty, gender discrimination in the labour market as well as limited employment opportunities in general in rural communities and countries of origin ensure a continuous supply of workers into the sector.

Domestic work is a predominately female-dominated sector that is poorly regulated and often unprotected by labour law. It is also often embedded within socio-cultural structures, which may make it difficult for employers to see themselves as such. Moreover, issues of gender, class, ethnicity and caste also come into play heightening the weak bargaining power of domestic workers.

Domestic workers themselves often work long hours, have poor remuneration, and little access to social protection. Their isolation and vulnerability as workers is made more complex by their invisibility in private homes and their dependence on the good will of their employers. Many, though not all, come from poor households, often in rural communities, where limited access to education and skills development, leave them with few employment opportunities and choices. Others, especially those migrating abroad, may be skilled, yet unable to find employment commensurate with their levels of education.

With the recognition of the numerous decent work deficits characteristic of domestic work, the ILO, both in field and headquarters, has been working at different levels to support the organisation of domestic workers, their access to social protection and the enforcement of their rights as workers. The idea for this paper originated out of a draft plan of action for domestic work designed by ILO Gender Specialists in the field to better coordinate and map the ILO's recent work on the issue and develop a strategy to move forward. Following the 2008 decision to place decent work for domestic workers on the ILC agenda for 2010, the Bureau for Gender Equality, the Directors of a large number of interested Office units: Mr Ibrahim Awad (International Migration Programme), Ms Azita Berar (Employment

Policies Department), Ms Michele Jankanish (International Programme for the Elimination of Child Labour), Mr Zafar Shaheed (Programme on Promoting the Declaration) and Ms Manuela Tomei (Conditions of Work and Employment Programme), with the support of the Bureau for Workers' Activities and the Bureau for Employers' Activities, commissioned a stock-taking of ILO activities related to domestic work. This paper is the outcome of that research and mapping.

The 99th Session of the International Labour Conference in 2010 will hold a preliminary discussion – as the first step in the double discussion procedure for standard setting - towards the first ever specific standard carefully crafted to afford better protection and promote decent work for domestic workers. As part of preparations for the Conference, two reports have been prepared by the office, in March 2009 and April 2010, on the subject. The reports contain up-to-date examples of innovative regulatory mechanisms that have been introduced for domestic workers at the national level in past years and will form the basis for the discussion at the Conference.

The present paper was completed before the two Conference reports were issued, and relies on material that was as up-to-date as possible at that time. It remains a useful research reference, although certain concepts have since been clarified in the ILC reports themselves; for example, ILC Report IV (1) contains a note on the terms “domestic work” and “domestic workers”, terms which are examined below in Part 3. As this working paper draws attention to a female-dominated sector that has become infamous for its poor working conditions and limited recognition and protection under the law, it complements the ILC reports by providing an overview of the variety of perspectives from which domestic work has been addressed by ILO through technical cooperation projects and research. It will doubtlessly inspire further work on the issue in the follow-up to the domestic work debate at the 2010 and 2011 sessions of the International Labour Conference.

The commitment by Governments and social partners to highlight this sector at the International Labour Conference offers much hope that it can be transformed into one that offers greater opportunities for decent work for the many millions of women and men around the world who work as domestic workers.

Jane Hodges
Director
Bureau for Gender Equality

Acknowledgements of the author

I would like to thank very specially the Gender Bureau and team of Gender Specialists for entrusting me with the task of reviewing the ILO's recent policies and programmes on domestic work. This report was made possible thanks to Susan Maybud's constant guidance and sharing of information. She has greatly facilitated my contacts with other departments in Geneva and with field offices. Sriani Ameratunga Kring subsequently took over from Susan, and I am grateful for her assistance. I am grateful to the Gender Specialists for their inputs concerning the regions they cover and I particularly appreciated all the ideas and material that Simel Esim shared with me.

A number of ILO officials - Beate Andrees, Naomi Cassirer, Maria-José Chamorro, Luc Demaret, Maria Galotti, Jane Hodges, Wael Issa, Mary Kavar, Azfar Khan, Adriana Mata, Roger Plant, Emmanuel Reynaud, and Patrick Taran, - gave generously of their time to share their views on the rights of domestic workers with me. So did Samuel Grumiau, Consultant with ACTRAV and Anneke van Luijken from IRENE. I have tried my best to reflect these in this paper.

I would like to acknowledge with gratitude the work done previously by José-Maria Ramirez Machado from which I have drawn for the chapter on Standard setting.

Improvements to previous drafts of this paper have been made possible thanks to the comments provided by Gender Specialists and colleagues from various departments: Simel Esim, Aurelie Hauchere, Nelien Haspels, Mary Kavar, Gloria Moreno- Fontes, , Caroline O'Reilly, Emanuela Pozzan, Reiko Tsushima and Maria-Elena Valenzuela and to guidance from Sriani Ameratunga of the Gender Bureau.

Asha D'Souza

Preface.....	V
Acknowledgements of the author	VII
1. Bridging the standards gap	1
2. The Value of Domestic Work	5
3. A multitude of tasks	9
3.1 Defining domestic work	9
3.2 Categories of domestic workers	11
3.3 Hard data or the lack of it	12
4. The need for protection	17
4.1 Resistance to regulation	17
4.2 The specificity of the employment relationship	18
4.3 The large Decent Work deficit	19
4.3.1 Conditions of Work	19
4.3.2 Social protection	22
4.3.3 Social dialogue	23
4.4 Human rights violations	24
4.5 Triple discrimination	26
4.6 Vulnerability to Forced Labour	28
4.7 Child domestic labour	32
4.8 Migrant domestic workers	35
4.9 Problems faced by employers	37

Table of Contents

5. The ILO response	39
5.1 Setting standards	39
5.2 Previous ILO engagements	42
5.3 Monitoring compliance	45
5.3.1 A worst form of child labour	47
5.3.2 Minimum age for employment	48
5.3.3 Ensuring fitness of young persons	48
5.3.4 Forced labour	48
5.3.5 Discrimination against women and migrants	49
5.3.6 Freedom of Association	49
5.3.7 Maternity Protection	50
5.3.8 Minimum wage determination	50
5.3.9 Protection of wages	50
5.3.10 Migration for employment	50
5.3.11 Indigenous peoples	51
5.4 Key meetings and declarations	51
5.5 Research on domestic work	55
5.6 Capacity building and policy support	58
5.7 Technical cooperation	61
5.8 National Legislation	66
5.9 Initiatives of ILO social partners	73
6. Responses of other actors	79
6.1 Self-help organizations of domestic workers	79
6.2 Strategies deployed by NGOs	81
7. Moving the domestic work agenda forward	85
7.1 Elements of an interregional programme on domestic work	86
7.2 And finally...	89
Annex - Number of domestic workers by country	90
Bibliography	91

ACTRAV	ILO Bureau for Workers' Activities
ADWU	Asian Domestic Workers' Union, Hong Kong
CEACR	ILO Committee of Experts on the Application of Conventions and Recommendations
CETU	Confederation of Ethiopian Trade Unions
CFMW	Commission for Filipino Migrant Workers
CHODAWU	Conservation, Hotels, Domestic and Allied Workers Union, Tanzania
CNV	Federation of Christian Trade Unions of the Netherlands
COMG	Consejo de Organizaciones Mayas de Guatemala
CONLACTRAHO	Confederación Latino-Americana y Caribeña de Trabajadoras Domésticas
CONSAWU	Confederation of South African Workers' Union
DECLARATION	ILO InFocus Programme on promoting the Declaration
DWCP	ILO Decent Work Country Programmes
ECOP	Employers' Confederation of the Philippines
FENATRAD	National Federation of Domestic Workers, Brazil
FNV	Netherlands Trade Union Confederation
GENDER	ILO Bureau for Gender Equality
GENPROM	ILO's Gender Promotion Programme
ILC	International Labour Conference
ILCCR	Conference Committee on the Application of Conventions and Recommendations
ILO	International Labour Organization / Office
IMWU	International Muslim Workers' Union, Hong Kong
IPEC	ILO's International Programme on the Elimination of Child Labour
IPROFOTH	Instituto de promoción y formación de los trabajadoras del hogar. Peru
IRENE	International Restructuring Education Network Europe
ISCO	International Standard Classification of Occupations
ITUC	International Trade Union Congress
IUF	International Union of Food and allied workers
KOKTIHO	Hong Kong Coalition of Indonesian Migrants Workers Organization
MIGRANT	ILO's International Migration Programme
MTC	Mouvement des travailleurs chretiens, Niger and Mali
MTUC	Malaysian Trade Union Congress
NWC	National Workers' Congress, Sri Lanka
OHCHR	Office of the High Commissioner for Human Rights
PEA	Private Employment Agency

List of Acronyms

POEA	Philippine Overseas Employment Administration
ROAS	ILO Regional Office for the Arab States
SADAGWU	South African Domestic and General Workers' Union
SAP-FL.....	ILO Special Action Programme to combat Forced Labour
SINTRADOP	Sindicato de trabajadoras domesticas, Paraguay
SKILLS	InFocus Programme on Skills, Knowledge and Employability
SUMAPI.....	Samahang Ugnayan ng mga Manggagawang Pangtahanan sa Pilipinas
TESDA.....	Technical Education and Skills Development Authority, Philippines
TRAVAIL.....	Conditions of Work and Employment Programme
WIEGO.....	Women in Informal Employment: Globalizing and Organizing

1 Bridging the standards gap

For the millions of women and girls in exploitative domestic work - overworked, underpaid, isolated, constantly belittled, often violently punished, sometimes raped, even pushed to suicide - the recognition and defence of their human and labour rights is an urgent necessity. A new international standard is on the anvil that will officially **recognise** domestic work as work and **regulate** the rights and duties of household workers and employers. At its 301st session in March 2008, the Governing Body of the ILO responded favourably to the call of the international trade union movement to put the issue of domestic work on the agenda of the International Labour Conference (ILC) in 2010.

Indeed, the exploitation and abuse that many domestic workers face stems from the non-recognition of domestic work as work, from the hidden nature of the workplace and from the informality of the employment relationship. In the case of female domestic workers, it is rooted in **gender discrimination**, replacing as it does women's unpaid work in the home. The tendency to undervalue work performed by women is accentuated in the case of domestic work by its low social status and the myth that no special skills are required to perform it. The non-recognition and lack of social protection that is characteristic of domestic work is a major obstacle to achieving the International Labour Organization's (ILO) goal of Decent Work for all men and women.

The Declaration of Fundamental Principles and Rights of the ILO applies to domestic workers as to all other workers. So do several other conventions relating to employment, working conditions and social security. However, in the absence of a specific instrument on domestic work and the inherent difficulty in controlling working conditions in the private sphere of the household, many States either expressly **exclude domestic work from the ambit of labour legislation** or make no provisions to address the specific needs of domestic workers and their employers.

Back in 1965, the ILC adopted a **resolution concerning the conditions of employment of domestic workers**.¹ This resolution drew attention to the urgent need to provide domestic workers with the basic elements of protection which would assure them a minimum standard of living, compatible with the self-respect

¹ ILO, Record of Proceedings, ILC 49th Session, 1965, Appendix XII: Resolutions adopted by the Conference, pp. 693-694.

and dignity essential to social justice. In this connection, the Conference invited the Governing Body:

- to promote studies and research on the problems of domestic workers, with particular attention to the problems of women workers;
- to study in the first instance the problems of such workers on the basis of material supplied by governments;
- to consider organizing a second meeting of experts to examine the possibility of drafting a model contract or a code of guiding principles for the protection of working and living conditions of domestic workers; and
- to consider, on the basis of the preceding actions, placing on the agenda of an early session of the Conference, the question of conditions of employment of domestic workers with a view to the adoption of an international instrument.

Job quality for domestic workers, as for all other workers, is a right; it is also a social necessity. As more and more women enter the labour force, their reproductive tasks are delegated to household employees on whose care the well-being of entire generations depends. As domestic work allows other women workers with family responsibilities to achieve **equilibrium between work and family life**, it plays a key role in the smooth functioning of the economy. The demand for domestic workers is a key factor in opening up legal channels of temporary migration to some countries for large numbers of women with few employment options at home. The remittances of these migrant women have created pockets of relative prosperity in otherwise resource-starved communities. Thus, if performed under fair working conditions, domestic work has tremendous potential for reducing poverty and empowering women. Addressing the decent work deficit in domestic work is thus a powerful **means to achieve Millennium Development Goal 1 - «eradication of extreme poverty and hunger» and Goal 3 - «promotion of gender equality and empowerment of women.»**

Recognising the key role that domestic workers play and their vulnerability to exploitation, several countries have taken **steps to recognise and regulate domestic work**. In October 2007, the Philippines Senate adopted a 'Freedom Charter' that will, if passed by Congress, give the country's 624,000 domestic workers the right to humane working and living conditions. This Charter entitles them to decent treatment, a normal working week, overtime pay, eight hours of continuous rest every day, a weekly day off, annual leave, statutory wages, social security coverage, proper food and adequate private and safe living quarters. A similar law was passed in Uruguay in 2006 - *Ley sobre Trabajo Doméstico* - guaranteeing rights

that the workers' struggle has long since obtained for other workers. Lebanon has established a National Steering Committee to deal with regulatory deficits concerning domestic work. The adoption of a new international standard by the ILO will encourage other member States to follow suit.

The regulation and formalization of the domestic employment relationship is in the interests of both workers and employers. Specifying the rights and duties of each party will remove many of the difficulties that employers sometimes face, ranging from frequent absences, poor quality service, quitting without notice, etc. to crimes such as theft, kidnapping for ransom and even murder.

Over the years, the ILO and its constituents have addressed problems related to domestic work. The Committee on the Application of Conventions and Recommendations (CEACR) has, since 2002, dealt with 207 observations and direct requests concerning domestic work. National, regional and international meetings and workshops on the status and conditions of domestic work have been organized in which trade unions have played a leading role. Employers' organizations in certain countries have adopted Codes of Conduct for employment of domestic workers. Within the ILO, several departments have undertaken research and technical cooperation on domestic work approaching the subject from the angle of gender equity, protection of informal economy workers, migrant workers' rights, freedom of association, the elimination of forced labour and trafficking or the abolition of child labour, particularly its worst forms. Given the number of workers concerned, the fact that they are mostly women and the extreme exploitation many are faced with, **ILO's work in this domain must be intensified.** Trade Unions are now reaching out to domestic workers despite the difficulty in organizing caused by their dispersal. The potential for Employers' organizations to engage with their members on this issue is great but as yet, largely untapped. So far, informal groups of employers organized on a neighbourhood basis have been more active than Employers' Federations.

In 2006, at a meeting of Gender Specialists of the ILO, **a ten-year agenda for the ILO on Decent Work for Domestic Workers was elaborated.** This was followed by a meeting on the subject organized by the Bureau of Workers' Activities (ACTRAV) and MIGRANT and chaired by the International Trade Union Congress (ITUC) in February 2007. In the same month, GENDER invited the directors of DECLARATION, the In-Focus Initiative on the Informal Economy, IPEC, MIGRANT and TRAVAIL to an internal meeting to discuss joint action to reduce the decent work deficit in domestic work. This review of ILO policy and

programmes and the accompanying outline for a global programme on domestic work was considered an appropriate first step in moving forward the ILO agenda on this issue, calling the attention of various concerned departments and field offices to the subject and providing the basis for a global programme on domestic work.

In an unprecedented move to recognise the rights of domestic workers, global trade unions headed by ITUC called for a **new international treaty on domestic work** and the Governing Body of the ILO has put the subject on the agenda of the ILC in 2010 with a view to adopting an instrument in the following year.

In this context, this review of ILO policy and programmes on domestic work is timely. It aims to provide a global overview of ILO programmes and policies linked to the ILO Decent Work Agenda. It highlights effective and innovative means for addressing the problems encountered by domestic workers and projects the demands of organizations of domestic workers themselves.

Although both women and men are employed by private households, their roles and conditions of work tend to be very different. This paper focuses on the situation of female domestic workers employed for cleaning, cooking and care-giving.

The first section of this paper highlights the contribution of domestic workers to the care economy. The second draws on recent studies conducted by the ILO and various international human rights organizations to present the problems that domestic workers are confronted with. The response of the ILO and its constituents to the problem, normative, academic and practical, is then described. The following section presents the demands of domestic worker organizations and gives examples of policies and programmes at national level that promote their rights. Possible ways forward towards making decent work a reality for domestic workers are then explored.

2.....The Value of Domestic Work

The domestic sector has a high capacity for labour absorption as the unpaid, reproductive tasks of women in the household tend more and more to be delegated to female domestic workers. This high demand is fuelled by the absence of adequate institutional care of the young and elderly that is the duty of the government to provide. Even in Europe where investment in the care of the elderly is considerable, there are not enough places for the estimated 50 million aged in need of care and day care for children is in short supply. Domestic work **should not be considered a substitute for the provision of institutional care**. There is certainly a need for greater public investment in the care economy so that families can choose between institutional care and provision of the necessary services through qualified household employees.

Despite advances in gender equity, domestic work still remains **a women-dominated occupation**. In Ecuador, for example, 98.7% of domestic workers are women.² This is because the home is generally considered a secure place for women to work in and the tasks assigned to them are said not to require any particular skills or training. Domestic work is an **avenue of employment to poor, rural women** who have had little access to education, often from marginalized ethnic groups - those with otherwise **low employability**. Traditionally, it is the most widespread form of transfer of resources from the rich to the poor and could, if performed under fair working conditions, make a vital contribution to **poverty alleviation**.

For many women, domestic work is a unique opportunity to earn in a socially acceptable manner and gain some control over economic resources. The sector attracts women that enter the labour market for the first time as well as women who return to work after child rearing. If treated humanely, the independence and exposure to other lifestyles that domestic work offers is often a **source of empowerment** for women. In countries that have initiated certified skills training and professionalisation of domestic work, the empowering role of it is further enhanced by the resulting occupational mobility within the hospitality sector.

² ILO, Committee of Experts comments concerning Convention No. 100, Equal Remuneration Convention, ilolex, 2003..

In some of the more developed countries, particularly in Asia, domestic work is one of the rare sectors of the labour market that is **open to migrant workers** drawing large numbers of women migrants from countries with an oversupply of labour and high unemployment and contributing to the **feminization of migration**. It must be noted that discrimination against women in the domestic labour market also contributes to them seeking employment abroad. Furthermore, in countries such as Ethiopia, Guatemala, the Philippines and Sri Lanka, government policy and the spread of private employment agencies specialised in the placement of domestic workers has resulted in more than 50% of migrants from these countries being women. As much as 81% of all Sri Lankan women migrant workers and 38% of those from the Philippines are employed in domestic work.³ A situation analysis conducted by the ILO in the Philippines⁴ has shown that domestic workers who migrate internationally are drawn from a different pool of labour from those that migrate within the country. Those working overseas tend to come from urban areas, be more qualified and have prior work experience in different fields. Indeed, some have qualifications far superior to those required for domestic work but are faced with a lack of employment opportunities for women in their own country commensurate with their qualifications. In these circumstances, the higher salaries offered abroad and the opportunity to remit home almost their entire salary weigh in favour of migration for domestic work. As a result, the de-skilling of migrant women is a major concern for their countries of origin. A second negative consequence is the separation from the family that migration of women for domestic work entails that can have dramatic consequences on family unity and the welfare of the worker's own children.

Despite these serious disadvantages, on the whole, both the sending and receiving countries benefit largely from this migrant work force. Remittances currently make up the second largest source of external funding for developing countries,⁵ boosting foreign exchange reserves, bridging balance of payments deficits, reducing unemployment and increasing domestic consumption. What is important is to ensure that women migrants take part in decision-making on how the money they remit is invested. Remittances from migrant workers total 73 billion dollars per annum worldwide, second only to earnings from petroleum.⁶ The Philippines

3 Moreno-Fontes Chammartin, G., *Women Migrant Workers' Protection in Arab League States*, p. 9.

4 Sayres, N. J., *An analysis of the situation of Filipino Domestic Workers*, ILO, Manila, 2005

5 Ramirez, C., Dominguez, M.G., Morais, J.M., *Crossing Borders: Remittances, Gender and Development*, INSTRAW Working Paper, Santo Domingo: United Nations International Research and Training Institute for the Advancement of Women, 2005

6 International Labour Organization, MIGRANT Program Webpage, « Recent Activity in Asia » July, 2005, <http://www.ilo.org/public/english/protection/migrant/projects/asia.htm>

alone received more than 6 billion dollars in remittances in the year 2000, while Bangladesh received 2 billion dollars and Indonesia and Sri Lanka both received approximately 1.1 billion dollars.⁷ Besides, remittances have a ripple effect as **1\$ in remittances generates 2\$ in local economic activity** as recipients buy goods or invest in housing, education or health care.⁸

In addition to the flow of financial remittances, an enormous volume of ideas and resources that transform social identities, households and power relationships flow from destination countries to countries of origin and back again. For receiving countries, the presence of migrant domestic workers allows the integration of women into the national labour force and represents savings in the capital investment that would otherwise be required to provide institutional care to the sick, the young and the elderly. Ideally, however, as stated earlier, States should give their citizens **a choice between** affordable, professional, **institutional care and** the possibility of having **family members cared for in the home**.

⁷ Moreno-Fontes Chammartin, G. *opcit*, p. 8

⁸ Quoted in Kuptsch, C (ed), *Merchants of labour*, ILO, International Institute for Labour Studies, 2006, p. 2288

3 A multitude of tasks

3.1 Defining domestic work

As the word «domestic» denotes, the tasks performed by domestic workers are carried out within the sphere of the home, in the employer's residence or in his/her premises. In the absence of an international instrument regulating domestic work, there is no universally agreed definition of it. An ILO meeting of experts on the subject as far back as 1951 defined a domestic worker as

«[a] wage-earner working in a [private] household, under whatever method and period of remuneration, who may be employed by one or by several employers who receive no pecuniary gain from this work».⁹

The following **characteristics of domestic work** derive from this definition:

- The work site is a private home
- The work performed is of a domestic nature: cleaning, cooking, laundry, child care and personal care and may include other home-based tasks such as gardening, driving or patrolling;
- The work is carried out under the authority, direction and supervision of the householder;
- The worker is remunerated in cash and/or in kind, and
- The employer derives no pecuniary gain from the work performed.

At an international meeting on domestic work organized by International Restructuring Education Network Europe (IRENE), the Netherlands Trade Union Confederation (FNV), Asian Domestic Workers network, Committee for Asian Women and Women in Informal Employment (WIEGO) in Amsterdam in November 2006, it was **proposed that the term 'domestic worker' be replaced by 'household worker'** in English, 'trabajadores domésticos' by 'trabajadores del hogar' in Spanish and 'hadimath' by 'amilat al manziliya' in Arabic. At national level, attempts have also been made to improve the status of domestic workers by the use of more respectful and less servile terminology. In the Philippines, '*katu-long*' which literally means 'domestic servant' has been replaced by '*kasambahay*' meaning 'household companion' in the Bill on domestic work. In Guatemala, the National Office for Women has officially replaced the term «domestic work»

⁹ ILO, The Status and conditions of employment of domestic workers. Meeting of Experts, Geneva, 2-6 July 1951, Report 3, Document MDW/8.

with «work in private households». This change in terminology has not yet been discussed at an international level and will undoubtedly be one of the points to be considered at the 2010 ILC.

The ILO's ISCO, 1988,¹⁰ gives a detailed listing of the multiple tasks that domestic workers can be required to perform:

- # 5121. Tasks include: a) engaging, training, discharging, organising and supervising workers employed as domestic staff; b) purchasing or controlling the purchase of supplies; c) controlling storage and issue of supplies; (...) e) assisting in cases of minor injury or illness by performing tasks such as taking temperature, giving medicine, putting on bandages; f) performing related tasks; g) supervising other workers.
- # 5122. Tasks include: a) planning meals, preparing and cooking foodstuffs; b) planning, supervising and co-ordinating work in the kitchen; c) performing related tasks; d) supervising other workers.
- # 5131. Tasks include: a) assisting children to bathe, dress and feed themselves; b) taking children to and from school or outdoors for recreation; c) playing games with children, or entertaining children by reading or storytelling; d) maintaining order in children's bedrooms and playrooms; (...) g) performing related tasks; h) supervising other workers.
- # 5133. Tasks include: a) assisting persons in getting into and out of bed and making the appropriate change in dress; b) changing bed-linen and helping persons with their bath and toilet; c) serving food - prepared by them or others - and feeding persons needing help; d) giving or ensuring that persons take the necessary medicaments; e) watching for any sign of deterioration in the person's health and informing the relevant medical doctor or social services; f) performing related tasks; g) supervising other workers.
- # 5169. Tasks include: a) patrolling buildings and areas to prevent theft, violence, infractions of rules or other irregularities; (...) performing related tasks; g) supervising other workers.
- # 9152. Tasks include: c) watching houses and properties to prevent illegal entry or theft, fire or other hazards.
- # 6113. Tasks include: a) determining kinds and amounts of vegetables, horticultural and nursery products to be grown; b) purchasing seeds, bulbs, fertilisers and other supplies; (...) f) cultivating flowers, trees, shrubs and other plants (...)

¹⁰ ILO, International Standard Classification of Occupations, 1988, Geneva, 1990, p. 146-148, 153, 161, 255

in private gardens; (...) j) tending working animals and maintaining buildings, machinery and equipment; k) performing related tasks; l) supervising other workers.

- Tasks include: a) driving and tending household members; b) delivering and collecting packages, shopping or mail; c) cleaning and maintenance of vehicles; d) performing related tasks.

3.2 Categories of domestic workers

The status and income of the worker varies according to whether the worker is mainly **responsible for household tasks** - cleaning, cooking, washing or whether she is also a care-giver. The consequences of neglect being more important in the latter case, **care-givers** should normally have more stringent duties and obligations as well as higher qualifications.

Working conditions are radically different depending on whether the domestic worker **lives on the work-site**, working full-time for the employer who provides the accommodation **or lives independently** and comes in for a certain number of hours per week. For live-in workers, working and living conditions are intertwined.

Live-in domestic workers are generally **migrants** from another region of the country or from another country. While workers from within the country are in most cases informally recruited and may not have employment contracts, international migrants are most often recruited by placement agencies through formal processes. In countries where the demand for domestic workers is not reflected in their immigration policy, flows of undocumented workers continue with many being smuggled or even trafficked for domestic work.

Many enter domestic work as a temporary strategy for survival. However, given the average low level of education of domestic workers and their lack of other alternatives in the labour market, they remain trapped in the circle of domesticity and in a situation of deepening economic exploitation and **social immobility**. Horizontal mobility is a common trend as domestic workers often change their place of work. Many women **move from live-in to live-out work** thus acquiring a certain degree of freedom. However, upward mobility to other jobs in the hospitality sector is limited in most places by the lack of certified skills training for this occupation.

A significant proportion of live-in domestics in developing countries are **minors**. In fact, more girl children under 16 are in domestic service than in any other category of child labour.¹¹ Many of them have been placed in foster families for their education and well-being but are deprived of schooling and made to assume tasks far beyond their physical capacity. The term child domestic labour refers to *«domestic work undertaken by children under the legal minimum working age, as well as by children above the legal minimum age but under the age of eighteen, under slavery-like, hazardous, or other exploitative conditions.»*¹²

The salient features of this occupation may be summarised as follows:

- domestic work is prevalent in almost all countries and is overwhelmingly a female occupation;
- it is predominantly found in urban areas although, in some regions, domestic work in rural areas is also significant;
- migration, both in-country and across borders, of workers looking for employment in domestic service has increased significantly in the last decades; and
- in certain regions of the world, domestic service draws a significant number of child workers mainly young girls. It is estimated to be one of the largest employment categories for girls under the age of 16.¹³

3.3 Hard data or the lack of it

The prevalence of clandestine or unregulated work relationships in this occupation makes it impossible to give even a rough estimate of the number of domestic workers worldwide or of the economic value of the services they provide. With the exception of Latin American nations, **few countries have labour force statistics for domestic workers**. They are sometimes subsumed within a generic occupational category of «personal and protective service workers» that also includes institutional workers.

11 ILO, *Helping Hands or shackled lives? Understanding child domestic labour and responses to it*, ILO-IPEC, Geneva, 2004.

12 ILO, "A guide to IPEC child domestic labour publications & other materials", ILO-IPEC, Geneva, 2007.

13 Ramirez-Machado, J-M., "Domestic work, conditions of work and employment: a legal perspective", ILO Conditions of Work and Employment Series No. 7, Geneva, 2003



Besides, adult domestic workers are very often unregistered and do not make social security contributions and child domestic workers are often below the minimum age considered for household surveys. Furthermore, many migrant domestic workers are undocumented and hence do not figure in official migrant statistics.

With these reservations, certain national statistics may be considered. The ILO includes the category «Households with employed persons» in the LABORSTA data base. Figures for the years 2004 and 2005 are available for 39 member States (see Annex).

Other sources of national statistics reveal the following:

The number of domestic workers in the Philippines is currently 624,000.¹⁴ About 1.2 million Dutch households make use of the services of domestic workers, most of them informally.¹⁵ In India, the National Commission for Enterprises in the Unorganized Sector collated the following figures for employment in domestic service from the National Sample Survey for the year 2004-05.

	Number	%	Number	%	Number	%

Source: Communication from a Commission member

¹⁴ Senator Loren B. Legarda, Chairperson of the Senate Committee on Social Justice and Rural Development, Press Statement dated October 3, 2007

¹⁵ CNV, *Domestic work, decent work? Protecting the labour rights of domestic workers*, Utrecht, 2005, p. 8

Trends in domestic work differ from one region to another. In Europe, the number of domestic workers is rising as more women enter the labour market. Most of these jobs are filled by migrant women from other countries. In Asia it is estimated that domestic workers form between 1 and 3% of the population, more than what the statistics for India indicate. In addition to migration from rural to urban areas within countries, the main international flows are from South East Asia to the rest of the continent and towards the Middle East. In Lebanon, according to research done by various institutions, the estimated number of women migrant domestic workers is between 130,000 and 200,000 in an overall population of 4 million. In Latin America, international migration flows are towards the USA and Western Europe. Here too there is a great deal of internal migration for domestic work. Within the region the participation of rural children in domestic work is high - it is estimated to be almost 25%. In Africa, on the other hand, there is not much international migration for domestic work except towards South Africa. People tend to move within their countries from rural areas to the cities.¹⁶

Members of **certain ethnic groups** - tribal Christians in India, Burmese in Thailand, girls from Akwa Ibom in Nigeria - are reputed to be hardworking, neat and disciplined and are particularly prized as domestic helpers.

«Ironically, the rural backgrounds and lack of experience of newly-hired domestic workers are deemed favourable by some employers who want to train the domestic helpers themselves and prefer helpers without any expectations regarding their working conditions.»¹⁷

By introducing the exchange of services for a wage in the private household, domestic workers help to make visible the economic value of domestic tasks, traditionally considered as not having any value. However, domestic work is generally **not included in the calculation of GNP as it is not considered productive**. This is because its services are consumed directly within the unit in which they are produced and are not exchanged in the market. It is seen as being outside the monetary economy and, except in Latin American countries, is not reflected adequately in economic statistics¹⁸ nor in the national accounts.

16 CNV, *ibid*, p. 3.

17 Sayres, N.J., *op cit*

18 ILO, *Decent work and the informal economy*, ILC 90th Session, Report VI, Geneva, 2002, pp. 10-11: "Statistics on the size and contribution of several important subsectors of the informal economy, including (...) domestic workers, are specially weak. These are the subsectors in which women tend to be concentrated."

The Beijing Conference on Women (1995) recognized the problem of data relating to the domestic sector and called for national and international statistical organizations to devise suitable statistical means to acknowledge and make visible the full extent of the work of women and their contribution to national economies.¹⁹ The registration of domestic workers and the obligation to use written contracts will, in future, help fill this information gap.

¹⁹ Report of the Fourth World Conference on Women, Beijing, China 4-15 September 1995, Doc. A/Conf.177/20, p. 28

4..... The need for protection

Female domestic workers are particularly vulnerable to abuse and exploitation. The violations of their human and labour rights so often reported by the media call for urgent action by governments, trade unions, associations of employers and concerned civil society organizations. Data on the proportion affected by the problems outlined below is scarce at present, but judging by complaints filed by migrant domestic workers with their embassies, the numbers are significant.

4.1 Resistance to regulation.....

Domestic work is in many countries **beyond the reach of labour law**, either because it is expressly excluded, or because compliance with the law in the private sphere of the household is difficult to monitor. An analysis of national legislation of 67 countries conducted by the Conditions of work programme of the ILO showed that, in 2003, nine of the countries studied excluded domestic workers from general labour law, 19 did not make specific reference to them, 20 had regulations on domestic work incorporated in the Labour Code and 19 had enacted specific laws or regulations dealing with domestic work. It was found that, in many cases, specific regulation of domestic work provides for labour standards that are inferior to those applicable to other categories of workers.²⁰

In cases where there are no formal contracts of employment, domestic work forms **part of the informal economy** which includes *«all economic activities that are- in law or practice - not covered or insufficiently covered by formal arrangements.»*²¹

Employers generally do not see the need for formalizing relations with their domestic workers. They expect that, in the home, services should be exchanged out of respect, affection or duty, not on the basis of a contractual relationship. Thus, the private sphere is typically considered to be preserved from the mercantilist logic of the labour market as well as from State surveillance.

«...the introduction of market relations into the private household can be experienced as deeply disturbing by employers. The home is imagined as governed by mutual dependence and affective relations, its values are in opposition to those of the market, driven

20 Ramirez-Machado, J-M., *op cit*, p. 64

21 ILO, Resolutions and Conclusions concerning decent work and the informal economy, ILC, 90th session, 2002

by self-interest and instrumentalism, where individualism rather than conforming to pre-existing social roles is the rule.»²²

Forty-eight% of employers in a survey conducted in four countries - India, Thailand, Italy and Sweden do not think that a domestic worker is entitled to a contract, 70% said they should not have the right to join a trade union, 52% were opposed to a minimum wage and 45% said that fixed working hours should not apply.²³

4.2 The specificity of the employment relationship

In the case of domestic work, relations between employer and worker are intrinsically different to those in other occupations and call for regulation that is adapted to the specificity of it. The ILO Committee of Experts has qualified this as an 'atypical' employment relationship and recommended that care be taken to ensure that they do not unduly disadvantage women on the labour market.²⁴ Though several aspects are relevant to all employees of private households, the specificity is more marked in the case of live-in domestic workers.

The first characteristic of this employment relationship is its **invisibility**. Hidden from the outside world, often undeclared and not governed by a mutually agreed written contract, it remains outside the scope of labour inspection and other forms of dispute resolution. Foreign women workers, particularly those with an irregular immigration status, and child workers are singularly subject to exploitation and unlikely to be willing or able to claim their rights. Until the issue of invisibility is resolved, it will remain a barrier to providing adequate legal protection for domestic workers.

The second is the **unequal balance of power** between employer and worker. Whereas in most worksites there is one employer for several workers, in this occupation there is one worker for several employers, with conflicting demands on the time and attention of the worker. The low status attributed to the job and the servility inherent in it further weakens the bargaining position of the worker. To add to this, the inferior status of women as compared to men, the differences in social class and education and sometimes the racial or ethnic factor further tilts the balance of power towards the employer.

22 Anderson, B. and O'Connell Davidson, J. *Is trafficking in Human Beings demand driven? A Multi-country pilot study*, IOM Migration Research Series, No. 15, 2003, p. 33

23 Anderson, B. and O'Connell Davidson, J, *ibid*, p. 33

24 ILO Applis Database, Direct Request concerning C 111 to the Islamic Republic of Iran, 2006.

If there is one occupation in which feudal and **paternalist attitudes** prevail, it is domestic work. Many employers do not consider themselves as employers and do not see their homes as a workplace. These believe they are doing a good turn to a poor, uneducated woman by taking her into their house and that the services they receive in return do not necessarily merit remuneration. Looking backwards through history one finds that domestic work has been viewed as a stage in life, **an apprenticeship rather than an occupational choice.**²⁵

The **lack of a precise job description** and the expectation on the part of the employer of **availability at all times** to obey orders is another characteristic of domestic employment. As per the definition of domestic work given in Chapter 3, the employer's household is the exclusive, direct and final recipient of the work. This implies that in normal circumstances the employer does not obtain any pecuniary gain in return for work performed by the domestic worker. Hence, the worker must not be engaged in any commercial or business venture of the employer. However, several cases have been reported, particularly of child domestic workers participating in earning an income for their employers.

4.3 The large Decent Work deficit

«The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.»²⁶

All too often domestic work falls short of this vision. Indeed, it is one of the occupations in which the decent work deficit is largest and in which situations of quasi-slavery are still to be found.

4.3.1 Conditions of Work

Domestic work is characterized by long working hours - **upto 16 hours a day, seven days a week** for some live-in workers.²⁷ It is not rare to find these workers exposed to on-call work day and night. In many cases, working hours are so extended as to deprive domestic workers of any free time at all.

25 Kuznesof, E., *A history of Domestic Service in Spanish America, 1492-1980*, in Chaney, E.M. and Garcia Castro, M. (Ed.) *Muchachas No More*, Temple University Press, Philadelphia, 1989, p. 19

26 ILO, "Decent Work" Report of the Director General, ILC 87th session, 1999, p.3

27 Grumiau, S., Briefing note on domestic work, ACTRAV, ILC 2007

The **tasks** to be assigned to the worker are typically not specified at the time of appointment resulting in a workload that is in most cases far **beyond the capacity of the worker and disproportionate to the wage paid**. In addition, there is a tendency to systematically increase the number of chores to be performed.

Wages are often **below the statutory minimum wage** and there is no provision for overtime payments, health insurance, maternity benefits or old age pension. In Chile, for instance, wages of domestic workers are 25% lower than that in other occupations. In addition, wage payments may be delayed, improperly calculated or withheld arbitrarily. One common practice is for employers to say they are putting the wages in a bank account in the domestic workers' name but the worker will not have access to the account until the end of the contract.

Hong Kong is commended by Human Rights Watch for its efficient regulation of domestic work and recognition of the labour rights of migrant workers employed in households. Despite this, a survey among 2,097 Indonesian migrant domestic workers in Hong Kong in 2006 regarding their working and living conditions done by The Asian Migrant Centre and The Hong Kong Coalition of Indonesian Migrants Workers Organization (KOKTIHO) revealed widespread exploitation. 24% of these workers are **made to sign receipts for wage payments for higher amounts** than they actually receive. A calculation of the difference between the amounts mentioned on the wage receipts that employees signed and the amount they actually received revealed that employers in Hong Kong 'steal' 48 million US \$ from these workers each year! Besides, 11% of workers were forced to perform work that was not included in their contracts such as cleaning other people's homes or working in the employer's business. According to the Secretary of the Coalition for Migrants' Rights

«Underpayment is not just a function of how much the worker gets paid, but also how much work must be done to receive that payment»²⁸

In countries where no regulations exist for domestic work, employees of private households rarely benefit from **leave** periods, have to accept deductions in salary in case of absence due to sickness or accident.

Lengthy **probation** periods are another form of exploitation of domestic workers. Placement agencies in the Middle East offer employers the possibility of replacing

²⁸ Asian Migrant Centre, Media release dated August 17, 2007

a worker within three months if her services prove unsatisfactory. In general, they receive no wages during this period. There have been several cases of migrants moving from one employer to another under this scheme and remaining unpaid for a whole year.

Inadequate **accommodation** is a common complaint of domestic workers. They do not always have a separate room and are sometimes made to sleep in the corridor, kitchen, storage room or under the staircase. Rooms may be small and poorly ventilated without the possibility of locking them. Without a private space to retire to, these workers suffer from a lack of privacy. Some employers insist on being able to 'inspect' the worker's living quarters and possessions at any time, they restrict access of visitors and monitor the domestic worker's spare time: «(...) *an affective life of their own is often proscribed for domésticas; many patronas actively work to prevent their employees from forming 'liaisons', almost always considered to be negative.*»²⁹

Many domestic workers resent such interference by employers in their personal lives. Besides, many employers deduct amounts for accommodation and meals that are, in many cases, grossly overvalued and are tantamount to non-payment of salary.

Domestic workers are also vulnerable to **arbitrary changes of work contracts**, all of which is facilitated by the irregular nature of the employment relationship. The lack of a binding labour contract makes it difficult for dismissed workers to obtain an assessment of severance pay and other obligatory fringe benefits. This is also underlined by the fact that frequently, the contract, if any, is oral, presenting the worker with the extra difficulty of proving, in case of controversy, the existence of a contractual work relationship.

In principle, all workplaces are **liable to inspection**. The exercise of the right of free entry to workplaces laid down in ILO Conventions Nos. 81 and 129 are intended to allow inspectors to enforce the legal provisions relating to conditions of work. In the case of a private home, however, the consent of the employer, the occupant or a judicial authority as the case may be, is generally required. The Committee of Experts has said that **labour inspectors must observe strict respect of privacy**.³⁰ The difficulty of obtaining the householder's consent for inspection, the fact that workers are geographically dispersed and that domestic work is considered an activity with low occupational risks, keeps it beyond the scrutiny of the

29 Chaney, E. and Garcia Castro, M., *Muchachas No More: Household Workers in Latin America and the Caribbean*, Temple University Press, Philadelphia, 1989. p. 9

30 CEACR comments 2006 on Inspection Visits

labour inspectorate. In some countries, Labour Ministries have shifted the responsibility for monitoring working conditions to placement agencies. Such monitoring is reduced to an occasional phone call. As the agency has a vested interest in the worker completing her contract, some are known to have returned workers who have escaped from situations of grave abuse.³¹

Even where inspections are carried out, enforcement of the law can be difficult because the **penalties** provided for breaches of law may **not be sufficiently severe to be dissuasive**. Besides, the law may be diverted from its original purpose. For instance, in relation to migrant domestic workers, some receiving countries use sanctions against employers as a **means of controlling clandestine migration** rather than as an employment and labour protection standard.³²

4.3.2 Social protection

The lack of social protection deprives the domestic worker of the security that ‘decent work’ requires. A large number of countries explicitly exclude domestic workers from the scope of laws granting maternity protection to women workers. Employers avoid contributions to medical benefits or pension schemes by not regularizing employment relationships. Particularly for migrant women workers, situations such as sickness, injury or pregnancy are common grounds for immediate dismissal. Pregnancy and HIV tests are almost always required before entering the country and may be renewed periodically. If these are positive, the worker is in most cases immediately deported.

Besides, a large proportion of domestic work is **undeclared** thus precluding contributions to social security and health coverage. Some estimate that 70 - 80% of domestic work in Europe is undeclared, in most cases because the workers are undocumented migrants. In Austria, it is estimated that there are 300,000 undeclared employees of private households, whereas the number of registered ones is 5,000. In France, a study found five undeclared workers for every declared one and in Italy the proportion is 3:1.³³ In Argentina, according to the Ministry of Employment, Work and Social Security 96.4% of women domestic workers were apparently not registered in 2004. Changes in the law during that year, in the form of **tax deductions offered to employers**, brought the proportion down to 75%.³⁴

31 Experiences shared by Embassy staff at a workshop on the Situation of Women Migrant Domestic Workers in Lebanon, Beirut, November 2005

32 ILO, General Survey on Migrant Workers, ILC, 87th Session, Report III (Part 1B), Geneva, 1999, para. 359.

33 ETUC, op cit

34Diaz, M. The Situation of Domestic Workers in Latin America, ILO-MIGRANT, 2007

4.3.3 Social dialogue

The decent work deficit described above would certainly be reduced by forming organizations of domestic workers. However, domestic workers are typically isolated and face both legal and practical **obstacles to unionisation**.

«A number of countries (...) exclude domestic workers from the coverage of legislation which otherwise guarantees the right to organize. These workers [overwhelmingly women] face very specific problems, and are often isolated and vulnerable. (...) Their difficulties in exercising their right to organize are obvious and great, and at the individual level often overwhelming. A major promotional effort requires the removal of formal legal obstacles, and rejection of the notion that the nature of their work, and their relationship with their employers, in whose house they probably live, makes it inappropriate to seek the support of an organization.»³⁵

As more trade unions invest human and financial resources in reaching out to domestic workers, unions of domestic workers will grow despite the obstacles to organizing. Many domestic workers simply do not get the time off necessary to attend meetings. Besides, trade union action in favour of domestic workers is sometimes blocked because of a **conflict of interests between the union and its members, who may themselves be employers of domestic workers**. Several NGOs have found **innovative ways of reaching out** to domestic workers in places where they congregate including parks, malls, religious gatherings, etc. Thus, the National Domestic Workers' movement in India had rapidly expanded to a membership of 2.4 million workers across 21 states in 2006. A number of informal networks of domestic workers, particularly migrant domestic workers, often based on common language or nationality, actively defend their rights.

³⁵ ILO, *Your voice at Work: Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, 2000 pp. 31-32

4.4 Human rights violations

The human rights violations that domestic workers suffer have been repeatedly exposed through the media, through reports of well-known human rights organizations as well as through dramatic court cases. **Discrimination on the basis of gender, class and ethnicity combines with the low status of the occupation to engender such abuse.**

After having published several country-specific investigations into the abuse and exploitation of domestic workers in El Salvador, Guatemala, Kuwait, Indonesia, Morocco, Saudi Arabia, Singapore, Togo and the United States, Human Rights Watch put together a comprehensive account of the criminal abuses and exclusion from labour laws that female employees of private households are subjected to.

«The stories of abuse told by domestic workers around the globe demonstrate the profound human cost of the negligence and discrimination they experience.»³⁶

Psychological abuse in the form of harsh insults, threats and belittlement combined with excessive demands for work have been known to push domestic workers, particularly young ones, to the brink of suicide.

Live-in domestic workers are isolated, sometimes with extreme **restrictions on their freedom of movement**. This problem is reinforced by unfamiliarity with urban life for those from rural areas and language differences and lack of social networks for foreign migrant workers. The identity papers of migrant domestic workers are often held by the employer as a gage against premature departure of the worker. This is used as a justification for strict **confinement** within the four walls of the house as without these papers they risk arrest and deportation if found by the police. For migrant women, **threats of deportation** present the terrifying prospect of never being able to repay the debts they have incurred to migrate. As graphically illustrated by the autobiography of Jean-Robert Cadet,³⁷ a former ‘restavek’ in Haiti, children are by far the most seriously affected by this problem.

Providing only leftovers or **rotten food** to domestic workers or depriving them of food as a punishment is widespread. In fact, in some countries labour agents keep scales in their offices to monitor the weight of the workers they place as many are

³⁶ Human Rights Watch, *Swept under the rug: Abuses against domestic workers around the World*, 2006, p. 2

³⁷ Cadet, J.-R., *Restavec: From Haitian slave child to middle class American*, University of Texas Press, 1998

known to lose as much as 10 to 15 kilos in the first few months due to deprivation of meals or the poor quality of food.

Physical aggression ranging from slaps, pulling or cutting of hair, severe beatings or scalding with irons or hot water are common reactions of angry employers if the worker executes orders too slowly, forgets tasks or breaks something. Abuses normally come from the employer or his/her family. However, in households with more than one employee, **co-worker violence** may also erupt as a result of rivalry between workers.

Domestic workers are probably the most **exposed to sexual harassment and rape**. The social stigma attached to it and the financial pressure to remain in the job no matter what prevent domestic workers from filing complaints against members of the employer's family who abuse them. Those who do rarely obtain a verdict against the employer, particularly if the victim is a migrant worker. Besides, women employers are known to demonize sexually abused workers for seducing the men in the household.³⁸

Furthermore, the domestic workers' tendency to interiorise abuse and violence perpetuates such practices. Women tend not to report physical and verbal abuse out of shame and fear. Anecdotal evidence seems to suggest that most incidents of **verbal and physical abuse** are not treated as violence which necessitates action, but only as **an occupational hazard**.³⁹ Despite being victims of abuse themselves, many domestic workers are subject to counteraccusations of theft, adultery or fornication.

In some Middle-eastern countries, domestic workers have received violent and life-threatening punishments, like stoning and caning; they have been arrested, imprisoned and **convicted of dubious crimes** through irregular legal processes. Many have died under mysterious circumstances.⁴⁰ Employers have been known to use arrest of the domestic worker as a strategy to avoid payment of repatriation expenses on expiry of the contract.

Intrinsic to live-in domestic work is the deprivation of the right to family life. It is ironic that women who contribute so much to the care of others and to the work

38 Patil, S. and Moses, S., *The anti-feminist brigade: Women who hire domestic workers*, Saxakali publications, 1999

39 Gopalen, P., *A situational Analysis of Violence in the Working Conditions of Domestic Helpers in Metro Manila*, ILO-IPEC, Manila, 1996, p. 49.

40 Anti-Slavery International, Issues paper for Hong Kong consultation, UK, 2002

and family equilibrium of their employers sacrifice their own family lives. They are separated from their husbands and children for extended periods of time causing deep emotional distress. The material benefits of migration cannot compensate for the affective loss that the workers' own partner and children suffer. This has resulted in measures such as those proposed by the Sri Lankan government in 2007 to prohibit migration of mothers with young children.

4.5 Triple discrimination

Domestic work is generally perceived as an activity with poor economic value and low social status. Performed to a large extent by women, it reinforces traditional gendered roles and relations as it replaces unpaid, undervalued women's work in the home. Many of the attitudes to housewives, including feelings of paternalism, are transferred to domestic workers, with the difference that they occupy the lowest rung in the household hierarchy.

«Unscheduled availability at all times» is often a characteristic of domestic work for women, an expectation modelled on gendered assumptions about women's work in the home....while the families who employ domestics often explain these long hours by saying that these women are «part of the family», this feeling is not shared by the employees themselves.»⁴¹

The prejudices towards women engaged in this occupation, exacerbate the tendency towards maltreatment and aggression.

«Traditional attitudes wherein women are regarded as subordinate or as having stereotyped roles perpetuate widespread practices of coercion, violence, and abuse. Such prejudices and practices may justify gender-based violence as a form of protection and control of women.»⁴²

The predomination of women as household employees is a result of **labour market segregation**, whereby women and men are grouped in different occupations or economic sectors due to gendered perceptions of their strengths and weaknesses. Those in which women are clustered are generally lower paid than those of men

41 UNIFEM, *Human Rights Protection applicable to women migrant workers*, New York, 2003, p.727 Grumiau S., Note d'information sur le travail domestique, Bureau pour les activités des travailleurs (ACTRAV), CIT 2007

42 Abrera-Mangahas, A., *Violence Against Women Migrant Workers: A Philippine Reality Check*: Paper prepared for the Expert Group Meeting on Violence Against Women Migrant Workers, Manila, Philippines, 27-31 May 1996, p. 9

resulting in a gender wage gap. Besides, for women working in the domestic sphere there is almost no possibility of advancement.

In addition to discrimination on the basis of gender, attitudes to female domestic workers are riddled with prejudices on account of their class and ethnic or racial origin. In Guatemala, indigenous women interviewed by Human Rights Watch reported insults referring to their ethnicity such as ‘*an Indian mule*’, ‘*a stupid, dirty Indian*’ etc. Many of those who choose to do domestic work come from male-dominated societies, from resource-poor families that have given them little or no access to education or skills training. If faced with discrimination in the households they work in, they develop a negative self-image that further disempowers them. In India, **caste** plays an important role in determining who is engaged for which form of domestic work. Thus, cooking and waste removal are assigned to persons that are at the two ends of the caste hierarchy - Brahmins and Balmikis respectively.⁴³ Raghuram’s study of paid domestic work in Noida, near Delhi reveals that Balmiki men are more likely to be appointed as municipal street cleaners with better conditions of work than their women who remain employees of private households. In Latin America, indigenous people and people of afro-american descent are over-represented among domestic workers. In Guatemala, for example, 70% of domestic workers are indigenous.⁴⁴

Even those who take the initiative to migrate often do not escape discrimination. In some countries the very concept of a foreign domestic worker carries with it a **racial, gendered stigma**, since women of certain nationalities predominate in domestic service - work that is frequently perceived by the host community as servile and degrading.

The triple discrimination that domestic workers experience has its roots in the historical master-servant relationship that evolved from slavery to serfdom that conferred on domestic work a relationship of submission to the authority of the head of the household. Domestic work was considered as part of the family sphere, and therefore as a matter governed exclusively by family law and not labour law.⁴⁵ During the colonial period, the **asymmetrical relation between masters and servants was enhanced by ethnic differences**. Most servants were men or boys,

43 For a full discussion of this see Raghuram, P., *Caste and Gender in the Organisation of Paid Domestic Work in India*, Work, Employment & Society, Vol 15, No. 3, The Nottingham Trent University, UK, 2001

44 Human Rights Watch, “*Del Hogar a la Fabrica: Discriminación en la fuerza laboral guatemalteca*”, 2005

45 Vega Ruiz, M-L., *La relación laboral al servicio del hogar familiar en América Latina*, RELASUR, No. 3, 1994 Montevideo, p. 35.

and to a lesser extent, women. Since the 19th century, the number of workers in paid domestic service has risen considerably all over the world. At the same time, the number of women engaged in domestic work increased. This transformation was sustained, among other things, by the growing assumption that domesticity was natural to women, the view of the private home as a protected place for women to work in, and the perception by many poor families of domestic work as a means of education for their children.

In this evolutionary process, domestic work has remained an occupation considered to be of **low social status, requiring no particular skills or training**. Hence, as mentioned earlier, the prevalence of women coming from marginalised social and ethnic groups, frequently migrants from a rural area or a foreign country; and generally perceived as attracting workers unsuccessful in obtaining other employment.

As a result of these perceptions of domestic work, those engaged in it generally lack the power to ensure that labour rights are respected and that it is included in national accounting and social protection schemes. In developing policies to protect domestic workers, a gender analysis is a necessary preparatory step. The certification of skills developed through domestic work would confer a higher status to the occupation and open the door to upward mobility for domestic workers within the hospitality and care sectors.

4.6 Vulnerability to Forced Labour

«Domestic workers are especially vulnerable to forced labour because of the unprotected nature of their work and the highly personalized relationship between the worker and employer....domestic service is also used as a cover to lure women into employment abroad while deceiving them about the real nature of their work.»⁴⁶

⁴⁶ ILO, *A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, ILO, Geneva, 2005, p. 50

Domestic work becomes forced labour in case of

- Deception and false promises concerning conditions of work
- Lack of freedom to change employers
- Physical or sexual abuse
- Debt bondage
- Confiscation of identity papers
- Non-payment of wages to worker
- Physical confinement
- Threat of denunciation or deportation

Anti-slavery International has over the years made several submissions to the Human Rights Commission/Council concerning the **slavery-like conditions** in which a number of adult and child domestic workers are trapped. Its recent publication on domestic work in the Middle East throws light on the elements of coercion and violence that adult and child domestic workers are subjected to and the tendency on the part of employers to treat them as their possessions.

«Live-in domestic migrant workers are purely seen as coming to the family to serve them, and their servile position is non-negotiable. The employers often see the worker as an economic commodity on which they have spent a lot of money. Therefore the employer 'owns' the domestic worker and her working conditions are set accordingly.»⁴⁷

It is this element of ownership that is characteristic of slavery. The working conditions some live-in workers are constrained to can also be slavery-like even in countries where domestic work is regulated.

For example, in a survey in the UK by KALAYAAN⁴⁸ and the Commission for Filipino Migrant Workers (CFMW) of 1,000 overseas domestic workers who had left their employers the following percentages of workers reported the treatment listed. The sample represented 37 nationalities of employers and 21 nationalities of workers and the interviews were conducted between 1st January 1992 and 31st March 1996.

⁴⁷ Bartunkova, I., *Trafficking in women, forced labour and domestic work in the context of the Middle East and Gulf region*, Anti-Slavery International, London, 2006, p.29

⁴⁸ Kalayaan is a registered charity established in 1987 to provide advice, advocacy and support services in the UK for migrant domestic workers.



Source: KALAYAAN/CFMW, Large Sample Statistics, Briefing Notes on the plight of Overseas Domestic Workers.



Source: Bartunkova, I., Trafficking in women, forced labour and domestic work in the context of the Middle East and Gulf region, Anti-Slavery International, London, 2006

Contracts that migrants are made to sign by the labour intermediary before departure often include **unreasonably high penalties for premature termination** by the employee, forcing the worker to stay in the job even in situations of abuse. One such contract made out by an Ethiopian agent is reproduced below:

Abuse can be extreme and result in permanent disabilities or even death. Between 1996 and 1999, 67 bodies of Ethiopian women migrant domestic workers were returned home. The cause of death was reported as **suicides** by jumping out of windows of high-rise buildings or by hanging.⁴⁹

The **kafala system** of sponsorship prevalent in the Middle East, was conceived as a system of protection that obliges the employer to take full legal and economic responsibility for the ‘guest worker’. However, by linking the right of residence in the country to the contract with the ‘sponsor’, such systems tend to increase vulnerability to forced labour as the worker is not free to change employers in case of dispute or abuse.

In certain countries, runaway migrant domestic workers are sought after by the police, imprisoned and deported. Some governments charge fees for every day spent in the country without an employer. Women who escape abusive employment situations, are thus literally fined for the abuse of their employers. The Bahraini Parliament approved an additional article in the Private Sector law that sets fines of up to of BD100 (US\$ 266) and immediate deportation for runaway workers and stipulates that employers who shelter them face up to three months in prison or a maximum fine of BD500 (US\$ 1,330), or both. This article was recently rejected by the Shura Council.⁵⁰

Employers are known to lock their domestic workers in the house and **prohibit all contact** with the outside world to prevent the worker from running away or falling into ‘bad company’. In the case of migrant workers, their **identity papers are confiscated** and they are warned that they are liable to arrest and deportation if they venture outside without them.

Forced labour may also be the result of abusive practices by placement agents. **Contract substitution** on arrival in the country of destination is a common form

49 Kebede, E., Ethiopia: An assessment of the international labour migration situation. The case of female labour migrants, ILO GENPROM, 2002

50 Bahrain Gulf Daily News, 23 May 2006

of abuse to which migrant workers are subjected and is tantamount to trafficking for labour exploitation. So is false information or the complete lack of it about the terms and conditions of employment.

A study done in Yemen by the ILO Regional Office for the Arab States (ROAS) and SAP-FL revealed the vulnerability of women migrants to trafficking for domestic work:

«Women come in contact with brokers or agents in their country of origin who convince them that they will find them a well-paid job in Yemen. Most of the women know that they are going to work as domestic workers but they are often not informed about the way in which they will be employed, their tasks and workload and the salaries they are going to earn. In some cases the brokers or agents lie about the salary or neglect to tell them the value of the Yemeni Rial.⁵¹ In addition, women who come via illegal employment agents have to pay recruitment fees, which on average can be between 200-400 US\$. Women borrow money from relatives, friends at home or from the agent; the latter resulting in a long period of time passing by before they actually receive their salaries. The bureaucratic procedures that are involved in legal migration take so much time that many women prefer to make use of traffickers, even though it costs them much more money. Women who want to migrate legally only have to pay the costs of a passport and medical tests, while those who migrate via traffickers have to pay large fees. Yet the demand to migrate is so substantial that many women prefer paying large sums of money to a slow but legal migration process.»⁵²

Migrant workers are known to hand over a substantial part of the first six to twelve months salary to their agents as fees for placement and travel. **Excessive fees** together with arbitrary deductions from salary imposed by the employer can also be responsible for trapping workers in situations of debt bondage, a widespread form of forced labour.

4.7 Child domestic labour.....

«Domestic work undertaken by children under the legal minimum working age, as well as by children above the legal minimum age but under the age of eighteen, under slavery-like, hazardous, or other exploitative conditions - a form of «child

51 Ethiopian women are sometimes told that their salary of 5,000 Yemeni Rials is comparable to 5,000 Ethiopian Birr, while the Birr is almost 200 times stronger currency than the Yemeni Rial. On February 6, 2006, 5000 Birr was equal to 596 US\$ and 5000 YR was equal to 28,6 US\$.

52 de Regt, M., Mapping Study of migrant domestic workers in Yemen, ILO-Beirut, 2006

labour to be eliminated» as defined in international treaties. Family chores carried out by children in their own home are not included here.»⁵³

It is important to note that CDL is not specifically defined as one of the WFCL under Convention No. 182. Compared to the unconditional worst forms of child labour such as trafficking, slavery or commercial sexual exploitation, which are worst forms of child labour by nature, child domestic labour can be a worst form of child labour by condition - that is, we must look at the circumstances and conditions. A child engaged in domestic service may have been brought there by child trafficking, or through debt bondage; their living and working conditions may range from satisfactory to tantamount to practices similar to slavery. Even though it used to be considered inevitable to exclude domestic work from the application of minimum working age a few decades ago, the growing awareness and movements to protect child domestic labourers have led to an urge to review this. For child domestic workers below the minimum working age, there is international consensus on the need to remove them from exploitation as soon as possible and reintegrate them with the family and education programs. For children above the minimum working age, the situation varies as they can legitimately work as long as it is not in hazardous work or other worst forms. The final decision differs from country to country. For instance, some countries have classified child domestic labour as a hazardous work to be prohibited until 18 years of age while others allow children between 16 and 18 years of age to work on this sector under certain conditions.

Domestic work in the homes of others absorbs a very large proportion of girl child labourers. Local level assessments conducted by the ILO have shown that **more girl children under 16 are in domestic service than in any other category of work**. In Venezuela, for instance, 60% of all girls working between the ages of 10 and 14 are employed as domestic workers.⁵⁴ Although the majority of child domestic workers are girls, boys are also affected by this phenomenon.

This type of work is often perceived to be in the interests of the child since it is rooted in the tradition of placement with members of the extended family who are expected to provide not only food and shelter to less fortunate relatives but oppor-

⁵³ ILO-IPEC, *Guidelines on the design of direct action strategies to combat CDL*

⁵⁴ ILO, *Helping Hands or shackled lives?* op cit, pp 14-15

tunities for education and vocational training as well. For girls it is generally seen as a more appropriate **preparation for adult life** than formal schooling. Employers often consider their relationship with these children as one of charity rather than a contractual relationship requiring payment for services rendered.

In practice, however, child domestic labour is most often **detrimental to the development of the child**. Child domestic workers are typically isolated from their families, deprived of access to education, burdened with tasks far beyond their physical capacity, required to work extremely long hours for little or no remuneration. They are often subjected to harsh punishment and physical, emotional and even sexual abuse. As a result, many of them suffer from low self-esteem and psychological trauma in addition to fatigue and malnourishment.

An IPEC study⁵⁵ identified the following **push factors** in Tanzania. They are true for many other regions of the world as well. As the number of single parent, grandparent or child-headed households increases due to the HIV/AIDS pandemic, more children are pushed prematurely into domestic work. Polygamous families that are unable to provide for the basic needs of all their children often send children of less favoured wives to work in the homes of others. In some communities, there is a practice of early marriage, prompting girls to run away and seek employment as domestic workers to escape being married to older men. Finally, the excitement of city life and the illusion of easy money to be earned there cause rural girls to migrate in search of better lives.

On the **demand side**, while all types of families engage children for domestic work, there is an increase in demand from households of low-paid women workers in need of cheap domestic help. In these cases, in addition to the house work, children are often made to assist in street vending or chop bars.⁵⁶

Some employers believe that children are perfect substitutes for adult domestic workers, since they can be paid less for the same amount of work as they are being 'trained'. Children are often perceived to be **more submissive and hard working** and can, in some cases, also serve as company for the employers' children.

55 Krogh-Poulsen, B. & D'Souza, A., Guidelines for Action against Child Domestic Labour in Tanzania, ILO-IPEC, unpublished, 2002

56 These are roadside stands selling grilled meat that are common in African market places

4.8 Migrant domestic workers.....

Countries with ageing populations or those in which nationals tend not to enter domestic work attract women migrants from countries with an abundant and cheap labour supply into the care economy. The **growth in demand for migrant workers** in this sector has encouraged the spread of recruitment agencies specialising in the placement of domestic workers. In Ethiopia, for example, placement for domestic work constitutes 98% of the business of private employment agencies. The growth in demand for migrant domestic workers **has fuelled job creation** in the migration process. Private employment agencies and their agents, travel agencies, medical centres and transport owners and workers all earn their living through their involvement in the process of migration. In Bangladesh, a major sending country of domestic workers to the Middle East, there are 700 licensed recruitment agencies, 10,000 sub-agents and about 1,350 travel agencies.⁵⁷

While globalisation has increased the mobility of labour, it has also caused deregulation of the labour market, growth of jobs in the informal economy and the emergence of new forms of exploitation. Simultaneously, the political trend in countries of destination is to restrict migration. The **sealing of regular channels of migration**, despite existing demand for workers in certain economic sectors, is a spur for irregular border crossing and the activities of smugglers and traffickers, spelling increased vulnerability to exploitation and abuse for uninformed migrants.

A significant number of those who migrate for domestic work are **qualified for professional work** in their own countries but prefer to emigrate due to lack of job opportunities at home and the need to earn enough to support their families. In some cases, immigration rules are such that migrants cannot immediately take up the type of jobs they are qualified for. This was the case in Canada until 2002, where qualified nurses were required to work as nannies for two years before they could get an open visa.

«It takes two years before you can have an open visa here in Canada. By that time you shall have been deskilled and it becomes extremely difficult to get jobs beside housework. So your past training is almost nothing. If you are a nurse and you haven't worked as a nurse for two years, you can hardly go back to the profession any more. Two years is a long time.»⁵⁸

57 Siddiqui, T., Protection of Bangladeshi migrants through good governance, in Merchants of Labour, op cit, p. 70

58 Pratt, G.: "From registered nurse to registered nanny: Discursive geographies of Filipina domestic workers in Vancouver, B.C.", in Economic Geography, 1999, Vol. 75, No. 3, pp. 215-236.

This rule was modified following lobbying by the Filipino Nurses Support Group. If migration procedures are too complicated, lengthy and expensive, potential migrants will choose to circumvent them and become **undocumented migrants**. Their precarious immigration status then compounds the poor conditions of work in domestic service, to increase the control and power of the employer over them. Even those who have migrated regularly are rarely prepared for the ‘culture shock’ they experience, the separation from their families and the lack of a social network in the host country. The **pre-departure training given them focuses more on obedience**⁵⁹ to the employer than on their rights and the cultural adaptation necessary.⁶⁰

The competition between sending countries for jobs abroad for their nationals, leads to a **race to the bottom** as far as fair working conditions and respect for labour rights is concerned. In negotiating bi-lateral agreements with countries of destination, sending countries have in some cases agreed to deprive their nationals of the right to minimum wages, limited working hours, freedom of association, and even the right to marry. Besides several receiving countries, impose periodic pregnancy and venereal disease tests on foreign domestic workers and expel them if these are positive. The practice of confiscating the worker’s travel documents is legally condoned in many places.

Foreign domestic workers can face insurmountable **obstacles in obtaining justice** from courts of the receiving country in case of violence, rape, non-payment of wages, arbitrary dismissal, false accusations of theft etc. Undocumented workers cannot generally access health care or emergency health services without the risk of deportation. . . . In addition, the control that placement agencies exercise over migrant workers constrains job mobility and depresses wages artificially.

Despite these risks, the number of women migrating as domestic workers continues to swell. There is therefore an urgent need for cooperation between source and destination countries to develop **a rights-based approach to migration management** that will protect migrant workers at every stage of the migration cycle and contribute to sustainable development in both the sending and receiving regions.

59 See ILO GENPROM, *Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers*, Booklet 2, p.31 for a handout for domestic workers provided by a placement agency.

60 Observation by the author

4.9 Problems faced by employers

Informal recruitment processes and the absence of written contracts also have adverse effects on employers. As credible references for persons employed in the household are difficult to obtain, employers of domestic workers cannot access information about the moral character and previous work history of those they employ. Complaints of negligence, unhygienic habits, frequent absences of part-time domestic workers, quitting the job without adequate notice, etc. are common.

Crimes against employers are occasionally reported. **Offences committed against employers** range from petty theft to major criminal offences such as armed robbery, kidnapping for ransom or even murder. Old persons are particularly at risk. A recent case of the food served to the employer being poisoned by his cook was reported from Delhi. However, such cases, though much publicised, continue to be exceptions to the rule and tend to implicate male rather than female domestic workers.

Interviews conducted with employers of migrant domestic workers in South East Asia in the context of ILO's programme to combat forced labour and trafficking for domestic work gave insights into the problems that employers are confronted with. In some cases domestic workers find ingenious ways of increasing their incomes by starting **small businesses conducted during working hours and at the employers' expense**. For example, a Filipina domestic worker employed in Hong Kong started a pyramid-selling business of household cleaning products on days when she had the run of her employers' home and distributed her goods to customers while taking the child to school. This continued until the employer found out that she was her domestic workers' best customer.⁶¹

In comparison to research on the situation of domestic workers, information concerning problems faced by employers is scarce. The registration of domestic workers and introduction of dispute resolution bodies under the local government will certainly contribute towards bringing the problems of employers as well to light and strengthen the case for regulation of domestic work, ethical recruitment practices and use of standard contracts for domestic workers.

61 Anggraeni, D., *Dreamseekers: Indonesian women as domestic workers in Asia*, Equinox Publishing Indonesia and ILO Jakarta, 2006, pp. 39-43

5 The ILO response

The ILO has a leading role to play in ensuring that domestic workers can exercise their right to fair, humane, safe and secure working conditions. It **addresses the decent work deficit** prevalent in domestic work through the application of relevant standards and through action on related issues such as gender equity, the rights of migrant workers, social protection for workers in the informal economy, organizing the unorganized, the elimination of forced labour and trafficking and the abolition of child labour and all forms of discrimination. An integrated approach including research, advocacy for an appropriate legal framework, awareness raising and direct action for prevention, protection, withdrawal and rehabilitation has been developed for the elimination of child domestic labour. A similar approach to adult domestic work is urgently required to ensure recognition and regulation of domestic work as well as respect for the rights of household employees. Such an approach can only be developed in **partnership with organizations of domestic workers** themselves and with the trade unions to which they are affiliated.

5.1 Setting standards

A new international standard specific to domestic work is on the anvil that will provide comprehensive guidance to States in defining and regulating domestic work. Until it is adopted, States, planning to regulate domestic work, must refer to several groups of relevant conventions listed below and learn from national legislation on domestic work adopted by other countries.

The eight ‘core conventions’ of the ILO are applicable to all workers including those employed by private households. Many of the problems that domestic workers are confronted with could be addressed by the implementation of the Fundamental Principles and Rights that these conventions embody. In addition, the follow-up to the Declaration provides for mechanisms to trace progress in this regard. Both the Global Reports and the Annual Review are precious sources of information on initiatives taken to realise these rights.

The following Conventions and Recommendations contain **specific references** to «domestic work for wages in private households»:

- The Employment Services Recommendation, 1948 (No. 83) encourages the creation of separate employment offices specialising in meeting the needs of

employers and workers belonging to particular industries and occupations such as...domestic service;

- The Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81) aims to secure, through regular inspection of workplaces that are not considered industrial or commercial, the enforcement of legal provisions for the protection of workers;
- The Medical Examination of Young Persons Recommendation, 1946 (No. 79) expressly declares domestic service to be within its scope.

Others contain **flexibility clauses** that permit the exclusion of certain categories of workers, including domestic workers from their scope of application:

- The Protection of Wages Convention, 1949 (No. 95);
- The Night Work Convention, 1990 (No. 171);
- The Private Employment Agencies Convention, 1997 (No. 181), and
- The Maternity Protection Convention, 2000 (No. 183).

However, such exclusion can only take place after consultation with national employers' and workers' organizations. In their reports submitted to the supervisory bodies under article 22 of the ILO Constitution, ratifying States have to state why they continue to exclude these workers and describe the measures taken to extend their protection to them. National trade union federations therefore have an important role to play in ensuring that domestic workers are not excluded from the coverage of these conventions.

The ILO's conventions and recommendations relating to conditions of work contain all the necessary safeguards to protect domestic workers even though they do not expressly mention them:

- Minimum Wage Fixing Convention, 1970 (No. 131);
- Protection of Wages Convention, 1949 (No. 95), and
- Protection of Worker's Claims (Employer's Insolvency) Convention, 1992 (No. 173), Reduction of Hours of Work Recommendation, 1962 (No. 116);
- Night Work Convention, 1990 (No. 171);
- Holiday with Pay Convention (Revised), 1970 (No. 132);
- Paid Educational Leave Convention, 1974 (No. 140);
- Part-Time Work Convention, 1994 (No. 175);
- Maximum Weight Convention, 1967 (No. 127), and
- Workers' Housing Recommendation, 1961 (No. 115).

In general terms, these standards apply to all categories of employees and to all branches of economic activity, but most of them include a flexibility clause that may be used to exclude from their scope domestic workers, among other categories.⁶²

- The Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and the accompanying recommendations extend labour rights to all migrant workers, whether documented or undocumented and are particularly relevant to the situations that migrant domestic workers face. For example, Article 6(1) (a) (i) of ILO Convention No. 97 provides for equality of treatment between nationals and migrants with respect to hours of work, rest periods and holidays.

Another set of conventions that should be taken into account while regulating domestic work are those dealing with social security:

- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Equality of Treatment (Social Security) Convention, 1962 (No. 118);
- Maintenance of Social Security Rights Convention, 1982 (No. 157);
- Maintenance of Social Security Rights Recommendation, 1983 (No. 167);
- Medical Care and Sickness Benefits Convention, 1969 (No. 130);
- * Invalidity Old-Age and Survivors' Benefits Convention, 1967 (No. 128);
- Employment Injury Benefits Convention, 1964 (No. 121), and
- * Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168).

The necessary standards for regulating domestic work are therefore in place. The problem that legislators would encounter is that they are **dispersed** over several different conventions and **lack the necessary adaptation to the specificity of the domestic employment relationship**. The new international instrument on domestic work that will result from the 2010 ILC will facilitate recognition and regulation of this occupation in the interests of both workers and employers.

⁶² For instance, Spain has excluded domestic workers from the scope of Protection of Worker's Claims Convention, 1992 (No. 173).

5.2 Previous ILO engagements.....

The issue of domestic work has been often debated over the years at the Conference and in the Governing Body of the ILO.

In 1936, the ILC considering that the International Draft Convention on annual holidays with pay (later Convention No. 52) did not apply to domestic workers, requested the Governing Body to inscribe the question on the Agenda of one of its future sessions. It was also decided that the Conference would consider at the same time whether other conditions of employment of domestic workers could form the subject of international regulation.⁶³

Three years later, in 1939, the Second Labour Conference of the American States, held in Havana, adopted a resolution indicating, *inter-alia*, that «*the employment of women in domestic service (...) should be regulated by adequate social legislation, prescribing standards on hours, wages and other working conditions, etc.*»⁶⁴

Again, in 1945, the ILC adopted a resolution concerning the protection of children and young workers, considering that «*attention should be given to regulating the admission of a child to domestic service outside his family in the same way as to other non-industrial occupations.*» It also called for «*special efforts (...) to eliminate forms of employment involving the placing of children in, or their transfer on a basis of quasi-adoption, to the family of an employer where they work for maintenance.*»⁶⁵

In 1948, the ILC adopted a resolution concerning the conditions of employment of domestic workers. The conference expressed the view that the «*time has now arrived for a full discussion on this important subject.*» Consequently, it requested «*the Governing Body to consider the advisability of placing on the agenda of an early session of the Conference (...) the whole question of the status and employment of domestic workers.*»⁶⁶ In 1950, the Governing Body adjourned consideration of the question. Nevertheless, it authorized the convening of a meeting of experts to deal with different aspects of domestic work: status and conditions of employment, including contracts of employment; conditions of work and living arrangements;

63 ILO, Record of Proceedings, ILC 20th Session, 1936, Appendix XVI: Resolutions adopted by the Conference, p. 740.

64 ILO, Record of Proceedings, Second Labour Conference of the American States which are Members of the International Labour Organisation, Havana (Cuba) 21 November - 2 December 1939, ILO, Montreal, 1941, p. 235.

65 ILO, Record of Proceedings, ILC 27th Session, 1945, Appendix XIII: Resolutions adopted by the Conference, p. 456, para. 19(4).

66 ILO, Record of Proceedings, ILC 30th Session, 1948, Appendix XVIII: Resolutions adopted by the Conference, pp. 545-554.

vocational training and certification; organization of home aid services; and social security.⁶⁷

In 1951, the Meeting of Experts on the Status and Conditions of Employment of Domestic Workers was held in Geneva. In its final report, the experts recommended that:

«(...) regulation of the standards of domestic employment must take into account the special character of the employer-employee relationship inherent in domestic service where employer and worker frequently share the same household and where mutual obligations of a special character must be recognized. This relationship and these obligations called for provisions covering domestic workers which allow for flexibility in arrangements; these should be based upon mutual agreement between the employer and the worker.»

The experts also agreed on:

«(...) the desirability of providing for domestic workers protection of the kind being provided for other workers, with a view both to assuring them equivalent social rights and advantages, and to preventing either isolation of or discrimination against domestic workers (...)»⁶⁸

The meeting recommended that the Governing Body take action with a view to adopting international regulations. In their opinion, this action might take the form of a tripartite preparatory technical conference prior to discussion by the ILC. The Governing Body authorized the Director-General to communicate to governments the conclusions adopted by this meeting,⁶⁹ but no action was subsequently taken.

In 1964, the Second African Regional Conference of the ILO, held in Addis Ababa, considering that in some countries domestic workers were insufficiently covered by labour legislation, adopted a resolution inviting the Governing Body to request the Director-General to undertake studies and research on the problems of domestic workers, with a view to the improvement of their living and working conditions.⁷⁰

67 ILO, Minutes of the 112th Session of the Governing Body, Geneva, June 1950, Appendix VII, pp. 128-129.

68 ILO, The Status and Conditions of Employment of Domestic Workers, Meeting of Experts, Geneva, 1951, op cit, p. 2, para. 5 - 6

69 ILO, Official Bulletin, Vol. XXXIV, 1951, p. 210

70 ILO, Resolution concerning the Conditions of Employment of Domestic Workers, Submitted by the Selection Committee, Record of Proceedings, Second African Regional Conference, Addis Ababa, 1964, ILO, Geneva, 1965, p. 260.

In 1965, the ILC adopted a new resolution mentioned earlier concerning the conditions of employment of domestic workers.⁷¹ This resolution drew attention to the urgent need to provide domestic workers with the basic elements of protection which would assure them a minimum standard of living, compatible with the self-respect and dignity essential to social justice. In this connection, the Conference invited the Governing Body:

- to promote studies and research on the problems of domestic workers, with particular attention to the problems of women workers;
- to study in the first instance the problems of such workers on the basis of material supplied by governments;
- to consider organizing a second meeting of experts to examine the possibility of drafting a model contract or a code of guiding principles for the protection of working and living conditions of domestic workers; and
- to consider, on the basis of the preceding actions, placing on the agenda of an early session of the Conference, the question of conditions of employment of domestic workers with a view to the adoption of an international instrument.

In 1967, a survey on the conditions of employment of domestic workers was sent to all ILO member governments. On the basis of replies from 68 member States, the ILO drew up a report⁷² that said that, on the whole, domestic workers were overworked, underpaid and under protected. It also appeared that those domestic workers not officially declared were amongst the least protected categories. The report also revealed that children and young persons were especially affected by that problem, and were thus exposed to exploitation and abuse. The survey concluded underlining that:

«In any event, it would be inadmissible, from the standpoint of social policy, to ignore the problems of the group of domestic workers in private households and to permit this to remain a forgotten sector. This category of workers merits a claim on the public conscience.»

More recently, the need for protection of migrant domestic workers has been endorsed. Two of the principles enumerated in the non-binding Multi-lateral Framework on Migration, 2006 make a specific reference to domestic workers:

71 ILO, Record of Proceedings, ILC 49th Session, 1965, Appendix XII: Resolutions adopted by the Conference, pp. 693-694.

72 ILO, The Employment and Conditions of Domestic Workers in Private Households: ILO Survey, International Labour Review, No. 102/4, 1970, pp. 391-401.

Principle 9.8 - «*adopting measures to ensure that national labour legislation and social laws and regulations cover all male and female migrant workers including domestic workers and other vulnerable groups....*»,» and

Principle 11.2 - «*intensifying measures aimed at detecting and identifying abusive practices against migrant workers, including physical and sexual harassment or violence, restriction of movement, debt bondage, forced labour, withholding, underpayment or delayed payment of wages and benefits, retention of passports or identity or travel documents and threat of denunciation to authorities, particularly in those sectors that are outside the usual avenues of regulation and protection such as domestic work.*»

The need for a special international instrument on domestic work, whether in the form of a convention or recommendation has once again being voiced by the International Trade Union Confederation (ITUC), Global Union Federations, particularly the IUF, PSI and UNIA and by domestic workers' organizations themselves and has been put on the agenda of the ILC of 2010.

The advantages of such an instrument were spelt out in 1998 by the Labour Law and Labour Relations Programme of the ILO:

«Specific regulation testifies to a level of recognition of the social importance of domestic work and attempts to value it...it forces those who pay for the work, those who regulate the work, and even those who do the work to think about it in a radically different manner. Through that dynamic process, specific and ultimately more accurate regulation has the potential to restore some respect and dignity to domestic work.»⁷³

5.3 Monitoring compliance

Issues specifically concerning domestic workers and their employment situation and legal protection have been addressed by both the CEACR⁷⁴ and the Conference Committee on the Application of Conventions and Recommendations (ILCCR). In the past five years (2002 - 2007) a total of 207 direct requests or observations

73 Blackett, A. Making domestic work visible: The case for specific regulation, ILO – Labour Law and labour relations programme, WP 2, 1998, p. 29

74The CEACR is a body of independent experts in law and social sciences that receives information on non-compliance with ratified conventions in particular countries and reacts with 'direct requests' to the concerned government for information or action, or in the case of more serious matters or those that have not been resolved for some time, publishes 'observations' in its Annual Report. This report is discussed by the Tripartite in the ILCCR.. The comments on specific countries cited in this section are for the purpose of illustrating examples, and not meant to single them out as problematic countries

made by these two committees refer to domestic work. Their comments are indicative of the measures that States which ratify ILO conventions require to take for the protection of domestic workers in their countries. They also highlight the problems that persistently occur in this occupation.

Although Convention 182 does not expressly include child domestic labour as a worst form, it can be seen from the number of comments concerning this convention that the process of recruitment of these children is in many cases tantamount to trafficking and the circumstances under which they work often entails risks to their health, safety and morals. Several observations show that the Committee recommends, in as far as hazards are associated with domestic work, that it must be tackled as a worst form of child labour to be eliminated as a matter of urgency. In several countries, domestic labour is exempted from the minimum age for employment and/or the age from which light work is permitted is below that specified in Convention 138. As can be seen from the selection of comments summarised below, those made under the Forced Labour Convention, 1930 (No. 29) also pertain to child domestic labour. Problems of adult domestic workers have until now received less attention.

5.3.1 A worst form of child labour

The Committee expressed concern about the **sale and trafficking of children** between **Benin and Congo** for the purpose of forcing children to work in trading and domestic work and requested information on the rehabilitation and social integration of children withdrawn from child labour and repatriated by the Benin government. Observations concerning the sale and trafficking of girls towards **Niger** for domestic work have been made repeatedly since 2005 as the government representative stated that such practices do not take place there. The High level mission to Niger however found that trafficking networks in Niamey are fed by young persons recruited mainly in Nigeria, Togo, Benin and Ghana.

The Committee noted with satisfaction that the government of **Sri Lanka** had acted upon its earlier comments on the protection of child domestic workers under 18 years of age from the hazards to their health, safety and morals that domestic work entails. The government has included domestic work in the draft list of hazardous occupations and a number of programmes have been adopted that prevent child domestic labour in plantation communities and war-affected villages in collaboration with ILO/IPEC. An amendment to the Employment of Young Persons' Regulation has been proposed that will regulate the hours of work of young persons employed as domestic workers and provide for their registration with the Commissioner of Labour.

With regard to **El Salvador**, the Committee noted that the practice of «handing over» boys and girls to families still exists. These children work for long hours, without adequate remuneration and without attending school. The Committee urged the government to take immediate steps to protect these children from the worst forms of child labour.

5.3.2 Minimum age for employment.....

The Committee requested the government of **Burkina Faso** to raise the minimum age for admission to light work from 12 to 13 years.

In the **Central African Republic**, the Labour Code stipulates that the minimum age for admission to employment set at 14 years is applicable only to work carried out in enterprises. The Committee requested the government to indicate measures taken to explicitly set a minimum age of 14 years for domestic work other than light work in the national legislation.

The government of **Macau, China** has responded to previous comments by the Committee and established a minimum age of 16 years for domestic work. An amendment is in the final phase of adoption to raise the minimum age for employment in such work to 18 years.

5.3.3 Ensuring fitness of young persons.....

In **Haiti**, young persons less than 18 years of age engaged in domestic service are not subject to a medical examination prior to employment. The Committee addressed a direct request to the government concerning this in 2005 and 2007.

5.3.4 Forced labour

The Committee noted the communication from the Coordination Syndicale **Haïtienne** of 2002 stating that the concerned government department as well as the local administration have failed in their duty to deal with child domestic workers (restaveks). These children are treated as absolute slaves, working from dawn to late at night, poorly fed, ill-treated and illiterate.

The **Sri Lankan** government's report of 2002 informed the Committee of the prosecution of 42 persons for employing child labour, mainly in domestic work. The Committee noted in 2004 that the Employment of Women, Young Persons and Children Act had been amended to enhance penal sanctions with regard to the employment of children and to provide for payment of compensation to child victims.

5.3.5 Discrimination against women and migrants.....

As a follow-up to the Committee's observation in 2002, the government of **El Salvador** was requested to adopt specific provisions ensuring protection from sexual harassment at work. The Committee also wished to be kept informed of measures to strengthen the operational capacity of labour inspection, particularly in agriculture and domestic work.

The General Labour Act, 2000 in **Angola** excludes domestic work from its application. The Committee has for a number of years been requesting the government for information on how men and women engaged in domestic work or casual work are protected against discrimination.

The Irish Equality Act 2004 provides that persons employed in another person's home for the provision of personal services for persons residing in the home are not considered employees under the Act. The committee requested statistical information on private household employment in **Ireland**, including the gender and ethnic composition of the work force.

The Labour Code in **Yemen** excludes household workers from its application. A draft amendment limits this exclusion to all but provisions concerning holidays, minimum wage and dismissal from work. The Committee requested the government to keep it informed of regulations adopted to prevent discriminatory practices against both national as well as foreign domestic workers.

5.3.6 Freedom of Association

Until 2004, domestic workers and home workers were not covered by the Decree-law on labour relations in **Macau** because these were mainly non-resident workers whose status is regulated by special legislation that does not address the subject of freedom of association. However, as domestic work is now performed by local workers a Bill amending the labour legislation had been drafted. The Committee expressed the hope that with the adoption of the new legislation all workers in the country, whether or not they are residents, have the right to establish or join trade union organizations.

In the years previous to 2002, the Committee had commented on the exclusion of domestic workers from the scope of application of national legislation on freedom of association in **Ethiopia, Canada and Jordan** and reiterated that as per Convention No. 87 all workers must enjoy the right to establish and join organizations of their own choosing.

5.3.7 Maternity Protection

In an Observation concerning the application of Convention No. 103 in **Spain**, the Committee reiterated the fundamental rights of workers, and in this case the right of women not to be subjected to discrimination by reason of maternity and recalled that by virtue of Article 1, paragraph 3 (h) of the Convention, domestic work for wages in private households is included in the term «non-industrial occupations». While agreeing with the Government concerning the special nature of this type of employment relationship, the Committee nevertheless reiterated that the guarantees and protection afforded by the Maternity Protection convention are fully applicable to domestic work and hoped that the government would reinforce supervision with regard to any abuses to which the «renunciation» procedure may give rise thereby ensuring real equality of treatment between women employed in domestic work and those engaged in other types of waged employment.

The Committee noted that the Government of **Ghana**, pursuant to its previous observations, was in the process of amending its Labour Code and hoped that these amendments would incorporate the application of Convention No. 103 to women engaged in domestic work for wages in private households.

5.3.8 Minimum wage determination.....

In 2005, the Government of **South Africa** undertook sectoral determination of minimum wages in nine low-paid and largely unorganized sectors including domestic work. The Committee asked the government to specify how it would ensure that the social partners were fully consulted in the selection of trades to be considered for minimum wage determination.

5.3.9 Protection of wages

The Republic of **Moldova** excluded two categories of workers from the scope of Convention No. 95 - domestic workers and persons employed in individual agricultural enterprises. The Committee noted, in 2005, the government's intention to extend the application of the provisions of the Convention to these two categories of workers.

5.3.10 Migration for employment.....

The Committee noted comments made by the IMWU and the ADWU that foreign domestic workers in Hong Kong are particularly vulnerable to abuse and violations of their employment contracts. They are facing problems such as payment of excessive fees, long working hours, denial of rest days, and physical, mental and sexual abuse. In the case of Indian, Indonesian and Sri Lankan domestic workers

the underpayment of wages is particularly problematic. The Unions also allege that certain government policies discriminate against foreign domestic workers, such as the proposals to set a quota for foreign domestic workers, the ban on live-out arrangements, the rule according to which they have to leave Hong Kong within two weeks after the termination of their contract and the recent tax imposed on the employment of foreign domestic workers.

5.3.11 Indigenous peoples.....

In 2004, the Committee referred to the comments made by the COMG and the Central Organization for Rural and Urban Workers on the grave exploitation of indigenous workers in agriculture, domestic work and manufacturing in **Guatemala** and wished to be informed of the measures envisaged to improve the conditions of employment and the living conditions of indigenous communities, and the impact of these measures.

On the basis of these comments, one may conclude that the two Committees have focussed largely on the situation of child domestic workers, research done by national partners in collaboration with ILO-IPEC having brought to light the grave abuses to which minors in this occupation are subjected and the growth of trafficking of children for domestic work. Reports made by trade unions have also focussed largely on child domestic workers. Further work by the ILO and its constituents on the conditions of work of adult domestic workers, and female migrants in particular, will enhance the application of ILO Conventions to them and resolve many of the problems they face today.

5.4 Key meetings and declarations.....

In the last decade, several meetings organized by the ILO at international, regional and national levels have dealt with the theme of domestic work and proposed measures to defend the rights of household employees.

In 1997, a **Regional Workshop** with trade unions on the status, terms and conditions of work of Domestic Workers **in the Caribbean** was held. Participants agreed that trade unions should aim to protect the rights of women in domestic service and ensure fair and just working conditions and wages for domestic workers. The meeting also proposed that trade unions provide skills training in household management.

SAP-FL, in conjunction with Anti-Slavery International and the Asian Migrants' Centre, convened a **consultation in Hong Kong** in 2003 to develop effective and useful programmes to better protect domestic workers in Asia against the threat of forced labour and trafficking in persons. Participants shared information on the nature of employment practices and working conditions of domestic workers in and from Asia and discussed how international standards on forced labour and trafficking could be instrumental in protecting the rights of domestic workers.

In December 2005, the ILO organized a workshop with national trade unions from the **Mercosur and Andean countries** in Uruguay. The **Declaration of Montevideo** reiterated that voicing the demands of domestic workers and eliminating child domestic work was a fundamental task of the trade union movement. The meeting resolved to promote the application of relevant ILO conventions and called for a new international convention on the rights of domestic workers.

The culmination of ILO/IPEC's global programme on child domestic labour was a **workshop in Geneva** from 1-3 February 2006 with national trade unions from the fifteen countries covered by the programme. The declaration signed at the end of the meeting acknowledged the key role of trade unions in organizing domestic workers and encouraging membership of adolescent domestic workers. Since most child domestic labourers have migrated from rural areas to cities, trade unions of agricultural workers should, as a prevention strategy, promote access to education and health services for rural children. Teachers and their organizations are vital strategic partners in this.

On February 1, 2007 an informal consultation on domestic workers organized by MIGRANT and ACTRAV, was chaired by Ms. Anna Biondi, Director, ITUC Geneva and Secretary to the Workers' Group of the Governing Body of the ILO. The purpose of the meeting was to discuss various ways of moving forward the agenda on domestic work.

Trade unions also played a leading role in the side event organized at the ILC in June 2007 at which the Bureau for Workers' Activities (ACTRAV) presented a film and a study being done on domestic work worldwide.

Asia-Pacific Regional Symposium for Trade Union Organizations on Migrant Workers, Kuala Lumpur, Malaysia, December 1999

The resolutions adopted at this meeting on migrant workers are particularly relevant for migrant domestic workers.

Trade unions from countries of origin of migrant workers resolved to:

- Lobby for legislation on equal treatment on employment conditions, social security, non-discrimination, etc.
- Negotiate the development of international standard employment contracts
- Cooperate in identifying abusive employment agencies
- Help identify those involved in trafficking
- Lobby for abolition of recruitment fees
- Assist in offering pre-departure orientation and training
- Provide migrants with trade union contact names and addresses
- Provide referral services for migrants suffering from abuse
- Ensure migrant women's protection from discrimination and falling victims to trafficking
- Organize training on the rights of migrant workers
- Repeal provisions discouraging migrants from joining trade unions
- Include migrants in collective bargaining agreements
- Establish migrant workers' rights committees
- Lobby to include a social clause in bilateral/international treaties

Migration management measures proposed for countries of destination were to:

- Forbid the withdrawal of identity documents
- Enforce prosecution in the case of recruitment agents and employers/ sponsors identified as having violated their contractual obligations and having committed abuses, and to
- Increase flexibility in changing employers (without imprisonment and deportation) for workers complaining about abuses.

At national level, a workshop was held in **Beirut, Lebanon** in November 2005 to raise awareness about the situation of women migrant domestic workers in collaboration with the Lebanese Ministry of Labour, the Office of the High Commissioner for Human Rights (OHCHR), UNIFEM and CARITAS Lebanon Migrant Centre. It provided a situation analysis as well as a mapping of institutional roles and responsibilities of different national and international stakeholders. As a result of this workshop, a National Steering Committee was set up to look into necessary reform of the law as well as the rules and regulations regarding migrant domestic workers and private employment agencies. This committee is at present developing a standard unified contract for domestic workers and a handbook on rights and duties of women migrant domestic workers in Lebanon.

A workshop organized by the ILO Sub-regional office and the **Ethiopian** Ministry of Labour and Social Affairs in Addis on February 27 and 28, 2006 discussed the regulation and monitoring of Private Employment Agencies (PEAs) to combat human trafficking. These agencies specialise in the recruitment of domestic workers for countries of the Middle East. The question of introducing a recruitment fee to be paid by the worker as an exception under Convention 181 was debated. The national trade union, CETU, proposed that a study be undertaken on the functioning of PEAs involved in recruiting domestic workers overseas. This study has since been completed and a technical cooperation project to combat trafficking of domestic workers designed.

More recently, in November 2007, a seminar in Asunción, Paraguay, on Women Migrant Domestic Workers in which household workers participated was organised by ACTRAV and MIGRANT, with support from the IPEC programme in Paraguay and the gender specialist of the Sub-regional Office in Santiago, Chile. It called for a new convention and the removal of discriminatory clauses against domestic workers from national legislation.

There have thus been a number of independent initiatives in various regions and countries to tackle the issue of domestic work. A Coordinated International Programme on the issue would bring these to fruition and have a much greater impact in affirming the rights of domestic workers and their employers.

5.5 Research on domestic work.....

The ILO has made a substantial contribution to the knowledge base on domestic work through field research, national situation analyses, rapid assessments and the development of training materials and manuals.

Domestic work has been studied from the perspective of coverage by national legislation, female migration, the lack of protection of workers in the informal economy, the growth of forced labour and trafficking for labour exploitation, the regulation of private employment agencies recruiting for domestic work and the urgent need to eliminate the worst forms of child labour.

In 2003, the Conditions of Work programme published a comparative **survey⁷⁵ of the legislation of 67 countries** of which 19 had enacted specific laws or regulations on domestic work and nine countries expressly excluded them from the scope of their labour legislation. It looks at how domestic work is defined in national legislations, compares the conditions of work (working time, rest periods, days off, overtime, leave periods, maternity benefits, special protection of young workers, termination of employment) and law enforcement. It also presents the various ILO standards applicable to domestic work. Since then a number of other countries have adopted specific legislation on domestic work that would justify an update of this survey. Apart from this study, inter-regional research on domestic work has not so far been carried out. Much of ILO research on the subject is at country level.

The Gender Promotion Programme (GENPROM) of the ILO published ten working papers on **Women and Migration** in 2002 - 2003 each covering a labour-sending or labour-receiving country. They look into the situation of female international migrants and present an overview of the legal framework governing migrant labour including existing bilateral agreements; relevant laws and regulations covering minimum standards for employment contracts; control and licensing of recruitment agencies; complaint mechanisms and means of redress. They examine policies and programmes that address the needs of female migrants, regulate their recruitment, educate workers about their rights, provide support services and assist return and address the social and economic root causes of migration. They document good practices in protecting the rights of female migrants and preventing trafficking, exploitation and abuse.

The publication on the United Arab Emirates is specific to female domestic workers. Based on interviews with 51 foreign female domestic workers in Dubai,

⁷⁵ Ramirez-Machado, J-M., *op cit*

it reveals situations of slavery that some experience. It describes the *kafala system* and the role of recruitment agencies as well as the assistance and support services provided by embassies of the countries of origin of domestic workers. It calls for supervision of the treatment domestic workers receive from recruitment agencies.⁷⁶

It is interesting to put the findings of this report in parallel with that of the Philippines that deploys an average of 150,000 domestic workers annually to various destinations. The Philippines report highlights the problems of providing care for children left behind, particularly in the context of Executive Order 857 that **compels them to remit money to husbands** who may mismanage their funds, instead of to a person they trust. The report on Sri Lanka provides information on the **pre-departure training** that is mandatory for domestic workers. A sizeable population is concerned since the Sri Lankan Bureau of Foreign Employment trains nearly 5,000 women a month. The paper on Ethiopia provides valuable information on the **risks of exploitation by private employment agencies** placing domestic workers in the Middle East. It cites one of the contracts issued by an Ethiopian travel agency involved in labour trafficking from Ethiopia that states that the worker is not allowed to leave the house of the employer for the entire duration of two to three years!

The Arab States being a major domestic labour-receiving region, the ILO Regional Office for the Arab States (ROAS) has been particularly active in drawing the attention of governments in the region to the treatment of migrant domestic workers. In 2004, four field studies carried out in cooperation with MIGRANT and GENPROM were brought together in a publication in English and Arabic.⁷⁷ On the basis of interviews with over 500 domestic workers in **Lebanon, Kuwait, Bahrain and the UAE**, the researchers give a graphic description of working and living conditions of these migrant workers and the exploitative practices of placement agencies. They also give a number of constructive recommendations such as the provision of loans to departing migrants through official microfinance institutions to cover the costs they incur during transfer to the host country. This would prevent them from incurring debts towards the placement agency, this being one of the reasons for the withholding of identity documents.

⁷⁶ Sabban, R., *op cit*

⁷⁷ Esim, S. & Smith, M., *Gender and Migration in the Arab States: The case of domestic workers*, ILO – ROAS, Beirut, 2004

In the context of the Gender and Rights in the Informal Economies of Arab States project, research on seven Arab countries⁷⁸ is being carried out. As domestic workers are not included in labour laws and social security laws, and have hardly any formal institutional protection of their rights, they are one of the categories of informal workers covered by the research.

At national level, the Gender specialist of ROAS has initiated several studies. For example, a mapping study was undertaken with support from DECLARATION that examines the recruitment process and working and living conditions of Ethiopian, Somali, Indonesian, Filipina, and Yemeni domestic workers in **Yemen**. Domestic work is excluded from labour law in this country. The study therefore recommends a process similar to that being carried out in Lebanon for the introduction of regulations of recruitment agencies and standard work contracts for domestic workers.

Besides these publications, ROAS has also produced a documentary film '*Maid in Lebanon*' (26 minutes) by Carol Mansour showing both positive and negative experiences of migrant domestic workers in Lebanon. In addition, ROAS has just finalized «A Preliminary Assessment of Care Needs and Provision in Lebanon» as part of a wider subregional initiative that highlights issues of accessibility, affordability and quality of institutional care services in the region.

The ILO's Special Action Programme to combat Forced Labour (SAP-FL), set up to give effect to one of the Fundamental Principles and Rights at Work, has focussed on the vulnerability of domestic workers to forced labour and trafficking. Its project entitled «Mobilizing action for the protection of domestic workers from forced labour and trafficking in South-East Asia», implemented in collaboration with the ILO regional and field offices, has conducted research in the source and destination countries it covers. Notable among these is a book authored by an Indonesian journalist⁷⁹ that relays verbatim what Indonesian domestic workers in Hong Kong, Malaysia and Singapore experience. The **points of view of workers, employers, agents and government officials** are explored giving a holistic picture of the situation and helping to understand the dynamics that perpetuate their exploitation. It highlights the difficulties that workers who do go to court face in obtaining redress.

⁷⁸ Egypt, Jordan, Lebanon, Occupied Palestinian Territories, Syria Yemen, and Tunisia

⁷⁹ Anggraeni, D., *op cit*

The IPEC programme has done extensive **surveys** in several countries on **child domestic labour** and systematically documented **good practices and lessons learned**. In June 2004, it published a report⁸⁰ that describes the phenomenon, analyses the push and pull factors and the strategies developed to withdraw and rehabilitate children in child domestic labours. It makes a major contribution towards clarifying the circumstances under which children's engagement in domestic work is acceptable and when it is not.

A recent contribution of IPEC to the knowledge base is a survey of 320 **migrant domestic workers in Thailand** under the Mekong Sub-regional project to combat trafficking in children and women.⁸¹ It investigates recruitment and working conditions of migrant workers from Burma, Cambodia and Lao in four economic sectors including domestic work.

IPEC's special emphasis on girl child labour is reflected in a collection of rapid assessments, comparative analyses, data reviews and an annotated bibliography of the girl child in agriculture, domestic work and sexual exploitation in the Philippines, Ghana and Ecuador.⁸² The **gender perspective** is also brought out in a publication of good practices and lessons learned on child and adolescent domestic labour in Central America and the Dominican Republic that provides practical advice in orchestrating mass media campaigns and mobilising communities to remove the exploitative element in domestic work.

As with the supervisory bodies of the ILO, ILO research on domestic work has been largely on children and adolescents who are the most vulnerable to exploitation and to some extent on cross-border migrant women in domestic work. **Further research is required on internal migrants and women from indigenous communities that engage in it.**

5.6 Capacity building and policy support

Across the globe, the ILO has both responded to requests from member States for **technical advice** and initiated **capacity building** activities in several countries. The expertise of ILO Standards specialists and the ability of ILO programme offi-

80 ILO-IPEC, *Helping hands or shackled lives?* op cit

81 ILO, *The Mekong Challenge – Underpaid, overworked and overlooked: The realities of young migrant workers in Thailand*, Institute of Population Research, Mahidol University and ILO, Bangkok, 2006

82 Amorim, A., Murray, U. and Bland, J, Ed. *Girl Child Labour in agriculture, domestic work and sexual exploitation, Volumes I – IV*, ILO-IPEC, Geneva, 2004

cers to draw lessons from the experiences of other countries have been particularly useful in this. In addition, these experiences have been integrated into high quality materials that can guide action at micro, meso or macro levels. Those described below are examples of the range of materials available to member States to develop policy and programmes on domestic work and to build the capacity of government officials in implementing them.

GENPROM has produced a comprehensive **information guide for women migrant workers** in collaboration with the ILO International Migration Programme (MIGRANT) aimed at better preparing women for international migration and protecting them from exploitative and abusive forms of employment. It consists of six booklets providing practical information to women migrants. The concerns of domestic workers are reflected throughout the guide. For example, the Migrant Domestic Workers' Charter of Rights developed by RESPECT, a European network of migrant domestic workers' organizations is reproduced.⁸³ **Model employment contracts** for domestic workers of the Philippines Overseas Employment Administration (POEA), the employment contract used in the Sultanate of Oman and Guidelines for drawing up contracts for domestic workers developed by the Singapore Ministry of Manpower are presented in full. The statement of undertaking required of domestic workers entering Malaysia is illustrative of practices that severely restrict human rights. Extracts from other publications of cases of domestic workers in forced labour are highlighted. This set of booklets has been translated into several languages and has been the basis for a sub-regional workshop in Manila and national-level activities in Singapore, Sri Lanka, Algeria, Moldova and Ukraine.

In Lebanon, the National Steering Committee set up to propose legislative and policy reform to improve conditions of work for migrant domestic workers in the country is producing a **booklet on the rights of domestic workers** that will be used for worker's education and is being translated into various languages including Amharic, Arabic, English, French, Sinhalese, Tamil and Tagalog.

SAP-FL in cooperation with the InFocus Programme on Skills, Knowledge and Employability (SKILLS) has produced a **Guide on the regulation of Private Employment Agencies** that is currently being translated into Arabic. It recalls the provisions of ILO Convention No.181 and compares regulations in various

⁸³ ILO, *An Information Guide: Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers*, op cit Booklet 2 – Decision-making and preparing for employment abroad, ILO-GENPROM, p. 35

countries, including amounts of fees and bonds required for issue of licenses. A draft version of this guide was used in Nigeria and Ghana at workshops with the concerned ministries that were introducing new regulations for PEAs in order to combat trafficking. The efficient functioning of placement agencies and adequate monitoring to prevent fraudulent practices is key to eliminating forced labour and trafficking of internal and international migrants, including domestic workers.

Reviews of legislation, policies and practices concerning domestic work were undertaken in Indonesia and the Philippines⁸⁴ as well as in Malaysia, Singapore and Hong Kong and have proved useful in guiding the legislative reform process in some of these countries. The SAP-FL project in South-East Asia has also produced a comprehensive training course for foreign service diplomats to protect the right of their migrant domestic workers abroad, a certified skills training programme for domestic workers with TESDA, Philippines and model ordinances that can be passed by local government units to register domestic workers and mediate between employer and worker.

IPEC has carefully documented its wide experience in combating exploitative child domestic labour. The Global Programme on the Prevention and Elimination of exploitative child domestic work produced three important outputs:

- **Guidelines on the design of direct action strategies** to combat child domestic labour that provides dos and don'ts in devising prevention, withdrawal and protection strategies;
- **A Manual for Trade Unions** (still under production) to support and guide the prevention and elimination of child labour in collaboration with ACTRAV. It will contain specific modules on child domestic work;
- **A guide to IPEC child domestic labour publications** and other materials that lists key documents, rapid assessments, reviews of legislation, good practices and lessons learned, awareness raising and training materials.

In addition, it has published a briefing sheet on Hazardous child domestic work that targets policy makers charged with drawing up the **list of hazardous work** required by Conventions 138 and 182. As a result, countries like Paraguay have included domestic work in the list of hazardous occupations prohibited for children

84 Sayres, N., *op cit*

under 18. In the Latin American region, IPEC has launched an awareness raising campaign to inform the public about the exploitation suffered by child domestic workers. Similarly the value of adult domestic work and its contribution to family welfare has been emphasised in television commercials broadcasted in Colombia with the following messages: ‘Respect and give value to whom help you organize your life’ and ‘Under 15 it is labour and exploitation.

Thus, even in the absence of a specific convention on domestic work, member States, trade unions and employers’ organizations can avail of all the necessary advice from the ILO to better protect domestic workers and address some of the problems that employers face.

5.7 Technical cooperation.....

Given the non-recognition of this occupation in national labour legislation and the huge decent work deficit that many domestic workers are confronted with, **the number of technical cooperation projects** that directly address the needs of domestic workers **are relatively few**. The following table shows recent projects on domestic work, though many have now closed:

Source: PARDEV PILS download 31 May 2007		

A great deal of work has been done in **South East Asia** on the vulnerability of domestic workers to forced labour and trafficking by SAP-FL and the ILO offices in the region. A project bridging the source countries of Indonesia and the Philippines and the destinations for female migrant domestic workers in the region - Hong Kong, Singapore and Malaysia, funded by the UK Department of International Development from 2004 to 2006 has supported the Ministries concerned and other national partners in coming to grips with the problem. Following the consultation in Hong Kong of partners in the region in 2003, the strategy adopted by the project focussed on **empowering domestic workers by strengthening associations of them**. It therefore built the capacity of *Samahang Ugnayan ng mga Manggagawang Pangtahanan sa Pilipinas* (SUMAPI) in the Philippines and Tunas Mulia in Indonesia as well as associations of migrant workers in Hong Kong, Singapore and Malaysia to reach out to larger numbers of workers and to link with national trade unions. Simultaneously, it worked closely with the government to shepherd changes in legislation on migrant workers in Indonesia and on domestic workers in the Philippines. It piloted a training programme for Foreign Service officials being posted in embassies in countries with large populations of labour migrants from Indonesia and the Philippines. It worked with the Employers' Confederation of the Philippines (ECOP) to draft a **Code of Practice for employers** of domestic workers. Support was provided to the Service responsible for Technical Education (TESDA), Philippines to develop a certified training programme for domestic work that would raise the status of the profession and increase the bargaining power of the workers.

This project is now followed up by another one funded by the Government of Norway covering Indonesia, Hong Kong, Malaysia and Singapore. The project aims to:

- reduce migrant domestic workers' vulnerability to trafficking and forced labour by raising public awareness, and undertaking targeted advocacy to promote policy and legislative protection measures for migrant domestic workers;
- provide protection, outreach, livelihoods and reintegration services to migrant domestic workers who are vulnerable to or victims of trafficking and forced labour; and
- build capacity of government officials and other key stakeholders to increase their effectiveness in combating forced labour practices and trafficking in migrant domestic workers.

The project is **strengthening regional policy frameworks** by working closely with ASEAN's Working Group on Migrant Workers. It supports ASEAN in assessing the role of national human rights machineries in the protection of migrant workers.

As the cost and insecurity of remittance systems subtracts from the advantages of migration, the project is strengthening the Indonesian **remittances system**, banking services and facilities for savings, micro-credit and investment. It will in addition develop entrepreneurship among returned migrants.

Together with the migrant workers' trade union, Serikat Buruh Migran Indonesia (SBMI), it is conducting advocacy for local ordinances to protect domestic workers. Besides, the project is supporting this trade union in monitoring activities, and direct assistance and referral in key transit points for migrant workers returning to Indonesia, notably at Terminal 3 in Jakarta Airport, a special terminal reserved for migrant workers about which there have been numerous reports of extortion of returnees.

In the three destination countries covered by the project, a media campaign has been launched with artists and musicians acting as **good-will ambassadors** of the project. Services rendered by trade unions to migrant workers in these countries are being supported. Thus in Malaysia, under the previous project, a help desk for migrant workers was set up by the Malaysian Trade Union Congress (MTUC). This project is now developing a training programme for organizing and assisting migrant domestic workers, and setting up help desks in branch offices in Penang, Johor Bahru, Ipoh and Malacca. To improve investigation and referral of abused migrant workers in Malaysia, the project is also developing training materials for the Malaysian police.

Having done a policy analysis in Singapore, the project is supporting the National Trade Union Congress in Singapore in developing a regional seminar on best international practices in protecting migrant domestic workers in sending and destination countries.

The *Programa de Trabajo Doméstico Ciudadano* (City Domestic Work Programme) in Brazil, which began in November 2005, was conceived and implemented in cooperation with the Ministry of Labour and Employment and the National Federation of Domestic Workers (FENATRAD). The main aims of the programme are the **improvement of the social and professional qualifications of domestic**

workers, and the promotion of collective organization and representation in decision making processes.

The **professionalisation of domestic work** and recognition of it as legitimate work with labour rights is also the aim of a recent initiative of the Government of **India** that has the technical support of the ILO. Domestic work is one of the selected clusters in which this new policy is being applied as it is an important source of regular wage employment in the informal economy and one that employs a significant number of women. The Government of India is working on strategies to recognise the skills of domestic workers with pilot activities in Delhi on skills mapping with a view towards certification.

As far as child domestic work is concerned, many of IPEC's time bound programmes for the elimination of the Worst Forms of Child Labour include the withdrawal of children from it and their integration into mainstream education. Some have contributed to the amendment of inappropriate legislation. For example, the Time-Bound Program to eliminate the worst forms of child labour in Thailand has contributed to an amendment that replaces the current exemption of child domestic labour from labour protection with a regulation providing protection to household employees of all ages in terms of minimum age, wages, rest periods and occupational safety and health.

From 2004 to 2006, IPEC carried out a global project on Child Domestic Work funded by the government of the Netherlands entitled «*Prevention and Elimination of Exploitative Child Domestic Work through Education and Training*». This programme had **a global component and four regional components** covering 15 countries.⁸⁵ The global component served to coordinate and share information among the regions, to control the quality of interventions and outputs and to strengthen the knowledge base by documenting experiences. This project was carried out in close cooperation with trade unions and culminated in an inter-regional workshop on Child Domestic Labour and Trade Unions in February 2006 at which the draft of a manual for Trade Unions was validated. A detailed report of this consultation has been published in English and French.

⁸⁵ In Africa, Eritrea, Ethiopia, Kenya, Tanzania, Uganda and Zambia; in South-East and East Asia, Cambodia, Indonesia, Mongolia, Philippines and Vietnam; in South Asia, Pakistan and Sri Lanka and in Central America, Honduras and Nicaragua.

All the projects under this programme focussed on the **provision of educational alternatives** (formal, non-formal and vocational) to children withdrawn from domestic work and on prevention through **community support**, improved access to schooling, better quality education and sensitization of teachers. In most regions the project was successful in reaching more than the intended number of beneficiaries.

In Zambia and Uganda, 3,400 children were provided with formal education and vocational training that helped to increase their employability. Furthermore, the project provided **psychological support and life-skills training** which have been very useful to children who were victims of civil war and rebel captivity. The role of teachers' organizations was strengthened in a number of schools.

In Honduras and Nicaragua, the project was successful in placing the issue on national agendas and having it recognised as one of the worst forms of child exploitation, as an activity that promotes a relationship of servitude, which in turn sustains discrimination on the basis of gender, age and social class.

In Sri Lanka the project set up an **Education Task Force** to mainstream children into formal schools and a child labour monitoring mechanism for the plantation sector. In Pakistan, amendments to the Employment of Children Act, 1991 were proposed to harmonize it with Convention 182. In the eight countries of South-East Asia covered by the programme, the project emphasised the **link between trafficking and domestic child labour**, focussing on children at risk of being trafficked.

In line with IPEC's gender mainstreaming strategy, all data collection under the project was disaggregated by sex and equal participation of women and men in stakeholder seminars, workshops and consultations was ensured.

Other IPEC programmes in Latin America include the Prevention and eradication of child work in the household of a third person in South America that was completed in 2005; the Programme for the prevention and eradication of the worst forms of child domestic work in Central America and Dominican Republic; and a project to combat child domestic labour and commercial sexual exploitation of children in South America - Chile, Colombia, Peru and Paraguay.

Mainstreaming the issue of domestic work requires its **inclusion in the Decent Work Country Programmes** (DWCP) of the ILO. These rarely refer to particular occupations and only three so far make direct references to domestic work - Argentina, the Philippines and Indonesia. The Indonesian DWCP has as one of its priority objectives to Stop Exploitation at Work, and this specifically includes combating forced labour and trafficking of migrant domestic workers.

5.8 National Legislation

As a result of the advocacy of unions, domestic worker organizations and NGOs, as well as obligations arising from international conventions to which States are a party, there is an increase in the number of States that extend coverage of labour law to domestic workers. In the countries in which domestic work is recognised and regulated, legislation can take the form of:

- A specific law on domestic work
- A law extending certain rights to informal economy workers including domestic workers, or
- Specific provisions in the Labour code applicable to domestic work or a chapter on «Special categories of workers» in which household employees are included.

In other cases, domestic work is still excluded from the coverage of labour legislation but a standard contract for domestic workers is imposed.

Brazil adopted, after much debate, Law 11.324 in 2006. The law introduced the principle that no deductions could be made from salary for board and lodging or use of any equipment at the place of work, it gave the right to 30 days of paid annual vacation in addition to civil and religious holidays, and prohibited the dismissal of pregnant women. At the same time, the social rights incorporated in the Federal Constitution of 1988 were extended to domestic workers. These include a minimum wage, payment of full wages, remunerated weekly rest and annual holidays, notice in case of termination, 120 days of maternity leave, paternity leave and retirement benefits. Employers are entitled to a 12% tax deduction if they register their employees with the National Institute of Social Security. This incentive improved social security coverage for between 2003 and 2005, there was a proportionate increase in workers with formal contracts. The new law did not, however, limit the number of working hours or provide for unemployment allowances.⁸⁶

86 Diaz, M. *op cit*

Other countries in Latin America that have adopted special laws on domestic work are Bolivia (2003), Peru (2003) and Uruguay (*Ley sobre Trabajo Doméstico, 2006*).

India is a good example of the second category of countries. The National Commission for Enterprises in the Unorganized Sector, set up in 2004, has drafted two complementary bills concerning informal economy workers that also cover domestic workers - The *Unorganized Sector Workers' Social Security Bill, 2005* and *Unorganized Sector Workers (Conditions of Work and Livelihood promotion) Bill, 2005*. The aim of the first bill is to achieve national social security coverage for all groups of workers in all States. The second bill intends to improve working conditions by providing a basic minimum standard on working hours, minimum wages and adherence to the prohibition of child labour and bonded labour. It recognizes the right to organize, non-discrimination in payment and conditions of work, safety at work and absence of sexual harassment. It also proposes Dispute Resolution Councils at district levels that provide an institutional mechanism to settle disputes between wage workers and employers in the informal economy. For domestic workers, the Commission recommended the introduction of a system of registration. In view of the existing trends of exploitation, it expressed the need to pass legislation to regulate conditions of employment and fix a minimum wage. The first state in India to have fixed a minimum wage for domestic workers is Karnataka whose government issued a notification in June 2005 saying that a domestic worker who works eight hours a day for a household of not more than four members is entitled to Rs. 1,600 to Rs. 1,800 (US\$ 41 - 46) per month. For a longer working day, she/he must receive double this amount.⁸⁷

India is now preparing to have a specific legislation on domestic work - the *Domestic Workers (Registration, Social Security and Welfare) Bill, 2008* has been developed by the Ministry of Women and Children. It defines a domestic worker,⁸⁸ and, as the name indicates, provides for registration of all domestic workers at District level and inclusion in social security schemes. Some of its important provisions concerning conditions of work are:

- to allow live-in domestic workers a daily rest period of at least ten consecutive hours between ending and recommencing work;

⁸⁷ CEC-Labour File June 2, 2005 <http://www.labourfile.org>

⁸⁸ "Domestic Worker" means, a person who is employed for remuneration whether in cash or kind, in any house hold through any agency or directly, either on a temporary basis or permanent, part time or full time to do the household work or allied work

-
- annual leave with wages for at least 15 days to live-in domestic workers;
 - minimum wages as per the Minimum Wages Act
 - registration of agencies that provide domestic workers;
 - maintenance of records by placement agencies of all domestic workers provided by them.

Most recently in the Indian State of Maharashtra a bill was passed in 2009 which will lead to the establishment of a tripartite Domestic Worker's welfare Board to promote job security for the sector. The Board will ensure minimum hourly wages, time off a tripartite pension fund, access to maternity leave and health insurance.

The third case is illustrated by the Province of **Ontario, Canada** where the Employment Standards Act, 2000 confers the same rights on domestic workers as other workers. It sets a general hourly minimum wage that is revised every year (for 2007 it is \$8 per hour), stipulates standards for accommodation and maximum amounts that can be charged for board and lodging. The employer therefore pays the difference between the minimum wage for all hours worked and the amount charged for board and lodging.

Overtime pay is due if working time is more than 44 hours in a week and must be paid at 1.5 times the regular pay rate or be exchanged with paid time off by mutual agreement. The maximum number of hours they can be required to work is 8 hours a day, 48 hours a week. Domestic workers must have at least 11 consecutive hours off work each day and at least 24 consecutive hours off work each week. In addition, they must not work more than 5 consecutive hours without a 30 minute eating period. Meal breaks are not considered hours of work and do not count towards overtime. They are entitled to public holidays plus a two-week vacation with pay. Employers of full-time domestic workers must register with the Social Security System, the Canada Revenue agency and with the Workplace Safety and Insurance Board and deduct and send contributions.⁸⁹

France and Belgium have developed a special system of remuneration of part-time household employees through cheques emploi-service or titres-service. This system not only simplifies the registration and calculation of social security contributions, it also allows the employer to benefit from reductions in taxable income. It has proved effective in reducing the amount of undeclared work.

⁸⁹ Employment Standards Information Centre, Fact Sheet, Ontario, 2007 Available on: <http://www.labour.gov.on.ca>

In some countries, the labour law covers domestic workers but accords them less favourable conditions than other workers. For example, **Chile** has a special chapter in the Labour code (Chapter IV) that defines domestic work and limits working hours to 12 per day with one hour of rest only. The minimum wage is set at 75% of minimum wage for other workers for both live-in and live-out domestic workers. In a move to formalize domestic work, the Ministry of Labour and Social Affairs together with the Instituto de Normalización Profesional have launched a campaign in November 2007 called ‘Mujer Trabajadora, Mujer Protegida’ to include domestic workers in insurance against risks of work-place accidents and occupational health hazards.

The following table summarises the essential provisions of the legislation referred to above.

Comparison of laws or bills regulating domestic work in selected countries		
Type of Measure	Country/Law or Bill	Provision
Wages	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Wages according to Minimum Wages Act
	Canada (Ontario) - Employment Standards Act, 2000	Hourly minimum wage revised every year (\$8 in 2007)
	Chile – Chapter IV of Labour Code	75% of minimum wage of other workers
Deductions from wages	Brazil - Law 11.324 in 2006	No deductions to be made for board and lodging or use of equipment
	Canada (Ontario) - Employment Standards Act, 2000	Stipulates maximum amounts that can be deducted for board and lodging
Working hours	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Daily rest of 10 consecutive hours
	Canada (Ontario) - Employment Standards Act, 2000	44 hours per week with thirty minute breaks after every five hours. Overtime to be paid at 1.5 times the normal wage or compensated by time off if mutually agreed. At least 11 consecutive hours off work per day.
	Chile – Chapter IV of Labour Code	Maximum working hours are 12 per day with one hour of rest in between
Weekly rest	Brazil - Law 11.324 in 2006	Remunerated weekly rest
	Canada (Ontario) - Employment Standards Act, 2000	At least 24 consecutive hours off each week

Type of Measure	Country/Law or Bill	Provision
Leave	Brazil - Law 11.324 in 2006	30 days annual leave in addition to public holidays
	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	At least 15 days annual leave for live-in workers
	Canada (Ontario) - Employment Standards Act, 2000	Two week vacation with pay
Health care Social Security	Brazil – Federal Constitution Social Rights, 1988 extended to domestic workers	Retirement benefits on par with other workers 12% tax deduction for employers who register their workers with the National Institute for Social Security
	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Registration fees used to set up Welfare Fund for Domestic workers. Provision for contribution from workers and employers
	Canada (Ontario) - Employment Standards Act, 2000	Employers of full-time workers must register with the Social Security System and deduct and send contributions
	France and Belgium	<i>Chèques emploi-service</i> for payment of social security contributions for part-time domestic workers.
Unemployment benefits	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Minimum payment from the Welfare fund
Occupational safety	Canada (Ontario) - Employment Standards Act, 2000	Employers of full-time workers must register with the Workplace Safety and Insurance Board and deduct and send contributions
Sexual harassment Contract	Brazil – Federal Constitution Social Rights, 1988 extended to domestic workers	Notice in case of termination
Registration	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Registration at district level at Workers' Facilitation Centres
Dispute settlement	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Conciliation by District Boards as per procedure laid down in the Act
Placement agents	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Registration of placement agencies and maintenance of records of all workers placed in India
Maternity	Brazil - Law 11.324 in 2006	Prohibits dismissal in case of pregnancy
	Brazil – Federal Constitution Social Rights, 1988 extended to domestic workers	120 days maternity leave and paternity leave

Type of Measure	Country/Law or Bill	Provision
Standards for accomodation	Canada (Ontario) - Employment Standards Act, 2000	Stipulates minimum standards
Right to organize	India - Unorganized Sector Workers (Conditions of Work and Livelihood promotion) Bill, 2005	Recognized
Non-discrimination	India - Unorganized Sector Workers (Conditions of Work and Livelihood promotion) Bill, 2005	Recognized
Elimination of forced labour	India - Unorganized Sector Workers (Conditions of Work and Livelihood promotion) Bill, 2005	Prohibits Bonded Labour
	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Maintain records of migration for domestic work to prevent trafficking
Abolition of child labour	India - Unorganized Sector Workers (Conditions of Work and Livelihood promotion) Bill, 2005	Recognized
Skill training	India - Domestic Workers (Registration, Social Security and Welfare) Bill, 2008	Responsibility of District Boards

An example of a country in which domestic work is excluded from labour legislation but where other measures have been taken to protect domestic workers is **Jordan**. In 2001, the Ministry of Labour signed a Memorandum of Understanding with UNIFEM and with the Governments of India, Indonesia, Nepal, Sri Lanka and the Philippines, to address the issue of domestic workers' labour rights - thus becoming the first country in the Middle East to do so. In 2003, the Government **standardized a work contract** for foreign domestic workers, stipulating a salary scale and the right to medical services. New legislation was adopted regulating and licensing recruiting agencies. A Department for Migrant Domestic Workers was established in the Labour Ministry to work with employers and agencies. Embassies and NGOs were given a role in providing legal and social services and training to migrant women workers.⁹⁰ A similar process is ongoing in Lebanon with support from ILO-ROAS. In 2009, with the cooperation of the ILO and the Office of the High Commissioner for Human Rights (OHCHR) Lebanon introduced a unified contract to protect the human rights of domestic workers which provides a common set of standards including the rights to decent living conditions, adequate

90 Information from UNIFEM, Arab States Regional Office, Amman, May 2006.

food, rest and health insurance among others. The unified contract must be signed by both parties (including in the language of the domestic worker) before a permit will be issued.

Saudi Arabia formed, in July 2005, a special department to protect the rights of migrant domestic workers and impose sanctions on employers who abuse them. It receives complaints from domestic workers who have been sexually harassed or mistreated or who have not been paid. Employers found guilty are banned from applying for domestic help for five years.

Whether States should enact special legislation on domestic workers or provide for them in the labour code, is a matter of debate. Amending the Labour Code by introducing a chapter on Special Categories of workers is often less cumbersome than a special Act. What is important however is that the specificity of the employment relationship is taken into account and that the law is adapted to the special needs of women, children and migrants.

Where a law on domestic work exists, how is it disseminated? Some countries like **Austria** make it mandatory for the employer to provide the domestic worker with a copy of the law in force and of any collective agreements or minimum wage scales that may be applicable at the time of appointment. In **Argentina**, it is mandatory to give the employee a work book delivered by the labour authority, containing the employee's personal details, the text of the law on domestic work and the wages agreed upon by the parties. In **Finland**, the employer must display the law and the provisions and regulation on domestic work in a suitable place for examination by workers and shall also draw up a work schedule and keep a separate register on any emergency work and overtime, which must be kept available for inspection by the workers and, on request, made available for inspection by the occupational safety and health authority. In **South Africa**, the employer, apart from supplying the domestic worker with written particulars of employment, must also keep a copy of the sectoral determination or an official summary of it available in the workplace in a place to which the domestic worker has access.⁹¹

At the state level, New York is moving towards a bill of rights for domestic workers in 2009. The proposed bill would amend New York's labour law to mandate employers to provide health coverage for full-time employees or a wage supplement,

91 Ramirez-Machado, J-M., *op cit*

advance notice of termination, paid sick days, cost of living pay increases based on the US Consumer Price index; and appropriate severance pay for long-time domestic workers.

Regional inter-governmental bodies are also drawing attention to the issue. The **European Parliament**, Committee on Women's Rights and Equal Opportunities, in a resolution passed in 2000 calls for

- A European definition of domestic work to be developed
- Calls on Member States to draw up and regularly update statistics on undeclared domestic work
- Calls on Member States to conduct a more detailed study on undeclared domestic work and of its costs to and repercussions on national budgets, the employment market and private individuals
- Calls for work of this kind to be recognised as an occupation in its own right.

It emphasises *«the need to establish a special framework which affords all domestic employees the protection of labour legislation and the subjective rights deriving therefrom»*⁹²

5.9 Initiatives of ILO social partners

For Trade Unions, the organizing of domestic workers remains a challenge. Geographically dispersed, difficult to have access to, being a largely migrant population temporarily employed, there are several hurdles to organizing them. As more and more workers are rendered redundant in public services and formal private enterprise, their outreach to informal economy workers who are most vulnerable to exploitation becomes more pressing.

In a ground-breaking publication by the European Trade Union Congress that followed its conference in April 2005, its General Secretary, John Monks says:

*«Unions should not just look after workers who are in the usual places, but seek out the isolated and dispersed, help them to organize and see that they are offered protection.»*⁹³

92 Motion for a resolution RR\423335

93 ETUC, Out of the Shadows, *op cit.*

The International Trade Union Congress (ITUC) has called for regulation of domestic work through a new **international convention**. The International Union of Food and allied workers (IUF) adopted policies in 1997 and initiated work to support and expand the organization of domestic workers and campaign for the human and trade union rights of migrant domestic workers. This policy was reiterated at the IUF's international women's conference in March 2007, where a plan for setting up a **network of domestic worker organizations** called «Respect and rights for domestic workers» was presented. This initiative is an outcome of the meeting organized by IRENE, FNV, WIEGO and CAW in Amsterdam in November 2006 and brings together the 60 organizations that attended the meeting. According to the coordinator of IRENE, there are some 280 potential members of this network.⁹⁴

At national level, several trade unions are providing services to domestic workers. Kalayaan in the UK and CFMW in the Netherlands have set up special **theatre fora** for domestic workers that enable them to relate their experiences and reflect on the means to influence and improve their own work situations.

In Malaysia, the Malaysian Trade Union Congress (MTUC) has, with the support of the ILO, set up a Special Committee to assist domestic workers and strengthen **advocacy for adequate legislative minimum standards** for the protection of domestic workers and the drafting of a standard contract based on them.

Some of the examples of direct services by national unions to domestic workers cited by CNV, Netherlands are: SINTRADOP, the domestic workers' union in Paraguay, that offers domestic workers **child care** to leave them more time for work; MTC Niger and MTC Mali that **mediate between potential employers and workers** and provide information on the rights and duties of each. SADAGWU the domestic worker wing of CONSAWU in South Africa organizes **professional training** for domestic workers as well as courses in literacy and mathematics. In Sri Lanka, the NWC has set up centres in many parts of the country to accommodate victims of violence or intimidation. They also publish names of recruitment agents known to have committed abuse against migrant workers.

Trade unions are also involved in the protection of child domestic workers. CHODAWU, Tanzania, has established a **training centre for older girls** wishing to pursue domestic work as their profession. By giving them certified skills in housekeeping, cooking, childcare, and etiquette, it is hoped that their market value

⁹⁴ Meeting with Anneke van Luijken in June 2007

will increase and that they will be able to obtain a decent remuneration. The centre has a **placement service**. Employers are asked to sign a contract with both the girl and the organization that gives CHODAWU staff the right to visit the employer's home and monitor the girl's working conditions.

Child Labour Committees have been set up by CHODAWU in receiving and sending communities that facilitate the identification, withdrawal and reintegration of children into their families. The Committee in the home community assists in sensitizing other members of the community to the problems the girls have faced, thus helping them to be more easily accepted. They also assist in resolving conflicts and in counselling girls when in distress.

International and national employers' organizations have so far not taken up the issue of domestic work. In the context of the ILO programme in South-East Asia on protecting domestic workers from forced labour and trafficking, the Employers' Federation of the Philippines (ECOP) went through an elaborate process of drafting a **Code of Conduct** for employers of domestic workers that could inspire similar initiatives elsewhere. The Code quoted below not only places domestic work on the same footing as other occupations with regard to labour rights, but also makes the national employers' organization responsible for promoting this recognition in policy statements and informing domestic workers of their rights.

ECOP Code of Conduct, March 2006⁹⁵

Whereas, the Employers' Confederation of the Philippines (ECOP) recognizes the contribution of domestic workers to Filipino family life, to the Philippine economy, and to the Philippine social support system;

Whereas, ECOP recognizes that domestic workers, by the very nature of their duties, are part and parcel of the Filipino family and contribute to building the basic institution of society;

Whereas, ECOP upholds the dignity and rights of domestic workers as human beings and as members of the work force;

Now therefore, for and in consideration of the foregoing, ECOP resolves to respect, uphold, and promote the following rights of domestic workers:

- The right to full access and non-discrimination in the access to minimum wage, work hours, sickness and maternity pay, social protection, and other terms and conditions of employment as mandated by law;
- The right to change employers, subject to established and reasonable practice relating to prior notice, just cause, and other procedures in the termination or separation from employment;
- The right to severance pay as mandated by law;
- The right to a legally enforceable contract of employment, whenever applicable and when such contract is existent, and provided that said contract is not contrary to law;
- The right to work free from fear of physical, sexual, or psychological abuse;
- The right to free association;
- The right to live and work free from discrimination;
- The right to personal and leisure time.

Furthermore, ECOP commits to undertake, for the furtherance of the welfare and development of domestic workers, the following actions:

- To affirm the rights of domestic workers in the statements, resolutions, agreements, documents, as well as procedures and practices in ECOP;
- To help ensure that domestic workers are informed of their rights;
- To initiate, participate, and support a continuing and informed discussion among stakeholders, of the employment of domestic workers and their rights;
- To work with other agencies-government and civil society-in promoting the rights of domestic workers.

⁹⁵ Employers' Confederation of the Philippines, "Ethical Guidelines on the Employment of Domestic Workers", Working Paper, February 2006, pp 3-4

At a more informal level, **neighbourhood groups of employers** of domestic workers have come together to provide training and education to those employed in the neighbourhood and to prevent and oppose abuse and exploitation. One such group has been functioning for many years with much success in Bel-Air Makati and is a model for protection of labour rights on the ground by groups of employers.

6..... Responses of other actors

6.1 Self-help organizations of domestic workers

«A number of countries (...) exclude domestic workers from the coverage of legislation which otherwise guarantees the right to organize. These workers (overwhelmingly women) face very specific problems and are often isolated and vulnerable (...) Their difficulties in exercising their right to organize are obvious and great, and at the individual level often overwhelming. A major promotional effort requires the removal of formal legal obstacles and rejection of the notion that the nature of their work and their relationship with their employers, in whose house they probably live, makes it inappropriate to seek the support of an organization.»⁹⁶

Despite these difficulties domestic workers are coming together to defend their rights. Some are **assisted by NGOs**, as in the case of SUMAPI, in the Philippines, that has been nurtured by the Visayan Forum. It now has chapters in Luzon, Visayas and Mindanao with a membership of about 8,000 domestic workers. It provides its members with rights awareness and basic leadership and life skills training. It facilitates their access to services that protect them from abuse and advocates for laws and policies at local and national levels that would benefit domestic workers. It was one of the main organizers of the **First National Domestic Workers Summit** in 2005 that came up with a ten-point agenda for decent work for domestic workers. Among their achievements are local **ordinances in five major cities** (Makati City and Quezon City in NCR, and Bacolod, Cebu, and Iloilo in the Visayas) that recognize the rights of domestic workers, facilitate their registration and access to education. They are now working with public primary and secondary schools to ensure that **curricula and methods are child domestic worker friendly**. Says Mila, a former child domestic worker and head of SUMAPI

«We have the numbers and we matter to families and individuals. Ours is a big voice.»⁹⁷

Others, such as Tunas Mulia in Jogjakarta, Indonesia have spontaneously formed a **local union** of domestic workers that takes up cases of exploitation or abuse. In India, the National Domestic Workers' Movement had 2.4 million members across 21 States in 2006 and works both in regions of origin and destination to prevent

⁹⁶ ILO, Your Voice at Work, op cit

⁹⁷ Quoted by Ric Casco in World of Work, No. 58, Dec 2006

trafficking, organize weekly social gatherings for domestic workers, provide legal aid in case of abuse and demonstrate in front of the houses of employers who do not respect their contracts.

In the USA, immigrant nannies, housekeepers and elderly caregivers across the country recently formed the **National Domestic Workers Alliance**, representing thousands of workers in New York City, Los Angeles, Washington DC and San Francisco. Its goals are to build the power of the domestic workforce, bring visibility to the struggles of domestic workers, and improve the workplace conditions. The alliance will support the demands of New York domestic workers who have been organizing to pass the New York Domestic Workers Bill of Rights, including a living wage, health care and basic benefits for household employees.

Domestic worker organizations in Latin America have been in existence for two decades and have formed a strong, regional network - the Caribbean and Latin-America Confederation of Domestic Workers (*Confederación Latino-Americana y Caribeña de Trabajadoras Domésticas* -**CONLACTRAHO**) It is constituted by a variety of associations and trade unions of eleven countries of the region: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Paraguay, Peru and the Dominican Republic. Conlactraho aims to **strengthen existing domestic worker organizations** and create new ones in countries where they do not exist; **promotes the unity of all organizations** without ethnic, cultural ideological or religious discrimination; raises awareness among domestic workers, denounces the exploitative conditions and marginality of domestic workers and fights for their dignity. Its main activities are **information and legal aid**. It is also active in data collection and has carried out studies on conditions of domestic work in seven countries. At its conference in April 2006, members resolved to work towards the **professionalisation** of the sector and the promotion of an ILO convention on domestic workers.

What are the demands of domestic workers? First, as with all other workers, they want the right to be heard...«*We are tired of hearing others speak in our name*», says Marcolina Ramirez of IPROFOTH, Peru.

At the meeting of domestic work organizations in Amsterdam in November 2006 they listed their demands as follows:

-
- recognition of their status as workers;
 - safe and humane conditions of work;
 - secure legal employment and immigration status;
 - mechanisms to eliminate discrimination with regard to their status and conditions of employment; and
 - respect for their human rights.⁹⁸

Many domestic worker organizations have remained outside national trade union structures. This may be because domestic workers are reluctant to affiliate with unions that they perceive as highly politicised and male-dominated. Other obstacles to membership are the hidden nature of domestic work and consequent difficulties in organizing and the lack of resources to pay membership dues. Trade union members are often themselves employers of domestic workers, thus creating a conflict of interests. Despite these obstacles, **affiliation with national trade unions** would greatly enhance the voice and representation that domestic workers need. They would also benefit from the know-how that trade unions have in organizing and managing membership-based networks.

6.2 Strategies deployed by NGOs

International NGOs like Human Rights Watch, Anti-Slavery International, Save the Children, etc. have done extensive research on the problems of adult and child domestic workers, denounced the slavery-like conditions in which domestic workers are held before Human Rights and other supervisory bodies of the United Nations and supported local NGOs in taking action to prevent such abuse and rehabilitate victims of it.

In addition, a number of local or national NGOs have developed strategies to prevent child domestic work, protect child domestic workers and rehabilitate those withdrawn from hazardous or abusive situations.

The prevention strategy deployed by the *Centre Emmanuel* in **Senegal** is an example of this. From their interaction with village communities it became obvious that migration to towns is often an escape from the numerous chores that women shoulder in villages, from the lack of economic opportunities and from the monotony of village life. With the help of IPEC, this NGO therefore undertook to:

98 IRENE, Declaration of the November 2006 conference <http://www.irene-network.nl/download/Respect.pdf>

-
- **lighten the burden of domestic work**, by for instance setting up mills that relieve them of the pounding of grain;
 - create alternative sources of income
 - promote sports and cultural activities for youth during which the risks of uninformed migration to cities is publicised.

In **Tanzania**, the rehabilitation of girls withdrawn from domestic work is greatly facilitated by a system of peer counselling. When enrolled into the KIWOHEDE centre, the girl is paired with another former child domestic worker who becomes a ‘buddy’ or ‘twin’ with whom she shares experiences and from whom she derives emotional support. This complements the counselling she receives from the staff. Girls, who have strong personalities and who are highly motivated for the task, are given training to become **peer educators**. The trained girls seem to be able to play an important role in identifying child domestic workers and in providing initial counselling to deal with trauma.

In Cambodia, a variety of mechanisms for the protection of child domestic workers in Phnom Penh have been developed and existing mechanisms have been utilised by the Municipal Department of Social Affairs, Veterans and Youth Rehabilitation - the government department responsible for protecting children in the capital city. Among them it has created a network of relevant government agencies and NGOs to ensure comprehensive and coordinated efforts - a kind of protective web for child domestic workers. In terms of direct assistance, the MDSAVY has focused on community based mechanisms: operating a telephone reporting hotline, conducting interventions and removing children from abusive situations or those at risk. These actions have been complemented by strengthening the network’s capacity through training⁹⁹.

Empowering children has proven to be a successful strategy to withdraw children from CDL. In Guatemala, the Asociación Proyecto Conrado de la Cruz assists indigenous girls domestic workers who are mainly migrants living in conditions of discrimination, poverty and social exclusion. The association provides the girls with holistic services for education, health, recreation and companionship when feeling vulnerable, mistreated, and neglected. One of the main challenges of the programme is to make children change their view of themselves, so they can visualise a life project beyond domestic labour and can establish a different relationship

⁹⁹ Matsuno, A., Blagbrough, J. Child Domestic Labour in South-East Asia and East Asia: Emerging Good Practices to combat it. ILO, Bangkok 2006

with people and their environment. With the support of the project staff, girls record their internal process by keeping a personal journal and work on changes with their self-help group.

Through the Educational Centre for Mayas Women Workers (Centro Educativo para las Mujeres Jóvenes Mayas Trabajadoras), which has its own curriculum approved by the Ministry of Education, free elementary education is provided to girls excluded from formal schooling. Students are enrolled in accelerated primary schooling that is supplemented with studies on their rights and vocational courses in typing, computing, secretarial studies, cooking, handicrafts, and as nursing assistants, among others.

In addition, girls that took part in the project are organized in boards of directors democratically elected and registered at the municipality. Each of the 4 current boards of directors is a member of community networks, in which the family, local authorities, governmental entities and non-governmental organisations participate to promote continuity and sustainability of the actions carried out by the girls. In addition, the same girls are trained as promoters or volunteers on the rights of working children, allowing the Association to renew its staff and improve the quality of its community work¹⁰⁰.

The Home Owners' Association in BelAir, Makati, **Philippines** has been able to ensure that domestic workers in their neighbourhood benefit from fair working conditions. An **ombudsperson** is appointed from among the employers, who, in case of difficulty, mediates with the neighbour-employer. A group of women employers organize a weekly education and recreation session for all the domestic workers in their neighbourhood. These allow early identification of cases of exploitation or abuse.

For the Visayan Forum, Philippines, **improving the relationship between employer and employee** lies at the heart of improving the situation of child domestic workers. In case of crises, rather than a confrontational 'blaming' approach, Visayan Forum staff mediate between employer and young domestic workers to sort out the problem that has precipitated the crisis.

100 Good practices and lessons learned on child and adolescent domestic labour in Central America and The Dominican Republic: A gender perspective. ILO, San José, 2005

Given the isolation of child domestic workers, the Visayan Forum strives to develop **resiliency** in the children by giving them skills to cope with situations that arise. Developing resiliency is the process by which a person discovers her inner strengths, recognizes her weaknesses, and is able to take steps and moves on to make informed choices about her future.

Increased resiliency of child domestic workers can be measured in a number of practical ways, such as being able to avoid conflict in their employers' household, taking the decision to return to school, reporting cases of abuse, becoming someone who is able to reach out to and fight for the rights of others.¹⁰¹

101 Blagbrough, J. Good practice and methodological guidelines for action to combat child domestic labour: the Philippines experience, ILO-IPEC, unpublished, 2003

7.....Moving the domestic work agenda forward

Migration for domestic work as well as in-country domestic work will in the coming years absorb more and more women workers and provide much needed care for the young and elderly. Unless a concerted effort is made to **recognise and regulate** domestic work and to promote the organization of domestic workers, they will continue to be exploited, abused and even enslaved. Simultaneously, to ensure the quality of care of the young and elderly, States need to sponsor **adequate professional care services** for their citizens. In addition, for those who choose to provide such care in the home rather than in an institution, the State should facilitate **in-service training** of domestic workers that will facilitate upward mobility in the hospitality and care sectors.

Restoring dignity to the millions of women in domestic work whose basic human rights are violated day after day is the duty of all who strive for social justice. For the international labour movement and the ILO domestic work is a **decent work and a gender equity challenge**. Neither of these objectives can be said to have been achieved if this category of workers is disregarded.

There is a definite co-relation between the burgeoning of associations or unions of domestic workers and the recognition of their human and labour rights. The legislative framework is fashioned on the anvil of **public pressure**. The support from trade unions to the demands for regulation by organizations of domestic workers gives hope that the shadow of exploitation and abuse will retreat in the face of collective action.

This movement from below must be accompanied by an impetus from above in the form of a **moral obligation on States** to provide care services to their citizens and protect the rights of those who, in the absence or inadequacy of these services, are taking that responsibility. A call for a **new ILO instrument** on domestic work has been made by workers' organizations, supported by NGOs who are frequent witnesses to the unfair and often violent treatment domestic workers receive and acceded to by the Governing Body of the ILO.

To prepare for this, a major **interregional programme on domestic work** is required to map the ground reality and develop context-specific strategies for reaffirming their rights. This programme must give priority to rescuing those who are in slavery-like or forced labour conditions, particularly those who are victims of

trafficking and providing for their rehabilitation and social and economic reintegration. It must keep domestic work on the radar screen of those working on the protection of workers in the informal economy. It must assist those regions where the problem is most acute to learn from the experience of countries that have succeeded in improving living and working conditions for domestic workers.

As is evident from Chapter 5 of this paper, ILO's response has so far largely been related to child domestic labour. The quality of research and the impact of technical cooperation achieved by ILO-IPEC shows that change on a large scale is possible given sufficient human and financial resources. The second group that has benefited from ILO action are women who migrate abroad for domestic work. However, only a few source and destination regions have benefited so far from ILO programmes on migrant domestic workers and such action needs to expand to other regions. A group that has received little attention so far are the **internal migrants**, particularly **tribal and indigenous people** who probably represent the majority of domestic workers. Projects adapted to their special needs are required to be designed.

7.1 Elements of an interregional programme on domestic work.....

Such a programme should contribute towards a policy environment conducive to a rights-based employment relationship in domestic work. Recognising the needs of the care economy and the contribution of domestic work to it, the strategy will be to develop a global response to counter exploitation and abuse and at the same time promote the employment opportunities for women inherent in domestic service.

With a view to making domestic work decent, this programme would have five converging elements: data collection, organizing, advocacy for an adequate legal framework, capacity building and direct service provision.

Data collection: The surveys and consultations that the ILO undertakes in preparing a new instrument can be complemented by the collection of qualitative and quantitative data at national level in the following ways:

- By including domestic work as a separate occupational category in the revised ISCO and in Labour Force and Household surveys
- By encouraging the registration of domestic workers so that the proportion of undeclared domestic work decreases;
- By developing a methodology that can probe recruitment processes, working

and living conditions of domestic workers with the help of experienced academic institutions

Organizing: The emphasis here would be on building the capacity of existing organizations of domestic workers to increase their outreach and render more efficient services to their members. Trade unions will be key partners in this effort.

Where strong domestic workers organizations exist, they should be assisted in creating networks or federations of domestic worker organizations. Where no such organization exists, trade unions should be encouraged to create special help desks for domestic workers.

The representation of domestic worker organizations in country delegations at the ILC should be officially requested.

Given the difficulties in introducing usual labour monitoring mechanisms such as inspection in private households, the programme should privilege the organization of interest groups and their self-regulation. Thus, while work on an enabling legislative framework at international and national levels is undertaken with policy makers, groups of workers, employers and recruitment agencies should be created or enhanced with a view to adopting codes of conduct or providing social space for bringing about improvements in current practices.

For instance, the organization of employers of domestic workers on a neighbourhood basis should also be facilitated and periodic meetings between representatives of employers and workers arranged.

Advocacy: Two sets of countries will be included in the programme - those where regulation of domestic work exists but falls below the standards set for other occupations; and those in which domestic workers are excluded from the coverage of labour legislation. The gender-balanced representation of domestic workers and employers in consultations concerning necessary amendments to the labour legislation should be required. The special needs of women, children, rural or foreign migrants, and indigenous people should be incorporated.

More transparency should be introduced into what has until now been a largely informal employment relationship through the introduction of model contracts, registration of domestic workers and creation of dispute resolution structures at local level. The recognition of domestic work as an occupation should be facilitated

through the introduction of certified skills training for domestic workers thus improving their status, negotiating power as well as the quality of services they provide. The registration of domestic workers will also provide employers with some protection against crime committed with the complicity of their household employees.

Where legal frameworks are adequate, advocacy for their proper implementation will be required. Efforts should be directed to strengthening and improving the licensing and monitoring of formal recruitment agencies in regions identified as main suppliers of domestic work.

The development of voluntary Codes of Practice for Employers of domestic workers and one for domestic workers themselves should be advocated.

In case of violations of international obligations, the attention of the supervisory bodies of the ILO would be systematically drawn to the problem.

Capacity Building: As a follow-up to legislative amendments, the capacity of States, in particular Ministries of Labour in applying new legislation needs to be built. The regulation of PEAs should be done in such a way as to facilitate the smooth functioning of the labour market and eliminate fraudulent recruitment practices. Capacity Building must also extend to other social partners and actors at national and local levels according to needs assessments carried out in the different contexts.

Direct Services: A national task force of Social Welfare Ministry staff, trade unions, employers' organizations and NGOs should be set up to proactively deliver direct services to domestic workers. These include pre-departure and on-arrival orientation, the organization of regular recreational, social and cultural activities, non-formal education and certified vocational training, health monitoring, complaints mechanisms such as hot lines or desks in the local government, temporary shelters, counselling, medical care, legal aid, etc.

Micro-finance to cover travel expenses and facilitate the return to the place of origin and/or the transfer to other means of livelihood could also be included.

The programme would be decentralised through regional components covering three to four countries in the region with a global component responsible for coordination, quality control and knowledge management.

7.2 And finally

The adoption of a new ILO instrument on domestic work will give the necessary impetus to the work that has been done by the various departments dealing with gender equality, conditions of work, fundamental principles and rights, migrant workers' rights, social protection of workers in the informal economy and with organizations of workers and employers and promote coordinated efforts to fulfil the promise of the 1965 resolution on domestic work that «drew attention to the urgent need to provide domestic workers with the basic elements of protection which would assure them a minimum standard of living, compatible with the self-respect and dignity essential to social justice.»

Domestic workers themselves are on the move. Trade unions are helping them create an international network of domestic worker organizations that will give them the necessary strength to assert their rights. Increasingly governments are recognising domestic work and taking steps to regulate it. Small, informal groups of employers have taken innovative steps to protect the rights of both domestic workers and employers in their neighbourhoods. These efforts must now be replicated on a larger scale by organizations of employers.

Recognition and regulation of domestic work is in the interest of both workers and employers. More importantly, decent work for domestic workers is no longer an impossible dream. The ILO and its constituents are committed to fighting the exploitation and abuse of domestic workers and to accelerating the movement towards work in conditions of freedom, security and dignity.

Annex..... Number of domestic workers by country (in thousands)

Country	Year	Men	Women	Total
AFRICA				
Botswana	2003	2.3	19.2	21.5
Egypt	2005	39.6	8.4	48.0
Ethiopia	2004	22.4	191.4	213.8
Reunion	2004			10.0
Sierra Leone	2004	1.6	0.7	2.3
AMERICA				
Argentina	2005	24.6	677.6	702.2
Brazil	2004	432.4	6040.1	6472.5
Canada	2005	2.7	28.4	31.1
Costa Rica	2005	7.2	85.2	92.4
Ecuador	2005	20.9	180.8	201.7
El Salvador	2005	10.9	100.4	111.3
French Guyana	2005			1.5
Guadeloupe	2005			5.1
Mexico	2004	136.4	1186.3	1322.7
Panama	2005	9.0	61.0	70.0
Uruguay	2005	7.0	98.0	105.0
ASIA				
Georgia	2005	0.3	6.4	6.7
Israel	2005	2.3	36.1	38.4
Kazakhstan	2004	4.6	9.9	14.5
Korea	2005	4.0	123.0	127.0
Philippines	2005	228.0	1329.0	1557.0
EUROPE				
Austria	2005	0.4	8.5	8.9
Belgium	2005	2.7	17.8	20.5
Croatia	2005	0.6	9.7	10.3
Cyprus	2005	0.4	13.8	14.2
Czech Republic	2005	1.0	2.0	3.0
Denmark	2004			3.2
OCEANIA				
Australia	2004	0.4	1.9	2.3
New Zealand	2005	0.2	2.0	2.2

Source: ILO/LABORSTA online database as per 13 October 2007: yearly statistics, paid employment by economic activity

Bibliography

Abreira-Mangahas, A.: Violence Against Women Migrant Workers: A Philippine Reality Check: Paper prepared for the Expert Group Meeting on Violence Against Women Migrant Workers, 1996, Manille

Amnesty International: Exploitation and Abuse: the Plight of Women Domestic Workers, 2006,

Amorim, A., Murray, U. and Bland, J, Ed.: Girl Child Labour in agriculture, domestic work and sexual exploitation, Volumes I - IV, 2004, ILO-IPEC, Genève

Anderson, B. & O'Connell Davidson, J: Is trafficking in Human Beings demand driven? A Multi-country pilot study, IOM Migration Research Series, No. 15, 2003, IOM, Geneva

Anggraeni, D.: Dreamseekers: Indonesian Women as Domestic Workers in Asia, 2006, Equinox and ILO, Jakarta

Anti-Slavery International: Trafficking in Women Forced Labour and Domestic Work in the Context of the Middle East and Gulf Region, 2006,

Anti-Slavery International: Child domestic workers: A handbook on good practice in programme interventions, 2005, ASI, Londres

Anti-Slavery International: Issues paper for Hong Kong consultation, 2002, Londres

Bartunkova, I: Trafficking in women, forced labour and domestic work in the context of the Middle East and Gulf region,, 2006, ASI, Londres

Black, M.: Child domestic workers: Finding a voice, 2002, ASI, Londres

Blackett, A.: Making domestic work visible: The case for specific regulation, ILO - Labour Law and labour relations programme, WP 2, 1998,

Blagbrough, J.: Good practice and methodological guidelines for action to combat child domestic labour: the Philippines experience, 2003, IPEC, Genève

Cadet, J-R.: Restavec: From Haitian slave child to middle class American, 1998, USA

Chaney, E. & Garcia Castro, M: Muchachas No More: Household Workers in Latin America and the Caribbean, 1989, Temple University Press, Philadelphia

CNV: Domestic work, decent work? Protecting the labour rights of domestic workers, 2005, Utrecht

de Regt, M: Mapping Study of migrant domestic workers in Yemen, 2006, ILO-ROAS, Beirut

Demaret, Luc: Moving the Agenda Forward on Domestic Workers - speech at side event, 2007,

Dias, M. & Jayasundere, R.: Good practices to prevent women migrant workers from going into exploitative forms of labour, 2002, ILO - GENPROM, Genève

Diaz, M.: The Situation of Domestic Workers in Latin America, 2007, ILO-MIGRANT, Genève

-
- Esim, S & Smith, M.:** Gender and Migration in the Arab States: The case of domestic workers, 2004, ILO-ROAS, Beirut
- European parliament, Committee on Women's rights and equal opportunities:** Report on regulating domestic help in the informal sector, Oct, 2000, A5, 0301/2000,
- European Trade Union confederation (ETUC):** Out of the shadows: organizing and protecting domestic workers in Europe: the role of Trade Unions, 2005, Brussels
- Gaitskell, D. et al.: Class, Race and Gender:** Domestic Workers in South Africa, Review of African Political Economy, 1984, Sheffield
- Ghijs, I.:** Esclaves domestiques: humilié(e)s, violé(e)s, caché(e)s, 2006, Editions Luc Pire, Bruxelles
- Gopalen, P.:** A situational Analysis of Violence in the Working Conditions of Domestic Helpers in Metro Manila, 1996, ILO-IPEC, Manila
- Grumiau, S.: Briefing note on domestic work, 2007, ACTRAV, Geneva
- Horbaty, G.:** Forced Labour and Domestic Workers in Latin America, 2006, ILO-SAP-FL, Geneva
- Human Rights Watch:** Swept under the rug: Abuses against domestic workers around the World, 2006,
- Human Rights Watch:** Del Hogar a la Fabrica: Discriminación en la fuerza laboral guatemalteca, 2005,
- ILO:** Proposals for the agenda of the 99th session (2010) of the Conference, 2007, GB.300/2/2, Geneva
- ILO:** The Mekong Challenge - Underpaid, overworked and overlooked: The realities of young migrant workers in Thailand, 2006, ILO, Bangkok
- ILO:** A global alliance against forced labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2005, ILO, Geneva
- ILO:** Decent Work and the Informal Economy, ILC 90th Session, Report VI, 2002, ILO, Geneva
- ILO:** Your voice at Work: Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2000, ILO, Geneva
- ILO:** General Survey of Migrant Workers, ILC, 87th Session, Report III (Part 1B), 1999, ILO, Geneva
- ILO:** International Standard Classification of Occupations, 1988, 1990, ILO, Geneva
- ILO:** The Employment and Conditions of Domestic Workers in Private Households: ILO Survey, International Labour Review, No. 102/4, 1970,
- ILO:** The Status and conditions of employment of domestic workers. Meeting of Experts, July 1951 , 1951, ILO, Geneva
- ILO Field Gender Specialists:** ILO Agenda on Decent Work for Domestic Workers, Version 5, 2006,

-
- ILO In-Focus Initiative on the Informal Economy:** The Informal Economy - Draft GB. 298, 2007,
- ILO-GENPROM:** Preventing Discrimination, Exploitation and Abuse of Women Migrant Workers, , ILO, Geneva
- ILO-IPEC:** Good Practices and lessons learned on child and adolescent domestic labour in Central America and The Dominican Republic, 2005, ILO, San José
- ILO-IPEC:** Child domestic labour information resources: A guide to IPEC child domestic labour publications & other materials, 2007, ILO, Geneva
- ILO-IPEC:** Guidelines on the design of direct action strategies to combat child domestic labour, 2007, ILO-IPEC, Geneva
- ILO-IPEC:** Hazardous child domestic work: A briefing sheet, 2007, ILO-IPEC, Geneva
- ILO-IPEC:** Helping hands or shackled lives? Understanding child domestic labour and responses to it, 2004, ILO, Geneva
- ILO-IPEC:** Child Domestic Labour and Trade Unions: Report ILO-IPEC Interregional workshop, February 2006, 2006, ILO-IPEC, Geneva
- IOM:** The contribution of empowered migrant women to development: Statement submitted to the Commission on the Status of Women, Feb - March 2006, 2006, IOM, Geneva
- IRENE:** Declaration of the November 2006 conference <http://www.irene-network.nl/download/Respect.pdf>, 2006, IRENE, Amsterdam
- Jolly, S:** Gender and Migration Supporting Resources Collection, 2005, BRIDGE, IDS, Sussex
- Kebede, E.:** Ethiopia: An assessment of the international labour migration situation. The case of female labour migrants, Working Paper No. 3, ILO-GENPROM, Geneva
- Krogh-Poulsen, B. & D'Souza, A.:** Guidelines for Action against Child Domestic Labour in Tanzania, 2002, ILO-IPEC, Geneva
- Matsuno, A., Blagbrough, J.:** Child Domestic Labour in South East Asia and East Asia: Emerging Good Practices to Combat it, 2006, ILO, Bangkok
- Moreno-Fontes-Chammartin, G.:** Women migrant workers' protection in Arab League States, in Gender and Migration in the Arab States, 2004, ILO-ROAS, Beirut
- OIT-IPEC:** Good practices and Lessons learned on child and adolescent domestic labour in Central America and the Dominican Republic: A gender perspective, 2005, ILO-IPEC, San José
- Ontario Ministry of Labour:** Ontario, Canada Employment Standards Act Fact sheet on DWs, 2006, Ontario
- Patel, S. and Moses, S.:** The anti-feminist brigade: Women who hire domestic workers, 1999, Saxakali, India
- Pratt, G.:** From registered nurse to registered nanny: Discursive geographies of Filipina domestic workers in Vancouver, B.C. in Economic Geography, Vol. 75, No. 3, 1999,

-
- Raghuram, P.:** Caste and Gender in the Organisation of Paid Domestic Work in India, *Work, Employment & Society*, Vol 15, No. 3, 2001, The Nottingham Trent University, UK
- Ramirez, C.,** Dominguez, M.G., Morais, J.M.: *Crossing Borders: Remittances, Gender and Development*, INSTRAW Working Paper, 2005, INSTRAW, Santo Domingo
- Ramirez-Machado, J-M.:** Domestic work, conditions of work and employment: a legal perspective, *Conditions of Work and Employment Series No. 7*, 2003, ILO-CONDIT, Geneva
- Sabban, R.:** *Migrant women in the United Arab Emirates: the case of female domestic workers*, 2002, ILO-GENPROM, Geneva
- Sayres, N.:** *An analysis of the situation of Filipino domestic workers*, 2005, ILO, Manila
- UNIFEM:** *Human Rights Protection applicable to women migrant workers*, 2003, New York
- UNRISD:** *Egalité des sexes: En quête de justice dans un monde d'inégalités*, 2005, UNRISD, Geneva
- Vega-Ruiz, M-L.:** *La relación laboral al servicio del hogar familiar en América Latina*, RELASUR, No. 3, 1994, Montevideo
- Villalba, M. A.:** *Good practices for the protection of Filipino women migrant workers in vulnerable jobs*, 2003, ILO - GENPROM, Geneva

ILO Bureau for Gender Equality
4, route des Morillons,
1211 Geneva 22, Switzerland
Tel +41 22 799 6730
Fax +41 22 799 6388
www.ilo.org/gender
gender@ilo.org

ISBN 978-92-2-122050-3



9 789222 220502