

DOMESTIC WORKERS COUNT TOO: IMPLEMENTING PROTECTIONS FOR DOMESTIC WORKERS



A Briefing Kit

ACKNOWLEDGEMENTS

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This kit entitled, “Domestic Workers Count Too: Implementing Protections for Domestic Workers”, developed by UN WOMEN and ITUC, is informed by the experience of struggle, resilience and creative practice of local and overseas domestic workers organizations, unions and NGOs supporting them. It is an invitation to all of us – governments, civil society and international organizations – as development practitioners, to continue enriching our understanding of the nature of domestic work and the growth of the sector; the contribution that domestic workers make to economic and social development; the impact of violations against domestic workers; why they need protections and how to protect them.

In the light of promising initiatives implemented by governments, and civil society groups, including organizations of domestic workers, trade unions and international organizations, and path breaking developments in the international human rights system, this kit specifically focuses on why and how to protect domestic workers. In doing so, it makes the normative and efficiency case for implementing legal and social protections for domestic workers. It highlights the international standards to protect domestic workers; demonstrates how to apply these and shares lessons learned from good practice around the world on the issue.

The views expressed in this briefing kit are those of the author(s) and do not necessarily represent the views of UN WOMEN, the United Nations or any of its affiliated organizations and ITUC.



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INTRODUCTION

Domestic workers are workers employed by private households within national boundaries or overseas to do house chores and care work. They constitute an integral part of the labour force worldwide. According to ILO data, the estimates are 4-10% of the labour force in developing countries and about 2% of the workforce in developed countries.

More importantly this sector is expected to grow in many developed and middle-income countries. This is anchored in the interaction of several factors – changing demographic trends marked by falling birth rates, static or declining workforces and growing ageing populations, combined with other trends. These include: women’s increasing participation in the workforce especially in more developed or middle income countries because of higher education levels or to plug labour shortages; the lack of a culture of shared domestic responsibility between men and women; inadequate state provision of affordable care services; the reluctance of nationals to take on low-paid, low-skilled and low-status domestic jobs in many richer countries of employment; and the desire to maintain a certain lifestyle and social status. This creates

a “care crisis” of sorts. For the middle class and rich, the recruitment of domestic workers is an affordable solution. These are usually women, seen as readily available, needy, inexpensive, pliable, and naturally imbued with nurturing and home-care abilities, from poorer contexts. They may be nationals migrating from rural to urban areas within middle income or developing countries, or women who have moved across national or regional boundaries. In Spain, for example, which has the highest number of domestic workers in the European Union, over 90% of those registered in 2009 were women and 61% were non-nationals, mainly from developing countries in Latin America.¹ A 2010 study found that in Argentina, Chile, Brazil and Paraguay, 89%-96% of migrant women are domestic workers.²

Although domestic work contributes to renewing and sustaining life and is critically linked to social and economic development, it is not regulated in many contexts. This is because it is invisible and conducted within the private space of the home – not defined as a “workplace”. It also carries the low value of women’s unpaid housework, not defined as work, because it is not perceived as producing



value. Domestic work is in fact seen as a “labour of love” or part of women’s innate attributes, needing no special skill. The special bonds of attachment that may develop between employers, domestic workers, and family members being cared for, complicates an understanding of domestic work as work that needs regulation.

Not only does a lack of regulation of this sector devalue the economic and social contribution of domestic work to development, it exacerbates abuse and exploitation of workers. This includes: contract substitution, poor wages, non-payment or delayed payment of wages, very long hours of work, no break periods or rest days, restrictions on freedom of movement and association, no access to collective bargaining, inadequate food and accommodation, including lack of privacy, sexual and gender-based violence.

However, while 40% of countries worldwide have no form of regulation of any kind for domestic workers,³ labour laws covering domestic workers have been introduced and implemented in several countries over the years. These include Argentina, Bolivia, Brazil, Chile, France, Hong Kong, SAR, Jordan, South Africa, Spain, Switzerland, Uruguay, some US states and others. These initiatives are in line with international human rights standards, including the recently adopted ILO Convention 189 and Recommendation 201 on Decent Work for Domestic Workers, 2011; the General Comment on Migrant Domestic Workers by the Committee on the Protection of the Rights of All Migrants and Members of their Families (CMW), 2010; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and its General Recommendation No 26. on Women Migrant Workers (including domestic workers), adopted by the Cedaw Committee in 2008.

This briefing kit makes promising national practice and international human rights standards important points of departure. It explores through personal testimonies, the significance of regulating and protecting domestic work from the point of view of domestic workers, trade unions, governments and employers, in some of these countries. But it goes beyond “making the case”, to also demonstrating how standards to promote and protect the rights of domestic workers, exemplified in the international human rights system and analysis of good national practice, can actually be applied at the country level and up scaled.

ENDNOTES

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40%

OF COUNTRIES WORLDWIDE HAVE
NO FORM OF REGULATION OF
ANY KIND FOR DOMESTIC WORKERS

“WE SHARE OUR STRATEGIES, WE LEARN FROM ONE ANOTHER. WE ARE STRONGER FOR IT”



SAYS CASIMIRA RODRIGUEZ, A DOMESTIC WORKER, ORGANIZER AND FORMER MINISTER OF JUSTICE OF BOLIVIA

RODRIGUEZ’S KEY MESSAGES

Women should lead the movement to enforce protections for domestic workers

Protecting domestic workers promotes the recognition of all women and girls who perform domestic work

Domestic workers are powerful political leaders and change agents

“I am from Bolivia and also of the Quechua culture. I have been a domestic worker since I was 13 years old. In this path of my work, I have known many difficult moments...I realized the importance of solidarity and was able to listen and share experiences with others who had known exploitation... This was how I became involved in the local domestic workers union in Cochabamba which I helped found in 1985. It was there where we were able to find many common solutions to our problems as compañeras. Problems of marginalization, exploitation.”

THE CONTEXT

- Domestic workers are the third-largest sector of workers in Bolivia.¹ The number of domestic workers in Bolivia is between 130,000-150,000² and over 96% are women.³
- Overwhelmingly, domestic workers are women from the Quechua, Aymara or other indigenous communities. Most migrate from rural areas to the cities before the age of 15 with very little education.⁴
- It is estimated that over 90% of domestic workers are live-in workers who reside with their employers.⁵
- In 1996, domestic workers in Bolivia organized to form FENATRAHOB, the National Federation of Household Workers of Bolivia. Casimira Rodriguez, was head of this national union from 1998-2001. The organization campaigned for the Household Worker Act which became law in 2003.
- In Bolivia domestic workers earn around 80% of the average wages of other workers.⁶

THE HOUSEHOLD WORKER ACT (LAW 2450), 2003

- FENATRAHOB succeeded in securing the Household Worker Act (Bolivia: Law No. 2450) which was passed by the National Congress. The Law provides for:⁷
 1. A minimum wage, with in-kind payments prohibited;
 2. Normal working hours of 8 hours per day for live-out domestic workers and 10 hours per day for live-in domestic workers;
 3. A rest day on Sundays;
 4. Annual leave of 15 days per year, and holidays off;
 5. A bonus of one year's paid leave after five years' service;
 6. Accommodation that is adequate and hygienic, with access to a bathroom and shower.
 7. Public authorities who receive complaints from domestic workers about abuse, physical aggression and sexual assault by their employer or a household member are required to initiate investigations.
- A 2008 law extends healthcare coverage to domestic workers. It gives them healthcare and hospitalization coverage for workers and their children, and makes doctors available in the evenings (from 5pm-9pm) so that workers can actually access medical care.⁸

- A new pension law, passed in 2010, applies to domestic workers who make sufficient contributions. Workers who affiliate to the Comprehensive Pension System (SIP) and make a monthly contribution that is equivalent to roughly 14% of the minimum wage over 10 years, can apply for a pension.⁹
- In Bolivia, the labour legislation provides for a domestic work employment contract.¹⁰

SUCCESS FACTORS IN ACHIEVING THE LAW

- **Strong women-led advocacy by workers and employers.** Bolivia is a success story not just for enforcing its law but also for women-led advocacy by domestic workers and supportive employers. Casimira Rodriguez, founder of FENATRAHOB has also been the Minister of Justice of Bolivia and General Secretary for CONLACTRAHO, the Confederation of Domestic Workers Latin America, indicating her clout as a leader across the region. Elizabeth Peredo, Director of Fundación Solón, an organization supporting domestic workers and other excluded groups in Bolivia, coordinated the Action Committee for the Law 2450 and ran a campaign to support its speedy implementation. The campaign won an award from the Human Rights Institute in France, and the Action Committee that ensured that the bill was passed, includes many women's organizations.
- **A government committed to empowering women workers.** The government is politically committed to protecting domestic workers, thanks in part to the changes sweeping Bolivia during the past decade, from the election of President Evo Morales, Bolivia's first indigenous head of state to recent constitutional reforms. The government's commitment was evident during negotiations for the ILO Convention. Bolivia raised concerns about "in-kind payments" as a way for employers to avoid paying fair wages, especially for live-in domestic workers. The national law prohibits in-kind payments, and through leading by example Bolivia was able to negotiate for provisions on "in-kind payments" in the Convention and Recommendation that protected workers from exploitation.

BOLIVIA IS ONE OF 8 COUNTRIES THAT HAS RATIFIED THE ILO CONVENTION ON DOMESTIC WORKERS. IT COMPLETED THE RATIFICATION PROCESS LAST YEAR.

RODRIQUEZ'S STORY:

TRAFFICKING SURVIVOR, DOMESTIC WORKER, AND BOLIVIA'S FIRST INDIGENOUS WOMAN MINISTER

Casimira Rodriguez was just 13 years old when she was trafficked from her rural home in the Mizque region and forced to become a domestic worker in a household that was also a cocaine laboratory, in Cochabamba, Bolivia's fourth-largest city. Enslaved for two years, Casimira only managed to escape when her mother arrived to help her break out of the house. At the age of 17 years she returned to Cochabamba and found domestic work with a sympathetic employer. "Once I had a chance to work in a home where they respected me as a woman and a worker, I was able to get to know other domestic workers like myself... This is how I came to provide support, through my own leadership, helping and listening to other compañeras." She began organizing domestic workers in the early 1990s, at a time when it was incredibly difficult to organize informal workers, especially women. "We participated in fairs, conferences, we launched campaigns...The unions were limited in that they could only work on Sundays, the day the women are off from work...Even though we are part of the labor movement in Bolivia our sector is unique because it is made up of all women. So this has been a great opportunity to rally women together and have them participate directly."

As a leader, Rodriguez kept women at the heart of the movement for domestic worker's rights. "We have focussed on boosting awareness about the domestic worker law – like our rights to a vacation, a dignified workday in terms of hours worked, our right to education and a just salary...This process allowed us to make ourselves visible...It also taught us that we did not have to fear the authorities or the government." She was determined to bring her fellow women workers out of the shadows. Discrimination came from all quarters – even other poor workers. "On the one hand we had intense demonizing of the issue of just salaries for domestic workers. On the other hand, for many politicians there was no political interest or will to recognize our rights. Even civil society groups were saying, 'Why are you complaining? You have a house, you are fed, you are 'part of the family.' Why do you need more?" She found that she needed to educate other workers as well as politicians and employers. Her

response to those who argued that domestic workers 'had it easy was this – "To me, this is a great lie. They say you are part of the family while you serve their needs. By the time you are aged 45 or more, then you are not of as much help. It is difficult to find work at this age...That is another problem we have...no rights at retirement...you see domestic workers out on the streets, or with no work then they are older."

Rodriguez has built alliances with other domestic workers' movements across Latin America. "For example our neighbour Peru was going through a similar process trying to get a law passed...so we shared a lot with them. Just at this moment, I had the opportunity to be the Secretary-General of CONLACTRAHO, the Confederation of Domestic Workers for Latin America." For her, domestic workers must not just be made visible – they must also be made human. "We are women just like any other women, but we have lived a historical discrimination where we have not even been considered women, but rather objects at work... Thanks to the fight of the domestic workers' movement, we have talked about how hard this work is – cleaning the house, caring for the children, washing...we have even brought recognition to housewives and the importance of their work." What next? Making sure that protections are actually enforced. When Casimira became the Minister of Justice in 2006 under President Evo Morales in his first Cabinet, she was the first indigenous woman to ever to hold the post. As Justice Minister she formalized Bolivia's National Day of the Domestic Worker (March 30) making it a public holiday. March 30 is now Domestic Workers' Day across Latin America and the Caribbean.

Rodriguez resigned from her post in 2007 to create *Fundación Madraselva* ("Honeysuckle Foundation"). For her now, generating political will nationally involves using regional networks like CONLACTRAHO, as well as international efforts to convince governments to implement laws and policies. "For me, it brings great joy to know that UN WOMEN is considering to take into account... the protection and needs of domestic workers in Latin America and around the world."

“HEALTH INSURANCE BENEFITS WORKERS AND EMPLOYERS ALIKE – IN THE EVENT THAT A DOMESTIC WORKER NEEDS MEDICAL ATTENTION”



**SAYS ELIZABETH PEREDO BELTRÁN,
AN EMPLOYER OF DOMESTIC WORKERS FROM BOLIVIA**

PEREDO BELTRÁN'S KEY MESSAGES

When domestic workers win social protections like healthcare, employers win too – it means governments are helping workers and employers

Laws and contracts protect both workers and employers

Supportive employers can find creative and innovative solutions to protect domestic workers

“With our domestic worker, what we have done until now is support her when she or someone in her family is sick so that they are attended to appropriately...The relationship that we have with her extends beyond a labour relationship. She is a person of great esteem, I count her as a friend and have much respect for her, as do my children and friends.”

PEREDO BELTRÁN'S STORY:

AN EMPLOYER AND DIRECTOR OF FUNDACIÓN SOLÓN, A GROUP SUPPORTING DOMESTIC WORKERS

Elizabeth Peredo Beltrán is the Director of Fundación Solón, a civil society organization that advocates for domestic workers and other social movements in Bolivia. She coordinated the Action Committee for the Household Worker Law 2003, “The Law 2450 seeks to benefit domestic workers as much as it does employers, balancing the rights and obligations of both...The passage of the law was the work of more than a decade...it took a really long time to convince the legislators. Some dissented saying, “If we pass this law, we are going to start creating expectations we cannot fulfill.” With the law being enforced and Bolivia’s support for the ILO Convention, those expectations are slowly but surely being fulfilled. Her decision to support domestic workers’ rights stems from her experiences as a sociologist researching Bolivian social justice movements. “In the 1920s and 1930s...the professional cooks...pushed for limits on hours, the use of a specific and respectable name, a day of rest on Sunday – revolutionary demands...This is an important piece of history because these are the same demands we saw with the household workers since the 1980s. As a researcher, I was able to help connect the two movements – the old women with these new leaders. They saw their fight was not an isolated one.”

The fight is certainly no longer isolated. “We have seen that there is more respect for these women workers, there are fewer cases of immediate dismissal without advance notice or reason, we are seeing more claims brought by household workers, and conditions, contracts and payment – generally – have improved.” As an employer, Peredo believes the media’s influence has motivated her fellow employers to respect domestic workers. “One important change we have seen – a critical change – has been in the name people use for this sector of workers. Prior to the law, the usage of derogatory names for these women workers conveyed the lack of respect they received. Following the law, we see that there is not a single media outlet that does not refer to this sector as ‘household workers’ rather than...a string of derogatory names. This is a sustained change, very cultural.” The name change is important

in a country where domestic workers have struggled to gain the support of other poor workers because of class, ethnic and gender-based discrimination.

Peredo applies her beliefs to her everyday relationship with her domestic worker. “Our domestic worker has worked in our home for 9 years...She receives a just salary, higher than the national minimum rate. She gets a bonus at the end of every year and every 5 years she gets an additional bonus.” The benefits go both ways – her employee also goes “the extra mile” for the family. Like many busy professional women, knowing her children are cared for lets Peredo do her own job, which involves long hours and travel away from home. She believes that employers must recognize that many domestic workers are mothers themselves – and must allow them time with their own families. “My domestic worker usually leaves in July so she can be with her children during their school vacation, and depending on the schedule of the planting and harvest seasons in her village, she returns home...She does not work on holidays.”

Her work with Fundación Solón allows Peredo to help employers and others support Bolivia’s domestic workers. “Laws are not enough. We need trainings and many don’t know how to implement the law...the Action Committee for the Law 2450 is training government officials...so they know how to apply the law to specific issues. We work with employers, also with business owners and others. Also, we don’t have a law that helps migrant women. The 2003 law only protects household workers who are Bolivian women...” All domestic workers, migrant and local, urgently need healthcare and other social protections. Peredo believes civil society groups must get creative and find new ways to make sure that labour and social protections are actually implemented. “Another campaign we’re working on, is with the Architects Association in Bolivia. We want to promote “humane” sleeping/living quarters for household workers within the design of general housing...‘dignified living conditions’, as required by the law, are critical.”

**“THE LAW WILL BE ENFORCED
WHEN ALL ARMS OF GOVERNMENT,
NOT JUST THOSE THAT WORK
WITH DOMESTIC WORKERS,
ASSUME RESPONSIBILITY”**

**SAYS GARDY COSTAS SANCHEZ,
THE FORMER VICE-MINISTER OF EQUAL OPPORTUNITIES OF BOLIVIA**

COSTAS SANCHEZ’S KEY MESSAGES

Governments must embed protections for domestic workers across all ministries and departments – labour, justice, social protection, migration

Governments must research and record the value of domestic work – because without it our economies would not function

We must give domestic workers unemployment and pension protections

“The ILO Convention on Decent Work for Domestic Workers presents a tremendous opportunity. Ratification is an entry point to institutionalize the protection of domestic workers, and states will be accountable for elimination of all forms of discrimination especially labour discrimination.”

COSTAS SANCHEZ'S STORY:

WORKING TO RECOGNIZE, RECORD AND REWARD

THE VALUE OF DOMESTIC WORK TO THE ECONOMY

Gardy Costas Sanchez is the Vice Minister of Justice at the Ministry of Justice in Bolivia. Tasked with implementing protections for domestic workers, Costas Sanchez is a political leader who is ready to tackle her challenging new role head-on. A long-time supporter of domestic workers, she places them at the centre of her duty to promote women's access to decent work under the National Plan of Equal Opportunities that her office is enforcing. "This is a historic moment for our country which is transforming into a plurinational state and with that is implementing its Constitution of 2008. Law 2450 of 9 April 2003 was enacted long before the process of transformation started, which is why it represents an important advancement for domestic workers, who have historically faced gender, social and economic discrimination." She admits that the law has largely not moved from paper to action. "Eight years have passed since the law was enacted. Nevertheless it has had little impact which is mainly due to the weaknesses of the state, social processes and changes in the constitution that have happened during the last few years."

The recently appointed Vice Minister of Justice is also quick to acknowledge those who have gone before her. "The plurinational state will ensure the implementation of this law, and implement other norms to protect domestic workers. An example is the Supreme Decree No. 28655 that declared 30 March the "National Day of the Domestic Worker", announced by President Evo Morales in the presence of the former Minister of Justice, Casimira Rodriguez." Her team currently works on two priority areas – eliminating informal and insecure employment of domestic workers through labour laws and enforcing social security by proposing unemployment benefits and implementing a pension system that will include domestic workers. "The National Plan for Equal Opportunities recognizes that domestic work is a social contribution without which the economic system cannot function. So far, women's contribution has not been recognized, which represents a major challenge for our ministry and for women's organizations." Costas Sanchez is implementing a new policy to measure the value of domestic work. "It's a step towards conducting a domestic time use survey."

Costas Sanchez is committed to working with women's organizations. She acknowledges that the government must coordinate more effectively with domestic workers and their support groups. To better implement the Law 2450, the government of Bolivia has completed the process of ratifying the ILO Convention, which provides added momentum to implementing improved protections for domestic workers.

COMPLETING THE RATIFICATION PROCESS FOR THE
DOMESTIC WORKERS CONVENTION, PROVIDES
MOMENTUM FOR IMPROVED SOCIAL PROTECTION
FOR DOMESTIC WORKERS IN BOLIVIA

ENDNOTES

1. Interview with Ely Peredo, Director, Fundación Solón (14 June 2011, New York, United States).
2. See for instance, the Supreme Decree No. 28655 of President Evo Morales, made in 2006, declaring 30 March Domestic Workers' Day and a paid holiday in Bolivia, which quotes 131,000 domestic workers, Fundación Solón (2001) *Perspectivas de acción en la lucha de las trabajadoras del hogar por el derecho a la igualdad* and the following item on Casimira Rodríguez by the Ashoka Foundation (Rodríguez was a 2007 Ashoka Fellow) which cites a figure of 150,000: <http://www.ashoka.org/fellow/4070>.
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“WE’VE GOT PEOPLE POWER!”

**PATRICIA FRANCOIS, A DOMESTIC WORKER,
DISCUSSES THE DOMESTIC WORKERS’
BILL OF RIGHTS IN NEW YORK STATE**

FRANCOIS’S KEY MESSAGES

Domestic work is the work that makes all other work possible

We demand labour laws and contracts that will recognise domestic work as real work and end the exploitation of workers, once and for all

We must educate each other, our employers, our governments and employment agencies to turn words into action !

“The work that we did for the past eight years was not just for ourselves ...it was for women, state to state, coast to coast, national and international. It’s not just about us in New York. We’ve got people power...and that’s the most powerful kind of power there is. We move mountains!”

THE NEW YORK STATE DOMESTIC WORKERS' BILL OF RIGHTS

THE CONTEXT

- There are over 200,000 domestic workers in New York City, at least 600,000 in New York State,¹ and 1.8 to 2.5 million in the United States.²
- In New York State, 99% of workers are foreign born, 95% are persons of colour, and 93% are female.³ Nearly 60% of domestic workers in New York are the primary income earners for their families.⁴
- It is unknown how many households employ domestic workers in New York. However, it is estimated that at least 43% of women working outside the home in the United States hire domestic care workers.⁵ The United States Bureau of Labor Statistics estimates that personal care, home-care and health care aide jobs will increase by 50% from 2008-2018. The numbers of Americans who need long-term care will more than double from 13 million to 27 million by 2050, due mainly to a growing population of older persons.⁶
- In 2000, domestic workers in New York came together to form the New York Domestic Workers Justice Coalition, which includes Domestic Workers United, Damayan Migrant Workers' Association, Unity Housecleaners of the Workplace Project, Andolan, Haitian Women for Haitian Refugees and Adhikaar. The largest organization which acts as a focal point is Domestic Workers United (DWU).
- The Coalition, together with the US National Domestic Workers Alliance (NDWA), Employers for Justice and other groups advocated for 8 years for a Domestic Workers' Bill of Rights (Section 10 of A. 1470B/ S. 2311-E), which became law on 29 November 2010.⁷

THE LAW

- The Domestic Workers' Bill of Rights guarantees the following protections:⁸
 1. It allows them normal working time of 8 hours a day, 40 hours a week for live-out domestic workers and 44 for live-in domestic workers.
 2. It gives them the same minimum wage as workers in New York State (USD 7.25 per hour).
 3. It requires employers to pay overtime pay of 1 and 1/2 times the worker's regular wages.
 4. It allows one rest day in each calendar week, which should coincide with the worker's day of worship.
 5. It provides 3 paid days off, after 1 year of employment.
 6. It prohibits workplace discrimination and sexual harassment based on race, gender, sexual orientation, religion, national origin, disability, marital status and domestic violence victim status.

THE "CHILDREN AND FAMILIES MARCH FOR DOMESTIC WORKERS RIGHTS", WHERE CHILDREN AND ADULTS WHO HAD BEEN CARED FOR BY DOMESTIC WORKERS SPOKE OUT AND DEMANDED REFORM, BUILT SOLIDARITY BETWEEN WORKERS, EMPLOYERS AND FAMILY MEMBERS WHO WERE CARE RECIPIENTS

SUCCESS FACTORS IN ACHIEVING THE LAW

- **Emphasizing workers' leadership.** For instance at DWU, workers formed a campaign organizing committee together with staff and legal advisors. They helped integrate the campaign for the then-bill into all aspects of DWU's annual work plan – for instance participants in the nanny training course were encouraged to attend campaign meetings, events, and weekly trips to the Albany (the New York State capital). Leadership training courses built workers' skills to strategize and communicate with the media and members, and media and artworks livened up campaign rallies and press conferences to raise awareness of the bill.⁹
- **Building cross-sectoral alliances with employers and unions.** By 2008, the New York Domestic Workers Justice Coalition was supported by over 100 organizations in New York City. Faith-based groups assisted the campaign by inviting domestic workers to speak to congregations, and the Coalition supported diverse minority rights organizations including unions (see below) and farm workers' associations. The strong relationship between DWU and Jews for Racial and Economic Justice (JFREJ) propelled the "Employers for Justice" campaign in support of domestic workers' rights.¹⁰ Events like the "Children and Families March for Domestic Workers Rights" where children and adults who had been cared for by domestic workers spoke out and demanded reform, built solidarity between workers, employers and family members who were care recipients.¹¹
- **Altering the discourse of domestic work by framing the debate as a civil rights issue in the media.** The Coalition has framed the Bill of Rights as a matter of civil rights rooted in the history of slavery. Excluding workers who are mostly migrant women from the global South has been framed as tantamount to segregationist Jim Crow laws.¹² DWU gained some high-profile media attention including the publication of its flagship report, *Home is Where the Work Is*, spots on current affairs television shows, and articles in widely read newspapers like *The New York Times* (on the Bill of Rights) and *The Financial Times* (on a bill on rights for workers employed in hotels, recently published in May 2011).

FRANCOIS'S STORY

14-HOUR BUS RIDES TO ALBANY EVERY MONTH,
OVER 6 YEARS OF CAMPAIGNING, FOR 1 LAW

Patricia Francois is a domestic worker from Trinidad and Tobago. She has lived in New York City for over a decade, and belongs to Domestic Workers' United (DWU). Francois is one of a core group of DWU members who contributed to the organization's strategizing for the Bill, marched at rallies, spoke to the media and made monthly trips to Albany, the State capital, over the course of six years, to educate legislators on the need to reform labour laws to include domestic work.

As a DWU "Ambassador", Francois reaches out to women whom she recognizes as domestic workers whenever she can – on late subway rides home or on Saturday afternoons at Prospect Park in Brooklyn. She tells them about key protections in the Bill like regular working hours, a minimum wage, overtime pay, protection from sexual harassment. Too many don't know about their rights - or the value of their work. "It is very important work that we do. We are taking care of the future generation, taking care of the elderly, taking care of people's worldly possessions. We do our job so that employers can do theirs...If we don't go to work, they can't go to work." She sees the Bill as breaking an historical pattern of exclusion that has seen domestic workers excluded from labour laws, denied protections and barred from forming unions.

The new law's impact on domestic workers is growing, because Francois and her colleagues are working with Employers for Justice who fought alongside workers in the campaign for the Bill and the State's Labour Department to implement mass public education programs for work-

ers, employers and employment agencies. Attitudes are shifting with increased media attention to the treatment of domestic workers, as well as other excluded workers, including hotel and hospitality employees in New York City. "Employers especially are getting word of what is happening. It's on the news, it's on the internet... Knowledge is power and once the knowledge is out there, we will see more improvements". Workers are still campaigning for the right to join unions in New York State, and for similar Bills of Rights in California and at the national level, with the National Domestic Workers Alliance. Francois believes that DWU's successful strategies include: using the peer-educator Ambassador system, forging solidarity with other excluded workers and human rights groups, and getting "mega-publicity" for the issue in the media. "One of my dreams is that one day all domestic workers should stop work and we should see what would happen... it would get a lot of attention worldwide".

Slowly, the law is starting to make a difference. Francois adds that her sisters at DWU are enjoying improved working conditions. At a recent meeting one member shared, "Now that I have Sundays off, I can go to church during the day and call my kids back home in the evenings. It's a day when I can do my own grocery shopping for a change, and walk around the park without pushing a pram". Another DWU member, Annie Morris,* who migrated to New York from St. Vincent and the Grenadines, recently successfully claimed overtime wages after her employer refused to pay up. "I was working 50 hours each week for a family, so I was able to claim for that extra ten hours per week."

IF WE DON'T GO
TO WORK,
THEY CAN'T GO
TO WORK

* Name changed for privacy reasons.

“TRADE UNIONS MUST LINK ARMS WITH DOMESTIC WORKERS!”

SAYS ANA AVENDAÑO, OF AFL-CIO

THE UNITED STATES' UNION MOVEMENT

AVENDAÑO'S KEY MESSAGES

The new law sets a precedent to bring other informal workers who are excluded from protections into the formal economy

Unions must share their collective bargaining expertise

Unions must work with all excluded workers to build a movement that's bigger than us. We are stronger when we act together!

“We have been working with migrant domestic workers and workers in the informal economy for years...the nature of the low-wage market in the United States means that workers work in different jobs. They might be janitors one day and domestic workers the next, during their working week. We build collective power among low wage workers. It involves a lot more than inviting them to a union meeting...domestic workers need leadership positions on union boards, they need space to strategise on campaigns, help shape policy issues and have a voice – not just fill a gap.”

AVENDAÑO'S STORY:

“WE MUST WORK WITH THESE NEW WORKER FORMATIONS TO BUILD TOGETHER A MUCH BROADER, MORE INCLUSIVE LABOUR MOVEMENT”

Ana Avendaño is the Assistant to the President and Director of Immigration and Community Action at AFL-CIO (American Federation of Labor – Congress of Industrial Organizations). The AFL-CIO represents the US union movement and is affiliated with the International Trade Union Confederation (ITUC). Avendaño believes that unions must formally incorporate domestic workers into their structures, especially in countries like the United States where they and other excluded workers – who are mostly migrants working in low-wage industries – cannot form unions. These excluded workers include more than 1.5 million farm workers, 3 million “tipped workers” employed mainly in the hospitality sector and hundreds of thousands of guest workers and day-labourers.¹³ “From a union perspective, the success of the New York domestic workers is that they found a solution through the legislative process and were actually able to implement it, especially as migrant workers and women who were seen as destined to be permanently excluded from protections. They proved that narrative wrong.” The Domestic Workers’ Bill of Rights is a precedent setter that could transform the narrative of discrimination, invisibilisation and relegation to the informal economy for other excluded workers, who are currently campaigning for protections with unions.

The power of collective action is what connects unions to domestic workers’ organizations like the **National Domestic Workers Alliance (NDWA)**, a formal partner

of the AFL-CIO. Avendaño believes that, “One domestic worker couldn’t have done this on her own. It took a diverse group of individuals acting together. And that’s what we in the union movement protect, the right of workers to act collectively.” The Bill of Rights requires the Department of Labour to report on the possibility of allowing domestic workers collective bargaining power.¹⁴ This right is also guaranteed under international law via the ILO Convention on Decent Work for Domestic Workers and the Committee on Migrant Workers’ General Comment No. 1 on Migrant Domestic Workers.¹⁵ The union is advocating with domestic workers for this right to be upheld – something that requires further reforms. “We worked very closely with DWU, the NDWA and others in responding to the report on collective bargaining and are continuing to work with them to develop collective bargaining models.”

The AFL-CIO, together with the **NDWA** and **Hand in Hand**, the **Domestic Employers’ Association**, is on the steering committee for a nationwide “Caring Across Generations” campaign that focuses on care workers’ and employers’ rights, including recipients of care services such as children, older persons and persons with disabilities. The steering committee planned a nationwide “Care Congress” that took place in July 2011. The union is also working with the **NDWA** to roll out a mass public education campaign for union members and leaders and employers.

ONE DOMESTIC WORKER COULDN'T HAVE DONE THIS ON HER OWN. IT TOOK A DIVERSE GROUP OF INDIVIDUALS ACTING TOGETHER AND THAT'S WHAT WE IN THE UNION MOVEMENT PROTECT, THE RIGHT OF WORKER'S TO ACT COLLECTIVELY

“THE NEW BILL OF RIGHTS HELPS EMPLOYERS DO RIGHT BY THOSE WORKING IN THEIR HOMES”

**ELIZABETH MCGEE, A DOMESTIC EMPLOYER
IN NEW YORK**

McGEE'S KEY MESSAGES

Domestic workers deserve decent working conditions and wages

When we employ domestic workers, our homes become workplaces

Mutually respectful and fair relationships between employers and employees promote good service

“The New York Domestic Workers’ Bill of Rights supports a shift in the mental model that most people hold about the obligations of domestic employers. Those who work in homes should have the kind of pay-and-benefit package all Americans want – fair wages, standard hours, and paid time off for vacation, sickness, or personal needs.”

McGEE'S STORY:

DOMESTIC WORK IS NOT JUST ABOUT WEALTHY

FAMILIES IN MANHATTAN. DOWNSTATE, UPSTATE, ALL OF US
NEED HELP IN OUR HOMES FROM TIME TO TIME

Elizabeth McGee is an employer in Brooklyn, New York. Three years ago, she joined the *Employers for Justice* network that *Jews for Economic and Racial Justice* organized in support of a Domestic Workers' Bill of Rights for New York State. Now she is an active supporter of *Hand in Hand*, the Domestic Employers Association in the United States. "Hand in Hand wants to change how Americans think about domestic workers in order to create a *new domestic workplace*, grounded in public policies and cultural norms that allow employers of domestic workers and their workers to build effective partnerships with each other."

For McGee, focusing on employment for domestic work "has to become a priority. The United States is in the midst of a care crisis. At some point, the crisis becomes our problem. Millions of us, families and individuals, struggle with securing care for ourselves or for loved ones who are seniors, children, people with disabilities, or the chronically ill. Sooner or later, we need health aides, direct-care attendants, nannies, housecleaners, or other caregivers, on a part-time or full-time basis, to provide in-home services."

McGee participated in the campaign for New York's Domestic Workers' Bill of Rights because she believes, "Fair domestic labor standards for domestic workers implemented in sensible and practical ways, support employers establishing relationships with their employees that are

more productive, efficient, and ethical than is often the case today. Such standards will make it more likely that employers can meet their care needs, maintain a clear conscience, and manage employment processes with ease and competence--for example, by making it commonplace to use employment contracts, with user-friendly formats, comprehensive coverage of relevant issues, and guidance regarding best practice behavior."

McGee notes that, "Domestic labour standards will also help to right a historic wrong. The New Deal labour legislation excluded domestic workers. Caregiving should be honored as an important occupation, with standard legal protections. Women deserve respect and fair treatment for 'care work,' which has traditionally been devalued in the marketplace because it is regarded as 'women's work.'"

McGee stresses that domestic workers' wellbeing is something that affects families everywhere. When talking with New York State legislators about the Domestic Workers' Bill of Rights, McGee found that most of them thought of domestic workers as people hired only by the rich. "I began to ask each legislator I met, 'Have you or a member of your family ever hired someone to look after your children, care for an elderly relative, or clean house?' This question changed the conversation immediately. Now they saw themselves in the picture. As we all should."

FAIR LABOR STANDARDS FOR DOMESTIC WORKERS
REINFORCE ETHICAL AND GOOD RELATIONSHIPS
BETWEEN EMPLOYERS AND EMPLOYEES.
EMPLOYERS CAN BETTER MEET THEIR CARE NEEDS,
MAINTAIN A CLEAR CONSCIENCE, AND BETTER
MANAGE THE EMPLOYMENT PROCESS

“THE MOST IMPORTANT THING FOR WORKERS, THEIR FAMILIES, AND EMPLOYERS IS TO HAVE A LAW THAT PROVIDES STABILITY AND CLEAR GUIDELINES”

SENATOR DIANE J. SAVINO,

A LEGISLATOR IN NEW YORK STATE,

CHAMPIONS THE DOMESTIC WORKERS’ BILL OF RIGHTS

SENATOR SAVINO’S KEY MESSAGES

Domestic workers must educate lawmakers about the need for protections

Supportive lawmakers must talk to other decision-makers to address their concerns and gain their support for law reforms

“My suggestion is that legislators who support domestic workers’ rights should avoid vilifying employers...Don’t assume the worst about them. The truth is that some legislators have nannies themselves and may be unsure of how to address the issue. Do what I did. Spend some time talking to individual members, find out what their concerns are, and find out if something can be done legislatively... if law reform is possible, then go for it!”

SAVINO'S STORY:

“‘WHAT SHOULD I DO IF I EMPLOY A DOMESTIC WORKER?’
EMPLOYERS WANTED TO KNOW”.

Senator **Diane J. Savino** is a New York State Senator, representing the 23rd Senatorial District which covers parts of Staten Island and Brooklyn. Senator Savino is committed to improving the lives of working families and promoting labour rights. Savino sponsored the Domestic Workers' Bill of Rights and began a year and a half-long campaign to rally for support from fellow legislators, Republicans and Democrats. Initially, Savino says, “I was actually stunned to learn about domestic workers in New York. I always knew that there were groups of workers who weren't treated fairly under the law...but there was almost a failure to recognise this invisible workforce of domestic workers. When it came to my attention that this was a struggle yet to be overcome, I immediately became involved with DWU and Keith Wright who was the Assembly sponsor of the Bill”. She credits DWU for approaching lawmakers not just with a problem but a solution in the form of the Bill.

Savino is convinced that governments seeking to adopt similar laws must also take a positive, constructive approach. Rather than dismissing opposition to protections for workers, lawmakers must build alliances with as many decision-makers as possible. The first step is educating col-

leagues about the situation of domestic workers in their city, state or country. “Many legislators employ domestic workers. Where lawmakers were unsure about supporting the Bill, it was important to treat their concerns as valid, and not dismiss them”.

Garnering wide-ranging support was possible because Savino developed her own expertise on the issue, with the help of DWU and others. “None of us would have known about it if it wasn't for the work of DWU...What was it that propelled them forward? It was simple, old-fashioned organizing; the kind that they were legally barred from doing...it was the beginning of a real movement”. The Bill was first introduced in 2006, but it gained traction in 2009. Savino reintroduced the Bill as its primary sponsor and it began to gather steam. Another success factor was the solidarity shown by the then-Governor of New York David Patterson, who was determined to sign the Bill of Rights into law during his tenure. The Bill survived several drafts and re-drafts. “I spent more time explaining what a domestic worker was not than what they are...We had to seriously think about how we wanted to define a domestic worker under the law”.

MANY LEGISLATORS EMPLOY DOMESTIC WORKERS.
WHERE LAW MAKERS ARE UNSURE ABOUT
SUPPORTING A BILL, IT IS IMPORTANT TO TREAT
THEIR CONCERNS AS VALID, AND NOT DISMISS
THEM. LAW MAKERS MUST BUILD ALLIANCES
WITH AS MANY DECISION-MAKERS AS POSSIBLE,
BEGINNING WITH EDUCATING COLLEAGUES
ABOUT THE SITUATION OF DOMESTIC WORKERS
IN THEIR CITY, STATE OR COUNTRY.

How do governments benefit by implementing protections for domestic workers? For the Senator, when every member of the legislature who either voted for or worked on the law for their constituents has achieved a victory, governments always benefit. Lawmakers in New York were also able to create certainty about how the domestic work sector would be regulated. “The most important thing for workers and their families, and for employers, is that there is now some stability and some rules to follow. And that was one of the things that employers asked us – ‘What do I do if I have a nanny working for me in my home?’” At the time of being interviewed, Savino and her colleagues were waiting for the Department of Labour to update them on whether domestic workers should be granted collective bargaining rights. Former Governor Patterson also strongly advocated for the final version of the law to include the recommendation to consider these rights.

Savino believes that both the Department of Labour and domestic workers’ organizations are well-positioned to continue to raise public awareness of the new law. Although the Bill of Rights is being implemented, it remains “under the radar” of public consciousness and role of civil society is crucial to changing this situation. “Because it requires proactive measures on the part of both employers and domestic workers, DWU has become even more important because it serves as the clearing house for questions and concerns.” She hopes that the domestic workers’ success will inspire other low-wage, immigrant and women workers to claim protections – “DWU is a good advocacy organization and was able to collect information and present it strategically to the legislature. This strategy would benefit other groups of workers who are living and working in the shadows”. Raising consciousness of the rights of domestic workers and other excluded workers will not be easy, but the bravery of DWU and others continues to be an inspiration. “The fact that these workers won protections at a time when workers everywhere are finding that their rights are under attack, is a real victory”.

ENDNOTES

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“I BECAME A CHILD DOMESTIC WORKER WHEN I WAS 13 YEARS OLD...NOW AT 24 I RUN A NATIONAL ORGANIZATION AND ADVOCATE FOR MY FELLOW WORKERS”



SAYS LILIBETH MASAMLOC,
A DOMESTIC WORKER IN THE PHILIPPINES

**MASAMLOC’S
KEY MESSAGES**

Countries like the Philippines who have many overseas migrant domestic workers, must protect their domestic workers at home

Child domestic workers, especially girls and young women, need special protections from discrimination and violence including sexual violence

We must work at the local level – to convince local governments, employment agencies and employers to protect domestic workers

“While working as a child domestic worker I experienced different kinds of verbal abuse that really affected me as a person... I used my day off every Sunday to continue my schooling. Our school was a partner of the Visayan Forum which is a partner of SUMAPI. I had heard of SUMAPI because they were doing room to room orientation then... I requested a meeting with my school administrator... and actively became involved in SUMAPI when I was 16.”

A MAGNA CARTA FOR FILIPINO DOMESTIC WORKERS

THE CONTEXT

- The number of domestic workers in the Philippines is estimated at between 600,000 and 2.5 million. Visayan Forum Foundation, a civil society organization that advocates for domestic workers, estimates that around 1 million domestic workers are children.¹
- In the Philippines domestic work is performed mostly by women and young girls – 84.8% are female. Domestic work represents over 11% of female employment and more than 5.3% of total employment in the Philippines.²
- SUMAPI is the national organization for domestic workers that has been advocating for protections, including the Batas Kasambahay or Magna Carta for domestic workers. Created in 1995, SUMAPI is a woman-run organization, 92% of its members are women and many are young girls who are former child domestic workers.
- The Philippines is also a major country of origin for migrant domestic workers. According to official statistics, 96,583 domestic workers migrated overseas for work in 2010 – a 54% increase since 2004. These workers migrated mainly to other Asian countries and the Arab States and around 98% were women.³

THE BATAS KASAMBAHAY OR MAGNA CARTA FOR DOMESTIC WORKERS

- The Batas Kasambahay Bill is the Magna Carta for domestic workers who are employed in the Philippines. It was signed into law on the 18th of January, 2013 by President Benigno Aquino III.
- The Batas Kasambahay extends labour and social protections to locally employed domestic workers in the Philippines. Some of these protections are already present for Filipino migrant domestic workers e.g. employment contracts with fair working and living conditions.
- Key protections in the proposed Batas Kasambahay law are:
 1. A written contract signed before starting work, in a dialect or language understood by both worker and employer;
 2. Regularly paid minimum wages and registration of employment with local government;
 3. 5 day incentive leaves per year in addition to the 1 rest day per week and a maximum daily working hours with provisions for overtime pay;
 4. Workers' coverage under the social security system, including health insurance;
 5. Basic accommodation and meals for live-in domestic workers;
 6. Paid annual leave and maternity and paternity leave for domestic workers; and
 7. Protection against abuse and violence, forced labour, debt, bondage and trafficking in persons and clear penalties in case of violation of the law.

POLITICAL COMMITMENT AT THE HIGHEST LEVELS
COMBINED WITH A DYNAMIC CIVIL SOCIETY
HAS LED TO PRECEDENT SETTING INITIATIVES IN
THE PHILIPPINES FOR DOMESTIC WORKERS

SUCCESS FACTORS FOR THE KASAMBAHAY LAW

- **Political commitment at both the national and local levels.** The Magna Carta for Domestic Workers has been championed by a large cohort of leading politicians including President Benigno Aquino III, who urged for it to become law during his State of the Nation Address in July 2011. Secretary of Labour Hon. Rosalinda Baldoz launched the Department of Labour and Employment's "I Support Kasambahay" Campaign to raise awareness of the Government's plan to push for ratification of the ILO Convention and the speedy passage of the Bill. The Philippine National Commission for Women and its Executive Director Ms. Emmeline Verzosa, had also been advocating for the Bill to become law. The ILO Convention was ratified by the government of the Philippines in September 2012 and the Kasambahay Bill was signed into law on 18th January 2013 by President Benigno Aquino III. Local governments were a step ahead - they had already started implementing their responsibilities under the Kasambahay Bill. Since 2005 local government units have been passing local ordinances to register and provide programs for domestic workers in major cities.⁴
- **Dynamic civil society advocacy to change laws and attitudes.** SUMAPI, Visayan Forum Foundation and other groups representing domestic workers, women and migrants have spearheaded the campaign not just for a new law, but changed attitudes towards domestic workers. Their campaign for decent work has resulted in "kasambahay", (household helper) becoming the preferred term compared to other less respectful terms for domestic workers. Changing the name for domestic work has transformed public attitudes towards it – a 2005 survey by Social Weather Stations found that 49% of Filipinos were aware of the Kasambahay Bill and 87% supported it.⁵ In 2006, the Government declared April 30 National Domestic Workers' Day which civil society groups actively celebrate every year. Visayan Forum Foundation and SUMAPI also co-launched a Technical Working Group for the Batas Kasambahay, advocating for their own version. They co-organized the third national Domestic Workers' Summit from 9-11 November 2011, launching their campaign to ratify the ILO Convention and pass the bill into law. Domestic workers and their supporters also regularly do media outreach – Lilibeth Masamloc (profiled here) has regularly been making television appearances on the shows of former Senators Dong Puno and Dick Gordon who support the law.

MASAMLOC'S STORY:

FROM ABUSED CHILD DOMESTIC WORKER

TO EMPOWERED YOUNG WOMAN LEADER

Lilibeth Masamloc was the former President of SUMAPI (no longer a member), the national organization for local domestic workers created in 1995 with the assistance of the Visayan Forum Foundation. As a child forced into domestic work, she suffered at the hands of abusive employers. "In the morning and afternoon I used to clean the house and do all the household chores and every night they would assign me to their mini-bar business in Davao City. I received the same salary as my employer agreed to pay me at the start, to be a child domestic worker." Masamloc found refuge at a Sunday school she attended on her day off, where she learned about her rights. Masamloc met with her school administrator who directed her to SUMAPI. She quickly became actively involved, rising through the ranks.

In the Philippines the legal working age is 15. However, "A great number of SUMAPI's members are child domestic workers...we had partnerships with schools to educate teachers on the situation of child domestic workers. Teachers can intervene before children are forced to drop out of school to work. "We also organized creative activities for children. In our many workshops all of the child domestic workers are female." Many local domestic workers are also victims of trafficking and servitude. "In our outreach in parks, schools and even in the community we found out that many domestic workers were trafficked and recruited from other cities to work in Manila." Masamloc and colleagues worked with the Visayan Forum Foundation to assist victims in halfway houses constructed by the Philippines Ports Authority and the Manila International Airport Authority.

Together, SUMAPI and Visayan Forum Foundation have assisted over 13,000 victims and potential victims of trafficking. SUMAPI has conducted outreach to over 20,000 domestic workers in the Philippines.

Being a young woman leader has its challenges. However, Masamloc has been at the forefront of efforts to ratify the ILO Convention and pass the Kasambahay Bill. Her highlight from the ILC was meeting other domestic workers' groups from Asia. "We had a meeting with the national domestic workers' movement in India and met other groups from Malaysia and Nepal...We organized an event with Anti-Slavery International and Children Unite where I was a panelist and I shared the best practices of the Philippines when it comes to adopting the Kasambahay Bill." At home, pushing lawmakers to pass the Bill has been her top priority – "We talked to the Labour Committee and its Chair, Congressman Emiliano Ong, to push the passage of the Bill." A crucial part of her advocacy is working with local government. "I met with the Provincial Women's Coordinating Council to influence them to have local ordinances for domestic workers...we got 5 local ordinances in 5 major cities...Having Kasambahay Desk Officers in every administrative district helped us a lot."

"Our capacity is not enough to gather all the 2 million workers in the Philippines...we see the urgency to really strategise our own efforts and programs to respond to child domestic workers and other situations. We were able to gather 1 million signatures to support the passage of the Kasambahay Bill! This was really an achievement for us!"

WE MUST WORK WITH LOCAL GOVERNMENTS
IN AREAS WHERE DOMESTIC WORKERS
ARE EMPLOYED. ...WE NEED TO MAKE GRIEVANCE
PROCESSES WORK AT THE LOCAL LEVEL.

**“WE UNIONS WON’T
FULFILL OUR GOALS IF WE
DON’T INVOLVE DOMESTIC
WORKERS...THEY ARE THE
ONES WHO ARE EXCLUDED
FROM PROTECTION”**



**SAYS FLOR CABATINGAN OF THE TRADE
UNION CONGRESS OF THE PHILIPPINES (TUPC)**

CABATINGAN’S KEY MESSAGES

Trade unions must protect domestic workers from labour and human rights violations including discrimination, violence and trafficking

Other workers must realize that protecting domestic workers benefits them too

Employers who support domestic workers are not just found in employer’s associations – they are ordinary union members and citizens

“I was able to help a teenage girl who was a victim of internal trafficking...like many local domestic workers she went to work in a city. Her mother who was from Mindanao asked me for help to look for her daughter ...When we went into the area the daughter, who was 17 or 18 years old said the employer had taken her phone and would padlock her in the house where there were no children, but 16 dogs. With the trade union representation in the area we were able to rescue the girl from the situation and send her home.”

CABATINGAN'S STORY:

A WOMEN'S RIGHTS ADVOCATE WHO WANTS

ALL WORKERS TO SUPPORT DOMESTIC WORKERS

Flor Cabatingan belongs to the Trade Union Congress of the Philippines (TUCP), working with SUMAPI and domestic workers' advocates. Cabatingan speaks openly of the difficulties trade unions face when engaging domestic workers. "Trade unions in the Philippines focus on formal workers, and the process is easy...it's really the informal workers like domestic workers who are invisible and not seen...we have 20% more informal than formal workers in our country." Remembering the young girl that she helped to rescue from abusive employers, she adds that many poor families living in rural areas are forced to send their daughters to the cities to become domestic workers. "Even if the father is working in a plantation company and he has good work, it's not enough for the family. The children of trade union workers tend to become domestic workers as well...what I see was young girls taking up this work. Boys are usually allowed to stay in school."

She relishes the challenge of getting employers on board to support domestic workers. At a summit she helped organize for domestic workers, Cabatingan and colleagues reached out beyond formal employers' organizations. "We tried to invite employers' organizations to take part but they had very limited representation. However the whole group were actually employers, as migrant workers and their families who are in the millions are also employers of domestic workers here in the Philippines." Convincing other workers to extend protections to the domestic work sector was hard won. "When we discussed the Kasambahay Bill there were a lot of questions – 'Why are domestic workers asking for this much? And benefits we don't have like living

arrangements, personal care and education services? Then we discussed that domestic work is real work and domestic workers should not be isolated...but given dignity as workers...they realized that by helping domestic workers advocate for the passage of the ILO Convention and the Bill they were actually helping their own daughters and wives who were undertaking domestic work."

How do Cabatingan and the TUCP benefit from assisting domestic workers and their organizations? Of the decent work campaign, Cabatingan says, "It gives us impetus to consolidate trade union strength. It puts trade unions in the limelight for the public to see what we are really doing. It also focuses on other sectors that are also considered as informal and where workers could be assisted." What next? "We have had a social dialogue process between workers and employers to talk about the Kasambahay Bill and how they could advocate for its passage and address complaints from domestic workers' organizations."

Cabatingan and her colleagues also offers domestic workers health services by union doctors, nurses and dentists. Civil society cannot work alone. Working with the local government is essential. Cabatingan's final advice to domestic workers and their supporters in the Philippines – "We must work with local governments in areas where domestic workers are employed...a copy of the individual written employment agreement must be given to the local government. They could decide whether a complaint by the worker is valid or not... we need to make grievance processes work at the local level."

WE HAVE 20% MORE INFORMAL
THAN FORMAL WORKERS IN OUR COUNTRY

“SOMEBODY ELSE TAKES THE BURDEN OF WORK OFF YOUR SHOULDERS, AND THE ANXIETY OF LEAVING CHILDREN BEHIND. EVERYBODY HAS TO ACKNOWLEDGE THIS”



**SAYS AURORA JAVATE DE DIOS,
AN EMPLOYER IN THE PHILIPPINES**

JAVATE DE DIOS'S KEY MESSAGES

Many Filipino employers do treat their kasambahay fairly – but we still need laws that protect them and employers

We employers should make sure our workers have regular health checks and medical insurance – we are better off with healthy workers

We need to spell out the amount and kinds of work to be done so that workers get daily and weekly rest and paid annual leave

“In the United States my sister had to give up her profession to take care of three kids, because she had to take them to school and look after them and so on. I didn't have to sacrifice my career, because someone else had to sacrifice her own chances to help me with my career path. This is a side of many women's professional success... somebody has to help us along, look after our children...without kasambahay we working women could not manage.”

JAVATE DE DIOS'S STORY:

A PROFESSIONAL WOMAN WHOSE CAREER TOOK FLIGHT WITH THE HELP OF HER *KASAMBAHAY*

Aurora Javate De Dios is an employer who knows that when her domestic workers' rights are respected, so are hers. When she gets to sign a contract with her worker, they are both protected. "Many *kasambahay*, especially young women with young children, are not able to keep a promise of one or two years' employment...because they are worried about their own children, they say they cannot last for more than a year. I just ask for a few days' notice so that I can be prepared..." The uncertainty of knowing that workers may suddenly leave is why she prefers "somebody who is older and already has grown up kids who can look after my mother...if my mother wants to go to church on Sunday, and if I can't take her then we have someone who can." But, as someone who has previously employed *kasambahay* to care for her young children, De Dios agrees that employers need certainty that their worker will really be there for them. In return, her long-term *kasambahay* have become more like members of her family. "We had a *yaya*, a child-minder...Of course domestic workers are looking for a good salary but more importantly, good treatment. We have never really treated our *kasambahay* as someone foreign to us or someone who is a stranger to the family...my kids still maintain their close connections with their *yaya* from when they were young.

In the Philippines, many domestic workers are distant relatives or from the same village as employers' families. "Domestic workers would come from either my family or my husband's family, somebody who is either a distant relative or related to a domestic worker who has been with the family for a long time. However nowadays you find a lot of recruitment agencies scouring the rural areas." A Professor at Miriam College in the Philippines and Director of the Women and Gender Institute, De Dios travels to villages to study trafficking of girls and young women. "Recruiters have a pleasing personality and sometimes are connected to poor families who are so casual in entrusting their daughters to go to the cities...for a down-payment of 3-5,000 pesos, which is around 100 US dollars or less than...it was so amazing to me that they could entrust their children to these people. No one wanted to admit that their daughter was trafficked." Poor families need more and decent work, including for women, in their own villages and communities. "The night school is very close to my house...we had three or four *kasambahay* who graduated from high school. One of them graduated at the top of her class, she got the leadership award...those individuals were able to escape the poverty trap...Otherwise they would go home, marry a man in their area who was just as poor, and the cycle would continue."

WHEN A DOMESTIC WORKER'S RIGHTS
ARE RESPECTED, SO IS THE EMPLOYER.
WHEN AN EMPLOYER SIGNS A CONTRACT WITH
THE WORKER, THEY ARE BOTH PROTECTED

How can employers help their workers? “Every year our workers have a health check, all of them including the drivers. Every time they are sick, it is my responsibility because they live with me. They have health insurance. They go back home to the provinces with full pay for at least a month each year.” A day off every Sunday is crucial. “They have their own private rooms which I think is so important...They have working hours, and after dinner work is done, they can watch TV. They are free to go out once a week and sometimes I have to ask them, ‘Why aren’t you going out?’ It also costs money to go out...so I say ‘If you’re going out, then here’s a little bit of money – spend it, watch a movie...’” Like many employers, De Dios is amazed by the sacrifices her *kasambahay* have made for her family and their own. Many send most of their money home. They are nearly always eldest daughters, sending money to their

parents to look after their farms, sisters who must pay for school, or families whose houses have been destroyed by typhoons. “I don’t think it’s devaluing the girls so much as giving the responsibility to the girls. Because girls are generally reliable, they are also normally expected to be obedient...the oldest sister is looked upon as the ‘little mother’...and she is tasked with helping to look after the family...That’s the cultural norm in the Philippines.”



“I AM A WOMAN, I AM A MOTHER, I AM A GOVERNMENT OFFICIAL SO I HAVE ALL THESE REASONS TO PROMOTE DECENT WORK FOR OUR HOUSEHOLD HELPERS HERE AT HOME AND AROUND THE GLOBE...”



**SAYS SECRETARY OF LABOUR
ROSALINDA BALDOZ OF THE PHILIPPINES**

BALDOZ’S KEY MESSAGES

Local domestic workers deserve the same protections as migrant domestic workers

Central governments must involve local governments in creating and enforcing protections for domestic workers

Governments must work with domestic workers and their support groups to make protections accessible and effective

“In the Philippines we have civil society groups and women’s groups that protect local domestic workers’ rights. Here at the Department of Labour and Employment, we work closely with them...they help abused domestic workers to come out of the shadows... as it is very difficult for these workers to reach us. It is difficult to get to houses where they are employed as well, because of reasons of privacy. We have the authority and enforcement power to call authorities to our offices so that rights violations can be addressed immediately.”

SECRETARY BALDOZ'S STORY:

A WOMAN, A MOTHER, AND POLITICAL LEADER WHO IS A CHAMPION FOR DOMESTIC WORKERS

The Hon. **Rosalinda Baldoz** is the Secretary of Labour in the Philippines. A practicing lawyer before joining the Department of Labour and Employment where she has worked for over 35 years, Secretary Baldoz is a political trail-blazer with a history of reforming labour and migration laws and policies to protect women workers. "I had my first involvement in improving the lives and conditions of Filipino workers when I was President of the Overseas Employment Association. I was responsible for instituting a reform package for those who work overseas as migrant domestic workers. This included mandatory skills training and certification before they were eligible for overseas employment." Baldoz firmly believes that these requirements must be applied to non-migrant domestic workers. She adds, "We set a minimum wage of USD 400 per month and we also did not allow placement agencies to collect any fees or services from them...employers bore the costs of recruitment and deployment." Applying such reforms to local domestic workers involves taking into account local conditions – so the Batas Kasambahay Bill has different minimum wages depending on where workers are employed. However, the basic principle remains the same. Domestic workers at home deserve protection. She recognizes that local domestic workers are crucial to the Philippines' development. "Here in the Philippines they constitute a very big workforce, they are critical to our economy."

"For those who work overseas, both their families and our economies benefit from their remittances." Poor Filipinos, especially women, migrate internally and internationally as a family survival strategy. "For those who

are working here in the Philippines...the combined remittances and local wage and compensation benefits they get, help to prop up our economies...not just in urban areas but also far flung areas of the country, especially where there is much poverty." Creating a comprehensive package of protections for local and migrant domestic workers is also necessary because many local domestic workers later migrate. "I think that is a very logical and practical decision for them working as household and service workers here. There is a minimum of two years' experience required for them to qualify for overseas jobs, especially high-end jobs in the domestic service sector. Several of them would also qualify for other service-related work in hotels and restaurants."

Secretary Baldoz was involved firsthand in creating the ILO Convention. "I was very much involved in the crafting of the International Convention...in 2010 I was Under-Secretary and Deputy Minister and we were given chairmanship of the second discussion. Initially the Philippines Government took a leadership role and pushed the Convention forward...I have asked for training materials to be disseminated and distributed so everyone will be aware of it. The President has supported our work towards the ratification of the Convention, ratified on 5th September 2012."

The Philippines is recognised worldwide as a leader in protecting domestic workers. "Now that the Kasambahay Bill has become law, we want to partner with local government units, different homeowners' association, civil society groups and advocates of household service workers to ensure it's effective implementation."

HERE IN THE PHILIPPINES, DOMESTIC WORKERS
CONSTITUTE A VERY BIG WORKFORCE,
THEY ARE CRITICAL TO OUR ECONOMY

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ACKNOWLEDGEMENTS

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**“WE HAVE
UNEMPLOYMENT
INSURANCE AND
DISPUTE RESOLUTION
MACHINERY...THESE
ARE GREAT VICTORIES!”**



**SAYS HESTER STEPHENS,
A SOUTH AFRICAN DOMESTIC WORKER**

PHOTO: COURTESY OF HESTER STEPHENS

STEPHENS’ KEY MESSAGES

Domestic workers’ groups must link with women’s organizations and other allies to implement protections for domestic workers

Skills development training for domestic workers benefits workers by improving their employability and building confidence

Employers also benefit when their workers undergo training

“Some domestic workers are afraid of employers...sometimes you find a worker who is very eager to move forward and learn new skills. After the skills development training some of them say to employers “I want to improve myself.”

SOUTH AFRICA'S LAWS AND POLICIES FOR DOMESTIC WORKERS

THE CONTEXT

- The number of domestic workers in South Africa is estimated to range between 876,000 to over 1.2 million,¹ representing 9.4% of the total workforce.²
- Domestic work is the single largest sector of employment for women in South Africa.³ According to the Quarterly Labour Force Survey of November 2011, women constitute 96% of domestic workers.⁴
- Migrant women, especially from neighbouring Lesotho, Zimbabwe and Namibia, represent a growing proportion of domestic workers in South Africa.
- UNWOMEN research in Southern Africa shows that in Johannesburg 80% of female domestic workers were migrants, although only 6% were international/cross-border migrants. Another study by the Southern Africa Migration Programme found that 44% of Basotho female migrants and 6% of Zimbabwean women migrants were employed as domestic workers.⁵ According to the 2001 census, at 88,000, domestic work in private households was the largest source of employment for black women in Johannesburg - the South African city with the largest concentration of internal and international migrants.⁶

MINIMUM WAGE, FAIR WORKING CONDITIONS, UNEMPLOYMENT INSURANCE AND SKILLS DEVELOPMENT FOR DOMESTIC WORKERS

There are three key protections for domestic workers in South Africa:

1. The Sectoral 7 Determination of 2002 of the Basic Conditions of Employment Act No. 75 of 1997 (amended in 2005) guarantees the following:⁷
 - A minimum wage that is automatically raised annually. For 2011 the monthly minimum wage for domestic workers working more than 27 hours a week in an urban area was ZAR 1,506 (roughly USD 180). Those working in non-urban areas were entitled to ZAR 1,256 (USD 152).
 - Maximum working hours of 45 hours per week. Domestic workers who work for 5 days a week must work for a maximum of 9 hours a day, and those who work more than 5 days a week must work for 8 hours each day.
 - A minimum age of 15 for domestic workers. Employers must verify workers' age by requesting a copy of an identity document or birth certificate.
 - A standard employment contract with fair terms and conditions of employment including: the employers' name and address; a description of the type(s) of work to be performed; ordinary working hours and days; the domestic worker's wage and method of payment; the rate of overtime pay; leave provisions; notice periods to terminate employment. The Department of Labour provides a model employment contract on its website.
 - Salary increases and leave entitlements are also provided.

2. The **Unemployment Insurance Amendment Act 2003** which includes domestic workers in the **Unemployment Insurance Fund (IUF)**.

Employers and domestic workers contribute 1% of each of the monthly salary to the Unemployment Insurance Fund which provides the following protections for domestic workers:⁸

- Relief to those who have become partially or fully unemployed because of dismissal, retrenchment or illness.
- Maternity benefits for pregnant domestic workers before or after their children are born, depending on their contributions.

3. **Other social protection policies include the Domestic Workers Skills Development Project** which involves:⁹

- Nationally recognised qualification standards for more than 27,000 domestic workers over a 3-year period in hospitality, cleaning, cooking, child care, elder care and ancillary care including caring for HIV/AIDS patients.
- The Department of Labour's National Skills Fund set aside ZAR 120 million (over USD 14 million) for the Project.
- The Project resulted in 80% of attendees achieving 100% competency.

In South Africa labour authorities publish user friendly information on labour standards for domestic workers and the labour inspectorate has developed innovative means to approach individual households, to verify compliance, respecting the privacy of households.

SUCCESS FACTORS IN ACHIEVING PROTECTIONS

- Promoting domestic work as a profession with skills that deserve respect and remuneration. Both the government and civil society groups are committed to professionalizing domestic work and improving domestic workers' skills. The Domestic Workers Skills Development Project Board brings together government officials, domestic workers and others to improve the current large-scale training programs on offer. Recognizing that domestic work is a real skill not only builds domestic workers' confidence to claim their rights, but by up-skilling domestic workers, the government can better regulate the sector. Employers also benefit from improved services, motivating them to pay fair wages and provide fair living and working conditions under the law.
- Providing human and financial resources to monitor the treatment of domestic workers. With more labour inspectors – and the money to train them – to monitor homes that are workplaces, the South African government helps the law move from paper to practice. According to Virgil Seafeld, Director of Employment Standards at the Department of Labour, training will be up-scaled in 2012 so labour inspectors can protect male and female domestic workers – in South Africa some men employed as household gardeners and drivers are classified as domestic workers. Labour inspection 'blitzes' of neighbourhoods with many live-in domestic workers, sends employers the message that the government is serious about protecting domestic workers.

STEPHENS' STORY:

A DOMESTIC WORKER AND EDUCATOR WHO SUPPORTS FELLOW DOMESTIC WORKERS TO CLAIM THEIR RIGHTS

In 2000 **Hester Stephens** co-founded the South African Domestic Service and Allied Workers Union (SADSAWU) together with Myrtle Witbooi, a fellow long-time advocate for domestic workers' rights. Stephen has been a domestic worker since she was 14 years old, a decision she took because her family was poor and career options for young women were rare during the apartheid era. She performs "double duty" as a full-time domestic worker and President of SADSAWU. "My role has been as educator or facilitator. We have organized workshops, seminars and general meetings for members of SADSAWU to raise their awareness about their rights and to strategize around building our campaigns. I take responsibility for the programme." Stephen prides herself on educating her own employers about domestic workers' rights. She is based in the Salt River Community House in Cape Town. SADSAWU has over 25,000 members who are mostly women, each paying ZAR 120 (less than USD 15) a year in union dues.¹⁰ The union provides services including job training and skills-building workshops; legal advocacy; mediation; and counseling concerning domestic workers' rights. SADSAWU serves both domestic workers and employers. The organization takes on the role "to empower domestic workers and enlighten employers."

Stephen's role as an educator of fellow workers has led her to meet with parliamentary officials to discuss living and working conditions for South African domestic workers. "The government was taking us seriously and these meetings are eventually leading to the legislation of a minimum wage and working conditions for domestic workers." The Government of South Africa has become a precedent-setter in including protections for domestic workers in the labour law, implementing minimum wage regulations and providing a model contract. Stephens also points to the unemployment insurance and a public dispute resolution system. "When domestic workers are out of work or pregnant, they have access to support so that the families they support still have some income." SADSAWU together with the Government offers skills development training for domestic workers, with wide-scale Government programs reaching tens of thousands of workers. These benefit both workers and employers – workers build skills, employability and confidence, and employers get a higher quality service where employees are trained in child care, elder care and other specialist tasks.

SOME OF THE WORKERS ARE VERY IMPRESSED WITH THE TRAINING... THEY WANT TO GET OUT OF DOMESTIC WORK, MAYBE WORK IN A CRECHE...A SENIOR CITIZENS HOME...

“I must say since 1991 until today I have had a very good relationship with my employer...my current employer is proud of me travelling around the world. There are times when you must sacrifice and say, ‘I will not go on holiday for Christmas this year because I have to go to workers’ meetings.” Stephen’s “double duty” as domestic worker and advocate takes its toll, and she muses that she needs to work out a program to balance her shifts as a worker and organizer. What makes it worthwhile is the feedback from SADSAWU members on the training programs offered by the union and the government. “Some of the workers are very impressed with the training, they want more, they want to go beyond this. Some

of the domestic workers say to me that they want to get of domestic work, maybe they can go work in a crèche, or...in senior citizen’s homes where they can go work with elderly people...” Stephen is on the board for the South Africa Domestic Workers Skills Development Project. The next time the board meets, she says, “we are going to sit with the government again and give feedback from the workers.” Stephen calls on domestic workers to ensure that laws and other protections are visible and communicated to various stakeholders, that labour inspectors are trained and tasked with monitoring laws, and that records of registered employees and labour cases are well maintained.

“WE WANT DOMESTIC WORKERS TO NEGOTIATE THEIR OWN FAIR TERMS WITH EMPLOYERS”



**SAYS GERTRUDE MUTSWENI OF COSATU
(CONGRESS OF SOUTH AFRICAN TRADE UNIONS)**

MUTSWENI'S KEY MESSAGES

We must look inside our own homes – how am I treating my worker?

Domestic workers' groups don't just need money – they need training, confidence-building and even office space for meetings

Domestic workers don't have to be domestic workers for life – let's empower them to create sustainable livelihoods

“At a meeting, a teacher came to me and said, “Gertrude, I heard when you were talking about domestic workers' hours of pay and right to overtime. I have a domestic worker but I am a working class woman and I can't afford to pay overtime for that person. I said, 'If you can't afford it then don't make her work overtime. Find another arrangement.' It's not going to be a walk in the park but it's up to us to say, 'This is what we need to do and we need to do it right.”

MUTSWENI'S STORY:

A WOMEN'S ADVOCATE WHO HELPS DOMESTIC WORKERS ADVOCATE FOR THEMSELVES

Gertrude Mutsweni is the Gender Coordinator at COSATU (Congress of South African Trade Unions). She is committed to building alliances with domestic workers in her country. Mutsweni and colleagues worked with SADSAWU to organize a “domestic workers’ road-show” in mid-2011 that travelled across South Africa’s nine districts to educate workers across sectors on the ILO Convention No. 189 concerning Decent work for domestic workers, its Recommendation No. 201 and the country’s reform of social security laws affecting domestic workers. “On average we had 1,000 domestic workers and workers from other sectors...we had police workers, teachers, metal and mine workers, service sector workers, bus drivers, taxi drivers...we wanted to target unorganized workers across South Africa.”

During South Africa’s annual “women’s month” in August 2011, Mutsweni and SADSAWU colleagues were busy meeting parliamentarians to sensitize them on domestic workers’ rights. As with Domestic Workers United, she has found that policymakers have competing demands and may not be aware of the issue. “Just because someone is in Parliament doesn’t mean they know about all the laws, or about the Domestic Workers’ Convention.”

Mutsweni acknowledges the Government’s supportive role. “We went out in the malls and shopping centers but we were not doing it alone...together with the Department of Labour and SADSAWU we had one movement.” Pamphlet drops and door to door stops in neighborhoods where domestic workers are employed, can have a big impact. “The response was very good. Employers said, ‘How much can I pay my domestic worker?’... ‘Please, can you advise, what is the South African law for domestic workers?’” Mutsweni also collaborates with SADSAWU to reach out to domestic workers using the media. “After the ILC in Geneva there have been five radio stations where we talk about the Convention...we get lots of calls from domestic workers...we target the radio stations that speak their language, they call in and ask us about their rights...and we refer them to COSATU and SADSAWU offices.”

A Domestic Workers’ Summit (27-28 August 2011), is another front on which Mutsweni and COSATU colleagues have collaborated with Hester Stephen, Myrtle Witbooi and colleagues at SADSAWU. The summit launched an action plan to ratify the Convention and make domestic workers’ groups sustainable. “How do we still build confidence and assertiveness... ..for instance, unless a worker tells her employer, ‘I need to be registered,’ she cannot access the Unemployment Insurance Fund. This simple statement – ‘I am working for you. You have to register me,’ is non-negotiable.”

HOW DO WE STILL BUILD CONFIDENCE AND ASSERTIVENESS...UNLESS A WORKER TELLS HER EMPLOYER “I NEED TO BE REGISTERED”, SHE CANNOT ACCESS THE UNEMPLOYMENT INSURANCE FUND. THIS SIMPLE STATEMENT ‘I AM WORKING FOR YOU, YOU HAVE TO REGISTER ME’, IS NON-NEGOTIABLE

“KNOWING THERE’S OFFICIAL TRAINING MAKES IT EASIER FOR ME TO TALK TO MY EMPLOYEE ABOUT HOW WORK SHOULD BE DONE”



**SAYS ROSHAN GALVAAN,
A SOUTH AFRICAN EMPLOYER**

GALVAAN’S KEY MESSAGES

We employers must treat domestic workers as employees – not helpers

Labor laws, policies and contracts must recognize and reward domestic workers for their valuable skills and experiences

Employers must create employers’ groups and use other civil society groups to advocate in solidarity with domestic workers

“I see the value of an employers’ group or association in organizing other employers...I also think advocacy for domestic workers needs to be mainstreamed into other civic organizations to reach the employers who are involved in those groups. It cannot be separated as an issue that affects a few.”

GALVAAN'S STORY:

AN EMPLOYER WHO IS COMMITTED TO HIRING QUALIFIED AND EMPOWERED DOMESTIC WORKERS

Roshan Galvaan is a professor at the University of Western Cape in Capetown, and a member of the Domestic Workers Law Research Project which documents the reform of domestic work laws in South Africa. A working mother herself, Galvaan says, “As a working woman not being able to cope with having a little baby and working, having a domestic worker seemed like a good option...prior to that as a person growing up in South Africa we always had domestic workers, not only in my own home but also in homes of our friends.”

Of course, she wants her employee to take good care of her children – “It was good for me to interview her and see that this was someone who could work for me and for her to see whether it was a job she could do.” Galvaan understands that as an employer, she benefits from employing a domestic worker who has prior experience in childcare, eldercare and household management skills. “I have three kids and three pairs of shoes that must be ready in the morning before school and having a domestic worker who organizes this, helps

me meet my children's needs. It also makes my children learn how to organize their own environment.” Her children's good relationship with the domestic worker helps in establishing a respectful and caring working environment. “It has also been interesting to see my children's curiosity to go and visit our domestic worker's home and to know where she lives...Here is another human being who comes into our lives every day. We're concerned about what happens in her life – how are her children, where is *she* living?”

Galvaan believes female employers must acknowledge how the work of domestic workers empowers them. “We need to think about how having a domestic worker in our home allows us to be more liberated in our own gender positions and relationships.”

HERE IS ANOTHER HUMAN BEING
WHO COMES INTO OUR LIVES EVERY DAY.

“IT’S ALL GOOD AND WELL TO ESTABLISH THE LEGISLATIVE FRAMEWORK. IF THAT FRAMEWORK IS NOT ENFORCED, IT BECOMES MEANINGLESS.”

**WARNS VIRGIL SEAFIELD OF
THE DEPARTMENT OF LABOUR OF SOUTH AFRICA**

SEAFIELD’S KEY MESSAGES

Labour inspectors must be trained to monitor homes and protect domestic workers while respecting employers’ privacy

Workers need a minimum wage that adjusts annually for inflation

When domestic workers are trained they are protected – and they are also responsible for delivering good services to employers

“We come from a community where most of our mothers, fathers, or neighbors, were domestic workers. The fact that we at this stage can extend protection to those workers who until now never had that protection is extremely gratifying, but also humbling. I think that more than anything else is a motivator – it’s a process that we are committed to, and it’s a process that we will fulfill until domestic workers are fully protected.”

SEAFIELD'S STORY:

PROTECTING WORKERS THROUGH LABOUR INSPECTIONS, SOCIAL PROTECTION AND SKILLS DEVELOPMENT

Virgil Seafield is the Director of Employment Standards at the Department of Labour for the Government of South Africa. He has helped make South Africa a precedent-setter in protecting domestic workers. Mr Seafield was also the Chief Negotiator for the Africa group of ILO member countries during the negotiations for the Convention and Recommendation at the ILC in June 2011. Seafield says, “The Convention provides coherence and an understanding that we are not alone in taking action. It allows countries to develop a sense of ownership over the issue of domestic workers’ rights and responsibilities around the world.” The Convention has benefited both workers and supportive Governments. “It has made domestic workers the centerpiece of the debate around the plight of vulnerable and poverty-stricken workers... for South Africa it upholds the principle of camaraderie with other countries that enforce protections for domestic workers, and signals to the world our ability to deal with international issues.”

The Government has proactively used labour inspections to monitor fair working and living conditions. Other measures create access to social protection and fair pay, e.g. raising the minimum wage on 1 December 2011. Labour Minister Mildred Oliphant stated, “We would like to appeal to those who pay their workers well not to lower wages. The sectoral determination act is really about the absolute minimum that workers must earn and not the maximum.” Seafield adds that policymakers need more than a supportive minister – they need to get their entire department on board. “It is important that lawmakers are involved at the devel-

opmental stage, when you are creating new laws and policies. You must also mainstream issues of vulnerable workers in the dialogue and work of each department. It becomes much easier to convince people about protecting domestic workers.” It is not just the government and the domestic workers who decide how protections are enforced – employers count, too. Although labour inspections sometimes happen without notice, “...we have had very little, if at all, negative feedback from household employers because respect for the privacy of the home is entrenched in the process.”

The Unemployment Insurance Fund (UIF), is another path-breaking measure. According to Seafield, around 600,000 domestic workers are registered with the UIF. However, for this determined policymaker, there is always room for improvement. “Another reform in the pipeline is extending the occupation and injuries insurance to domestic workers... there are many other social protections and we want to create a pension fund for domestic workers as well.” Extending the social security net is not enough. Seafield is committed to making sure domestic workers can – and do – access this net, which is part of a nation-wide social security reform. This includes reaching migrant domestic workers and those employed by low-income employers. The way Seafield sees it, protecting as many domestic workers as possible is a win-win situation for the Government “We will reduce the burden on social security in the long run, once all reforms are made. Domestic workers will be empowered and less dependent on government assistance.”

ALTHOUGH LABOUR INSPECTIONS SOMETIMES HAPPEN WITHOUT NOTICE, “...WE HAVE HAD VERY LITTLE, IF AT ALL, NEGATIVE FEEDBACK FROM HOUSEHOLD EMPLOYERS BECAUSE RESPECT FOR THE PRIVACY OF THE HOME IS ENTRENCHED IN THE PROCESS”

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MAKING THE CASE

WHY WE NEED TO REGULATE DOMESTIC WORK AND PROTECT DOMESTIC WORKERS



1 DOMESTIC WORKERS ARE AN INTEGRAL PART OF THE LABOUR FORCE WORLDWIDE

Available ILO estimates suggest that domestic workers make up 4-10% of the workforce in developing countries and about 1-2.5% of the workforce in developed countries,¹ numbering between 53-100 million worldwide. 83% of these workers are female.² More girls under the age of 16 are employed in domestic work than in any other sector worldwide.³

In some countries the numbers are even higher – 9.2% of the workforce in South Africa and 21.9% in Kuwait are employed in this sector.⁴ In France for instance, over 50% of migrant women are employed in domestic work.⁵ Italy has over 1.2 million domestic workers, who are mostly migrant women.⁶

2 THE SECTOR IS EXPECTED TO EXPAND IN THE COMING DECADES

The ILO definition of domestic work refers to all the work that is performed in or for a household. This includes household chores like cooking, cleaning, laundering, as well as personal care of household members such as child care, elder care, care for the ill and disabled. Indeed while the number of women entering the labour market is growing,

so is the need for care. As the provision of collective care facilities is largely inadequate in many countries, families increasingly rely on domestic workers. In the United States, for instance, the Bureau of Labor Statistics estimates that personal care, home-care and health care aide jobs will increase 50% from 2008-2018. The numbers of Americans who need long-term care will more than double from 13 million to 27 million by 2050, due mainly to a growing older population.⁷ European and other industrialized countries in the global North including Canada, Australia and New Zealand also urgently require care services. In the United Kingdom, expenditure on social care is expected to almost double from 1.4% of GDP to 2.7% in 2032. The care work sector would need to increase by 79% to meet this high demand.⁸ In the developing world, the growth in the number of working women combined with a reduction in the number of family members is also likely to sustain the demand for domestic workers.

3 DOMESTIC WORK IS WORK THAT CONTRIBUTES TO ECONOMIC AND SOCIAL DEVELOPMENT

Domestic workers are employed by private households to carry out household chores and care work.

They contribute by way of their labour and skills to sustaining and revitalizing employer households, especially

important in contexts in which there is a scarcity of workers. They free up time for men and women employers to engage in “productive” activity or “leisure” and enhance their economic and social well being. Governments benefit from the hidden savings of not investing adequately or not investing at all in public services for care of children, the elderly, persons with disabilities and others who need care – this being subsidized by the income of middle class women/men employers of domestic workers and the poorly paid labour of the latter.

Further domestic workers contribute by way of their expenditures to migrate, consumption expenditures, social security payments, taxes, levy payments and payments to welfare funds.

Finally women contribute significantly to countries of origin by way of economic and social remittances. In most countries, however the data on remittances is not disaggregated by sex, making it difficult to get a full picture of the volume of women migrant workers’ contribution to development in countries of origin. Where data or studies do exist, they point to the untapped potential of remittances by women migrant workers. Data from Nepal suggests that women working abroad sent home 7.6 million rupees in 1997, 11 percent of the total gross domestic product (GDP).⁹ Women, mostly domestic workers employed in the Gulf States, make up nearly two-thirds of Sri Lanka’s migrant workers, annually remitting more than USD 1.7 billion.¹⁰ A 2006 Asian Development Bank study in East and Southeast Asia found that nearly 2 million migrants, mostly women, remitted over US\$3 billion from Hong Kong, China, Japan, Malaysia and Singapore averaging from US\$300 to US\$ 500 per month.¹¹

Studies by UNWOMEN and others show that women typically save and send home a greater share of their earnings than men; they are more frequent and consistent remitters, continuing to support children and extended families, even in the face of marital break down; and are more willing to respond to unforeseen needs, including those of the extended family. Regardless of who is remitting, women tend to be the major recipients, either because they are in vulnerable situations or because they are seen as better managers, in most cases investing not in themselves but in household or community wellbeing.¹²

Many migrant domestic workers also benefit from cultural exchange, exposure to new ideas, skills, attitudes and knowledge. They develop independence and self-confidence. Their roles as financial providers or managers of remittances have enabled them to enjoy greater status and decision-making power within their households and

communities, transforming relationships between men and women. This however depends on several factors – the economic success of women migrants; the opportunities for women to organize for change; the extent of efforts to engage with men in communities of countries of origin to support women’s empowerment; and the receptivity of communities to embrace, own and sustain that change.¹³

4 PROTECTIONS GUARANTEE THE HUMAN RIGHTS, DIGNITY AND WELL BEING OF DOMESTIC WORKERS

Gender sensitive rights based protections demonstrate the value placed on respect for human life and dignity of women and girls. Domestic workers’ unique situation as a largely poor, invisibilised workforce of women and girls facing gendered forms of discrimination puts them at heightened risk of rights violations.¹⁴ There is need for specific protections that must be included in labour, trafficking and migration laws and regulations to ensure policy and programmatic coherence (specifics discussed in section 4 on human rights standards). These standards definitely need to ensure fundamental human rights and freedoms, including at work, such as: the right to life, the right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; the right to equal protection according to humanitarian norms in times of international or internal armed conflict; the right to liberty and security of person; the right to equal protection under the law; the right to equality in the family; the right to the highest attainable standard of physical and mental health; the right to freedom of association and the effective recognition of the right to collective bargaining, the elimination of all form of forced or compulsory labor; the effective abolition of child labor, and the elimination of discrimination in respect of employment and occupation.

More importantly, policies must be implemented to actually make a positive difference to the lives of domestic workers. Effective implementation requires ownership and political will; consciousness and understanding of duty bearers (employers, employment agencies, policy makers, law enforcers and service providers) of the situation of domestic workers and their contribution to development; knowledge and understanding of how to apply standards to enhance the situation of domestic workers including through tripartite consensus among governments, employers’ and workers’ organizations; standard institutional operating procedures to protect domestic workers; strong labour institutions; respect and recognition of the role of trade unions in defending domestic workers’ rights and working conditions; strong accountability systems

and an enlightened constituency that holds erring duty bearers to account; well resourced implementation plans; capacity strengthening and empowerment of domestic workers, their organizations, trade unions and support groups to discharge their obligations diligently and claim their rights and entitlements; and a change in public attitudes to domestic work, and domestic workers, both local and foreign.

5 PROTECTIONS HELP PREVENT UNDOCUMENTED MIGRATION AND TRAFFICKING

While there is a lack of global data on undocumented female domestic workers, rough estimates indicate that there are at least 1 million in Europe¹⁵ and around 1.2 million in the Asian region.¹⁶ Trafficking for economic exploitation represents close to one-third of forced labour trafficking, and 56% of these victims are women and girls.¹⁷ The United States' 2011 Trafficking in Persons Report highlights a disturbing and previously invisible trend, where women migrant domestic workers who suffer sexual abuse in the home are forced into prostitution after employers turn them over to third parties, and restrictive guest worker laws and debts prevent them from seeking help.¹⁸ In some countries trafficking of domestic workers is significant – in Indonesia for instance nearly 60% of victims assisted in 2009 were domestic workers.¹⁹ Children are an especially at-risk group – the ILO estimates that 40-50% of the 12.3 million people affected by forced labour worldwide are under the age of 18.²⁰ In West and Central Africa nearly 90% of trafficked domestic workers are girls.²¹

Policies and programs that can help curb undocumented migration and trafficking of domestic workers include: effective implementation of labour laws that recognize domestic work and contracts with strong protections; effective implementation of international core labour standards; providing cheap or interest-free loans to meet the costs of migration and avoid debt bondage; providing pre-departure training on safe, legal migration, including on their labour and social rights; prohibiting bans on migration, especially of women migrant workers; reducing the costs of legal migration and providing appropriate positive incentives to use legal migration channels; effective implementation of regulations and accountability systems for employment agencies, effective sanctions for traffickers, and colluding public officials; enforcing gender-sensitive training for labour, border, customs, police and other officials dealing with domestic workers; and eliminating visa schemes that tie a worker's status to their employer.

6 PROTECTIONS AVERT ECONOMIC AND HUMAN COSTS TO INDIVIDUAL WORKERS, FAMILIES, COMMUNITIES AND COUNTRIES

Implementing protections that prevent discrimination and violence against local and migrant domestic workers could be more cost effective than post-violation assistance. Women and girls who are violated experience adverse health and well being impacts – including physical injury and emotional pain. An equally damaging consequence is the economic cost to individuals, households, communities and States at large.

A World Bank study estimated that annual rates of rape and domestic violence translated into 9 million years of disability-adjusted life years lost, including premature mortality, disability and illness.²² The economic effects of violence for individuals include increased absenteeism from work, decreased labor market participation, reduced productivity, lower earnings, investment and savings. Families bear the direct financial costs of violence in expenses to treat survivors and bring perpetrators to book. A study of households in Uganda found that each household incurred an average cost of \$5 per incidence of violence – a substantial amount considering that the average per capita income in Uganda is only \$340.²³ Violence against women is often correlated with emotional impacts on children, including disruption in schooling for the children of survivors. Such delays in the educational development of children can have long-lasting economic consequences for individuals and households.²⁴

Violence imposes monetary costs on the community, with community resources spent on health services, court costs and social services to prevent violence, treat victims and apprehend and prosecute perpetrators. These costs are well-documented in industrialized countries such as Canada, where the annual monetary cost of violence against women has been estimated at CAD \$684 million in the criminal justice system and CAD\$187 million for policy.²⁵

While this data may not specifically relate to local and overseas domestic workers, there are two things that are evident: (a) that these figures represent a miniscule proportion of the economic, social and emotional costs of violence against women, but are massive enough to call for an urgent response; and (b) costing the violation of the rights of local and overseas domestic workers makes an effective case for promoting and protecting their rights.

7 PROTECTIONS, IF ADHERED TO, CAN IMPROVE THE EMPLOYER-EMPLOYEE RELATIONSHIP

Protections lay out clear standards that guide the fulfillment of both rights and obligations of employers and employees towards each other, in a spirit of mutual respect. They ensure that employer's treat their domestic workers with fairness, respect and dignity. They contribute to worker's providing quality services and discharging their obligations with due diligence. Protections thus have the potential of enhancing the employer-employee relationship, if both parties live by the terms of the contract which should be in line with national labour laws and regulations.

8 PROTECTIONS REFLECT RESPONSIBLE GOVERNANCE, THUS ENHANCING GOVERNMENT LEGITIMACY AND ACCOUNTABILITY

Protections reflect the human rights and labour standards according to which governments actually regulate domestic work, whether local or overseas. This demonstrates fulfillment of State obligation to commitments on workers' rights, gender equality and women's empowerment, enhancing a State's accountability to women and girls and to its citizens.

ENDNOTES

1. ILO LABORSTA database 2005, 2007, 2008, noted in ITUC's (International Trade Union Confederation) *Decent Work, Decent Life for Domestic Workers: An Action Guide*, 2011. Accessed via: http://www.ituc-csi.org/IMG/pdf/ITUC_dwd_AnglaisWEB.pdf
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IN WEST CENTRAL AFRICA NEARLY
90% TRAFFICKED DOMESTIC
WORKERS ARE GIRLS

OUTLINING THE RIGHTS PROTECTION FRAMEWORK

INTERNATIONAL HUMAN RIGHTS STANDARDS ON PROTECTIONS FOR DOMESTIC WORKERS



CHECKLIST¹ TO PROTECT AND SUPPORT DOMESTIC WORKERS

There have also been promising advances in the international normative framework addressing domestic workers. These include the precedent-setting ILO Convention No. 189 concerning decent work for domestic workers, 2011,² and ILO Recommendation No. 201; the General Comment on migrant domestic workers adopted by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) in 2010;³ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 and its General Recommendation No.26 on women migrant workers (which also addresses domestic workers), adopted by the CEDAW Committee in 2008.⁴ Domestic workers' organizations, trade unions, women's NGOs and other support groups have contributed strongly to the achievement of the above outcomes.

Regulating this sector and promoting and protecting the rights of all domestic workers, including migrant domestic workers at all stages of the migration process is a moral imperative, but is also an issue that is key to all development endeavours. It gives recognition to the economic and social contribution of domestic work to human development. It reduces the social and economic costs borne by domestic workers, families, communities and States and thus promotes human development and good governance. Any analysis of labour and migration policies/laws (and their implementation), aimed at promoting and protecting the

rights of migrant domestic workers, should therefore be made with reference to these international standards and the good practices of national actors aligned with or surpassing these standards.

The following checklist was agreed upon by governments, civil society and UN agencies at the Global Forum on Migration and Development (GFMD) 2011 Global Meetings on Domestic Care Workers at the Interface of Migration & Development: Action to Expand Good Practice.⁵ It is based on international standards and good national practices to help policy makers formulate and implement national policies, laws and programmes that promote and protect the rights of domestic workers, both female and male, taking account of differences between women and men within the sector as well as interacting ethnic, nationality and other differences.

RECOGNITION AS WORK

- Does the relevant policy, legal and institutional architecture of the country acknowledge:
- the significance of the economic and social contribution of domestic workers?
- its undervaluation and invisibility?
- its performance largely by women and girls, many of whom are international migrants and/or members of disadvantaged communities and hence particularly vulnerable to social, economic, civil and labour market discrimination and other abuse?

- the special conditions under which domestic work is carried out, making it important to introduce appropriate measures to enable domestic workers to enjoy their rights fully?
- that domestic workers, like any other worker, need protection under labour legislation?

1. DEFINITION

- Is the relevant policy, law and institutional architecture of the country informed by and consistent with the definitions of 'domestic work' and 'domestic worker' as framed in ILO Convention No. 189 concerning decent work for domestic workers⁶ and of 'migrant worker' found in the General Comment of the Migrant Committee on migrant domestic workers?⁷

2. COVERAGE

- Does the relevant policy, law and institutional architecture of the country cover all domestic workers?
- Where categories of domestic workers are excluded by the relevant policy or law, are they provided with at least equivalent protection?

3. NATURE OF RIGHTS PROTECTED

- Does the relevant policy, law and institutional architecture of the country promote and protect the human rights and freedoms of domestic workers – including undocumented domestic workers⁸ – and include provisions against all forms of abuse, harassment and violence?⁹
- Does the relevant policy, law and institutional architecture of the country guarantee the fundamental principles and rights at work, including freedom of association and right to collective bargaining, elimination of all forms of forced or compulsory labour, effective abolition of child labour, elimination of discrimination in employment and occupation, and protection of the rights of domestic workers, including migrant workers and their employers, to establish and join organizations, federations and confederations of their choosing?¹⁰
- Does the relevant policy, law and institutional architecture of the country provide for fair employment terms, decent working and living conditions, a minimum wage if it exists for other workers, an employment contract reflecting this, and for migrant domestic workers to receive their employment agreements before departure to the country of employment – unless covered by bilateral and multilateral agreements allowing free movement of persons?¹¹
- Does the relevant policy, law and institutional architecture of the country provide for social security protections, such as access to health services, health insurance, maternity protections, etc?¹²

4. NATURE OF RIGHTS GOVERNING CONDITIONS OF EXIT, ENTRY AND RESIDENCE

- Is the relevant policy, law and institutional architecture of the country free from sex-specific bans and restrictions on women's migration based on age, marital status, disability, pregnancy or maternity status, or restrictions requiring permission from spouses or male guardians to travel and obtain travel documents?¹³
- Is the relevant policy, law and institutional architecture of the country free from provisions restricting women's employment in job categories dominated by men or excluding certain female-dominated occupations from visa schemes?¹⁴
- Is the relevant policy, law and institutional architecture of the country free from provisions making the immigration status of migrant workers conditional on the sponsorship or guardianship of a specific employer? (Such arrangements may restrict the liberty of movement of migrant domestic workers and increase their vulnerability to exploitation and abuse, including conditions of forced labour and servitude.)¹⁵
- Is the relevant policy, law and institutional architecture of the country free from bans on migrant domestic workers marrying nationals or permanent residents?¹⁶
- Is the relevant policy, law and institutional architecture of the country free from provisions (a) resulting in loss or denial of work visas based on HIV-positive or maternity status and (b) calling for mandatory medical testing of migrant domestic workers for HIV or pregnancy?¹⁷
- Does the law prohibit withholding of passports or identity documents by the employer or recruiting agency?¹⁸

5. SERVICES AT ALL STAGES OF MIGRATION, INCLUDING TO STRENGTHEN ACCESS TO JUSTICE

- Do policies, laws and institutional architectures in countries of origin, transit and destination, as applicable, provide for gender-sensitive human rights-based pre-departure, on-site and on-return services (socio-economic, information dissemination, health and legal services, emergency shelter, etc.) that promote (a) the use of legal migration channels, (b) decent work and integration, (c) protection against abuse and victim support, (d) access to justice and (e) reintegration on return?¹⁹
- Do policies, laws and institutional architectures in countries of origin and destination, as applicable, provide for gender-sensitive services for efficient remittance transfers and their productive investment?²⁰
- Do policies, laws and institutional architectures in countries of origin and destination, as applicable, provide for gender-sensitive pre-departure, on-site and on-return information dissemination, awareness raising and training for domestic workers on (a) labour and immigration laws and employment contracts, (b) skills enhancement, (c) how to access socio-economic and legal services and (d) how to access complaints and redress mechanisms, at all stages of migration?²¹

- Do policies, laws and institutional architectures in countries of origin and destination, as applicable, facilitate worker contact with families and family support services back home or provide for dependant services in countries of destination?²²

6. UNDOCUMENTED MIGRATION, SMUGGLING AND TRAFFICKING

- Do policies, laws and institutional architectures of the country ensure that migrant domestic workers have effective access to regular channels of migration based on actual demand, to prevent undocumented migration, smuggling and human trafficking?²³
- Do policies, laws and institutional architectures in countries of origin, transit and destination protect the human rights of undocumented domestic workers and their children, regardless of the parents' immigration status, including providing for gender-sensitive regularization programmes to avoid or address situations in which migrant domestic workers are undocumented or are at risk of becoming undocumented?²⁴

7. CO-OPERATION BETWEEN STATES, INCLUDING BILATERAL, REGIONAL AND MULTILATERAL FRAMEWORKS AND AGREEMENTS

- Does the policy, law and institutional architecture of the country provide for co-operation among States, including bilateral and multilateral co-operation between countries that promotes, supports and protects the rights of migrant domestic workers?²⁵

8. REGULATIONS FOR RECRUITING AGENCIES, EMPLOYERS, NATURE OF REMEDIES, MONITORING, COMPLAINT, REDRESS AND ACCOUNTABILITY MECHANISMS

- Does the country have laws, regulations or practices governing the operation of (a) private employment agencies recruiting or placing domestic workers and (b) employers of domestic workers to protect domestic workers from abuse (e.g., obligations of private recruiting agencies and employers towards domestic workers, etc.)?²⁶
- Does the policy, law and institutional architecture of the country ensure that adequate machinery and procedures – including labour inspections with due respect for the privacy of households – exist to monitor employers, employment agencies and agents and to investigate complaints, alleged abuses and fraudulent practices by private recruiting agencies and employers against domestic workers?²⁷
- Does the policy, law and institutional architecture of the country provide for a mix of civil and criminal remedies?
- Does the policy, law and institutional architecture of the country have effective and accessible complaint and

redress mechanisms (courts, tribunals or other dispute resolution procedures) that are not less favourable than those available to workers generally, including for migrant domestic workers and their families?²⁸

- Does the law have provisions for penalizing employers, employment agencies, agents and public officials who abuse domestic workers?²⁹

9. CO-ORDINATED MULTI-SECTOR CONSULTATIONS AND PARTNERSHIPS, INCLUDING PARTICIPATION OF DOMESTIC WORKERS' ORGANIZATIONS AT ALL STAGES OF THE POLICY PROCESS

- Does the policy, law and institutional architecture of the country provide for the co-ordinated multi-sector response of key government agencies, sustained participation of domestic workers' organizations and their support groups, employment agencies, agents and others at all stages of the policy process – formulation, implementation, monitoring and evaluation of the law?

10. TRAINING AND AWARENESS RAISING FOR PUBLIC OFFICIALS, RECRUITING AGENCIES AND EMPLOYERS

- Does the relevant policy, law and institutional architecture of the country mandate the government to provide (a) regular training and education for police officers, prosecutors, the judiciary, social workers and other public officials, (b) targeted awareness raising for recruiting agencies and employers and (c) public awareness raising to promote and protect the rights of domestic workers?³⁰

11. RESEARCH, DATA COLLECTION AND ANALYSIS

- Does the relevant policy, law and institutional architecture of the country mandate governments to conduct and support research, data collection and analysis on the concerns of domestic workers, including migrant domestic workers, for (a) effective policy formulation and implementation and (b) policy impact assessments?³¹

12. MONITORING AND EVALUATION

- Is monitoring and evaluation of effectiveness and impact built into the relevant policy, law and institutional architecture of the country?
- Does the relevant policy, law and institutional architecture of the country have provisions placing specific responsibility on agencies to compile data on complaints, cases of exploitation or abuse and relief measures?

13. RESOURCE ALLOCATION

- Does the relevant policy, law and institutional architecture of the country provide for sufficient financial and capacitated human resources to be allocated by governments for effective implementation of policies and programmes that promote and protect the rights of domestic workers?

ENDNOTES

1. The checklist is based on International Labour Organization (ILO) Convention No. 189 concerning decent work for domestic workers, 2011, and its Recommendation No. 201; the General Comment on migrant domestic workers adopted by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), 2010; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979 and its General Recommendation No. 26 on women migrant workers, adopted by the Committee on the Elimination of All Forms of Discrimination against Women, in 2008 (which also addresses domestic workers). It was agreed upon by governments, civil society and UN agencies at the GFMD 2011 Global Thematic Workshops on Domestic Care Workers at the Interface of Migration & Development: Action to Expand Good Practice, organized in the Caribbean and Africa by the Governments of Jamaica (7–8 September 2011) and Ghana (20–21 September 2012). These workshops were convened in partnership with the Government of Switzerland (the Chair-in-Office), UN WOMEN, the International Organization for Migration (IOM), the Migration Policy Institute and the Mac Arthur Foundation – and at the GFMD Concluding Debate in Switzerland, December, 2011. Technical assistance to this checklist by UN WOMEN, ILO, IOM, OHCHR and the Policy Research Institute, Institute for the Study of International Migration, Georgetown University, Washington, DC is gratefully acknowledged.
2. Hereafter referred to as the ILO Convention on Domestic Workers. The Convention is supplemented by ILO Recommendation No. 201 concerning decent work for domestic workers, which contains further guidance for the application of the Convention.
3. Hereafter referred to as the General Comment of the Migrant Committee on migrant domestic workers.
4. Hereafter referred to as the CEDAW General Recommendation on women migrant workers.
5. See endnote 1.
6. The term ‘domestic work’ means work performed in or for a household or households; the term ‘domestic worker’ means any person engaged in domestic work within an employment relationship; a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker (Art 1 (a, b, c), ILO Convention on Domestic Workers).
7. The General Comment of the Migrant Committee on migrant domestic workers refers to Art 2, Para 2 of the International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families, which defines the term ‘migrant worker’ as any person who “is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”. Art 3 (d) of the Convention excludes from its scope of application a number of categories of workers, including certain employees of international organizations and of States; investors residing outside of their State of origin, whose status are regulated by general international law or specific agreements; students and trainees; and seafarers and workers on offshore installations who have not been admitted to take up residence and engage in a remunerated activity in the States of employment. Moreover, refugees and Stateless persons are only included under the Convention if such application is provided in national legislation.
8. Para 43 and 44 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (i, j, l) of the CEDAW General Recommendation on women migrant workers.
9. Art 5 of the ILO Convention on Domestic Workers; ILO Recommendation No. 201 concerning decent work for domestic workers; Para 26 (d, l, j) of the CEDAW General Recommendation on women migrant workers.
10. Art 3 (1, 2 (a, b, c), 3) of the ILO Convention on Domestic Workers; Para 38, 45, 46 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (b, d) of the CEDAW General Recommendation on women migrant workers.
11. Art 6, 7, 8 (1), 9 (a, b, c), 10 (1, 2, 3), 11, 12 (1, 2), 13 (1, 2), 14 (1, 2) of the ILO Convention on Domestic Workers; Para 37, 38, 39, 40 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (b) of the CEDAW General Recommendation on women migrant workers.
12. Art 14 (1, 2) of the ILO Convention on Domestic Workers; ILO Recommendation No. 201 concerning decent work for domestic workers; Para 42, 43, 44 of the General Comment of the Migrant Committee on migrant domestic workers.
13. Para 24 (a) of the CEDAW General Recommendation on women migrant workers.
14. Para 26 (a) of the CEDAW General Recommendation on women migrant workers.
15. Para 53 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26(f) of the CEDAW General Recommendation on women migrant workers.
16. Para 61 of the General Comment of the Migrant Committee on migrant domestic workers.
17. Para 61 of the General Comment of the Migrant Committee on migrant domestic workers; Para 3 of ILO Recommendation No. 201 concerning decent work for domestic workers; ILO Recommendation No. 201 on HIV/AIDS in the world of work.
18. Art 9 (c) of the ILO Convention on Domestic Workers; Para 26 (d) of the CEDAW General Recommendation on women migrant workers.
19. Para 38, 42, 43, 44 of the General Comment of the Migrant Committee on migrant domestic workers; Para 24 b (d-j) of the CEDAW General Recommendation on women migrant workers.
20. Para 24 (g) of the CEDAW General Recommendation on women migrant workers; Para 29 (d) of the General Comment of the Migrant Committee on migrant domestic workers.
21. Para 28 (a-c (i), (ii), (iii)), 29 (a-f), 30 (a-c) of the General Comment of the Migrant Committee on migrant domestic workers; Art 24 (b (i-iii, v)) of the CEDAW General Recommendation on women migrant workers.
22. Para 54, 55, 56, 57, 58, 59 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (e) of the CEDAW General Recommendation on women migrant workers.
23. Para 51 of the General Comment of the Migrant Committee on migrant domestic workers.
24. Para 52 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (l) of the CEDAW General Recommendation on women migrant workers.
25. Para 27 (a, b (i), (ii)) of the CEDAW General Recommendation on women migrant workers; Para 31, 32 (a, b, c) of the General Comment of the Migrant Committee on migrant domestic workers.
26. Art 15 (a, c) of the ILO Convention on Domestic Workers; Para 33, 34 (a), 35, 36 of the General Comment of the Migrant Committee on migrant domestic workers.
27. Art 17 (1, 2, 3) of the ILO Convention on Domestic Workers; Para 33, 34 (b, d), 41 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (c (i), h) of the CEDAW General Recommendation on women migrant workers.
28. Art 16 of the ILO Convention on Domestic Workers; Para 49, 50 of the General Comment of the Migrant Committee on migrant domestic workers; Para 26 (c (i-ii)) of the CEDAW General Recommendation on women migrant workers.
29. Art 17 (2) of the ILO Convention on Domestic Workers; Para 34 (c) of the General Comment of the Migrant Committee on migrant domestic workers; Para 25 (b) of the CEDAW General Recommendation on women migrant workers.
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31. Para 28 of the CEDAW General Recommendation on women migrant workers; Para 66 of the General Comment of the Migrant Committee on migrant domestic workers.



OPERATIONALIZING THE NORMATIVE

GOOD PRACTICES, LESSONS LEARNED
ON LEGAL AND SOCIAL PROTECTIONS FOR
DOMESTIC WORKERS, AND THE WAY AHEAD

UN WOMEN



There are a number of key challenges to operationalizing the normative framework governing legal and social protections for domestic workers. These include: the lack of political will to ratify the ILO Convention concerning decent work for domestic workers, ensure labor coverage and implement legal and social protections in line with ILO, CEDAW and other related standards; inadequate data for good policy formulation, implementation, monitoring and evaluation; a lack of capacity on the part of legislators, service providers and law enforcers to formulate and implement legal and social protections for domestic workers; conservative public attitudes that do not perceive domestic work as work and that do not treat domestic workers with respect and dignity; impunity for violations and poor accountability; inadequate multi-sector and multi-stakeholder co-ordination and collaboration, including institutionalized partnerships with domestic workers organizations; a lack of employer organizations and vibrant domestic workers organizations and their support groups – trade unions, NGOs – in many contexts. Some of these challenges are anchored in the peculiarities of domestic work itself. Its personalized, private, individualized nature; geographical dispersion and isolation; often conflated live-in-work arrangements, make monitoring compliance with laws, resistance by workers to often complete control over liberty and security of person, access to external assistance and justice, collective mobilization and collective bargaining difficult, if not impossible.

Despite this, there is a minefield of promising practice by governments, domestic workers organizations, trade unions,

women's NGOs, employers organizations and others to promote and protect the rights of domestic workers. Many of these initiatives are grounded in a human rights framework and include data collection and research, national policy and legal frameworks, collective agreements, arbitration awards, advocacy, and service delivery. Some of these – discussed in this section and the earlier narratives by domestic workers, trade unions, employers and governments – provide us with insightful lessons that can potentially be upscaled.

DATA COLLECTION AND RESEARCH

Data collection and research is necessary for evidence based policy formulation and implementation. **The Employment Surveys of the National Sample Survey Organization in India** generate data on domestic workers. This data firstly points to important trends in domestic work in India viz. that this activity is becoming more feminized, and more important in the total employment of women, especially in urban India; it provides scope for analysis of these trends and points to the fact that the growing significance of domestic work in paid employment in India and its informality, make it's regulation imperative.¹

In New York, the New York State Department of Labor has undertaken a study to assess the feasibility of collective bargaining for domestic workers and **Domestic Workers United** – an organization of domestic workers has published a study entitled, “Domestic Workers and Collective Bargaining: A Proposal for Immediate Inclusion of Domestic Workers in the New York State Labor Relations Act”, October

2010 to ascertain the implications of collective bargaining for domestic workers and the most appropriate models for this sector.²

LABOR LAW COVERAGE AND ENFORCEMENT

Legislative initiatives are an important step towards protecting the rights of domestic workers, as they provide for codified rights and entitlements. Some form of legal protection for domestic workers have been introduced and implemented in many countries over the years (although a large number of countries do not regulate domestic work in any way). This may be in the form of labor laws that cover all workers and thus by default domestic workers. Such coverage does not take into consideration the specific nature of domestic work and therefore the specific needs of domestic workers. Labor laws may contain specific provisions for domestic workers related to the specific nature of this work, or countries may have specific legislation solely governing domestic workers. Policies and laws must be effectively implemented. This needs strong compliance and enforcement mechanisms at the national level to give legal effect to laws and regulations protecting local and overseas migrant domestic workers, and enhance accountability of employers and recruiters to their statutory and contractual obligations to domestic workers. Compliance and enforcement mechanisms include labor inspection measures, effective access to information and courts, specialized dispute resolution mechanisms, sanctions for non-compliance. Examples of countries that have some form of regulation of domestic work and enforcement mechanisms are provided below.

In **Belgium** diplomats and the domestic workers they employ need to sign an employment contract in accordance with Belgian legislation. The embassy of Belgium ensures that the domestic worker understands the terms and conditions of his/her contract during an interview preceding the issue of a visa. On arrival in Belgium, the domestic worker is required to collect in person a special identity card at the Protocol and Security service of the Ministry of Foreign Affairs – a service responsible for monitoring the work situation of foreign domestic workers employed by diplomats accredited in Belgium. The annual obligation to collect/renew the identity card in person allows the competent civil servant to talk to the worker about his/her work situation, provide advice or information if required to address an abusive situation that the worker may discuss during the interview. Such a procedure aims at better informing domestic workers of their rights and offering protection to the people who need it.

In 2009, Belgian consulates also began providing information through flyers to workers in countries of origin migrating to work in Belgium. These flyers designed in question and answer format, and available in the native language of the migrant, provide information on the worker's rights and organizations that they may access in the event of a problem in Belgium. This information inserted in the worker's

passport is particularly designed for workers migrating to work in sectors in which economic exploitation and abuse is rife – domestic work, construction etc, and is an important initiative that arms workers to cope with potential exploitation, before departure and during their stay in Belgium.³

In **France**, the CESU (Cheque Emploi Service Universel) was introduced in 2006 as a simplified instrument for hiring, remunerating, and paying social charges to workers supplying personal services, including housekeeping. This is part of a broader national plan in which care work is seen as a sector with great potential for employment creation. The CESU system covers both the services provided by a licensed enterprise and those rendered by domestic workers who are employed by private households. It involves a simplified system of registration of domestic workers and the payment of employer's contributions, as well as fiscal incentives to the participating employers and the household users. Workers must be paid at least the minimum applicable wage. In casual work, the declaration form acts as an employment contract. This has acted as a way of formalising domestic work (although it has been found that informality still persists to a large extent) and improving the conditions of domestic workers. There has been a considerable increase in the number of domestic workers receiving social security benefits.⁴

In **Ireland**,⁵ it has been noted that “while domestic workers are treated as workers like any others, there is no attempt in the Irish legislative framework to recognise the problems inherent in applying both the content and spirit of employment protections within the private home or the specificity of the issues arising in the context of the employment relationship.” However, there has been more recent policy focus on promoting voluntary compliance by employers. One such example is the “Code of Practice for Protecting Persons Employed in Other People's Homes”, which was drafted by the Labour Relations Commission in 2007, in consultation with both trade unions and employer representatives. The Code notes the safeguards available to domestic workers in general employment law, but also identifies additional issues of particular concern to domestic workers. A written contract of employment is seen as essential. The Code emphasizes that it is the duty of the employer to ensure that the employee has knowledge of her/his rights and entitlements. The Code also notes that employers should not withhold personal documentation of the employee (such as identity cards, passports, bank account numbers and passbooks and so on). It notes that live-in domestic workers should be provided with a secure private room with a bed. It places a lot of emphasis on the dignity, autonomy and right to some leisure time of the employee. The Code is therefore quite comprehensive in recognizing both various problems facing domestic workers and the obligations upon employers to ensure the rights of the employees. However, it is basically just a statement of good intentions: because it

is non-binding and does not create any legally enforceable obligations on the employer, it is essentially no more than a listing of desirable practices.

In Ireland, a pilot scheme of labour inspections of private homes was carried out by the National Employment Rights Agency in 2011.⁶ This emerged from legislation that provided for the inspection written employment records such as contracts, pay slips and/or timesheets, as well as interviewing and obtaining information from relevant people. This exercise revealed that one of the most important constraints in implementing any legal provisions for domestic workers in particular is the most basic one of finding such workers in the first place. The inspection scheme did not venture into matters such as examination of the living quarters of the worker. Another problematic area was in relation to the evaluation of the actual time worked, which would in turn affect the estimates of the wage payments and whether these conformed to the minimum wage law. This is an innovative scheme that could have a salutary effect on workers' conditions because of the effects of naming and shaming exploitative practices.

Some important examples of labour inspection and registration practices exist in Ecuador and Uruguay. In the city of Buenos Aires in Argentina a specialized domestic service tribunal has been set up combining regulation with proactive measures to reach the public, including drives to register domestic workers and to encourage domestic workers and employers of domestic workers to register for social protection.⁷

The government of **Jordan** revised its Labour Code and issued Regulation No.90 of 1st October 2009, to include domestic workers, cooks, gardeners and similar workers, becoming the first Arab country to provide labour protections to domestic workers. It introduced a standard unified working contract for migrant domestic workers even earlier in 2003, with important rights provisions. These include provisions for employers to bear workers' travel costs, work and residence permits; life and accident insurance, with workers paying for half the insurance premium; suitable accommodation, meals, clothing and medical care; a weekly holiday; a monthly salary with payment records kept by both parties; no restrictions on worker's communications and correspondence; a bonus equivalent to 15 days wages at the end of a 2 year contract. Information dissemination to raise employer and worker awareness on these protections, establishment of complaints and grievance redress mechanisms to give effect to legislation were some initiatives enforced. However there remain huge challenges in closing the policy-practice gap.⁸

As mentioned earlier, domestic workers can be covered by general labor and social protection measures, but additional measures may be called for to address the specific characteristics of domestic work, particularly in the migration

context. In **Lebanon** a unified employment contract was issued by governmental decree in 2009 and a draft law on domestic work has been developed. In March 2011, the UN Country Team issued a Code of conduct for UN staff in Lebanon employing domestic workers. New anti-trafficking legislation was enacted in August 2011. More recently a revised unified employment contract was prepared to bring it in line with the new ILO standards; the Lebanese Syndicate of the Owners of Recruitment Agencies developed a Code of ethics and a related implementation mechanism. The Government has also recently published an information guide for migrant domestic workers in Lebanon. In July 2012, the UN Special Rapporteur on Contemporary forms of Slavery, wrote that in Lebanon the "General Security has been working decisively to put in place policies and programmes to help safeguard the rights of migrant domestic workers." But the Report also notes that much greater political will is needed to effectively address domestic servitude through legislation and effective implementation.⁹

Spain became the first country to introduce new regulations regarding domestic work, that following the adoption of Convention No. 189. Royal Decree 1620/2011 of 14 November 2011 improves regulations of 1985 governing domestic work. New measures include better protection from discrimination; a right to a written contract and the provision of a model contract by the authorities; a right to the national minimum wage, while payments in kind cannot represent more than 30 per cent of the remuneration (with a prohibition of payments in kind below the minimum wage threshold); an increase in the daily rest period to a minimum of 12 hours; improved rules for on-call periods; and improved support and information for employers to facilitate compliance. Spain has also recently adopted new legislation in 2011 extending the general social security system to domestic workers¹⁰ **Uruguay** combines legislative protection and collective bargaining for domestic workers. For instance, all employers, including those of domestic workers were legally required to register employees with the Banco de Prevision Social (BPS, Social Welfare Bank) under which employers and employees make monthly payments to the employees' pension and health fund. Further, Law No. 18.065 adopted in 2006 set norms to regulate domestic work and paved the way for their collective bargaining.

Broad-based information campaigns following the adoption of Uruguay's 2006 law helped to widely publicize it. The labor inspectorate has a special unit that monitors compliance and regularization of domestic workers in respect of social security contributions. Domestic workers can file complaints with the inspectorate which is also authorized to inspect workplaces, including private residences to enforce domestic workers' rights.¹¹

Other examples of improvements in legislation include: **Chile**, where the working time of domestic workers is regulated by law; **Brazil**, where the constitution was amended in order to

facilitate the adoption of the Convention; **Singapore**, which granted a day off a week to domestic workers; **Vietnam**, where a new Labor Code was adopted recognizing domestic work for the first time; and **Malawi**, where the minimum wage for domestic workers was increased.¹²

TRIPARTITE CONSULTATION AND COLLECTIVE BARGAINING

In the **United Republic of Tanzania**, the Government in consultation with social partners has been undertaking a review of national law and practice with a view to ratification and implementation of ILO Convention No. 189.

Germany, Uruguay and France are good examples of countries having collective bargaining mechanisms for domestic workers with some combination of the following: a domestic worker union or another union representing domestic workers; an employer bargaining entity; an institutional monitoring framework for bargaining facilitated by government; a collective bargaining process that successfully ended in a collective agreement

The domestic worker collective bargaining agreement in **Uruguay** was reached through a tripartite structure bringing together the Domestic Workers Union, the Uruguayan League of Homemakers and Consumers, that undertook to represent employers of domestic workers in wage negotiations, and the Ministry for Employment and Social Security Ministry (MTSS). The first agreement of August 2008 among other things provided for minimum wages and increases, severance pay, overtime and early termination payments and banned sexual harassment. The second of 2010, renewed the provisions of 2008 and increased minimum wage levels. Both agreements were extended to the entire domestic work sector in Uruguay.

DIALOGUE AND CONSULTATION ON DOMESTIC WORK

Inclusive social dialogue and tripartite consultations, including with domestic workers organizations at all stages of the policy process – design, implementation and assessment stage of measures protecting domestic workers are critical. In the **Philippines**, a technical working group of government, domestic workers organizations, trade unions and NGOs developed the Philippines national position for negotiations on ILO standards on domestic work, while simultaneously discussing and advancing implementation measures. This included labor law reform to prepare for ratification. In **Lebanon**, a National Steering Committee on women migrant domestic workers comprised of government, civil society and international organizations was established in 2006 to make proposals towards the better protection these workers. In **Jordan**, the standard working contract on migrant domestic workers 2003, was discussed and developed by a multi stakeholder committee chaired by the Ministry of Labor, with representation from ministries of foreign affairs and interior, diplomatic missions of countries of origin, the

Jordanian National Women's Union, NGOs supporting domestic workers and support from UN Women.

BILATERAL, MULTILATERAL AND GLOBAL CO-OPERATION

Migration for domestic work is a transnational, regional, global phenomenon and requires multi-stakeholder co-operation and co-ordination at bi-lateral, regional and multi-lateral levels to effectively protect migrant domestic workers. Important areas of cooperation at the bilateral, regional and global levels include the prevention of forced labour and trafficking in persons, access to social security, monitoring of private employment agencies, and dissemination of good practice and collection of statistics on domestic work. An example here is the well-known overseas employment programme of the **Philippines** which provides comprehensive assistance and protection to migrant domestic workers, including through regulating employment agencies, bi-lateral agreements, and labor offices in countries of destination.

COLLECTIVE MOBILIZING AND ACTION BY DOMESTIC WORKER'S ORGANIZATIONS, TRADE UNIONS AND NGOS FOR POLICY REFORM, FRONTLINE SERVICE DELIVERY AND ACCESS TO JUSTICE

In December 2011, the **"12x12' global campaign**, to secure 12 ratifications of the Domestic Workers Convention by 12 countries by December 2012, was launched by **International Trade Union Confederation (ITUC)**, in partnership with the International Domestic Workers Network (IDWN), the European Trade Union Confederation (ETUC), Public Service International (PSI), The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF), Human Rights Watch, Anti-Slavery International, Solidar, Migrant Forum Asia (MFA), World Solidarity and Caritas. Besides ratifications or clear commitment to do so, the campaign also advocates for adoption/ extending national legislation to better protect domestic workers rights, organising domestic workers in trade unions and supporting them to build strong unions. The campaign which now runs in 89 countries and continues to do so, has organized thousands of actions, meetings and events till the last month of December 2012 – 12-12-12 (12 December 2012, Global Action Day), when actions were implemented in more than 50 countries around the world. To date, the campaign has successfully resulted in 8 countries ratifying the ILO Convention No. 189. Uruguay (14 June 2012), Philippines (5 September 2012), Mauritius (13 September 2012) and Italy (22 January 2013) have notified ILO of their ratification. Nicaragua, Bolivia, Paraguay and Columbia finalized their ratification process at the national level in November- December 2012. Also



according to ITUC, more domestic workers are joining unions. New unions have been established in Paraguay, the Dominican Republic, Egypt, Angola and Sri Lanka.¹³

The Jamaica Household Workers Association (JHWA) in Jamaica that actively responds to the concerns of domestic workers was launched in 1991 with around 20 members by founding member Shirley Pryce, who was a domestic worker for over 20 years. The organization now has over 1500 members, and also represents nurses, security guards and employees working in wholesale trade.¹⁴ Pryce says, “We conduct training...I have a mentoring class where I teach food preparation. Especially if a young person doesn’t want to be a domestic worker they can be chefs and work in the food industry instead...” Assisted by colleagues, Pryce runs a “Hospitality Skills for Life” course which includes food preparation and housekeeping skills. She used the USD 5,000 from her “Unsung Hero Award” from the First Caribbean Bank to train her first 25 students who graduated in 2010.¹⁵ The course now has 20 graduates every three months. Others have been trained in customer service and soft furnishing and can gain certificates in Mathematics and English Language Skills through the Government’s Human Employment and Resource Training National Training Authority (HEART NTA) Programme,¹⁶ with whom JHWA is also collaborating on a 9-month drapery-making class.¹⁷ The Jamaica Household Workers Association (JHWA) also hosts information seminars on living and working conditions, obtaining low-income housing, and accessing government services. With the Jamaica Employers’ Federation, the JHWA has begun organizing seminars between workers and employers to share experiences – good and bad – and foster better understanding between them. Pryce represents JHWA on the Minimum Wage Advisory Commission which directly advises the Min-

ister of Labour and Social Security, and has been part of the discussion on the new National Policy for Gender Equality under the Bureau of Women’s Affairs. The Bureau and other partners like the University of the West Indies’ Centre for Gender and Development Studies (UWI), the Association of Women’s Organizations in Jamaica (AWOJA) and Jamaicans for Justice, also supported JHWA’s Decent Work campaign, launched in 2010. Pryce says “We had several meetings, we did outreach delivering flyers on buses and in different areas on Saturdays, we had a Decent Work march followed by a concert with over 500 people attending...Domestic workers in the organization used to not speak out at all...one woman said to me that she was speaking in church about decent work. I said, ‘Church?’ She said ‘Yes!’”¹⁸

“The Central Organizations of Trade Unions (COTU), in Kenya”, says Mr. Francis Atwoli, its General Secretary and Member of ILO’s Governing Body, “has 33 affiliates that include the Kenyan Union of Domestic, Hotel, Educational Initiatives, Hospitals and Allied Workers (KUDHEIA), and has been working doggedly to protect the rights of over 2 million domestic workers in Kenya”. The Government of Kenya together with the Federation of Kenyan Employers (FKE) and COTU have worked closely to ensure employment legislation that protects local domestic workers, migrant domestic workers and other workers at par.¹⁹ In 2011, via another piece of legislation – the Employment Institutions Act, monthly minimum wages for domestic workers were raised from KES 5,500 (about USD 60) to KES 7,586 (about USD 82) in the major cities of Nairobi, Mombasa and Kisumu, and other sites.²⁰ COTU and others strongly advocated for the adoption (and now for ratification) of the ILO Convention on Domestic Workers, with 5 KUDHEIHA delegates – 3 women – accompanying COTU’s delegation to the International Labor Conference (LC) in Geneva, in 2011. The



organization has also incorporated female domestic workers into its leadership. Further KUDHEIHA runs awareness raising and leadership training for domestic workers and a range of other workers on domestic workers' rights (as well as their own), and invites parliamentarians to attend these sessions. KUDHEIHA members have also formed domestic worker committees in major cities and have launched an awareness campaign and public discussion forums. The campaign's tagline is "Decent work for all workers: I am not your servant! I am a domestic worker!" Finally, COTU plans to train union organizers and officials, including KUDHEIHA members to accompany labor inspectors to visit homes and estates, as Kenyan law also classifies gardeners, drivers and security guards as domestic workers.²¹

Kalayaan is a **UK based** NGO created in 1987 by domestic workers who had become undocumented after fleeing abusive employers. Its clients are mainly women from over 30 Asian and African countries. Kalayaan partnered with TUC, Unite the Union, Justice for Domestic Workers and Anti-Slavery International to advocate for the adoption of the Domestic Worker's Convention, revisions to the UK visa system calling for the restoration of recently removed protections for migrant domestic workers, including the right to change employers.²² Kalayaan partners with lawyers to offer clients free employment and immigration advice and help them reclaim their passports -nearly 1/3rd of whom have lost possession of their passports when they come into contact with Kalayaan. Further, it empowers clients to claim labor protections, with women making up 91% of the cases that went to employment courts in 2010. Kalayaan and the North Kensington Law Centre helped its clients bring successful claims that added up to over £1.5 million (around USD 2.4 million) from 2009-2011.²³ Migrant domestic workers are also being supported to take a test case to the UK's highest courts, challenging a legal loophole that allows some employers to claim that their live-in domestic workers are "family workers" who are exempt from receiving the national minimum wage.

In 2003 a small group of returnee Nepalese women migrant workers, with UN WOMEN's financial and technical support founded **Pourakhi**, which means "hard working and self reliant" in Nepalese. Pourakhi operates on the principle of empowerment, rather than welfare-focused assistance. The group's creation coincided with UN WOMEN's media campaign to lift the ban on women's migration for work from Nepal in January 2003 and support to the Government of Nepal to introduce gender-sensitive legislation that would also protect women migrant workers.

Pourakhi was strategically founded in Kathmandu, Dharan and Pokhara – big cities with large migrant women populations. The organisation now operates directly in 7 districts and its impact is near-universal, as it reaches all 75 districts through a national radio program, which has over

170 "listener's clubs" nationwide, and a 24-hour information desk and hotline. Pre-departure training programs teach prospective migrant women how to obtain information on the country of employment's laws, regulations, culture and traditions; access to health services including on sexual and reproductive health; and on how to access assistance from civil society organizations if they are violated. Legal awareness-raising programs inform women on how to use legal migration channels; tell them what their rights under Nepal's Foreign Employment Act of 2007, and how to seek redress for rights violations. Pourakhi also has a shelter in Kathmandu for women survivors of trafficking, smuggling and other abuse that provides counseling, legal aid and other services.

The organization collaborates with the Government and international organizations on several fronts. It has developed a pre-departure training manual for migrant domestic workers with Nepal's Foreign Employment Promotion Board, of which it is a member. Pourakhi belongs to a National Steering Committee chaired by the Ministry of Labour and Transport Management (MoLTM), facilitating inter-ministerial policy coordination on migrant workers' welfare. Members of the Committee include: ministries dealing with home and foreign affairs, law, justice and parliamentary affairs, local development, and women, children and social welfare, UN WOMEN, gender and migration experts, and the Nepal Association of Foreign Employment Agencies (NAFEA).²⁴ Pourakhi is also a member of government committees addressing: investigations for fraudulent medical testing, shelters for abused women, and undocumented migration. UN WOMEN and Pourakhi conducted joint research on domestic workers and HIV/AIDS, leading to awareness-raising through workshops on preventing HIV/AIDS and other communicable diseases. The two organizations also collaborated with the National Institute Studies (NIDS) and International Fund for Agricultural Development (IFAD) on a women's self-employment program that has helped women improve existing businesses or start new businesses via investment primarily of remittances. These businesses that include: grocery stores, food preparation and vending, hairdressing, artisanship, poultry and livestock raising have increased incomes and standards of living, improved education and health of children and families, enhanced women's self esteem, confidence in negotiating the public sphere and decision-making.²⁵ Pourakhi also has a legal aid program in partnership with the European Commission that has seen around 150 cases handled by paralegals who assist returnee workers with filing and presenting cases of abuse and accessing legal aid.

LESSONS LEARNED:

We can glean the following lessons from the success of these initiatives, and those figuring in the narratives of domestic workers, unions, employers and governments, presented earlier:

- Despite its unique nature, extending legal and social protections to domestic workers is feasible and has resulted in improving their conditions. In implementing such protections governments recognize that they are fulfilling their commitments to human rights, including women's and workers' rights; that local and overseas migrant domestic workers contribute to the economy and society and that protections enhance the development potential of domestic work for individuals, families, communities and societies. Employers realize that regulating domestic work and protecting domestic workers humanizes both the employer and the workers; raises the quality of service and provides clear guidance about standards that employers must adhere to.
 - A strong evidence base, especially via national data collection mechanisms provides a robust and convincing basis for governments to adopt and implement policies that protect the rights of local and migrant domestic workers.
 - Policy oriented research should be well grounded in the experience, information and analysis of local and migrant domestic workers and their organizations, for governments to formulate and implement relevant policies.
 - Domestic work, including overseas migrant domestic work interfaces with several public policy fields – labor, immigration, health... – making policy coherence and multi-stakeholder social dialogue and consultations, including with domestic workers central to policy formulation and implementation.
 - Policies, legislation and programs for local and overseas migrant domestic workers should be oriented to prevention, protection and prosecution and in the case of overseas migrants should govern all stages of migration
 - Successful advocacy by domestic workers' organizations to bring domestic work within the mainstream of relevant public policies deploys a variety of strategies aimed at broadening the support base, especially among other informal sector workers, as well as employers and public officials. These strategies employ a mix of normative, interest-based and efficiency arguments strategically targeted at various interest groups. Highlighting the contribution of domestic work to the economy and to employer households, focusing on the rights and obligations of workers, having high profile champions in government, drawing on the personal histories of employers or public officials whose family members were domestic workers (more common in certain contexts), and forming support groups of employers and public officials to advocate among peers, were strategies that contributed to successful legislative intervention in many contexts.
 - Collective bargaining helps ensure adequate protection for domestic workers and contributes to the enforcement of protected rights. Government can play a role in encouraging collective bargaining, including by providing an institutional framework and providing for national extensions of collective agreements.
 - To ensure robust protection, labor and social protections for migrant domestic workers should be accompanied by comprehensive enforcement mechanisms, including labor inspection measures and an appropriate dispute resolution mechanisms .
 - Bi-lateral, regional and multilateral agreements related to transnational, regional, global phenomenon like migrant domestic work, should include provisions protecting the rights of domestic workers with accompanying enforcement mechanisms.
- THE WAY AHEAD: NOT A MINUTE MORE – TIME TO ACT**
- Measures underway in many countries indicate an increasing momentum for improved protection of domestic worker's rights. Moreover domestic workers continue to be active agents, advocating with and partnering with governments to promote and protect their rights. Challenges however remain, and efforts to address these need to continue. The following may be considered areas for future action by governments:
- Consider ratifying ILO Convention No.189 concerning Decent Work for Domestic Workers and ensuring its application and that of the CEDAW Convention and General Recommendation No.26 on Women Migrant Workers and other related standards, in national laws and practice.
 - Develop better knowledge and understanding of the domestic work sector and the conditions of domestic workers, including through improved data collection and analysis, strong data bases and profiles on migrant domestic workers, gender sensitive research on their contribution, and on immigration and labor policies governing their entry, conditions of work and stay in countries of employment
 - Extend labor law coverage and other legal and social protections to domestic workers in line with the ILO Convention No. 189, the CEDAW Convention, its GR No.26 on Women Migrant workers, and other relevant UN and ILO instruments and guidance.
 - Provide legal channels of migration for domestic work based on objective labour market assessments taking into account the care crisis and related demand for domestic work.
 - Provide protection through bi-lateral and multi-lateral labor and social security agreements.
 - Promote the formalization of the domestic work employment relationship, including through written and enforceable contracts for migrant domestic workers in line with international standards.
 - Put in place a comprehensive system to ensure compliance and accountability by employers of their statutory and contractual obligations to domestic workers, including through labor inspection measures, effective access to information and courts, specialized dispute resolution mechanisms, sanctions for non-compliance.

- Provide gender sensitive front line services to all domestic workers that help prevent and protect against abuse and exploitation, provide assistance when abused and facilitate rehabilitation and long term recovery. For overseas migrant domestic workers, in particular these should include: information dissemination to communities in source sites to help them make informed decisions and use legal channels, targeted pre-departure information and training, information dissemination in countries of employment on rights, obligations, public services; access to health care and trauma counseling, hotlines, emergency shelters, legal aid and redress, safe return to countries of origin, cheap and efficient remittance transfers and avenues for productive investment including financial literacy programmes at pre, post and during migration stages; access to skills upgrading, services for business development and entrepreneurship; access to support services for families left behind.
- Raise awareness and build institutional capacities of policy makers, service providers, government officials including diplomatic and law enforcement staff to address migrant domestic workers and their concerns according to human rights standards, and consider supporting organizations providing assistance to these workers.
- Promote public awareness programs and targeted awareness raising for employers emphasizing that domestic work is work, highlighting the contributions of domestic workers, debunking myths and stereotypes about them, and reiterating the need to treat them with dignity and respect.
- Promote broad-based policy and social dialogue on how to ensure decent work for domestic workers, including through institutionalized cooperation between the government and domestic workers' organizations, unions and their support groups with regard to the development, implementation, monitoring and evaluation of policies and programs related to lives and work of domestic workers and their families.
- Monitor and evaluate the impact policies, programs and budgets on domestic workers and revise future policies and programs accordingly.
- In relation to the above, work in partnership with civil society and international organizations.

ENDNOTES

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The **United Nations Entity for Gender Equality and the Empowerment of Women (UN WOMEN)** is the UN organization dedicated to promoting gender equality and women's empowerment in global, regional, national agendas and in the work of the UN system. A global champion for women and girls, UN WOMEN was established in June 2010 to accelerate progress on meeting their needs worldwide.

UN WOMEN focuses on the following areas: ending violence against women, addressing women's rights in peace and security processes; promoting women's economic empowerment, enhancing women's leadership and participation and promoting gender equality in national development planning and budgeting processes.

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The **International Trade Union Confederation (ITUC)** is the main international trade union organisation, representing the interests of working people worldwide.

The ITUC was founded at its inaugural Congress in Vienna, Austria, on 1-3 November 2006. It groups together the former affiliates of the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labour (WCL), along with trade union organisations which had no global affiliation.

The ITUC represents 175 million workers in 156 countries and territories and has 315 national affiliates.

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