



Achieving decent work for domestic workers

An organizer's manual to promote
ILO convention no. 189
and build domestic workers' power



Introduction

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Achieving decent work for domestic workers: an organizer's manual to promote ILO Convention No. 189 and build domestic workers' power

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The adoption by the International Labour Conference, on 16 June 2011, of ILO Convention No. 189 and Recommendation No. 201 on decent work for domestic workers, was an historic step in the struggle for social justice worldwide. It was the culmination of several decades of domestic workers' organizations and trade unions campaigning to end exclusion, and gain recognition for the rights of domestic workers.

Though the Convention and Recommendation are now won, the fight for domestic worker rights is far from over. The ratification of the Convention and application of both of these new international instruments must be a priority for the ILO and the labour movement. Workers' organizations have played crucial roles in previous campaigns for the adoption and ratification of international Conventions, whether on eliminating child labour, on maternity protection, or on equality and non-discrimination. The action to get Convention No. 189 ratified will be no exception.

Even before it was adopted, Convention No. 189 had a resounding impact: when the proposal to set standards on decent work for domestic workers was first discussed and approved by the ILO's Governing Body in 2008, it galvanized the domestic workers' movement, fostering its emergence within trade union organizations or bringing it closer to them. Achieving an international Convention for domestic workers had become a common objective. This aim undoubtedly brought people together to organize domestic workers, to have their specific concerns taken into account, to have their rights as workers recognized, their specific employment and working conditions considered, and their dignity respected.

The potential of a global campaign for the ratification of Convention No. 189 is plain to see: it is the instrument needed to transform the employment relationship of some 100 million domestic workers, from one based on exploitation, to one based on rights. It is also the best tool available to trade unions for organizing domestic workers and equipping them with the collective means of demanding their rightful place in the world of work. Unions should not be slow to promote the ratification and application of

this Convention. Seizing the interest that governments have shown in this matter will be crucial in ensuring a successful ratification and implementation campaign. Organizing domestic workers will raise the visibility of the workforce; shift perceptions so that they are recognized as real workers, increase their collective power, strengthen the labour movement as a whole, and, ultimately, will result in a stronger ratification campaign.

This manual was designed to support just such actions. In it, you will find four parts: the first part provides ten good reasons why trade unions should be fighting for ratification and implementation. Part 2 is an organizing manual, in which approaches to organizing are suggested, based on the experiences of domestic worker organizations and trade unions that have successfully organized and defended the rights of domestic workers. Part 3 then acts as a user's guide on the necessary steps that must be taken for a Convention to be ratified. The final part provides examples of victories that have resulted from successful organizing around the world. At each stage, reference is made to the relevant provisions in the new instruments (the Convention and the Recommendation). You will find the full texts of the Convention and Recommendation in the appendices.

Like all ILO Conventions, the rights established in Convention No. 189 should be interpreted as minimum standards. Trade union action and collective bargaining, the rights to which are now enshrined in the new Convention, should make it possible to build on this floor to win more rights and further improve the living and working conditions of domestic workers.

Alongside workers' organizations, the ILO Bureau for Workers' Activities will spare no efforts to ensure that the Convention is ratified as rapidly and broadly as possible, and will take action to get the Convention implemented in law and practice. We would like to thank labour analyst Samuel Grumiau; and Claire Hobden from the ILO Bureau for Workers' Activities, for their contributions to this publication.

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Purpose of this document:

This manual was designed with the ultimate goal of building strong domestic workers' organizations, with two specific purposes in mind: 1) to provide guidance on how to build a campaign for the ratification and promotion of Convention No. 189; and 2) how to effectively organize domestic workers. As all workers' organizations know, a campaign is not easily won without a strong worker movement behind it. The parts of this manual are therefore complementary: the stronger the base of organized domestic workers, the better the chance of ratification and legislative change, the easier it will be to organize domestic workers and strengthen the labour movement as a whole; the stronger the unions' commitment to campaign for ratification of the Convention, the more domestic workers will be encouraged to organize into, and form trade unions.

Domestic worker organizing has taken many different forms throughout the world. Where they have had the legal right to organize, some have formed trade unions of domestic workers. In other cases, they have organized themselves into domestic work-

er organizations outside of the union structure, often because of legal restrictions on their right to form trade unions.

The new Convention reinforces and highlights the international right of domestic workers to join or form trade unions. When governments ratify the Convention, this right will also have to be included under national law. This manual was therefore designed to support the organizing of domestic workers into trade unions. Given the complex history of organizing within this newly-recognized sector, each trade union or domestic worker organization may find they have varying training needs. We hope this manual adequately addresses the needs of domestic worker unions, trade unions interested in organizing domestic workers, and domestic worker organizations interested in building a union of domestic workers.

This tool will be even more effective if it can serve as a catalyst for union organizers to share their experience and contribute to the emerging networks of domestic workers and on-going campaigns.

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IMPORTANT CONTACT POINTS SHOULD BE NOTED:

ITUC (the International Trade Union Confederation):

www.ituc-csi.org

IUF (the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations):

www.iuf.org

International Domestic Workers' Network:

<http://www.idwn.info>

ACTRAV (the ILO's Bureau for Workers' Activities):

<http://www.ilo.org/actrav/lang--en/index.htm>

ILO Regional Offices:

<http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/lang--en/index.htm>

ETUC (the European Trade Union Confederation):

<http://www.etuc.org/>

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Part 1 Ten good reasons **(why workers' organizations should** **campaign for the ratification of ILO** **Convention No. 189)**

Ratification is an essential step towards securing the rights embodied in Convention No. 189. However, governments do not automatically ratify Conventions. In fact, although it is the parliaments' responsibility, governments sometimes hold back from promoting ratification for various reasons. They might feel that the Convention text is too prescriptive. In some cases, they claim there are too many barriers to ratification in existing legislation. These arguments, which may sometimes be legitimate, often arise out of misunderstandings of the meaning and scope of the ILO instruments, which workers' organizations and the ILO can help to clarify and appease governments' concerns.

What is clear is that the determining factor in each country will be political will. Workers' organizations will have to convince governments and parliamentarians

to ratify and implement the Convention, and will need to conduct information campaigns based on solid arguments. The unions will also have to convince their own members that this is a worthwhile exercise. Here are ten good reasons why unions should campaign for ratification:

1. Inclusion: domestic workers do not benefit from adequate legal protection in most countries, and their isolated working conditions place them among the most vulnerable to exploitation and abuse. Workers' organizations have a duty to protect the most vulnerable workers. The *equal treatment principle* that all workers should be treated equally is embodied in Articles 10 and 14 of the ILO Convention, and should be a central feature in all workers' campaigns.

2. Strength in numbers: Promoting the ratification and application of Convention No. 189 is the best way for unions to signal to domestic workers their intention to protect domestic worker rights. Campaign successes then illustrate to domestic workers how *collective action* is the best defence against abuse and exploitation.

3. The right to organize: the ratification and application of Convention No. 189 will make it possible to establish the lasting legal framework needed for trade union action in support of domestic workers, including providing them with the *legal right to organize*.

4. Accountability: once ratified, Convention No. 189 can be used directly by workers' organizations in the courts, or indirectly as law, as a means of denouncing abuses and exploitation. Workers' organizations may use certain ILO mechanisms *to monitor compliance*, including by submitting representations or complaints (see Part 3).

5. Shaping legislation: campaigning for ratification and application of the ILO Convention is also the primary avenue for unions to have a say in the passing of legislation to protect domestic workers. Some of the Convention's provisions, notably Articles 13 on health and safety, and Article 14 on social protection, explicitly call for *consultation with the social partners*. Article 18 further provides that the provisions of the Convention shall be implemented "in consultation with the most representative employers' and workers' organizations, through laws and regulations, as well as through collective agreements...".

6. Trade union rights and beyond: freedom of association and the right to collective bargaining are at the core of the machinery provided by Convention No. 189, and the accompanying Recommendation No. 201. But the instruments go further than simply protecting the trade union rights of the workers concerned. They also take in other essential aspects such as *basic human rights, the regulation of recruitment agencies, and equal treatment for migrant domestic workers*. The Recommendation is also the first international instrument to address the question of domestic workers in diplomatic missions (consulates and embassies). Although it is not binding, the Recommendation provides guidance to member States in handling such cases.

7. Protecting migrant workers: ratification of Convention No. 189 enables the countries of origin to effectively protect the rights of their workers abroad. In fact, the Convention could provide the key to the harmonization of different countries' labour legislation, making it easier to maintain the *rights of migrant domestic workers* through cooperation between the sending and receiving countries.

8. Global solidarity: the more ratifications there are, the greater will be the worldwide recognition of the principles and rights embodied in Convention No. 189.

9. Enshrining rights: Governments change, and often legislation changes with them. But Conventions are binding on States that ratify them, even if there is a change in government. Ratification of Convention No. 189 could therefore *prevent a sudden worsening of working conditions* for domestic workers due to a change in government.

10. Domestic worker organizing: launching a campaign for ratification is also the best tool available to workers' organizations for organizing domestic workers and equipping them with the collective means of demanding their rightful place in the world of work. Promoting the ratification and application of this Convention is the clearest signal that the unions can send to domestic workers.

Domestic workers - 12 by 12

Join our campaign for rights and protection for domestic workers.



In June 2011 the UN body that deals with labour issues, the ILO (the International Labour Organization), adopted Convention No. 189 (C189) and Recommendation No. 201 (R201) on domestic workers.

Convention No. 189 recognizes the right of domestic workers to join and form trade unions, which is still forbidden in many countries. It also protects the right to the minimum wage in countries where a minimum wage exists, and protects monthly payments and access to social security, including in the case of maternity.

The Convention gives domestic workers one day off per week and regulates their working hours. In essence, the Convention guarantees that domestic workers are treated as any other worker under labour legislation.

This Convention will enter into force once two countries have ratified it.

The ITUC launched the "12 by 12" worldwide campaign on getting 12 countries to ratify Convention No. 189 by the end of 2012.

While the campaign aims at mobilizing action around the world, it will have a particular focus on the following countries, and the EU: Brazil, Peru, the Dominican Republic, Paraguay, South Africa, Senegal, Kenya, Philippines, Indonesia, India, and Saudi Arabia.

The '12 by 12' Campaign aims at 12 ratifications of C189 by 2012. It also aims at organizing domestic workers and to set up/strengthen their unions.

The campaign is organized by ITUC in partnership with IDWN, IUF, PSI, ETUC, Human Rights Watch, Solidar, Migrant Forum Asia, World Solidarity, and Caritas.

Check out the '12 by 12' webpage on www.ituc-csi.org and join us on Facebook '12 > 12'

The end of modern-day slavery: There are over 100 million workers employed to work in someone else's house all over world. These domestic workers clean, cook, do laundry, provide care to children and the elderly, and lots more. Their work is undervalued, underpaid, invisible, not recognized, and not respected. The majority of domestic workers (82 per cent) are women – many are migrants, or children.

In many countries domestic workers are excluded from labour legislation and social protection schemes. Many are denied the right, either in law or in practice, to form or join a trade union. As a result, mistreatment, exploitation, violence, and physical and sexual abuse are frequent and often go unpunished.



Part 2 Organizing manual

The passage of ILO Convention No. 189 provides a new opportunity to organize domestic workers. In most places, the domestic work sector includes hundreds of thousands of workers, most of which are unorganized. Organizing initiatives are therefore likely to bring in significant numbers at the outset. Nevertheless, domestic work has many particularities as a sector, and traditional trade union strategies will not always suffice to organize and support domestic workers.

Trade union action in support of domestic workers should be developed to meet the particular needs of domestic workers: the isolation of working inside a private residence, negotiating with multiple employers, having virtually no freedom to meet fellow workers, and lacking access to social and legal services. These conditions mean that domestic workers often live and work in a significant amount of fear.

Like any other worker, a domestic worker will hesitate to join a union from fear of being fired. With no safety net or guarantee of another job, domestic workers are particularly vulnerable to the threats of their employers. For live-in workers, being fired also means losing their home. Migrant domestic workers also risk losing their work permit.

Trade unions and domestic worker organizations have taken a broad range of actions to meet the specific needs of domestic workers. To effectively reach domestic workers, these services must be highlighted to encourage domestic workers to overcome certain fears and see the benefits of joining the union. The following section details various actions that trade unions can take to organize and support domestic workers through campaigns, assisting them to form trade unions and bargain collectively, and helping domestic workers meet their basic needs.¹

Campaigns

A strong campaign, whether for promotion of the Convention, winning a case against an abusive employer, or for any other goal, is a potent tool for organizing domestic workers. Campaigns provide opportunities to raise awareness among public officials and the public at large, shift perceptions of domestic workers and the industry in general, and inform domestic workers and employers of their rights and responsibilities. Moreover, campaigns encourage domestic workers to participate in union activities, and results boost their self-image as real workers deserving of protections.

RAISE AWARENESS

Raising awareness among public officials

Domestic work is a very unusual sector, due to individual employment relationships, isolated working inside private households etc. Very often the realities of this job are a closed book to the general public but also to Labour Ministry officials, including labour inspectors. Where these authorities are open to cooperation, trade

unions or domestic workers' organizations can teach them a great deal about the everyday workings of this sector.

In the United States, DWU (Domestic Workers United) cooperates with the New York State Department of Labor on training its investigators about realities in the sector: its dynamics, the evasion tactics habitually used by employers, and the conditions faced by domestic workers when they try to negotiate.

CONVENTION NO. 189 ARTICLE 17.2

Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

¹ This list is not exhaustive, and its order does not imply any judgment as to the relative importance of the different types of action described. As well as the unions and organizations mentioned here, many others are also doing excellent work, but it is not possible to name them all within this manual.

Raising dignity, respect, and recognition of domestic workers

One key common demand of domestic workers around the world is to be given dignity, respect, and recognition. The ILO Convention raised the profile of domestic workers like never before, and its passage gave recognition to domestic workers as real workers. Seeing that the world might finally be ready to recognize their work, and to let them perform their tasks with dignity, and free of exploitation can – and has – significantly improved the self-image of domestic workers around the world.

Many domestic workers who have become union activists have an opportunity to speak out in public at international meetings, and to gain media coverage thanks to the debates generated by the adoption of the new Convention. They also make international

contacts at these events. Highlighting their role and the value of their work in this way helps to change the image of domestic work and to build domestic workers' self-confidence.

CONVENTION NO. 189 PREAMBLE:

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



TIP

Perhaps even more important than the recognition they received from Member States by voting in favour of the Convention was the recognition they received from their fellow workers in the trade unions who stood in solidarity with them. Such displays of solidarity cost little or nothing and go a long way towards achieving real social and psychological change for domestic workers.

TIP

Many unions can use an international event such as the adoption of a new standard as an opportunity to make public opinion, and the national authorities aware of the situation of domestic workers.

Raise the level of respect for domestic work

Despite the essential and demanding nature of their job, domestic workers are usually seen as “maids of all work” who are bereft of skills and endlessly exploitable. Trade unions have a role to play in building better public awareness on this issue.

Various avenues can be explored:

- In some countries, trade unions are given dedicated slots in public service broadcast schedules. From time to time, they can use these opportunities to look at the issue of domestic work.
- Hold a national Domestic Workers’ Day, or link up with an international Domestic Workers’ Day. In a number of Latin American countries, 30 March is the day chosen for this. The World Day for Decent Work, marked by trade union organizations on 7 October, may also be used to mobilize domestic workers.
- Change the vocabulary. In South Korea, domestic workers do not have the possibility of forming a trade union, but they do have a cooperative which is supported by the Korean Confederation of Trade Unions (KCTU). It came up with a new job title to make them proud of their occupation. Instead of “domestic workers”, it calls them “house managers”. And their organization is the National House Managers’ Cooperative.
- Invite domestic workers to major labour rallies. In Senegal, for example, the CNTS labour confederation (Confédération nationale des travailleurs du Sénégal) invites domestic workers to march alongside other workers at events such as the World Day for Decent Work (7 October), and to make speeches about their situation. In this way, the CNTS has managed to improve the attitude not only of the public at large but also of its own members, many of whom are themselves employers of domestic workers.

“Know your responsibilities” campaigns

While “ignorance is no defence” and it is really up to the authorities to ensure that everybody knows the law, it is nonetheless useful

for unions to help spread information about the legislation and international standards that protect domestic workers. Many unions organize mass education campaigns to make employers aware of their responsibilities. This can be done through trade union media, campaigns targeting the general public, May Day events, a national or international Domestic Workers’ Day, etc.

In Paraguay, for instance, the labour confederation CUT-Auténtica (Central Unitaria de Trabajadores Auténtica) produced a short film showing the abuses suffered by domestic workers. The idea was to get the message across to the public first, and then launch a campaign to put the issue on the political agenda.

Promotional items are another way of getting the message out. In Niger, for example, the CNT labour confederation (Confédération nigérienne du travail) commissioned placemats and coasters with slogans backing domestic workers’ rights.

DEMAND AND ENFORCE RIGHTS

Fight to improve national legislation

In many countries, domestic workers do not benefit from the same legal protection enjoyed by other workers. They often do not have a right to unionize, their working time is unregulated, they are excluded from social security coverage, etc. Trade unions can play an important role in denouncing these injustices and should use their full influence to change national legislation so that domestic workers enjoy the same rights as all other workers. The adoption of ILO Convention No. 189 is a powerful new tool in this struggle.

CONVENTION NO. 189, ARTICLE 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

TIP

Use the trade union media. As many trade union members also employ domestic workers, publishing items about them in the various trade union media (journals, websites, radio shows etc.) can have a big impact.

All types of trade union campaigning can be used in the push to improve national legislation. For example, as part of its action programme for domestic workers, the Malaysian Trade Union Congress (MTUC) has printed postcards that can be sent to the government. Among the demands listed on the cards are one day off per week, decent working, and decent living conditions for domestic workers. Scandals surfaced in the media about very serious abuses committed against domestic workers, and the MTUC used these to build public awareness. There was a massive public response to the campaign.

Raise police awareness

Often, domestic workers will hesitate to seek help from the police if they are abused by their employer, for fear of not being taken seriously, not being able to prove it, being faced with employers who will bribe their way out of it, etc.

Trade union organizations can prepare the ground, so that it becomes easier to contact the police and lodge complaints. The Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) maintains contacts with officers in a number of police stations and has made them more aware of domestic workers’ fate. These police officers assist the union in its counselling of domestic workers who have suffered abuse.

Set up a dedicated hotline

In Sri Lanka, the National Workers’ Congress (NWC) set up a phone line that could be called by anyone wishing to report abuse directed against a domestic worker. The number was publicized widely, notably through the distribution of brochures in areas where domestic workers live and work. Most of the requests for help were about the non-payment of wages set by verbal agreement. In the unions’ experience, a phone call from the NWC to the employer was generally enough to reach agreement without risk to the domestic worker’s employment. This experiment was a success, but had to be discontinued for lack of financial means.

TIP

Your union may prepare a short questionnaire to use when collecting testimonies of domestic workers who are victims of abuses. The answers to such questionnaires can then be related to protections under existing labour law or under the ILO Convention and used as evidence in legislative campaigns or court cases.

In Jamaica, the JHWA (Jamaica Household Workers’ Association) also set up a phone line, but not just for denunciations. It also helps to inform both domestic workers and employers about issues around the minimum wage, working conditions, legal deductions, sexual harassment etc. The Barbados Workers’ Union also has a hotline.

In the Philippines, the domestic workers’ association SUMAPI added a mobile phone number to its existing landline. It had noticed that many employers forbid their staff to use the house phone, but at the same time domestic workers are reluctant to call a landline from their own mobiles due to the cost. On average, SUMAPI receives one call per month about urgent cases involving serious breaches of domestic workers’ rights. The association mainly uses mobile phones to keep in regular contact with its members, mostly through text messaging.

Access to justice

In cases of abuse or exploitation, domestic workers do not usually have the means or capacity to launch legal proceedings for compensation. Trade unions can play a vital role in lending their collective power. In Peru, for example, members of the trade union SINTTRAHOL (Sindicato de Trabajadoras y Trabajadores del Hogar de la Región Lima) can count on the assistance of lawyers from their labour confederation, the CGTP (Confederación General de Trabajadores del Perú), when they take legal action. SINTTRAHOL leaders may also represent a union member in court if they are unable to get time off for the hearing.

CONVENTION NO. 189, ARTICLE 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Another example comes from Mauritania, where the Trade Union Centre for Migrants run by the labour confederation CGTM (Confédération générale des travailleurs de Mauritanie) brings before the labour court cases involving abuse of domestic workers, particularly non-payment of wages.

In the Swiss canton of Geneva, the SIT union (Syndicat interprofessionnel des travailleuses et des travailleurs) brings an average of 20 to 25 such cases before the labour tribunal each year. Generally, they concern migrant workers whose papers are not in order, but the Geneva union has obtained assurances from the judicial authorities that no plaintiff will be reported to the population registration authorities, and so far that promise has been kept.

BUILD ALLIANCES

In organizing domestic workers, you may also find that nearly all of us have some relationship to domestic work. The diversity of possible relationships provides fertile ground for building alliances with a variety of allies.

Solidarity from other unions

When they become aware of the injustices often suffered by domestic workers, many other workers, whichever union they are in, are prepared to act in solidarity.

EXAMPLE:

Unions within particular trades provide natural solidarity linkages. In New York, for example, DWU has a close relationship with the union that organizes the doormen of buildings in wealthier neighbourhoods. Through their jobs, these doormen get to know the domestic workers working in their buildings. They see and hear first-hand the conditions in which domestic workers are working, and therefore were among the first unions to show solidarity and support for the organizing initiatives of domestic workers. Building alliances and unity with this and other unions built the overall power of domestic workers in their campaigns, as well as that of the labour movement generally.

Identify supportive employers

Alongside the cases of extreme exploitation of domestic workers by unscrupulous employers, there are also many families and individuals who want to be good employers, but who do not know how to go about it and what the standards are. This is particularly true when there is no labour legislation that clearly applies to the sector. Unions and organizations can reach out to these employers. In the United States, for example, Domestic Workers United (DWU) has developed a partnership with another organization, Jews for Racial and Economic Justice (JFREJ). JFREJ has organized the employers of domestic workers within the New York Jewish community and has campaigned side by side with the DWU for the adoption of a law specifically protecting domestic workers. Growing out of these efforts, there is now a national organization called "Hand in Hand: The Domestic Employers Association", which works in close partnership with the National Domestic Worker Alliance.

TIP

The broad reach of the trade union network provides great scope for contacting a very large number of domestic workers, whether they are employed by members, their friends, their neighbours or their acquaintances.

TIP

When forming alliances, think broadly but choose wisely to build a strong campaign: in many places, organized university students may relate to the issue as children who had been raised by domestic workers; women's organizations may wish to support a campaign for domestic workers as it is primarily a female workforce; or, certain householders may be sensitive to the injustices in the industry. All of these constituencies can help build movement in campaign efforts. However, it is critical that alliances are built with people and organizations that embrace common values and that share your goal of protecting and organizing workers.

Collective power

There is power in numbers, and trade unions have the unique right to exercise that power through collective bargaining. As the promotion of the Convention advances, domestic worker organizations should gradually form trade unions, as Convention No. 189 clearly states their right to freedom of association (see Box below). This Part provides examples of how trade unions can organize domestic workers, support them to join or form trade unions, and establish collective bargaining mechanisms.

CONVENTION NO. 189 ARTICLE 3.2.

Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;

RECOMMENDATION NO. 201 PARA. 2

In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:

- (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers organizations of their own choosing and to the right of organizations of domestic workers to join workers organizations, federations and confederations;

- (b) give consideration to taking or supporting measures to strengthen the capacity of workers and employers organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.



BUILDING YOUR BASE

A strong base of members will strengthen any campaign and the workers' movement at large. Unlike many other sectors however, domestic workers work in isolation, inside the private residence(s) of employers. This presents at least two concrete challenges: 1) finding and reaching domestic workers, and 2) organizing large numbers of them. Live-in domestic workers are particularly isolated and even more difficult to reach, making them prone to the worst kinds of exploitation. Migrant domestic workers often live with the additional fear of deportation. But although they are somewhat more difficult to organize en masse, domestic workers are literally everywhere, and largely ready to be organized. Many unions and organizations have succeeded in organizing hundreds and even thousands of domestic workers. The following examples are some of the approaches used to reach domestic workers:

CONVENTION NO. 189, ARTICLE 3.3

In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Go to the same public places as domestic workers do

As domestic workers do not have a traditional "shop floor", they often congregate instead at their own version of it: parks and playgrounds (for domestic workers who care for children or the elderly), public transport, rail or bus stations they use to commute to work, markets or supermarkets, religious buildings etc. Trade

unions and domestic worker organizations that have had success in building a base of domestic workers often send organizers to look for domestic workers in such public places. Once identified, the organizers talk to them about their working conditions and provide them with information about their organizing activities and their rights.

EXAMPLE:

The South African Domestic Service and Allied Workers' Union (SADSAWU) uses trains going to the poorer suburbs, supermarkets and other public places to distribute leaflets to women who might be domestic workers. In Trinidad and Tobago, activists from the National Union of Domestic Employees (NUDE) sometimes wear t-shirts with slogans about domestic work to attract domestic workers who then approach them to ask questions. In New York City, members of Domestic Workers United (DWU) go to parks, playgrounds, libraries and churches to reach other domestic workers.

Use personal and neighbourhood contacts

A number of trade unions and domestic worker organizations establish their first contacts with domestic workers through personal relationships. Sometimes, it is their members who contact domestic workers in their neighbourhood. Remember, many of us, our friends, co-workers and families employ domestic workers.

Moreover, domestic workers often build their own social networks of domestic workers. This makes domestic workers themselves key to transmitting information and identifying places where many domestic workers can be reached. Together with mobile phones, these neighbourhood and network relationships enable the rapid circulation of messages – for instance, about a meeting to be held at a member's house, or a community meeting etc.

TIP

Use existing solidarity networks, women, migrant workers, and sensitise them as a means of reaching out to domestic workers.

TIP

The adoption of the new international standards on domestic work, their ratification by the country concerned, and the symbolic commemorations of their coming into force or their ratification ("one year on, three years on, five years on, ten years on" etc.) are important events to attract media coverage.

EXAMPLE:

The South African Domestic Service and Allied Workers' Union (SADSAWU) tries to set up small street committees who leaflet from door to door. In this way, contact is made with some domestic workers, and some of these go on to become the union's local contact points.

In Tanzania, members of the Conservation Hotels Domestic and Allied Workers' Union (CHODAWU) contacted their neighbours' domestic workers. They invited both the employees and the employers to awareness-raising meetings during which the union showed the employers the importance of the role played by a domestic worker within the home. It then becomes easier to persuade the domestic workers (and sometimes their employers) to create small mutual assistance networks.

Use the media

Domestic workers sometimes have an opportunity to watch television, listen to the radio or read a newspaper. Identifying media coverage opportunities to disseminate information about domestic work and conducting media information campaigns (publicizing the union's contact details) can therefore be an effective strategy to reach more workers, while raising public awareness about the issues.

EXAMPLE:

Many unions use International Domestic Workers' Day (held on 30 March in a number of Latin American countries) to attract media attention. The Colombian union ULTRAHOGAR (Unión de Trabajadoras del Hogar Remuneradas), which is active in the Cali region sometimes gets TV or radio coverage on that Day. In Brazil, the ILO, UNIFEM, the Brazilian domestic workers' federation FENATRAD (Federação Nacional das Trabalhadoras Domésticas) and the government institutions tasked with promoting racial and gender equality, launched a campaign to mark the day, featuring three radio spots on the theme of "Respect and dignity for domestic workers: a profession like any other". The campaign was also broadcast by the Brazilian Radio and Television Association, which includes 2,600 radio stations in Brazil.



TIP

When organizations discover a case of exploitation or abuse, it is important to expose these to the public through the media. Bringing these stories to the media also provides an opportunity for broader coverage of the domestic work issue. Note though, that while highlighting such cases of abuse is important, it is equally important not to portray them as mere "victims". Domestic work is dignified work, and domestic workers are real workers, which is how it should be framed in the media.

TIP

Participation by a domestic worker or a trade union delegate in an international conference on domestic work may sometimes lead to a media interview before or after her/his journey. Another good way to attract journalists' attention is to prepare solid factual reports providing information about numbers of domestic workers, their working conditions, and cases of abuses dealt with by the trade unions.

Reaching migrant domestic workers

Migrant domestic workers often get involved with communities of people who have come from the same country, creating a natural network for dissemination of information. Identifying and approaching these networks is particularly important given the more vulnerable status of migrant workers.

EXAMPLE:

Work together with non-governmental organizations that assist migrants. That is how the Hong Kong Confederation of Trade Unions (HKCTU) made its first contacts with migrant domestic workers. It is particularly important to collaborate with NGOs that have already gained the trust of domestic workers.

- Contact migrant associations or networks. The Mauritanian labour confederation CGTM (Confédération générale des travailleurs de Mauritanie) builds relations with the various associations of migrants from domestic workers' countries of origin, and it distributes leaflets giving basic information on their rights, contacts, etc. In the Netherlands, the FNV Bondgenoten union (Federatie Nederlandse Vakbeweging) contacted migrant domestic workers through the mutual aid networks the workers themselves have set up.
- Look for migrant workers in the public places where they meet up. In Hong Kong, for example, activists from the Hong Kong Confederation of Trade Unions (HKCTU) meet domestic workers at specific places in various city parks where domestic workers of the same nationality usually get together on Sundays.

- Make contact via an assistance point for undocumented workers. In Switzerland, for example, in the canton of Geneva, the SIT union (Syndicat interprofessionnel des travailleuses et des travailleurs) runs a twice-weekly help point for undocumented workers. Some of these are domestic workers.
- Some unions work together with religious communities to get their message across to domestic workers. A good example of this is Belgium's CSC labour confederation (Confédération des Syndicats Chrétiens), which is sometimes invited in by churches or Catholic organizations frequented by expatriate domestic workers. In the Philippines, the domestic workers' association SUMAPI has persuaded some priests to present its activities during Mass. In this way, the message reaches both domestic workers and employers who are present in the church.

Provide regular and reliable points of contact

Domestic work is a notoriously precarious, unstable, and unpredictable form of employment. In the absence of a written contract or protection against unfair dismissal, workers may lose their jobs overnight and never return to the place where they were in contact with the union or organization. Some are migrant workers who will then move to another town or go back to their home country for a while, and this too may mean that they lose touch with contact persons for the organizations that can assist them. It is therefore useful to hold meetings or contact points for domestic workers in a set place and at set times outside their working hours. In this way, domestic workers who have lost touch with their union or organization will know where to find it again. They will also be able to tell others about this contact point.

TIP

Consider preparing short information material in languages of the domestic migrant workers

EXAMPLE:

Domestic Workers United (DWU) in New York City has been holding its general membership meetings at the same place and the same time for ten years now. They have now also established an ambassador programme, in which domestic worker members are trained to act as 'neighbourhood shop stewards.' An ambassador placed in a given neighbourhood serves as a resource person for domestic workers who work and/or live in that particular neighbourhood.

Work together with placement agencies – with caution

The role of agencies is highly controversial when it comes to domestic work. In some places, they are seen as a useful means of finding employment, but in many cases, they act as irresponsible intermediaries who avoid the responsibilities of an employer. Choosing to cooperate with placement agencies should therefore only be undertaken after close analysis of their role and relationship to domestic workers in each particular context and on a case by case basis.

In Yogyakarta (Indonesia), the Federation of Informal Sector Workers (FKUI - Federasi Kontruksi Umum Dan Informal), which is affiliated to the labour confederation KSBSI (Konfederasi Serikat Buruh Sejahtera Indonesia), has started cooperating with one of the major placement agencies for domestic workers. The union hopes this will enable it to contact a large number of workers. The agency, for its part, is counting on the union to help resolve any worker-employer disputes.

In Malaysia, the action programme for domestic workers run by the Malaysian Trade Union Congress (MTUC) is also cooperating with the placement agencies in order to contact these workers

CONVENTION NO. 189, ARTICLE 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

(a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;

(b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;

(c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;

(d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and

(e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representatives of employers of domestic workers.

FORMING TRADE UNIONS

In many cases, domestic workers have formed associations or organizations, but they have not yet formed or joined formal trade union structures. The reasons are varied and often have to do with limited rights to freedom of association and lack of capacity. The passage of the Domestic Worker Convention should be treated as an opportunity to encourage and support domestic worker organizations to become or affiliate with trade unions.

In the process of forming trade unions, there are some examples of domestic workers forming trade unions that can be drawn upon. Some examples include South Africa (COSATU), Brazil (FENATRAD, which is part of CONTRACS) and Hong Kong (HKCTU) where domestic worker federations or trade unions have either affiliated with or integrated into national trade union centres.

The process of forming or joining a trade union will take time, but it is the only way that domestic workers will be able to exercise their rights as workers to bargain collectively. In the meantime, trade unions can also help domestic worker organizations in the meantime by lending their existing collective power.

Learning from creative approaches by domestic worker organizations

In most cases, domestic workers have not yet organized into a full union structure. However, a number of innovative approaches have been developed to create “union-like” structures. The advantage of these approaches is that they have been tailored to meet the specificities of the domestic work sector. As unions and organizations work towards forming trade unions of domestic workers, the following examples can provide guidance as to how to form these structures to effectively meet the specificities and needs of domestic workers:

- As previously described, in New York, Domestic Workers United (DWU) has established a “neighbourhood shop steward” structure in various neighbourhoods of New York City. DWU “ambassadors” – domestic worker members of the organization – are trained to provide information on the rights of domestic workers, and connect them to DWU. These reps are also able to react rapidly in cases of abuse. The Hong Kong Confederation of Trade Unions (HKCTU) has also set up networks of this kind.

- In Ghana, a non-governmental organization, LAWA (Leadership and Advocacy for Women in Africa), is establishing domestic workers’ associations in a number of cities. It appoints local contact persons who facilitate dialogue with the employer if a problem crops up. (In the longer term, LAWA hopes these associations will be able to unite into a trade union).

- There are also a number of countries whose systems permit the development of real shop steward structures for people carrying out domestic work. One example is Belgium. Its “service vouchers” are a state-subsidized scheme enabling private individuals to have domestic tasks performed by a worker from a recognized firm. As soon as a firm employs at least 20 workers, Belgian unions have the right to set up a “trade union delegation” there (roughly equivalent to a union local or a shop stewards’ committee). The Belgian unions have also negotiated the right for each union delegate to take five days’ leave per year for trade union meetings or training.

Lend collective power

Many unions who assist domestic workers explain that the union’s collective strength or reputation carries a lot of weight with individual employers.

Sometimes, just being able to produce a document on the union’s letterhead (for instance, showing the sums due if an employment contract is cancelled) is enough to convince the employer that it would be better to settle out of court. That is certainly borne out by the experience of the Union of Domestic Workers of the Municipality of Rio de Janeiro (STDRJ) in Brazil. A phone call from an STDRJ trade unionist to the employer may be all that is needed to resolve a case. If conciliation fails, the union will take the matter to court. Another example is provided by the Nepal Independent Domestic Workers Union (NIDWU). It obtained compensation payments from employers who had exploited domestic workers and were afraid of being taken to court.

To save time, and in a bid to gain compensation without having to embark on court cases that may often prove long and expensive, some domestic workers’ organizations put pressure on abusive employers through public naming and shaming (a demonstration in front of the employer’s home or business, or a press release denouncing the abuse, for example). This technique is a particularly important tool when the abusive employers are diplomats, as their diplomatic immunity makes it impossible to press charges. In New York, Domestic Workers United (DWU) has won settlements in several cases of abuse against diplomats using this method.

RECOMMENDATION NO. 201 PARA. 26 (4)

In the context of diplomatic immunity, Members should consider:

(a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers’ rights; and

(b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

TIP

In trade union publications, make wide use of success stories to deter employers from acting against the ILO Convention.

Collective bargaining

While domestic workers have successfully built organizations in many places around the world, they have, in many cases, not had the right or the capacity to bargain collectively. Domestic workers work in isolated conditions, usually alone and having to negotiate with one or more employers. In the absence of bargaining power, domestic workers generally have to make do with very low wages, set case by case in line with the current practice in a neighbourhood or social class, or according to the domestic worker's place of origin. These conditions make collective bargaining a crucial tool for domestic workers, one which trade unions are uniquely positioned to provide. Some unions and domestic worker organizations have begun developing models of collective bargaining for domestic workers, as we will see in the following examples.

COLLECTIVE BARGAINING: A FUNDAMENTAL RIGHT

The special importance of collective bargaining has been repeatedly emphasized by the ILO Committee on Freedom of Association, which states that one of the principal objectives of workers in exercising their rights is to collectively negotiate their terms of employment. This is a fundamental right and all ILO Member States are bound by it by virtue of their membership of the ILO.

Laws or regulations that deny workers that right are bound to be a barrier to the very purpose and principal activity for which their trade unions are conceived and, as such, are contrary not only to Article 4 of Convention No. 98, but also to Article 3 of Convention No. 87 stipulating that unions must have the right to organize their activities in full freedom. Article 3 of ILO Convention No. 189 calls on member States of the ILO to take measures to ensure "the effective recognition of the right to collective bargaining."

WHEN THERE IS AN EMPLOYER COUNTERPART

Classic tripartite negotiations

If domestic workers are recognized as workers by the legislation, they are covered by the minimum wage in countries where such a system exists, and the trade unions can negotiate the level of this wage through social dialogue.

In Tanzania for example, in 2008, a minimum wage for domestic workers was adopted, following negotiations conducted by the Conservation Hotels Domestic and Allied Workers' Union (CHODAWU) with the government and the employers' association.

Also in Zambia in 2011 domestic workers were included in the minimum wage coverage.

Negotiation with employers' federations: the service voucher system

A number of countries have created voucher-based systems that facilitate private individuals' access to a full range of domestic services, such as France's chèque emploi service universel, Belgium's titre-service, or the chèque emploi in the French-speaking cantons of Switzerland. These schemes relieve the employers of burdensome administrative formalities and offer them fiscal incentives, which may take the form of a tax reduction or credit. In addition to enabling hundreds of thousands of domestic workers to move out of undeclared employment, the system creates a situation in which trade unions can represent domestic workers and negotiate with the voucher entity as an employer.

In Belgium, for example, the titre-service (service voucher) is a State-subsidized system that enables individuals to call upon a worker from a recognized firm to carry out household tasks. The

domestic workers are recruited by a "service voucher enterprise", with which they sign a contract. This enterprise is their employer. When private individuals need assistance, they contact one of these enterprises in order to take on a worker, whom they pay by means of previously purchased service vouchers.

Many of the domestic workers employed through this service voucher system are members of Belgian trade unions. This entitles the unions to negotiate a new collective agreement every two years with the employers' federations representing the service voucher enterprises. The unions have already obtained several pay raises, a transport allowance, reimbursement of some telephone expenses, access to vocational training etc. Domestic workers employed through this system are also entitled to a trade union bonus (a sum paid in Belgium to members of a recognized trade union, to compensate for the cost of union dues) and a year-end bonus.

Negotiate with a private employers' federation

In some countries, there is a federation of private employers with which a union can reach a collective agreement. One example is France's FEPEM (Fédération des particuliers-employeurs), which signed its first collective agreement with the French unions in 1999. The agreement is renegotiated each year. Major discussion points for the French social partners have been the criteria defining the various types of work performed within a private household (housework, childcare, looking after elderly people etc.), the knowledge required of them and the corresponding wage rates. The unions have secured a small levy on the wages paid by the employers as a means of financing union contact persons for the domestic workers. They have also obtained the funding of vocational training for domestic workers, with the possibility of gaining diplomas that will enable them to increase their wages or take up other occupations.

Support for members

WHAT TO DO WHEN THERE IS NO EMPLOYERS' ASSOCIATION?

Even where domestic workers are unionized, there is rarely an employer association with which to negotiate. Domestic worker organizing will therefore have the additional task of finding creative ways to develop a negotiating counterpart. The following are examples of such alternative approaches.

Negotiate a standard contract with public authorities

In the absence of a social partner on the employer side, it is sometimes possible to persuade national or local government to adopt a "standard contract" that includes minimum standards to be respected by the employer regarding pay, working conditions etc.

In the Swiss canton of Geneva, for instance, the SIT union (Syndicat interprofessionnel de travailleuses et travailleurs) has secured the adoption of a "standard employment contract" by the cantonal authorities, via the Chamber of Collective Labour Relations. The provisions of this standard contract must be respected by all employers of domestic workers, as the contract is enforceable by the courts. The wage rate was set in consultation with the trade union organizations and on the basis of common practice. The SIT has obtained income protection insurance in case of sickness for domestic workers who are employed for at least 32 hours a week by the same person (and it hopes to extend this coverage to all domestic workers).

Include domestic workers in collective bargaining for a wider sector

In Belgium, a large proportion of those doing domestic work are employed through the service voucher system. However, some domestic workers are still directly employed by families, either full-time or part-time. A campaign by the CSC labour confederation (Confédération des Syndicats Chrétiens) succeeded in getting these workers covered by the commission paritaire² that was originally restricted to the caretakers of apartment blocks. The union recognizes that this is not an ideal solution. It would like to be able to conduct more specific negotiations on domestic workers' behalf, but the current approach does at least give these workers the benefit of certain protections, such as limiting working hours.

In the Netherlands, the FNV Bondgenoten union (Federatie Nederlandse Vakbeweging) managed to include domestic workers in the collective agreement for the industrial cleaning sector. As many of these workers are migrants with irregular status, the union hopes that this recognition by an employers' organization will be of help in its struggle to regularize these workers.

TRAINING

Know Your Rights Training

Even where legislation guarantees domestic workers' rights, domestic workers are often ill-informed about their rights. The lack of information could be due to isolation at work, illiteracy, lack of familiarity with the local language, or simply lack of access to 'know your rights' materials.

Unions have a vital role to play here. They can start providing information on this issue right from their first efforts to contact domestic workers (for example, by leafleting) as well as in information campaigns via the media and by inviting domestic workers to meetings.

Occupational health and safety courses

Whether lifting heavy objects, climbing ladders to dust chandeliers, carrying water containers over long distances, leaning out of windows to clean them, or suffering exposure to dangerous cleaning products, domestic work entails a whole range of health and safety risks that are all too often underestimated. A number of unions and domestic worker organizations run awareness-raising programmes or training courses specifically designed to prevent these risks.

CONVENTION NO. 189, ARTICLE 13

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

In Ghana, for example, the non-governmental organization LAWA (Leadership and Advocacy for Women in Africa) and the IUF Women's Project (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations) regularly organize information meetings for the members of domestic workers' organizations. A doctor is sometimes invited along to address them on the medical aspects of their work – an important factor, particularly for those who come into contact with people who are ill.

Skills Training

Like any other profession, domestic work is skilled work. Domestic workers care for the lives of children, the elderly, the sick and the dying. They tend to the safety and cleanliness of the home. They care for an employer's most prized possessions and beloved family. As such, domestic work involves skills from child psychology, to first aid and more advanced medical and hospice care, and cultivated knowledge of how to care for a household. Job skills training courses serve to document such skills, and illustrate them to employers when looking for work and negotiating wages and benefits.

In France, the trade unions have gained domestic workers the right to take part in professional training provided by recognized institutions. These courses are financed by the employers, through levies on payroll costs, and the participants can obtain diplomas that will enable them to increase their wages or take up other occupations.

TIP

Not all union federations may afford the use of full-time labour lawyers. But often national trade union centres have a legal department. They should be contacted to provide advice and participate in training programmes.

² Belgium's commissions paritaires are bipartite sectoral committees with equal representation of employers and unions. Amongst other things, they negotiate sectoral collective agreements.

RECOMMENDATION NO. 201 PARA. 25 (1)

Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

- (a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;

However, there are very few countries where it is currently possible to negotiate collectively on vocational training in the domestic work sector. Where social dialogue is not yet sufficiently developed in this sector, other types of initiative have been emerging. In New York, for instance, DWU has developed a "Nanny Training Course" in partnership with the labour studies programme of Cornell University. The workers receive basic training on paediatrics, child psychology, injury prevention at work, first aid, negotiating techniques, and drafting CVs. The course leads to a diploma issued by the university and DWU, which the workers can show during job interviews or use to negotiate a pay raise. Cornell is one of the most prestigious universities in the United States, so to gain a diploma endorsed both by Cornell and by a domestic workers' organization is to acquire a high level of credibility. The training takes place on four Saturdays, all day, over the course of one month.

Training may sometimes be informal. In Jamaica, for example, the members of JHWA (Jamaica Household Workers Association) share their techniques, know-how and skills at meetings held each Friday evening. One member may show how she folds napkins, while another demonstrates how she lays out the cutlery, a

third teaches a recipe, and so on. The friendly atmosphere created by the members during these exchanges encourages them to come back, and the organization invites resource persons to give more advanced training. In the Philippines, the domestic workers' association SUMAPI also organizes skill-swapping sessions for its members.

Negotiation training

Even when domestic workers are aware that their rights have been violated, they will often find it difficult to discuss this openly with their employer. The employment relationship is indeed an uneven contractual situation, and labour law, including through the implementation of ILO Convention, seek to address what can otherwise be an unequal bargaining position for the worker. Collective bargaining is the trade union response to the need to protect the weaker party to the relationship. Domestic workers however lack this collective power, and are often forced to negotiate with two or more employers. Moreover, employers often characterize their domestic workers as "part of the family", making it difficult for the domestic worker to maintain a formal employment relationship. Domestic workers can therefore greatly benefit from basic one-on-one negotiation training.

Some unions hold sessions in which sketches and role-play prepare workers for typical employer reactions. Examples of this can be found in Malaysia, as part of the action programme for domestic workers run by the Malaysian Trades Union Congress (MTUC).

CONVENTION NO. 189, ARTICLE 9

Each Member shall take measures to ensure that domestic workers:

- (a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
- (b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
- (c) are entitled to keep in their possession their travel and identity documents.

Advice from experienced domestic workers can also prove very useful. They can pass on their "tricks of the trade" for raising difficult subjects with an employer. In South Africa, for example, the leaders of the South African Domestic Service and Allied Workers' Union (SADSAWU) are domestic workers with many years of experience. They take time out with the younger workers to tell them about different techniques for talking to an employer.

EMPLOYMENT SUPPORT**Suggest a model employment contract**

Alongside situations of extreme exploitation of domestic workers, many other employers want to treat them responsibly. But in the absence of legal employment guidelines, it is not always easy to know what wage rates and working conditions to apply.

So a number of organizations are developing model employment contracts which can be used either as is, or as a basis for negotiation. Examples include the Tunas Mulia union in Indonesia and Domestic Workers United (DWU) in New York. The European Trade Union Confederation has also drawn up and circulated a model employment contract for domestic workers. The HKCTU also builds health insurance and accident insurance into its contracts.

Unions can also offer to read through the employment contract that a domestic worker is being asked to sign, in order to check for any hidden pitfalls.

CONVENTION NO. 189, ARTICLE 7

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

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Organize a job creation programme

A number of unions have developed services that put domestic workers in touch with potential employers. The employer approaches the union, and the union in turn finds a domestic worker member who is available to do the work. The employer must abide by a standard contract drawn up by the union, thus guaranteeing a good wage and decent working conditions. The union then remains in contact with the worker, in order to check that everything is going well. The main advantage from the employer's point of view is that the domestic worker has received vocational training and is trustworthy.

The Hong Kong Confederation of Trade Unions offers a service of this kind, which it also uses as a way of helping domestic workers who are just starting out. It sees to it that an experienced worker accompanies the beginner to the employer's home, where the two of them will work together for a certain time. Not only does this system ensure good-quality service for the employer, it is also very positive for the new domestic worker. Generally, a new domestic worker is rather nervous when she finds herself alone in a private residence for the first time. Being accompanied by an experienced person helps facilitate the process.

In the Indian state of Kerala, the Self Employed Women's Association (SEWA) has also developed a placement service for domestic workers, following on from its similar scheme covering home

caregivers for people who are ill. As SEWA has worked in the region for a long time and gained a good reputation, it is able to set employment requirements and can turn down any employer's demand for a domestic worker of a particular religion. SEWA has secured employer contributions to a social welfare fund. Amongst other things, this finances 15 days of paid leave for part of the union membership. Members can also take out SEWA loans on better terms than they could get from private moneylenders.

In France, the CFDT labour confederation (Confédération française démocratique du travail), while not actually organizing job creation programmes, does help domestic workers to build networks that make it easier to find replacements in case of illness or holidays.

HEALTH, SAFETY AND SECURITY

Offer medical assistance or advice

In many cases, domestic workers do not have access to medical care. While unions can rarely provide access, some organizations help connect domestic workers to basic services.

In New York, for example, Domestic Workers United (DWU) invites doctors in during its general membership meetings to provide information on self-care, and to perform blood tests, acupuncture, and even massages for its membership.

Provide emergency assistance

Domestic workers who live in the homes of their employers are particularly vulnerable in cases of abuse and exploitation. In the worst case scenarios, domestic workers are held in conditions not unlike slavery, their passports and shoes taken, and often locked in their room or the house. Domestic workers who escape from the home of an abusive employer will need urgent assistance to meet their basic needs, such as food and accommodation, while they go about finding another job, returning home or taking legal steps. In these emergency situations, some unions can draw on their solidarity capacities.

If a union does not have the means to directly assist a domestic worker in an emergency situation, it can at least put her in touch with an NGO or shelter. For example, the General Federation of Bahrain Trade Unions (GFBTU) works with the Migrant Workers Protection Society, an NGO that runs a shelter. Most of the assistance is provided by the NGO, but the union federation may make use of its contacts within the labour ministry, particularly in order to settle wage issues.

Facilitate social security coverage

The overwhelming majority of household workers are part of the informal economy. In many countries, this means they do not qualify for social security coverage. Some unions have set up schemes under which they act as intermediaries between these isolated workers and the social security funds.

CONVENTION NO. 189, ARTICLE 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

RECOMMENDATION NO. 201 PARA. 20 (1)

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

For example, in the Indonesian city of Yogyakarta, the informal economy workers' federation FKUI (Federasi Kontruksi Umum Dan Informal), which is affiliated to the KSBSI confederation (Konfederasi Serikat Buruh Sejahtera Indonesia), itself collects social security contributions from domestic workers (separately from union dues). The union then transfers the contributions to the social security fund, thus giving the domestic workers insurance coverage in case of sickness or accidents.

In the Dominican Republic, the union confederation CASC (Confederación Autónoma Sindical Clasista) has introduced a similar system via the solidarity service association AMUSSOL. CASC has obtained social security and life insurance coverage for thousands of informal sector workers and their families. Among them are a number of domestic workers.

Give them some space

If they live in their employer's home, domestic workers generally do not have much opportunity for outside social contacts, especially if they are migrants. Apart from public spaces, they really have nowhere to meet up, talk, swap experiences, relax and have a laugh. Trade unions can sometimes provide a place where these workers can get together from time to time.

A good example is the United Kingdom, where UNITE provides an organizational base for Justice 4 Domestic Workers and opens its Trade Union House every Sunday for domestic workers so that they can meet, run training courses, and conduct other activities.

In Chile, members of the SINTRACAP union (Sindicato de Interempresa de Trabajadoras de Casa Particular) spend part of their free time in the union's offices, as many of them do not have any family in the town to which they moved in search of work.

In some places, such as in Germany, Hong Kong, the Netherlands and the United Kingdom, domestic workers' organizations and support NGOs use new social media opportunities (i.e. Facebook) to provide a platform for exchange for their members.

Personal Empowerment

Due to centuries of domestic work not being regarded as real work, and as a result of the high level of abuse in the industry, domestic workers themselves sometimes do not see their work as dignified work, deserving of respect and recognition. A study carried out by Sri Lanka's National Workers Congress (NWC) in 2007 revealed that a majority of domestic workers felt that unfair treatment (such as unpleasant remarks and false accusations) is simply part of their lives and that there is no call to resist such practices.

Joining a union or organization of domestic workers has the vital effect of building a domestic worker's sense of personal empowerment and identity as a worker. By treating domestic workers as real workers, taking them into membership, inviting them to union meetings and treating them like any other member, trade unions make an important contribution to this sense of empowerment. In India, the DWM (Domestic Workers' Movement) has noticed that

domestic workers' attitudes change when they receive their membership cards. This document not only strengthens their sense of being part of the movement, but also makes them feel appreciated as workers. They are happy that they mean something to society. The DWM's activists note that its members begin to dress better because they have greater self-esteem.

In Colombia, the domestic workers' union ULTRAHOGAR (Unión de Trabajadoras del Hogar Remuneradas), which is active in the Cali region, runs personal development workshops to help domestic workers to build up their self-esteem. As many domestic workers in Cali have complained of physical, verbal and even sexual violence, the union is working together with psychologists who adjust their consultation fees to suit these workers' incomes. (The union also helps the victims to take their cases to court). In Peru, the SINTTRAHOL union (Sindicato de Trabajadoras y Trabajadores del Hogar de la Región Lima) also cooperate with psychologists who help the domestic workers to develop their self-confidence and bolster their self-esteem.

Encouragement to overcome fear

If the union or organization receive domestic workers with a case, it is important to remember the obstacles that they face in speaking out. It will be up to the union to build the personal relationships that are necessary to gaining their confidence. Doing so takes time, but is an important step in encouraging domestic workers to become union members.

EXAMPLE:

In the Philippines, the SUMAPI association has been helping domestic workers since 1995, assisted by the Visayan Forum foundation. Its field research showed that domestic workers find it much easier to confide in other domestic workers, or former domestic workers. So SUMAPI set up a contact network among current and former domestic workers. Each member of the network is trained to collect testimonies from victims of abuse in a confidential way. They then report back to officers of the SUMAPI and the Visayan Forum who, where appropriate, can decide how to intervene.

Migrant domestic workers

Convention No. 189 on domestic workers applies to all domestic workers, including migrant domestic workers. All the forms of trade union action taken in support of non-migrant domestic workers can also be used in the case of migrants. However, migrant domestic workers also face specific conditions related to their immigration status. From the time they leave their home country, through the hiring process, while employed, and in case of abuses, migrant domestic workers are additionally vulnerable to possible abuses and exploitation, often as a result of xenophobia, being far away from their families and communities, lacking familiarity with local law, practice and customs, and not speaking the language. Trade unions and domestic worker organizations have overcome these additional obstacles in various ways.

CONVENTION NO. 189, ARTICLE 8

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

PREPARE AND INFORM MIGRANT WORKERS BEFORE THEIR DEPARTURE

Unions in the country of origin can meet with migrant domestic workers before their departure in order to give them a whole range of information: the contact details of their embassy, a union or an NGO that can help them if they run into problems, their rights and the laws in force in their country of destination, traps to be avoided (for example, passport confiscation), etc.

Sri Lanka's NWC (National Workers Congress) provides training sessions for migrant domestic workers about their rights, the working conditions they can expect to encounter and those to which they are entitled, the culture of the destination country, etc. Through migrant workers' associations, the NWC also tries to prevent human trafficking by drawing attention to the risks involved in contacts with unscrupulous recruitment agents.

In Nouakchott, Mauritania, the migrants' centre of the CGTM labour confederation (Confédération générale des travailleurs de Mauritanie) also informs people who are interested in migrating about the realities of labour markets abroad. Similar services are provided by the Senegalese labour confederation CNTS (Confédération nationale des travailleurs du Sénégal).

UNION COOPERATION IN COUNTRIES OF ORIGIN AND DESTINATION OF MIGRANT WORKS

In some cases, unions in countries of origin of migrant workers sign cooperation agreements that give migrant domestic workers the benefit of special follow-up by the partner union in the country of destination. For these agreements to be effective, migrants should ideally be informed before their departure about the existence of this cooperation and should be given the partner's contact details. However, even when migrant domestic workers are not aware of it, a cooperation agreement can prove useful if they are subjected to exploitation but manage to contact somebody – for instance, their family in their country of origin. The family can then get in touch with the union in the country of origin, and it will be able to help the domestic worker through its partner union in the country of destination.

The IUF has the principle of "reciprocity" among its affiliates. A member in one country of an IUF affiliate is automatically accepted as a member in another country in an IUF affiliated union and can therefore seek for help and assistance. In other words: there is a global IUF union card.

The ILO's Bureau for Workers' Activities (ACTRAV) has drawn up a model agreement on trade union cooperation, in which signatory trade unions commit themselves to cooperate in resolving cases of workers' rights abuses and in promoting the ratification and full implementation of ILO migrant workers Conventions (C97 and C143).

Link to the ACTRAV model agreement:
http://www.ilo.org/actrav/what/pubs/WCMS_115036/lang-en/index.htm

A number of trade unions worldwide have signed agreements of this kind. In West Africa, there is a cooperation agreement between the Senegalese and neighbouring Mauritanian labour confederations CNTS (Confédération nationale des travailleurs du Sénégal) and CGTM (Confédération générale des travailleurs de Mauritanie). A liaison committee has been set up to ensure active mutual follow-up to this trade union partnership. For instance, the CGTM has lent support in cases where migrant domestic workers were not being paid by their employers.

PROVIDE EMERGENCY ASSISTANCE

A migrant domestic worker who escapes from the home of an abusive employer will need urgent assistance to meet her basic needs, such as food and accommodation, while she goes about finding another job, returning home or taking legal steps. In these emergency situations, some unions can draw on their solidarity capacities.

If a union does not have the means to directly assist a migrant domestic worker in an emergency situation, it can at least put her in touch with a specialized NGO. For example, the General Federation of Bahrain Trade Unions (GFBTU) works with the Migrant Workers Protection Society, an NGO that runs a shelter. Most of the assistance is provided by the NGO, but the union federation may make use of its contacts within the labour ministry, particularly in order to settle wage issues.

In places where losing a job as a domestic worker means leaving the country, on pain of becoming an illegal immigrant, the emergency assistance may also take the form of support for the extension of a residence permit.

FACILITATE ACCESS TO HEALTHCARE

Migrant domestic workers often have great difficulty in accessing the healthcare available in their host country, due to language barriers, problems with transport to health centres, clashes between their working hours and the health centres' opening times, non-membership of national social security systems, and so on.

Here, trade unions can act as facilitators. In the Netherlands, for instance, the FNV Bondgenoten union (Federatie Nederlandse Vakbeweging) told undocumented migrant domestic workers about the procedure for accessing healthcare, even if they do not have a social security number. As this procedure is more complex administratively than for somebody whose papers are in order and who is in the social security system, both the migrants and the care staff are often unaware of it. So the FNV also contacts hospital managements and staff and writes to Dutch doctors to explain this procedure to them.

COOPERATE WITH PLACEMENT AGENCIES

In Malaysia, the action programme for domestic workers run by the MTUC (Malaysian Trades Union Congress) has established contact with the directors of several migrant domestic worker placement agencies that are open to dialogue. It has organized a number of activities on these agencies' premises in cooperation with the directors, who invite their workers to take part. As well as containing some light-hearted elements (sing songs etc.), the MTUC uses various methods, including role play, to teach the workers about their rights and responsibilities, and what attitude to adopt towards their employers. Representatives from the embassy of Indonesia (the country of origin of most migrant domestic workers in Malaysia), including the labour attaché, have taken part in these programmes, as have a number of employers. Their

presence during the activities boosts the workers' confidence and the credibility of the participating agencies. In this way, the MTUC clearly demonstrates its usefulness both to the migrant domestic workers and to the placement agencies.

OFFER OR FACILITATE ENROLMENT IN COURSES TEACHING THE HOME COUNTRY'S LANGUAGE

For many migrant domestic workers, not being conversant in the host country language(s) is an important barrier. It limits their ability to communicate and negotiate with their employers, as well as their access to many public services. Some trade unions and domestic worker organizations offer language courses. An example of this is found in the United Kingdom, where J4DW (Justice for Domestic Workers) offers English and IT courses via the union.

ASSIST UNDOCUMENTED MIGRANT DOMESTIC WORKERS

If migrant domestic workers are in irregular status in the host country, a number of unions connect domestic workers to allied immigration lawyers.

In the Swiss canton of Geneva, the SIT union (Syndicat interprofessionnel des travailleuses et des travailleurs) gives a "proxy" to undocumented migrant workers, including several hundred domestic workers, when they come and have their details entered into its database. In case of identity checks, the worker presents this proxy to the authorities, who then contact the union to check that the person really is a union member and has applied for a work permit. To date, no forced expulsions have taken place following this procedure.

The SIT also helps domestic workers whose rights have been violated to take their cases to court, even if they are not legally entitled to be in Switzerland. An employer who is dragged into a court case will sometimes threaten to report the worker's irregular status to the authorities as a scare tactic. But the SIT offers domestic workers the option of using the union's address as a fictitious declared residence, so that they do not have to reveal their real address. Up to now, the police have never turned up at a court hearing in order to arrest a plaintiff in connection with her administrative status. Rather, the SIT has obtained assurances from the judicial authorities that no plaintiff will be denounced to the registration authorities – a promise that has so far been kept.

In some cases, a simple membership identity card can help. In the Netherlands, migrant domestic workers who were card-carrying members of FNV Bondgenoten union (Federatie Nederlandse Vakbeweging) were able to show their membership cards to the police during identity checks, allowing them to go free. In cases when migrant domestic workers are arrested following an identity check, the union has also set up a network of lawyers for members to call.

CONTACT MIGRANT DOMESTIC WORKERS LIVING IN SHELTERS

When migrant domestic workers are forced to leave their place of employment and residence, they often find themselves in shelters run by NGOs or by their embassies. Trade unions may try to contact them in these shelters and talk to them about their rights, possible means of recourse etc. In Mexico, for example,

the organization CACEH provides shelter and assistance for domestic workers and has close links to the Latin American regional organization of domestic workers CONLACTRAHO. In Malaysia for example, the action programme for domestic workers run by the MTUC (Malaysian Trade Union Congress) meets migrants lodged in the shelters provided by the Indonesian embassy. The MTUC believes there is a strong chance that, once back in their home country, these former migrant domestic workers will pass the information on to other would-be migrants. The information may also be of use to them if they come back to Malaysia for a further stay.

RECOMMENDATION NO. 201 PARA. 26 (4)

In the context of diplomatic immunity, Members should consider:

- (a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers rights; and
- (b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.

TIP

It is also important for the trade union to develop its own language capacities to organize migrant domestic workers more effectively. In global cities like Hong Kong, Amsterdam and New York, efforts to organize domestic workers have included an explicit multilingual capacity building approach by working with translators and interpreters, multilingual legal support, and multilingual organizers and staff.

TIP

Generally, the main aim of the Embassies representing domestic workers' home countries is to maintain good relations with the authorities of the host country. So Embassies may not always be the workers' strongest allies when they are seeking amends for the exploitation they have suffered. However, in an increasing number of cases Embassy officials, sometimes at their own initiatives have sought to protect the rights of their expatriates. Trade unions in the countries of origin can also press their governments to shift their policy towards one of greater support for the victims.

Fundraising and sustainability

When a union is starting up, it is only natural that it will not be able to cover its costs out of dues alone. In the short term, some associations and unions have sought funding from NGOs. In the longer term, however, for the sustainability of organizing it is crucial for domestic worker unions to support themselves financially through a dues system. Such self-financing should be possible, as the domestic worker recruitment potential is enormous. According to the ILO, there are between 53 million and 100 million domestic workers worldwide and very few of them are currently in a trade union.

Below, we present some of the means used by unions and domestic workers' organizations to finance their organizing.

COLLECTING UNION DUES IN CASH

As many domestic workers do not have bank accounts, cash payment of dues is the system most commonly used. But it is also one of the most difficult options to put into practice, as the membership is scattered over a multitude of isolated workplaces. Some organizations ask for dues to be paid during meetings. Others entrust their collection to district representatives.

Some unions propose monthly or annual payments – and, to avoid having to keep chasing people for dues, some organizations ask for a one-off “lifetime” fee when a new member is enrolled.

“CLASSIC” UNION DUES

In countries where the domestic work sector has been regularized by the state and domestic workers have the right to join a union, dues may be paid in the classic way (by bank transfer). This is notably the case in Belgium.

FUND-RAISING THROUGH AN ALLIED UNION

A trade union organization or a domestic workers' organization may sometimes benefit from financial assistance generated by a union with more resources. For instance, the biggest British trade union, Unite, has collected funds on behalf of J4DW (Justice for Domestic Workers)

ALLIANCES WITH OTHER TYPES OF WORKERS

Sometimes, union federations that would not really need to take domestic workers into membership in order to survive nevertheless open up their ranks to them out of solidarity, as Tanzania's CHODAWU (Conservation Hotels Domestic and Allied Workers' Union) has done. Another example comes from Latin America, where the Brazilian domestic workers' confederation FENATRAD (Federação Nacional das Trabalhadoras Domésticas), which is an affiliate of the national trade union of workers in commerce and services CONTRACS (Confederação Nacional dos Trabalhadores no Comércio e Serviços), can count on the solidarity of members of other unions that are also affiliated with CONTRACS.

In other cases, domestic workers with their own trade union organization may decide to open it up to workers in other fields who are too isolated or vulnerable to join a major federation. Trinidad and Tobago's National Union of Domestic Employees (NUDE) has done this.

GRASSROOTS FUNDRAISING

Sales of promotional items can bring in a little extra revenue from time to time. In the United States, for example, DWU (Domestic Workers United) sells its t-shirts, calendars and other materials at public events and meetings that it organizes.

Another form of grassroots fundraising is reaching out to individual donors who support domestic worker empowerment. This involves reaching out to existing allies and potential supporters via phone, internet or mail to solicit donations. DWU (Domestic Workers United) uses this technique in New York State. The idea is to maintain a long-term relationship with the donors, but also to use the calls to get across a message about the need to respect domestic workers.

TAKING A PERCENTAGE OF DAMAGES WON IN COURT

In Trinidad and Tobago, the National Union of Domestic Employees (NUDE) represents its members free of charge when they bring disputes before the labour ministry or the labour courts. But it asks workers who join solely in order to benefit from these services to pay ten per cent of the compensation gained.

COLLECTING CONTRIBUTIONS FOR A JOB CREATION SERVICE

In the Indian state of Kerala, domestic workers who find a job through the SEWA (Self Employed Women's Association) placement service pay a small additional contribution in exchange for this service. The employers pay a more substantial contribution.



Part 3 Using the ILO convention, from ratification to enforcement

You have decided to launch a campaign for domestic workers using ILO Convention No. 189 and Recommendation No. 201. But what is a Convention really? How does it come in to force? And how can it be used legally to protect domestic workers? The following section will provide the ABCs of ILO instruments, along with suggested actions that workers' organizations can take to campaign for ratification, ensure the application of the standards, and hold the government and employers accountable to its provisions. But first...

What are ILO Conventions and Recommendations?

The International Labour Organisation (ILO) is the only organization within the United Nations that has a tripartite structure, meaning it includes worker, employer and government representatives from all ILO member States.

The ILO is, among other things, a standard setting organization. International labour standards are legal instruments that define principles and minimum rights at work. These international labour standards are elaborated by the representatives of governments, employers and workers and are adopted during the ILO's International Labour Conference (represented by two government delegates, one employer delegate and one worker delegate, who can vote independently). They take the form either of Conventions, which are legally binding international treaties that can be ratified by the Member States, or of Recommendations, which are not open for ratification, and are not binding.

Sometimes, the International Labour Conference (ILC) decides to adopt both a Convention and a Recommendation dealing with the same subject. This is the case with the domestic workers' Convention. The two instruments are complementary: while the Convention sets a minimum legal standard, the Recommendation often offers more detailed guidance and information about how the Convention should be implemented. For adoption, a two-thirds majority of the delegates to the International Labour Conference is required.

The Convention on decent work for domestic workers was adopted by 396 votes to 16, with 63 abstentions. The adoption of the accompanying Recommendation was by 434 votes to 8, with 42 abstentions.

Ratification: what are the necessary steps?

Once a Convention is adopted by the ILC, it is open for ratification by all member States. A Convention enters into force only after two member States have ratified it. The ratification process can take time, so be prepared for a lengthy campaign.

Although a strong campaign can be built around the process of ratification, it should be clear that ratification is ultimately a legal process. Workers' organizations designing such campaigns should be sure to verify the specific legal procedures in their home countries.

STEP 1: SUBMISSION TO COMPETENT AUTHORITY

Once a Convention is adopted, all ILO member States have a legal obligation to submit the Convention to the government so that it can decide whether or not to ratify the Convention.

TIP

Make sure your government consults social partners ahead of submitting the Convention for ratification by the competent authorities. In those countries that have ratified Convention No. 144, the governments have the additional obligation of consulting social partners (ie, workers' organizations) on the kind of proposals they will submit for consideration. Convention No. 144 has been ratified by over 130 countries, so it is likely that your Government is bound by this obligation. You can check the ratification status of Conventions on the ILO website: <http://www.ilo.org/dyn/normlex/en/>

ACTIONS

Remember your government is free to propose ratification or not to the parliamentarians. Make sure workers' organizations are consulted and influence the government's proposal by going public on the issue.

STEP 2: IF A MEMBER STATE DECIDES TO RATIFY

If a country decides to ratify the Convention, it will be applicable in that country one year after the date of ratification; provided that the Convention has entered into force (two ratifications are necessary for the Convention to enter into force globally). Countries that have ratified a Convention are required to apply it in law and in practice and to report on its application at regular intervals.

STEP 3: UPDATING NATIONAL LAWS TO COMPLY WITH THE CONVENTION

If the competent authorities have agreed to work towards ratification, there is a sometimes lengthy process of updating national laws to bring them up to the minimum standards set by the Convention. Each country will differ, but generally speaking, one of four main scenarios might occur:

1. In many countries, ratification will not happen simply because in order to ratify, national laws must comply with the provisions of the Convention. Because of this, countries often start by reviewing and, if necessary, revising their legislation and policies, so as to bring them into line with the Convention. In these cases, the international labour standards serve as objectives for the harmonization of national laws and practice. Ratification as such can then take place later, as part of the process of applying the standard. During this process, the ILO can request reports from member States identifying the impediments to ratification.

2. Other countries may decide not to ratify a certain Convention but will nevertheless bring their legislation into line with its provisions. So they use the ILO standards as a model for laws and policy directions.

3. A third approach taken by some countries is to ratify ILO Conventions quite quickly and then set out to harmonize their legislation and national practice with these instruments.

4. In quite a few countries, a ratified Convention will automatically prevail over national law, making contradictory laws and legislation ineffective.

STEP 4: IF A MEMBER STATE CHOOSES NOT TO RATIFY

If the process of submission, which should normally be completed within one year of the adoption of the instruments, has not resulted in a decision to ratify the Convention, workers' organizations should renew their call for ratification on a regular basis.

STEP 5: IF A MEMBER STATE TAKES NO ACTION

Workers' organizations can help to ensure that their government fulfils its obligation to submit the instruments to parliament, and unions can also lobby members of parliament to ratify the Convention.

ACTIONS

In each case, workers' organizations have a vital part to play in promoting the ratification of the Convention or the harmonization of laws with its provisions.

TIP

The status of ILO Conventions and ways of implementing them may differ from one country to the other. Examine your country's legal framework when shaping your ratification campaign. A good start is to examine the country's Constitution and what it says about international treaties.

Application and implementation

Once ratified, the Convention will become binding for the country under international law, and the government will have the obligation to implement it. At this stage, the work of workers' organizations will be to ensure that the Convention is respected. Workers' organizations can use the Convention to defend the rights of workers who have suffered abuse or exploitation; to move national or local legislation forward; and to ensure that laws are not reformed to negatively impact domestic workers.

USING THE CONVENTION: IN NATIONAL COURTS

It is sometimes forgotten that, day in day out, judges, lawyers and labour inspectors draw on international labour standards to ensure that workers' rights are respected. In many, though not all countries, ratified Conventions are directly applicable in domestic law. This means that a court would be able to use the rights set out in the Convention when settling legal disputes involving the rights of domestic workers. In some cases, the ratified Convention could even supersede pre-existing laws. Alternatively, the Convention and Recommendation can be used as sources of interpretation and inspiration when applying their own domestic law. Workers' organizations can help a domestic worker bring her case to court on the basis that her international labour rights, as enshrined in ILO Convention No. 189, have been violated.

USE THE STANDARDS TO MOVE NATIONAL OR LOCAL LEGISLATION FORWARD

The adoption of the new international standards on domestic work opens up great opportunities for workers' organizations to pressure authorities in countries where domestic workers are not adequately protected by laws and legislation.

Even if a country has not ratified an international labour standard, it is still possible to use this standard as a reference point in order to get legislation adopted at the local level. This is the case in federal states, for example.

The existence of international standards also obliges every State to take a position on domestic work, even if it is slow to ratify. In South Korea, for example, the Korean Confederation of Trade Unions (KCTU) met a government representative before the International Labour Conference of June 2010 to discuss its demands, including those concerning domestic work. The KCTU thinks the international attention drawn by the adoption of the new Convention is making the Korean government sit up and take notice of the domestic work issue, while coming to realize that it is a worldwide problem.

PREVENTING REGRESSIVE LEGISLATIVE REFORM

Once the Convention is in force in your country, it must serve as a minimum standard. This means that when other laws are drafted, they cannot reduce the rights that are contained in the Convention. Workers' organizations must be vigilant about ensuring that new legislative proposals do not undermine the rights contained in the Convention.

ILO CONVENTION NO. 189, ARTICLE 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

TIP

Workers' organizations should familiarize themselves with the contents of the ILO Convention, in order to be able to help domestic workers in dispute resolution. The ILO's Bureau for Workers' Activities (ACTRAV) can provide assistance (actrav@ilo.org).

Monitoring and enforcement

After a member State has ratified the Convention, it has an obligation to submit implementation reports to the ILO supervisory mechanisms. In parallel, workers' organizations can monitor the government's compliance with the Convention and with ILO rules.

UNDERSTANDING THE GOVERNMENT'S REPORTING OBLIGATIONS

First Report: Under ILO rules, a member State that has ratified a Convention must submit a first implementation report to the ILO within two years of ratification. This first report is important, as member States that wish to exercise their right to totally or partially exclude certain limited categories of workers from the field of application of a standard must indicate this in the first report. After that, exclusions are no longer permitted. As the aim of Convention No. 189 is precisely to remedy the exclusion of domestic workers from other Conventions, the possibilities for exclusion are restricted, under Article 2 of the Convention, to "categories of workers who are otherwise provided with at least equivalent protection or limited categories of worker in respect of which special problems of a substantial nature arise."

TIP

The latter category was not clearly identified during the Conference discussion on the instruments, so workers' organizations will need to be particularly vigilant in preventing abuses of this exclusion clause. An important safeguard built into the provision on possible exclusions is the requirement that, where they arise, they are to be determined after consultation with the most representative organizations of employers and workers and, where they exist, with organizations that are representative of domestic workers. Numbers are important in establishing the representativity of an organisation, but equally important will be its independence from employers or governments and its real impact and commitment in promoting decent work.

Further Reporting: After the first report, member States who have ratified the Convention are required to submit a report on the application of the Convention every five years. This report must also be shared with the representative employers' and workers' organizations for comment on its contents. If they are not satisfied with the report prepared by their government, workers' organizations are free to draw the ILO's attention to loopholes or contradictions. The ILO Committee of Experts which examine the reports by governments will also take into account the information provided by social partners, in order to get the most objective picture.

TIP

The employers' and workers' organizations may also send information directly to the ILO concerning the application of Conventions. They may also launch a representation procedure under article 24 of the ILO Constitution. In addition, an employer or worker delegate to the International Labour Conference may lodge a complaint under article 26 of the Constitution.

Again ILO Convention No 144 should also be taken into account as it may enable workers' organizations to reopen negotiation on proposals to be made for ratification in case a first attempt failed. Article 5.1 (c) provides for tripartite consultation on: "the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and ratification as appropriate".

USING THE ILO COMPLAINTS MECHANISMS

While member States have their responsibilities towards the ILO, workers' organizations can monitor compliance at the local level and bring representations and complaints to the ILO supervisory mechanisms.

REPRESENTATIONS

The **representation** procedure is governed by articles 24 and 25 of the ILO Constitution. It grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party". In short, if a member State that has ratified the Convention is not complying with its responsibilities, workers' organizations can bring the case to the ILO.

In the case of a **representation**, a report submitted by a trade union is received by the Governing Body, which then establishes a three-member tripartite committee to examine both the representation and the government's response. This committee drafts a report that it submits to the Governing Body stating the legal and practical aspects of the case, examining the information submitted, and concluding with recommendations. Where the government's response is not considered satisfactory, the Governing Body can publish the representation and the response. Representations concerning the application of Conventions Nos. 87 and 98 are usually referred for examination to the Committee on Freedom of Association.

TIP

To be receivable, a trade union representation must: be communicated to the International Labour Office in writing; refer expressly to article 24 of the Constitution; pertain to an ILO Member; be related to a Convention ratified by the Member in question and indicate the respect in which the Member has failed to secure the effective observance of the said Convention within its jurisdiction.

TIP

Procedures under the ILO supervisory mechanisms can be triggered at any time and are not dependent on whether possibilities of legal actions at national level have been exhausted.

CAN ANY TRADE UNION MAKE A REPRESENTATION?

All trade union organizations, whether national or international, can launch a procedure, known as a representation, in accordance with article 24 of the Constitution. Individuals cannot make a direct representation to the ILO, but they can forward relevant information to their employers' or workers' organization.

COMPLAINTS BASED ON C189

The complaint procedure is governed by articles 26 to 34 of the ILO Constitution. Under these provisions, a complaint may be filed against a member State for not applying a ratified Convention. Such a complaint can be filed by: 1) another member State that has also ratified the same Convention; 2) a delegate to the International Labour Conference; or 3) the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised. A Commission of Inquiry is the ILO's highest-level investigative procedure. It is generally set up when a member State is accused of committing persistent and serious violations and has repeatedly refused to resolve them. To date, eleven Commissions of Inquiry have been established.

COMPLAINTS TO THE COMMITTEE ON FREEDOM OF ASSOCIATION

Freedom of association and collective bargaining are among the founding principles of the ILO. Convention No. 189 provides for the full respect of those principles for domestic workers. These principles are detailed in Convention No. 87 on freedom of association and protection of the right to organize, and Convention No. 98 on the right to organize and collective bargaining. The ILO considers that these principles should be respected regardless of whether countries have ratified the relevant Conventions. That is why, in 1951, the Committee on Freedom of Association was established, tasked with examining complaints about violations of the principles of freedom of association, **even if the State concerned has not ratified the relevant Conventions**. If the Committee decides that a complaint is receivable, it establishes the facts in dialogue with the country concerned. If it concludes that there has been a violation of the standards or principles on freedom of association, it draws up a report and submits it to the Governing Body, making recommendations to remedy the situation. The government is then invited to report on the implementation of these recommendations.

Organize, organize, organize!

The process of getting a Convention ratified can take time and will demand energy and pressure from constituents. A strong organization of domestic workers with a broad membership will be crucial for success. The next Section provides examples of what just such campaigns can achieve.





Part 4 Winning rights for domestic workers

Despite the obstacles, trade unions and organizations have won resounding victories for domestic workers. These must be highly publicized and disseminated to encourage domestic workers of the value of joining a union.

UNITED STATES : ADDRESSING UNPAID WAGES

Domestic Workers United in New York City has already managed to recover, through the courts, over 500,000 USD of unpaid wages owed to domestic workers.

DWU was also one of the driving forces behind a campaign that secured the adoption by New York State, in 2010, of a law specifically protecting domestic workers – the first of its kind in the United States. It provides for one day off per week, a minimum of three days' leave per year starting after one year of employment, overtime payments for more categories of domestic workers, protection against harassment and discrimination, and injury insurance for part-time workers. It also tasks the Department of Labor with conducting a study on the feasibility of collective bargaining in the domestic work sector.

CONVENTION NO. 189, ARTICLE 10

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

TRINIDAD AND TOBAGO : CAMPAIGNING FOR THE EXTENSION OF MINIMUM WAGE TO DOMESTIC WORKERS

The National Union of Domestic Employees (NUDE) has persuaded the government to amend the law on the minimum wage, which now also applies to domestic workers. This has opened up various rights for them, such as payment for public holidays, sick leave and maternity leave. The amendment enables the union to represent domestic workers in court.

CONVENTION NO. 189, ARTICLE 11

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

HONG KONG : PROTECTING MIGRANT WORKERS

The Hong Kong Confederation of Trade Unions (HKCTU) has long been active in defending domestic workers, notably migrants, effectively raising awareness and pressuring the government for better protections. The HKCTU cites a study dating from the early 2000's, according to which 50-60 per cent of the Indonesian workers were being underpaid in relation to their contracts, even though they had signed them in Hong Kong. But when another study was conducted in 2009, this figure had fallen to around 20 per cent. The trade unionists are continuing their struggle to end these injustices.

CONVENTION NO. 189, ARTICLE 7

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

TANZANIA : COMBATING CHILD LABOUR

The Conservation Hotels Domestic and Allied Workers' Union (CHODAWU) made a name for itself when it lifted more than 6,000 children out of domestic work (partly due to the support of IPEC, the ILO's International Programme on the Elimination of Child Labour). Its action also drew the authorities' attention to the issue, and the union secured the adoption of a law recognizing domestic work and providing for the possibility of collective wage bargaining.

SWITZERLAND : MOBILIZING FOR REGULARIZATION OF UNDOCUMENTED DOMESTIC MIGRANT WORKERS

For over ten years now, the Geneva trade union SIT (Syndicat interprofessionnel des travailleuses et des travailleurs) has been mobilizing to assist domestic workers. It is running this campaign in association with a number of partners, including the Collectif de soutien aux sans-papiers (Support Collective for Undocumented People). In 2005, they persuaded the Geneva government to ask the Swiss federal authorities for the one-off, exceptional regularization of some 5,000 domestic workers who are in irregular status. Though the Swiss authorities have not yet acted, the fact that the Geneva government was willing to make the request was a major campaign victory, as it pushed Geneva to publicly recognize the existence and importance of domestic workers. Thus, the SIT was in a better position to negotiate important gains for migrant domestic workers in the canton of Geneva, whether or not their papers were in order. One of its achievements is that the domestic economy sector is now regulated, through the compulsory entry into force of a standard employment contract. The SIT also secured the right for migrant workers to be covered by mandatory health insurance, as well as their entitlement to certain types of social insurance. Their access to the labour tribunal has been guaranteed, together with a promise from the judicial authorities that plaintiffs will not be denounced to the immigration authorities.

The biggest union in Switzerland UNIA, which is also organizing domestic workers, has negotiated the first ever federal minimum wage for a sector: for domestic workers. It came into force on 1 January 2011.



Part 5 C189
Domestic Workers
Convention, 2011

INTERNATIONAL LABOUR CONFERENCE

Convention 189**CONVENTION CONCERNING
DECENT WORK FOR DOMESTIC WORKERS**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization, and

Recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities, greater scope for caring for ageing populations, children and persons with a disability, and substantial income transfers within and between countries, and

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

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

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

Noting the particular relevance for domestic workers of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Private Employment Agencies Convention, 1997 (No. 181), and the Employment Relationship Recommendation, 2006 (No. 198), as well as of the ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006), and

Recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers so as to enable them to enjoy their rights fully, and

Recalling other relevant international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent,

Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and

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

Having determined that these proposals shall take the form of an international Convention;

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

Article 1

For the purpose of this Convention:

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

Article 2

1. The Convention applies to all domestic workers.

2. A Member which ratifies this Convention may, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, exclude wholly or partly from its scope:

- (a) categories of workers who are otherwise provided with at least equivalent protection;
- (b) limited categories of workers in respect of which special problems of a substantial nature arise.

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

Article 3

1. Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers, as set out in this Convention.

2. Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;

- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

3. In taking measures to ensure that domestic workers and employers of domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members shall protect the right of domestic workers and employers of domestic workers to establish and, subject to the rules of the organization concerned, to join organizations, federations and confederations of their own choosing.

Article 4

1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.

2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.

Article 5

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

Article 6

Each Member shall take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, if they reside in the household, decent living conditions that respect their privacy.

Article 7

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

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date and, where the contract is for a specified period of time, its duration;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.

Article 8

1. National laws and regulations shall require that migrant domestic workers who are recruited in one country for domestic work in another receive a written job offer, or contract of employment that is enforceable in the country in which the work is to be performed, addressing the terms and conditions of employment referred to in Article 7, prior to crossing national borders for the purpose of taking up the domestic work to which the offer or contract applies.

2. The preceding paragraph shall not apply to workers who enjoy freedom of movement for the purpose of employment under bilateral, regional or multilateral agreements, or within the framework of regional economic integration areas.

3. Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.

4. Each Member shall specify, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation on the expiry or termination of the employment contract for which they were recruited.

Article 9

Each Member shall take measures to ensure that domestic workers:

- (a) are free to reach agreement with their employer or potential employer on whether to reside in the household;
- (b) who reside in the household are not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and
- (c) are entitled to keep in their possession their travel and identity documents.

Article 10

1. Each Member shall take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance with national laws, regulations or collective agreements, taking into account the special characteristics of domestic work.

2. Weekly rest shall be at least 24 consecutive hours.

3. Periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work to the extent determined by national laws, regulations or collective agreements, or any other means consistent with national practice.

Article 11

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

Article 12

1. Domestic workers shall be paid directly in cash at regular intervals at least once a month. Unless provided for by national laws, regulations or collective agreements, payment may be made by bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned.

2. National laws, regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of payments in kind that are not less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that such payments in kind are agreed to by the worker, are for the personal use and benefit of the worker, and that the monetary value attributed to them is fair and reasonable.

Article 13

1. Every domestic worker has the right to a safe and healthy working environment. Each Member shall take, in accordance with national laws, regulations and practice, effective measures, with due regard for the specific characteristics of domestic work, to ensure the occupational safety and health of domestic workers.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 14

1. Each Member shall take appropriate measures, in accordance with national laws and regulations and with due regard for the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of social security protection, including with respect to maternity.

2. The measures referred to in the preceding paragraph may be applied progressively, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 15

1. To effectively protect domestic workers, including migrant domestic workers, recruited or placed by private employment agencies, against abusive practices, each Member shall:

- (a) determine the conditions governing the operation of private employment agencies recruiting or placing domestic workers, in accordance with national laws, regulations and practice;
- (b) ensure that adequate machinery and procedures exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies in relation to domestic workers;
- (c) adopt all necessary and appropriate measures, within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of domestic workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations that specify the respective obligations of the private employment agency and the household towards the domestic worker and provide for penalties, including prohibition of those private employment agencies that engage in fraudulent practices and abuses;
- (d) consider, where domestic workers are recruited in one country for work in another, concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment; and

(e) take measures to ensure that fees charged by private employment agencies are not deducted from the remuneration of domestic workers.

2. In giving effect to each of the provisions of this Article, each Member shall consult with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

Article 16

Each Member shall take measures to ensure, in accordance with national laws, regulations and practice, that all domestic workers, either by themselves or through a representative, have effective access to courts, tribunals or other dispute resolution mechanisms under conditions that are not less favourable than those available to workers generally.

Article 17

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

2. Each Member shall develop and implement measures for labour inspection, enforcement and penalties with due regard for the special characteristics of domestic work, in accordance with national laws and regulations.

3. In so far as compatible with national laws and regulations, such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy.

Article 18

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

Article 19

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

Article 20

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 21

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 22

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 23

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 24

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

Article 25

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 26

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 22, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 27

The English and French versions of the text of this Convention are equally authoritative.



Part 6 R201
Domestic Workers
Recommendation, 2011

INTERNATIONAL LABOUR CONFERENCE

Recommendation 201**RECOMMENDATION CONCERNING
DECENT WORK FOR DOMESTIC WORKERS**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 100th Session on 1 June 2011, and

Having adopted the Domestic Workers Convention, 2011, and

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

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

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

1. The provisions of this Recommendation supplement those of the Domestic Workers Convention, 2011 (“the Convention”), and should be considered in conjunction with them.

2. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:

- (a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers’ organizations of their own choosing and to the right of organizations of domestic workers to join workers’ organizations, federations and confederations;
- (b) give consideration to taking or supporting measures to strengthen the capacity of workers’ and employers’ organizations, organizations representing domestic workers and those of employers of domestic workers, to promote effectively the interests of their members, provided that at all times the independence and autonomy, within the law, of such organizations are protected.

3. In taking measures for the elimination of discrimination in respect of employment and occupation, Members should, consistent with international labour standards, among other things:

- (a) make sure that arrangements for work-related medical testing respect the principle of the confidentiality of personal data and the privacy of domestic workers, and are consistent with the ILO code of practice “Protection of workers’ personal data” (1997), and other relevant international data protection standards;
- (b) prevent any discrimination related to such testing; and
- (c) ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status.

4. Members giving consideration to medical testing for domestic workers should consider:

- (a) making public health information available to members of the households and domestic workers on the primary health and disease concerns that give rise to any needs for medical testing in each national context;
- (b) making information available to members of the households and domestic workers on voluntary medical testing, medical treatment, and good health and hygiene practices, consistent with public health initiatives for the community generally; and
- (c) distributing information on best practices for work-related medical testing, appropriately adapted to reflect the special nature of domestic work.

5. (1) Taking into account the provisions of the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190), Members should identify types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and should also prohibit and eliminate such child labour.

(2) When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers who are under the age of 18 and above the minimum age of employment as defined by national laws and regulations, and take measures to protect them, including by:

- (a) strictly limiting their hours of work to ensure adequate time for rest, education and training, leisure activities and family contacts;
- (b) prohibiting night work;
- (c) placing restrictions on work that is excessively demanding, whether physically or psychologically; and
- (d) establishing or strengthening mechanisms to monitor their working and living conditions.

6. (1) Members should provide appropriate assistance, when necessary, to ensure that domestic workers understand their terms and conditions of employment.

(2) Further to the particulars listed in Article 7 of the Convention, the terms and conditions of employment should also include:

- (a) a job description;
- (b) sick leave and, if applicable, any other personal leave;
- (c) the rate of pay or compensation for overtime and standby consistent with Article 10(3) of the Convention;
- (d) any other payments to which the domestic worker is entitled;
- (e) any payments in kind and their monetary value;
- (f) details of any accommodation provided; and
- (g) any authorized deductions from the worker’s remuneration.

(3) Members should consider establishing a model contract of employment for domestic work, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

(4) The model contract should at all times be made available free of charge to domestic workers, employers, representative organizations and the general public.

7. Members should consider establishing mechanisms to protect domestic workers from abuse, harassment and violence, such as:

- (a) establishing accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence;
- (b) ensuring that all complaints of abuse, harassment and violence are investigated, and prosecuted, as appropriate; and
- (c) establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.

8. (1) Hours of work, including overtime and periods of standby consistent with Article 10(3) of the Convention, should be accurately recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers.

9. (1) With respect to periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls (standby or on-call periods), Members, to the extent determined by national laws, regulations or collective agreements, should regulate:

- (a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby, and the ways they might be measured;
- (b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is interrupted by standby; and
- (c) the rate at which standby hours should be remunerated.

(2) With regard to domestic workers whose normal duties are performed at night, and taking into account the constraints of night work, Members should consider measures comparable to those specified in subparagraph 9(1).

10. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for meals and breaks to be taken.

11. (1) Weekly rest should be at least 24 consecutive hours.

(2) The fixed day of weekly rest should be determined by agreement of the parties, in accordance with national laws, regulations or collective agreements, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

(3) Where national laws, regulations or collective agreements provide for weekly rest to be accumulated over a period longer than seven days for workers generally, such a period should not exceed 14 days for domestic workers.

12. National laws, regulations or collective agreements should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

13. Time spent by domestic workers accompanying the household members on holiday should not be counted as part of their paid annual leave.

14. When provision is made for the payment in kind of a limited proportion of remuneration, Members should consider:

- (a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the remuneration necessary for the maintenance of domestic workers and their families;
- (b) calculating the monetary value of payments in kind by reference to objective criteria such as market value, cost price or prices fixed by public authorities, as appropriate;
- (c) limiting payments in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation;
- (d) ensuring that, when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker; and
- (e) ensuring that items directly related to the performance of domestic work, such as uniforms, tools or protective equipment, and their cleaning and maintenance, are not considered as payment in kind and their cost is not deducted from the remuneration of the domestic worker.

15. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the total remuneration due to them and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

16. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers' claims in the event of the employer's insolvency or death.

17. When provided, accommodation and food should include, taking into account national conditions, the following:

- (a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
- (b) access to suitable sanitary facilities, shared or private;
- (c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
- (d) meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic worker concerned.

18. In the event of termination of employment at the initiative of the employer, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

19. Members, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, should take measures, such as to:

- (a) protect domestic workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace;

- (b) provide an adequate and appropriate system of inspection, consistent with Article 17 of the Convention, and adequate penalties for violation of occupational safety and health laws and regulations;
- (c) establish procedures for collecting and publishing statistics on accidents and diseases related to domestic work, and other statistics considered to contribute to the prevention of occupational safety and health related risks and injuries;
- (d) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and
- (e) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

20. (1) Members should consider, in accordance with national laws and regulations, means to facilitate the payment of social security contributions, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

(2) Members should consider concluding bilateral, regional or multilateral agreements to provide, for migrant domestic workers covered by such agreements, equality of treatment in respect of social security, as well as access to and preservation or portability of social security entitlements.

(3) The monetary value of payments in kind should be duly considered for social security purposes, including in respect of the contribution by the employers and the entitlements of the domestic workers.

21. (1) Members should consider additional measures to ensure the effective protection of domestic workers and, in particular, migrant domestic workers, such as:

- (a) establishing a national hotline with interpretation services for domestic workers who need assistance;
- (b) consistent with Article 17 of the Convention, providing for a system of pre-placement visits to households in which migrant domestic workers are to be employed;
- (c) developing a network of emergency housing;
- (d) raising employers' awareness of their obligations by providing information on good practices in the employment of domestic workers, employment and immigration law obligations regarding migrant domestic workers, enforcement arrangements and sanctions in cases of violation, and assistance services available to domestic workers and their employers;
- (e) securing access of domestic workers to complaint mechanisms and their ability to pursue legal civil and criminal remedies, both during and after employment, irrespective of departure from the country concerned; and
- (f) providing for a public outreach service to inform domestic workers, in languages understood by them, of their rights, relevant laws and regulations, available complaint mechanisms and legal remedies, concerning both employment and immigration law, and legal protection against crimes such as violence, trafficking in persons and deprivation of liberty, and to provide any other pertinent information they may require.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and through any other appropriate measures.

22. Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, consider specifying by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation at no cost to themselves on the expiry or termination of the employment contract for which they were recruited.

23. Members should promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers, taking into account the principles and approaches in the Private Employment Agencies Convention, 1997 (No. 181), and the Private Employment Agencies Recommendation, 1997 (No. 188).

24. In so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.

25. (1) Members should, in consultation with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, establish policies and programmes, so as to:

- (a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, in order to enhance their professional development and employment opportunities;
- (b) address the work-life balance needs of domestic workers; and
- (c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should, after consulting with the most representative organizations of employers and workers and, where they exist, with organizations representative of domestic workers and those representative of employers of domestic workers, develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices to effectively collect data necessary to support effective policy-making regarding domestic work.

26. (1) Members should consider cooperating with each other to ensure the effective application of the Domestic Workers Convention, 2011, and this Recommendation, to migrant domestic workers.

(2) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.

(3) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

(4) In the context of diplomatic immunity, Members should consider:

- (a) adopting policies and codes of conduct for diplomatic personnel aimed at preventing violations of domestic workers' rights; and
- (b) cooperating with each other at bilateral, regional and multilateral levels to address and prevent abusive practices towards domestic workers.