



Advance Domestic Worker Rights: **Recognise Their Right to Collective Representation**

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

APWLD, on behalf of the United for Foreign Domestic Worker Rights (UFDWR) coalition, conducted a review of laws in ten sending and receiving countries in Asia. The review found that, in summary,¹ labour laws of most countries do not recognise domestic workers as workers, resulting in the denial of their basic labour and human rights.

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

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

¹ The national labour laws and right to collective representation of domestic workers in the ten Asian countries of Bangladesh, Hong Kong, India, Indonesia, Japan, Malaysia, Philippines, Sri Lanka, Taiwan and Thailand, were studied and the information collated into a briefing paper available early-June on the APWLD website: <http://www.apwld.org/index.php>

weekly day off and with employers restricting the movements, and ability of domestic workers to leave the house, collective organising is impossible for almost all domestic workers in the region.

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

To the International Labour Organisation (ILO)

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

- Domestic workers, particularly migrant domestic workers, are given a voice during the ILC and throughout the process of developing the instrument(s) and implementation;
- Domestic workers representatives are included in their country delegations for the discussions on setting a domestic worker instrument(s);
- The rights of domestic workers to freely associate and to organise are protected by any such instrument, including protecting weekly time off and leave with pay, and prohibiting termination on grounds of being a member of, or participating in, trade union and other social activities;
- Undocumented migrant domestic workers are recognised as workers in the instrument to protect all domestic workers irrespective of their migratory status; and
- The current lack of national legislation should not be used as grounds for rejecting a binding convention.

To Governments of All Countries

To protect domestic workers all governments should:

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

To Governments of Destination Countries

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

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

To Trade Unions and Domestic Worker Organisations

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

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

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Empowering women to use law as an instrument of change and promoting women's human rights in the Asia Pacific region. APWLD is a core member of UFDWR.

