

Regional Tripartite Conference on ILO Convention No. 189: Raising Awareness and Sharing Knowledge on Decent Work for Domestic Workers

Cairo, 22-24 October 2012

Introduction

1. A regional tripartite conference, which sought to raise awareness on ILO Convention No. 189 and share knowledge on decent work for domestic workers, was held in Cairo, Egypt from 22 to 24 October 2012. The three-day conference brought together government, employer and workers' representatives, and officials from civil society and international organizations.

Opening statement

2. In her opening statement, Ms Nada Al-Nashif, ILO's Regional Director for Arab States, thanked Arab governments and employer and workers' organizations for their support for the Convention both in the run-up to its adoption and in its formal endorsement at the International Labour Conference in 2011.
3. Ms Nada Al-Nashif explained the nature and purpose of the regional tripartite conference on ILO Convention No. 189. In particular, she emphasized that the aim of this meeting was to determine with ILO's constituents ways in which national legislation could be adapted so that it conforms to new international legal standards, and to examine the possibility of Arab States ratifying the new convention.
4. The Regional Director also expressed her appreciation to government officials from countries that had already ratified Convention No. 189, namely the Vice-Minister of Labour of Uruguay and the Undersecretary at the Department of Labour and Employment in the Philippines, who had travelled to Cairo to share their countries' experiences in ratifying and implementing Convention No. 189.

Session 1: Introduction to Convention No. 189 and Recommendation No. 201 and the ILO's Global Strategy on Decent Work for Domestic Workers

1. In the first technical session, Mr Philippe Marcadent, Chief of the Working Conditions Branch, introduced the objectives and key provisions of Convention No. 189 and Recommendation No. 201. He stressed the importance of finding the means to extend the labour law so that it protects all migrant workers in ways that do not hinder economic efficiency. He gave examples of efforts made by the ILO to support action across regions through the development of various tools on reforming the labour law, enhancing compliance and organizing workers.
2. Mr Marcadent noted new scope for regulation in many countries to improve the protection of domestic workers, and said that the challenge lay in its implementation. He gave as an example the case of sub-Saharan African

countries that have high levels of informal employment, which makes implementing the law all the more difficult.

3. In light of the above, Mr Marcadent emphasised the need for complementary means, notably to change the perception of domestic work and emphasize the fact that domestic work is work. He also stated that changing the situation of domestic workers depended on reforming broader policies, including migration policies.
4. Mr Marcadent stated that the time had come for change and that this convening was an opportunity to contribute to new thinking that was in the interest of both employers and domestic workers. He explained that the role of the ILO was not dogmatic but rather to support countries technically, and to facilitate an exchange of experiences. He concluded that with its limited resources, but also with considerable willingness, the ILO is trying to support all those who want to achieve decent work for domestic workers.
5. Ms Manuela Tomei, Director of the ILO Labour Protection Department, began her speech by stating that Convention No. 189 and Recommendation No. 201 were a landmark achievement and a source of pride for the ILO and its constituents. She also explained that the conference was organised in response to the request of the Government of the United Arab Emirates, an ILO governing body member. His Excellency Mr Humaid Bin Deemas, Under-Secretary of the Ministry of Labour in the United Arab Emirates had encouraged the ILO to organize such an event, in order to create opportunities for awareness raising, exchanging experiences, and beginning a dialogue in the region that could pave the way for further fruitful cooperation.
6. Ms Tomei began by recalling some basic facts about domestic work and evoked the main principles of Convention No. 189 and Recommendation No. 201. She highlighted the indispensability of the services provided by domestic workers to the countries they go to and described how their work contributes to the wealth of the host countries societies and to the sustainability of their welfare and employment systems. She pointed out how domestic work is often not recognized as work or domestic workers considered as workers, which results in poor working and living conditions and in the worst cases, psychological, physical or sexual abuse. As such, domestic workers remain one of the least protected groups of workers under national labour legislation.
7. The Labour Protection Department Director commended steps taken by countries in the Middle East to extend coverage of labour laws and regulations to domestic workers, but noted that at present a vast majority of domestic workers in the region still fall outside the scope of key national labour standards, and consequently continue to be in a situation of high vulnerability. Against this background, Ms Tomei concluded, the adoption of ILO Convention No. 189 and Recommendation No. 201 would represent a starting point for new initiatives to make decent work a reality for domestic workers around the globe.
8. Acknowledging that the way forward will not be free of challenges and ultimate success will require taking one step after the other, Ms Tomei assured the participants that the ILO recognized the importance of building broad-based support at the national level around shared societal values. She emphasized the importance of the positive developments that have taken

place in countries that have engaged in legal reform on domestic work and/or have adopted new provisions regulating this kind of work. She encouraged new and innovative steps towards fulfilling the promises made at the ILC in 2011, namely making decent work and social justice a reality for domestic workers.

Plenary discussion

9. Ms Myrtle Witbooi, from South Africa's Domestic Workers' Union intervened during the session by stating that as a former domestic worker herself, she understood why Convention No. 189 was so important for domestic workers. She also said that ratifying the Convention was not just about signing a paper, but rather about its implementation. Ms Witbooi stressed that it was important for domestic workers to understand themselves what Convention No. 189 was all about and she encouraged participants to talk directly to domestic workers.
10. Dr Mondkher Al-Khoor, First Director of the Labour Market, Chamber of Commerce and Industry in Bahrain, welcomed Ms Witbooi's suggestion that dialogue involves both countries that are sending and those that are receiving domestic workers. He acknowledged the advantages of ratifying Convention No. 189 as it organizes the informal sector, which is considered to be essential work and he extended formal social protection to it.
11. Furthermore, Dr Al-Khoor shared his concern with the participants stating that despite the amendment, by some countries, of national laws in accordance with some of the provisions of C189, the convention includes provisions which are difficult to apply in the context of the Arab region given its cultural and social particularities. An example of these provisions is granting domestic workers the right to go out of the household during her weekly day of rest and the possibility of conducting inspections inside the household. Dr Al-Khoor went on to say that Convention No. 189 was the product of a lengthy political process that required a number of compromises to be made on behalf of countries of origin and destination across the world. A number of its provisions may apply to some but not to other countries. This is because the legislation and challenges facing domestic workers across ILO member states are quite disparate. As such, a number of Arab countries may find the ratification process unattainable.

Response of the Office

12. In response to Dr Mondher Al-Khoor, Ms Manuela Tomei emphasized that the ILO operates on the basis of demand for technical assistance. She also noted that the Convention and Recommendation are based on good practices identified throughout the world in the process of preparation for the two instruments. She maintained that ratifying the Convention is a desirable goal, but not the main reason behind convening this conference. What she considered urgent was the creation of practical conditions that allow for the improvement of the daily lives of domestic workers. The long-term goal is improvement and achievement of practical changes that are in the interest of both the employer and the worker.

Session 2: A panel discussion to share national and international experiences

13. The second session, moderated by Ms Nada Al-Nachif, included a panel of government officials from the region, who presented initiatives undertaken by their governments to protect domestic workers' rights and identified the current gaps and challenges faced by their respective countries on this matter.
14. Mr Majed Jazee from the Ministry of Labour in Jordan was the first to take the floor by describing Jordanian Labour Law No. 8 issued in 1996, as a relatively old law. He pointed out that in the course of implementing the Law, the Ministry of Labour found a lot of problems especially for domestic workers and in the Qualified Industrial Zones (QIZ). He recalled that at the time, domestic workers were excluded from Labour Law No. 8, but in 2008 amendments were made to it in such a way that the provisions which applied to cooks, domestic workers and agricultural workers were specified in a special regulation which regulates their work and organizes their recruitment conditions. This regulation was issued in 2009. Mr Jazee went into the main areas of coverage of the regulation and cited the obligations and rights of the employer and the domestic worker, as well as the measures provided for in the regulation that prevent certain types of abuse such as the confiscation of domestic workers passports by their employers. He also noted that this regulation also provided for the establishment of a committee on domestic workers constituted of representatives of the Ministries of Labour and Interior, recruitment agencies and delegates from the embassies of Bangladesh, Sri Lanka and the Philippines who would all participate in resolving the problems faced by domestic workers.
15. Mr Jazee also introduced the inspection mechanisms, the hotline put in place to receive calls and complaints from domestic workers, and the measures undertaken when such a complaint is received, in order to assist domestic workers. An important point Mr Jazee referred to was article 5 of the regulation, which prevented domestic workers from leaving their employer's house without his/her prior consent. He indicated that this article had been cancelled and substituted with the obligation that domestic workers only have to inform their employer when they want to spend their day-off outside the household instead of having to ask for authorization to leave the house as formerly stipulated. This, according to Mr Jazee, shows that legislation is developing in accordance with the right to freedom for the domestic worker.
16. In turn, Ms Iman Khazaal, from the Legal Department at the Lebanese Ministry of Labour praised the efforts made so far by the employees at the Ministry of Labour, civil society, the General Security and the syndicate of owners of recruitment agencies in Lebanon in dealing with the complex issue and challenges faced in this type of work. She referred to the fact that domestic workers were explicitly excluded from the provisions of the labour law and acknowledged therefore, the lack of protection for domestic workers due to the absence of a legal text that provided them with adequate protection.
17. Subsequently, the Ministry decided to adopt the standard unified contract as an essential instrument, which constitutes an important step towards changing the current reality of domestic workers. Ms Khazaal acknowledged, however, that more needed to be done to provide maximum protection and that there was still a need to have a legislative text that organizes the working relationship. Ms Khazaal gave examples of the challenges faced in the protection of domestic workers. One of these challenges was that, to date, no

serious complaints had been received from domestic workers on the hotline specifically set up for this purpose. In addition, the inability of Ministry of Labour employees to take strong measures to deal with any abuses reported through the hotline underlined the fact that Lebanon lacks mechanisms that allow proper intervention to protect domestic workers inside and outside the household.

18. Furthermore, Ms Khazaal pointed out another problem at the legislative level, which is the fact that there are legal texts put in place obliging someone to do something, but that the consequences of not abiding by the legal text fall on someone else. In clarifying this she gave an example of the employer's obligation to issue the domestic worker with legal papers. However if the employer fails to do so, serious consequences fall on the domestic worker who cannot resort to any court procedure, and who is imprisoned, and then repatriated.
19. Based on the above, the Lebanese Ministry of Labour representative reiterated the strong need to first, guarantee the protection of the parties in this work relationship through legal texts which take into consideration the nature of the work. Second, to adopt measures that do not contradict legislative texts that seek to free domestic workers from an unjustified authority over them. Thirdly, for the adoption of effective joint mechanisms of intervention when needed, with the participation of civil society, NGOs and the assistance of the General Security and recruitment agencies in order to enable domestic workers to regain their rights. As a last word, Ms Khazaal hoped that the ILO would not just give guidelines to countries in developing protection mechanisms but would also actively take part in the actual development of these mechanisms.
20. Mr Hadi Al-Anazi, from the Kuwaiti Ministry of Social Affairs and Labour presented in detail the legal, social and psychological protection provided to domestic workers from the establishment of a temporary shelter in which domestic workers in distress were received until their issues were sorted out through collaboration between the relevant Ministries which had representatives at the shelter. He then outlined the internal regulations providing for the rights and responsibilities of guests at the shelter which were drawn from technical specifications recommended by the ILO and the IOM.
21. Mr Nedhal Salman Al Banna, Director of Policy Development at the Labour Market Regulatory Authority in Bahrain shared the position of Bahrain on the convention, which was similar to other GCC countries, and that in principle acknowledges the importance of protecting domestic workers.
22. Likewise, Mr Al-Banna reflected on the legislative route taken by countries in the region towards improving the situation of domestic workers. He reiterated the exclusion of domestic workers from the previous Labour Law, which had provided domestic workers with some protection and legal recourse with regards to non-payment of salaries since 1993. He then elaborated on the newly issued Labour Law which includes the obligation to issue a work contract and which clearly states the rights and obligations of each party. Mr Al-Banna also referred to the social dimension of the problems and asked that particularities in the region be addressed in a gradual manner to allow for change to be more effective.

23. Mr Al-Banna noted that most problems in Bahrain were related to non-payment of salaries. Other problems were the exploitative measures undertaken by recruitment agencies in both the countries of origin and destination. Mr Al-Banna reaffirmed that there was an issue in the mediation process and expressed his hope that the ILO would play a role in supporting the employer and the domestic worker in tackling the impasse. Furthermore, he also stated the opinion that this was not an issue of issuing new legislation, but that work should be done at the grassroots level. Lastly, he noted that the Labour Market Regulatory Authority (LMRA) was working towards this goal and expressed his strong belief in gradual change.
24. His Excellency Mr Humaid Bin Deemas from the Ministry of Labour in the United Arab Emirates indicated that improving the situation of domestic workers was a priority for the government in the UAE. He agreed with Ms Iman Khazaal that in light of the absence of a legislative framework, the cause of domestic workers would always be a weak cause, their work would not be perceived as real work, they would be vulnerable, and decent work for domestic workers would be difficult to achieve. He also noted the exclusion of domestic workers, agricultural workers and herders from the provisions of the Labour Law, and justified this exclusion by referring to the social and cultural particularities of the region.
25. Mr Bin Deemas gave a brief about the two laws which regulated the work and stay of domestic workers in the UAE until the year 2007, during which the unified contract was developed in an attempt to regulate relations between the employer and the worker. He explained that the issuance of a unified work contract could not summarize the whole working relationship between the domestic worker and the employer, but constituted, nonetheless, a modest contribution until instructions were issued in 2009, which provided for the development of legislation specifically for domestic workers and that is currently in its last stages of issuance.
26. With regards to inspections, Mr Bin Deemas explained that the law allows inspectors to inspect inside the households after a complaint has been received from a domestic worker or from the employer, or due to the existence of tangible evidence that a violation has occurred upon authorization from the general prosecution.

Plenary discussion

27. In response to a question raised about the reason behind issuing special regulations for domestic workers instead of just relying on the Labour Law, Mr Majed Jazee from the Jordanian Ministry of Labour responded that the regulation was issued in accordance with the Labour Law and its advantage resided in the fact that it could be more easily amended. These regulations, he stated, were more flexible than the law, whose implementation would not only be time consuming but also more complicated when it came to amendments. The specific regulations he said, provided more room for the possibility of making improvements and adding solutions in case a problem is encountered
28. Ms Linda Al-Kalash from Tamkeen for Legal Aid and Human Rights in Jordan described the issuance of a regulation for domestic workers, as opposed to just relying on the Labour Law, as a major mistake because it restricted their opportunity to organize, which was a right granted under the Labour Law.

Additionally, she pointed out, that the judges did not recognize rights of domestic workers which the regulation failed to mention, such as the right to payment for overtime work.

Experience of Uruguay in ratifying and implementing Convention No. 189

29. In this session, the Vice-Minister of Labour in Uruguay, Mr Nelson Loustaunau presented the experience of his country, in ratifying and implementing Convention No. 189; Uruguay being the first country to ratify it.
30. Given the very poor working and living conditions of domestic workers in Uruguay, Mr Loustaunau said that the government of the Uruguay considered improving the situation of domestic workers -of which 92 per cent are women in Latin America- a priority in order to achieve equality between this category of workers and other workers in the nation. To this end, in 1989 Uruguay adopted a new law on equal opportunities and treatment at work for men and women as an additional step towards fulfilling the pledges it had made upon its adoption of ILO Convention No. 111.
31. In 2004, the tripartite committee for equal opportunities and gender equality at work that was established in 1997, endorsed a programme on gender equality and employment; a step that was regarded as an achievement. As per His Excellency Loustaunau, the objective of the previously mentioned programme was to enhance social protection for women, by extending, as an example, the scope of unemployment benefits to domestic workers.
32. Since 2005, a series of laws have been adopted relating to social protection, promotion of freedom of association, and collective bargaining and sub-contracting. Under this political framework, the tripartite committee agreed to examine two projects: the first on domestic work and the second on sexual abuse. In 2006, the agreed-upon project on domestic work was translated into a law (No. 18.065) of which the main pillars were: limiting the number of working hours, promoting equality with regards to rights with other workers in private activities and the effective implementation of collective bargaining and the enjoyment of social protection.
33. In order to implement this law, employers and workers' organizations were called to participate together in the remuneration council that constituted a space for all three parties – the government, employers and domestic workers- to discuss and agree on salaries and working conditions. This is how domestic workers were able to organize in a trade union that constituted an integral part of the General Confederation of Trade Unions in Uruguay. But still, there was a need for organizations to represent employers. Therefore, an association of housewives was created and it focused on promoting the living condition of domestic workers.
34. This process resulted in significant growth in this sector. Statistics presented by Mr Loustaunau showed that contributions to the social security fund increased from 15 per cent to 50 per cent, the real wages of domestic workers increased from 19 per cent to 84 per cent and more importantly, the community in Uruguay started to realize the importance and value of this type of job. In light of all the above-mentioned changes that occurred, the government of Uruguay found no difficulty in ratifying ILO Convention No. 189 and its accompanying recommendation No. 201. As the Vice Minister put it,

"Uruguay had a very successful experience. All the problems have not been solved yet, but at least the way has been paved towards that goal."

Session 3: ILO initiatives in the region on promoting decent work for migrant workers

35. Mr Azfar Khan, Senior Migration Policy Specialist at the ILO's Regional Office for Arab States (ROAS) started his presentation on "Domestic workers in the context of labour migration in the Arab States" by demonstrating the percentages of temporary expatriate contractual workers in the GCC and explaining the different migration patterns of those workers. He then gave a detailed overview of migrant domestic workers' salient concerns related to gender, age, sphere of work, restricted mobility, non-payment of wages, indebtedness and the legal framework that excluded domestic workers from the Labour Law. That being said, he affirmed that domestic work was still one of the most hidden and isolated forms of work and that domestic workers therefore constituted, an extremely vulnerable category of workers exposed to all kinds of abuses and exploitation which not only affected their lives, but also the lives and welfare of their families in their country of origin.
36. Mr Khan further explained the ILO view that "domestic work is real work", therefore domestic workers should be treated on an equal footing with other workers, which meant that they were entitled to all rights and legal protection granted to other workers. He underlined that this was the basic intent of Convention 189 which is a mutually supporting Convention to other ILO conventions that apply to all migrant workers simply on the grounds that they are workers.

Plenary discussion

37. Mr Mustapha Said, Senior Specialist for Workers' Activities at the ILO ROAS, said in a later intervention that domestic workers are a part of the workers in all Arab countries. Their problems cannot be dealt with or solved partially. They constitute a very big community which is suffering and which cannot bargain because they are not organized. Mr Said debated whether moving forward is possible as long as Arab countries are attached to restrictions and constraints, namely the sponsorship system.
38. On a similar note, Mr Khaled Abou Marjoub of the General Federation of Jordanian Trade Unions said that foreign and domestic workers should be treated equally, subjected to the same labour laws and allowed to exercise their right to organize. He underscored the importance of tripartite partners being engaged, through social dialogue, in the examination of legislative reforms required for the application of Convention 189.
39. His Excellency Humaid Bin Deemas agreed with the participants that the route towards legal reform should involve including domestic workers under the Labour Law, which should extend protection to them. However, he recalled the results of the ILO study carried out in 2010 while preparing for the Convention, which showed that more than 95 per cent of domestic workers were not included in the Labour Law due to the sensitivity and particularity of domestic work. In this context, the Undersecretary, Mr. Humaid Bin Deemas, shared his opinion that if there is a belief in gradual reform and a desire for the convention to succeed, a good starting point would be to issue a separate law specifically for domestic workers, provided that it be given the same

vigour as the Labour Law and that it observes fundamental rights. After a certain period, this Law might actually be included in the Labour Law. In order for the mentality and culture to change time is needed since the parties involved include housewives and family members, not factory or company owners. A request to directly include domestic workers under the Labour Law might lead to losing this cause.

40. Responding to the comments that were raised with respect to whether it is better to include domestic workers in existing Labour Laws or to issue special legislation for them, the Legal Specialist on Working Conditions, Mr. Martin Oelz, having said that the ILO does not take a position on this issue since there are no definite answers, explained that the Labour Law already contains protection-related provisions, and it could be a good starting point. As for separate laws, there is a high risk of duplication and protection gaps because they deal with the same issues for all workers but in a way that might not be constructive and might create inconsistencies in the rights that have to be enjoyed by all workers. The main Labour Law usually deals with key principles, but when dealing with a certain regulation under the Law there is a risk of different judicial interpretations.
41. Eng Hussain Zenkana from the Iraqi Federation of Industries stressed the importance of taking the reservations of the countries in the region into serious consideration, especially those related to household inspections. The reason for saying this, as per his intervention, was that the challenge and solution are not in bringing national legislations in line with international labour standards, it was in awareness raising because Iraq like other countries signed many conventions, but its commitment to them is very weak and not much has been implemented although Conventions are binding. There must be first and foremost an ethical and moral commitment and belief in human rights that are being violated everyday in the region.

Session 1 (day 2): Sharing of international experiences

42. Ms Rebecca Chato, Undersecretary at the International Labour Affairs Bureau in the Philippines shared the experience of her country, the Philippines, the second country to ratify Convention 189. She outlined key factors in the Philippine's setting which lead to ratification of Convention 189. Among these were, efforts aimed at improving the living and working conditions and status of domestic workers linked to the broader agenda of advancing decent work; political willingness combined with external pressure through multi-stakeholder coalitions; as well as national wide-ranging consultations with tripartite constituents that have accelerated the ratification of Convention 189. Moreover, in the case of the Philippines, Ms Chato noted that ratification has provided further impetus to improving the existing regulative framework, bringing it in line with minimum protection provided for in the convention.
43. In response to comments raised questioning the usefulness of bilateral agreements signed between sending and receiving countries of migrant workers, Ms Chato clarified that there is no inconsistency between memorandums of understanding (MoUs) or bilateral agreements and the Convention, because the Convention would amplify the MoU. The provisions in a MoU can be beyond minimum standards, and it can be respected provided that it does not contradict with the Convention, otherwise it has to be amended and made consistent with Convention 189.

Session 2: Extending labour laws to domestic workers

44. Mr Martin Oelz, Legal Specialist on Working Conditions at the Working Conditions Section of the ILO, conveyed the ILO supervisory bodies' view that the inclusion of domestic workers under the scope of labour laws was essential for implementing several ILO Conventions particularly those concerning fundamental principles and rights at work. He explained how the inclusion of domestic workers under the labour law protects the worker, being the weaker party in the employment relationship as well as benefits their employers as this provides guidance for managing the employment relationship in a mutually satisfactory manner.

International Organization of Employers' intervention

45. After the session on extending labour laws to domestic workers, Mr Khalifa Mattar, Employer Member of the ILO Governing Body and Member of the Board of the Federation of United Arab Emirates Chambers of Commerce and Industry (FCCI) thanked the ILO Regional Office for Arab States for convening this workshop and stressed the importance of continued tripartite dialogue on Convention 189 on domestic workers in order to build on what was accomplished at the 101st International Labour Conference.
46. Mr Mattar shared with the participants the International Organization of Employers' view towards the issues that were raised throughout the previous sessions by emphasizing that Convention 189 provided for progressive implementation in key areas. He called upon governments to adopt progressive implementation, whether in the course of merely upgrading their current domestic work regulation or in anticipation of ratification. Moreover, he outlined issues pertaining to Convention 189 and Recommendation 201 that, in the view of the employers, required further clarification. Among which was the issue of providing, as per Article 10 of the Convention, "*equal treatment between domestic workers and workers generally in relation to normal hours of work [and] overtime compensation...*". Mr Mattar, on behalf of the employers, encouraged social partners to exhibit flexibility in interpreting what "equal treatment" might mean in the particular context of domestic work, so that we may reach a consensus that takes into consideration the worker's right to know, and consent to the hours of work for which he/she receives agreed compensation, and the need of a householder for flexible scheduling of working hours that meet his or her requirements.
47. On another note, a government representative gave examples of the issues that needed to be further elaborated on and clarified, as per what had been emphasized by several participants, the calculation of working time and overtime payment since the work of domestic workers differs in nature from other types of work and requires more flexibility as per what is required from them and when. Participants at the conference also raised questions around the exact meaning of a "standby period" and asked who would be the party responsible for keeping track of "working hours", "overtime" and "standby hours" since disputes may also arise between the employer and the worker in case of different interpretation or calculation of the previously-mentioned working conditions.
48. The second issue Mr Mattar brought up had to do with the suggested pre-placement visits to households in which a migrant domestic worker is to be employed. The International Organization of Employers (IOE) representative

maintained a view that such a concept risks violating the right of families to privacy in addition to potentially and unduly delaying the deployment of the migrant worker. As for the inspection of households, Mr Mattar continued to advocate that governments refrain from pursuing home inspections as a regulatory tool in favour of other, less intrusive options.

Session 3: Improving the regulation of private employment agencies

49. In response to a question on the licensing and regulation of recruitment agencies, Ms Beate Andrees, Head of the Special Action Programme on Forced Labour in Geneva, reflected that the issue constituted a major debate as there were many models of licensing and every country had to find its own solution. But in some countries where the market was not very mature, a licensing system would make sense, provided that licenses were not perceived as an additional tax and that the government puts clear enforcement mechanisms in place that look at all sides of the market.
50. According to Ms Andrees, alongside the risk of governments being the only ones allowed to recruit are the problems of huge bureaucracy and the risk of potential corruption. Ms Andrees gave examples of some good practices as seen in South Korea and explained that the key was not to be restrictive. The market can be allowed to operate but there has to be an alternative model that would be totally free of charge for workers.

Session 4: Enhancing compliance and enforcement of national laws to protect domestic workers

51. In the fourth session of the day, Mr Martin Oelz, Legal Specialist on Working Conditions and Dr Amin Wreidat, Labour Inspection and Occupational Safety and Health Expert at the ILO ROAS addressed in their presentations the subject of enhancing compliance and enforcing national laws to protect domestic workers, for which it was affirmed that several directions could be taken.
52. Dr Amin focused on the role of labour management and inspection in protecting the rights of domestic workers. He started by introducing the tasks of labour management and labour inspection in protecting the rights of domestic workers and went through the principal violations of the rights of domestic workers as documented by some labour inspectorates in the Arab region. As an expert in labour inspection, Mr Wreidat explained that the main causes of such violations were related to the weak labour inspection systems in most countries of the region. He finally gave his recommendations as to how the role of labour management and labour inspection could be best undertaken. The main recommendations revolved around five main points, namely: (a) amending the labour and social security legislation to cover domestic workers; (b) providing an effective mechanism for managing complaints and settling disputes between the worker and employer; (c) developing coordination and cooperation mechanisms between the relevant key governmental and non-governmental parties; (d) providing shelter for female workers who leave the employer because their rights have been violated; and (e) focusing on awareness campaigns to educate workers and employers on their rights and obligations.
53. As for elements of compliance, Mr Oelz underlined that there was no 'one-size-fits-all' approach for ensuring compliance with labour laws and listed a

series of compliance elements that could be taken into consideration depending on the context of each country, such as formalizing the employment relationship through the conclusion of written contracts before travelling to the country of employment and through payslips or other methods of proving payment, working time records and the registration of contracts with a public body. Such measures, according to Mr Oelz, can assist in settling disputes, should they arise.

Plenary discussion

54. Mr Mustapha Said, Senior Specialist for Workers' Activities, at the ILO ROAS affirmed that organizing domestic workers helped in the monitoring process. He emphasized that they have the right to organize, express themselves, and help play a positive role in the labour inspection process. Moreover, conditions for recruitment and employment should be put in place as it is very important to set minimum standards for the eligibility of an employer to employ a domestic worker.
55. In turn, Dr Amin Wreidat also affirmed that putting conditions for the eligibility of an employer to recruit is an essential point. Among these conditions, the employer would have to prove his financial capability to recruit workers and bear the costs of employing, demonstrate that they had no criminal record, and allow pre-inspection of the workplace before recruitment to assess the future living and working conditions of the worker.
56. Following Dr Amin's presentation, Ms Najla Chahda, Director of Caritas Lebanon Migrant Centre suggested that labour inspections should take place outside the household and far from the employer because otherwise the worker is likely to be intimidated and might not be able to talk freely.
57. Mr William Gois from Migrant Forum Asia invited countries represented in this conference to look at other countries' examples of organizing domestic workers and see what can be learned from them and adopted in this region. Regarding the issue of recruitment agencies, Mr Gois noted that the starting point is not just in the sending country. There is a point of collusion between somebody in the destination country and somebody in the country of origin. According to Mr Gois, the accreditation of offices does not constitute a viable solution since agents are moving from village to village to recruit the workers. He eventually called on countries to contemplate the option of government-to-government agreements for a region like this.
58. Stemming from the above, Mr Ray Jureidini, Director of Research at the Centre of Design Innovation at the Qatar Foundation quoted "Manolo Abella" saying, "what the worker pays to recruitment agencies is not a fee it is a bribe", a bribe to get a job. According to Mr Jureidini, there is no transparency on the part of recruitment agencies with regards to what they are charging or who and when the money is paid and domestic workers do not even receive a receipt for paying this money. He described this issue as corruption and called for the maintenance of a relationship between the authorities in sending and receiving countries in order to at least regulate the recruitment process in a reasonable way.

Breakout sessions

59. During this session, participants divided themselves into four thematic working groups to discuss in breakout sessions the following themes: (a) working time and remuneration; (b) recruitment and private employment agencies; (c) labour administration; and (d) living conditions and occupational safety and health.
60. The purpose of this activity was to allow the participants to identify the challenges specific to each theme, share their countries' different experiences of the issues raised and eventually come up with suggestions and solutions. The information reported back by each working group constituted a basis for the recommendations that were announced by the ILO Regional Director at the end of the conference and which would constitute relevant considerations for upcoming projects and strategies aimed at moving closer towards the principal goal of achieving decent work for domestic workers.

Panel discussion on fundamental principles and rights at work for migrant workers

61. During the panel discussion, Ms Nadia Shabana, the International Trade Union Confederation (ITUC) Coordinator of the Arab Women Network, introduced the '12 by 12' Campaign conducted by the ITUC in close cooperation with the International Domestic Workers' Network (IDWN) and The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) that aims to ensure 12 ratifications of the Convention by the end of 2012 and at strengthening domestic workers' unions. She recalled that in September 2012, the ITUC and IDWN organized a seminar to discuss the developments of the '12 by 12' Campaign up to the end of 2013. The seminar had agreed on the following two goals: (a) to ensure 12 ratifications of C. 189, or clear commitments by governments to do so, by the end of 2013. In the countries in which ratification is not an option, the goal is to obtain labour law reforms that would at least grant domestic workers the right to a minimum wage and to social protection; (b) strengthen the capacity of domestic workers and unions to organize and build strong unions. Strategic actions required to achieve the previous goals include keeping up the pressure through continued advocacy and lobbying efforts targeting the relevant authorities, mobilizing for a global '12 by 12' action day on 12-12-12 during which public events supporting this campaign would be organized, sharing experience among '12 by 12' teams and spreading the message through media channels among other things.

Panel discussion on building partnerships to improve the protection of domestic workers

62. Ms Marietta Dias, Chairperson of the Migrant Workers Protection Society of Bahrain spoke about the experience of Bahrain in dealing with issues related to domestic workers, the improvements made in this regard, and the gaps and challenges lying ahead and she gave recommendations on ways to overcome these challenges. She also evoked Bahrain's adoption of the Anti-Trafficking in Persons Law in 2008 and the very recent adoption of the new Labour Law that finally included domestic workers in its provisions.
63. According to Ms Dias, the challenge for NGOs lies mainly in trying to get many of the good laws implemented vigorously and consistently and in getting violators penalized. Ms. Dias shed light on the fact that Bahrain still lacks a system of re-employment for workers who have had court cases or

have “runaway”, since a person and especially a domestic worker who leaves his workplace to complain about a problem is instantly deemed as a runaway and therefore becomes illegal. She evoked the need for more qualified and trained labour inspectors with enough authority and commitment to make regular visits to worksites, labour accommodations and manpower agencies. She also stressed the importance of inspectors really following-up on issues identified since there was no point in just writing a report on violations.

64. Moreover, Ms Dias suggested conducting more training workshops and seminars to build up the capacities of middle and lower-middle level staff of relevant ministries to become more qualified and better equipped in understanding the rights of migrant workers. She stressed that such trainings and workshops needed to be tailored specifically to suit national laws. Finally, the Chairperson acknowledged that the plight of domestic workers in this part of the world would not change dramatically until there was a total change of social mindsets with regards to how the general public view domestic workers and their work.

65. Mr Faleh Lafi Al-Azami, Vice President at the Kuwaiti Trade Unions Federation (KTUF) was of the opinion that the problem lay in the lack of legal protection or non-implementation of already existing legislations in both countries of origin and hosting countries. He shared the view of the KTUF that domestic workers should also be organized because their work is real work, not slavery.

Closing remarks

66. In her closing remarks, the ILO Regional Director for Arab States, Ms Nada Al-Nashif, underscored the necessity and feasibility of governing domestic work by sound labour laws and policies and stated that Convention 189 provides the framework to bring Arab domestic laws in line with international standards. She then reiterated her thanks and appreciation to all the participants for their constructive engagement and the valuable suggestions they had made and she complimented the groups for a rich discussion and very collegiate exchange of views on clearly delicate issues. She emphasized that the inputs of participants during this conference would be essential to guide the Office in producing a package of tools for dealing in depth with policy issues, practical approaches and country-specific experiences. She concluded the meeting by outlining the many good recommendations that were made and which are further elaborated in the continuing paragraphs and which will guide the ILO in its future work.

Recommendations

The main recommendations resulting from the interactive meeting were the following:

Raising the Awareness of Social Partners about Convention 189. To raise the awareness of both domestic workers and employers in the region about Convention No. 189 as a precondition for the ratification and implementation processes.

Provide further explanation to law enforcement authorities, civil society organizations, NGOs, employers and workers' organizations and recruitment agencies on the provisions of the Convention so that misinterpretation or doubts about certain points provided for in the Convention do not stand in the way of the endorsement of the full Convention.

Conducting more training on rights and obligations. Participants considered more training workshops and seminars to be an urgent requirement to ensure that middle and lower-middle level staff of the relevant ministries become qualified and better equipped in understanding the rights of migrant workers. In order for that to happen, participants also expressed the need that such training be tailored specifically to suit national laws. Furthermore, participants reiterated the need to conduct awareness campaigns to educate workers and employers on their rights and obligations as well.

Addressing the specificities and particularities of Arab countries. Participants called for the convening of sub-regional conferences (in the Mashriq and the Gulf Countries) since localized discussion can provide focused discussions and context-specific and operational suggestions on all the possible routes and strategies to be adopted or improved towards achieving decent work for domestic workers.

Including the countries of origin in future social dialogues. Participants urged other ILO initiatives of this nature to include the countries of origin. As the working and living conditions of women migrant domestic workers cannot be discussed in isolation from the politics and policies of the countries of origin (especially their concern about the size and distribution of remittances). Moreover, participants evoked the necessity of collaborating with embassies and consulates of the countries of origin over the inspection process as well.

Taking a piecemeal approach. Instead of engaging in discussions concerning the ratification of C. 189, one way of initiating momentum would be to begin by identifying how existing national protections may be expanded to include protections for domestic workers and how these protections can take into consideration the household privacy concerns of the employer. The government, employers and workers' representatives hoped that the ILO would support an incremental legislative reform process in progressing towards the standards in C. 189.

Assist Arab countries in developing effective and feasible labour inspection mechanisms. Being one of the most contentious issues during the conference, many suggestions were given by experts and many experiences and opinions were shared by participants from different countries on the issue of labour inspection on the working and living conditions and occupational health and safety of domestic workers.

One theme that has been agreed upon and suggested by the participants from Arab countries during the conference is the need for developing a system of labour inspection that does not infringe on the privacy of households. In parallel, civil society representatives suggested the need for much more qualified and trained labour inspectors with enough authority and commitment to make regular visits to worksites, labour accommodation and manpower agencies and stressed the importance of real follow-up on cases identified.

In the same context, participants underlined the importance of having special inspectors trained to inspect recruitment agencies. therefore, it was recommended that the ILO should build the capacities of member states, in return for them building the capacities of the inspectors specialized in inspecting recruitment agencies.

Develop an effective mechanism for managing complaints and settling disputes between the worker and the employer. Several participants presented complaint mechanisms adopted in their countries, but some admitted to the fact that those mechanisms – the telephone hotline for example – were found not to be up to par. Therefore, ILO's assistance was asked in developing an effective complaint mechanism which was more accessible for domestic workers and through which

domestic workers would be able to submit a complaint to the relevant bodies without straining their relationship with the employer.

Last but not least, participants stressed the need to build up the capacities of the authorities to enable them to ensure effective response, intervention and follow-up mechanisms with regards to complaints received or violations identified.