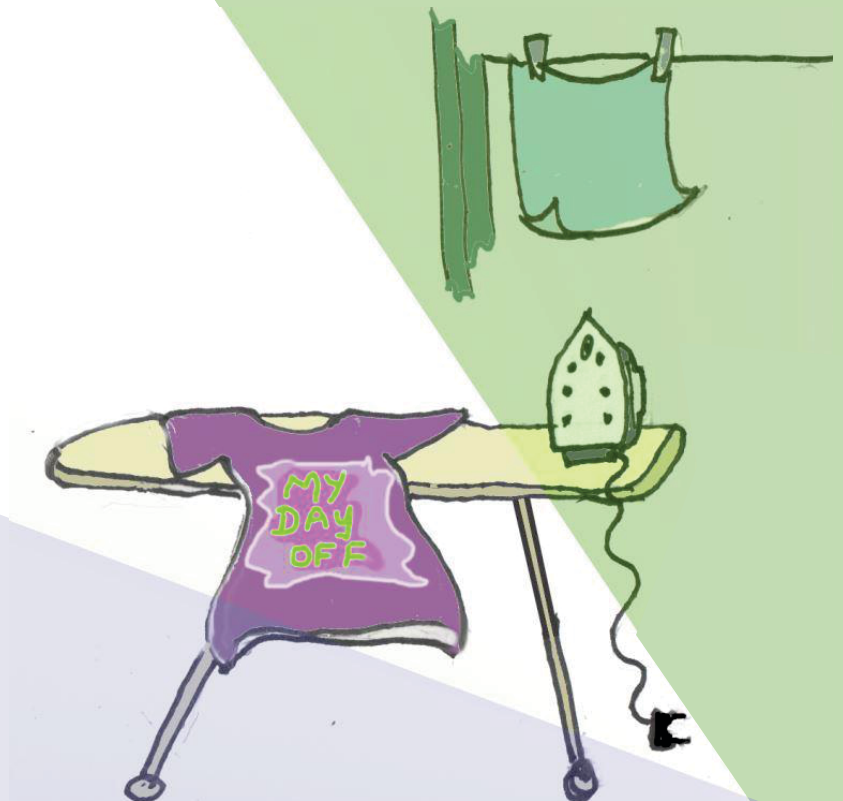


Legal Protection of Domestic Work in Myanmar

What does the public think?



Why do we need to know what the public thinks about domestic work?

Traditionally, domestic work has been done by housewives or poor relatives, usually women. It has not been considered real work and has consequently not been paid as such. It has not been afforded labour protections, and not been valued as work. Today, the situation is changing. In urban settings more wives are working outside of the household requiring them to look beyond their own families to find domestic workers. If women are being employed to keep the house clean, cook, look after the children, do the shopping, the ironing and more; then the question arises, is this not work? Is this not an employer employee relationship? And if so, shouldn't there be laws specifying the labour conditions as there are for other workers?

Currently in Myanmar domestic workers are excluded from many labour protections in the law including to the right to days off and holidays.

In 2011, the ILO adopted the Convention on Decent Work for Domestic Workers (Convention No 189) providing an international legal framework for the protection of domestic workers.

With several high profile cases of severe abuse and exploitation of domestic workers in Myanmar exposed in the media, there have been some voices calling for change but it is not clear to what extent there is support for the development of a law to protect domestic workers.

Therefore, the Developing International and Internal Labour Migration Governance (DIILM) project of the ILO Yangon, supported by the Livelihoods and Food Security Fund (LIFT) together with the Working Group for Legal Protection of Domestic Workers carried out a public opinion poll to find out how much support there is among the general public, employers and domestic workers for a law protecting domestic work and to better understand where the barriers to such protection may exist.

The opinion poll together with more indepth focus group discussions were carried out from 27th Aug to 30th Nov 2018, reaching a total of 549 respondents; including domestic workers, employers of domestic workers and the general public. The results are outlined below.



Livelihoods and Food Security Fund



Managed by UNOPS



Key Highlights of the Results of the Opinion Poll

- There was overwhelming support from domestic workers, employers, and the general public to recognise domestic workers as workers (see table 1) and to define her working day as 8 hours. (see figure 3)
- 77% of the general public, 74% of domestic workers and 71% of employers supported the development of a law to protect the labour rights of domestic workers.(see table 1)
- Domestic workers and the general public strongly agreed that domestic workers were entitled to a weekly day off and to being paid at least minimum wage. Employers agreed but with slightly less enthusiasm. (see table 2 and table 3)
- Domestic workers, employers and general public proposed 18 years as the minimum age to work as a domestic worker. (see table 5)
- The majority of respondents voted for the Labour Exchange Offices to be the main body responsible for the recruitment and placement of domestic workers. There was a strong vote against brokers. (see table 8)
- There was overall support for the establishment of a complaints mechanism to settle disputes between domestic workers and employers. (see table 9)
- While employers demonstrated some reluctance to agreeing to inspection of their homes by labour inspectors, there was however enough support to suggest that methods to conduct labour inspection should be explored taking into account the dichotomy between the home as a private sphere and as a workplace.

Methodology

- Quantitative survey and qualitative group discussions mixed methodology.
- The quantitative survey was based on the questions sent out to member states by the International Labour Organization (ILO) for the development of the ILO Convention on Decent Work for Domestic workers (C 189)
- The questions focussed on specific areas of labour protection and living conditions of domestic workers, for example
 - 3.4. Should specific working hours for domestic workers be prescribed?
 - (a) yes (b) no (c) don't know
 - If yes, how many hours a day should be a normal working day for domestic workers?
 - 3.7. Should domestic workers have the right to contact their families on a regular basis?
 - (a) yes (b) no (c) don't know
- The surveys were distributed to domestic workers (DW); employers of domestic workers (E) and the general public (GP). 505 completed surveys were received.
- The Focus Group Discussion (FGD) questions covered the same areas but with in-depth questions and discussions. 7 FGDs were held with 44 participants.

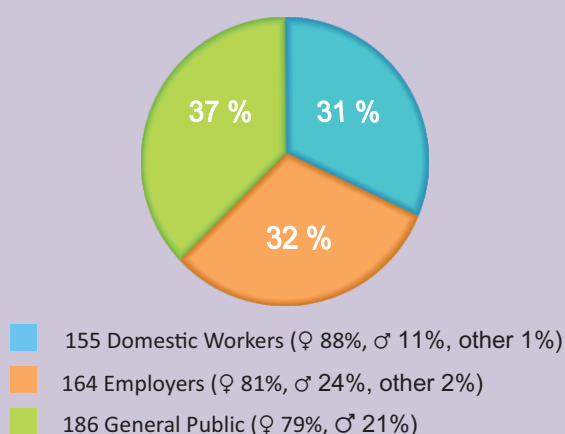
Data collection
via online forms
& paper based

Profile of Respondents

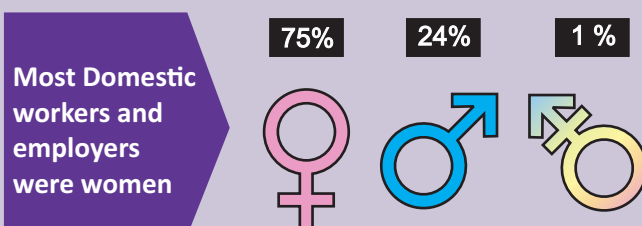
(a) Public Opinion Survey

Figure 1 Public Opinion Survey Respondents

Total Respondents : 505

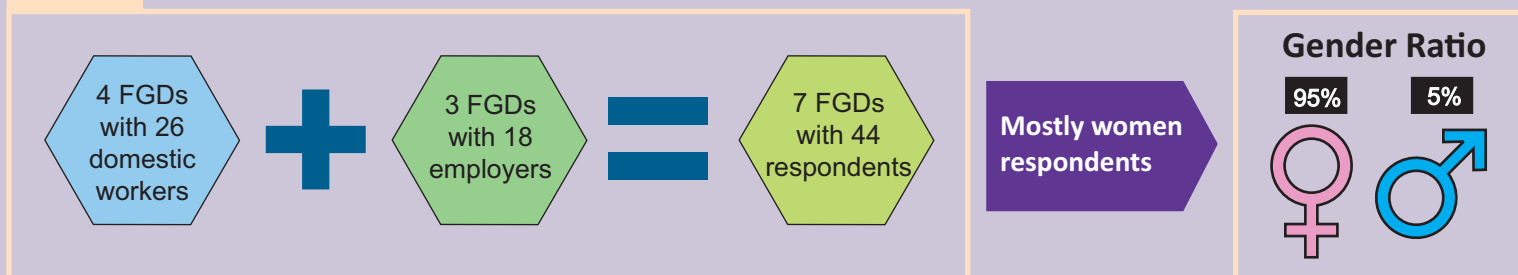


Gender Ratio



(b) Focus Group Discussion (FGD)

Figure 2 Focus Group Discussion (FGD) Respondents



Results from the Survey

Terminology and Definition of Domestic Work

Respondents were asked to define domestic work.

- The terms ein a ku a lou' tha ma (အိမ်အကူအလုပ်သမား) and ein dwin: a lou' tha ma (အိမ်တွင်းအလုပ်သမား) were preferred
- “ein phaw” (အိမ်ဖော်), “ein ze” (အိမ်စေ) were considered discriminatory.
- There was no common agreement in FGDs regarding what types of jobs should be included in domestic work. (e.g. whether caretaker, baby-sitter and gardener should be included or not)

Convention on Decent Work for Domestic Workers (C189) defines domestic work as:

- The term domestic work means work performed in or for a household or households.
- The term domestic worker means any person engaged in domestic work within an employment relationship.
- A person who performs domestic work only occasionally or sporadically and not on an occupational basis, is not a domestic worker.

Recognition and Legal Protection

Respondents were asked if domestic work should be recognised as work and whether they thought a new law should be developed to protect domestic workers rights.

Table 1

Recognition and Legal Protection

Question	Respondent	Agreed	Disagreed	Didn't know	N/A
Recognizing domestic workers as workers	Domestic Worker (DW)	85 %	3 %	9 %	4 %
	Employer (E)	79 %	6 %	3 %	12 %
	General Public (GP)	87 %	7 %	2 %	5 %
	Overall	83 %	5 %	4 %	7 %
Developing a New Law to protect labour rights of domestic workers	DW	74 %	4 %	20 %	3 %
	E	71 %	6 %	10 %	13 %
	GP	77 %	9 %	10 %	3 %
	Overall	74 %	7 %	13 %	6 %

83% of respondents agreed that domestic work should be recognized as work.

74% of respondents were in favour of developing a new labour law for DW.

Basic Labour Rights

Respondents were asked which labour rights and working conditions should be included in a law to protect domestic workers.

Table 2

Holidays and Leave

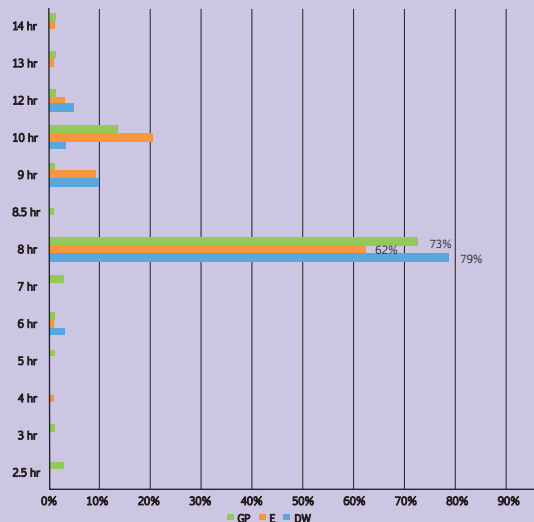
Question	Respondents	Yes	No	Don't know	DNA
Defining Working hours per day	DW	88%	3%	3%	5%
	E	64%	11%	12%	13%
	GP	79%	8%	6%	7%
	Overall	77%	7%	7%	8%
Specifying Overtime Fees	DW	86%	1%	8%	5%
	E	66%	10%	12%	12%
	GP	73%	10%	12%	5%
	Overall	75%	7%	11%	7%
Entitlement to a Weekly day off	DW	91%	2%	5%	3%
	E	76%	4%	10%	11%
	GP	87%	2%	8%	4%
	Overall	84%	2%	7%	6%

Holidays and Leave

Almost all respondents supported one day off a week. Domestic workers wanted paid leave for visiting home. Employers also suggested that domestic workers should be entitled to “special” public holidays like Thingyan, and Thadingyut Holidays, with long enough duration to visit their homes, instead of entitlement to all public holidays.

Working Hours

Figure 3



Working Hours

Clear support for 8 hours per day

Table 3

Minimum Wage

Question	Respondents	Yes	No	Don't know	DNA
Entitlement to Minimum Wage	DW	90%	1%	6%	2%
	E	72%	5%	11%	12%
	GP	85%	4%	6%	4%
	Overall	82%	4%	8%	6%

Minimum Wage and Remuneration

In terms of salary, employers considered that salaries for live in domestic workers should be lower than workers in other sectors to take into account the accommodation and food provided by the employer. However, domestic workers strongly disagreed, and argued that if the employer required a live in domestic worker, the costs of living in (i.e. accommodation and food) should be borne by the employer and should not affect the wage level. Live in domestic workers should be eligible for minimum wage. Regarding terms of payment, the employers suggested that payment should be made monthly on a regular basis, and that the current practice of advance payment should be stopped.

Table 4

Government Services

Question	Respondents	Yes	No	Don't know	DNA
Mandatory Social Security (with contributions by employer and worker)	DW	82%	0%	15%	3%
	E	69%	3%	16%	12%
	GP	82%	3%	11%	4%
	Overall	78%	2%	14%	7%
National Skill Standards Accreditation (NSSA)	DW	83%	0%	12%	5%
	E	73%	3%	7%	18%
	GP	79%	2%	8%	11%
	Overall	78%	2%	9%	11%

Domestic workers and the general public overwhelmingly voted for mandatory social security and for domestic workers skills being officially accredited.

Table 5

Minimum Age for Domestic Workers (years)

Ages	12	13	14	15	16	17	18	19	20	22	23	24	25	30
DW	1	2	5	10	13	5	63	5	30	1	2	1	7	2
E	0	0	9	14	36	3	71	4	20	0	0	0	4	1
GP	2	1	5	17	35	4	87	5	15	1	0	0	6	0
Percent	0.6%	0.6%	3.8%	8.1%	16.6%	2.4%	43.8%	2.8%	12.9%	0.4%	0.4%	0.2%	3.4%	0.6%

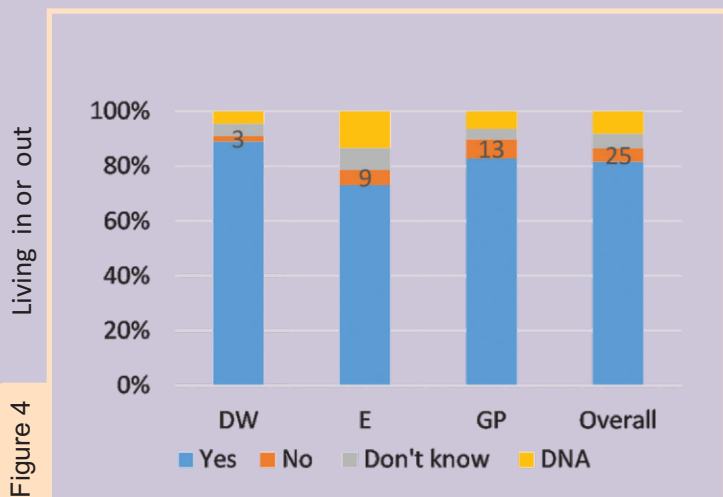
18 years old

Minimum Age

Of 505 respondents, 221 (43.8%) responded that the minimum age to work as a domestic worker should be 18. Domestic workers erred on the side of upwards of 18, while the general public and employers erred on the younger side of 18 years. Similarly in group discussions, the domestic workers preferred a higher minimum age because they felt domestic workers should be mature enough to adapt to new working and living conditions; living at the employer's home, coping with home-sickness, the long hours of work, fatigue etc.

Living Conditions

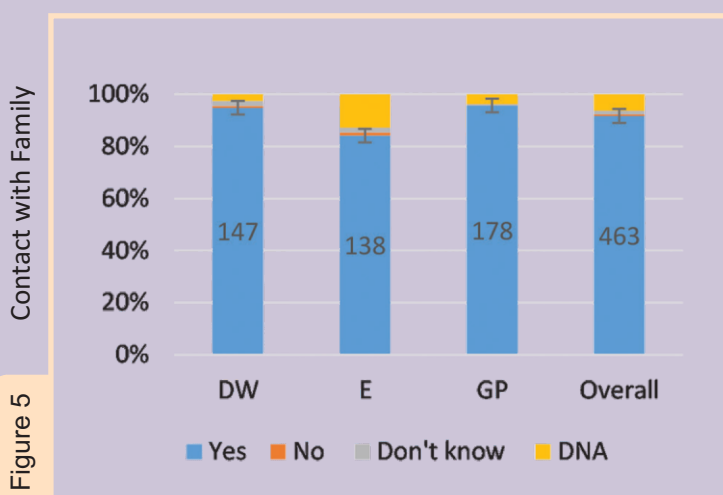
Q: Should domestic workers have the right to choose to live or not to live in the employers' house?



Living in or out

Overall support for domestic workers to have the right to choose to live-in or live-out.

Q: Should domestic workers be allowed to have contact with their family on a regular basis?

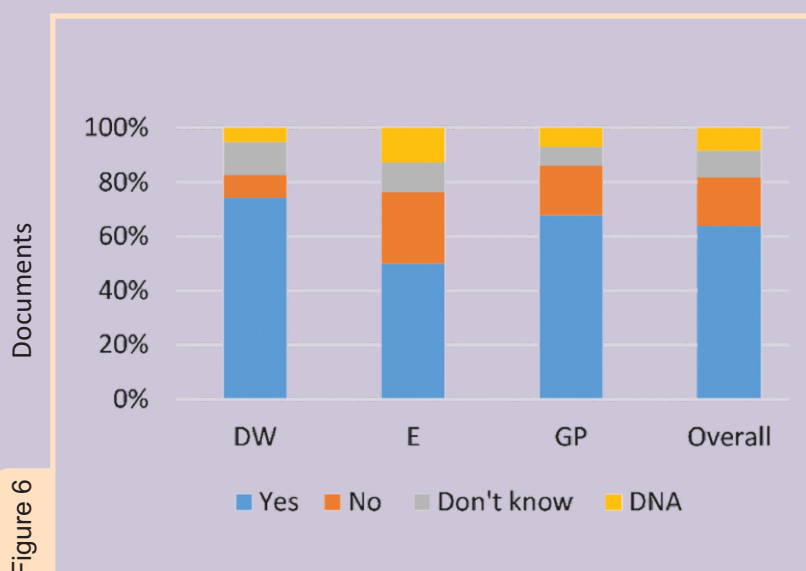


Contact with Family

All groups agreed that domestic workers should have the right to maintain contact with their family on a regular basis.

Nearly 100% of domestic workers thought accommodation and food should be provided free while nearly 80% of employers agreed. A small percentage of employers believed the costs of accommodation and food provided should be deducted from the wages with a larger group choosing not to answer.

Q: Should the practice of retention of DWs' documents by employers be restricted?



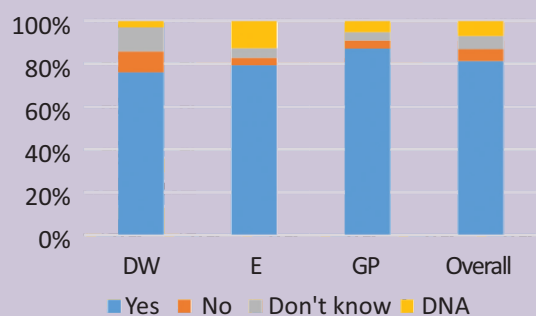
Documents

Overall 60% of respondents thought employers should not be allowed to keep the personal documents of domestic workers.

Employment Contract (EC)

Q: Should an Employment Contract be made between domestic workers and employers?

Figure 7 Employment Contracts



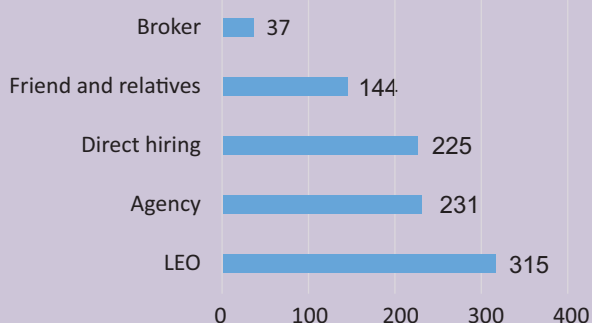
Employment Contracts

More domestic workers than employers and general public said there should NOT be an employment contract. From FGDs domestic workers explained that they expected employment contracts to be biased in favour of the employers. Therefore they thought employment contracts would legitimize exploitation.

Recruitment

Q: Who should be allowed to recruit and place domestic workers?

Figure 8 Recruitment System



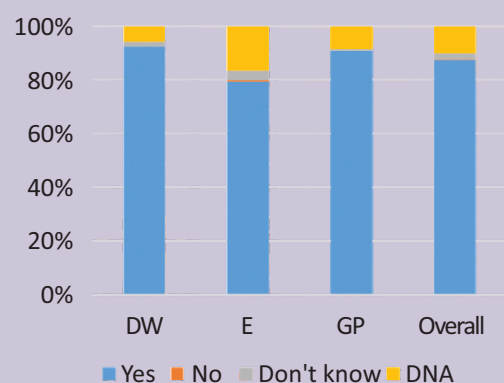
Recruitment System

There was strong overall support for the Labour Exchange Offices to be in charge of the recruitment and deployment of domestic workers. There was a clear dislike of the brokerage system. In FGDs, respondents reported that employers as well as domestic workers paid high brokerage fees.

Dispute Settlement

Q: Should a dispute settlement centre or complaint mechanism be established to settle the disputes between domestic workers and employers?

Figure 9 Complaint Mechanism



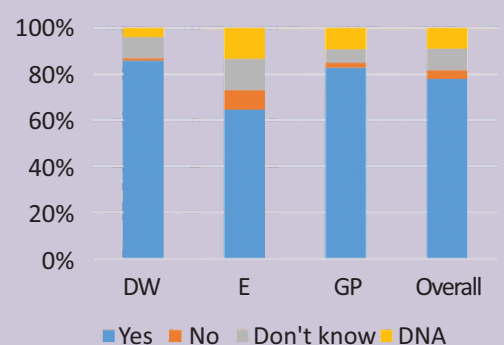
Complaint Mechanism

There was strong overall support for the establishment of a complaints mechanism for domestic workers.

Labour Inspection

Q: Should a labour inspectorate be allowed to check/inspect accommodation/living/working conditions in employers' houses where domestic workers work?

Figure 10 Labour Inspection



About 9% of employers opposed labour inspection in employers' houses.

FGD: All participants of the FGDs were hesitant to recommend labour inspection, being concerned about the State's interference in the private realm. They suggested that labour inspection should be conducted only if there were some evidence or report of abuse, but not on a regular basis.

Divergence of Opinions in Relation to Legal Protection and Decent Work for Domestic Workers

On some issues, the results of the opinion poll highlighted areas where there was less common agreement and pointed to the need for these issues to be discussed in greater depth at multi stakeholder consultations. These issues included:

- ❖ Over a quarter of the employers did not agree that employers should be restricted from keeping the personal documents of the domestic workers. This was in stark contrast to the opinions of domestic workers.
- ❖ Although there was general agreement on the law defining the number of working hours per day for domestic workers and the payment of overtime, there was a significant number of employers who did not agree (11% on hours and 10% on overtime fees). During the FGDs, many employers explained that domestic workers do not work all day, they have quiet times during the day or times when they are on standby. Employers did not consider these times as working hours.
- ❖ On Social Security and accreditation by the National Skills Standard Authority (NSSA), there was a significant number of respondents who didn't answer this question which might suggest that the general knowledge about social security payments and benefits and about skills accreditation is low. This was the case in the FGDs where respondents admitted to not fully understanding these systems, whilst also expressing their concern on the quality of services provided.

Convention on Decent Work for Domestic Workers

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.*

Challenges

Table 6

Summary of Current Status of Domestic Workers in Myanmar Law

Key Labour Issue	Myanmar Law	Are domestic workers included?
Wages	Minimum Wage Act (2013)	Yes (but not applicable to employers with less than 10 employees and small family business)
Overtime Fees	Shops and establishments Act (1951) Factory Act (1951)	No
Working hours and leave	Leave and Holidays Act (1951) The Child Law (1993) (Section 24)	No
Minimum age for admission to work	Section (24) Child Law (1993) (under review)	N/A
Employment Contract	Employment and Skill Development Law (2013)	No
Hazardous work	Occupational Health and Safety (2019) The Child Law (1993) (Section 65)	No
Social security	Social Security Act (2012)	Not compulsory. Domestic workers can pay voluntarily. Employers do not pay.
Skills development	Employment and Skills Development Law (2013)	No
Labour inspection	Part of (1951) Framework	No
Dispute Settlement	Labour Dispute Settlement Law (2012)	Yes

Working Group for Legal Protection of Domestic Workers

