



International
Labour
Office

Improving the Legal Protection of Asia's Domestic Workers

International Labour Office
Asian Knowledge-Sharing Forum: Realizing Decent Work for Domestic Workers
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Recognizing domestic workers as workers: the role of the new International Labour Standards

Work in households and homes is as old as time and vital for the well-being of families, communities and societies at large. Often perceived as a typically female occupation, domestic work is generally not considered as 'employment' – and domestic workers are often not recognized as workers at all, being regarded instead as 'helpers' or 'servants'. In consequence, they are often denied the same rights that other workers take for granted, be it the right to a weekly day of rest or to a decent wage.

Nevertheless, such perceptions – and the laws that are founded on them – are beginning to change, not least due to the campaigning efforts of domestic workers themselves. Likewise, the Domestic Workers Convention (No. 189) and the accompanying Recommendation (No. 201), both adopted in 2011, have sent out the strong message that domestic workers are workers – and that they should enjoy fundamental protections on an equal footing with all other workers.

Overcoming the frequent exclusion of domestic workers from labour laws would be a significant step towards this goal, and help to improve the working conditions for a significant number of workers. This is true especially for Asia and the Pacific, which is home to the largest number of domestic workers worldwide. Extending the coverage of labour laws to domestic workers is indeed feasible and many countries; including some in Asia; have already done so, while others have recently embarked on new legislative and policy reforms that are guided by the new ILO instruments on decent work for domestic workers.

The experience gained so far and the challenges countries face for improving the legal protection of domestic workers are the central topics of discussion for the *Asian Knowledge-Sharing Forum: Realizing Decent Work for Domestic Workers*, held in Bangkok, Thailand, from 24 to 26 April 2013. This briefing note provides participants with a short overview of some of the main issues. The separate briefing notes on working time (No. 2) and remuneration of domestic workers (No. 3) discuss those aspects in greater detail.

Domestic work: a significant source of wage-employment

Drawing on official statistics from 117 countries and territories, a recent ILO study (ILO, 2013a) estimated that there were some 52.6 million domestic workers across the world in 2010 (see Annex Table 1), of which some 83 per cent were women. As a single occupational category, this represents a substantial workforce – roughly the same size as the entire labour force of Viet Nam. Moreover, this workforce has grown by more than 19 million since 1995, when the global count of domestic workers was 33.2 million. This growth is partly due to the growing demand for care work, as more women enter the labour force. Both figures are conservative estimates and are likely to understate the true extent of domestic work since domestic workers are often underrepresented in labour force surveys. Moreover, the figures exclude domestic workers below the age of 15 years, which are estimated to total an additional 7.4 million child domestic workers, of which 66.2 per cent are girls.

Asia and the Pacific alone employed some 21.5 million domestic workers in 2010 – the highest aggregate of any region (see Figure 1). Domestic workers account for 1.2 per cent of total employment in the region, and for 3.5 per cent of all wage employment. Although a substantial number of men work in the sector – often as gardeners, drivers or security guards – it remains highly feminized: more than 80 per cent of Asia's domestic workers are women.

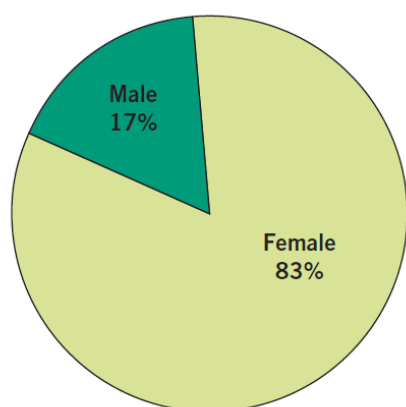
Roughly one in every thirteen women with a paid job in Asia and the Pacific currently earns her living as a domestic worker (see Annex Table 1). Improving the legal protection of domestic workers therefore has broader ramifications for greater gender equality within society.

The extreme dependency on an employer, combined with the lack of rights and the isolated and unprotected nature of domestic work, often renders domestic workers vulnerable to exploitation and abuse. Domestic work is one of the sectors where debt bondage and other forms of forced labour have been found and it accounts for a sizable share of the 20.9 million victims of forced labour and trafficking estimated world-wide, of which some 55 per cent are women (ILO, 2012).

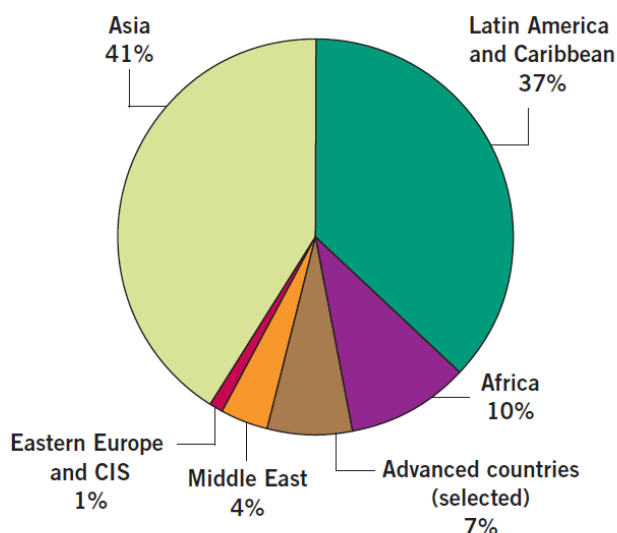
In the particular case of migrant domestic workers, their often precarious legal status in a destination country; sometimes compounded by a lack of knowledge of the local language and laws; makes them especially vulnerable to abusive practices. While reliable statistics on the prevalence of physical and sexual violence, psychological abuse, non-payment of wages and debt bondage are scarce, frequent reports about abusive living and working conditions indicate that these need to be tackled. Exploitation of domestic workers can partly be attributed to gaps in national labour and employment legislation, but often also reflects preexisting discrimination along the lines of sex, race or caste.

Figure 1. Distribution of domestic workers by sex and region, 2010

Distribution of domestic workers by sex, 2010 estimates



Distribution of domestic workers by region, 2010 estimates



Source: ILO (2013a) *Domestic workers across the world: global and regional statistics and the extent of legal protection*, International Labour Office, Geneva, p. 21.



Taking care of the laundry and other household tasks: Sonali, a domestic worker in India, hangs clothes out to dry in the sun, with a helping hand from her employer's son. Copyright ILO, 2010.

Legal protection of domestic workers

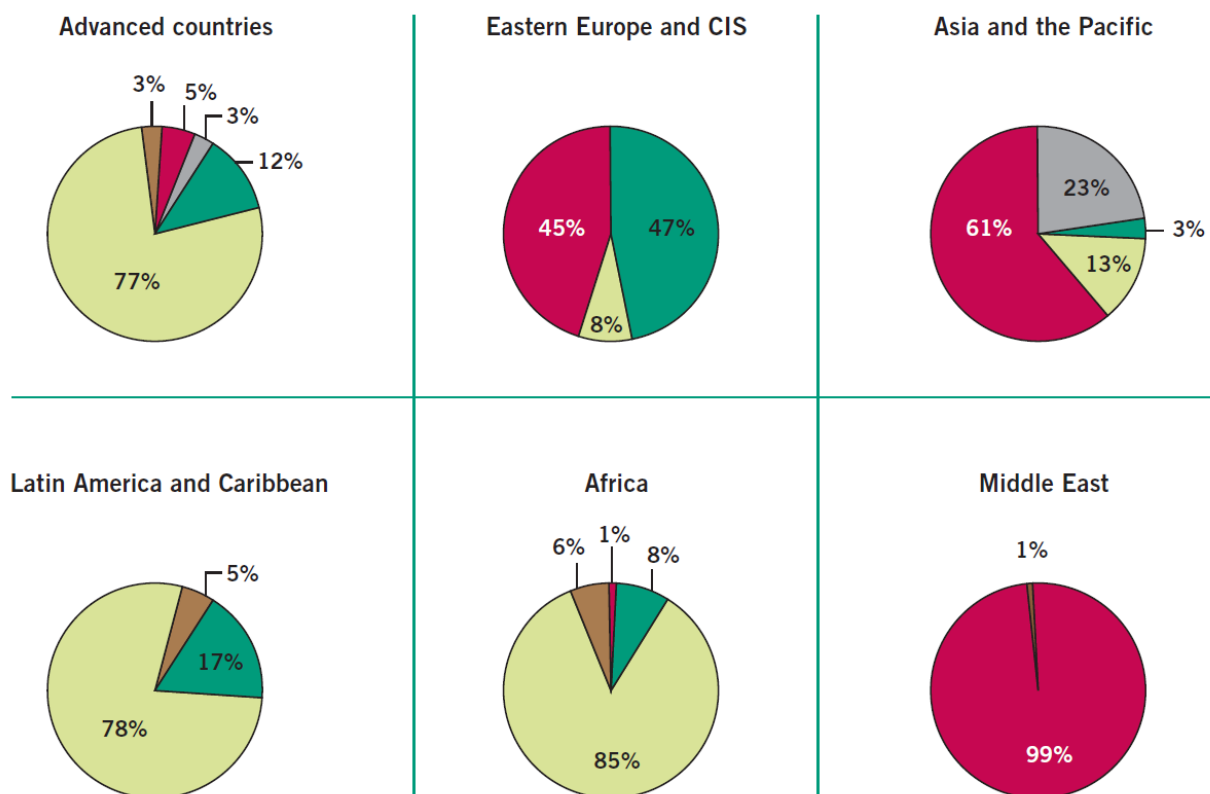
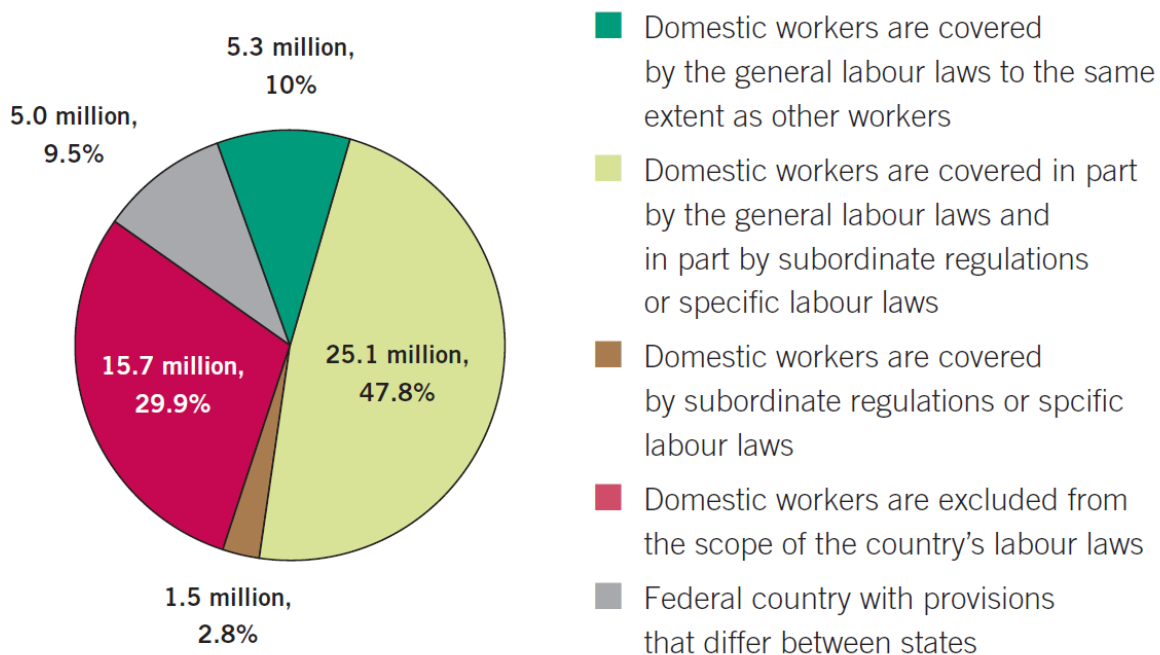
The effective protection of domestic workers' rights requires action on many fronts. The Domestic Workers Convention, 2011 (No. 189), states in Article 3 that "Each Member shall take measures to ensure the effective promotion and protection of the human rights of all domestic workers" and obliges ratifying member states to promote and realize the fundamental principles and rights at work in relation to domestic workers. This includes (a) the freedom of association and 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.

The general labour laws that regulate the conditions of work and employment are another important tool for achieving greater equality of treatment for domestic workers. Across the world, only 10 per cent of all domestic workers (some 5.3 million individuals) are presently covered by general labour legislation to the same extent as other workers. By contrast, more than one quarter – 29.9 per cent, or some 15.7 million domestic workers – are completely excluded from the scope of national labour legislation. Between these two extremes, various intermediate provisions exist. Exclusions and partial legal coverage result in weaker protection for domestic workers in a number of important areas.

In Asia and the Pacific, legal protection is particularly weak: 61 per cent of domestic workers remain outside the scope of labour legislation, while the rest are covered by either one or the other type of legal protection (see Figure 2). Examples here are Hong Kong (China) and Sri Lanka, where domestic workers are covered by general labour laws, as well as Malaysia, the Philippines and Thailand, where some – though not all – provisions of the general labour laws apply to domestic workers. In India, some federal states have instituted provisions that regulate some aspects of domestic workers' working conditions (e.g. through minimum wage orders). However, an analysis of selected pieces of labour legislation by the Indian Task Force on Domestic Workers found that "domestic workers are not included in the scope of these laws because of the constraints in the definition of either the [terms] 'workmen', 'employer' or 'establishment'" (Ministry of Labour and Employment, 2011, p. 25).

As various examples discussed during the Asian Knowledge-Sharing Forum demonstrate, this situation is now beginning to change. For instance, in the Kingdom of Thailand, a new Ministerial Regulation entered into force in November 2012, improving workplace rights for Thailand's 250,000 domestic workers (See: ILO 2013c). Issued under the Labour Protection Act, the Regulation aligns several aspects of Thailand's legislation with the Domestic Workers Convention, 2011 (No. 189). In Viet Nam, a new Labour Code that includes domestic workers under its scope will enter into force on 1 May 2013.

Figure 2. Coverage of domestic workers by national labour legislation across the world, 2010



Source: ILO (2013a) *Domestic workers across the world: global and regional statistics and the extent of legal protection*, International Labour Office, Geneva, p. 51.

The Philippines have passed a landmark *Batas Kasambahay* (Domestic Workers Act) that updates the minimum wage for domestic workers and improves their legal position in a number of areas.

Legal protection with respect to working time and wages

The second day of the Asian Knowledge-Sharing Forum discusses how legal protections affect domestic workers' realities in two important areas: (1) working time regulation and (2) remuneration and minimum wages. In both areas, large disparities between domestic workers and other workers are apparent.

Working time is one area of particular concern since long hours are common among domestic workers. Globally, more than half have no limitation on their weekly normal hours under national law and approximately 45 per cent have no entitlement to weekly rest periods (see Briefing Note No. 2). However, the data also show that many countries in Latin America and the Caribbean, in Africa and in the industrialized world have already extended relevant minimum protections to domestic workers. By contrast, most Middle Eastern and Asian countries have yet to implement a principle of equal treatment, though many are currently in the process of addressing this (e.g. the recent extension of weekly rest to domestic workers in Singapore and Thailand).

While low wages for domestic workers can partly be attributed to the low formal skills requirements they encounter (whereby the relevant skills are often considered innate), other factors such as the undervaluation of domestic work by society and the workers' weak bargaining position also play substantial roles. There is thus a strong rationale for setting minimum wages to protect domestic workers. At present, just over half of all domestic workers worldwide have minimum wage protection equal with other workers, alongside some 5.9 per cent who are entitled to minimum wages at a lower rate than other workers. This results in a large coverage gap for 22.4 million domestic workers (or 42.6 per cent of the total). In Asia, only 12 per cent of all domestic workers are entitled to receiving at least some specific statutory minimum (see Briefing Note No. 3). Again, some positive signs exist that countries have begun to address protection gaps. For instance, as mentioned above, the Philippines have recently updated their outdated minimum wage for domestic workers.

Extending protection to domestic workers: the task ahead

The findings presented here show the urgency of addressing the decent work deficits domestic workers face though inclusive legislation and its effective implementation. More detail on the current gaps in legal protection can be found in the recent ILO publication '*Domestic Workers Across the World: Global and regional statistics and the extent of legal protection*' (ILO, 2013a). The new international labour standards on domestic work have already prompted many countries to review their current regulations and practices with the objective of extending protection to domestic workers. Examples and guidance on practical steps in policy can also be found in the recent ILO publication '*Effective Protection for Domestic Workers: A guide to designing labour laws*' (ILO, 2013b) as well as a number of other materials published by the ILO.

The Asian Knowledge-Sharing Forum: *Realizing Decent Work for Domestic Workers* provides an avenue for representatives from governments, employers' associations and trade unions to share experiences on their efforts to strengthen the legal protection of domestic workers and overcome ongoing challenges. The Domestic Workers Convention, 2011 (No. 189), and the accompanying Domestic Workers Recommendation, 2011 (No. 201) already provide a normative framework for these efforts. Ultimately, however, it will be the joint actions taken at the national level by governments, trade unions and employers together with domestic workers' organizations that will bring decent work to the millions of domestic workers across the world.

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Annex Table 1. Global and regional estimates on the number of domestic workers in 2010, by sex

Panel A. Both sexes

	Domestic workers	Domestic workers in % of total employment	Domestic workers in % of paid employees
Advanced countries (selected)	3,555,000	0.8%	0.9%
Eastern Europe and CIS	595,000	0.3%	0.4%
Asia and the Pacific	21,467,000	1.2%	3.5%
Latin America and Caribbean	19,593,000	7.6%	11.9%
Africa	5,236,000	1.4%	4.9%
Middle East	2,107,000	5.6%	8.0%
Total	52,553,000	1.7%	3.6%

Panel B. Females

	Female domestic workers	Female domestic workers in % of female employment	Female domestic workers in % of female paid employees
Advanced countries (selected)	2,597,000	1.3%	1.4%
Eastern Europe and CIS	396,000	0.4%	0.5%
Asia and the Pacific	17,464,000	2.5%	7.8%
Latin America and Caribbean	18,005,000	17.4%	26.6%
Africa	3,835,000	2.5%	13.6%
Middle East	1,329,000	20.5%	31.8%
Total	43,628,000	3.5%	7.5%

Panel C. Males

	Male domestic workers	Male domestic workers in % of male employment	Male domestic workers in % of male paid employees
Advanced countries (selected)	958,000	0.4%	0.5%
Eastern Europe and CIS	199,000	0.2%	0.2%
Asia and the Pacific	4,003,000	0.4%	1.0%
Latin America and Caribbean	1,588,000	1.0%	1.6%
Africa	1,400,000	0.6%	1.8%
Middle East	778,000	2.5%	3.5%
Total	8,925,000	0.5%	1.0%

Source: ILO (2013a) "Domestic workers across the world: Global and regional statistics and the extent of legal protection", International Labour Office, Geneva.

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