



International  
Labour  
Office

Jakarta

# Domestic Workers in Southeast Asia

## A Decent Work Priority





International  
Labour  
Organization

# **Domestic Workers in Southeast Asia**

## **A Decent Work Priority**



ILO Project on Mobilising Action for the Protection of  
Domestic Workers from Forced Labour and Trafficking  
in Southeast Asia

August 2006

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# Foreword

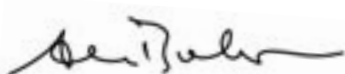
All workers, including workers in the domestic sphere, have equal right to protection according to the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The wider acceptance and integration of these standards and principles, both in national policies and in bilateral treaties, remains the fundamental objective of the ILO's work to protect domestic workers working in their own countries or abroad.

Domestic work is the single largest source of income for women in Asia, especially for women from rural backgrounds with low levels of education. Yet domestic workers are traditionally not recognised as workers with equal labour rights and protection needs. In fact, they are excluded from coverage by labour laws and social insurance schemes in many Asian countries. This discrimination against domestic workers is of particular concern because these workers are very vulnerable to abuse and exploitation such as forced labour practices, debt bondage and human trafficking by employers and agents. This is because of the nature of their work in households – away from other workers and hidden from public scrutiny. Most domestic workers have little knowledge of their rights and little effective bargaining power. They face great obstacles in organising and mobilising for their rights. As a result domestic workers frequently suffer forced labour conditions and human trafficking practices, and can be required to work long hours under poor working conditions at a low or no pay.

This working paper was prepared by Annemarie Reerink and provides an overview of the situation of domestic workers in South-East Asia and outlines the contents of governmental obligations to provide fundamental labour and human rights protection for these workers. The paper identifies good practices in both sending and receiving countries and provides recommendations for stakeholders and decision makers on how to promote and implement adequate labour and human rights protections for domestic workers.

The paper was commissioned by the ILO project on 'Mobilising Action for the Protection of Domestic Workers from Forced Labour and Trafficking in Southeast Asia', under the ILO's Special Action Programme on Forced Labour (SAP-FL), and was funded by DFID-UK.

Jakarta, August 2006



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## Introduction

Domestic work constitutes an important source of income for millions of workers, particularly women. Many domestic workers migrate for work within their own country or across national borders, and are particularly vulnerable to exploitation and abuse in the process, much of which amounts to human trafficking and forced labour practices, such as: debt bondage to middle-men and recruitment agencies, forced detention inside recruitment agencies training centres or employers' households, contract substitution, deception about the type of job and working conditions, withholding of ID and salary, work under the threat of denunciation to immigration authorities, extortion by officials and private agents.<sup>1</sup>

Racial and gender discriminatory stereotypes are commonly employed by employers and recruiters to keep wages low and to avoid regulation and minimum standards. The perception that domestic work is based on family-like relationships in the private sphere means that domestic work is regarded as informal and is mostly not covered by labour legislation. Domestic work is also regarded as an extension of women's traditional household work and hence is devalued as unskilled. Migrant domestic workers are generally treated and enumerated differentially according to their nationality, and rarely accorded the same work and salary conditions as nationals. As a result of this triple discrimination, as women, domestic workers and migrants, the legal status of domestic workers is unclear and their conditions of work are not standardised.

A large number of domestic workers are extremely vulnerable to economic exploitation and physical and sexual violence, and have little opportunity for redress through the legal system. Due to the lack of regulation of their work conditions, many employers and recruitment agents turn a blind eye to violations of labour and human rights. Due to their informal status, they are also effectively excluded from much-needed social services and benefits such as social security and health insurance. For domestic workers who work overseas in an irregular situation, their status as undocumented migrant workers adds to the vulnerability and discrimination they experience as informal sector female migrant workers. As irregular migrant workers they usually receive poor, if any legal protection, not even for salaries and other benefits earned.

The problem of child labour is also acute in both sending and destination countries. Thousands of children, many of them very young, are recruited as domestic workers because of their perceived obedience and lack of bargaining power. They constitute a large percentage of domestic workers in Southeast Asia. Due to their physical and emotional vulnerability and their lack of education, they are usually unaware of their rights and afraid to seek help in case of abuse. With help of false documents, child domestic workers are also sent to work overseas, putting them at high risk of abuse, exploitation, trafficking and forced labour.

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<sup>1</sup> N. Sayres, *An Analysis of the Situation of Filipino Domestic Workers* (Geneva and Manila: International Labour Office, 2004), p42.

Lastly, in many countries in the region, national legislation does not allow overseas domestic workers to organise in unions or labour associations in order to protect and promote their rights. Even where no ban on organising exists, few trade unions have attempted to organise domestic workers and bargain on their behalf, due to the perceived difficulty of organizing informal sector workers and migrant workers. Organisers face serious difficulties in reaching a widely dispersed group of workers with little knowledge about trade unionism or their rights, little or no time off work, and inability to communicate freely. Domestic workers themselves may furthermore be reluctant to pay dues unless their membership results in demonstrable benefits.

In short, domestic work in Southeast Asia is characterised by a severe Decent Work deficit. These problems are compounded by the lack of political will in many countries to undertake remedial action and make resources available for the protection of domestic workers. Yet poverty, in particular the absence of alternative sources of productive employment and the dearth of correct labour market information available to often poorly educated women, ensures the continuous supply of migrant workers in search of domestic work in cities throughout the South-East Asian region.

Within the ILO, the constituents' first Resolution calling for an ILC discussion on the conditions of employment of domestic workers dates back to 1936. Resolutions concerning the Conditions of Employment of Domestic Workers<sup>2</sup> were adopted at the International Labour Conference (ILC) in 1948 and in 1965.

In its efforts to achieve improved legal and social protection for domestic workers, the ILO takes as its starting point the 1998 Declaration on Fundamental Principles and Rights at Work. The Declaration pronounces four fundamental principles and rights of workers: 1) the elimination of discrimination in respect of employment and occupation; 2) the elimination of all forms of forced labour; 3) the effective abolition of child labour; and 4) freedom of association and the effective recognition of the right to collective bargaining. All four principles are highly relevant to the issue of domestic work.

International instruments such as the ILO Convention on Forced Labour, 1930 (No.29) and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children must be ratified and implemented by all concerned countries in order to eliminate the problems of trafficking and forced labour. And, violations of the ILO Conventions on the Worst Forms of Child Labour, 1999 (No.182) and on Minimum Age, 1973 (No.138) and the Convention on the Rights of the Child must be addressed urgently.

The challenge is to enable men and women to make use of the available opportunities without imposing unnecessary limitations, but while offering protection suitable to the circumstances. Because most domestic workers are women from poorer localities with relatively low levels of education, the circumstances of their employment are determined not only by legislation and policies, but also by gender relations and cultural attitudes which impact the ability of domestic workers to claim their rights and make their voices heard in public. Thus, change is needed legally, institutionally, and culturally, in order for domestic work to become a source of Decent Work for hundreds of thousands of men and women in South-East Asia.

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<sup>2</sup> Resolutions, adopted by the International Labour Conference at its 49th Session, Geneva, 1965.



## Legal Recognition of Domestic Work

Legal protection forms the basis for all efforts to ensure that domestic work becomes a source of decent work. In most countries, domestic work is excluded from national legislation because it is considered informal work that takes place in the private sphere of the household and family. It is this situation that puts domestic workers at risk of abuse and exploitation, while making it virtually impossible for them to claim their rights, as their human and labour rights are not acknowledged or stated in legislation.

As a first step, domestic work should be defined legally, starting with the scope of the work and making specific mention of the home as a place of work governed by labour legislation. Domestic workers should be treated as workers with the same rights as formal sector workers, even though their work situation may require special measures. As Blackett states, “specific regulation [...] begins to expose the actual nature of the work, the workplace, and the worker. It forces those who pay for the work, those who regulate the work, and even those who do the work to think about it in a radically different manner. Through that dynamic process, specific and ultimately more accurate regulation has the potential to restore some respect and dignity to domestic work.”<sup>3</sup>

Legislation on domestic work should stipulate minimum standards for the scope of work, age, wages, working hours, rest days, holidays, annual and maternity leave, accommodation, food and transport allowances, insurance, and physical and mental treatment of domestic workers. It should guarantee freedom of association and cover questions related to social security, training, termination of contract, and consular services and repatriation (for overseas domestic workers). It must stipulate realistic and deterring penalties in case of breach of obligations either by domestic workers or by employers, as well as accessible and effective mechanisms that minimise violations of workers’ rights and allow domestic workers to seek redress in case of grievances. Blackett argues that “specific regulation might also be necessary to make sure that enforcement mechanisms do not actually exclude domestic workers, but are tailored to meet domestic workers’ needs.”<sup>4</sup>

Participation by domestic workers’ groups in the legislative process will significantly increase the likelihood that the target group will be able to make active use of the resulting policies and regulations. It is also vital that national legislation on domestic work adheres to the principles set out in the ILO Declaration on Fundamental Principles and Rights at Work, as well as in relevant International Labour Standards (ILS). Countries in the region should be encouraged to sign and ratify international human rights treaties and should be reminded to comply with their reporting requirements.

<sup>3</sup> A. Blackett, *Making Domestic Work Visible: The case for specific regulation*. (Geneva: International Labour Office, 2003), p19.

<sup>4</sup> Blackett, *Making Domestic Work Visible*, p19



Good practices concerning legislation and policy exist in several countries in the region. The Philippine government has drafted an Act, the Magna Carta for Domestic Workers, which comprehensively sets out minimum working conditions for domestic workers in the Philippines. The Bill covers minimum provisions of the employment contract, sets a minimum wage and working hours/days, and establishes the standard of treatment and other rights to which domestic workers are entitled. The Bill furthermore determines the mode and schedule of payment of a variety of benefits (e.g. leave, health insurance, social security, and maternity) and prohibits bonded labour. It also addresses the special rights and treatment necessary for domestic workers who are below 18 years of age.

In Indonesia, several local governments have established or are in the process of establishing legislation in the form of local ordinances regulating domestic work or the protection of migrant workers. These ordinances provide a starting point for improvements in legal protection because they acknowledge the special need for protection of vulnerable groups of workers. Other good practices include Indonesian law on domestic violence that explicitly includes domestic workers as members of the household which are covered by the law. This offers domestic workers protection against physical and sexual violence perpetrated by their employer or a family member of the employer.



## Strengthening Protection Nationally and Regionally

Ensuring that migrant domestic workers are protected and fully enjoy their rights at work is not only a moral imperative, but also makes sense politically and economically. Regulation can help maximise the potential macro and micro-level benefits of labour migration by decreasing the human and economic costs associated with cross-border migration and rights violations. The 2003 ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia concluded that “state intervention by sending and receiving countries through transparent, efficient, and appropriate regulatory institutions and measures is essential to the efficient and equitable working of the labour market.”<sup>5</sup>

The ILO Multilateral Framework for Labour Migration therefore recognises that “All States have the sovereign right to develop their own policies to manage labour migration. International labour standards and other international instruments, as well as guidelines, as appropriate, should play an important role to make these policies coherent, effective and fair.”<sup>6</sup> This principle points to the need throughout the region for wider acceptance and implementation of ILO and UN principles on the treatment of migrant workers. This includes first and foremost the principles of the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and their accompanying Recommendations Nos. 86 and 151. It also refers to the principles of the 1990 UN Convention on The Protection of Migrant Workers’ Rights and Their Family Members, which should be signed and implemented by both sending and receiving countries. The UN Convention against Transnational Organised Crime and its additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is another important instrument that should be ratified to minimise the violation of migrant domestic workers’ rights. Both sending and receiving countries must ratify these instruments and must establish mechanisms and offer support for their effective implementation.

Where migration across national borders is concerned, good labour migration administration also depends on collaboration between agencies and across governments. The 2005 ILO Multilateral Framework on Labour Migration calls for “promoting, where appropriate, bilateral and multilateral agreements between destination and origin countries addressing different aspects of labour migration, such as admission procedures, flows, family reunification possibilities, integration policy and return, including in particular gender-specific trends.”<sup>7</sup> Bilateral labour agreements that exclude domestic work from their purview should be revised to address explicitly the problems and needs of domestic workers. This includes formulation of minimum work standards to be mentioned in work contracts of domestic workers, provision of training and work orientation for new migrant domestic workers, and establishment of monitoring systems for law enforcement with respect to domestic workers, agents and employers. In addition to signing Memoranda of Understanding, governments of source and destination countries should also on an ongoing basis exchange information on labour market

<sup>5</sup> Quoted in M. Abella, *ILO Plan of Action on Labour Migration in Asia Pacific* (Geneva: International Labour Office, 2005), p18.

<sup>6</sup> ILO, *ILO Multilateral Framework on Labour Migration* (Geneva: International Labour Office, 2005), pp6-7.

<sup>7</sup> *Ibid.*, p5

trends and monitor implementation of existing regulations. The ILO Multilateral Framework on Labour Migration calls for “developing intergovernmental dialogue and cooperation on labour migration policy, in consultation with the social partners and civil society and migrant worker organizations.”<sup>8</sup>

In particular, issues to be addressed by host and sending countries with respect to migrant domestic workers include: coverage by national labour (and other) legislation of employment and working conditions, such as maternity protection, wages, occupational safety and health; the right to equal treatment of regular migrant workers and nationals; the right to remain in the country of employment in order to seek remedy for unpaid wages and other rights violations; access to social security and other forms of social protection; and access to health care.

Few good practises are available from the region, with the exception of Hong Kong. Domestic workers receive similar protection under Hong Kong local labour and criminal laws as do formal workers. In addition, their conditions of work are regulated through a standard employment contract which determines wages, placement fee, and benefits such as rest day, holidays, food and housing, home leave and repatriation.

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<sup>8</sup>Ibid, p5.



## Implementation Mechanisms

Observance of national legislation and international instruments depends in large part on the capacity and resources of government agencies, which in turn require adequate mechanisms and political will on the part of decision-makers at national and local level.

As well as issuing sanctions and penalties for agencies that violate laws, an effective regulatory mechanism by governments should also entail positive incentives for recruitment agencies which carry out best practices. For example, the Government of the Philippines provides financial and other rewards to recruitment agencies that exhibit best practices. Similar incentives are included in the Indonesian Migrant Workers Placement and Protection Law which contains a provision that authorizes the government to reward best practices by recruitment agencies (Article 91). As part of a strategy of combating trafficking in migrant workers, the ILO recommends the use of a rating system for monitoring and review of recruitment agencies, as well as for determination of their eligibility for preferential treatment.<sup>9</sup> Recruitments agencies with a high ratings score would qualify for such preferential treatment as tax incentives, faster processing of placement contracts, allocation of greater a market share by the government, and positive publicity, such as inclusion in a government-compiled list of recommended recruitment agents and public rewards.<sup>10</sup>

Governments should allow for and support regular and independent inspection of workplaces and create accessible complaint mechanisms for migrant domestic workers who suffer abuse. Furthermore, they should provide redress for these workers and penalise labour agents, employers, government officials, and other individuals or institutions who perpetrate abuses against domestic workers, whether in their own countries or overseas. In Hong Kong, for example, protection of domestic workers under the labour act has resulted in a significant number of civil claims and convictions, though fewer criminal cases.<sup>11</sup> The Singaporean government has established an accreditation programme for employment agencies, orientation programmes for new employers and migrant workers, and a new Foreign Manpower Management Division in the Ministry of Manpower. This Division has around one hundred staff members who address labour policy, complaints and management.<sup>12</sup> Procedures that require a claimant to maintain residence in the country of destination should be abolished, as they are usually prohibitively expensive and burdensome, thus encouraging domestic workers not to seek redress for rights' violations.

Corruption is a major obstacle on the improvement of protection of domestic workers. Governments of sending and receiving countries should take urgent steps to eradicate illegal practices by recruitment agencies and officials from immigration and labour departments and police officers. These include neglecting violations by recruitment and placement agencies, issuance of fake travel documents, extortion when crossing international borders, and other practices often constituting part of forced labour and trafficking practices. Immigration and human rights ministries should establish more

<sup>9</sup> ILO SAP-CFL, *Trafficking for Forced Labour: How to Monitor the Recruitment of Migrant Workers* (ILO Geneva, 2004), pp39-40.

<sup>10</sup> ILO, *Using Indonesian Law to Protect and Empower Indonesian Migrant Workers: Some Lessons from the Philippines*, (ILO Jakarta, 2006), pp13-14.

<sup>11</sup> Asian Migrant Centre, *Underpayment: Systematic extortion of Indonesian migrant workers in Hong Kong* (Hong Kong: AMC, 2005), pp52-53.

<sup>12</sup> Human Rights Watch, *Maid to Order: Ending abuses against migrant domestic workers in Singapore, December 2005* (Online: <http://hrw.org/reports/2005/singapore1205/>), p24.

stringent procedures and verification processes for passport applications in order to prevent domestic workers from travelling overseas using false documents. Immigration and Police detention conditions must be monitored regularly by independent bodies.

Educational and information materials enabling domestic workers and their employers to learn about their rights and responsibilities must be developed and disseminated by government institutions and recruitment agencies in collaboration with civil society organisations. Community and religious leaders may play an important role in this respect. For example, the Jakarta-based NGO Rumpun Gema Perempuan (RGP) conducts awareness-raising activities for employers and domestic workers through their participation in Muslim religious gatherings.

In destination countries, the government agencies that regulate the placement of domestic workers should carry out awareness-raising. Upon arrival overseas, migrant workers should receive a detailed orientation from local authorities on their rights and obligations as well as information on where to seek assistance in case of abuse or exploitation. It is clear that in many countries, the commercial employment agencies that are currently tasked with providing such briefings do not comply with regulations, giving rise to the need to shift this responsibility back to the state.



## Trafficking of Domestic Workers

To deal with the increased incidence of human trafficking and forced labour, it is essential that governments enact legislation that provides a clear definition of the problem and includes an effective and realistic mechanism for prevention and enforcement at national and local levels. It is important that legislation on trafficking and forced labour is broadened to cover purposes other than sexual exploitation. At this time, Indonesia and Malaysia have yet to enact such legislation, while the Philippines passed the Anti-Trafficking in Persons Act in 2003. A national law against human trafficking has been drafted in Indonesia, while some provinces and districts have drawn up their own local anti-trafficking laws and have initiated coalitions or action plans against trafficking. In the Philippines, the Quezon City council has issued an ordinance about the registration of domestic workers, aimed at preventing trafficking and at increasing domestic workers' access to social services. Such local initiatives can help domestic workers by obliging local authorities to take action. However, some of these local initiatives are hampered by a lack of funds, a lack of coordination, and the persistence of the push and pull factors of migration which also create vulnerability to trafficking.

At the national level, improved coordination is needed among agencies for more effective implementation of National Plans of Action and policies concerning human trafficking, such as the National Plan of Action on the Elimination of Trafficking of Women and Children, and the National Plan of Action on Human Rights in Indonesia. Clarification of duties and tasks of each agency would help to streamline efforts to tackle 'multi-dimensional' issues such as human trafficking. Improved information sharing among agencies and leaders at national and regional levels is necessary to understand the causes and scope of the problem and to prevent bureaucratic inertia. Working groups could be established to monitor and evaluate the implementation of these National Plans of Action, consisting of representatives from the Police, the District Attorney, and the local, municipal and provincial offices of the Ministries of Labour, Women's Affairs, Justice, and Social Affairs. In addition, such efforts should be closely monitored by civil society groups such as trade unions, NGOs, religious groups, crisis centres, community leaders, and academic institutions, who can play an important role in holding government officials accountable and demanding effective implementation. Civil society organisations, on the other hand, are also well-positioned to raise awareness about trafficking among prospective migrant women workers.

Strengthened law enforcement should focus on establishment of anti-trafficking units with sufficient budget, the capacity of the Police and other law enforcement agencies to handle human trafficking cases, improved (victim and witness friendly) regulations and legislation that will encourage victims to file cases, and a national database of trafficking cases.



## Regulation of Labour and Recruitment Agencies

Although recruitment practises and legislation vary by country, illegal and/or unscrupulous practises by labour agencies are a major source of vulnerability of domestic workers throughout the region. This applies both to domestic workers working in their own countries and to those working overseas. Domestic workers who work in their own country usually find jobs through informal networks or through private agencies. Most of them do not sign a contract, leaving them vulnerable to rights violations. Those who migrate overseas frequently pay a large fee to local labour agents.

The ILO Multilateral Framework on Labour Migration therefore states that “governments in both origin and destination countries should give due consideration to licensing and supervising recruitment and placement services for migrant workers in accordance with the Private Employment Agencies Convention, 1997 (No. 181), and its Recommendation (No. 188).”<sup>13</sup> It is clear that increased regulation and monitoring of labour agencies involved in recruitment and placement of domestic workers would contribute to a decrease in the occurrence of abuse and exploitation. Such regulation should be undertaken by Ministries of Labour, in conjunction with immigration authorities and Ministries of Foreign Affairs in the case of overseas domestic work. Some good practises exist. In the Philippines, those seeking overseas employment are protected by clearly defined policies on standard employment contracts and recruitment fees. Yet, this does not apply to those who go through unlicensed agents or to undocumented workers, who as a result are subject to overcharging and other forms of exploitation and abuse.

In some countries, mechanisms for regular and independent monitoring of these agencies must be improved, while in others they are still absent altogether. Regulations must be put in place to protect domestic workers with respect to recruitment, training, travel, work placement and termination of contract. Of particular importance is the need to enforce time limits with regard to the waiting periods for placement of prospective domestic workers. This would effectively reduce the risk of abuse, exploitation and forced labour that occurs while domestic workers are held by their agent in temporary training centres. Domestic workers are not free to leave from these centres, as the agencies take the domestic worker herself as collateral for the agencies’ initial cost outlays. Minimum standards for health and safety, freedom of movement, and basic treatment while staying in these training centres must be drawn up in order to protect the rights of workers before their placement. Elimination of placement fees would reduce opportunities for agents and employers to deduct the wages of domestic workers and would encourage prospective workers to obtain the necessary documents and use legal channels to depart overseas. Immigration authorities, in turn, must eradicate all practices related to fraudulent travel documents.

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<sup>13</sup> ILO, *ILO Multilateral Framework on Labour Migration*, p15.

Lastly, successful mechanisms for regulation of employment agencies must include effective enforcement, deterring penalties and adequate compensation payments for agencies and individuals who violate these regulations. Cooperation is needed between sending and destination countries for the development of monitoring and law enforcement mechanisms relating to the performance of agents and employers of domestic workers. Self-regulation of labour agencies should be explored where associations of agencies exist and have sufficient influence over their members to enforce regulations. This could be done in the form of adoption of a Code of Practice, in line with ILO principles of decent work, while respecting the commercial nature of labour agencies. More research is needed on the types of incentives that could persuade labour agencies to sign on to such a Code of Practice.

Decentralisation of government oversight during the recruitment phase could shorten and improve the process markedly. Possible steps to be taken in this regard include making the local labour office at the regional level responsible for registration, selection and monitoring of intermediaries, such as middlemen, recruiters and recruitment agencies. The establishment of data collection and tracking mechanisms at regional level would enable local labour offices to manage labour placement and respond more efficiently to labour market fluctuations. Similarly, devolving responsibility for recruitment, training and placement of workers from agencies from the national to the regional level would shorten the amount of time needed for processing and sending workers overseas.





## Self-organisation/unionisation of Domestic Workers

Protection of domestic workers should take a rights-based approach as its starting point. The ILO's principle that "Governments and social partners should consult with civil society and migrant associations on labour migration policy"<sup>14</sup> means that, while it is important to maximise the benefits deriving from domestic work and to manage labour migration efficiently, the focus of protection efforts should be on enabling domestic workers to claim their rights. An integral part of realising these rights, whether at work or in society in general is through the participation and representation of domestic workers unions or associations in public fora, allowing domestic workers to have a public voice and strengthening their bargaining power. Among the prerequisites for building sustainable organisations of domestic workers, legal recognition, freedom of association and sufficient social protection and social services are paramount.

Among domestic workers overseas, organising frequently takes place by sector, but also by community or nationality. Organising domestic workers – whether in their own country or overseas – requires the guarantee of freedom of association. The ILO therefore calls on its partners to "guarantee both men and women migrant workers the right to freedom of association, in accordance with Convention No. 87, and when they join trade unions the right to hold office in those organizations, provide them with protection against discrimination on the grounds of their trade union activities, in accordance with Convention No. 98 and ensure compliance by employers' and workers' organizations with these rights."<sup>15</sup> Not only must the right to organise be enshrined in national legislation, but practical obstacles to organising must also be overcome. Workers should have at least one day rest each week and should be allowed freedom of movement, so that they can meet with friends and devote time to their organisation's activities. They should be protected against termination of their work contract due to union activism. They should be able to gain experience in how to manage a membership organisation and how to raise funds. If these conditions are not fulfilled, freedom of association will remain a right in theory only.

In addition, few organisations have sufficient financial and managerial capacity. As few workers' organisations can rely solely on members' dues, it is necessary for international donors to assist domestic workers' organisations at least in the immediate future. Many organisations urgently need support in the form of capacity building.

Good practises in organising domestic workers exist in several countries in the region. In Hong Kong, domestic workers from the Philippines and Indonesia have established unions. Although their membership is still small relative to the number of domestic workers in Hong Kong, unions such as IMWU, KOTKIHO and FDWGU nonetheless have an important role to play in advocacy and educational efforts, as well as direct assistance to members. In the Philippines, SUMAPI is an organisation of

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<sup>14</sup> ILO, *ILO Multilateral Framework on Labour Migration*, p 9.

<sup>15</sup> ILO, *ILO Multilateral Framework on Labour Migration*, p10.

domestic workers, established in 1995 with help from Visayan Forum, a national NGO working on protection of migrant working women and children. It currently has around 8,000 members (of whom almost 60 per cent are child domestic workers) in 21 core groups in several main cities. SUMAPI is involved in outreach, counselling, capacity building, and action research, and links domestic workers to a network of service providers. In Indonesia, former and current migrant workers' groups in different parts of the country have united to form the Indonesian Migrant Workers' Union (SBMI). This union has recently obtained legal status as a trade union, which allows it to advocate on behalf of migrant workers and their families through the tripartite structure.

NGOs are often instrumental in organising domestic workers and providing legal assistance and education. In Yogyakarta (Central Java), Rumpun Tjoet Nyak Din (RTND) conducts media campaigns and policy advocacy on behalf of domestic workers. It has facilitated regular informal meetings in several communities, during which domestic workers discuss and share their problems and organisers raise awareness on domestic workers' rights. Domestic workers also learn practical skills and get alternative education at the Domestic Workers' School founded by RTND. With help from RTND, domestic workers in Yogyakarta in 2004 established their own union, (Tunas Mulia Domestic Workers Union). This union is officially registered as a trade union of domestic workers and has 175 dues-paying members in eight community-based groups. Another 125 domestic workers participate regularly in Tunas Mulia's activities. In Jakarta, Rumpun Gema Perempuan has facilitated the organisation of domestic workers into small community-based groups (named Operata), which provide domestic workers with an opportunity to share information, continue their education, improve their knowledge, and learn new skills.

Such organising activities help to make domestic work more visible, to empower domestic workers, and to prevent abuse and violations, by informing domestic workers of their rights and giving them a means to participate in policy debates. The main challenges facing these organisations are fundraising, organisational management, and dismissal of members by their employers on grounds of union activity.



## Trade Union Involvement

The 2005 ILO Multilateral Framework on Labour Migration stated the principle that “social dialogue is essential to the development of sound labour migration policy and should be promoted and implemented.”<sup>16</sup> Trade unions could contribute to the protection of domestic workers by engaging in outreach, monitoring of abuses, raising public awareness, providing migrant domestic work with representation, offering training, and making available legal assistance.

Trade unions in sending countries may also establish bilateral agreements with their counterparts in destination countries, in order to exchange information and provide transfer of membership for migrant workers from source country to the destination country. Trade unions and NGOs in source countries may furthermore team up to provide direct services to potential migrant workers and their families, such as pre-departure orientations, counselling, and reintegration activities. Such services would serve to make domestic workers more successful abroad and when returning to her source country, thus reducing the need to go abroad again. Stronger union presence at the local level in countries or places of origin might also promote local economic development policies with focus on (migrant) workers and their families. Collaboration between trade unions and NGOs across borders could also lead to more efficient and effective sharing of scarce resources for organising domestic workers and joint conducting of international advocacy on domestic workers’ rights.

Some good practices already exist in destination countries, where trade union centres are starting to change their organisations to become more accessible to migrant workers. For example, Singapore’s National Trade Union Congress (NTUC) and the Malaysian Trade Union Congress (MTUC) have a sub-committee/section on overseas migrant workers, and both MTUC and NTUC have established a help desk for migrant workers. MTUC is also negotiating with the Malaysian government for legal protection of migrant domestic workers and has started a dialogue between labour attaches from countries of origin and Malaysian government officials regarding the problems faced by domestic workers.<sup>17</sup> NTUC and the Hong Kong Confederation of Trade Unions have a designated migration officer.

A number of trade unions and related organisations in the Philippines are actively engaged in activities dealing with migrant work. For example, Kilusang Mayo Uno, with 13 federations as members and 250,000 individual members, conducts educational activities among member-unions and independent unions on rights of workers, including migrant workers, and advocacy for inclusion of migrant workers’ issues on the agenda of unions in destination countries. The Bukluran ng Manggagawang Pilipino has helped establish an organisation of domestic workers in Hong Kong, which it linked to the Partido ng Manggagawa (Workers Party), a party-list organisation in the Philippines.<sup>18</sup> The Federation of Free Workers is examining the incidence of child domestic work within its members’ households in Metro Manila.<sup>19</sup>

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<sup>16</sup> ILO, *ILO Multilateral Framework on Labour Migration*, p 8.

<sup>17</sup> N. Piper, *Social Development, Transnational Organising and the Political Organisation of Foreign Workers*, Contribution to the Committee on Migrant Workers, 2005, p11.

<sup>18</sup> M.L. Alcidi, *Migrant Labour in Southeast Asia: Philippines Country Study*, Paper prepared for Friedrich-Ebert Stiftung Project on Migrant Labour in Southeast Asia, 2005, p30.

<sup>19</sup> Sayres, *An Analysis of the Situation of Filipino Domestic Workers*, p50.

Most interesting are the following examples of trade union – NGO collaboration. The Alliance of Progressive Labour, a national labour centre in the Philippines, has deployed a union organiser to work with the Filipino Domestic Workers General Union in Hong Kong (FDWGU), which presently has 115 members. Organising activities are conducted together with the Asian Migration Centre and the Hong Kong Confederation of Trade Unions, with which the FDWGU is in the process of affiliating.<sup>20</sup> This is a unique example of union-to-union and union-to-NGO partnership.<sup>21</sup> The Migrant Forum Asia, a coordinating council of major NGOs, represents a network of migrant support and advocacy groups in countries of origin and destination. In early 2006, it will convene a regional dialogue with local, national and regional trade unions from Indonesia, Malaysia and Singapore, to conduct planning for regional advocacy campaigns.

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<sup>20</sup> Alcid, *Migrant Labour in Southeast Asia*, p31.

<sup>21</sup> Piper, *Social Development, Transnational Organising*, p12.



## Social Protection

Like all other workers, domestic workers need social protection. This includes (but is not limited to) access to health facilities and health insurance, membership in social security programmes, and access to social services. However, in some respects their needs are different from those of formal workers, because of the special circumstances under which domestic workers carry out their work. Yet, domestic workers usually do not receive equal treatment and are instead excluded from national social security programmes. This applies to both those working in their native country and those working overseas. The 2003 ILO Regional Tripartite Meeting on Challenges to Labour Migration Policy and Management in Asia concluded that “because of their particular circumstances, contract migrant workers generally suffer serious disadvantages in terms of social security coverage. Migrant workers are frequently excluded from existing national social security schemes, or may have difficulties in meeting the eligibility conditions for some benefits, due to the temporary nature of their employment.”<sup>22</sup>

The ILO promote equality of treatment (non-discrimination between migrants and nationals), maintenance of rights to social protection in case of international migration, and provision of benefits while abroad. However, few countries have initiated steps towards meeting these objectives. Nevertheless, the provision of insurance for nationals working overseas by the Philippines government under the OWWA is a step in the right direction. Benefits under the OWWA scheme include livelihood loan assistance, life insurance coverage, pension plans, Medicare benefits, skills training, refresher courses, and a scholarship programme. Through the Philippines Overseas Employment Administration, migrant domestic workers furthermore receive an identification card that gives access to international savings accounts in a consortium of banks and allows for low-cost remittance transfers.<sup>23</sup>

With respect to health issues, domestic workers should at a minimum have access to health care facilities that meet their needs, before their migration (e.g. while in temporary holding facilities), during their employment as well as after their return home. For overseas domestic workers, it is necessary to cover access to health care while they are in temporary training shelters and in the country of destination through bilateral agreements between concerned governments.

Domestic workers are vulnerable to contracting HIV/AIDS due to the increased risk of sexual violence and their lack of awareness about reproductive health. It is therefore important that governments, employment agencies and civil society organisations raise awareness and disseminate information on prevention of HIV/AIDS to migrant workers and their families. Governments and employment agencies should also establish clear regulations regarding mandatory HIV tests of migrant workers.

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<sup>22</sup> Quoted in Abella, *ILO Plan of Action on Labour Migration in Asia Pacific*, p20.

<sup>23</sup> ILO, *ILO Multilateral Framework on Labour Migration*, p28.

Access to quality health care facilities is especially important for domestic workers who have become victims of trafficking and forced labour. Given the rising incidence of human trafficking involving female migrant workers, it is essential that police are trained to identify and protect trafficking victims, and to refer them to the necessary support services. Clearly, there is an urgent need for protection and rehabilitation of victims, in their own countries as well as overseas, in the case of international trafficking. Immediate steps to be taken by government agencies and NGOs concern the establishment of basic standards on treatment and services for victims of trafficking. Efforts to ensure that victims are not treated as irregular migrants and have access to redress form an important part of these measures.

To ensure optimal coordination, there is a need for establishment of protocols for referrals, including for health care, legal aid, counselling, and repatriation. Governments of both sending and receiving countries should provide support services, including legal aid, health care, shelter, job training, psychological counselling, family reunification, and reintegration programmes. Concerned ministries and local agencies such as those dealing with health, immigration and social affairs should coordinate their policies and programmes to ensure efficient implementation and monitoring. A good example is the one-stop service offered by the Police in several areas in Indonesia to women who have suffered gender-based violence. In particular, it is urgent that Ministries of Foreign Affairs make available integrated services for victims of trafficking and forced labour at consulates and embassies. The Philippines consular staff overseas, for example, offer conciliation services, counselling and advisory services, and a skills training programme to Filipina domestic workers. Funding from donor organisations is needed to improve the capacity of NGOs to supplement and monitor such services where needed.

Child domestic workers are in special need of rehabilitation and reintegration services. In the Philippines, the Visayan Forum through its Kasambahay Programme offers temporary shelter, social security coverage, a 24-hour hotline and educational opportunities to child domestic workers, and has established a resource centre on child domestic workers. Social workers who work at the organisation's shelters provide counselling, medical assistance and legal services to abused domestic workers, in coordination with government and non-government agencies.<sup>24</sup>

Socio-economic reintegration initiatives are important to ensure that migrant workers' work abroad translates into sustained improvement of their lives back in their home country. In the Philippines, the Unlad Kabayan Migrant Services Foundation conducts community-based socio-economic initiatives through its Migrants Savings and Alternative Investments programme. This programme intends to prepare overseas workers and their families for the workers' return, and involves awareness raising, enterprise development, and organising the migrant workers abroad as well as their families back home. Another initiative by Kanlungan, also in the Philippines, attempts to establish community-based care structures in source areas of migrant workers. Kakammpi, a community-based organisation of returned overseas migrant workers and their families in the Philippines conducts Pre-Employment Orientation Seminars for migrant workers' families. Kakammpi also implements awareness-raising and organising activities with youth and children in source areas of migrant workers, and operates community-based day-care centres.<sup>25</sup>

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<sup>24</sup> Sayres, *An Analysis of the Situation of Filipino Domestic Workers*, p51.

<sup>25</sup> Alcid, *Migrant Labour in Southeast Asia*, pp20-21.



## Conclusion and Recommendations

Serious human rights abuses against domestic workers are commonplace in South-East Asia. They must be addressed from a multi-sectorial and holistic perspective, given the complex nature of the problems facing domestic workers. In order to ensure that domestic work may become a source of Decent Work, changes must take place at the legal, social, political, and cultural levels in South-East Asia. Relevant International Labour Conventions and UN human rights instruments on forced labour, trafficking and child labour should be ratified and fully implemented by Governments who have not yet done so. National legislation regulating domestic work should entail a definition of domestic work and minimum standards of protection. These protections should encompass both nationals and international migrants working as domestic workers throughout the work and migration cycle. There should be particular emphasis in the legislation on the freedom of association and the prohibition of forced labour, trafficking and child labour, with references to relevant national legislation on these topics.

Aside from legislation, governments of sending and receiving countries should also establish and promote the necessary mechanisms to ensure the implementation of legislation for protection of domestic workers during all stages of the work cycle, both within their own countries and overseas. To ensure that rights for domestic workers do not remain rights in theory only, domestic workers should have access to mechanisms for legal redress and compensation. Such mechanisms should be established with the involvement of representatives from employers', workers' as well as domestic workers' organisations. In order to increase their effectiveness, they should be supported with sufficient resources at local, national and regional levels. Trade unions and domestic workers' organisations should carry out awareness-raising and rights education to ensure that domestic workers have voice and representation and can avail of existing support services. Recruitment agencies must be subject to regulation and strict scrutiny by government bodies, and could explore the possibility of self-regulation, in order to minimise their complicity in rights violations and abuses.

While it is a challenge to overcome the inequities in social and economic power between employer and domestic worker which give rise to the latter's vulnerability, it is possible to support the capacity among domestic workers to organise into unions or labour associations. This will necessitate revoking existing bans on unionisation of migrant domestic workers and support in terms of human and financial resources for civil society groups engaged in unionisation of domestic workers. Innovative practises to overcome practical obstacles must be shared throughout the region and beyond, in order to empower domestic workers to learn from good practices and develop their own solutions.

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