REPORT

The Rights of Domestic Workers:

Chances and Challenges for International and National Advocacy Work and Networking

ECUMENICAL CENTER, GENEVA,
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ON THE OCCASION OF THE 99TH SESSION OF THE INTERNATIONAL LABOR CONFERENCE

Organized by:
German Commission for Justice and Peace/Kolping International
International Catholic Center of Geneva (CCIG)
Migrant Forum in Asia (MFA)

With the support from
Caritas Internationalis
International Catholic Migration Commission

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1. PROGRAMME

16.00h *Welcome remark*

Dr. Hildegard Hagemann,
Kolping international/German Commission for Justice and Peace, Bonn

Mr. Budi Tjahjono
Chair of the discussion
International Catholic Center of Geneva (CCIG)

Presentation

Challenges from the perspective of Domestic Workers
African Experience:

Mrs. Hester Stephen,
Domestic worker,
President of South African Domestic Service and Allied (SADWASTU)

Challenges from the perspective of Domestic Workers
Asian Experience

Ms. Saturnina Rotelo,
Domestic worker,
Coalition for Migrants' Rights/Migrant Forum in Asia

New General Comment of the UN Committee on Migrant Workers
on Domestic Migrant Workers

Dr. Martina Liebsch,
Director of Policy, Caritas Internationalis

Concerns of the Catholic Church
His Excellency Archbishop Silvano Tomasi,
Permanent Representative of the Holy See to the United Nations in Geneva

16.45h *General Debate and Discussion*

17.45h *Concluding remark and follow up*

Mr. William Gois,
Migrant Forum in Asia, Manila, Philippines

18.00h *Reception*

2. WELCOME REMARK



Dr. Hildegard Hagemann,
Kolping international/German Commission for Justice and Peace, Bonn

Dear representatives of Domestic Workers Organisations,
Dear members of delegations to the International Labour Conference,
Dear representatives of development, human rights and church organisations Excellencies, Ladies and Gentlemen,

On behalf of the co-organisers which are the International Catholic Centre of Geneva and the Migrant Forum in Asia, I have the honour and the pleasure to welcome you to this afternoon's panel discussion 'The rights of Domestic Workers: Chances and Challenges for International and National Advocacy Work and Networking'. My name is Hildegard Hagemann and I am here today for Kolping international as well as for the German Commission for Justice and Peace.

We all are very happy to find likeminded groups among you who regard the UN and its special organisations as relevant platforms for dealing with global challenges and struggling peacefully for solutions.

And we all know that we face manifold challenges in our globalised world.- Just to mention **endangered food** security because of manmade climate change and ecological disasters, **unemployment** because of the economy crises, the fight for natural resources but also the ongoing violation of human rights.

One huge challenge is the fact, that still many women and men have to earn a living for their families under indecent and discriminative working conditions. Domestic Workers all over the world belong very often to this group. They are vulnerable because they are invisible in the households and very often as migrant workers they are far away from their families and communities.

At present we witness a very significant development: Decent work for domestic workers is on the agenda of the International Labour Conference this year and in 2011. Workers, Employers and Governments are negotiating for a convention as the most suitable instrument to protect the rights of domestic workers everywhere in the world, migrants or locals. At the same time the Human Rights Council, the Committee on Migrant Workers is looking into this issue.

It is the first time that a sector –domestic work -which is predominantly in the informal economy comes to negotiation in the world of formal labour rights. That in itself is an outstanding step towards acknowledging the majority of workers worldwide. At the ILO we hope for a robust and strong convention, supplemented by a recommendation. At the UN Committee on migrant workers the General Comment on Migrant Domestic Workers is under negotiation.

Now, in the year 2010 we also see other important momentums beside the kick off for a convention and General Comment: We are still deep in an economic crises and searching for solutions and – not to be forgotten - we are two/third through the time to achieve the Millennium Development Goals. By 2015 poverty has to **be reduced** by half, gender imbalances **stopped. We have to get a better future** for children **by** fighting maternity death, **by** providing education for children, **by** looking into sustainable development **and** real partnership between North and South.

All the more reasons to gather today and to take up these momentums:

All of you here in the room are concerned with the fight against poverty and for social and economic justice, as well as you work against the violation of rights of domestic workers for many years.

Some of you are employed as domestic workers yourself and you are ready to voice out for your rights.

Some of you look at it from the union's point of view – as an issue where workers' rights are violated by lack of legal framework and awareness in society.

Some of you have taken up the issue from the perspective of migration, as many domestic workers move away from their home towns and families to earn a living in foreign households.

Some of you take the issue from the gender and human rights' perspective since the majority of domestic workers are women and unfortunately some even under age.

Some of you see the context of the right to decent work is crucial for the fight against poverty and as an example for achieving more economic and social justice.

And, all of us here are convinced that all human beings are equal and everybody's dignity has to be respected and protected.

Therefore it is very opportune to come together and exchange knowledge on the state of play of the negotiations at the ILO and the HR council. The negotiations at the ILO are tough for the kind of instrument itself, for definitions and the language. We had a success in agreeing to draft a convention but it is still a long way until an adoption in 2011.

In the last days we heard very strong and impressive statement form governments as well as from union side and from the side of domestic workers. We want to give support to those who speak out forcefully.

Hence firstly, it is necessary also to think about the obstacles in achieving a satisfying result of the negotiations and do our best to overcome them. We have to formulate and bring forward our recommendations to protect the domestic workers' rights in general and in particular the rights of migrant domestic workers.

Secondly it is timely to think about the chances to promote the results of the international negotiations in the national context. What happens with the instruments of migrants' and labour rights at the HR council and the ILO in our own countries?

Lastly it is forward looking and progressive to search for allies for advocacy work and stretch out hands for networking in order to make sure that the ratification and implementation processes will be carried out.

We are here to do exactly these three things.

As Kolping international and German Commission for Justice and Peace we are very happy to have found in the International Catholic Centre of Geneva and the Migrant Forum in Asia allies who joined hands with us to prepare this meeting. And we are also happy to welcome experts and resource persons from the International Domestic Workers Network, Caritas international and the Holy See to share with us their insights into the issue.

We want to encourage you to stay in touch with each other and with us. Let us follow the negotiation process at the ILO this year and in 2011. Let us cooperate to get the best result- a convention supplemented by a recommendation on the right of Domestic workers.

But we also should not forget about the work after the negotiations at the ILO- level have been successfully ended. We need the convention been ratified and implemented in national contexts. For that we have to strategise and collaborate in regional and national networks.

Hence I wish this meeting encouraging contributions by those who follow the negotiation process at the ILO and the HR council closely. And I wish for critical observations by our experts and resource persons approaching the issue from different angles. Last but not least I wish all of us inspiring discussions and ideas for our future work for the rights of domestic workers.

And with these brief remarks I thank you for your attention and hand over to my dear colleague Budi Tjahjono, Director of the CCIG who will lead us through this afternoon panel. Our meeting will be concluded by William Gois from the Migration Forum Asia - and by refreshments after a long day of discussions. Thank you.

3. PRESENTATIONS

Challenges from the perspectives of Domestic Workers: African Experience



Mrs. Hester Stephen,
Domestic Worker,
President of South African Domestic Service and Allied Workers Unions (SADSAWU)

Excerpt of the input:

- She is a Domestic Worker since the age of 16 and a union member for 28 years.
- Isolated conditions of Domestic Workers in private households lead to extreme forms of exploitation. A lot of DMW are not aware of their rights.
- Actively campaign to draft and implement labor laws for Domestic Workers and to inform them of their rights, advocate and lobby by distributing pamphlets at the airport: examples from South Africa include Labour Relations Act (1998), Wage Act (2003), Unemployment Insurance Fund (2003) and Social Security for Domestic Workers – which is yet to be realised.
- The implementation and enforcement of these labour laws is a challenge.
- It is important to achieve a convention that governments would ratify and we must ensure that they abide by it. How to ensure that a convention is ratified? Together we can support each other and face the challenges.

Challenges from the perspectives of Domestic Workers: Asian Experience



Ms Saturnina Rotelo (Ms. Cute)
Domestic Worker
Coalition for Migrants' Rights / Migrant Forum in Asia

Good afternoon friends and comrades. I am Saturnina Rotelo, a migrant domestic worker in Singapore for 17 years now.

Before I share with you my thoughts on the topic, allow me first to thank CCIG and MFA for organizing this very timely topic and for inviting me to speak. I just came from the ILC session where the deliberation on the need for an ILO Convention for Domestic Workers is on-going. While we have the ILO constituents agreed to adopt a Convention supplemented by a Recommendation, the hard battle is now is now is to ensure that the content of the instrument would be for the best interest of domestic workers. There is still so much to be done and we need to explore all possible

opportunities talk with our own governments especially those who shown strong opposition for the adoption of a Convention supplemented by a Recommendation.

Reflecting on the topic assigned to me let me share with you the ordeal that I went through to enable me to come to Geneva and be with you at this moment. Coming in Geneva was no easy feat and full of challenges. It took me more than two weeks to get my Schengen visa. Requirements and procedures for application for a Schengen visa for skilled workers and domestic workers vary. Stricter and documentation are required for domestic workers compared to skilled workers. This practice is indeed a manifestation of lack of trust and discrimination against domestic workers especially migrant domestic workers.

Discriminatory and restrictive policies are one of the big challenges that we, domestic workers face as try to assert our rightful place in the society. On top of the abuses and exploitation that we experience, our basic labour rights are not recognized and we are not treated like all other workers. Migrant domestic workers are not allowed to unionize and exercise our right for freedom of association; we do not enjoy rest days t and wage discrimination due to nationality is widely exercised. In most countries in Asia, Filipinos are the highest paid domestic workers. As a migrant domestic worker who has been a living witness for the sufferings of my co-domestic workers, we demand for an Equal Pay for an Equal Work.

Because we are not treated equal, people look down on us and regard domestic workers as low class workers. This poses a serious challenge to our advocacy as we are not seen as credible and respected individuals. We need to do something on how people view us. As the Chair of the Workers' Group said on her intervention, the way we treat domestic workers leads to the distortion of values among our young people. The existing societal norm and structure is an issue that we also need to look into if we are to advocate for the rights and legal protection of domestic workers.
In some countries, public mobilizations and actions are strictly prohibited which significantly affects our campaign particularly on this anticipated ILO Convention for Domestic Workers which is very crucial to gain public support.

While we always assert that domestic workers must speak for themselves, we can never do it alone. We need the support of NGOs, social movements and international community to walk with us in this journey and give us dignity. Let's unite and get our voices heard.

Domestic Work is Work;
Domestic Workers are Workers, not slaves!
ILO Convention on Domestic Work NOW!

New Draft General Comment of the UN Committee on Migrant Workers on Domestic Migrant Workers



Dr. Martina Liebsch,
Director of Policy,
Caritas Internationalis

Process:
The time was "ripe"

- Important occupation for millions individuals, in some countries for up to 10% of total employment.
- Increased evidence of the exploitation of migrant domestic workers
- Migrant Workers Convention as a point of reference for protection of their rights
- Decent work agenda ILO and process towards a Convention on domestic work

- Side event at the Migrant Workers Committee session
- Day of General Discussion with aim to work towards a General Comment

General Comments for What?

- Helps to interpret the treaty with a special emphasis on migrant domestic workers
- Encourages states to take action and helps to further develop standards
- Provides basis for monitoring the issue in the state parties report
- Increases awareness about the issue
- Highlights specific concerns for migrant domestic workers, whereas ILO concerned with domestic work in general
- ICRMW looks at entire migration process and rights specific to MDW in irregular situations – ILO Convention concerned with labour rights

Structure of General Comment

- Introduction
  Definitions and why GC

- Problems faced by MDW during migration cycle
  Illegal withholding of passports

- Protection gaps
  - Legal gaps
    Even if national labour law includes protection for DW, MDW are excluded from these provision totally or partially.
  - Practical gaps
    Immigration status dependent on the employer hinders report of abuses

- Recommendations to State parties
  - Include information about efforts to monitor situation of DW and protect their rights in their reports

Key recommendations:

- No definition – refers to ILO – however notes that it is remunerated work on a regular basis in private homes
- Emphasis on pre-departure awareness raising, information and training, including
  - "know-your rights" training
  - contact information for emergency assistance
- Cooperation among states of origin and of employment, such as
  - Use of standard, unified and binding employment contracts
  - Regulating and monitoring labour brokers, recruitment agencies and other intermediaries
  - Codes of conduct for recruitment of migrant domestic workers
- Participation of CS (including MDW) in implementation
- Conditions of work
  - Referral to the larger framework of decent work for domestic workers
  - National legislation should ensure same level of protection as for other workers.
- Ensure that MDW retain their travel and identity documents

- Access to social security and health services
  - Equal treatment with nationals
  - Public health institutions not required to report in case of MDW in irregular situation
- Right to collective association regardless of status
- Access to complaints mechanisms; Ombudsman
- Access to regular channels for migration matching demand
- Respect of family unity
  Family contact, family related mobility, facilitate family reunification

The "battle" is not won yet....

- Provide comments on the draft GC
  - Gender
  - Social protection
  - Data and research
  - Family unity - marriage

- Write shadow reports on the State parties reports presented to the MWC including the issue of migrant domestic workers

- Prepare/do advocacy after ILC at national in view of the ILO – Convention and its ratification

- Feed back on reports which are due after the ILC and in November (as basis for further negotiations towards ILC in June 2011)

UNDER ONE ROOF, UNDER ONE LAW: EQUAL RIGHTS FOR MIGRANT DOMESTIC WORKERS!

Concerns of the Catholic Church



His Excellency Archbishop Silvano Tomasi,
Permanent Representative of the Holy See to the UN in Geneva

Excerpt of input:

- The problems face by Domestic Workers is an old one.
- It is promising to note that 76 percent of the ILC members voted in favor of a convention to protect the rights of migrant workers.
- It is important to focus on the labor aspect of this category of workers
- The destiny of this convention should not be the same as the Migrant Workers Convention.
- It is of utmost importance to get the employers on board to advocate for the rights of domestic workers.

- We must look beyond the protection of rights – domestic workers must also realize their duties.
- The convention must consider the economic, social and legal factors that play a role in the protection of domestic workers.
    - Economic: decent salary; remittances; development of the family, community and country
    - Social: rights and duties of both employers and workers should be elucidated
    - Legal: promote national legislation to protect Domestic Workers
- **Concerns of the Church:**
    - Church looks at all forms of labor positively.
    - Church does not look at labor only as an economic factor but also to exercise his or her talents to achieve goals of life and attain the right to decent work.
    - Church will continue to push for the equality for every human being and his/her relationship with both employer and State. Exemple : many of the DMW, they change their names to Islamic name to get work in Seoudie Arabia and when they are returning back they face problems
    - In Europe, there is another type of DMW, they have a minimum of their rights respected but they are undocumented. The employers taking advantages of that and don't give them salaries and other rights.
    - The phrase, "Love the neighbor" has to be practically implemented.
- **Actions:**
    - Put together a group of experts to review the drafting process of the Convention with active participation from NGOs.
    - Prepare concrete legal expressions that address the concerns of all parties concerned.

4. GENERAL DEBATE AND DISCUSSION



1. **Ms Karin Pape, *International Domestic Workers Network (IDWN)*:**
    - The negotiations for the domestic workers convention is an important and positive step forward.
    - It is important to consider the role of the Church. Often, the migrant domestic workers approach the Church for assistance first , before approaching other structure.
    - The trade unions often do not have specific unit to address the issue of domestic workers. Thus we need to support the creation of specific unit for domestic workers.

2. **Ms Hessen Sayah, *Caritas Lebanon – Migrant Center (CLMC):***

    - CLMC is active in lobbying and advocacy for the rights of domestic workers with the Lebanese government and the Lebanese people.
    - A 'unified contract', which for the first time stipulates the minimum labor rights for DMW was negotiated. This contract came into force on April 2009 is now only in Arabic and not yet translated in the native languages of the DMW. This is a big difficulty for domestic migrant workers who do not understand Arabic. Although involved in drafting of the unified contract, the center has several reservations regarding the indicted version : the provision for a weekly day-off does not clearly stipulate if this day-off could be spent out of the house, and there are limited provisions enabling the MDW to terminate the contract while the employer can terminate it when it suits her \ him.

      (http://www.ohchr.org/EN/NEWSEVENTS/Pages/UnifiedContractLebanon.aspx)

3. **Ms. Alanna Ryan, *ICMC*:**

    - Happy to work with Committee and encouraging to chose pertinent issues, structure the Day of General Discussions (DGD), promote participation of NGOs in DGD, and act together as rapporteur with Caritas Internationalis.
    - Happy with written submissions and contributions. The General Comment is a solid reflection of that input from DGD.
    - Want to note that input, both written and presented at DGD, came from organizations in all regions of the world but what we see from input is that **rights are universal, with no cultural exception**.

- Also heard suggestion that the General Comment should stay at the level of overview rather than a practical guidance/recommendations. Once again, see and hear that it should offer practical guidelines.
- The General Comment has been roundly endorsed by the platform.
- Hope that the event today can produce as outcome recommendations related to both ILO process and the General Comment; the event could suggest what can be in the two instruments:
    - Proposals on content
    - How to raise awareness among our network partners
    - Organize consultations to review the draft General Comment
    - Each organization could write letters of support advocating that the comment be adopted at the next session.
    - Start working on strategies for ratification through regional workshops and national advocacy campaigns

4. <u>Other remarks during the discussion</u>

<u>Chair of DW network:</u>

- When we started we never knew that there is many NGO(s) who are working with the MW.
- We can have a big network, a union of NGO(s) for all the DMW who will benefit.
- We need a group of people who will fight. How really MW is suffering? Together we can do it.

<u>Mrs. Martina Liebsch:</u>

- The proposals of the general comments are very useful and we have a lot to do at the national level, to monitoring implementation. NGO's are encouraged to write shadow reports to the reports of the State parties at the Migrant Workers Committee.

<u>Mr. Budi Tjahjono:</u>

- Based on his experience, he recommended each of us to go and try to give awareness for the people around us, because they need it.

<u>Mr. Jules Houneponour, General secretariat – Young Christian Workers:</u>

- The cultural aspect situation of the MW was not mentioned. And how do we explore this field of the Domestic Workers?

<u>Mrs. Hester Stephen:</u>

- Coming from rural area to work inside a house, they are not allowed to go out the employer premises. Each evening, I have to take care from the employer's children instead of my children. They are beating me also. We are tired of being laboring. We need our dignity back.
- The DMW are contributing to the global economic situation.

Ms. Saturnina Rotelo:

- The migrant worker situation depends from the culture that they are coming from, and returning back is the starting of the violence against the DMW especially with their families who need support.

Mr. John Ray:

- The DMW when they get back home, they don't speak about the situation that they faced in their work. Thus there is a need to organize trainings on the rights of DMW in the sending and receiving countries.

5. CONCLUDING REMARK AND FOLLOW UP

Mr. William Gois,
Migrant Forum in Asia:

- One of the biggest employers of Domestic Workers is the Church, especially in Asia. It would therefore be good to get the Holy Father to issue **a pastoral letter** to recognize the dignity of Domestic Workers.
- We have a year's time to get endorsements for the General Comment from other special mandate holders like the Special Rapporteur on the Right to Health; Independent expert on the question of human rights and extreme poverty; Special Rapporteur on Contemporary forms of Racism; et.al.
- We need to build on this momentum and keep it going. An early victory would have made us complacent.
- It is important to find out the position of the big women's networks and feminist groups' stand on this issue – yet to see a visible one.
- It is also important to build solidarity with trade unions and push the migrants to get membership at the Trade Unions.
- Going forward is something to do, and we have to build our campaign on the social integration.

ANNEXES

I. Proposed Conclusion of the Committee on Domestic Workers of the 99th Session of the International Labor Conference

99th Session of the International Labour Conference
Committee on Domestic Workers
Proposed Conclusions

A. Form of the instruments

1. The International Labour Conference should adopt standards concerning decent work for domestic workers.

2. These standards should take the form of a Convention supplemented by a Recommendation.

B. Definitions

3. For the purpose of these standards:

(a) the term "domestic work" should mean work performed in or for a household or households;
(b) the term "domestic worker" should mean any person engaged in domestic work within an employment relationship;
(c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

C. Proposed Conclusions with a view to a Convention

4. The Convention should include a preamble with the following wording:

(a) mindful of the commitment of the International Labour Organization to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization;
(b) recognizing the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for workers with family responsibilities;
(c) considering that domestic work continues to be undervalued and invisible and is mostly carried out by women and girls, many of whom are migrants or members of historically disadvantaged communities, and who are therefore particularly vulnerable to abuses of basic human rights and to discrimination in respect of employment and working conditions;
(d) further considering that, in developing countries with historically high rates of unemployment, domestic workers constitute a significant proportion of the national workforce, are predominantly nationals drawn from the ranks of the unemployed and are among the most marginalized and vulnerable workers;
(e) recalling that international labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided;

(f) noting that there are international labour Conventions and Recommendations which have particular relevance for domestic workers, such as, where appropriate, the Migration for Employment Convention (Revised), 1949, the Migrant Workers (Supplementary Provisions) Convention, 1975, the Workers with Family Responsibilities Convention, 1981, the Private Employment Agencies Convention, 1997, the Employment Relationship Recommendation, 2006, as well as the ILO Multilateral Framework on Labour Migration;
(g) recognizing the special conditions under which domestic work is carried out that make it desirable to supplement the general standards with standards specific to domestic workers, to enable them to enjoy their rights fully, taking into account the right to privacy that each domestic worker and each household enjoys;
(h) recalling other relevant international instruments, such as the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

5. (1) The Convention should apply to all domestic workers, provided that a Member which has ratified it may, after consulting representative employers‟ and workers‟ organizations and, in particular, organizations representing domestic workers and their employers, where they exist, exclude wholly or partly from its scope:

(a) categories of workers who are otherwise provided with at least equivalent protection;
(b) limited categories of workers in respect of which special problems of a substantial nature arise.

(2) Each Member which avails itself of the possibility afforded in point 5(1) should, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organisation, indicate any particular category of workers thus excluded and the reasons for such exclusion and, in subsequent reports, specify any measures that may have been taken with a view to extending the application of the Convention to the workers concerned.

6. Each Member should take measures to ensure the effective protection of basic human rights for all domestic workers.

7. Each Member should take, in relation to domestic workers, measures to respect, promote and realize, in good faith, and in accordance with the ILO Constitution, the fundamental principles and rights at work, namely:

(a) freedom of association and the 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

8. (1) Each Member should set a minimum age for domestic workers in accordance with the provisions of the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and not lower than that established by national laws and regulations for workers generally.

(2) Each Member should ensure that domestic work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of, or interfere with, their education or vocational training.

9. Each Member should take measures to ensure that domestic workers, like workers generally, enjoy fair terms of employment as well as decent working conditions and, where applicable, decent living conditions respecting the worker's privacy.

10. Each Member should ensure that domestic workers are informed of their terms and conditions of employment, in an appropriate, verifiable and easily understandable manner, including, where possible and preferably, through written contracts in accordance with national laws and regulations, in particular:

(a) the name and address of the employer;
(b) the type of work to be performed;
(c) the remuneration, method of calculation and regularity of its payment;
(d) the normal hours of work;
(e) the duration of the contract;
(f) the provision of food and accommodation, if applicable;
(g) the period of probation or trial period, if applicable;
(h) the terms of repatriation, if applicable; and
(i) termination of employment provisions.

11. Each Member should take measures to ensure that domestic workers enjoy effective protection against all forms of abuse and harassment.

12. (1) Each Member should take measures to ensure that domestic workers:

(a) are free to negotiate with their employer whether to reside in the household;
(b) are not bound to remain in or with the household during the periods of daily and weekly rest or annual leave;
(c) are entitled to keep in their possession their travel and identity documents.

(2) In taking these measures, due respect should be given to the right to privacy of both the domestic worker and the household.

13. (1) Each Member should take measures to ensure that the normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave of domestic workers are not less favourable than those provided for workers generally in accordance with national laws and regulations.

(2) Weekly rest should be at least 24 consecutive hours per each seven-day period.

(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 should be regarded as hours of work to the extent determined by national laws or regulations, collective agreements or any other means consistent with national practice.

14. Each Member should take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex.

15. (1) The wages of domestic workers should be paid directly to them in legal tender at regular intervals but not less often than once a month.

(2) Taking into consideration point 15(1), national laws or regulations, collective agreements or arbitration awards may provide for the payment of a limited proportion of the remuneration of domestic workers in the form of allowances in kind, in conditions not less favourable than those applicable to other categories of workers generally, provided that measures are taken to ensure that such allowances are agreed to by the worker and are appropriate for the personal use and benefit of the worker.

16. (1) Each Member should take appropriate measures, with due regard to the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions that are not less favourable than those applicable to workers generally in respect of:

(a) occupational safety and health; and
(b) social security protection, including with respect to maternity.

(2) The measures referred to in point 16(1) may be applied progressively.

17. (1) National laws and regulations should require that migrant domestic workers receive a written job offer or a contract of employment containing minimum terms and conditions of employment that must be agreed upon prior to crossing national borders for the purpose of taking up domestic work to which the offer or contract applies, without prejudice to regional, bilateral or multilateral agreements, the rules of a regional economic integration area, where applicable to migrant domestic workers.

(2) Members should cooperate with each other to ensure the effective protection of migrant domestic workers‟ rights under this Convention.

18. Each Member should take measures to ensure that all domestic workers, either by themselves or through a representative, have easy access to courts, tribunals or other dispute resolution procedures under conditions that are not less favourable than those available to workers generally.

19. Each Member should establish effective means of ensuring compliance with national laws and regulations for the protection of domestic workers.

20. (1) Each Member should take measures to ensure that domestic workers recruited or placed by an employment agency, including migrant domestic workers, are effectively protected against abusive practices, including by establishing the respective legal liability of the household and the agency.

(2) Each Member should take measures to:

(a) establish criteria for the registration and qualifications of employment agencies, including for publicly available information on any past violations;
(b) ensure regular inspections of employment agencies to ensure compliance with relevant laws and regulations, and institute significant penalties for violations;
(c) provide accessible complaint mechanisms for domestic workers to notify authorities of abusive practices; and
(d) ensure that fees incurred by agencies are not deducted from the remuneration of domestic workers.

21. Each Member should implement, in consultation with representative employers‟ and workers‟ organizations, the provisions of this Convention through laws, regulations and collective agreements, as well as through additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them.

22. The Convention should not affect more favourable provisions applicable to domestic workers under other international labour Conventions.

D. Proposed Conclusions with a view to a Recommendation

23. The Recommendation should include a preamble indicating that the provisions of the Recommendation should be considered in conjunction with those of the Convention.

24. In taking measures to ensure that domestic workers enjoy freedom of association and the effective recognition of the right to collective bargaining, Members should:

(a) identify and eliminate any legislative or administrative restrictions or other obstacles to the right of domestic workers to establish their own organizations or to join the workers‟ organizations of their choice, and to the right of organizations of domestic workers to join workers‟ organizations, federations and confederations;
(b) ensure the right of employers of domestic workers to establish and join organizations, federations and confederations of employers of their choosing;
(c) take or support measures to strengthen the capacity of organizations of domestic workers to protect effectively the interests of their members.

25. In taking measures to ensure the elimination of discrimination in respect of employment and occupation among other things, Members should ensure that work-related medical testing respects the principle of the confidentiality of personal data and the privacy of domestic workers and should prevent any discrimination related to such testing.

26. When regulating the working and living conditions of domestic workers, Members should give special attention to the needs of domestic workers under the age of 18 and above the minimum age of employment defined by national laws and regulations, including in respect of working time and restrictions on undertaking certain types of domestic work.

27. (1) The terms and conditions of employment should be provided in an appropriate, verifiable and easily understandable manner including, where possible and preferably, through written contracts in accordance with national laws and regulations; when necessary, appropriate assistance should be provided to ensure that the domestic worker has understood those terms and conditions.

(2) The terms and conditions of employment should include the following particulars, in addition to those provided for in point 10:

(a) the starting date of the employment;
(b) job description;
(c) paid annual leave;
(d) daily and weekly rest;

(e) sick leave and any other personal leave;
(f) the rate of pay for overtime work;
(g) any other cash payments to which the domestic worker is entitled;
(h) any allowances in kind and their cash value;
(i) details of any accommodation provided;
(j) any authorized deductions from the worker's wages; and
(k) the period of notice required by either the domestic worker or the employer for termination.

(3) Members should consider establishing a model contract for domestic work, in consultation with representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist.

(4) Each Member should consider specifying, by means of laws, regulations or other measures, the conditions under which migrant domestic workers are entitled to repatriation, at no cost to the worker, upon the expiry or termination of the employment contract.

28. (1) Hours of work and overtime should be accurately calculated and recorded, and this information should be freely accessible to the domestic worker.

(2) Members should consider developing practical guidance in this respect, in consultation with representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist.

29. With respect to 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 (commonly known as standby or on-call periods), national laws and regulations or collective agreements should regulate:

(a) the maximum number of hours per week, month or year that a domestic worker may be required to be on standby and the means by which these might be measured;
(b) the compensatory rest period to which a domestic worker is entitled if the normal period of rest is disturbed by standby; and
(c) the rate at which standby hours should be remunerated.

30. Members should consider specific measures, including appropriate financial compensation, for domestic workers whose normal duties are performed at night, taking into account the constraints and consequences of night work.

31. Members should take measures to ensure that domestic workers are entitled to suitable periods of rest during the working day, which allow for the taking of meals and breaks.

32. The day of weekly rest should be a fixed day in every period of seven days to be determined by agreement of the parties, taking into account work exigencies and the cultural, religious and social requirements of the domestic worker.

33. National laws and regulations, or collective agreements, should define the grounds on which domestic workers may be required to work during the period of daily or weekly rest and provide for adequate compensatory rest, irrespective of any financial compensation.

34. Time spent by domestic workers accompanying the household on holiday should not be counted as part of their annual leave.

35. When provision is made for the payment of a limited proportion of the remuneration in the form of allowances in kind, Members should consider:

(a) establishing an overall limit on the proportion of the remuneration that may be paid in kind so as not to diminish unduly the cash remuneration necessary for the maintenance of domestic workers and their families;
(b) calculating the cash value of allowances in kind by reference to objective criteria such as the market value, cost price or prices fixed by public authorities, as appropriate;
(c) limiting allowances in kind to those clearly appropriate for the personal use and benefit of the domestic worker, such as food and accommodation; and
(d) prohibiting allowances in kind that are directly related to the performance of work duties, such as uniforms, tools or protective equipment.

36. (1) Domestic workers should be given at the time of each payment an easily understandable written account of the payments due to them, the amounts paid and the specific amount and purpose of any deductions which may have been made.

(2) Upon termination of employment, any outstanding payments should be made promptly.

37. Members should take measures to ensure that domestic workers enjoy conditions not less favourable than those of workers generally in respect of the protection of workers‟ claims in the event of insolvency or death of the employer.

38. When provided, accommodation and food should, taking into account national conditions, include:

(a) a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker;
(b) access to suitable sanitary facilities, shared or private;
(c) adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and
(d) meals of good quality and sufficient quantity, adapted to the cultural and religious requirements, if any, of the domestic worker concerned.

39. In the event of termination of employment, for reasons other than serious misconduct, live-in domestic workers should be given a reasonable period of notice and time off during that period to enable them to seek new employment and accommodation.

40. Members should take measures to:

(a) identify, mitigate and prevent occupational hazards specific to domestic work;
(b) establish procedures for collecting and publishing statistics on occupational safety and health related to domestic work;
(c) advise on occupational safety and health, including on ergonomic aspects and protective equipment; and
(d) develop training programmes and disseminate guidelines on occupational safety and health requirements specific to domestic work.

41. Members should consider means to facilitate the payment of social security contributions by employers, including in respect of domestic workers working for multiple employers, for instance through a system of simplified payment.

42. In relation to point 10(h) of the proposed Conclusions, consideration should be given to migrant workers receiving repatriation at no cost on the expiration or termination of the employment contract for which they were recruited.

43. (1) Members should consider additional measures to ensure the effective protection of migrant domestic workers‟ rights, such as:

(a) providing for a system of visits to households in which migrant domestic workers will be employed;
(b) developing a network of emergency housing;
(c) establishing a national hotline with interpretation services for domestic workers who need assistance;
(d) making employers aware of their obligations and of the applicable sanctions;
(e) ensuring that domestic workers can access complaint mechanisms and have the ability to pursue both during and after employment legal civil and criminal remedies, both in-country and after repatriation;
(f) providing for a public outreach service to domestic workers, in languages understood by the workers concerned, to educate them about their rights under relevant laws and regulations, their access to complaint mechanisms and legal remedies, and other pertinent information.

(2) Members that are countries of origin of migrant domestic workers should assist in the effective protection of the rights of these workers, by informing them of their rights before departure, establishing legal assistance funds, social services and specialized consular services and any other appropriate measures.

44. (1) Members should establish, in consultation with representative organizations of employers and workers and, in particular, organizations representing domestic workers and their employers, where they exist, policies and programmes that:

(a) encourage the continuing development of the competencies and qualifications of domestic workers, including literacy training as appropriate, so as to enhance their career and employment opportunities;
(b) address the work–life balance needs of domestic workers; and
(c) ensure that the concerns and rights of domestic workers are taken into account in the context of more general efforts to reconcile work and family responsibilities.

(2) Members should develop appropriate indicators and measurement systems in order to strengthen the capacity of national statistical offices and effectively collect comprehensive data on domestic workers.

45. (1) Members should cooperate at bilateral, regional and global levels for the purpose of enhancing the protection of domestic workers, especially in matters concerning social security, the monitoring of private employment agencies, the prevention of forced labour and human trafficking, the dissemination of good practices and the collection of statistics on domestic work.

(2) Members should take appropriate steps to assist one another in giving effect to the provisions of the Convention through enhanced international cooperation or assistance, or both, including support for social and economic development, poverty eradication programmes and universal education.

Resolution to place on the agenda of the next ordinary session of the Conference an item entitled "Decent work for domestic workers"

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fourth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a comprehensive standard (a Convention supplemented by a Recommendation) concerning decent work for domestic workers,

Decides that an item entitled "Decent work for domestic workers" shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation).

No. 12 – Wednesday, 16 June 2010

II. Toward a Convention on Decent Work of Domestic Workers: ILO Process and Timetable

In January 2009:
The Office sends a law and practise report along with a questionnaire to ILO Member States Governments have to consult with workers' organizations and employers' association.

End August 2009:
Deadline for submission of replies to the Office

January 2010:
The Office sends a second report, examining the replies received, to Member States

First discussion in June 2010 at the International Labour Conference of the ILO:
A decision is taken on the form of the draft ILO instrument(s) – whether a Convention or a Recommendation or both

August 2010:
The Office sends a third report containing (a) draft instrument(s) to Member States

End November 2010:
Deadline for submission to the Office of comments on the third report by Member States

March 2011:
The Office sends two report to Member States: one examining the replies received on the third report, and the other containing the text of the draft instrument(s) revised in the light of comments received

Discussion in June 2011 at the International Labour Conference of the ILO:
A Convention or any other agreed instrument will be discussed and adopted or rejected by the International Labour Conference. ■

Source :
**Karin Pape, report on a meeting at the ILO, May 2008, WIEGO ; Manuela Tomei, ILO, personal communication, 2008 – appeared in the publication of WIEGO.*
www.wiego.org/ppublications/FactSheets/WIEGO_Domestic_Workers

III. Statement by H.E. Archbishop Silvano M. Tomasi, Permanent Representative of the Holy See to the United Nations and Other International Organisations in Geneva at the 99th Session of the International Labor Conference.



Mr. President,

1. The effects of the financial and economic crisis have globally damaged the welfare of families and individuals. Timid, uneven and uncertain signs of recovery notwithstanding, the impact of this recession has stifled progress in poverty reduction, increased unemployment in developed countries and every household has suffered set-backs in low-income countries. In 2015, 20 million more people in Sub-Saharan Africa, and 53 million more people globally, will find themselves in extreme poverty [1]. While there is general agreement on the need for structural reforms, vested interests must not lay most of the burden on wage-earners, rural people, and already marginalized groups in society. Economic mechanisms without ethical criteria will not lead to constructive solutions.
2. The crisis can open a new perspective on the role of markets and on the role of the State. The food crisis of 2008 has shown that countries lacking basic food supplies could not simply rely on the forces of the market to ensure food for their people. Several export countries responded with protectionism and speculation resulting from the perception of shortage. Countries heavily dependent on food import witnessed serious protests. Thus a certain degree of self-sufficiency and a better regulation of the commodities markets became a logical conclusion.

   The 2009 financial crisis has shown that financial markets are not self-regulating. Greed prevented the interruption of a process whose systemic risks had been foreseen by many. Financial measures and the assurance provided by States and Central Banks saved the banking system and avoided financial meltdown but were not capable of preventing the subsequent serious economic crisis that has resulted in a significant increase of unemployment and precariousness and has affected the most vulnerable persons and countries. Another result has been the enormous amount of public debt generated, especially by major advanced economies. In industrialised countries, in coming years, gross public debt will exceed 100 percent of GDP thus raising sustainability issues. Governments, weakened by the level of their debt, feel obliged by the financial markets to reduce it. Public budgets and growth will be affected: taxes will increase, buying power will decrease, and unemployment will grow. The weak economic recovery runs the risk of being jeopardised.

   This is a delicate condition for major advanced economies, since the process of fiscal consolidation will constrain economic growth. Recent experience shows that the adjustment coefficient is the level of employment, the buying power of people and their ability to feed, educate, and care for themselves. Justice demands that the suffering of people should not be the coefficient of adjustment of the economic system. While the merits of open markets in the creation of wealth should be acknowledged, some additional and internationally coordinated action, as well as the development of some means of common governance,

[1] The crisis will likely have serious costs as measured by several human development indicators: 1,2 million more children under five and 265,000 more infants will die between 2009 and 2015; 50,000 more students will not complete primary education in 2015; 100 million less people will have access to safe drinking water in 2015. cf, World Bank, *Global Monitoring Report 2010: The MDGs after the Crisis.*

appear necessary. We need to keep in mind that work is more than wages; it is the means to self-fulfilment and the way to achieve one's life project.

3. The Delegation of the Holy See fully supports the aim of the ILO to give priority to persons and their work in the search for innovative and dynamic policies aimed at removing structural impediments to the recovery of the economy. The attention to domestic workers and the positive vote taken on a new binding instrument for their protection express preference for the most vulnerable members of society. Domestic workers are doubly at risk. First, they come from the most disadvantaged segments of society with very limited resources for protection. Extreme necessity pushes them to take up any job available, even though, in more than a few cases, conditions at work are very hard. Second, the ambiance of their employment is open to exploitation. Women and girls constitute the majority within this category of workers. Often they lack juridical and social protection, fair remuneration, limits on the amount of hours they are expected to work, a guarantee for a weekly period of rest, safeguards during times of illness or for maternity. When abuses occur, there is no appeal and the only option is to escape and thus to lose salary due as well as employment. On many occasions, within the privacy of the domestic walls, the dignity of domestic workers is violated. Physical and sexual harassment are not uncommon. Racial and religious identities expose these workers, especially women, to heavy discrimination.
   If the domestic worker is an immigrant, especially if without proper documentation and/a labour contract, his/her vulnerability is much greater. But we should consider that this is one of the few sectors of the economy where immigrant workers are complementing and not substituting indigenous workers, since typically they accept jobs that the latter are unwilling to assume. In many poor countries, young girls are engaged in domestic work and their own families see their service as a normal contribution to family survival. On the other hand, domestic workers assume a critical role, especially in Western societies, where life-style and demographic changes demand their presence. They become an important presence in the family since they manage the household, care for the elderly and for the children and thus allow mothers and daughters to pursue careers and active roles in society. Another important contribution offered by domestic workers is found in the remittances that they send home and that benefit families and local development. The opportunity and necessity of a new binding norm, an International Convention on Domestic Workers, appears undeniable: it will promote opportune national legislation for their protection, support their rights of association, of collective negotiation, and of union representation. An education campaign already should initiate to make domestic workers, as well as employers, aware of reciprocal duties and rights. This widening horizon on the world of work offers both a challenge and new possibilities, as the social encyclical of Pope Benedict XVI , *Caritas in veritate*, states:
   "…*labour unions* — which have always been encouraged and supported by the Church —… Looking to wider concerns than the specific category of labour for which they were formed, union organizations are called to address some of the new questions arising in our society…The global context in which work takes place also demands that national labour unions, which tend to limit themselves to defending the interests of their registered members, should turn their attention to those outside their membership, and in particular to workers in developing countries where social rights are often violated. The protection of these workers, …will enable trade unions to demonstrate the authentic ethical and cultural motivations that made it possible for them, in a different social and labour context, to play a decisive role in development."[2]

[2] Pope Benedict XVI, Encyclical letter *Caritas in veritate*, n. 64.

4. As part of this widening of horizons in the struggle for a global implementation of decent work, attention should focus on other categories of workers in need of protection: the masses of still unorganized workers, rural workers, and unemployed youth. The rights of unorganized workers are too often ignored, and, as a result, their security in the work place, their protection from unjust firing, and their entitlement to at least a minimum salary are not respected. Rural workers, in particular, are left out of the range of attention. Not always ready to confront market forces because of lack of training or lack of information, due to the current crisis, they risk being deprived of public support for technical capacity-building or for trade. These are badly needed measures responding to readjustment policies that proved to be counter-productive. Thus some of these policies should be revised, and an allowance made for an incremental opening of borders for homogeneous groups of countries, for as long as they can improve their productivity and their capacity to profit from the market. In 92 countries, agriculture represents more than 75% of the GDP; between 2 and 2.5 billion persons derive their income from agriculture. This sector of the economy is a source of work, of food, of social networks, of emancipation of women, and of protection (or degradation) of the environment. By creatively supporting work in this sector, malnutrition and poverty can be reduced and eventually eliminated, and such workers integrated in the global economy.
   Finally, child labour and youth unemployment call for a concerted response. More than 215 million children are constrained to work, many in dangerous conditions. The number of unemployed youth has increased by 8.5 million between 2008 and 2009, the largest year-on-year increase in the last 10 years, and by more than 10 million since 2007. Wasted capacities and frustration can have disastrous social consequences for the future.

Mr. President,

5. The economic crisis can become an opportunity. The complexity of the situation makes it difficult to make appropriate choices. If, however, the recovery is comprehensive in its embrace of all workers, renews the tripartite dialogue that is at the core of the ILO mission, and gives priority to people and their talents, then a step forward will be taken in the pursuit of justice by the international community. In this approach, *A Global Jobs Pact* indeed will reduce the time lag between economic recovery and a recovery with decent work opportunities. If a reduction in military expenses is added to these efforts, rather than the 6 percent increase in such expenses that occurred in 2009, more resources can be channelled toward the recovery of truly decent jobs. Men and women, workers, employers and entrepreneurs, constitute the best resources available; their intelligence, creativity and energy can develop new jobs and sustain innovation if their freedom is not detached from the responsibility to prevent the emergence of financial speculation at the expense of the real economy and of greed destructive of jobs and savings.

   In conclusion, good decisions are necessary in order to move toward a post-crisis phase of the globalization of the economy and of work. But only a corresponding "ethical interaction of consciences and minds" will give rise to integral development[3] where the human person is at the centre of labour relations, confident to journey toward a better future.

[3] Ibid., n.9

IV. Useful Links

1. 99th Session of International Labor Conference: Report of the Committee on the Decent Work of Domestic Workers:
   http://www.ilo.org/global/What_we_do/Officialmeetings/ilc/ILCSessions/99thSession/pr/lang--en/docName--WCMS_141770/index.htm

2. United Nations Committee on Migrant Workers
   http://www2.ohchr.org/english/bodies/cmw/

3. Draft General Comment on Domestic Migrant Workers
   http://www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm

4. International Domestic Workers Network
   http://www.domesticworkerrights.org/

5. Kolping International
   http://www.kolping.net/en/international/index.html

6. German Commission for Justice and Peace
   http://www.justitia-et-pax.de/en/start/index.shtml

7. International Catholic Center of Geneva
   http://www.ccig-iccg.org

8. Migrant Forum in Asia
   http://www.mfasia.org/

9. Caritas Internationalis
   http://www.caritas.org/

10. International Catholic Migration Commission
    http://www.icmc.net

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