

Report – The Status of Domestic Workers and Decent Work Challenges in China

Based on the research of Hu Dawu, Professor at the Southwest University of Political Science and Law published in December 2013.

Introduction

In China, there are 20 million domestic workers who serve as housekeepers, nannies and caregivers in private homes or public areas. Most domestic workers are women from small agriculture towns who seek work in private households. They are often the primary income earners for their own families.

Despite the importance of their work, domestic workers are not considered workers under the law and continue to be excluded from social protections that other Chinese workers enjoy. This makes domestic workers vulnerable and easily exploitable.

1) Some Facts and Figures of Domestic Workers in China

- ***As fulltime salaried employees of Employment Companies/Agencies***

In China, there are around 600,000 agencies registered. In Beijing at the end of 2012, more than 4,002 domestic service agencies were commercially registered.

Though the central government encourages companies to employ domestic workers full time as salaried employees and then send them out to various homes to clean part time, the companies often serve as an intermediary between workers and clients. According to a survey conducted in Guangzhou in July 2013, of the 1427 companies surveyed, less than one percent employ their domestic workers. Lack of a formal contract prevents them from many of the benefits granted to regularly employed workers.

Four areas in which domestic workers are not being protected:

1. Agencies do not treat them as their employees to avoid paying overtime wages and social security;
2. Companies extract payment off of incomes;
3. Low wages, even for professional domestic workers, force domestic worker wages to remain low;
4. Agency costs serve as a disincentive for would-be employers.

These problems are compounded by the lack of signed service contracts. Domestic workers are often dismissed at random, or are poached from other households. Skilled domestic workers are difficult to come by as there are few service standards for the industry. The Southern Metropolis Daily, a newspaper in Guangzhou, reported a ten year 300,000 yuan (\$48,192.78) contract between a domestic worker and her employer,

indicating that households are eager to retain talented help. This also shows that it is possible for skilled domestic workers to earn high wages.¹

- ***Flexible and No Stability***

A study completed by the Centre for Labor and Work Life Law at Southwestern University of Political Science and Law in 2011 covered trends in domestic work in Chongqing, Wuhan, and Shenzhen. The survey reveals that employment length as a domestic worker varies from three months to five years. The study found that 44% of respondents in Chongqing reported being in their current position for more than five years. In Wuhan, as well, contract length tended to be longer, with 21.9% of respondents reporting they were in their current position for 1-2 years and 21.9% reporting over three years. Respondents from Shenzhen, by contrast, tended to have shorter contract times. This possibly indicates the city's transient work force.

However, due to labor shortages and demand for young women to work in factories, many domestic workers in China are between 40 and 50 years old. Despite the high demand, the average wage remains low, roughly RMB2000-3000 per month. Many get fewer than four days off per month and face occupational hazards with little protection from agencies or the government.²

The Gender rate of Beijing, Guangzhou, Wuhan and Xian (N=1322)		
	Male	female
Number	51	1271
rate	3.9	96.1
Source: Zhang Lin et al, 2013 Report on the Decent Work for Chinese Domestic Workers, p26.		

Urban job seekers often do not consider household work as an employment option. As China's quality of life is increasing, the demand for domestic work rises. In a 2011 study conducted in Shenzhen, 76.25% of domestic workers had not finished high school. About half, 51.25%, had a middle school diploma. 2.5% of domestic workers in the study were illiterate.³

¹ <http://www.nandu.com/nis/201402/21/178160.html>

² Mr. Ying San Yu, Director of the Home Service Industry Division, Ministry of Human Resources and Social Security (MOHRSS) addressed in ILO Asian Knowledge-sharing Forum: Realizing Decent Work for Domestic Workers April 24-26, 2013, Bangkok, Thailand.

24 ILO. International Labor Conference, 99th Session, 2010. Report IV (1). Decent work for domestic workers. Fourth item on the agenda. International Labor Office, p5.

³ Hu Dawu, the Legal Analysis for Labor Rights Protection for Domestic Workers in Developed Areas

There is a trend of seeking high quality domestic workers, including those with college degrees or specialized training, such as computer skills or English skills.

- ***As Migrants***

Domestic work is not usually a permanent career for young workers, especially because exploitation in the industry is so high. This problem becomes more true when women are forced to migrate to different provinces within China to work. A survey conducted in Shanghai reveals that less than 15% of household workers in Shanghai and only 10% in Beijing are local residents.⁴

Because many domestic workers migrate from other provinces, they are often left out of regulations that would extend them rights, and may have trouble adjusting to an unfamiliar city, regulations, and local dialect. China's hukou, or household registration system, makes it difficult for migrant workers and their families to seek certain types of employment, services, or even education.

- ***Low wages***

Domestic worker's wages are relatively low, ranging from 500 yuan up to 3,000 yuan per month. Many of these workers are hired by the hour. In Changing River Delta, 74% of domestic workers were found to be paid less than the state required minimum of 1100 Yuan per month, according to unpublished data from Zhou Changzheng.

Most domestic workers are not considered 'real' workers under the labor law, and are thus excluded from overtime pay. In the study conducted through Chongqing, Wuhan, and Shenzhen, 80%, 65.7%, and 57.6% of workers, respectively, reported that they did not receive overtime pay despite working overtime hours. The fact that they take up part time work in several different households makes it more difficult for them to log hours or demand overtime pay.

2) Government Policies on Decent Work for Domestic Workers

- **Professionalization of Domestic Service Work**

In view of the an emerging need for more sophisticated domestic workers, government believes developing the job skills will help domestic workers achieve higher salaries and better jobs. Through issuing policy documents by various governments' bureaus and departments, domestic workers have been included in various professional qualification management schemes and standards concerning training and professional assessment.

:A case Study of Shenzhen, Journal of Henan Administrative Institute of Political and

Law, Volume 5-6, 2011, p135.

⁴ May Wong, Domestic Work and Rights in China, <http://www.solidarity-us.org/site/node/1394>=2014/2/19

China's 12th Five Year Plan explicitly mentions the development of domestic service to focus on caring for the elderly and sick.

China has put more emphasis on training and development in recent years and subsidized organizations providing job orientation and training. Along with training and certification systems, the Chinese government also urges the industry to make distinctions between different service types, publish industry standards, and check workers certificates when recruiting new employees. In 2003, Shenzhen published the first industry service standards for domestic workers, including a classification of different skill levels and the requirements for attaining each classification. Salaries can be increased commiserate with experience. For example, 2000 yuan for a junior high graduate, 2500 yuan for a high school graduate, and 3500 yuan for a college graduate.

In 2013, the Women's Association, Human Resources and Social Security Department as well as the Commerce Department of Qinghai Province held the first Domestic Service Skill Competition in Qinghai. The top three competitors were awarded with Advanced Skill Certificate and the title of "pacesetters". Other competitors were awarded Intermediate Skill Certificate. Apart from this, there is still no professional career training institution for domestic workers in China. Lack of supervision makes domestic workers wary about investing money and time into career training.

- **Policy documents from the central government**

According to the Chinese government, domestic service is an important category of work in China and the important contribution made by the domestic services sector has been acknowledged by Chinese Central leaders, such as Xi Jinping (General Secretary), premier Li Keqiang, Yumin, (minister of Ministry of Human Resources and Social Security). On September 1, 2010, Chinese Premier Wen Jiabao chaired a State Council executive meeting, to research deploying policies and measures for domestic service development. The meeting highlighted the need for more legal protection for domestic workers.

- i. General Office of State

The General Office of State Council issued "Guidance on the Development of Domestic Service Industry" in September 2012. The guidance encouraged safeguarding the interest of domestic workers, regulating relationships between domestic workers and agencies, maintaining labor rights, and encouraging employees to participate in social insurance.

- ii. Ministry of Human Resources and Social Security

In 2009, the Ministry of Human Resources and Social Security and National Development and Reform Commission, Ministry of Civil Affairs, Ministry of Finance, Ministry of Commerce, National Federation of Labour Unions, Communist Youth League and National Women's Federation held an "Inter Ministerial Joint Meeting on Developing Domestic Service Industry and Promoting Employment". The meeting

focused on identifying the major problems in the domestic service industry, promoting establishment of relevant laws and regulations, and formulating work guidance.

The joint meeting also established a special office for domestic service industry in the State Council. On July 25 2011, Ministry of Human Resources and Social Security held the second quarter press conference, and the spokesman, Yin Chengji, said that the Ministry was listing the “Top 100 Domestic Service Agencies” rating activities and working on drafting of “Labor Regulations on Domestic Service Industry”. Such regulations include general provisions, domestic service agencies’ operation norms, domestic workers employment, domestic workers training, labour contract, domestic service standard, domestic workers’ social insurance rights, supervision and inspection, treatment of disputes, and supplementary provisions, with ten chapters and sixty-four articles in total.

The regulations further clarified responsibilities of the Ministry of Human Resources and Social Security in coordinating development of domestic service industry, drafting policies and standards to promote industry development, undertaking occupational training, studying and formulating policies, and otherwise promoting domestic service network. It also required the Department to increase attention to domestic service industry associations.

iii. Ministry of Commerce

Under the guidance of State Council policies, the Ministry of Commerce issued a series of normative documents, some with the help of the Ministry of Finance, detailing the problems of developing the domestic service industry. These documents aim to promote employment of vulnerable groups, but also to place domestic workers in homes that needed their services.

In December 2012, the Ministry of Commerce issued “Interim Measures for Regulation of Family Service Industry”, which entered into force February 1 2013. The Measures clarified responsibilities of the Ministry of Commerce in the domestic service industry. These responsibilities include supervision and regulation of domestic service quality, guidance on writing contracts, and dispute service processing. It also enforces the labor and domestic service contract, and encourages agencies to purchase occupation liability and personal accident insurance for domestic workers.

These measures aim to standardize behaviors of domestic service agencies, domestic workers, and employers in the industry.

- **Local government policies & regulations**

After the release of “Guidance on the Development of Domestic Service Industry” in September 2010, a number of provincial and municipal governments have released relevant opinions on how to accelerate the development of the domestic service industry. Some provinces and municipalities have issued formal legislation.

- i. **Shenzhen** – “Orders on Domestic Service Industry of Shenzhen Special Economic Zone” was created on June 1 2011, and was the first legal document on the domestic service industry in China. The document had 6 chapters and 35 articles including General provisions, Domestic service agencies, Domestic workers, Domestic service consumers, Legal liability, and Supplementary provisions. Shenzhen Women’s Federation drafted the Orders and only regulated the relationship of agencies acting as managers and domestic workers and employers. Agencies adopting other management modes may refer to the Orders in domestic service activities. However, this had serious shortcomings as agencies very rarely use this type of employee management mode, so the Order was not applied much in practice.
- ii. **Changchun** – “Interim Measures on Regulations of Domestic Service Industry of Changchun” came into effect on October 1 2012. The Interim Measures had a total of 6 chapters and 38 articles, including General provisions, Domestic service agencies, Domestic workers, Domestic service consumers, Legal liability, and Supplementary provisions. The Measures were drafted by Changchun Labor and Social Security Bureau. Unlike Shenzhen’s model, it did not distinguish between different agencies’ management modes. All provisions were applied uniformly.
- iii. **Zhengzhou** – “Regulation Measures on Domestic Service Industry of Zhengzhou” came into effect on July 1 2009. It had a total of 7 chapters and 38 articles including General provisions, Domestic service agencies, Domestic workers, Domestic service consumers, Domestic service contract, Management and supervision, and Supplementary provisions. The measures had a service contract in one chapter, and more detailed regulations on rights and obligations of both worker and employer were laid out in another.
- iv. **Ningxia Hui Autonomous Region** – “Orders on Domestic Service Industry of Ningxia Hui Autonomous Region” came into effect March 1 2012. It had 7 chapters and 48 articles including General provisions, Domestic service agencies and intermediary organizations, Domestic workers, Domestic service consumers, Support and regulation, Legal liability, and Supplementary provisions. The Orders stipulated social insurance problems of domestic workers for the first time. When domestic workers suffered a work related injury, they were able to use “Work related Injury Insurance Regulations”. Those domestic workers not participating in work-provided insurance would get paid by an agency in according with the rules listed out in the Regulations.
- v. **Shapingba District, Chongqing**- “Interim Measures on Domestic Service Industry of Shapingba District” came into effect December 1 2011. It has a total of 6 chapters and 36 articles including General provisions, Domestic agencies, Domestic workers, Domestic service consumers, Supervision and Regulation. It was drafted by the Bureau

of Human Resources and Social Security of Shapingba District. It stipulates that agencies may employ domestic workers under employee-employee mode or part time. The second unique provision was the measures required a work-files tracking system to help industry regulation and service quality provision. While this program had good intentions, the work-files tracking system had difficulties.

- vi. **Jiangsu Province** - “Regulations on Domestic Service Industry of Jiangsu Province (for trial implementation)” was introduced August 18 2008. It has 5 chapters and 33 articles including General provisions, Domestic service agencies, Domestic workers, Domestic service consumers, and Complementary provisions. It stipulated that the Association shall exercise industry management functions, handle complaints, coordinate relations, and protect rights and interests of domestic agencies, domestic workers and employers. It highlighted the importance of an industry association in the development of the industry, and helped provide legal protection to domestic workers.
- vii. **Chengdu** “Interim Orders on Domestic Service Industry of Chengdu” consists of 8 chapters and 53 articles including General provisions, Domestic agencies, Domestic workers, Domestic service consumers, Domestic service industry association, Domestic service contract, Legal liabilities and Supplementary provisions. It also stipulated that the domestic service contract system was mandatory, which was helpful to clarify and regulate rights and obligations of parties in domestic service activities.
- viii. **Liaoning Province** - “Regulations on Domestic Service Industry of Liaoning Province (draft for discussion)” has 7 chapters and 38 articles including General provisions, Domestic agencies, Domestic workers, Domestic service consumers, Domestic service contract, Regulation and supervision and Supplementary provisions. In Supplementary provisions, it stipulated that domestic workers not working with an agency may refer to the regulations in case of rights and obligations disputes. Workers are obliged to obey the work arrangement, respect habits of employees, and not divulge privacy. Employers are obliged to respect domestic workers dignity, not abuse workers or violate their rights, and pay remuneration in a timely manner.

- **Innovations of Local Policies and Regulations**

- i. **Innovation of Industrial industry and insurance policy**

In November 2011, Nantong Human Resources and Social Security Bureau issued the “Notice on Relevant Issues on Work-related Injury Insurance for Domestic Workers,” which included chapters on scope of application, payment management, work-related injury confirmation and identification, and treatment of work-related injury insurance. It had some innovations for domestic workers work-related injury insurance:

- 1) Insurance should be low cost under the monthly minimum salary;
- 2) The insurance must cover domestic workers over a certain age limit, as most domestic workers are women over 50 years. Nantong’s model covered all employees in domestic work, starting at 16 years of age;

- 3) The protection must be wide enough so that domestic workers not working with an agency can obtain insurance;
 - 4) Work-related injury insurance must be available to be purchased separately.
- ii. **Innovation in identifying labor relationship**
 “Orders on Domestic Service Industry of Ningxia Hui Autonomous Region” distinguished domestic service agencies from intermediary organizations and made different regulations, clearly defining that “agencies introducing domestic workers in the name of intermediaries while charging for management fees regularly, apply to regulations on domestic service agencies of employee-employer mode.” The order also took into account the customs of Chinese autonomous regions, and mandated mutual respect and dignity of national customs and habits. Disrespect of such national customs is a reason to terminate the service contract.
 - iii. **Innovation on regulation for domestic service agencies**
 “Interim Orders on Domestic Service Industry of Chengdu” was formulated based on research by the Chengdu Federation of Trade Unions with the Municipal Security Bureau, Legal Affairs Department, Political Research Department and other related municipal departments and legal experts. Chengdu hopes to “gradually cut down and eliminate domestic service intermediaries.” As such, domestic intermediaries are not under the scope of the orders.

In conclusion, policy making bodies such as the Women’s Federation, Human Resources and Social Security Bureau, and Domestic Service Association, are not unified. There is no clear and unified regulatory body for the oversight of domestic worker related activities.

Because domestic service is being ‘consumed’, the relationship between agencies and employers falls under the Consumer Protection Law, however the legal definition of “domestic service consumer” needs clarification. At present, much more emphasis is placed on the rights of employers rather than those of the domestic workers. It is necessary to focus on the labor relationship between the agencies and domestic workers, rather than protecting the rights of only employers. In the event of a dispute, an employer can use the relevant provisions of the Consumer Protection Law, while domestic workers have limited options to settle disputes.

3) Organizing of Domestic Workers

Some Central and provincial government have issued interim orders giving domestic workers the right to join trade unions. However, because domestic workers are often not considered workers, they may not be able to join trade unions in practice. Even where permitted to join, they may not receive due protection on par with other workers.

- ***The All-China Federation of Trade Unions (ACFTU)***

The main objective and role of the ACFTU is to promote employment opportunity and provide job skills training among domestic workers. In June 2013, The ACFTU launched “Libai Domestic Service Promoting Employment Project”. 1000 domestic workers from Hubei, Anhui, Henan, and Guangxi came to Beijing for jobs. The organization provided service training, employment help and regulation, to serve as an example for other provinces.

Local trade unions also provide training for domestic workers. In September 2009, Xi’an Domestic Worker Trade Union was established as the first union catering specifically to domestic workers. The Research Center on Women’s Development and Rights at Northwestern Polytechnic University supported projects at the Union, including “Domestic Worker Self-help Group Network” and “Domestic Worker Trade Union Hatching.” More than 10,000 domestic workers have been trained at the Service Centre. By the end of 2008, the Xi’an Domestic Worker Union had over 800 members.

In January 2012, the first provincial domestic service trade union – Shandong Federation of Domestic Service Trade Unions, was officially inaugurated in Jinan to protect, mobilize, and exert enthusiasm and creativity of domestic workers.

In July 2011, Guangzhou established the first professional domestic training base called “Training Base for Domestic Workers of Guangzhou Federation of Trade Unions”, which provided training to enhance domestic workers occupational skills.

Yichang Federation of Trade Unions established domestic service agencies, created domestic training base, and promoted employment and re-employment of laid off workers

4) Roles of NGOs

The effect of NGOs on the progress of decent work for domestic workers is overall positive. Many of these NGOs are government affiliated.

- **Government affiliated organizations:**

- i. **Domestic Service Associations** – refers to industry level and non-profit organizations with the legal qualification of a social group. The China Domestic Service Association is the national group, and provinces and cities have local domestic service associations. Like industry associations, these groups aim at protecting members’ rights and interests by drafting norms and service codes, providing quality ratings for agencies, and providing training. Similarly those at provincial or city level do similar activities. Examples like the Beijing Domestic Service Association, in 2013 issued “Indoor Work Norms for Domestic Workers”, a “qualitative rating standard” for housework, containing information on time-based billing, home cleaning, caring for elderly, caring for totally incapacitated patients, caring for babies, and nursing specification for delivery women.

- ii. **Women’s Federations**

Women's Federations play an important part in helping unemployed women obtain jobs, start businesses, and protect their rights through guidance, skill training, providing employment opportunities, and communicating with agencies and employers.

All-China Women's Federation (ACWF)

On November 11 2009, ACWF held a "Develop Domestic Service and Promote Women's Employment Conference" in Wuhan, Hubei. The conference indicated that development of domestic services received wide support from society.

Local Women's Federations in Guangxi, Shaanxi and Guangzhou are instrumental in provide job skills training, promote employment opportunity to domestic workers and draft policy interventions.

In the new round of drafting "Women's Development Planning (2011-2020), the Women's Federation of Shaanxi Province considered local domestic service legislation of high importance in the "Women and Law" section. It has taken the initiative to begin drafting legislative proposals to address this.

The Guangzhou Women's Federation has trained a large number of star-level domestic workers, who have a good reputation in the market.

- **Non-governmental Organizations**

- i. Beijing Migrant Women's Club**

On April 7 1996 the Migrant Women's Club was founded by "The Farmer's Daughter Magazine" of "China Women". The club is now part of Beijing Culture Development Center for Rural Women. The club was the first organization to service rural women in search of work in cities. To help protect rights of migrant women and improve their quality of life, the club has a number of activities including "Legal Service Team of Migrant Women's Club", which provides legal advice, training, and emergency judicial assistance for women.

The club caters to migrants in Beijing and has visited transit areas where domestic workers come into town and organized questionnaires for the workers. The club has established a support network by setting up support groups. It has drafted "Beijing Regulations on Protection of Domestic Workers", and publishes a monthly "Domestic Workers Express" newsletter.

In 2009, the club collaborated with the International Labor Organization (ILO) and Oxfam Hong Kong to hold "Decent Work for Domestic Workers and Employment Promotion" in Beijing. Representatives from government, universities, and the domestic industry discussed problems in the industry and future development of domestic workers rights and determined that to achieve decent work for domestic workers, discrimination must first be eliminated, and effective legislation and policies must be introduced.

In 2011, the Club and domestic workers participated in drafting a convention on "Decent Work for Domestic Workers", and called on China to clarify the legal status of domestic workers as soon as

possible to solidify their status as an employee under the law, extending them the same protections as other workers.

ii. Oxfam Hong Kong

Oxfam Hong Kong was established in 1976 to address poverty alleviation and disaster relief in mainland China, including domestic workers. The group helped establish the first domestic workers union in China – the Xi'an Domestic Workers Union. The group funded “Research on Discourse Power of Domestic Workers – Based on Cases of Domestic Workers in Xi'an, Jinan, and Beijing, which was completed by the Women's Media Monitoring Network and Global Poverty Elimination Association (China).

In October 2003, Oxfam Hong Kong and UNESCO supported the “Domestic Workers Supporting Network Project”. In December 2011, Oxfam Hong Kong jointly held “Twenty-first Century Social Forum ‘International Symposium on Legal Policy for Work-related Injury Insurance of Domestic Workers’ with the Economic Law Department and Chinese Rural Economy and Law Creative Research Center of Southwest University of Political Science and Law. From 2010 to 2011, Oxfam funded several relevant domestic projects in China mainland, such as Anhui's “Related Legislation Research on Domestic Workers in China”; Beijing's “Community Impact Plan on Domestic Workers' Decent Work”, “Construction on Service and Organizing Ability of Domestic Workers”, “The Farmer's Daughter Domestic Service Group Support Project”; Chongqing's “Research Publications and Seminar on Domestic Workers' Labor Rights Protection”, “Research on Legal Policy on Domestic Workers' Work-related Injury Insurance”; and Shandong's “Jinan Network Support Project for Female Domestic Workers”, among others.

In conclusion, non-government organizations such as Beijing Migrant Women's Club and Oxfam have made significant contributions to the progress and protection of domestic workers.

5) Conclusion: Decent work challenges

In China, domestic workers are not considered workers. The progress of domestic workers has not been commiserate with China's growing economic situation. The labor rights of domestic workers have not been fully protected, and the existing labor law does not adequately protect domestic workers.

i. Lack of formal contracts

After the introduction of Labor Law in 1994, China began using a labor contract system. Domestic workers are still not entirely included under the scope of this law. However, domestic workers should be signing a work contracts. A low percentage of domestic workers sign contracts because agencies prefer to avoid legal responsibility in the event of a workplace injury or dispute. Many domestic workers are not aware of the importance of a legal contract nor of the variations between contracts. In a survey conducted in Shenzhen in 2010, only 11.11% of women surveyed had signed employment contracts.⁵

⁵ Hu Dawu, on the Protection of the Labor Rights of Domestic Workers in China's

ii. Physical and mental risk

Domestic workers are particularly vulnerable to human rights abuses.⁶ Because of the nature of their work, they are exposed to stress, health risks, and occupational fatigues. Long working hours, loneliness, lack of control over work and poor social support compound these risks.

Because domestic workers are isolated in the household, they are often expected to be 'on call' around the clock, and have very little or irregular opportunities for rest.⁷ Most workers have the opportunity to visit family only once a year during Spring Festival,⁸ however this is subject to approval by their employer. Domestic workers must be guaranteed the rights to rest time and vacation which other workers are entitled to. Working hours is an issue requiring serious attention.

Cases of abuse have been reported in China. Because the current system provides no legal protection for domestic workers, they are entirely dependent on their employer, increasing their vulnerability. Cai Ming Ming, aged 19, said she was beaten and tortured by her employer, named Wei Juan, to such an extent that she was left disfigured. Her employer, Juan received twelve years in jail.⁹ In another case, Sun Xiuping, 18 years old, died after being bitten by her employer, who was sentenced to only a two year reprieve by Fu Zhou Intermediate People's Court in 2005.¹⁰

iii. Low wages

As mentioned, the wages of domestic workers are generally low and typically range from 500 to 3000 yuan per month. Many workers are hired by the hour, and work for more than one family. In the Changjiang River Delta area, 74% of domestic workers surveyed said that they are paid below the state-required minimum wage of 1100 Yuan per month.

Developed Areas - an Empirical Analysis of Shenzhen, Journal of Henan University of

Economics and Law, volume5-6, 2011,p .

⁶ Lonnie Golden, The effects of working time on productivity and firm performance: Conditions of Work and Employment Series No. 33,

⁷ <http://www.ilo.org/travail/areasofwork/domestic-workers/lang--en/index.htm>

⁸ Wang Zhuqing, A Study on the Necessity of Legislation on the Protection of Domestic Workers' Labor Rights and Interests, Journal of University of Science and Technology Beijing (Social Sciences Edition), Volume 26, No.5, Jan, 2010.

⁹ Guangdong Provincial Higher People's court, Cai ming ming v. Wei Juan [2007] YGFF Crim 53

¹⁰ Lin Chew, on the Protection of Domestic Workers Against the Threat of Forced Labor and Trafficking, P3, 2003.

The paper prepared for Anti-Slavery International by Lin Chew, in cooperation with the ILO's Special Action Programme to Combat Forced Labor.

Domestic workers rarely receive overtime pay as they are not considered workers under the labor law. This is a critical demand of workers that would help to improve their low income levels.

iv. Lack of privacy

People have a basic right to privacy without fear of intrusion or interference. Domestic workers are vulnerable to abuses of privacy, especially when they are working as a 'live-in' workers.¹¹ The right to privacy of domestic workers has not been adequately addressed, and very little enforcement effort has been made. Typically, regulations are concerned about the employer's privacy, rather than the worker's.

Invasion of workers privacy is another area of concern and can occur in a number of ways: monitoring phone conversations, restricting access to others, opening mail, and searching the workers private effects and room. Domestic workers find it difficult to maintain a private life separate from that of the employers.

In 2014, a 19 year old girl named Lixue was employed by Mr. Gao in Xi'an. The girl kept diaries to reconcile her homesickness from being away from her family. After three months Li's diaries were seen by her employer, who dismissed her after finding himself being blamed in her diaries. He found that her employer had written malicious comments in her diary.¹²

Laws should be introduced to protect domestic workers right to privacy and reasonable expectation of confidentiality.

v. Lack of Social Security

In China, social security is divided into social insurance, social special care, social welfare and social assistance. The implementation of these various rights depend on the worker. If a domestic worker has an informal relationship with particular households, they are not regarded as employees under the labor law, and are not granted any social security rights. On the other hand, if domestic workers are recruited by agencies, the agencies may offer salaries that are too low to afford the social security scheme, so many domestic workers forego it, violating the labor law. Without insurance, if these workers become injured, their families must bear the expense.

¹¹ The Equality and Human Rights Commission ,Human rights at home: Guidance for social housing

providers,P10. www.equalityhumanrights.com/.../human_rights_at_home.doc=2014. 2. 23

¹² Ke Ying, the employer was sued for stealthily malicious annotations on domestic worker' s diary book, Law & News, Volume 1. 2005

Work related injuries are extremely relevant to domestic workers, as they are exposed to common injuries. Severe risks include exposure to chemicals, and hot and boiled water. Frequently stooping or stretching can make them susceptible to physical illness. In a survey conducted in Chongqing, when agencies were asked how participating in work-related insurance would affect the commercial performance of your company, 60% of respondents said “it would severely impede the performance of our company”.

With such ambiguous laws, if an injury occurs, there is often a dispute over the responsibility. Some regions in China did positive explorations to promote implementation of work-related insurance. In Shanghai, the household that hires a domestic worker is obliged to buy commercial insurance for them. In 2001, the Regulation on Domestic Service Industry in Shenzhen Special Economic Zone explicitly prohibited domestic service agencies from providing domestic service as an ‘intermediary’ and required them to participate in work-related insurance. However, the Shenzhen model does not cover workers who are not registered with a service agency.

In conclusion, domestic workers in China are denied of legal rights protection for decent work. Although central and local government have made strides to protect domestic workers rights, legally domestic workers are not considered to be workers. Without this legal and social status, their entitlement to social insurance, career training, and recognition of rights are unattainable.

There is no cohesive or unified policy concerning domestic workers in China. Administrative rules have been issued by the government to develop the industry, but these are not about protecting the rights of domestic workers. Directives and rules are issued by different parts of the government, and they sometimes overlap or conflict with one another. No uniform way to protect domestic workers exists.

The government authority which is ultimately in charge of domestic service industry is unclear or unknown. The Commercial Bureau, the Labor Department as well as the Ministry of Civil Affairs all have power to regulate the industry, however the spectrum of their administrative power is not clearly defined, which leads to conflict in practice.

Domestic workers are not organized. The existing unions affiliated to the ACFTU are concerned with training and employment provisions. Worker rights protection is being ignored. NGOs such as the Women’s Federation, though they play positive role in employment and legislation promotion, are hindered in fully protecting worker rights.

To achieve decent work for domestic workers in China, the first and foremost action is to legally recognize that domestic work is work and domestic workers are workers.

- End -