



# GENDER-BASED VIOLENCE AND HARASSMENT AGAINST DOMESTIC WORKERS : CASE STORIES FROM ASIA



International Domestic Workers Federation



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International Domestic Workers Federation (IDWF)

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### **About International Domestic Workers Federation**

The International Domestic Workers Federation (“IDWF”) is a membership-based global organization of domestic workers. Its goal is to build a strong, democratic and united domestic workers global network to protect and advance domestic workers’ rights everywhere. As of March 2020, IDWF has 74 affiliates from 57 countries, representing over 500,000 domestic worker members. Most are organized in trade unions, and others in associations, networks and workers’ cooperatives.

**[www.idwfed.org](http://www.idwfed.org)**

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### COVER PHOTOS

Top row left: Ivan Abreu/Rights Exposure © CC BY-NC-ND – Baby Jane Allas during interview for the documentary “The Price of Justice”, 12 March 2019.

Top row middle: Celebration of International Domestic Workers Day on 16 June 2019. Photo : FADWU

Top row right : Jala PRT Indonesia

Middle row (both photos) : GKS India

Third row left : Kompas.com/Robertus Belarminus

Third row middle : Jala PRT Indonesia

Third row right : NDWF India

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## Poem by Murni, Indonesia, 24-9-2016

The wheel of life will continue to spin  
Joy and sorrow, happiness and misery  
Sweet and bitter  
Even though it's bitter that I live  
I will continue to smile  
For all  
Who are near me  
I will continue to fight  
For the sake of defending justice for everyone  
And for my beloved world

MURNI APPEARING IN COURT



PHOTO : [WWW.WOWKEREN.COM/BERITA/TAMPIL/00101360.HTML](http://WWW.WOWKEREN.COM/BERITA/TAMPIL/00101360.HTML)

Roda kehidupan akan terus berputar  
Suka maupun duka, senang maupun susah  
Manis maupun pahit  
Meskipun pahit yang aku jalani  
Aku akan tetap terus tersenyum  
Untuk semua  
Yang ada di dekat ku  
Aku akan terus berjuang  
Demi membela keadilan untuk semua orang  
Dan duniaku tercinta





## ABBREVIATIONS

ADW	Association of Domestic Workers, Cambodia
C189 and R201	ILO Convention No. 189 and Recommendation No. 201 on decent work for domestic workers
C190 and R206	ILO Convention No. 190 and Recommendation No. 206 on eliminating violence and harassment in the world of work
DWO	Domestic Workers' Organization
FADWU	Hong Kong Federation of Asian Domestic Workers Unions
GKS	Gharelu Kaamgar Sangathan, Domestic Workers Organization in Gurgaon, India
IDWF	International Domestic Workers Federation
ILO	International Labour Organization
JALA PRT	Jaringan Nasional Advokasi Pekerja Pembantu Rumah Tangga or National Network for Domestic Workers Advocacy, Indonesia
NDWM	National Domestic Workers Movement, India
NDWWU	National Domestic Women Workers Union, Bangladesh
SKDWA	Sandigan Kuwait Domestic Workers Association
UN	United Nations
UNITED	United Federation of Domestic Workers in the Philippines

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DOMESTIC WORKERS CELEBRATING INTERNATIONAL DOMESTIC WORKERS' DAY. MALAYSIA : 2019-6-16

*In memory of*

*Sabina Khutan (2000-2014) and Srey Mom (1990-2020)*

*Rest in peace, dear Sisters, in a place where there is no more pain or sadness.*

*Your courage and sacrifices spur us to continue fighting for rights and justice for all domestic workers, for decent working and living conditions free from violence, harassment, and discrimination.*

## FOREWORD

Domestic workers, the vast majority of whom are women, work hard to escape poverty and earn a decent life for themselves and their families. Like other workers, they want to earn a living wage, be treated with respect and dignity, and have access to labour and social protection.

Yet, all too often, domestic work is hardly valued and poorly paid. This is because domestic work is done by women, and is similar to the unpaid care work that women do for their own families at home. Domestic work carried out in the households of others is rarely seen as real 'work', but rather as just something 'light' and 'easy' that mostly women, and often children, do to 'help out'. As a result, domestic workers are rarely defined as 'workers'. They are excluded from effective protection under the law and are at high risk of abuse, intimidation and exploitation.

We, domestic workers who work and often live in the private households of others, face a high risk of suffering from harassment and violence, including gender-based





FADWU IWD RALLY - FIGHT FOR GENDER EQUALITY, END VIOLENCE AGAINST WOMEN. HONG KONG. [PHOTO: YEE TING MA]

violence. We are mostly women and girls, sometimes boys and men, who come from disadvantaged population groups, and do invisible work in isolation outside of the public eye. Abuse, or just the threat of it, makes us work excessive hours, accept no or very low wages, and carry out dangerous tasks. We despair, we are hurt, damaged, and sometimes broken. Domestic work is one occupation where slavery abounds in the world today. Some of us are sequestered, not allowed ever to leave the homes where we are employed, and some of us fall victim to rape, torture, and murder.

We, domestic workers united in the International Domestic Workers Federation (IDWF), feel strongly that such abuse must end. We have worked hard for the adoption of international labour standards on decent work for domestic workers in 2011, and the elimination of violence and harassment in the world of work in 2019. All domestic workers deserve to enjoy the same rights as other workers. They are entitled to a job and a life free of violence. This message needs to become widely known, as too many domestic workers continue to suffer in silence.

Asia is the region with the largest number of domestic workers. Four out of every five domestic workers are women, and many of them are children, mostly girls but also boys. Many Asian women migrate to work beyond their home communities and countries. They earn an income for their families, but at substantial risk to themselves. They are discriminated against because they are women, and because of their ethnicity, colour, race, religion, social origin, caste, class or nationality. They face an abuse of power because they have a lower social and economic status than their employers.

We, domestic workers' organizations from Asia and Kuwait and IDWF affiliates, have therefore produced this casebook, sharing real-life stories of Asian domestic workers who experienced and suffered from violence, and sometimes life-threatening abuse, because of the work they do. We also share the challenges, the successes and the difficulties we have faced in helping them to seek justice.

We hope that this compilation of stories on gender-based violence against domestic workers will raise awareness and motivate domestic workers and their organizations, employers and their organizations, governments, and a range of other actors and other organizations to act against the violence and harassment that many domestic workers face. We raise our voice and call for effective laws and enforcement mechanisms to prevent and stop this intolerable abuse.

**Novelita V. Palisoc** : *Executive Committee (titular member) from Asia, IDWF*

# Day 1 **What do you know about the last convention adopted by the International Labour Organization?**

In June 2019, ILO adopted Convention 190 on Violence and Harassment in the World of Work. The Convention addresses a significant problem and will help workers prevent and eliminate violence and harassment in the world of work.



THE 16 DAYS OF ACTIVISM AGAINST GBV: 2019-11-25~12-10

## INTRODUCTION

“

*Gender-based violence has been a silent killer of many domestic workers around the world as we are scared to speak out, afraid of losing our jobs. We need to lift our voices to stop this abuse.”*

**Myrtle Witbooi, President, IDWF**



The International Domestic Workers Federation (IDWF) was set up as a membership-based global organization of domestic workers in 2013. It grew out of the International Domestic Workers Network. As of March 2020, the IDWF has 74 affiliates from 57 countries, representing over 500,000 domestic worker members. A domestic worker is any person engaged in domestic work within an employment relationship. Domestic workers are organized in trade unions, associations, workers' cooperatives and networks. We believe that domestic work is work and that all domestic workers deserve to enjoy the same rights as other workers. We are building a strong, democratic and united global domestic workers' organization to protect and advance domestic workers' rights everywhere.

From 2009 onwards, the IDWN actively supported international labour standard setting on decent work for domestic workers. In 2011, the member States of the International Labour Organization (ILO), bringing together governments, workers' and employers' organizations from around the world, passed a most significant milestone when they adopted Convention No. 189 (C189) and Recommendation No. 190 (R190) to promote decent work for domestic workers.

C189 points to the high risk of violence against domestic workers: "... domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities." It says that domestic workers are particularly vulnerable to discrimination at work and other human rights abuses (Preamble), and calls for measures "to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence" (Article 5).

At the international level, in 2018, the IDWF contributed a Platform of Demands on Violence and Harassment against Women and Men in the World of Work to voice the concerns of domestic workers and support the ILO standard-setting process for developing international labour standards against violence and harassment in the world of work. In June 2019, at the International Labour Conference, the ILO member States adopted Convention No 190 (C190), and Recommendation No. 206 (R206) to eliminate violence and harassment in the world of work.

Internally, at the second IDWF Congress in South Africa in 2018, IDWF affiliates adopted a Resolution to Eradicate Gender-Based Violence, as one point of action for the coming five years. The Resolution calls for increased visibility of gender-based violence and advocacy for the elimination of violence and harassment in the world of work.

In Asia, the IDWF carried out, in 2017-2018, a survey on gender-based violence against domestic workers among 13 domestic workers organizations (DWOs) in 12 countries. The main findings were:

- All organizations had received complaints about violence and harassment faced by their members.
- Perpetrators were their employers, others in the employers' households, employment intermediaries or members of their own families or households.
- The most common types of gender-based violence experienced by members in their workplaces included economic abuse, psychological abuse, physical and sexual abuse, verbal abuse, and lack of access to appropriate food.
- Other less frequent but alarming types of violence were bullying, coercion, violations of privacy, and withholding of wages.
- Most of the participating domestic workers organizations treat gender-based violence as a top priority. They confirmed the need for awareness raising, advocacy and training on how to address violence and harassment among domestic workers, and for building effective partnerships and alliances to fight against it.



PHOTO : JALA PRT

In early 2019, the IDWF invited its DWO affiliates to narrate a case story on violence against domestic workers to increase the visibility of the gender-based violence and harassment confronting domestic workers in Asia, and to share how these DWOs helped the victims of such violence. Eight cases are narrated in the casebook, including one from the Sandigan Domestic Workers Association in Kuwait to add to the dimension of physical violence and harassment.

The IDWF has compiled these case stories with a view to:

- Identifying the different forms of gender-based violence and harassment against domestic workers.
- Deepening the understanding on why domestic workers are vulnerable to gender-based violence and harassment.
- Finding out about the difficulties and successful strategies in preventing and combating violence and harassment against domestic workers.

All case stories describe real-life situations. They tell the story of six domestic workers from Bangladesh, Cambodia, India, Indonesia, and the Philippines who faced violence in their own country, and two Filipina migrant domestic workers who were subjected to abuse in Hong Kong and Kuwait, respectively. Most of the stories showcase the most intolerable 'worst case' scenarios and the crippling effects of abuse on victims, but also their courage and resilience. They describe how laws apply to combat such violence, the barriers the DWOs had to overcome, and the strategies and practical measures they used to successfully act against such abuses.

The challenges are huge, as comprehensive laws and enabling mechanisms do not exist in the vast majority of countries. In the few where they do, there continues to be a lack of public awareness and institutional support for effective implementation due to gender and many other biases against domestic workers. To prevent harassment and violence from happening and to seek justice for the victims, the DWOs taking part in this report stressed the need for: information and communication, networking and organizing, support from public institutions and civil society, dedicated and persistent DWOs and their allies, and adequate financing.



**The IDWF would like to thank the domestic workers and the DWOs who shared their stories in this Casebook:**

- Murni and JALA PRT in Indonesia
- Srey Mom and ADW in Cambodia
- Riza R. Amahan and UNITED in the Philippines
- Sunita Ekka and NDWM and the GKS in India
- Anowara Begum and NDWWU in Bangladesh
- Maria and SKDWA in Kuwait, and
- Baby Jane Allas and FADWU in Hong Kong.

Thanks also go to Fish Ip for interviews and reviews, Elizabeth Tang for overall guidance, Siewhwa Lee for research, Yuenmei Wong, Neliën Haspels and Elsa Ramos-Carbone for drafting, writing and editing and Michéle Karamanof [m+m Studios] for design and layout.



# Murni and JALA PRT Jakarta, Indonesia

**Narrated by Lita Anggraini**

NATIONAL COORDINATOR, JARINGAN NASIONAL ADVOKASI PEKERJA PEMBANTU RUMAH TANGGA (JALA PRT OR NATIONAL NETWORK FOR DOMESTIC WORKERS ADVOCACY)



KOMPAS.COM/ROBERTUS BELARMINUS

## The abuse

Murni (not her real name) was born in 1995, into a Sundanese family in the district of Bogor, a hilly area outside Jakarta, the capital of Indonesia. Her father is a farmer and freelance driver, her mother is a homemaker, and she is the eldest of six siblings.

After completing elementary school at 12, Murni's aunt recommended her to work for a middle-class family in East Jakarta, a three-hour drive from her village in Bogor. She agreed, as she was promised that her employers would pay for her junior high school education. However, they did not; in fact, they never paid her any salary. Moreover, they provided her little food, and prohibited her from contacting or communicating with anyone other than them. She could not leave the house.

Murni was responsible for cooking, doing the laundry and cleaning the three-story family home of her employers who had also 'hired' three other domestic workers: a woman from Serang, a man from Tegal, and another, from Pardi. The female employer was a make-up artist and owned several beauty salons. The male employer was unemployed and assisted his wife in her business.

Murni's employers often beat her with physical objects, poured hot water on her, and burned her with an iron. They threatened her that any sign of resistance would be met with harsher treatment. Over the years Murni's family would come to visit, but her employers would ensure that they would not see her, claiming that she was fine, or that she was working elsewhere with their extended family.

One day, Murni's female employer accused her of having an interest in her husband. She punished Murni by stripping off her clothes and assaulting her vagina with chili and blows. She also assaulted the two male domestic workers forcing them to rape Murni. On another occasion, the female employer forced Murni to eat the feces of the cats in the house. As a result Murni developed tuberculosis from the infection.

### **Action against the abuse**

In 2016, when Murni was already 21 years old, the female employer badly injured her mouth with a broom. Murni found it unbearable, way past the breaking point for a normal person. She decided to escape from her abusive workplace. She climbed down the TV cable and ran straight to a neighborhood police post. She was extremely malnourished, weighing only 25kg., as the police report stated. An officer took her to the police hospital of East Jakarta, contacted her parents in Bogor, and got in touch with JALA PRT and the Women Legal Aid Institute (IPH APIK) in Jakarta.

### **DWO strategies and practical measures**

Together with the Institute, JALA PRT started an advocacy campaign to gain justice for Murni. They held press conferences, provided legal assistance and monitored the case closely. As a result, Murni's employers were brought to court in October 2016. They were found guilty and received a sentence of nine-year imprisonment. Murni's victory marked a milestone in the fight for the protection of women domestic workers in Indonesia.

Lita arranged for Murni to live in the JALA PRT shelter. The police officer made sure that the three other domestic workers who were abused in the same household, could stay in the government-run shelter. Murni's parents came to stay with her at the shelter sometimes. Murni's ardent wish was to continue her junior high school education as an adult student; her ambition was to become a spa massage therapy trainer. Her wish was granted when she completed her junior high school education at JALA PRT's school where teaching is provided by the Ministry of Education, Indonesia.

### **Challenges and the way forward**

Violence against women remains widespread in Indonesia. The Penal Code prohibits physical assault against another person. In 2004, Indonesia adopted a law to eliminate violence in the household (Act No. 23 of 2004). This law explicitly includes live-in domestic workers in the legal definition of the household. Thus, they are legally protected against physical, psychological, sexual and economic violence in the employer household. But many barriers exist to implement this law effectively, foremost of which is the failure to educate adequately the community and institutions about domestic violence.

JALA PRT and Komnas Perempuan (National Commission on Violence against Women) and many women's and gender equality organizations are continuing the campaign to eliminate violence against women. Since 2004, JALA PRT has also been at the forefront of developing and advocating for the passage of a *Perlindungan Pekerja Rumah Tangga* (PPRT or Protection of Domestic Workers Bill). Progress has been slow so far due to the lack of political will among the members of the Indonesian House of Representatives. However, in early 2020 the House finally started to deliberate this bill for the protection of domestic workers.

# Srey Mom and ADW Phnom Penh, Cambodia

**Narrated by Sothy Yim**

PRESIDENT, ASSOCIATION OF DOMESTIC WORKERS (ADW)



PHOTOS : ADW

## The abuse

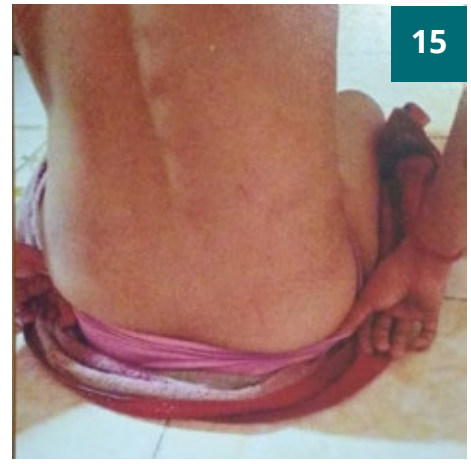
Ms. Srey Mom (not her real name), aged 29, is an orphan who was brought up by her foster mother. In 2006 when she was 16, she started working as a live-in domestic worker for a family in Phnom Penh, Cambodia's capital, earning USD120 per month. After three years working for the family, the father suggested that Srey marry his youngest son. Driven by poverty and the responsibility of taking care of her ill mother, Srey agreed to the marriage. She then started to work as a wedding and festival decorator, and received pocket money from her father-in-law in secret. She gave birth to two sons.

In 2015, Srey's father-in-law passed away. Her husband then started to ask her for money. She refused as she had never given him any before. Her refusal prompted her husband and mother-in-law to start physically abusing her. They would pull her hair, drag her down the staircase; often, her head would be covered in blood and she would have bruises all over her legs and arms.

## Action against the abuse

Srey told her neighbor, a policeman, about the abuse. Upon his advice she lodged a complaint with the local police post. But the police took no action against her mother-in-law, probably due to her influence in the community. When the tuk-tuk (auto rickshaw) driver who drove Srey to work, heard about the violence, he took Srey to meet with Sothy Yim, the President of the Cambodian Domestic Workers Network (CDWN). Then changes started to happen.





## DWO strategies and practical measures

Together with Somaly Hai, the CDWN Secretary, Sothy brought Srey to a human rights organization, the Cambodian League for the Promotion and Defense of Human Rights (LICAHDO), asking for their help. LICAHDO documented her case and assisted her in filing a criminal complaint in court. Sothy also helped Srey contact the Commune Committee for Women and Children (CCWC) by phone, but no one answered.

Soon after, Srey's husband filed for divorce. It proved difficult for Srey to attend the court hearings: once she collapsed in court, and often she became extremely disturbed emotionally when asked to recall and retell the events of abuse. In the end, due to her husband's drug use, the court gave Srey full custody over her two sons.

Sothy and Somaly had been supporting Srey financially from their personal money until they left CDWN in 2016 and set up the Association of Domestic Workers (ADW), Cambodia. The ADW took over the responsibility and found Srey a job as domestic worker. Nonetheless, she eventually lost the ability to carry out domestic work due to mental health problems. She ended up living with her mother, and worked as a waste-picker, earning only enough to buy food.

Four years after her divorce, Srey continued to be traumatized by the abuse, and heavily dependent on medical treatment. Driven by poverty and unable to pay for her medical treatment (USD3 for a monthly consultation and additional payment for medicines), she had to relinquish custody over her sons. Her mother died early in 2019, and she found it difficult to live alone since. She held a job at a restaurant with a monthly wage of USD120 without rest days; half of her salary went to pay for the rent. She lost this job after a few months. She then found work as a security guard, but her mental illness worsened as she had stopped her treatment. On 18 February 2020, after problems at work, she committed suicide.

## Challenges

In Cambodia, the Law on the Prevention of Domestic Violence and Protection of Victims was adopted in 2005, but this law cannot be enforced by commune chiefs or the police as implementing regulations have not been enacted and there is no specific timeframe for the complaints procedure. Thus, when victims of violence go to the police, they are advised to make a criminal complaint, and the criminal procedures under the Penal Code are used. While the Penal Code prohibits physical assault, it is difficult for victims of domestic violence to obtain justice. Srey Mom filed a criminal complaint in 2015, but she was never summoned to testify in court. Her case file was transferred from one judge to another several times, and a supporting lawyer was told in 2019 that her file had gone missing. There are suspicions that the police and other authorities were bribed by the family that Srey Mom married into after her employment with them as a domestic worker.

# Riza R. Amahan and UNITED Manila, Philippines

**Narrated by Himaya Montenegro**

DEPUTY SECRETARY GENERAL, UNITED DOMESTIC WORKERS OF THE PHILIPPINES (UNITED)



PHILIPPINES: UNITED PICNIC STYLE PROGRAM FOR DOMESTIC WORKER MEMBERS. [PHOTO: DEL BAÑARES VIA MAIA D. MONTENEGRO]

## The abuse

Riza R. Amahan from Kidapawan City, Cotabato province in the Philippines was 23 years old when she was recruited in early 2018 by an employment agency in Manila, the country's capital, to work as a domestic worker. After one month, her employer sent her back to the agency because she was sick and on medication, and asked for a replacement. Riza did not complain because her employer paid her a salary higher than the minimum wage and she was provided decent accommodation and enough food.

After losing her job, Riza R. Amahan was detained by the employment agency for more than a week. The male owner of the employment agency, Daniel, often insulted her using vulgar language and accused her of being lazy, flirty, and selling sex. She was not provided with a bed and had to sleep on the concrete floor, without a pillow or a blanket. She could not pay the electricity fee the agency was charging her and so was cut off from all communication with friends and relatives. Worst still, she was not given food and water and she was starving all the time.

## DWO strategies and practical measures

Riza told her relative, Maricel Hermosa, of the inhumane treatment she was receiving from the employment agency and her wish to escape without delay. She and Maricel, who was a member of the United Federation of Domestic Workers in the Philippines (UNITED), developed a rescue plan.

It was set in motion in coordination with the Department of Labor and Employment (DOLE) and the National Bureau of Investigation. When first approached by the government agents, the employment agency's owners denied Riza's complaints and demanded she pay PHP 6,000.00 (around USD114) for the recruitment agency's placement fee before she could be released. However, after long discussions, Daniel and his wife finally agreed to let Riza go with UNITED. DOLE personnel encouraged UNITED to help Riza file a complaint against the employment agency, but she refused to do so, citing that its owner Daniel was a retired government employee of the Barangay (District). She was traumatized, refused to lodge a complaint, and only wanted to return to her hometown to recover.



RIZA AND THE LEADERS OF UNITED. [PHOTO: UNITED]

## Progress and challenges

In 2012, the Philippines became the first country in Asia to sign and ratify ILO Convention 189 on decent work for domestic workers. A year later, in 2013, the Philippines adopted the Domestic Workers Act (Batas Kasambahay or the Act Instituting Policies for the Protection and Welfare of Domestic Workers). President Benigno S. Aquino III signed the Act into law in early 2013, and it took effect in mid-2013 after the promulgation of its Implementing Rules and Regulations (IRR). Since then, the law recognizes domestic or household work as a formal sector of labour in the Philippines. The Act extends labour and social protection to domestic workers in the country and protects them from abuse in the employer household.

In compliance with the Domestic Workers Act, employment agencies must ensure that the rights of domestic workers are protected. In the view of UNITED, the DOLE should further investigate, even if the victim was not able to lodge a formal complaint. However, because Riza did not make a formal complaint, no action could be taken against the perpetrators, except for UNITED using her case in awareness-raising campaigns and activities.

At the Barangay (district) levels, the DOLE, the Department of Social Welfare and Development (DSWD), and the Police are responsible for the rescue and rehabilitation of abused domestic workers. In practice, however, given that most employers and private employment agencies are closely connected to the Barangay officers in the districts where they are located, it is extremely challenging to implement the law and protect domestic workers from abuse.

The Philippines is the only country in Asia that has adopted a specific national law on domestic work. In the experience of UNITED, however, domestic workers in the Philippines are still vulnerable despite having the Act in place. The main reasons are:

- The workplaces of domestic workers are private homes, and the mechanisms to monitor actual conditions at work are weak.
- The Departments of Labor and Employment (DOLE) at the Barangay (district) levels are not well funded, hence lack people and money to carry out their duties according to the law.
- Most victims have low self-esteem and come from groups with a low social status in society. Without the help of the unions, associations, and government, it is difficult for them to seek justice.



# Sunita Ekka and NDWM Patna, India

**Narrated by Leema Rose George**

SOCIAL WORKER, NATIONAL DOMESTIC WORKERS' MOVEMENT (NDWM)



SUNITA WAS TRAUMATIZED BUT NOT CRUSHED. ON 8 MARCH 2016 SHE WAS AWARDED BY CIMAGE FOR BEING AN INSPIRATION OF CHANGE IN THE SOCIETY. [PHOTO: NDWM]

## The abuse

Sunita Ekka (not her real name) belongs to the Uraon tribe in Jharkhand. In March 2014, when she was 16 years old, a neighbour from her home village brought her to Patna, the capital of Bihar State in India, to work as a domestic worker for a family. She never got any pay for her work. Whenever the female employer was away for work, the male employer would sexually harass her. After four months, the male employer raped her repeatedly for three days. When she fought back, she was threatened with death. She reported this to the employer's wife, but ended up being beaten thoroughly by both husband and wife.

## DWO strategies and practical measures

One day when she went to pick up the employers' child from school, Leena, a domestic worker leader started to chat with her casually. Then Sunita started to cry and told Leena what was happening. Leena was able to convince Sunita to leave her job. The National Domestic Workers Movement's (NDWM) staff brought her to their office and an NDWM shelter. The next day, the NDWM helped her file a case with the police against the employer couple and the neighbour who brought her to Patna to work with this family. Sunita was kept at the police station for two days and taken for a medical check-up. However, the medical report showed that nothing had happened, probably because the police and doctors had been bribed. The NDWM demanded another independent medical check-up and this one confirmed that Sunita had been raped. However, no one was arrested, again because the local police had been bribed.

The NDWM helped Sunita approach higher-ranking officials and took her case to the State Legal Authority of Bihar State using Article 376 on sexual offences in the Indian Penal Code which specifies punishment for sexual assault and rape. Indian Rupees 1 lakh (INR100,000 or around USD1,392) was eventually paid to Sunita as compensation from the Bihar government under the 2014 Bihar Victim Compensation Scheme. However, until today, no one has been arrested.

Sunita has been very courageous in continuing the fight for justice. She was traumatized but not crushed by the abuse. With the assistance of NDWM, she got another job as a domestic worker and completed her 12th standard of education. She has moved forward in life, and is now a strong domestic worker leader. After several years of fighting, in March 2019, she finally received a call from the Criminal Investigation Department (CID), proposing that the case be brought under the Protection of Children from Sexual Offences Act (POCSO, adopted in 2012 and amended in 2019). However, with the changes in her personal life, she decided not to pursue the case anymore. Often, justice delayed is justice denied, even for a young woman as brave as Sunita.

## Challenges and the way forward

Apart from the long process of investigation by the police and in court, Sunita had to endure the notoriously intrusive 'two-finger test' (physical examination and further violation of her vagina) by the authorities. While Sunita was recovering at the NDWM shelter she was stalked by her male employer and the government did not provide any support or services during this time. However, Sunita was fortunate that she could recover at an NDWM shelter, because the government's Juniors Homes, where victims of abuse sometimes end up, are notorious for sexual abuse and rape incidents.<sup>1</sup> This is the reason why the NDWM decided to set up their own shelters for domestic workers who have been subjected to abuse.

The NDWM, the Self-Employed Women's Association (SEWA) and many other women's, workers' and child rights organizations in India have found that children and women from ethnic groups, the lower castes and lower income groups easily fall victim to abuse, rape and murder. Sometimes these atrocities are also recorded and circulated on the internet or on videotapes. Physical assault and rape are outlawed under the Indian Penal Code, but, in practice, it is difficult for victims to file a case with the police. When victims manage to do so with the help of a support organization, the police and/or the perpetrators and their families often threaten or pay the victims to withdraw the case.

The NDWM and other child, women and human rights organizations in India, therefore, recommend that:

- A separate court should be set up for investigating and prosecuting rape cases.
- A special unit should be set up in police stations to handle cases of rape or sexual assault.
- Female police officers should be assigned to attend to female victims (girls and women) of rape cases or sexual assaults.
- Women shelters and counselling services should be provided for the victims of rape, sexual assault, and other forms of violence and harassment.

*Sunita has been very courageous in continuing the fight for justice. She was traumatized but not crushed by the abuse...*

<sup>1</sup> See, for example, <https://www.aljazeera.com/indepth/features/tragedy-year-girls-raped-shelter-180731081743838.html> and <https://www.bbc.com/news/world-asia-india-45124802> (accessed 5 January 2020).

# Sabina Khutan and GKS Gurgaon, India

**Narrated by Elizabeth Khumallambam**

SENIOR COORDINATOR, GHARELU KAAMGAR SANGATHAN, GURGAON (GKS)



## The abuse

Sabina Khutan's body was found hanging on 29 January 2014 at the residence of the Beri family in Gurgaon, Haryana, India. Sabina was a domestic worker. She was 14 years old. Her parents were from West Bengal. Her father worked in Rajasthan for some time before the whole family moved to Nathupur village, not far from where the Beri family lived. Sabina was the youngest in her family, she had a brother and sister. Her father and brother worked on construction sites.

## DWO strategies and practical measures

On the day that Sabina was found dead, her family tried to file a case with the local police station. However, the police just sent them away. The family was distressed, having no idea where else they could go. A domestic worker and member of Gharelu Kaamgar Sangathan (GKS, a domestic workers' organization in Gurgaon, close to New Delhi, India's capital) got to know of the family's situation while distributing leaflets in a nearby area. At the around the same time, a relative of Sabina contacted GKS. The next day, GKS visited the family. After discussions, the GKS's legal team and two of Sabina's family members went to file the case with the police headquarters. Thereafter her body was taken to a hospital for a post-mortem examination.





Initially, the police refused to release the post-mortem report. GKS then mobilized domestic workers and the group gathered at the hospital to demand the report. GKS and its members said that if the hospital did not release the post-mortem report, they would refuse to take back the dead body. The hospital staff relented and gave the report to Sabina's family. This first report said Sabina died of asphyxia, there was no mention of abuse. GKS and the family did not believe the report. According to Sabina's family, her feet touched the ground when she was found hanging, and her body bore injury marks on her face and neck, indicating physical assault. Because of the protest at the hospital, two GKS activists were also arrested and detained by the police on false charges of hooliganism. They were released at midnight.

GKS then filed a complaint in the District Court and demanded another post-mortem examination at another hospital — the PGI Rohtak in Haryana. The District Court agreed and immediately ordered the police to re-perform the post-mortem examination. Meanwhile, the Beri family offered Sabina's family INR 300,000 or 3 lakhs (around USD4,178) if the family would stop the inquiry into Sabina's death. The family refused and demanded full justice for Sabina, because the second post-mortem report was different and confirmed the family's suspicion that Sabina's body had been sexually violated. The GKS then demanded that the police investigate the Beri family. Blood samples of four suspects — the father, two sons and the driver — were sent for DNA testing.

From February 2014 onwards, the GKS called on a wide range of different government offices to demand a thorough and timely investigation. They approached the National Commission for the Protection of Child Rights (NCPCR), the National Commission for Women (NCW), the Police Commissioner, the Chairperson of the Minority Commission in New Delhi, and the Police at different levels, as well as members of the Legislative Assembly, and the members of the Municipal Corporation of Gurgaon. Finally, on 11 November 2014, a public hearing was organized by the National Platform for Domestic Workers, and Sabina's case was heard. The Chairperson of the National Commission for Women (NCW), Smt Lalitha Kumaramnagalam, who was a Jury member at the Public Hearing said she would look seriously into this particular case and take the necessary action.

However, the forensic report was still not released to the family. So GKS approached different government units to demand the release of the report. In February 2015, with GKS's assistance, Sabina's brother filed an RTI (Right to Information request form) with the Director General of Police, Haryana to obtain information about the police investigation and the DNA test report. The next year, in January 2016 a writ petition was filed at the Chandigarh High court for investigation by the

Central Bureau of Investigation, challenging the delay in the release of the forensic laboratory analysis report of the second post-mortem. After all these efforts, in December 2016, Sabina's family and GKS finally got the FSL (First Information Report) which stated clearly that the DNA of the seminal samples of the accused Apoorva Beri, one of the Beri family's sons and Om Prakash, the family driver, matched that of the samples of vaginal swabs taken from Sabina's body. The test proved that the two accused had sexually assaulted the victim. As Sabina was a minor, the charge was made under the Protection of Children from Sexual Offences (POCSO) Act, 2012.

When the Police issued warrants to arrest Apoorva Beri and Om Prakash in January 2017, they had both fled the country. In March 2017, Sabina's family was persuaded to withdraw the case in return for INR800,000 or 8 lakh Indian Rupees (around USD11,140), but on 29 March 2017 the judge at Chandigarh High Court rejected the withdrawal. However, on 30 March 2017, while the lawyers were on strike, another judge shockingly accepted the withdrawal of the case. GKS then filed a lawsuit at the court to review the dismissal of the case. As both suspects had fled India, GKS contacted the Ministry of External Affairs for advice. The Ministry stated that they could not do anything without a court order. Hearing this, the GKS filed the case under the name of GKS at the court again. In March/April 2018 the court declared Om Prakash, the family's domestic worker as a proclaimed offender, but not Apoorva Beri.

GKS continued to press for a court hearing. The Chandigarh High Court then arranged for a hearing scheduled on 18 March 2019. However, on this date, the case was not shown in the list of the court hearing. Until now, GKS's lawyer is still pressing the court to have a hearing to question why Apoorva Beri was not declared as proclaimed offender. After five long years, no one has been arrested.

The Beri family is powerful and they probably bribed the police to stop or delay the investigation. The villagers were silenced, and GKS cannot get more information about the family. Police investigators are hostile to Sabina's family and the GKS. The first police report was a fraud, and it has taken the organization and the victim's family many efforts for over five years to demand a proper investigation and the release of the second post-mortem and the DNA reports.

## Challenges and the way forward

The experience of the GKS shows that to move a case forward requires constant action to pressure the police, the courts, and the different government departments at all levels. Unfortunately, it is not easy for a commoner to file a successful complaint under the Prevention of Corruption Act, as the authority does not act without concrete evidence, and the process is very time-consuming. Moreover, if the complaint is not proclaimed to be a case of corruption, the one who made the complaint may be sued and accused of wrongdoing.

The GKS considers that the case of the rape and murder of Sabina points to a root problem in the Child Labour (Prohibition and Regulation) Act because this law only prohibits child labour in domestic work for children under 14 years. But minors between 14 and 18 years are considered as adolescents, and there are specific provisions in the law prohibiting them from engaging in some hazardous work. However, domestic work is not regarded as 'hazardous work' for adolescents and, thus, those between 14-18 years can be employed as domestic workers.

Another problem relates to the lack of enforcement of the law. Labour inspectors can inspect factories or other formal working places, and if there is a violation of the law, the licenses of the factory or company will be revoked. However, there are no labour inspectors to check on the hiring of child labour in private homes. Hence, child labour in domestic work is still rampant in India.





PHOTOS : GKS

It is the firm view of the GKS that children must have the right to education, and children and adolescents under 18 years should be prohibited from engaging in domestic work which should be classified as hazardous for those under 18. There should also be a separate law and policy to protect domestic workers, define their employment and welfare conditions and recognize their rights with clear regulations and implementation measures, including labour inspection in the private households where domestic workers are working.

Like the NDWM (National Domestic Workers Movement, India), the GKS advocates the setting up of a separate court and separate police units with women officers to take up cases of sexual abuse of children and women, including those in domestic work. Such independent and specialized units for victims of sexual abuse, the majority of whom are women, will help to speed up the investigation and judicial processes.

Another institutional weakness that needs to be addressed is that national commissions like the National Commission for Protection of Child Rights (NCPCR) and the National Commission for Women (NCW) currently only act as advisory bodies to the government, and do not have the authority or institutional power to order government departments to act. The Commissions should be given more power to issue orders, and their directions should be binding. For example, if a commission asks a government unit for a reply and there is no response, the commission should have the authority to require the concerned unit to come to the commission to provide explanations.

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*However, domestic work is not regarded as 'hazardous work' for adolescents and, thus, those between 14-18 years can be employed as domestic workers.*



# Anowara Begum and NDWWU Dhaka, Bangladesh

**Narrated by Murshita Akter**

GENERAL SECRETARY, NATIONAL DOMESTIC WOMEN WORKERS UNION (NDWWU)



The National Domestic Women Workers Union (NDWWU) assisted Ms. Anowara Begum, aged 35, to get three-months unpaid wages from her male employer Jahid through direct and swift collective action by domestic workers.

## The abuse

Anowara worked as a part-time domestic worker for Jahid's family in the Demra area of Dhaka, the capital of Bangladesh, from August to October 2018. Initially, her employer agreed to pay her 1200 Taka (around USD14) per month for this job. However, he forced her to do cleaning and washing fulltime for the same monthly salary, and he did not pay her any wages for the three months of work.

At the beginning of October 2018, Anowara accidentally dropped a drinking glass while she was washing the dishes after breakfast. Her employer was furious. After abusing her violently, he dismissed her without paying her wages. He slapped and hit her backside, pulled her hair and dragged her down from the third all the way to the ground floor, chasing her out from the apartment. Anowara's head was aching badly and she had pains all over her body.

## DWO strategies and practical measures

After the incident, Anowara who is a member of the NDWWU approached Ms. Shahanur Begum, the NDWWU Organizing Secretary of Demra area. The next day, with the help of NDWWU, 50 domestic workers from the Demra area went to her employer's house and demanded the payment of the unpaid wages to Anowara. The employer became worried after seeing a large group of domestic workers under the banner of the NDWWU and paid the amount instantly. Nevertheless, he deducted 20 Taka for the broken glass from the wage payment.

## Challenges and the way forward

Almost 100 per cent of domestic workers in Bangladesh are women and they face the same problems as Anowara. This case story shows how a domestic worker falls victim to physical and economic gender-based violence, because she is a woman. It is easy to abuse women through physical assault, and exploit them economically by increasing working hours without wage increases, and postponing and withholding wages.

In Bangladesh, the laws to combat violence and harassment of domestic workers include the Penal Code, the Bangladesh Labour Act of 2006 which was amended in 2018 in line with ILO standards, the Prevention of Oppression against Women and Children Act of 2000, and the Overseas Employment and Migration Act of 2013.

In addition, a Domestic Worker Protection and Welfare Policy was adopted in 2015 and, in 2009, the Supreme Court issued Guidelines on the Elimination and Prevention of Sexual Harassment Policy. However, the 2006 Labour Act has not been amended to include domestic workers. For this reason, the 2015 policy to protect domestic workers and the 2009 guidelines against sexual harassment are not enforced effectively.

The NDWWU believes in the power of organizing. During the last two years, the union has organized domestic workers in different areas in Dhaka and other cities and has provided some of them with training on networking and organizing, and on gender-based violence and how to prevent and address it. The NDWWU wants to showcase the power of organizing through direct, practical interventions. When a domestic worker faces a problem with the employer, quick networking among domestic workers results in employers being confronted by a large group of unionized domestic workers. Usually, employers feel scared when they see the union come with a big group of domestic workers and they will be willing to talk and listen. This puts pressure on employers to negotiate and give in to justified demands.

The NDWWU has found that this organizing and networking strategy is successful in many cases as the outcome of negotiations tends to be in favour of the workers and helps them to get justice. The alternative, legal action, is time consuming and incurs expenses. The domestic worker victim will frequently need to pay travel costs and forego wages to attend the court case hearing and, in the end, it is unsure whether justice will be upheld. The NDWWU, therefore, chooses group action to solve problems directly between a domestic worker and her employer and, whenever it is possible, to blame and shame an employer into honouring a domestic worker's rightful claims.

*Almost 100 per cent of domestic workers in Bangladesh are women and they face the same problems as Anowara.*

# Maria and SKDWA

## Kuwait City, Kuwait

**Narrated by Mary Ann Abunda**

FOUNDING CHAIRPERSON, SANDIGAN-KUWAIT DOMESTIC WORKERS ASSOCIATION (SKDWA)



[HTTPS://UNSPLASH.COM/PHOTOS/I4VDYNVEIBS](https://unsplash.com/photos/i4VDYNVEIBS) [TONY YANG]

### The abuse

Maria (not her real name), a migrant domestic worker from Zamboanga City in Mindanao, Philippines, started working as a domestic worker in Kuwait in November 2017. She was 32 years old. She worked for a family of three — a husband and wife, and their 13 year old daughter. Like many migrant domestic workers in the Gulf, she was intimidated, locked up, beaten daily, and was not paid her wages in full.

During the job interview, Maria's female employer showed her a fake Kuwaiti policewoman's badge pretending that she was a Kuwaiti policewoman, although the family did not come from Kuwait. The abuse started after the employers discovered a picture of their daughter in Maria's wallet. She was accused of being a paedophile and suspected of committing sexual offenses against their daughter. The female employer forced Maria to express her ill intention towards their daughter in front of a video camera. She told Maria that the video would be submitted to the police and that she would be hanged.

Maria was scared. She did not dare to disobey her employer as she thought she was a policewoman. The next day, in distress, she forgot to rinse away the detergent in the teapot before making tea. She was accused of attempted murder by her female employer and forced to drink the contaminated tea from the teapot as well as a bottle of detergent. Since then, Maria was assaulted by her employer with an iron, scissors, a glue gun, knives, and sticks on a daily basis. Her employer also cut her hair forcibly, injured the skin of her head, and then poured vinegar onto her wounds.





One day, her employer beat her up heavily with a stick. The beating was so severe that Maria felt she was dying. At that moment she decided to seek help by posting a video on Facebook using the tablet of the employers' daughter.

LEADERS OF FILIPINO  
MIGRANT DOMESTIC  
WORKERS FROM  
DIFFERENT DESTINATIONS  
AT A CONFERENCE IN  
DECEMBER 2019.  
PHOTO : IDWF

### DWO strategies and practical measures

The post caught the attention of the Sandigan-Kuwait Domestic Workers Association (SKDWA), and they requested the Philippines Embassy in Kuwait to help. When the Embassy sent a representative to visit Maria's workplace, the employer denied the abuse. Maria remained very fearful and refused to leave the abusive household. Later, in April 2018, the Embassy lodged a complaint with the Kuwaiti police for Maria to be taken away to the police station for investigation.

At the police station, Maria remained silent the whole time. Ann, an SKDWA leader, came to meet her at the station and discovered that all her bruises were underneath her scarf and clothes. Maria did not use her arms to protect herself when she was beaten. Ann requested the Embassy to allow her to speak to Maria privately, and only then did Maria reveal her concerns about the video clip. A lawyer assured her that the employer could not use the video clip against her. On the contrary, the video clip could be used as evidence to bring the employer to court. After a month of communication, Maria finally agreed to file a complaint with the Kuwaiti police and authorized a lawyer from the Philippines Embassy as her Special Power Attorney (SPA) to represent her in the Kuwaiti judicial procedures so she could return home.

Nonetheless, until now there is no news yet about the case. Maria is back home and still suffers psychologically from the abuse – she is traumatized and she vomits a lot whenever she smells detergent.

### Challenges

In Kuwait, physical assault and rape is covered by criminal law, and the employment of migrant domestic workers from other countries is regulated by immigration and labour laws. Law No. 68 on Employment of Domestic Workers of 2015 states that it is not permissible to humiliate the domestic workers' dignity.

The SKDWA finds that the Kuwaiti police generally does take action when abuse of domestic workers is reported. However, few cases are reported to the police due to language barriers, and intimidation and reluctance of the victims to report abuse because their employers and the police live in close-knit communities, where police officers may well be relatives of the perpetrators.

Migrant domestic workers, like Maria, also hesitate to report violence and harassment, because the immigration laws in Kuwait, as in many other countries, prohibit migrant workers from leaving their employer and find a new one without the consent of the original employer even if this employer abuses them.

# Baby Jane Allas and FADWU Kowloon, Hong Kong

Narrated by Kamei Lau

ORGANIZING SECRETARY, HONG KONG FEDERATION OF ASIAN DOMESTIC WORKERS UNIONS (FADWU)



BABY JANE ALLAS AND FADWU LEADERS AFTER THE HEARING AT LABOUR TRIBUNAL ON 15 APRIL 2019. [PHOTO : FADWU]

## The abuse

Baby Jane Allas, a 38 year old Filipino migrant domestic worker, was employed by a woman, Jamil, from September 2017 until she was fired in early 2019. It was tough working for Jamil's family. Baby Jane had to take care of five adults and Jamil's father suffered from a chronic disease. Baby Jane was not provided with the proper accommodation and food that she was entitled to according to the employment contract. Only leftovers or biscuits were provided and she slept in a folding bed in a storage room behind the stairs.

Baby Jane did not enjoy a full rest day every week, as she had to walk the dogs, clean up, and serve the family during her supposed day off. According to Articles 2 and 17 of Hong Kong's Employment Ordinance, one rest day should be granted to an employee every seven days, and a rest day means a period of uninterrupted 24 hours. However, many employers violate the law. They ask their migrant domestic workers to prepare breakfast on Sundays, or other rest days before leaving, and require them to come back home by 6 or 7 pm to clean up.

In January 2019, Baby Jane consulted a doctor after she had been feeling unwell for quite some time. She was diagnosed with a stage-three cervical cancer. The doctor issued a medical certificate that granted her three weeks of sick leave. However, informed of this matter the employer fired her and gave her a termination letter clearly stating as the ground for termination: 'diagnosed with cervical cancer'.

The loss of her job meant that Baby Jane lost all the rights she was entitled to as a Filipina migrant domestic worker in Hong Kong. First, she had to forego her right to sickness days to which she was entitled under the Employment Ordinance (S.33, Ch.57). Second, she lost the right to free provision of medical treatment during the employment period which is stipulated in the Standard Contract for domestic workers (clause 9, ID 407). This contract requires employers to provide free medical treatment to their workers, and the authorities advise them to buy medical insurance for their workers.

Baby Jane's dismissal had further far-reaching negative effects. Migrant domestic workers with a valid work visa and employment contract receive a Hong Kong identity card with resident status but this card becomes invalid two weeks after employment termination. So Baby Jane lost not only her employment status but also her resident status two weeks after the dismissal.

### **Action against the abuse**

Baby Jane filed a complaint against her employer, enabling her to acquire a visitor status from the Immigration department. This has allowed her to stay in Hong Kong and pursue her case. However, with a visitor status, Baby Jane is not allowed to use public healthcare services nor is she allowed to work.

Baby Jane asked her sister, Mary Anne, who is also a domestic worker in Hong Kong, for help. Assisted by Mary Anne and her employer, Jessica, Baby Jane left Jamil's family home and moved in with her sister in Jessica's home. Jessica gives her full support for her stay and means of living and has raised money through a donation campaign to cover her medical fees.

### **DWO strategies and practical measures**

With the help of her sister's employer, Jessica, and the FADWU, Baby Jane filed two separate complaints arguing, first, that the dismissal is unlawful under the Employment Ordinance and, second, that it amounts to employment discrimination under the Disability Discrimination Ordinance (Ch. 487). The first complaint was filed with the Labour Department and the second, with the Equal Opportunities Commission (EOC).

Upon receipt of the complaint, the Labour Department set up a conciliation meeting between the employer and worker to explore the possibility of a settlement. Baby Jane's former employer, Jamil, did not turn up at this meeting, claiming that she was sick. She was represented by two lawyers, while Baby Jane, an advanced cancer patient, came in person. As Baby Jane's mother language is Tagalog and her English is limited, she should have been provided with an interpreter as stated in the Administrative Guidelines on Promotion of Racial Equality (the Guidelines) of the Constitutional and Mainland Affairs Bureau (CMAB) under the principle of Race Discrimination Ordinance (Cap. 602). However, this did not happen, so it was difficult for Baby Jane to fully understand the meeting which was conducted in English. However, she defended her case successfully.

As a settlement was not reached at the conciliation meeting, the case went up to the Labour Tribunal, and this time, court interpretation services were provided. Baby Jane had authorized FADWU representative, Shiella Estrada, chairperson of the Progressive Labor Union of Domestic Workers in Hong Kong (PLU) to act as her union representative at the Labour Tribunal hearing. However, even though Shiella had submitted the documents for her union representation, the presiding officer refused to call her for the hearing. Instead, Baby Jane was questioned in the absence of her union representative. The officer pushed hard for a settlement until Baby Jane accepted an offer of HKD\$30,000 (around USD3,846, to be paid by the employer), while the original claim amounted to HKD\$47,000.

### **Challenges and the way forward**

In Hong Kong migrant domestic workers are covered by the law. Physical assault and rape is covered by criminal law, and the employment of migrant domestic workers





BABY JANE ALLAS (MIDDLE) EMBRACED BY FADWU LEADERS AND MEMBERS AT A SHARING ON 5 MAY 2019. PHOBSUK GASING (LEFT), CHAIRPERSON AND SHEILLA ESTRADA (RIGHT), SECRETARY OF FADWU. PHOTO : FADWU



BABY JANE IN HOSPITAL BED. [PHOTO: BABY JANE ALLAS]

is regulated by immigration and labour laws. In Hong Kong, the Employment Ordinance of 1968 applies (Cap. 57) to domestic workers, and a Standard Contract for the Employment of migrant domestic workers (ID407) must be completed and signed by migrant domestic workers and their employers. Specific Ordinances have also been adopted against discrimination on the basis of sex, race, disability and family status. For each of these laws, a code of practice has been issued to facilitate the implementation of the laws.

However, in Hong Kong, the labour rights that migrant domestic workers are supposed to enjoy are being undermined by the immigration restrictions on migrant domestic workers, such as the ‘two-week rule’ which allows migrant domestic workers to stay for two weeks only once their contract is terminated. Her employer unfairly dismissed Baby Jane because she had cancer. Thus, she lost her access to public healthcare although she can stay in Hong Kong to pursue justice under law. However, she is not allowed to work and earn an income. She can stay only because her sister and her sister’s employer fully support her and help her financially to seek private medical care.

The dispute settlement procedures under the Employment Ordinance were set in motion after Baby Jane lodged a complaint but they were not implemented without problems. At the first conciliation meeting Baby Jane was not provided with translation services to which she was entitled, and at the Labour Tribunal the presiding officer excluded Baby Jane’s union representative from the hearing and pressed Baby Jane to agree to a financial settlement that was lower than the original claim.

Baby Jane’s case story shows that there is a large gap in the laws and regulations in Hong Kong regarding the protection of migrant domestic workers when they fall ill. For FADWU, the priorities to be addressed as a matter of urgency are the following:

- Abolishment of the two-week rule.
- Government support and services to enable migrant domestic workers to pursue legal court cases.
- Full medical insurance and public healthcare services for migrant domestic workers not only within the employment period but also after it, in the case of unfair dismissal.

At the time of writing, Baby Jane continues to pursue her case with the EOC under the Disability Discrimination Ordinance, and is waiting for her case to be heard in court. FADWU has launched a campaign for migrant workers to have access to public healthcare when their employer terminates their job unfairly. It organized a press conference to showcase the plight of Baby Jane and gather support for the campaign. These activities have attracted considerable media attention, both national and international. A hearing was also organized at the Panel on Manpower of the Legislative Council in mid-April 2019.<sup>2</sup> Since then, however, the campaign has not led to concrete results due mainly to the political turmoil in Hong Kong.

<sup>2</sup> See 16 April 2019 meeting of Panel on Manpower, under Agenda IV “Foreign domestic helpers’ access to healthcare services” at: <https://www.legco.gov.hk/yr18-19/english/panels/mp/agenda/mp20190416.htm>

# ANALYSIS AND DISCUSSION

## GENDER-BASED VIOLENCE AND HARASSMENT

Violence and harassment is any act that is perpetrated against someone's will. The case stories show that violence and harassment is about abuse of power against domestic workers. In six of the eight case stories, one or more employers committed violence and harassment against the domestic workers who worked for them. In the case of the Philippines, the owner of an employment agency harassed Riza and, in Cambodia, Srey Mom was abused by the family she married into after working for them as a domestic worker.

Violence and harassment in the world of work creates a hostile, intimidating, and humiliating working environment for the victims, and poisons their well-being and the employment relationship. Threats of violence and harassment are also acts of violence. Such threats often come in the form of blackmail, also known as quid pro quo (meaning 'this for that') violence and harassment. This happens when an employer or other person in authority linked to a domestic worker's employment, demands additional services from the domestic worker, to obtain or keep her job benefits. This forces the domestic worker to choose between giving in to unreasonable demands or losing her job or job benefits.

ILO Convention 190 defines 'violence and harassment in the world of work' as: "a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that:

- aim at, or result in, or are likely to result in physical, psychological, sexual or economic harm, and
- includes gender-based violence and harassment" (Article 1).

**Physical violence and harassment** is about harming somebody's body. The case stories speak of domestic workers being murdered, beaten, punched, burned or pushed down the stairs. Starving a domestic worker, as happened in the case stories from India, Indonesia, the Philippines and Kuwait, or forcing her to ingest cat feces or detergent as punishment, or shaving and scarring her head and then putting vinegar on it, are all forms of physical violence that amount to torture and can be life-threatening. Baby Jane in Hong Kong had to forego her right to medical treatment to fight cervical cancer because her employer fired her on-the-spot when she learned about Baby Jane's illness.

Physical violence and harassment always has a psychological dimension because such treatment is deeply humiliating. Physical violence can also be sexual as in the case of rape or other physical sexual offenses. Denying a domestic worker sleep by forcing her to work too many hours without adequate rest, or by not providing her decent sleeping space are also forms of physical and psychological violence and harassment.

**Psychological violence and harassment** is about harming somebody's mind and soul by way of intimidation, bullying, stalking, threats of violence and other verbal abuse. It often includes false promises, such as when 12-year-old Murni and her family from Indonesia were promised that her employers would pay for her further education.

Lack of privacy, for example, when a live-in domestic worker cannot close the door of her room or when she is made to sleep in the kitchen, under the stairs or in the bedroom of others, is a form of psychological harassment. Isolation in the form of

prohibiting domestic workers to leave the house or making it impossible or difficult for them to communicate with family or friends as in the case story from Indonesia negatively impacts on their well-being.

The case story of Maria from Kuwait illustrates the abusive nature of psychological violence. Firstly, to intimidate Maria, her employer lied during the job interview about being a police officer with a great deal of power. Secondly, the employer accused Maria of sexually desiring her daughter (whom she was looking after) simply because she had her photo in her purse. Thirdly, the employer forced Maria to admit on video about her ill intentions. And with this video recording, the employer blackmailed Maria into submitting her to acts of abuse and violence.

**Sexual violence and harassment** is any act of a sexual nature, which is perpetrated against someone's will. It is about forcing a person to undergo or perform sexual acts against her will. Live-in domestic workers especially are at high risk of sexual violence and harassment because they work and live in close proximity to their employers and other household members, day and night.

The overwhelming majority of victims of sexual violence and harassment are girls and women of all ages. Boys, and sometimes men, can also become victims of sexual violence and harassment. Perpetrators of sexual violence against domestic workers are mostly men of, or connected to, the employer households. The three case stories from India and Indonesia gave examples of multiple rape. In India, Sabina, 14 years old, was raped by one of her male employers and another male domestic worker, the family's driver. Then, she was murdered.

The other two case studies showed how the women close to these men, like wives or mothers, often take the side of the men and join them in committing violence. Sunita from India was sexually harassed, then repeatedly raped by her male employer when his wife was absent. Sunita told the wife, and was then beaten up by both her employers. In Indonesia, the female employer accused Murni of sexual interest in her husband and used this to increase the acts of violence. She used rape as a method by forcing her two male domestic workers to violate Murni, the youngest domestic worker in the household.

**Economic violence and harassment** happens when employers do not pay any or too little wages to domestic workers, postpone wage payments, or when they demand excessive working hours or work beyond regular duties, without adequate compensation. This keeps domestic workers under their control, and forces them to work more and harder.

The domestic workers in many of the case stories experienced economic violence and harassment. Murni in Indonesia and Sunita in India never received any wages, working only for their upkeep. Maria in Kuwait was not paid her wages in full. In Bangladesh, though Anowara agreed to do a part-time cleaning job, her employer forced her to work full-time for the agreed part-time salary, and further, withheld her wages for three months. She got fired because of breaking a glass and was thrown out of the house without any payment.

Another common example of economic violence is when employment agents charge domestic workers excessive fees for finding them a job. This often leads to the domestic workers ending up with debts that are difficult and, sometimes, impossible to pay off. Economic and sexual violence frequently come together in the form of sexual blackmail. For example, when an employer threatens to fire a domestic worker or withholds wages or food unless she provides sexual services.

**Gender-based violence and harassment** is defined in ILO Convention 190 as: "violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment" (Article 1). Gender-based violence and harassment is rooted in the **unequal power relations between men and women** that exist in many societies. This unequal power relation is not related to the actual biological differences between men and women, but to **the social, gender roles that are assigned to both sexes in social and economic life**. In many societies domestic



work is seen as a low status, low pay, low skill women's job. Thus, domestic work is undervalued and invisible, even if it is indispensable to many employer households.

**Other grounds of discrimination.** Many domestic workers come from disadvantaged population groups who face discrimination, not only because of their sex and gender but also on the grounds of their race, ethnicity or colour, religion, social, national or rural origin, religion, disability, age, nationality, migrant status, sexual orientation or gender identity. Where grounds of discrimination come together — for example, when a domestic worker is discriminated because she is an indigenous woman — the risk of violence and harassment is exacerbated. The case stories illustrate this clearly. Sunita in India came from a tribal group. Murni from Indonesia started working at age 12, and both she and Riza in the Philippines came from rural areas. Sabina in India hailed from an internal migrant family, and was only 14 years when she was raped and murdered. Maria and Baby Jane migrated from the Philippines to work in Kuwait and Hong Kong, respectively.

Domestic workers who are gay, lesbian, bisexual or transgender, are also at high risk of becoming victims of violence and harassment because they do not conform to the heterosexual social norm, but have a different sexual orientation or gender identity.

**Effects of violence and harassment on domestic workers.** Due to the inherently unequal power relationship with their employers, domestic workers can be cowed easily into submission and intimidated by threats of losing their job. Most domestic workers grow up with gender bias and discrimination, and a lack of access to education. This situation often results in low self-esteem and subservience to authority. Having to put up with harassment, and even violence, is but another fact of life for many. However, as seen from the case stories, exposure to violence and harassment can devastate the physical and mental health of domestic workers, threaten their self-confidence and well-being, and even destroy their lives.

The case stories illustrate that domestic workers may suffer from severe abuse for many years because they cannot or dare not escape to seek justice. In India, Sabina was raped and murdered, and Sunita was raped and beaten up before she escaped. Murni from Indonesia weighed only 25 kilos when she finally managed to flee. Maria in Kuwait lost her basic instinct to resist the abuse by her employer and protect herself. Finally, she returned home to the Philippines, but remained traumatized, vomiting every time she smelled detergent.

Abuse and lack of access to justice can lead to despair, illness, loss of employability and income. In Cambodia, Srey Mom became sick from the violence by the family she married into. This led to her tragic death, despite her valiant struggle to survive. Riza in the Philippines was traumatized after the abuse by her employment agent. Still afraid, she did not want to report it. All she wanted was to go home.

But the case stories also illustrate clearly how abused domestic workers can recover and become strong again, if they receive help from domestic workers organizations (DWOs).

- With help from JALA PRT, Murni from Indonesia went to school again and completed her education.
- Sunita from India was traumatized, but not crushed. With support from the NDWM, she courageously fought for justice and found another job as a domestic worker. She finished her education and is now a strong domestic worker leader.
- In Bangladesh Anowara, who was already a member of the NDWUU, contacted one of its branch leaders, who alerted other NDWUU members about her situation. They mobilized to seek justice, and their group action led to successful negotiations with the employer: Anowara was paid the wages due to her.

## Challenges in acting against gender-based violence and harassment

All case stories describe how violence and harassment against women and girls from disadvantaged population groups is deep-rooted in society and its institutions, such as the police, law enforcement agencies, and the judiciary. **Violence and harassment** against domestic workers is all too often **seen as 'normal', 'part of our life' or 'part of our culture'**. Sometimes domestic workers themselves have been socialized and have internalized such ideas and perceptions, but they are especially common among employers who engage in violence and harassment with impunity. Often those who are responsible for upholding the law harbor such ideas and perceptions, and tend to ignore their duties if the victims are girls and women from disadvantaged and discriminated groups. The lack of respect for domestic workers in the communities, the larger society, and among employers, as well as the institutions which should implement the law and protect domestic workers from violence and harassment, is a formidable challenge. **For the DWOs, changing such ideas and perceptions is a priority for action.**

Five of the eight case stories are about severe physical, sexual and psychological assaults against domestic workers that are punishable under the penal or criminal code, as well as laws to protect minors, in the case of India, and against domestic violence, in the case of Indonesia and Cambodia. The case stories of Murni and JALA PRT (Indonesia), Srey Mom and ADW (Cambodia), and Sabina and GKS, as well as Sunita and NDWM (India) describe the long and arduous process to seek justice, and how bribery of the medical, police and judicial authorities by powerful employer families can obstruct the implementation of the law, and the punishment of the perpetrators. In Kuwait, concerted efforts by the SKDWA, the Kuwaiti police and the Philippine Embassy led to the rescue of Maria and the return to her home country, but her case is still pending.

The case stories show **the vital role of DWOs in supporting domestic workers to obtain justice.**

- Effective action by the police, individual support to Murni and extensive advocacy by **Jala PRT** and a women's legal aid centre resulted in a jail sentence for Murni's employers.
- Sunita in India and Baby Jane in Hong Kong received some form of financial compensation with the assistance of the **NDWM** and the **FADWU**, respectively.
- **SKDWA** in Kuwait responded to Maria's internet message and persisted in contacting her to find out about her bruises and scars. Group action by Anowara and **NDWUU** leaders and members led to payment of her overdue wages.
- Determined action by **GKS** and Sabina's family for more than five years resulted in the identification of those who raped and murdered Sabina, even if the perpetrators have not been punished.

The case stories illustrate clearly that **the existing laws and implementation mechanisms fall short of effectively protecting domestic worker victims** from violence and abuse. In several countries, only the penal or criminal code can be utilized to seek remedies against severe abuses, such as physical and sexual assault.

- In **Cambodia** and **Indonesia**, laws against domestic violence have been enacted. However, the Cambodian law lacks an implementing mechanism and a time frame, so it is not enforceable. In Indonesia, domestic workers are explicitly included as household members in this law. But, the law is not implemented effectively due to the widespread lack of public awareness about it, and the prevailing gender bias among law enforcement agencies and the judiciary, as well as within the community. Thus, Jala PRT and other women's, child and human rights organizations are engaged in a two-pronged campaign: against gender-based violence and harassment at work, and for the development and adoption of a specific law to protect domestic workers.

- In **India**, the penal code is often used to provide redress in cases of physical and sexual assault, including murder, of domestic worker victims. A range of other relevant laws has also been enacted to protect children from sexual offenses, to prohibit and regulate child labour, and to prevent, prohibit and redress sexual harassment of women at the workplace. Other laws were invoked in the case of the GKS and Sabina's family, notably those concerning the right to information, prevention of corruption, and the Extradition Act since the perpetrators left the country. However, the legal processes took years, and required substantial time and money, as was the case with Sunita and the NDWM. After several years, Sabina's family finally accepted what can be considered a token compensation.

As, in practice, the laws in India do not function well to redress violence and harassment against women and children in domestic work, the GKS and the NDWM are calling for gender-specific measures to strengthen the laws and enforcement institutions to better protect women and children in domestic work. Such measures include:

- outlawing domestic work for children and youth under 18 years, because it is hazardous for children,
- enacting gender-responsive measures, such as establishing separate police units and courts with female staff to handle sexual violence cases, and
- strengthening the executive power of the National Commissions for Women and for the Protection of Child Rights, so that their directions to other government departments, like law enforcement agencies, are binding.

Penal codes and other criminal laws require higher burdens of proof and criminal procedures that are often time-consuming and costly. Few domestic workers are protected from violence and harassment under general or specific labour and employment laws.

- In **Bangladesh** and **India**, such laws are reportedly not yet effective.
- The **Philippines** is the only country with a comprehensive national Domestic Workers law with implementing rules and regulations to provide domestic workers with labour and social protection. In this country, the challenge is effective implementation of the law at the commune and district levels, where employers and district officials may be related and local governments' human and financial resources are scarce.
- In **Hong Kong**, migrant domestic workers are covered by employment and equality laws, so that they can access relevant implementing mechanisms such as the labour dispute resolution settlement mechanism and equality mechanisms. The case story about Baby Jane showed that the dispute resolution mechanisms were in place and used. Practical implementation was, however, somewhat skewed to her disadvantage, although her employer in the end was ordered to pay her some compensation.

However, Baby Jane's situation points to a major loophole in the existing employment laws, where employers are required to provide free medical treatment to migrant domestic workers during the employment period but not after termination of the contract, even if the dismissal is abrupt and unfair. Baby Jane was dismissed because she had cancer, and her second complaint of employment discrimination under the Disability Discrimination Ordinance is still pending with the EOC.

In addition, provisions in Hong Kong's immigration laws increase the risks of migrant domestic workers to violence and harassment in the employer households. These include the live-in rule mandating domestic workers to stay on the premises of their employers, and the two-week rule, requiring them to leave Hong Kong within two weeks after termination of their employment contract.





FADWU RALLY, HONG KONG [PHOTO: IDWF]

# CONCLUSIONS AND THE WAY FORWARD

## Conclusions

Gender-based violence and harassment against domestic workers is a major concern in Asia. The case stories give examples of common forms of physical, psychological, sexual, and economic violence and harassment against domestic workers, and the severe effects these have on their health and well-being. Afraid to lose their job, and lacking alternatives, domestic workers too often cope with abuse for as long as they can, until it becomes unbearable. Some will try to find a way to escape. Some fall sick and remain sick even after they have been rescued. However, when domestic workers have a support network and are provided with viable alternatives, such as education and another job, they can recover, and, in turn, strengthen the domestic workers' movement as demonstrated in the case stories from Bangladesh, India and Indonesia.

Domestic workers are particularly at risk of falling victim to violence and harassment because domestic work is invisible, it is not considered to be a 'real' job, and domestic workers are not considered to be 'real' workers. Domestic work generally has a low status, as an unskilled 'women's job'. Most domestic workers are women and girls who face gender discrimination. They often face multiple other forms of discrimination because they come from disadvantaged rural or tribal areas and belong to the lower or scheduled castes or ethnic or religious minorities, and often have had little access to education. They work for employers in urban areas who are richer, come from a higher class or caste, are better educated, and have far more power than their domestic workers. The same is true for domestic workers who migrate from their home countries to work in more industrialized countries and territories.

Violence and harassment against domestic workers is not an exceptional situation. It is not about an isolated act of an individual employer against a domestic worker in a certain place and time. Violence and harassment against domestic workers is 'built into the system'. It is a systematic phenomenon, deeply embedded in the social patterns of society: in the way domestic work is organized, how laws and rules are applied to domestic workers, and how government institutions act on their behalf when these laws and rules are enforced.

### The case stories show that:

- Lack of awareness and the persistence of gender and other types of discrimination against domestic workers hinder the effective implementation of existing laws and development of new laws, as well as the provision of assistance and support to abused domestic workers by government service providers (the police, the judiciary, labour and health officials, etc.), community leaders and the general public.
- Penal or criminal laws only provide redress to domestic workers in cases of murder, and physical and sexual assault. There is an enormous lack of effective implementation mechanisms to apply the law, provide remedies to the victims, and punish perpetrators. DWOs and the victims are forced to spend scarce human and financial resources for many years to seek justice. Only in exceptional circumstances, when the abuse is very severe, is it possible for DWOs and other civil society organizations to successfully seek punishment for the perpetrators — by creating alliances and mobilizing relevant government departments and civil society organizations, and raising an outcry among the general public through concerted advocacy.
- Domestic workers are excluded from protective labour, equality and social protection laws in most countries. This means they are not or hardly protected against the many forms of violence and harassment that fall outside the scope of the penal and criminal code. In addition, domestic workers and their employers can not benefit from the complaint, investigation and dispute resolution mechanisms that are provided under these laws.



### The way forward

*Preventing violence and harassment in the world of work is inextricably linked to ending discrimination, promoting equality and extending economic security."*

**NDWWU, Bangladesh and SEWA, India.<sup>3</sup>**

<sup>3</sup> IDWF, Platform of Demands on Violence and Harassment against Women and Men in the World of Work, Geneva, 2018.

Finally, the case stories show that it is absolutely crucial for **domestic workers to organize and develop strong domestic workers' unions and organizations (DWOs)**. The case stories demonstrated how strong DWOs provided a lifeline for domestic workers who suffered from violence. They provided shelter and legal aid, negotiated with employers or the authorities to obtain justice for the victims, and helped the victims to become survivors and domestic worker leaders. Besides giving direct support services, they engaged in campaigns and advocacy to prevent and redress violence against domestic workers, women and children. They raised awareness among their members and other domestic workers and mobilized them to take action.

The DWOs continue to engage in strategic action with government and non-governmental partners. They seek long-term solutions such as legal reform and effective implementation mechanisms to prevent and redress violence against domestic workers — children and adults — and other vulnerable groups in societies. The case studies also show that DWOs join, are part of, and strengthen the women's, workers' and human rights movements from the local to the national and international levels to ensure that all human beings have a right to a life and work free from violence and harassment.

ILO C189 and R201 on decent work for domestic workers, and C190 and R206 on violence and harassment in the world of work provide the international labour standards on how to prevent and eliminate violence and harassment against domestic workers. C190 calls upon ILO members to:

- Adopt a gender-responsive approach to prevent and end violence and harassment in the world of work. Such an approach must tackle underlying causes and risk factors, including gender stereotypes, multiple and intersecting forms of discrimination and unequal gender-based power relations.
- Identify the sectors, occupations and work arrangements in which workers are more exposed to violence and harassment, and do risk assessments.
- Ensure that victims of gender-based violence and harassment in the world of work have effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services, and remedies.

The IDWF will continue to support and collaborate with its affiliates to lobby governments to ratify C189 and C190 and implement these conventions in line with R201 and R206. IDWF affiliates in many countries have made the elimination of gender-based violence and harassment against domestic workers a priority.

The publication of these case stories is a first step to raise awareness and share expertise among DWOs on how to fight violence and harassment against domestic workers in Asia.

The second step will be to develop and use a **Training pack: Domestic workers organize against violence and harassment** to equip domestic workers and their organizations with the knowledge and skills to realize decent work and workplaces free of violence and harassment for all domestic workers.



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# APPENDIX

## Interview Guide

1. Please share one prominent case of Gender Based Violence that is handled by your union: referring to IDWF platform of demands on GBV, the forms of the violence can be physical, psychological, economic/financial, and cultural.
2. Please share your analysis / observation regarding challenges and gap in accessing justice for the victim. What action did your union take in handling such cases? Try to highlight this in a maximum of 400 words.

## Data Verification Table

Complete (✓)  
Incomplete (✗)

Profile of Group	Name of organization	
	Address	
	Type of organization	
Author	Name	
	Contact numbers (Mobile Phone/WhatsApp)	
	Email	
<b>Case Report</b>		
Who	<b>Victim:</b> Name	
	Age	
	Gender	
	Birth of Origin	
	Year of Working	
	<b>Perpetrator:</b> Name	
	Age	
	Gender	
	Birth of Origin	
Year of Hiring		
Where	Home (kitchen, bedroom, living room, front yard)	
	City	
	Country	
When	Frequency: How often?	
	Daily	
	Weekly	
	Monthly	
	Date and Year	
	Time	
	Night (Mid-night)	
Day (Morning, afternoon)		

Complete (✓)  
Incomplete (✗)

What	Type of GBV: Emotional   Physical   Economical & Financial   Cultural	
	Description of the violence	
	Actions	
	Activities	
	Why is it gender-based? Please explain.	
How	What is the conflict? Argument   Disagreement   Mistake	
	What are the cause(s) of the conflict?	
	Why is it gender-based? Please explain.	
<b>Impact of the GBV</b>		
On the victim	Mentally Physically Emotionally Financially Socially (Family)	
On the perpetrator	Mentally Physically Emotionally Financially Socially (Family)	
<b>Response of the victim</b>		
Reactions/Immediate response		
Actions taken		
Outcome of the actions		
Challenges faced		
<b>Institutional Support</b>		
Actions taken by group/union		
Outcome of the actions		
Challenges faced		
Success cases		
Lessons learned		
Reflections on best practices to prevent the recurrence of GBV		
<b>Legal Framework (Laws &amp; Policies)</b>		
Legal action taken		
Trial		
Outcome of the trial		
Impact on the victim		
Impact on the perpetrator		
Challenges faced		
Suggestions for change		



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# Let's campaign for ratification of C190!

As trade unions we should campaign for the ratification of C190 in our countries and build alliances with other trade unions, national centres, NGOs, and women's rights groups.

#C190  
#RatifyILO190  
#16DaysCampaing  
#itcanchangelives



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# STOP GENDER-BASED VIOLENCE

## SUPPORT ILO CONVENTION



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### GENDER-BASED VIOLENCE AND HARASSMENT AGAINST DOMESTIC WORKERS : CASE STORIES FROM ASIA



International Domestic Workers Federation

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