IDWF Position on the IMRF 2022 Declaration

Reference: IDWF 2018 Resolution #5 on the Protection of Migrant Domestic Workers

Every 5th domestic worker in the world is a migrant. The statistic is even greater in countries with a high GDP and whose economy relies heavily on migrant workers, amounting to 80% of domestic workers being migrant, three quarters of whom are women. Despite the magnitude of the migrant domestic workers' demographic and their contribution to their countries of origin and of destination, they are largely unprotected. In addition to the serious labor law and protection deficits faced by domestic workers around the globe, such as extended work hours, lack of rest days, wage theft, among other abuses, those who are also migrants face a myriad of complications in relation to both the lack of recognition of their labor as work, and their migration status increasing fragile employment. This is particularly troublesome in contexts of employer-tied visas, stripping workers from agencies over their lives and livelihoods.

With the COVID-19 pandemic, migrant domestic workers experienced various challenges ranging from mass lay-offs, reduction of income, health and safety hazards, to increased uncompensated work hours. Furthermore, in employer-tied visa regimes, their dispossession created an additional layer of informality, the irregularity of their status within the country, at times leading to migrant workers being stuck at borderlands. A situation that was precarious from the start, exponentially worsened. Discrimination also increased in times of crisis as migrant workers are used as a scape goat for governmental failures. While most countries have legislation that explicitly denounces ethnic, caste, and racial discrimination, whether in national text or international commitment to widely ratified conventions including the Human Rights Convention or CEDAW, the domestic work sector remains tainted with practices inherited from slavery.

Demand #1: Freedom of Association for migrants, including migrant domestic workers

Migrant domestic workers are frequently denied freedom of association and even freedom of movement particularly in politically tense and conservative environments. The ban on migrant domestic worker organizing poses a serious threat to their rights and facilitates their exploitation, especially in contexts that: 1) exclude migrant domestic workers from the scope of the general labor law; and 2) use employer-tied visa regimes and sponsorship systems granting total control over a domestic workers' life and livelihood to one employer. Furthermore, in some countries, while the right to join unions exist for migrants, they are denied executive positions. Recent reforms have been minuscule, and COVID-19 provided ample opportunity for governments to decrease civil space, while the current laws continue to

violate international law. A migration law that allows work, must entitle the worker to social protection in the country and that is the responsibility of the state.

Experience from IDWF affiliates have demonstrated the advantages of organizing migrant domestic workers in unions, not only for improved access to services, information sharing, social cohesion, but also for consensus building and thematic specialization as beneficial approaches to advocacy, and contributing to the democratic practice overall, opening the political landscape to more freedoms. Migrant workers must be heard and speak in voices of their own. They must be included in discussion of labor law reforms, in social dialogues with governments in the destination country, as well as their governments' embassies. Strengthened alliance-building with trade unions and CSOs in both countries of destination and origin improves labor migration experiences. While the state is the garantor of both labor and migrants rights and must provide them to migrant domestic workers.

- Objectives 6 and 16 of the Global Compact on Migration identify freedom of association as an inalienable right and a prerequisite for the elimination of violence in and acquisition of labor rights, integration, and social cohesion for migrants. Governments, thus, who commit themselves to improving migrants' rights must inevitably dismantle employer-tied visa regimes and ensure freedom of association for migrants.

Demand #2: Commit to international instruments and standards on migration and labor

Domestic workers advocated for the creation and adoption of the ILO Domestic Workers Convention No. 189 and Recommendation 201, to establish a comprehensive, international legal framework which acknowledges the right of domestic workers to decent working and living conditions. The ILO has also adopted Convention 97 on Migration for Employment Convention, and the Migrant Workers Supplementary Convention 143, and the Declaration on Fundamental Principles and Rights at Work and multiple others as early as last century. And yet, these key standards, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990 are frequently subject to reservations where ratified and lack adequate implementation and regulation enforcement.

Not only did most countries withhold protective instruments from migrant workers, but they have issued laws explicitly discriminating not only against them, but amongst them. Based on an artificial categorization of some migrant labor as unskilled, these governments limit the number of workers that can access the country and put further barriers to mobility. Instead of a full-fledged commitment to ensure full workers rights, most governments attempt to circumvent weak legislation by proposing various contractual amendments as a solution. While these contracts do contain some beneficial provisions, their use pushes regulation from the public to the private sphere and faces the same difficulties of implementation due to its confinement in the individual household and lack of labor inspections. Migrant domestic workers also suffer from various forms of discrimination that is not only unethical, but unconstitutional.

A 360 approach to determining migrants' vulnerabilities and ensuring binding regulation to address each aspect of this vulnerability to empower workers and safeguard their rights.

- Labor is not only a reason for migration but also a means of survival, especially for migrants who are removed from their original environments and might lack support and kinship networks. Therefore, the realization of decent work as a necessary pillar for acquisition of rights and safety is a must, whether in relation to the country of origin pre and post migration (Objective 2 and 21), the transnational space (Objective 5), during the recruitment process (Objective 6), in the country of destination (Objective 16), and in relation to the recognition of skills and qualifications of a given profession in general (Objective 18).

Demand #3: Strengthening national and transnational coordination mechanisms

While human rights, including economic empowerment and freedom of mobility, are deemed inalienable, the policy realities are burdened with classist assumptions, whereby the entitlements of migrants not only depend on their migration status but also the level of skills, relying on a framework that undervalues maintenance and care labor. Social protection, for instance, is not evenly available for migrants, and varies according to their classification as a labor migrant, immigrant, refugee, or displaced persons. Domestic workers migrate for a myriad of reasons that cannot be framed in a reductive manner confining them to temporary labor migration. Therefore, migration pathways must adopt a framework of equality of rights, not equality of skills.

Furthermore, the displacement of responsibility from country of origin to country of destination and vise-versa when it comes to social benefits such as retirement showcases a purposeful lack of transnational coordination. For example, in Europe, while most governments regard domestic work as work, research shows that an overwhelming majority of migrant domestic workers are undeclared. Even when migrant workers can access social protection in theory, informality stands in the way. Domestic workers must be taken into account when these policies are created so we can have labor policies that work for us. Social protection and the portability of social security such as retirement and pension must be guaranteed by states. Regularization pathways must be available for migrant domestic workers without fear of retaliation, and at the same time, irregularity of status should not impede protection of migrants, as many migrant domestic workers were severely impacted by COVID-19 and denied governmental relief, support, and other services including health protection due to their status.

- Whether for contingency planning (Objective 2), child protection (Objective 7), consular and international efforts in rescuing and saving migrants (Objective 8), strengthening of predictability of migration pathways (Objective 12), portability of social security (Objective 22) or for alignment with international standards and procedures described in the overall text of the Global Compact on Migration, national and international forces, as well as governmental, civil society, and labor unions, must engage in cooperative efforts to improve the conditions of migrant workers.

Demand #4: Combat Trafficking and Forced Labor

The data available on trafficking represents only a fraction of a largely under-reported problem. Domestic workers are particularly exposed to falling prey to traffickers and irregular recruitment. Despite the almost universal ratification of the Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, effective implementation remains an issue, with a low number of prosecutions and convictions, creating precedence of impunity of the perpetrators. The convictions on labor trafficking most frequently focus on sexual crimes, downplaying the illicit labor practices and other forms of violence that take place throughout the migration process. Domestic workers are often recruited by agencies, that are at times illicit and unregistered, creating a chain of displacement and migration, from rural to urban contexts, then from urban to international. Recruitment fees often produce debt bondage. These migrants are mostly women, sometimes underage, and they fall prey to violence and harassment. The linkages between internal displacement, migration, and trafficking is obvious to the bare eye. Recruiters should be registered in every country's ministry of labor, a precondition that would create more dignified opportunities for migration.

While impunity is the rule for illicit recruitment agencies and persons, migrant domestic workers find themselves criminalized and bear the cost of their irregularity, they face false allegations, threats of incarceration, and penalization: a practice translating the imbalance of power between employer and employee, but also between migrant and citizen. The issue is even more dire when it comes to child labor and trafficking of minors.

When combating trafficking, policy must address the deliberate difficulties of visa acquisition for labor migrants and delink it from the employer. Such visa regimes increase the risk of trafficking and forced labor, making the right to change employers no more than an aesthetic procedure in the absence of an accessible and autonomous pathway to visa renewal for migrant workers. Furthermore, policy and its application must avoid the conflation between trafficking and smuggling, a tendency that is too frequently employed under the rise of right-wing government to penalize people and organizations assisting migrants escape abusive situations, while the government itself is not providing a legal framework facilitating the exit of low-waged laborers from exploitative situations while safeguarding their legal status and providing guarantees to their future regularization of their status in the country of destination.

- We call for expanding the definition of what constitutes forced labor (objective 6) by elaborating a comprehensive approach addressing not only fair recruitment, visa acquisition and access to documentation, but also working on dismantling the power imbalance between employer and employee and other vulnerabilities in migration (objective 7) for tangible progress and concrete measures to save migrant lives.

Demand #5: Abolish Employer-Tied Visas and the Kafala System

There is no fair contract and no decent job under an employer-tied visa regimes and closed contracts. These work arrangements are a contributing factor to human trafficking, as they deny the fundamental dignity of a worker, a human being by relinquishing their agency and autonomy over their life and livelihood to an employer. This is a precarious condition that domestic workers find themselves in no matter how protective their contractual arrangement is. In addition to stripping them from fundamental rights such as those outlined in the International Covenant on Civil and Political Rights (ICCPR), it sustains a global system of inequality based on classist, sexist, and racist forms of oppression that are made explicit in the domestic work sector.

This also requires the abolishment of the Kafala system, and *render[ing] therefore unto Caesar the things which are Caesar's,* instead of the ministry of interior or policing governmental agencies to govern the rights and entitlements of migrant domestic workers in the GCC countries, the ministry of interior must align its labor policies with international standards.

The domestic work sector is a vital sector of the economy and should be recognized as such, and migrant domestic workers bear the weight of care burdens that countries of destination displace on their individual shoulders, as well as the burdens of feeding the economy of their countries of origin through remittances, even if for the mere survival of their families. The magnitude

- Decent work for migrants in not only insured by fair and ethical recruitment (Objective 6) but is also a matter of ensuring that dignity is preserved in all relations across immigration and labor laws, which must be free from all forms of discrimination (Objective 17) and ensure conditions for migrants to equitably contribute to sustainable development (Objective 19).

Evidence shows a steep increase in the number of migrant domestic workers over the past decade, influencing the global care chain. These numbers will continue to grow, but it does not signal a healthy recovery, rather a cross-cutting deterioration of the status quo. Climate change, unaffordable livelihoods and privatized care services, economic crises, infrastructural failures, lack of education and employment opportunities, public health concerns, armed conflict, and the rise of authoritarian governments are but a few push factors exacerbating the care crisis. Removing themselves from those settings, migrant domestic workers live precariously in countries of destination, not only due to the lack of protective legislation and implementation, but also precarity paired various forms of xenophobia and racism migrants are subjected to. Against this backdrop, particular attention must be paid to migrant domestic workers, for they constitute a social stratum often invisibilized to policy.